



## “RIGHT TO WORK” IS THE WRONG ANSWER FOR NEW MEXICO’S ECONOMY

BY GORDON LAFER AND ALYSSA DAVIS

### Introduction and executive summary

State legislators are considering whether to make New Mexico a “right-to-work” (RTW) state.

RTW laws have nothing to do with anyone being forced to be a member of a union, or forced to contribute to political causes they do not support; that’s already illegal under federal law. What RTW laws do is make it illegal for an employer and employee organization to negotiate a contract that requires every employee benefiting from the contract to pay his or her fair share of the costs of negotiating and enforcing that contract. In effect, by causing workers’ organizations to be less financially viable, RTW laws aim to restrict the share of employees who are able to represent themselves through collective bargaining, and diminish the ability of unions to negotiate higher wages and benefits for employees.

A range of national evidence shows why RTW would not be positive for New Mexico:

- RTW is associated with lower wages and benefits for *both* union and nonunion workers. In states with RTW laws, the average worker makes \$1,500 per year less than a similar worker in a fair-share (non-RTW) state, even after factoring in differences in cost of living.
- By weakening unions, RTW hurts the middle class. As union membership has declined in recent decades, the middle 60 percent of Americans have received a smaller and smaller share of overall income.

Additional evidence further suggests that RTW would be a poor fit for New Mexico’s economy:

- RTW will harm New Mexicans' ability to earn a decent living, and may endanger job growth in the healthcare industry—the industry projected to add the most jobs to the state economy over the next decade.
- New Mexico is already a low-wage state; if low wages do indeed attract manufacturers, they would already be in the state. A strategy of further lowering wages will harm New Mexicans and risk harming small businesses that depend on local residents having disposable income.
- In New Mexico, private-sector unions—the primary target of RTW laws—are concentrated in service industries such as supermarkets, hospitals, oil and gas, construction, and film. These companies are rooted in New Mexico and will not move to another state due to labor law changes.
- New Mexico has a good base from which to focus on creating high-tech, higher-wage manufacturing jobs. In 2014, all five of the states rated best for high-tech employers were fair-share states, and New Mexico ranked ahead of a majority of RTW states.

New Mexico lawmakers considering RTW should weigh the consequences, specifically the likelihood of decreased wages, against the unfounded claims that RTW will attract significant new business to the state.

## What does the national research tell us about “right to work”?

Hundreds of things affect a state's economic growth—including warm or cold weather, access to a skilled and educated workforce, a healthy K–12 education system, the urban or rural nature of its economy, proximity to highways and ports, and a wide variety of state laws. RTW is just one of these hundreds of things, and it is not the main factor controlling states' economies.

That's why there's no pattern of RTW states growing faster or slower—or having better or worse unemployment rates—than other states. For instance, both the highest unemployment rate in the country (Mississippi) and the lowest (North Dakota) are in states with RTW laws.<sup>1</sup>

While it is far from determinative as far as a state's economic performance is concerned, a wide range of national evidence suggests that RTW would be detrimental to New Mexico.

### *RTW lowers wages and benefits for both union and nonunion workers*

The mark of serious economic research is that it uses statistics to hold “all else equal” in order to isolate the impact of a specific variable—in this case, the impact of RTW laws.

Dr. Heidi Shierholz, now chief economist of the U.S. Department of Labor, and Dr. Elise Gould, senior economist at the Economic Policy Institute, conducted a study controlling for a wide array of variables showing that:

- Wages in RTW states are 3.2 percent lower than those in non-RTW states. In states with RTW laws, the average worker makes \$1,500 per year less than a similar worker in a fair-share (non-RTW) state, even after factoring in differences in cost of living.
- The incidence of employer-sponsored health insurance is 2.6 percentage points lower in RTW states.
- The incidence of employer-sponsored pensions is 4.8 percentage points lower in RTW states.<sup>2</sup>

## ***Why are nonunion workers hurt by RTW?***

RTW lowers wages and benefits for nonunion workers as well as union workers. In places where unions are strong, they create pressure for nonunion employers to raise their own wages and benefits to prevent their best workers from leaving to work for a union employer.<sup>3</sup> If RTW laws weaken unions and cut union wages and benefits, nonunion employers no longer have to compete with such high standards in order to get and keep the best workers, so there is a spillover effect in which they lower their own wages and benefits.

