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THE ‘PAYCHECK PROTECTION’ RACKET

Tilting the political playing field toward corporate power and away from working Americans

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Executive Summary

In the spring of 2013, Missouri lawmakers are debating two bills that seek to limit the ability of state employees and Missouri workers in general to pay union dues that help fund political advocacy. These bills—dubbed “paycheck protection” by their supporters—are part of a national effort to restrict the role of unions in politics. Proponents of Missouri’s Senate Bill 29 and House Bill 64 claim that these bills will save taxpayers money, will remove the government from the role of collecting money used for political purposes, and will increase workers’ control over how their wages are spent.

The Missouri bills are part of a 15-year effort to promote “paycheck protection” legislation, advanced in states across the country by the U.S. Chamber of Commerce, the American Legislative Exchange Council (ALEC), the National Federation of Independent Business, and other corporate lobbies. This history sheds critical light on the logic of the bills currently under debate in Missouri.

On close examination, it is clear that these bills will not create new rights for Missouri employees, and will significantly tilt the political playing field by enabling unlimited corporate political spending while restricting political spending of organized workers.

- Neither SB29 nor HB64 will provide Missouri employees with any new rights that they do not possess under existing law. Under federal law, unions may contribute to congressional or presidential campaigns only through a political action committee funded through separate, voluntary contributions by individual union members. Furthermore, unions' campaign contributions at the state level—and more general political activities such as lobbying, issue advocacy, ballot initiative campaigns, and independent union advocacy in support of particular candidates—cannot use dues from any individual who objects to these priorities. In other words, it is already the case that under both federal and state law, no employees—whether in the private sector or the public—can be forced to pay to support a political cause they oppose.
- In voicing its support for HB64, the Missouri Chamber of Commerce claims that, under current law, “employees who pay union dues have no say whether campaign contributions are taken out of their dues, or where those contributions are directed” (Missouri Chamber of Commerce 2013). This is false: All union members have a voice in how dues contributions are used, and any employee who doesn't want his or her dues used for politics is free to either withhold that portion of dues (in the private sector) or withhold the entire dues payment (in the public sector).
- While providing no new rights, SB29 and HB64 would impede union political activity with extensive and onerous bureaucratic roadblocks that would waste valuable resources and hamper unions' ability to respond to political attacks against labor rights.
- SB29 and HB64 tilt the political playing field toward big corporations by imposing restrictions on workers' political activity while leaving corporations free to engage in unlimited political spending. While the U.S. Chamber of Commerce and ALEC insist that unions shouldn't be able to spend money on politics without individual member approval, the groups vigorously oppose proposals that would require corporations to get shareholder approval before donating to political campaigns.
- Even in the treatment of payroll deductions themselves, SB29 and HB64 establish a stark double standard for labor organizations versus business. ALEC promotes “paycheck protection” on the grounds that “taking political contributions from workers without their fully informed consent violates these workers' rights” (American Legislative Exchange Council 1998). The Missouri Chamber of Commerce declared that it supports HB64 because “people have a right to designate which candidate gets support with their money” (Missouri Chamber of Commerce 2013). Americans for Prosperity similarly promotes SB29 as guaranteeing workers' “freedom to decide whether or not their earnings are put toward political activity to which they may object” (Americans for Prosperity–Missouri 2013). But these principles apply only to unions, not to corporations. Missouri currently allows 405 possible payroll deductions for public employees, and many of the payments go to corporations that spend heavily on politics. These include:
 - Health insurance payments to UnitedHealth Group, which spent \$3.4 million on lobbying activities in 2012.
 - Prescription drug benefit payments to Express Scripts, which spent nearly \$1.9 million to lobby Congress and \$340,000 to lobby Missouri lawmakers in 2012.
 - Life insurance deductions to Allstate, which spent over \$17 million on lobbying in the past five years.

- Supplemental insurance payments to Aflac, which made campaign contributions totaling \$2.5 million in 2012 and has spent \$21 million on lobbying over the past five years.

These political and lobbying activities are untouched by either HB64 or SB29; both bills restrict contributions only to labor organizations, while leaving corporations completely free to deduct monies out of employee paychecks and use them for political purposes without employees' knowledge or consent.

- “Paycheck protection” does not save administrative costs, because the expense of electronic payroll deductions is minimal, while the bureaucratic requirements associated with “paycheck protection” are likely to impose significant extra costs.
- “Paycheck protection” is not a sound strategy for addressing state fiscal deficits. The record state budget deficits of recent years were caused by a falloff in revenues, not an increase in expenses. Statistical evidence shows no correlation between the presence of employee unions and the size of a state's budget gap.
- “Paycheck protection”—both in Missouri and elsewhere—appears to function primarily as a political strategy that serves to impede the political voice of organized workers while allowing free reign to business corporations.

Corporations can be expected to pursue a political agenda that furthers their economic interests. But there is no conceivable justification for lawmakers to confer political rights on corporations while diminishing or violating the rights of working people.

What is ‘paycheck protection,’ and where does it come from?

SB29 and HR64, which Missouri lawmakers are debating in the spring of 2013, seek to limit employees' ability to pay union dues that help fund political advocacy. Dubbed “paycheck protection” by their supporters, these bills are part of a national effort to restrict the role of unions in politics. Proponents of the legislation claim that these bills will save taxpayers money, will remove the government from the role of collecting money used for political purposes, and will increase workers' control over how their wages are spent. Before evaluating each of these claims in detail, it is important to understand the larger historical and political context of “paycheck protection” in order to assess the likely impact of the bills and to make sense of their political purpose.

“Paycheck protection” proposals did not originate just in the past year or just in Missouri. The nation's largest corporate lobbies—including the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Federation of Independent Business—have been promoting such measures for at least the past 15 years in various states (Norquist 1998; Broder 1998).

The first “paycheck protection” bid—California's Proposition 226 in 1998—followed upon the loss at the polls of a school voucher proposal that would have allowed funds to be diverted to religious schools. The defeated backers of the voucher law concluded that their failure was due to the opposition of the teachers' union; they launched “paycheck protection” not in order to safeguard the rights of teachers but rather to remove the teachers' collective voice from state politics (Sabato 1998; Orange Net News 2006).¹

Despite its defeat by California voters, Proposition 226 was trumpeted by corporate lobbies as a model for other states. At the center of this campaign to promote “paycheck protection” laws is the American Legislative Exchange Council

(ALEC), a national network that brings state legislators together with the country's largest corporations, including Wal-Mart, Coca-Cola, Koch Industries, ExxonMobil, and leading tobacco and pharmaceutical firms. Among other activities, ALEC sponsors conferences where corporate lobbyists sit with sympathetic lawmakers to draft model legislation. The resulting model bills must be approved by ALEC's corporate donors before they are circulated. These corporations pay ALEC's expenses, contribute to legislators' campaigns, and fund the think tanks that promote legislation; in return, legislators carry the corporate agenda into their statehouses (Wilce 2013). Over the past decade, ALEC's leading corporate backers have contributed more than \$370 million to state elections, and over one hundred laws a year are adopted based on ALEC's model bills (Common Cause 2011).

In many cases, ALEC pursues initiatives that directly benefit the bottom line of its corporate partners. For instance, ALEC receives money from energy companies and lobbies against environmental controls; it receives money from drug companies and advocates prohibiting cities from importing discounted drugs from Canada; it received money from Coca-Cola and lobbied against taxes on sugary soft drinks; it even receives money from "payday loan" companies and opposed a law prohibiting such firms from charging more than 36 percent interest. But ALEC also promotes a broader economic and deregulatory agenda that is not directly tied to the profitability of specific donors. It advocates cuts to Social Security, farm subsidies, unemployment insurance, and food stamps (all of which ALEC describes as "welfare"); it supports trade treaties along the lines of the North American Free Trade Agreement (NAFTA); it favors cutting public funding for schools; and it supports efforts to block union organizing and restrict unions' participation in political debates (Laffer, Moore, and Williams 2011).

The influence of ALEC on the Missouri legislation is clear. In the same year that Proposition 226 was put on the ballot in California, ALEC adopted a model "Paycheck Protection Act," to be distributed to legislators in all the states, that prohibited employees in both the public and private sectors from contributing to union political activities through payroll deductions—even if the employees voluntarily asked to do so (American Legislative Exchange Council 1998). The following year, in 1999, ALEC adopted the "Public Employee Freedom Act," and the "Public Employer Payroll Deduction Policy Act," both of which prohibit public employees from contributing union dues through the payroll system—even if the contribution is voluntary and regardless of what the dues are used for (American Legislative Exchange Council 1999a, 1999b).