## ***RTW is intended to cut wages***

The goal of RTW—according to its supporters—is to cut wages and benefits in the hopes of encouraging out-of-state manufacturers to move in. If it didn't lower wages, there would be no incentive for companies to move into the state. As one report touted by the Rio Grande Foundation explained, "Unionization increases labor costs ... [and thus] makes a given location a less attractive place to invest."<sup>4</sup> RTW is supposed to solve this problem. Similarly, a Missouri state representative championed RTW by projecting that it would cut wages by "2 to 3 dollars an hour" as part of the process of attracting more companies to hire cheaper labor.<sup>5</sup>

## ***Weakening unions hurts the middle class***

Unions are a critical part of what makes it possible for normal working people to earn a decent living. As unions have shrunk—due in part to antiunion policies such as RTW laws—the middle class has suffered. Companies may still be profitable, and executive salaries may soar ever higher, but the share of income that goes to the middle 60 percent of the country is essentially at a 45-year low, as shown in **Figure A**.<sup>6</sup>

## ***RTW does not create jobs***

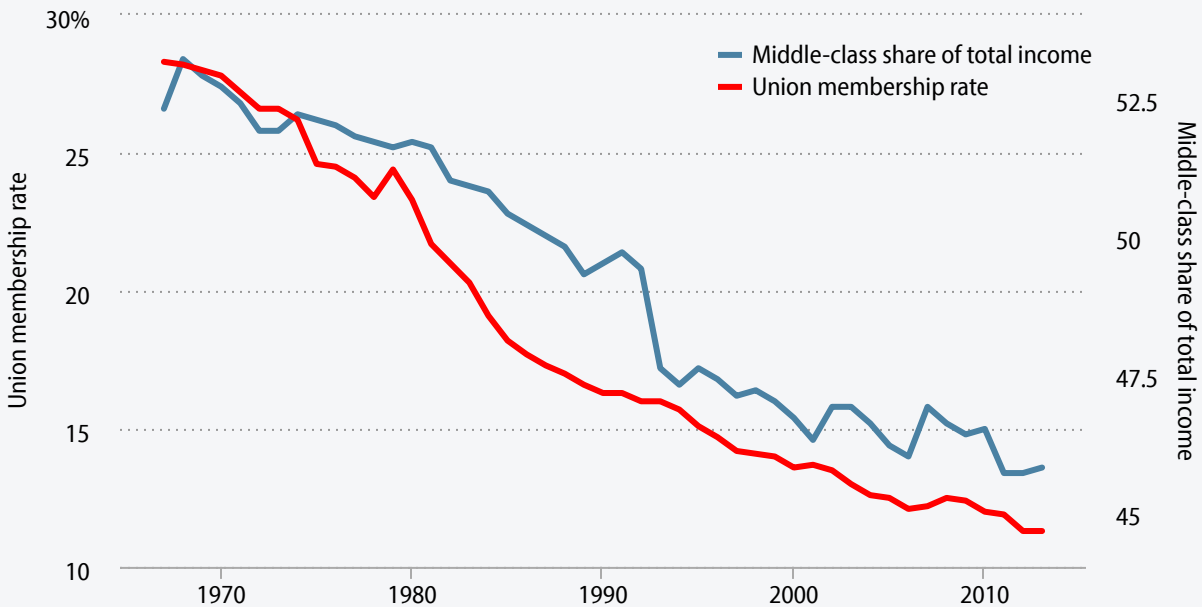
In the 1970s or 1980s, companies may have left the Upper Midwest for cheaper labor in the South or Southwest. But globalization has fundamentally changed our economy. Today, a company that's primarily interested in cheap labor is going to China or Mexico, not to South Carolina or Arizona.

Oklahoma is the only state to adopt RTW since NAFTA and where enough time has passed to measure its impact.<sup>7</sup> Oklahoma lawmakers were told that if they passed a RTW law, there would be an eight- to 10-fold increase in the number of new companies coming into the state—especially in manufacturing.<sup>8</sup> New Mexico's governor, Susana Martinez, is now repeating the type of claims made in Oklahoma, that "companies locate [in RTW states] more often," and that a RTW law will boost the number of employers coming into the state.<sup>9</sup>

But legislators should not make decisions based on anecdotes when real data are available. Ten years after Oklahoma adopted RTW, every promise made by its supporters has proven false. Instead of increasing dramatically, manufacturing employment in the 10 years after RTW fell by one-third (as shown in **Figure B**), as did the total number of new jobs created by companies coming into the state.<sup>10</sup> RTW did not cause the employment dip in Oklahoma, but claims that RTW boosted employment are obviously implausible.