Multiple bills aim at the same larger goal

It is not a coincidence that there are two slightly different bills in Missouri under the single rubric of "paycheck protection." It is common practice in such legislative campaigns for corporate lobbies to develop multiple model bills addressing the same issue. By floating several options, ALEC can gauge how far lawmakers in a given state are willing to go toward the organization's goal. ALEC and its legislative partners can then calibrate their bills to align with what they believe is politically feasible in a given place and time.

Thus, for instance, as a policy *goal* ALEC calls for complete abolition of the minimum wage, arguing that such laws "represent an unfunded mandate on business by the government" (American Legislative Exchange Council 1996a). For states that may not be ready to completely repeal the minimum wage, however, ALEC offers a model bill that simply blocks any increase. And for yet more moderate legislators, ALEC has model legislation that, while perhaps allowing one-time increases, opposes letting the wage be regularly adjusted for inflation (American Legislative Exchange Council 1996b, 2008).

Thus, when evaluating any given piece of ALEC-promoted legislation, it is important to examine not only the immediate bill itself, but to understand the end goal of the agenda of which it is a part. Bills to prohibit inflation adjustment of the minimum wage are not really about inflation, for instance—they are simply the step that legislators believe they can take in a given session toward the ultimate goal of eliminating the minimum wage altogether.

So too, ALEC and other corporate lobbies have promoted a variety of “paycheck protection” bills over the past two years. Some require that union members sign a special form authorizing payroll deductions to support union political activities; some prohibit contributing to union political activities through the public payroll system even for employees who ask to do so; some prohibit unions from endorsing candidates. What they have in common is that they would muffle the voice of organized workers in state legislative debates. Missouri’s bills continue this trend.

HB64 and SB29 create no new rights for Missouri workers

Of the two “paycheck protection” bills under consideration in Missouri, SB29, introduced by Senator Dan Brown, imposes new requirements for public employees who pay union dues through payroll deductions. The bill prohibits any amount of union dues being paid through payroll deductions—no matter what the dues are used for—unless each individual employee signs a personal authorization form every year. An employee who wants to authorize dues on an ongoing basis without having to fill out an annual form (retaining the right to cancel this arrangement in the future) cannot do so. Employees must fill out a second annual form to contribute dues that support their union’s political advocacy.

HB64 similarly requires that employees submit annual written authorization before any of their dues may be used for political purposes. But this bill applies to both public and private sector employees. Unlike SB29, HB64 does not require annual written authorization for payment of non-political dues.

It is critical to note that neither of these bills provides employees with rights they do not already possess under current law. Under federal law, unions may contribute to congressional, senatorial, or presidential campaigns only through a segregated PAC fund, and the PAC cannot be funded out of regular dues money but only through separate, voluntary contributions by individual union members. While Missouri law allows general dues to be used for contributions to state legislative candidates if a majority of members vote to do so (Missouri Revised Statutes 2012), many unions avoid this practice, making all contributions out of the separate PAC fund.

Furthermore, under current law even union contributions to state legislative campaigns—or more general political activities such as lobbying, issue advocacy, ballot initiative campaigns, or independent union advocacy in support of particular candidates—cannot be funded by dues money from any individual who objects to these priorities. Under both federal and state law, no employees—whether in the private sector or the public—can be forced to pay even one cent to support a politician or ballot initiative that they oppose. Every employee has the right to withhold any portion of his or her dues that might be used to fund political activities, or, for public employees, to withhold their dues entirely.

SB29 and HB64 substitute an opt-in for an opt-out system, but they create no new rights for employees to control whether their dues are spent on political activities.

In voicing its support for HB64, the Missouri Chamber of Commerce claims that under current law, “employees who pay union dues have no say whether campaign contributions are taken out of their dues, or where those contributions

are directed” (Missouri Chamber of Commerce 2013). This is false: All union members have a voice in how dues contributions are used, and any employee who doesn’t want his or her dues used for politics is free to either withhold that portion of dues (in the private sector) or withhold the entire dues payment (in the public sector).

Indeed, workers have multiple channels through which to control union political priorities. As stated above, every employee has the right to refuse to contribute dues to political causes. In addition, of course, every union member has the right to vote out current union leadership and elect leaders whose political preferences reflect their own—or who pledge to avoid politics altogether. Finally, union members can vote to get rid of their union entirely. Thus, at least three legal channels exist for employees who disagree with their union’s political activities: They may withhold their dues as individuals; they may elect new leadership; or they may disband the union. All of these options are legally straightforward, and all of them occur every year. But they happen in exceedingly small numbers, suggesting that it is corporate lobbyists, rather than a silent majority of employees, who are most opposed to unions’ political activism.

HB64 and SB29 muffle workers’ collective voice and create wasteful new bureaucracy

While SB29 and HB64 do not give employees rights that they do not already possess, the bills do raise significant barriers to the ability of organized workers to participate as a full partner in political debates. By requiring annual written notice from each individual employee, “paycheck protection” imposes an extensive new bureaucratic obligation on unions. Even considering only those employees who support their union’s political activity, a union would need to devote considerable time, energy, and staff resources to meeting with each individual member each year and providing, collecting, filing, and forwarding to state officials tens of thousands of forms each year. The resources devoted to this operation would be taken away from those needed to negotiate contracts and represent employees in disputes with management—or to participate in political and legislative debates. In other contexts, corporate lobbies strongly oppose even milder bureaucratic hurdles to political participation. For example, ALEC opposes proposals that would require political advertisements to list their top contributors within the text of the ad; it argues that this requirement represents “an onerous burden on the organization, which has the effect of chilling speech since organizations are limited in the time or space they are given to express their message” (American Legislative Exchange Council 2010a). Yet ALEC and other corporate lobbies seek to impose much more onerous burdens on unions. For unions, the requirements in SB29 and HB64 effectively require that dues be much higher in order to pay for the activity of keeping authorization forms current, or that employees receive poorer representation, hence undermining the union’s effectiveness.

Furthermore, it is likely that a significant number of those who support their union’s political activity would nevertheless miss their annual filing deadline, at least for some months. This is not a special feature of labor unions. If everyone were required to reapply every year for home insurance, phone service, or home utilities, it is likely that some number of individuals would forget and miss the deadline. Even if it takes only a few months to correct this omission, union dues would go unpaid for that time. Spread over tens of thousands of members, such simple problems are likely to result in significant lost revenue that signifies nothing about members’ political beliefs.

It is instructive that neither bill provides an option for employees who support their union’s political program, have supported it for years, and do not want to fill out annual forms. It would be illegal for an employee to sign a document

committing to pay full union dues (including for political advocacy) until such time as they notify the union otherwise. It is hard not to view this as taking away employees' right to contract.

Furthermore, SB29 would effectively hamstring unions' voice by strictly limiting the amount of resources that can be devoted to political advocacy. Under current law, unions must file annual reports showing what percentage of their budget was devoted to political activities. Each year's report determines the percentage rebate that must be awarded in the following year to those who opt out of supporting their union's political agenda. By contrast, SB29 effectively requires unions to determine and announce at the start of each year how much they will spend on political activities in the coming year, thus putting the union in a unique bind. It is easy to imagine how political events unforeseen at the start of the year might turn out to require greater-than-anticipated resources. For example, in March 2011 Ohio's legislature adopted SB5, which drastically curtailed bargaining rights for the state's 400,000 public employees. Opponents of the bill gathered 1.2 million signatures in order to schedule a citizen referendum on overturning the law; in November 2011, Ohio voters rejected the law by a wide margin. The response to SB5 entailed intensive activities by thousands of union members. But since neither legislators nor the governor had campaigned on such anti-union proposals, this fight could not have been anticipated at the start of the year. If an Ohio union had submitted a report at the start of 2011 projecting the funds it expected to devote to political activities, it would have drastically underestimated its needs. If a union guesses wrong, it may be unable to avert the loss of bargaining rights or other damage done by anti-union politicians. And if it "overspends" politically, it is in violation of the law.

One rule for unions, another rule for corporations

Business lobbies claim that their support for "paycheck protection" legislation is based on a commitment to individuals' right to control what type of politics their money supports. But they vigorously oppose the same principle when it is applied to corporations.

In 2011, 10 states considered bills that would have required corporations to get shareholder approval for political donations. With ALEC lobbying against them, all 10 were defeated (Blake 2012). In September 2010, in a resolution supporting the Supreme Court's *Citizens United* decision, ALEC argued, in part, that "shareholder approval schemes, in which a corporation's shareholders...are required to give approval of a corporation's independent expenditures, place an onerous burden on these organizations, which serves as a barrier to free speech and is in violation of...the First Amendment" (American Legislative Exchange Council 2010a).