In fact, employers themselves say RTW is not important. *Area Development* magazine conducts an annual national survey asking manufacturers to list the most important factors for their location decisions. RTW has never ranked in the top 10. In 2013, it ranked 12th; the top two factors were availability of skilled labor, and access to a major highway.<sup>11</sup>

## Union membership rate versus the middle class’s share of aggregate income, 1967–2013



**Note:** The middle class is defined here as the middle 60 percent of U.S. households.

**Source:** Adapted from Keith Miller and David Madland, "New Census Data Once Again Illustrate Importance of Unions to the Middle Class," Center for American Progress, September 18, 2014

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This is even truer for higher-tech employers—exactly the type of firms that New Mexico hopes to recruit. The *State New Economy Index* is a non-political survey that ranks states according to their suitability for high-tech companies. In 2014, the top five states (and 13 of the top 15) were all fair-share states, not RTW states. New Mexico ranked 26th—higher than a majority of the RTW states.<sup>12</sup>

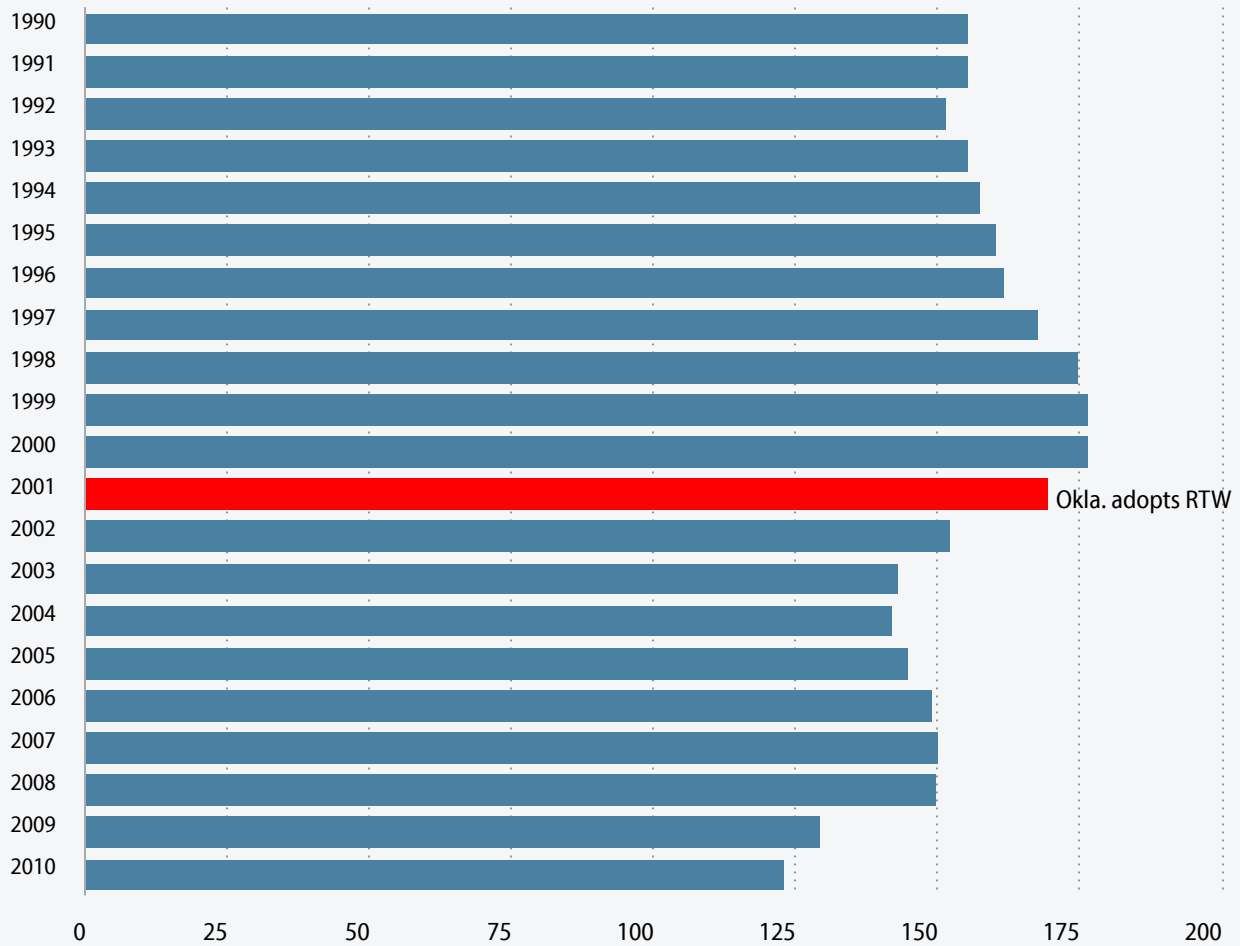
One site location expert—based in RTW North Carolina—explained to the *Albuquerque Business Journal* that “up to the mid 1980s, right-to-work was on most checklists of states to include and those to eliminate.... Since [then], right-to-work has steadily become less and less important as a location factor for most companies to the point now that it hasn’t come up on my projects in probably ten years... [right-to-work] is old thinking, and it becomes a factor only because someone is not well-informed.”<sup>13</sup>