This issue came to a head in 2011, when the New York legislature considered a bill that would have required corporations to obtain annual written authorization from a majority of shareholders before spending treasury funds on political campaign contributions. ALEC published an "issue alert" arguing that such requirements would "deter...[corporations] from participating in political debate," and asserting that the bill "stifles...public debate and undermines the very purpose of the First Amendment." Furthermore, ALEC insisted that shareholder approval of political donations is unnecessary because "shareholders always have the option of voting out board members and removing management who engage in independent expenditures contrary to the interests of the company and its owners" (American Legislative Exchange Council 2011). This same logic applies to unions as well, of course—members can vote out union officers whose politics they object to. Yet what ALEC characterizes as an intolerable impediment to First Amendment rights for corporations it vigorously promotes for labor unions.

A similar contradiction is evident in ALEC’s lobbying stance toward efforts to allow individuals to sue to recover money spent on their behalf for political purposes. HB64, for example, provides that individuals whose union dues are spent on politics without their consent have a private right of action to sue their union for damages and attorneys’ fees. Yet ALEC’s *Citizens United* resolution insists that “allowing shareholders to file a civil cause of action against a corporation in dispute of the corporation’s political activity” amounts to “a legal threat designed to silence corporate speech” (American Legislative Exchange Council 2010a).

By focusing exclusively on employee payroll deductions, “paycheck protection” proposals serve to tilt the political playing field toward big corporations. As the *Los Angeles Times* editorial board explained, while “unions raise their political money overwhelmingly through payroll deductions...corporations...rely on their treasuries rather than payroll deductions to make political contributions... and...they do so without asking permission of shareholders, employees or customers” (*Los Angeles Times* Editorial Board 2012).

SB29 and HB64 allow payroll deductions for corporate political spending—only union spending is restricted

Even in the treatment of payroll deductions themselves, SB29 and HB64 establish a stark double standard for labor organizations versus business.

“Paycheck protection” is often described as safeguarding the right of employees to control the political uses to which their money is put. Thus, Missouri House Speaker and ALEC State Chairman Tim Jones explains his support for the bills by arguing that “no one should be forced to make compulsory contributions to an organization which will use the funds to support candidates that the worker may not support”² (Jones 2013). This sentiment is repeated by major corporate lobbies such as the Koch-family-funded Americans for Prosperity, which trumpets SB29 as guaranteeing workers’ “freedom to decide whether or not their earnings are put toward political activity to which they may object” (Americans for Prosperity–Missouri 2013). So too, the Missouri Chamber of Commerce declared it supports HB64 because “people have a right to designate which candidate gets support with their money” (Missouri Chamber of Commerce 2013). But all these principles appear to apply only to money contributed to workers’ organizations, not money contributed to corporations.

The state of Missouri offers public employees over 450 options for making payments through electronic payroll deductions. Many of these are payments to corporations that use their revenue to fund ambitious political lobbying and campaign contributions, including:

- Health insurance payments to the Missouri Consolidated Health Care Plan (MCHCP), which is operated by United Medical Resources, a division of the UnitedHealth Group. UnitedHealth Group uses its treasury funds to support an ambitious political program, which included spending \$3.4 million on lobbying activities in 2012 (Missouri Consolidated Health Care Plan 2013a, 2013b; UnitedHealth Group 2013a, 2013b; Center for Responsive Politics 2013a).³
- Insurance premium payments to Coventry Health Care, which spent over \$1 million on lobbying activities in 2008–2009 during the height of congressional debate over health care reform (Missouri Consolidated Health Care Plan 2013b; Center for Responsive Politics 2008a, 2009a).

- MCHCP premiums used to pay the Express Scripts company, which administers the state’s prescription drug benefit; Express Scripts spent nearly \$1.9 million to lobby Congress in 2012 and \$340,000 to lobby Missouri lawmakers (Center for Responsive Politics 2012a; National Institute on Money in State Politics 2012a).
- Life insurance purchases through the Allstate company, which spent nearly \$17.5 million on lobbying over the past five years (Center for Responsive Politics 2008b, 2009b, 2010a, 2011a, 2012b, 2012c, 2012d, 2011).
- Hospital gap insurance purchases through the Aflac corporation, designated a “heavy hitter” in political spending by the Center for Responsive Politics. Aflac made campaign contributions totaling \$2.5 million in 2012 and has spent \$21 million on lobbying over the past five years (Center for Responsive Politics 2008c, 2009c, 2010b, 2011b, 2012e, 2012f; National Institute on Money in State Politics 2012b).
- Tax-sheltered annuity purchases through the Aetna insurance company. Aetna has spent \$17.6 million on lobbying over the past five years, including \$4.1 million in 2012. The company also contributed more than \$2.2 million to state and federal candidate campaigns in 2012 (Center for Responsive Politics 2008d, 2009d, 2010c, 2011c, 2012g, 2012h; National Institute on Money in State Politics 2012c).
- Tax-favored college savings plan investments administered by the Vanguard Group (MOST 2013). Vanguard itself contributed \$362,000 to congressional candidates and spent another \$2 million on lobbying in 2012 (Center for Responsive Politics 2012i). Vanguard is also a member of the Investment Company Institute, which spent \$7.5 million on lobbying activities in 2011–2012 (Investment Company Institute 2013; Influence Explorer 2013). Finally, the stocks in which Vanguard invests employees’ funds include three of the country’s top 20 lobbyists: General Electric, which spent \$21.1 million on lobbying in 2012; Google, which spent \$18.2 million; and AT&T, which spent \$17.4 million (Vanguard Group 2013; Center for Responsive Politics 2013b). In no case are employees given the option of investing in college savings plans while withholding the portion of their investment or fees that fund these political activities.

In regulating dues deductions for labor unions, the law assumes that, unless it is held in a separate segregated account, all money is fungible. Thus, a union can’t make political dissidents continue paying the same dues rates by assuring them that none of *their* money will be used for political spending and that the union will instead rely on a greater share of other people’s dues to fund political activities. This is the meaning of SB29’s requirement that “individuals who do not authorize [political] contributions...shall not have their dues...increased in lieu of contribution.” Unions are required to treat all expenses as if they are paid in equal shares by each members’ dues; thus, someone who objects to supporting political activities must have his or her dues reduced by that amount—not simply reallocated to non-political expense categories—and the union cannot make this up by increasing others’ dues rates.

If the same logic applies to all deductions, insurance companies can’t plausibly declare that no part of *Missouri* employees’ premiums are used for lobbying activities by arguing that the company takes that money out of *other* income. Rather, we must assume that some portion of every dollar employees pay to UnitedHealth Group, Vanguard, Aetna, Aflac, and Express Scripts is used to fund corporate political activities. ALEC’s model Paycheck Protection Act declares that “taking political contributions from workers without their fully informed consent violates these workers’ rights. Such violations injure the workers, undermine the legitimacy of the political process and can have a corrupting effect on the electoral and governmental process” (American Legislative Exchange Council 1998). It appears, however, that this principle applies only to organizations that are politically opposed to ALEC. All of the contributions to investment

banks and insurance companies' political lobbying activities are untouched by HB64 and SB29; both bills restrict contributions only to labor organizations, while leaving corporations completely free to deduct monies out of employee paychecks and use them for political purposes without employees' knowledge or consent.⁴

The double standard at the heart of SB29 and HB64 is common to many recent "paycheck protection" proposals. In Tennessee, for instance, both the U.S. Chamber of Commerce and the National Federation of Independent Business (NFIB) urged legislators to pass a pair of bills with starkly different outcomes for business and labor (Tennessee Chamber of Commerce & Industry 2012; National Federation of Independent Business 2011). One bill gave corporations the right, for the first time ever, to make direct contributions to candidate campaigns—extending corporate rights even beyond those established in the *Citizens United* ruling. The other bill would have made it a class C misdemeanor for a labor organization to contribute to any candidate for public office.⁵

'Paycheck protection' does not save the state money by eliminating the administrative costs of collecting union dues

Some proponents of limiting employees' ability to pay union dues through electronic payroll deductions suggest their bills are motivated by the desire to save state tax dollars. ALEC's model Public Employer Payroll Deduction Policy Act, for instance, argues that payroll dues deduction constitutes an unwarranted use of state resources. "It is in the interest of this State's citizens," ALEC asserts, "that government resources, including employee time, public property or equipment, and supplies be used exclusively for activities that are essential to carrying out the necessary functions of government," which "do not include using government resources to confer the special convenience of deducting membership dues from...[employees'] paychecks" (American Legislative Exchange Council 1999b).

So too, when Michigan legislators passed a law banning school teachers from paying union dues through the payroll system, the law's sponsor stressed that his bill "really prioritizes that the focus of our school administration has to be on teaching the kids. ...Let's get out of the business of collecting bills for other people" (Spencer 2012).

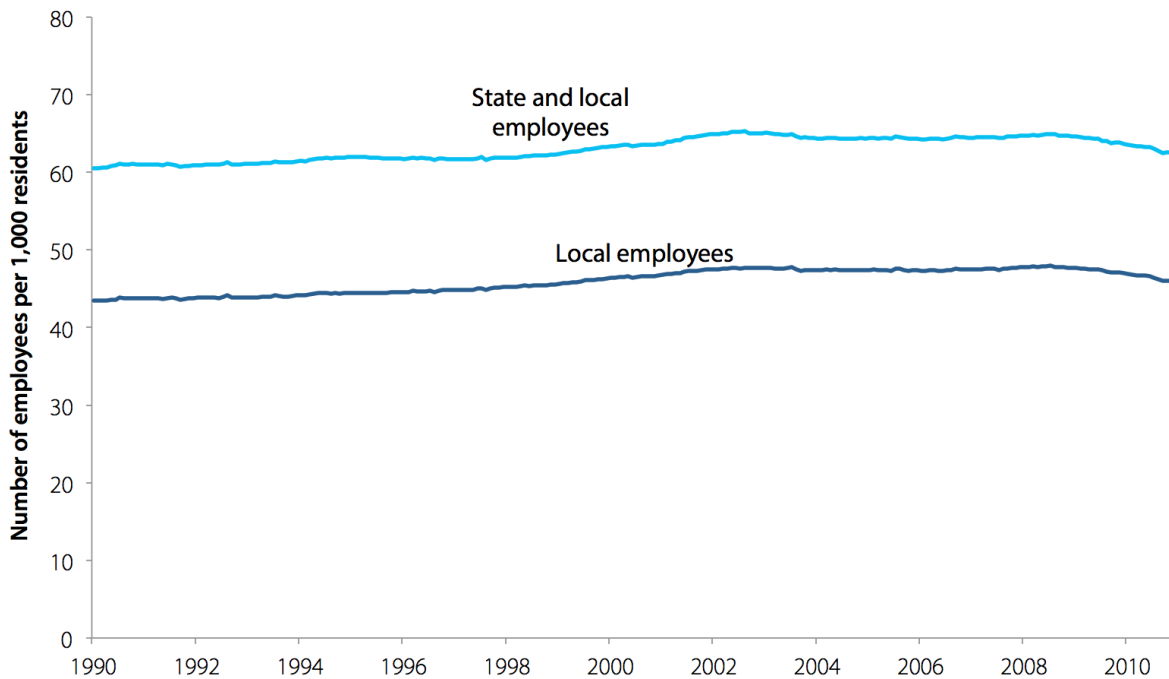
Governor Rick Snyder concurred, suggesting that the law would ensure that "state public school resources be devoted to the education of our children" (Snyder 2012). Unsurprisingly, the Michigan Chamber of Commerce "strongly" supported this bill, arguing that "in these challenging economic times, those responsible for expending government resources must be ever more vigilant that monies are being directed for the public good. ...Since the monitoring and collection of union dues requires financial resources, it should be the obligation of the union to undertake this activity and not look to taxpayers to ensure the collection of dues" (Michigan Chamber of Commerce 2012).

But electronic payroll deductions are virtually costless. Indeed, Michigan's own Senate Fiscal Agency concluded that this bill "would have no fiscal impact on the state" (Michigan Senate Fiscal Agency 2012). The Michigan House of Representatives' legislative analysis of the bill reports that even in small school districts, "the bill would have no significant fiscal impact," because "payroll deductions for union dues...[are] largely automated, so there is very little work districts must go through on a regular basis" (Michigan House Fiscal Agency 2012).

As noted above, the state of Missouri already offers more than 450 payroll deduction options for public employees; eliminating a handful of these will have no measurable impact on state administrative costs.

FIGURE A

State and local government workers per 1,000 residents, 1990–2010



Source: Author's analysis of Bureau of Labor Statistics Current Employment Statistics and Federal Reserve Economic Database public data series

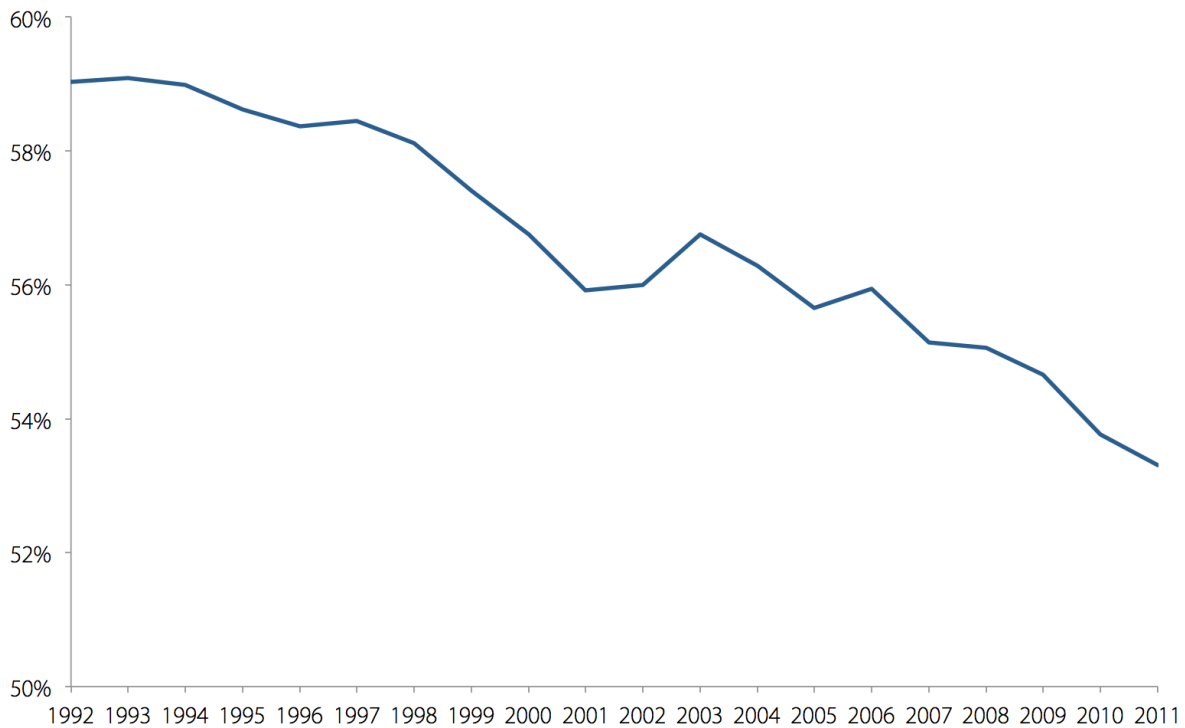
SB29 and HB64 are not effective strategies for closing state budget deficits

In Wisconsin and elsewhere, politicians justified attacks on public employee unions as a response to the fiscal crises confronting state governments. Commentators regularly suggested that budget deficits were the fault of unions that used their political clout to pad government payrolls and extract above-market wages and benefits from hard-working taxpayers (Bergquist and Stein 2010). But this characterization does not fit the facts of economic reality. Public employees generally make slightly *less* than similarly skilled employees in the private sector (Schmitt 2010; Keefe 2011). Furthermore, the timing of the budget crises that swept the nation in 2010–2011 makes it clear that these could not have been the product of overly generous compensation for public employees.

The budget deficits of 2010–2011 came on suddenly. As recently as 2007, 40 of the 50 states enjoyed budget surpluses (Eckl 2008). Three years later, the states faced a combined shortfall of almost \$200 billion, by far the largest on record (McNichol, Oliff, and Johnson 2011). Whatever caused the crises, then, must have occurred in 2008–2009. There was certainly no dramatic increase in employee compensation in these years. On the contrary, both the number of state and local public employees per capita (see **Figure A**) and the share of state budgets devoted to employee compensation (**Figure B**) have been flat or declining for the past two decades (Allegretto, Jacobs, and Lucia 2011; Madland and Bunker 2011).