## New Mexico already outperforms many RTW states

RTW advocates sometimes suggest that New Mexico’s economy is worse off than all the states with RTW laws. But this is far from the truth. For instance:

- For the 20 years before the Great Recession, New Mexico’s job growth was 20 percent higher than the average of all RTW states.<sup>14</sup>

## Oklahoma manufacturing employment (thousands), 1990–2010



Source: Bureau of Labor Statistics (U.S. Department of Labor) Current Employment Statistics program, various years, *Employment, Hours and Earnings—National* [database]

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- New Mexico’s unemployment rate is lower than that in Arizona, Nevada, Mississippi, Georgia, Louisiana, South Carolina, and Tennessee—all states with RTW.<sup>15</sup>
- The share of employers that offer health insurance to their employees is higher in New Mexico than in Arizona, Utah, Idaho, Wyoming, and six other RTW states. And when New Mexicans get health insurance through their jobs, they pay lower premiums than in RTW states.<sup>16</sup>
- There are multiple examples of companies that have left RTW states to move to New Mexico. In 2011, L&M Radiator moved 150 jobs from Texas to New Mexico.<sup>17</sup> In 2012, both Lowe’s (headquartered in RTW North Carolina) and Alliance Data (headquartered in RTW Texas) chose to open customer support call centers in New Mexico.<sup>18</sup>

- Last year, more people moved *to* New Mexico from the RTW states of Texas and Arizona than moved in the opposite direction.<sup>19</sup>
- Overall, from 2004 to 2012, employment in New Mexico grew at or above the level of both the national average and other Western states.<sup>20</sup>

## New Mexico’s slow growth has nothing to do with labor law

New Mexico is rebounding from the recession, though more slowly than neighboring states. But none of this has to do with labor law. The recession was a national phenomenon—not unique to New Mexico.

Within the state, the primary factors contributing to the recession were the housing bubble, which led to an oversupply of housing and loss of construction jobs;<sup>21</sup> manufacturing declines—all nonunion companies, led by Eclipse Aviation, a nonunion firm that abolished 1,800 jobs;<sup>22</sup> and the loss of 10,000 jobs in state and local government due to budget cuts, plus an additional estimated 20,000 federally funded jobs lost due to the 2013 sequestration.<sup>23</sup> None of this has anything to do with labor law, and the hardships created by these losses won’t be improved by changing labor law.

## New Mexico is already a low-wage state

If lower wages worked to attract companies to New Mexico, they would already be in the state. **Table 1** shows what employees (including management and professional employees) earn in each major industry. In every case, wages in New Mexico are significantly below the national average.

TABLE 1

Average annual earnings, by industry, New Mexico and the United States, 2013

	New Mexico	United States	Gap
<i>Average, all private-sector employees</i>	\$41,995	\$49,837	18.7%
<i>Goods-producing</i>	\$48,069	\$52,312	8.8%
<i>Service industries</i>	\$40,518	\$49,254	21.6%
<i>Construction</i>	\$42,806	\$54,330	26.9%
<i>Retail, wholesale, transport, and utilities</i>	\$38,813	\$43,618	12.4%
<i>Professional and business services</i>	\$53,269	\$59,322	11.4%
<i>Education and health services</i>	\$40,830	\$50,835	24.5%
<i>Hotels, restaurants, and tourism</i>	\$24,502	\$28,080	14.6%

**Source:** Author’s analysis of Bureau of Labor Statistics (U.S. Department of Labor) Current Employment Statistics program, various years, “State and Metro Area Employment, Hours, & Earnings” [database], <http://www.bls.gov/sae/#tables>

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## **RTW may undermine key sectors of New Mexico’s economy, particularly health care and small business**

RTW is focused on attracting manufacturers, because that’s the primary sector that can choose where it wants to locate. In hopes of attracting manufacturing—which represents less than 4 percent of New Mexican jobs<sup>24</sup>—RTW cuts wages and benefits across the entire economy.

Over the next 10 years, the industry that will add the most jobs in New Mexico is health care—accounting for 24 percent of all new jobs.<sup>25</sup> If RTW reduces the number of people with health insurance, this industry’s growth may be put at risk.

Similarly, by reducing wages, RTW may hurt New Mexico’s small businesses, which are not in the position of deliberating whether they want to be in Albuquerque or Miami, but are rooted in their local communities and depend on local residents having wages to spend.

On average, for every \$1 million in wage cuts, in addition to the impact on the people whose wages are cut, an additional six jobs are lost through people spending less on groceries, rent, clothing, and other family needs.<sup>26</sup>

It may be unsurprising, then, that the National Right to Work Committee recently admitted that “we’re not purporting to prove that right-to-work produces superior economic performance.”<sup>27</sup>

## **New Mexico’s job growth depends on investments in education and infrastructure—not attacking unions or lowering wages**

Kentucky, like New Mexico, is a relatively poor state. In 2008, when Kentucky was considering adopting RTW, the state asked the University of Kentucky Business School to look at four neighboring states that all had RTW laws and more successful economies than Kentucky’s, in order to find out what accounted for their superior performance.

“Every site location expert we spoke with,” the study’s authors reported, “indicated the primary limitation to firms locating or expanding [here] is the lack of training and poor education of the workforce.” Officials in the RTW states agreed: “Every economic development official in the competing states with whom we spoke indicated the single most important reason for their economic growth over the previous three to four decades was an emphasis on education and workforce development.”<sup>28</sup> By investing in education, these officials explained, their states were able to recruit higher-quality, higher-wage employers. Kentucky legislators voted against RTW.

Like Kentucky, New Mexico has not had trouble attracting low-wage employers. The challenge is to create a larger middle class, based on better-paying jobs.

The New Mexico Economic Development Department has developed a five-year plan that builds on the state’s unique strengths and addresses its particular challenges.<sup>29</sup> It focuses on three central strategies:

1. Creating more high-tech manufacturing jobs, building on research and development in the National Laboratories, the University of New Mexico, and the aerospace industry
2. Developing a transportation and logistics industry around the Santa Teresa–Las Cruces Borderplex

### 3. Facilitating business development in rural communities

The success of these strategies will turn primarily on education, training, and infrastructure development. Making it harder for workers in these industries to bargain for whatever they consider to be fair wages will not help build a middle class.

New Mexico is in a good position to recruit high-tech firms. Moody's names "budding high-tech manufacturing" as one of New Mexico's key strengths.<sup>30</sup> And when the 2014 State New Economy Index ranked states on components of a high-tech economy, New Mexico ranked ninth in favorability for high-tech jobs, 17th in the quality of scientists and engineers, and 23rd in availability of venture capital.<sup>31</sup> The challenge is translating technological innovation into thousands of jobs manufacturing the new product—and the question is whether the jobs producing what New Mexico labs design will be done by New Mexicans or workers elsewhere. That turns primarily on investment in K–12 education, community college, and technical school education systems—as well as the expansion of broadband infrastructure.

Indeed, one specific area that could well be harmed by RTW is the union-supported apprenticeship programs and trade-skills-training facilities that might be counted on to supply skilled labor for high-tech manufacturing facilities.