FIGURE B

Employee compensation as a share of total state and local expenditures, 1992–2011



Source: Author's analysis of Bureau of Economic Analysis National Income and Product Accounts (Table 6.2D and Table 3.3)

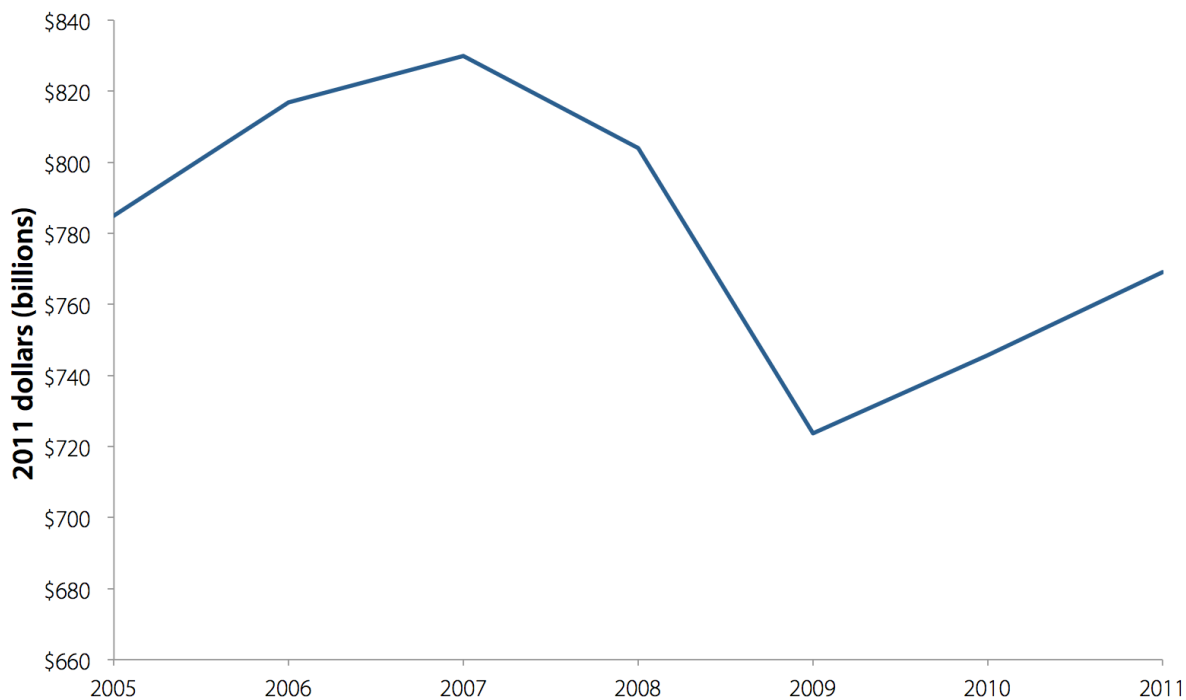
What changed in that short timespan was, in fact, no increase in state spending of any kind, but rather a dramatic falloff in revenues (**Figure C**), caused by the collapse of the housing market and the onset of the Great Recession (McNichol, Oliff, and Johnson 2011). Budget deficits struck nearly every state in the country, regardless of employees' union status. Statistical analysis shows no correlation whatsoever between the presence of public employee unions and the size of state budget deficits (Allegretto, Jacobs, and Lucia 2011). Indeed, the state of Texas—which prohibits collective bargaining for nearly all public employees—faced one of the country's largest deficits, with a massive shortfall of \$18 billion, or 20 percent of state expenditures (Williams, Leachman, and Johnson 2011).⁶

If unions didn't cause the increase in state fiscal deficits, it's also true that restricting union rights was not a strategy for solving states' fiscal problems. Indeed, under questioning by members of Congress, Wisconsin Governor Scott Walker conceded that many of the most draconian provisions in his anti-union legislation “wouldn't save [the state] anything” (Jilani 2011). So too, Ohio Governor John Kasich—who signed a law similar to Wisconsin's only to see it overturned by voter referendum—conceded under questioning that his law “does not affect our budget” (Vardon 2011).

Thus, while “paycheck protection” laws may indeed weaken public employee unions, they cannot be considered a sound strategy for addressing state fiscal problems.

FIGURE C

State tax revenues, 2005–2011



Source: Author's analysis of Bureau of Economic Analysis National Income and Product Accounts (Table 3.20). Data are inflated using the CPI-U-RS.

'Paycheck protection' does not get government out of the business of supporting political activities

In its model Paycheck Protection Act, ALEC argues that such laws are needed in order “to avoid the perception that the State has any involvement in political contributions.” For this reason, ALEC asks legislators “not to permit political contribution deductions from the compensation of any State employee” (American Legislative Exchange Council 1998). This argument has been repeated in numerous state debates. The corporate-funded Alabama Policy Institute, for instance, heralded that state’s ban on payroll deductions for union dues, insisting that the legislation “stops the abuse of state resources,” “paid for by Alabama taxpayers, to support...political efforts” (Palmer 2012).

However, such bills do not, in fact, remove the government from the role of facilitating political spending. Instead, they simply impose a one-sided limit on unions’ political activities. The state of Missouri not only allows myriad payroll deductions to politically active corporations, but it also makes direct grants of taxpayer dollars to such organizations.

In 2011–2012, for instance, Missouri gave \$1 million grants to both the St. Joseph and Joplin Chambers of Commerce (Nixon 2012). Both organizations are members of the Missouri Chamber of Commerce and Industry, which boasts that its lobbying organization constitutes “one of the most powerful forces in the State Capitol” (King 2013). Furthermore, both the St. Joseph and Joplin chambers are accredited members of the U.S. Chamber of Commerce, to which they must pay fees. The U.S. Chamber is the single largest political lobby in the country, spending \$136.3 million on lob-

bying activities in 2012 (Center for Responsive Politics 2013b). Since the Chamber of Commerce uses general treasury funds to pay for lobbying and political activities, some small portion of the \$2 million in grants must be assumed to be supporting chamber political activities.

Yet neither of these grants was greeted with warnings about taxpayers' dollars going to fund political views that taxpayers might not support or with concerns about the ethics of the state government appearing to provide financial support to organizations that might use some of their budgets for political purposes.

'Paycheck protection' is not part of an agenda to expand workers' rights

Corporate advocates sometimes present themselves as champions of employees' rights. In Missouri, ALEC-affiliated Sen. Mike Parson insists that "paycheck protection" is "not an attack on unions," but "is about employee freedom" (*Missouri Times* 2013). HB64 sponsor and ALEC Task Force member Rep. Eric Burlison similarly argues that his bill aims "to protect the rights of Missouri workers" (Yokley 2012). But the organizations most responsible for the promotion of such bills are not engaged in a campaign to expand workers' rights.

"Paycheck protection" is part of a broader corporate agenda of economic reform being championed in state houses across the country. That agenda includes eliminating the minimum wage, stripping employees of the right to paid sick leave, and making it harder for employees to file suit over job discrimination, but it is not an agenda to expand workers' rights.

Most importantly, the very lobbies that are at the forefront of advocacy for restricting union dues are working to actively oppose the most fundamental form of what might truly be termed "paycheck protection"—a guarantee that employees are actually paid the wages they have legally earned.

The United States is currently facing an epidemic of wage theft, and the corporate lobbies' response is telling. A multi-city survey reports that 64 percent of low-wage workers have some amount of pay illegally withheld from their paychecks every week, including 26 percent who are effectively paid less than the minimum wage. Fully three-quarters of workers who are due overtime have part or all of their earned overtime wages stolen by their employer. In total, the average low-wage worker loses a stunning \$2,634 per year in unpaid wages, representing 15 percent of their earned income (Bernhardt et al. 2009). Indeed, the amount of money illegally taken out of employees' paychecks every year is greater than the combined total of all the bank robberies, gas station robberies, and convenience store robberies in the country (U.S. Department of Labor 2008; U.S. Bureau of the Census 2012).

In recognition of the crisis of wage theft, states and localities have begun drafting ordinances to protect workers' paychecks from this fundamental danger. The Progressive States Network, a national organization of state legislators, has identified the key elements of effective policy for combating wage theft. These include requirements that employers keep detailed pay records and allow employees to receive a detailed explanation of how each paycheck was calculated; the right of state authorities to inspect employers' records; workers' private right of action to sue for unpaid wages as individuals or in class actions; protection of complainants against retaliation by their employers; and the provision of attorney fees, damages, and penalties as part of the enforcement process (Judson and Francisco-McGuire 2012b). Yet

corporate lobbies have been working hard to prohibit exactly such enforcement mechanisms. In the past two years, these efforts came to a head in Florida.

Florida's legislature abolished the state's Department of Labor in 2002 (Florida Senate 2010). Further, the state attorney general has failed to bring a single case of wage theft in recent years. Thus, the only means for seeking enforcement under current law is for employees to turn to the Legal Aid Society, which relies entirely on volunteer attorneys (Reid 2011; Hernandez and Stepick 2012). In 2010, Miami-Dade County instituted the nation's first broad municipal wage theft law, providing enforcement through a streamlined process similar to small claims courts, at no cost to taxpayers. In its first year, the county prosecuted over 600 claims of stolen wages, and recovered over \$1.7 million in illegally withheld pay (Judson and Francisco-McGuire 2012a).