Similarly, both the hoped-for "rural renaissance" and the development of a transportation and logistics industry around the border crossing rely primarily on education, training, and infrastructure improvements.

In all three of these cases, the goal is to create middle-class jobs. Indeed, the state has created a special tax incentive for companies that create higher-wage jobs.<sup>32</sup> Evidence demonstrates that RTW would lead New Mexico in the opposite direction of this goal.

## Is "right to work" about freedom?

Corporate lobbies advocate for RTW with the goal of restricting unions. There are many organizations that require membership dues. For instance, an attorney who wants to appear in court must be a dues-paying member of the New Mexico bar association. One may dislike the bar association, but must still pay dues if he or she wants to appear in court.

Condominium or homeowners associations similarly require dues of their members. A homebuyer can't choose to live in a condominium development without paying the association fees.

Yet the big corporate lobbies supporting RTW are not proposing a "right to practice law" or a "right to live where you want." They are specifically focused on undermining employees' organizations.

By federal law, unions are required to provide all their benefits to everyone who works in a unionized company. In RTW states, if a non-dues-paying employee has a problem at work, the union is required to represent her—including providing an attorney at no charge if one is needed—the exact same as it would a dues-paying member.

Unions in RTW states are the only organizations in the country forced to provide all benefits for free, and banned from requiring those who enjoy the benefits to pay their fair share of the costs of creating them.

Indeed, employer associations themselves refuse to live by the same rules they seek to impose on unions.



In Owensboro, Kentucky, the local Building Trades Council decided to withdraw its membership in the local Chamber of Commerce, but asked if it could still receive full member benefits even though it would no longer be paying dues. Absolutely not, answered the Chamber. “It would be against Chamber by-laws and policy to consider any organization or business a member without dues being paid. The vast majority of the Chamber’s annual revenues come from member dues, and it would be unfair to the other 850+ members to allow an organization not paying dues to be included in member benefits.”<sup>33</sup>

The Chamber’s logic is simple: If it had to provide all its services for free, and dues were strictly voluntary, it would go out of business. This, then, appears to be the true aim of RTW, and may explain why some corporate lobbies continue advocating for it even though it doesn’t add up as economic policy. It appears that the primary goal of RTW may be not to create jobs or give workers more freedom, but instead to make it harder for workers to have an effective voice in negotiating with their employer.

## About the authors

**Gordon Lafer** is a political economist and an associate professor at the University of Oregon’s Labor Education and Research Center. A research associate at the Economic Policy Institute, he has written widely on issues of labor and employment policy, and is author of *The Job Training Charade* (Cornell University Press, 2002). Lafer has served as an economic policy analyst for the Office of the Mayor in New York City and has testified as an expert witness before the U.S. Senate, House of Representatives, and state legislatures. In 2009–2010, Lafer took leave from his faculty position to serve as senior labor policy advisor for the U.S. House of Representatives Committee on Education and Labor. He holds a Ph.D. in political science from Yale.

**Alyssa Davis** joined EPI in 2013 as the Bernard and Audre Rapoport Fellow. She assists EPI’s researchers in their ongoing analysis of the labor force, labor standards, and other aspects of the economy. Alyssa aids in the design and execution of research projects in areas such as poverty, education, health care, and immigration. She also works with the Economic Analysis and Research Network (EARN) to provide research support to various state advocacy organizations. Alyssa has previously worked in the Texas House of Representatives and the U.S. Senate. She holds a B.A. from the University of Texas at Austin.

## Appendix: What’s wrong with the Rio Grande Foundation’s RTW report

In 2012, the Rio Grande Foundation published a report claiming to show that New Mexico’s economy would grow faster if it adopted a RTW law.<sup>34</sup> Unfortunately, the calculations that the report is based on are fundamentally flawed, and the report therefore cannot serve as a useful guide for lawmakers.

A number of methodological problems make this report unreliable.

First, the report did not consider anything whatsoever about the economy of New Mexico. It calculated one average for the country as a whole, and simply assumed that New Mexico would behave like the national average.