Rather than embracing such successful "paycheck protection," however, the U.S. Chamber of Commerce and allied business lobbies urged legislators to overturn the Miami-Dade ordinance and prohibit other localities from adopting similar laws.⁷ It is hard to conceive of a more fundamental form of "paycheck protection" than guaranteeing against wage theft. Yet even while promoting SB29 and HB64, the Chamber of Commerce is actively working to make it harder for workers to ensure they are paid for their work.

What is 'paycheck protection' really about?

Muzzling political opponents of a corporate economic agenda

If "paycheck protection" laws like those under consideration in Missouri will not expand workers' rights and do not grant employees new rights to control whether money taken out of their paychecks is used for political purposes, what are such proposals truly aimed at?

In part, the bills may represent a political agenda, particularly for those who may view unions as, in the words of columnist George Will, "transmission belts conveying money to the Democratic Party" (Will 2011). Conservative strategist Grover Norquist famously labeled unions one of the key "pillars" of the Democratic Party that must be broken so that Republicans can establish a political "dynasty" (Norquist 2001). Norquist has specifically championed "paycheck protection" as a means of "reduc[ing] union campaign donations" (Alliance for Worker Freedom 2013). Shortly before the opening of the current legislative session, Missouri House Speaker Tim Jones echoed these sentiments, noting that "money is extremely important to the labor unions...they are the biggest opponents to us on that level," and stressing that "Democrats in this state rely on that money" (Hancock and Cooper 2013).

For some of its supporters, then, the value of "paycheck protection" legislation lies largely in shutting off campaign funding to political opponents. But for the most powerful corporate lobbies, "paycheck protection" may represent an ambition that is larger than simple partisan politics.

Silencing workers' voice: the increasingly ambitious target of 'paycheck protection' legislation

As ALEC, the Chamber of Commerce, and allied corporate lobbies have refined the language of "paycheck protection" proposals over the past two years, it increasingly appears that the goal of such legislation is simply to silence workers' voice in politics.

As described earlier, the original “paycheck protection” text—California’s Proposition 226 in 1998—mandated simply that dues could not be spent on politics without the annual written consent of each union member (California Secretary of State 1998). ALEC’s model legislation of that year declared that “it is the purpose of this Act to protect workers’ rights to control their own political contributions [and] to ensure that workers’ political contributions by compensation deduction are voluntary and fully informed” (American Legislative Exchange Council 1998). As discussed earlier, even this reasoning was misleading, and the proposal conveyed no new rights to employees. In recent years, however, the corporate lobbies have moved beyond the 1998 vision and taken much more ambitious steps toward silencing unions’ political voice entirely.

In 2011, a majority of the states that considered “paycheck protection” bills were “right to work” states.⁸ In such states, it is already law that no employees can pay any amount of union dues unless they voluntarily choose to sign up as union members. Employees can choose at any time, on any day of the year, to cancel their membership and thus pay no dues whatsoever. Thus, every individual paying dues is, by definition, doing so by personal, voluntary choice.

What, then, is the purpose of “paycheck protection” laws in states that already have “right to work” laws? For employees who have not affirmatively chosen to be dues-paying union members, “paycheck protection” laws will have no effect whatsoever; they will not be asked each year whether they would like to contribute to union political activities. The *only* impact of such a law, then, is to impose a costly bureaucratic machinery precisely for those employees who have specifically chosen to be full dues-paying members. Rather than enhancing employee choice, “paycheck protection” bills in these states serve primarily to frustrate the choice that has already been made by those employees who voluntarily contribute union dues.

The “paycheck protection” measure recently adopted in the “right to work” state of Alabama stands in direct contradiction to ALEC’s 1998 insistence that “workers have a right to control their own political contributions” (American Legislative Exchange Council 1998). Act 761, authored by Majority Leader and ALEC member Sen. James Waggoner and currently under court injunction, prohibits payroll deduction of dues for any “membership organization which uses any portion of the dues for political activity” (Alabama Secretary of State 2010). Thus, rather than insisting on workers controlling where their money goes, the bill removes from workers the ability to choose to contribute to political causes. Moreover, the law identifies “political activity” very broadly—including “public opinion polling,” “any form of political communication,” “any type of political advertising,” “phone calling for any political purpose,” or “distributing political literature of any type.” Thus, for union members to make voluntary dues contributions through the payroll system, their unions would have to disavow any type of political activity conducted with any part of the organization’s budget.

California’s Proposition 32, a failed 2012 ballot initiative backed with tens of millions of dollars from corporate and anti-union advocates, similarly aimed to completely ban the use of payroll deductions to pay dues that may be used for political activities, even if employees submitted annual written authorization indicating their desire to make such voluntary contributions.⁹ Copycat bills have been proposed in Mississippi and New Hampshire.¹⁰

In all these cases, it appears that the true agenda of those advocating “paycheck protection” is not to enhance freedom of association but to cripple the ability of organized workers to participate meaningfully in the political process.

Perhaps the clearest instance of silencing workers was in North Carolina, where in early 2012 the legislature voted to prohibit school teachers from paying voluntary union dues through the public payroll system. Public employees

in North Carolina have no rights to collective bargaining. Thus, school teachers do not have collective bargaining agreements with local boards of education; rather, the North Carolina Association of Educators (NCAE) is strictly an advocacy organization. In 2011, after Republican legislators supported a plan to cut education funding by \$1 billion, NCAE organized a demonstration by thousands of teachers; the dues prohibition was broadly understood as retaliation for this protest and similar activism in support of increased school funding (Butts 2012). North Carolina has a “right to work” statute, but under the preexisting law, employees had the option to “authorize in writing the periodic [payroll] deduction...[of] voluntary contributions for the employees’ association.”¹¹ The new statute eliminated that right for school district employees (General Assembly of North Carolina 2011).

Teachers argued against the bill on exactly the terms that “paycheck protection” advocates originally invoked. “We should have the right to choose what we decide is taken out of our paycheck,” explained Durham Association of Educators President Kristy Moore (Butts 2012). An unsuspecting reader might think this statement came from ALEC itself. In fact, however, ALEC, the U.S. Chamber of Commerce, and other anti-union advocates do not support employees’ right to choose whether or not to support union political activities; they only support the right to *not* support such efforts.

Getting unions out of the way of the corporate economic agenda

The effective silencing of organized workers is central to the political strategy of the nation’s largest corporate lobbies. Even in its current weakened state, the labor movement remains the most significant obstacle that the U.S. Chamber of Commerce and other corporate associations face in their effort to enact a broad economic agenda. The labor movement is the only vehicle through which millions of working Americans collectively pool sufficient resources—in the form of both financial contributions and organized volunteer efforts—to serve as an effective political counterweight to this agenda. Eliminating union political activity promises to leave the corporate lobbies with an increasingly free hand to shape economic policy.

It is important to note that the agenda corporate lobbies seek to advance has relatively little to do with unions per se. The most powerful advocates of “paycheck protection”—ALEC, the Chamber of Commerce, Americans for Prosperity, and similar well-funded corporate lobbies—are seeking to enact a sweeping economic agenda. Among other elements of this agenda, these lobbies support:

- Abolition of state and federal minimum wages.¹²
- Adoption of more NAFTA-style “free trade” treaties that will make it easier for American corporations to send work to Vietnam, Malaysia, and other low-wage countries (American Legislative Exchange Council 2010b).
- Privatization of social security.¹³
- Opposition to employees having a legal right to even a single paid sick day.¹⁴
- Reductions in unemployment insurance benefits, and restrictions on laid-off workers qualifying for unemployment insurance.¹⁵
- Increased hours of work for teenagers.¹⁶
- The right of employers to import low-wage foreign “guest workers” to work in construction, health care, hospitality, and other large sectors of the economy where work can’t physically be moved abroad.¹⁷

- Rules allowing employers to monitor and restrict employees’ comments on social media websites, even during non-work hours.¹⁸
- Rules allowing employers to deny unemployment insurance to employees who violate any workplace rule, even if their job performance is otherwise exemplary.¹⁹
- Allowing those who make their money buying and selling stocks on Wall Street to pay a significantly lower tax rate than normal employees.²⁰
- Reinstatement of tax cuts for the wealthiest Americans (Turler 2010; Hailey 2012; U.S. Chamber of Commerce 2013).
- Barriers to employee lawsuits against employers for sex, race, or age discrimination.²¹

None of these issues can be termed “union issues.” They have nothing to do with labor law, union governance, union dues, or the terms of collective bargaining agreements. Yet on all these issues, unions serve as the primary obstacle that stands in opposition to the corporate vision of economic reform. The corporate lobbies’ efforts to weaken unions’ political voice is likely driven at least as much by this policy agenda as by anything to do with the terms of union contracts.

This is likely what the legislative director of the Kansas Chamber of Commerce meant when—testifying in support of a bill that would deny public employees the right to make even voluntary payroll deductions for union political activities and that would ban unions from endorsing candidates for public office—he explained that “I need this bill passed so we can get rid of public sector unions” (Marso 2013; Stafford 2013). For the U.S. Chamber of Commerce and like-minded corporate lobbies, getting rid of unions would constitute a critical step toward implementing their economic agenda.

It is certainly the Chamber of Commerce’s right to hope that its political opponents are silenced. But enacting the sweeping Chamber-ALEC agenda by stifling the opposition’s political voice is a poor prescription for Missouri workers.

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Endnotes

1. The organization is the Educational Alliance, whose chief financial backer was Howard F. Ahmanson, a member of the board of trustees of the Chalcedon think tank. Ahmanson was also the single largest financial supporter of Proposition 226. Chalcedon’s mission includes “the necessity of a return to Biblical law” and the conviction that “it is not only our duty as individuals, families, and churches to be Christian, but it is also the duty of the state, the school, the arts and sciences, law, economics, and every other sphere to be under Christ the King.”
2. Jones is Missouri state chairman for ALEC and a member of ALEC’s Education Task Force (Sourcewatch 2013).

3. UnitedHealth Group had revenues of \$110 billion and after-tax profits of \$5.5 billion in 2012 (UnitedHealth Group 2012).
4. SB29, Chapter 105.504 (3), stipulates that “no public labor organization” can use payroll deductions for political purposes without employees’ authorization, but makes no similar restrictions on non-labor organizations using payroll deductions. The text of HB64 (Sec 123.028.4) says only that “a labor organization” needs annual approval before using payroll deductions for politics.
5. Following *Citizens United*, corporations can use general treasury funds to make independent expenditures advocating the election or defeat of given candidates, but in federal elections and most states’ elections they cannot use them to make contributions directly to candidates’ campaigns. The Tennessee law allows corporations to use treasury funds for direct campaign contributions in state elections. Both bills were sponsored by Sen. Bill Ketron—a member of ALEC’s Tax and Fiscal Policy Task Force—and Rep. Glen Casada, former chairman of the Tennessee House Republican Caucus. Rep. Casada defended the logic of his bill by explaining that “the Supreme Court has opined that this [corporate political spending] is free speech,” and corporate money lets politicians educate voters about their positions. “It takes money to get information out,” Casada explained. “The more information you can get out to voters, the better they can make their mind up on who they want to support” (Casada 2011a, 2011b).
6. Police and firefighters are the only public employees who have the right to collective bargaining in Texas, and then only if the city or town that employs them has voted by referendum to grant such rights.
7. The Chamber of Commerce, Retail Federation, and other employer associations promoted Senate Bill 862, which mandated that “a county, municipality, or political subdivision of the state may not adopt or maintain in effect any law, ordinance, or rule that creates requirements, regulations, or processes for the purpose of addressing wage theft. The text of the bill is posted on the Florida Senate’s website at <http://www.flsenate.gov/Session/Bill/2012/0862/BillText/Filed/HTML>. For business lobbies’ support of the bill, see News Service of Florida, “Wage Theft Bill Passes House Judiciary Despite Objections,” *Sunshine State*, February 24, 2012. <http://www.sunshineslate.com/tag/hb-609>.
8. Such laws were proposed in 13 states, including the “right to work” states of Alabama, Arizona, Florida, Kansas, Mississippi, South Dakota, and Tennessee.
9. The full text of Proposition 32 can be found at [http://ballotpedia.org/wiki/index.php/Text_of_California_Proposition_32_\(November_2012\)/](http://ballotpedia.org/wiki/index.php/Text_of_California_Proposition_32_(November_2012)). On funding of Proposition 32, see among others John Logan, “The Shadowy Dark Money Groups Behind California’s Proposition 32,” Truthout.org, November 5, 2012, <http://truth-out.org/speakout/item/12535-the-shadowy-dark-money-groups-behind-californias-proposition-32?tmpl=component&print=1>.
10. Mississippi’s Senate Bill 2044, authored by ALEC Task Force member Sen. Merle Flowers, completely bans payroll deductions for union political activities, in both the public and private sectors, even for those who voluntarily choose to contribute, no matter how many authorization documents they might sign (Mississippi Legislature, 2011 Regular Session, Senate Bill 2044, An Act Relating to the Right to Work, <http://legiscan.com/gaits/text/239490>. Sec. 4(2): “Deductions for political activities shall not be deducted from the wages, earnings or compensation of an employee”). In New Hampshire, House Speaker and ALEC member William O’Brien introduced a bill that would have banned any

employer, public or private, from deducting any amount of union dues from employee payrolls, no matter the purpose of the dues. (New Hampshire House of Representatives, 2012 Session, House Bill 1163: An Act relative to withholding union dues from wages, <http://www.gencourt.state.nh.us/legislation/2012/HB1163.html>). The bill repeals existing state statute RSA 275:48, I(b)(1), which lists union dues as a permissible subject of payroll deductions, as long as the employer has written authorization from the employee. The statute lists nine other broad categories of permitted deductions, none of which are challenged by this statute.

11. N.C. GEN. STAT. § 1438-426.40A(g).

12. ALEC promotes model legislation that calls for complete abolition of the minimum wage, arguing that such laws “represent an unfunded mandate on business by the government, and...make it difficult for small business...to hire new employees due to artificially high wage rates.” The free market “forces of supply and demand,” the bill’s preamble insists, “are more capable than the government” at determining fair wages (American Legislative Exchange Council, *Starting (Minimum) Wage Repeal Act*, 1996 Sourcebook of American State Legislation, www.alecexposed.org). The U.S. Chamber of Commerce similarly opposes even the federal minimum wage, arguing that the law “is counterproductive to job growth” and asserting that, as a matter of principle, “we don’t think the government ought to be in the business of setting wages.” The chamber likewise opposes any states or localities setting minimum wage rates higher than the federal. Indeed, the chamber’s ranking of state employment policies marks down any state that doesn’t actively prohibit localities from enacting their own living wage laws (U.S. Chamber of Commerce spokesman Randy Johnson, quoted in Dave Boyer, “Democrats Debate Timing of Wage Bill,” *Washington Times*, May 6, 2002, <http://www.highbeam.com/doc/1G1-85928951.html>; U.S. Chamber of Commerce, *The Impact of State Employment Policies on Job Growth: A 50-State Review*, 2011).

13. The U.S. Chamber of Commerce, which opposed the creation of Social Security in 1935, calls for converting Social Security from a defined-benefit to a defined-contribution system, converting payments into a system of IRA-type “Personal Retirement Accounts” that would be invested in the stock market by private financial management firms and would not guarantee any level of support whatsoever for retirees. See U.S. Chamber of Commerce, “Personal Retirement Accounts,” <http://www.uschamber.com/issues/retirementpension/socialsecurity/personal-retirement-accounts>; “Social Security: The Problem,” <http://www.uschamber.com/issues/retirementpension/socialsecurity/social-security-problem>; and Lauren Levenstein, “Protestors Fan Out to Save Social Security—But the Chamber’s Still Opposed,” *U.S. Chamber Watch*, Public Citizen, April 17, 2011, <http://www.fixtheuschamber.org/tracking-the-chamber/protesters-fan-out-save-social-security-chambers-still-opposed>.

14. The U.S. Chamber of Commerce argues that granting employees a legal right to paid sick leave would “interfere with an employer’s ability to maintain a reliable, stable workforce, and...exacerbate well-documented employee misuse of [medical leave laws].” Corporate lobbies have worked to defeat efforts at establishing a right to paid sick leave in New York City, San Francisco, Seattle, and Washington, D.C., and in the states of Connecticut, Massachusetts, and Vermont. In an even more ambitious effort, successfully supported by Wisconsin Manufacturers and Commerce (that state’s Chamber of Commerce), Wisconsin legislators retroactively abolished the right to sick leave that had been established in Milwaukee, approved by 68 percent of voters in a 2008 referendum (U.S. Chamber of Commerce, *Labor and Immigration: Policies, Positions, and Activities 2008*, U.S. Chamber, Washington, D.C., 2008; Campaign for a Healthy Denver and ROC United, *The National Restaurant Association: Behind the Fight Against Working Families and an*

Economy That Works for All, October 2011, page 1, <http://familyvaluesatwork.org/wp-content/uploads/2011/10/NRA-CO-Report-and-Coversheet.pdf>; see Joel Dresang, “Researcher Sees Both Sides of Sick Pay Debate,” *Journal Sentinel*, November 21, 2008, <http://www.jsonline.com/business/34916009.html>). The Milwaukee ordinance had guaranteed a minimum of one hour of paid sick leave for every 30 hours worked, up to a maximum of nine sick days per calendar year; firms with less than 10 employees had a maximum of only five days per year (Pamela Ploor and Mike Fischer, “Milwaukee Paid Sick Leave Ordinance Revived by Court of Appeals,” March 2011, http://www.quarles.com/milwaukee_paid_sick_leave_ordinance_2011/#_ftn2; Wisconsin Manufacturers and Commerce, “Wisconsin Business Climate Improves in 2011,” December 20, 2011, <http://www.wmc.org/news/press-releases/wisconsin-business-climate-improves-in-2011>).

15. The Missouri Chamber of Commerce calls for unemployment insurance “reform” of this type in Missouri Chamber of Commerce & Industry, *Labor & Industrial Relations Policy Council*, 2012, <http://www.mochamber.com/mx/hm.asp?id=laborandindustrialrelations>. The U.S. Chamber of Commerce ranks each state’s unemployment benefits, reserving the highest grades for states that require employers to pay the most limited taxes in support of the unemployment insurance system; provide the most meager benefits to unemployed workers; and force those out of work to go one week with no pay before being eligible for benefits (U.S. Chamber of Commerce, *The Impact of State Employment Policies on Job Growth: A 50-State Review*, Washington, D.C., 2011). ALEC’s ultimate goal for unemployment compensation may be glimpsed in the organization’s model “Full Employment Act,” which completely eliminates welfare, unemployment, and food stamp benefits, instead requiring that jobless Americans be forced to work at minimum wage, for public or private employers, in order to earn any such benefits. Anyone who turns down any minimum wage job offered them is immediately cut off from unemployment benefits. The forced-work would be paid at 90 percent of the state minimum wage, but not less than the federal minimum; food stamp recipients who are aged, blind, or disabled would be exempted from the forced-work requirement (American Legislative Exchange Council, *Full Employment Act*, 1995; Sourcebook of American State Legislation, [Alecexposed.org](http://alecexposed.org)).

16. For example, Michigan legislators passed a bill, championed by a wide range of business lobbies and low-wage employers’ associations, including the Chamber of Commerce, the Small Business Association, NFIB, the Grocers Association, the Lodging and Tourism Association, the Licensed Beverage Association, and the Association of Home Builders, that increased from 15 to 24 the number of hours high school students may work during a school week. Perhaps most outspoken was the Michigan Restaurant Association, which, despite a statewide unemployment rate of 10.6 percent, told legislators that “many restaurants cannot find enough adult labor to fill available positions” and need the teenagers to stay afloat (<http://www.house.mi.gov/SessionDocs/2011-2012/Minutes/COMM062111.pdf>; Andy Deloney, Vice President for Public Affairs, *Statement of the Michigan Restaurant Association in Support of House Bill 4732*, House Commerce Committee, June 21, 2011, <http://house.michigan.gov/SessionDocs/2011-2012/Testimony/Committee4-6-21-2011-4.pdf>). There was also at the time no evidence of a boom in restaurant work; from June 2011 to June 2012, employment in leisure and hospitality services increased by only 4,000 statewide, while the retail trade sector lost 8,000 jobs (Michigan Department of Technology, Management and Budget, news release, “Michigan’s June Unemployment Rate Increases Slightly,” July 18, 2012, http://www.michigan.gov/documents/dtmb/LMI-JulyRelease_392680_7.pdf).

17. The U.S. Chamber of Commerce created the Essential Worker Immigration Coalition (EWIC), the primary organization of employer associations lobbying for a liberal guest worker program. EWIC advocates for the right of employers

to import hundreds of thousands of lower-wage foreign workers not only in seasonal agriculture but also in the year-round construction, health care, hospitality, and other service industries (U.S. Chamber of Commerce, *Essential Workers*, <http://www.uschamber.com/issues/immigration/essential-workers>; Statement of U.S. Chamber of Commerce President Thomas Donahue before the Senate Subcommittee on Immigration, May 26, 2005, <http://www.uschamber.com/sites/default/files/testimony/tjdimmigrationtestimony52605final.pdf>; Statement of Elizabeth Dickson, on behalf of U.S. Chamber of Commerce, before House Committee on Education and the Workforce, July 19, 2006, <http://immigration.uschamber.com/uploads/sites/392/TWP%20testimony%20Dickson%207-19-06.pdf>).

18. The National Labor Relations Board recently ruled against the increasingly common practice of employers prohibiting employees from saying anything critical or “disrespectful” about their workplaces—even on personal Facebook pages, posted at home during non-work hours. The U.S. Chamber of Commerce has spoken out in opposition to the board’s policy. See for example Steven Greenhouse, “Even if It Enrages Your Boss, Social Net Speech Is Protected,” *New York Times*, January 21, 2013, http://www.nytimes.com/2013/01/22/technology/employers-social-media-policies-come-under-regulatory-scrutiny.html?pagewanted=all&_r=0).

19. Four states have recently adopted laws that embrace such principles. For example, in a bill the *Nashville Business Journal* described as backed with the “full-throated support” of the Chamber of Commerce and the NFIB, Tennessee legislators adopted a new statute—whose authors are almost all ALEC members—that redefines “misconduct” to include any “violation of an employer’s rule, unless the claimant can demonstrate that: (A) The claimant did not know, and could not reasonably know, of the rule’s requirements; or (B) The rule is unlawful or not reasonably related to the job environment and performance.” The statute specifically cites “deliberate disregard of a written attendance policy” as grounds for deeming a worker ineligible for unemployment benefits. NFIB was quick to inform employers that a key “takeaway” from the bill is to “make sure you have a written attendance policy that each employee has reviewed and signed,” so that any unexcused absences may be used to terminate employees without recourse to unemployment insurance. Thus, the nearly 40 million Americans who have no sick leave can be fired if they have to stay home with a sick kid, and they’re ineligible for unemployment benefits (Tennessee General Assembly, *Bill Summary: SB 3658, The “Unemployment Insurance Accountability Act of 2012,”* <http://wapp.capitol.tn.gov/apps/billinfo/BillSummaryArchive.aspx?BillNumber=SB3658&ga=107>; Brian Reisinger, “Businesses Push Efforts to Reform Tennessee Unemployment,” *Nashville Business Journal*, March 16, 2012, <http://www.bizjournals.com/nashville/print-edition/2012/03/16/tennessee-reform-unemployment.html?page=all>; <http://www.nfib.com/tennessee/nfib-in-my-state-content?cmsid=60149>).

20. Like other corporate lobbies, the U.S. Chamber of Commerce argues that “taxes on capital gains should be as low as possible” (Statement of the U.S. Chamber of Commerce before the Senate Finance Committee and House Ways and Means Committee, Joint Hearing on Tax Reform and the Tax Treatment of Capital Gains, September 20, 2012, http://www.uschamber.com/sites/default/files/120920taxreform_testimony.pdf).

21. The U.S. Chamber of Commerce has long opposed legislation that would allow victims of employment discrimination to establish discrimination based on an employer’s track record and without having to prove the specific intent of individual supervisors, or laws that would allow victims of discrimination to sue for compensatory and punitive damages, rather than solely to recover back wages; the chamber argues that establishing such rights amounts to “further increasing the opportunity for frivolous legislation.” ALEC likewise promotes model legislation that opposes compar-

able worth laws, arguing that “a government mandate such as Comparable Worth...artificially drives up the costs of engaging in economic activity [and] invariably constricts job creation and growth”; in any case, it argues that, when one controls for the proper variables, women are already being paid just about the same as men. ALEC’s model language further seeks to deny victims of discrimination the right to sue for punitive damages, deeming such rights “a serious economic threat to all employees and employers whose welfare depends on the prosperity that our free enterprise system affords” (U.S. Chamber of Commerce, *Key Vote Letter on S. 3220, the “Paycheck Fairness Act,”* June 4, 2012, <http://www.uschamber.com/issues/letters/2012/key-vote-letter-s-3220-paycheck-fairness-act>; American Legislative Exchange Council, *Resolution Opposing Comparable Worth Legislation*, adopted by the ALEC Board of Directors, September 1999; www.alecexposed.org).

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