Second, the report’s sloppy methodology means it is unable to measure the impact of RTW. The heart of any policy analysis is to isolate the impact of a given policy from everything else that affects a state’s economy. The premier research on RTW—conducted by Dr. Shierholz and Dr. Gould—controlled for 42 separate factors, including which occupa-

tions and industries make up each state's economy, the state's cost of living, educational and demographic makeup of the workforce, and more. The Rio Grande study controlled for only seven factors.<sup>35</sup> The author himself concedes that his calculation “omits several variables that research has suggested may be important factors”—yet he presents these admittedly inaccurate projections as if they can accurately foretell New Mexico's future.

Third, the author's calculations are based on charting economic growth in RTW and fair-share states from 1940 to the present. This is a fundamental and profound error. The states with RTW laws are concentrated in the South and Southwest. The decades since 1940 include huge transformations such as the invention and widespread dispersion of air conditioning (which made large areas of the South and Southwest much more habitable both for residents and employers) and the civil rights movement (which enabled a large portion of the population in RTW states to access schools and professions that had previously been closed to them). Both of these transformations accelerated growth in the South and Southwest but had nothing to do with RTW. By not accounting for these events, the Rio Grande Foundation treats air conditioning, the civil rights movement, even the manufacturing boom of World War II and the construction of the interstate highway system as if their effects are the effects of RTW.

Moreover, the current globalized economy simply cannot be compared with the pre-NAFTA economy. In the 1960s, 1970s, and 1980s, companies moved to the South and Southwest partly in search of cheaper labor. But such companies are now overwhelmingly going overseas. To predict how RTW would impact a state adopting it in 2015, one must focus on data from the current economy, since NAFTA ushered in the era of globalization.

Fourth, the author's own results are contradictory, but these contradictions are ignored in his conclusions. The author reports that he used two sets of methods for gauging the impact of RTW. The set with stricter standards of measurement, he reports, found no correlation between RTW and wages. Yet in the conclusion presented to lawmakers, the Rio Grande Foundation uses what the author himself deems looser standards of measurement as the basis for predicting that RTW would boost New Mexico wages by 21 percent.

Fifth, the author presents misleading data and conceals the underlying facts that disprove his argument. The report argues that “an association between right-to-work status and employment growth is obvious from even casual analysis,” and as evidence points to data showing that in the period 1990–2009, RTW states grew faster, on average, than fair-share states. These data are intended to suggest that New Mexico would benefit by adopting a RTW law. But the author fails to mention that in that same 1990–2009 period, New Mexico actually grew faster than two-thirds of the RTW states, and significantly faster than the overall RTW average.<sup>36</sup>

Sixth, the author has unfortunately failed to uphold one of the most fundamental principles of scientific research: transparency. The Rio Grande Foundation report notes that the author used 10 different methods for calculating the relationship between RTW laws and various economic indicators. He selected one of those 10 methods as the basis for projecting that RTW would help New Mexico. But nowhere in the paper does he identify what method he chose, how exactly the calculation was done, or why that method was selected above others. Furthermore, despite repeated requests from economists at the Economic Policy Institute, the author has refused to make his methodology public. This violates a basic tenet of the scientific method.

Finally, the report pays no attention whatsoever to anything about New Mexico that might make its economy different from that of any other state. The author notes that “the data and methodology employed for this study can be applied

to any state.”<sup>37</sup> He failed to conduct any research on, for instance, what industries are most important to New Mexico, what natural resources it possesses, what its weather is like, or what are its strategic strengths that might serve as a basis for economic growth.

It appears that the author would draw the same conclusions about growth in employment and income regardless of which non-RTW state he was analyzing. As if to say, all non-RTW states could have enjoyed the same growth without attention to differences in state economies, including population, industry mix, natural resources, immigration, etc. This study is not really about New Mexico, and does not lend any evidence to the claim that RTW legislation would benefit New Mexico’s economy.

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28. Christopher Jepsen, Kenneth Roth, and Kenneth Troske, *Economic Growth in Kentucky: Why Does Kentucky Lag Behind the Rest of the South?* Center for Business and Economic Research, University of Kentucky, 2008, [www.docstoc.com/docs/53467586/Economic-Growth-in-Kentucky-Why-Does-Kentucky-Lag-Behind](http://www.docstoc.com/docs/53467586/Economic-Growth-in-Kentucky-Why-Does-Kentucky-Lag-Behind). The neighboring RTW states examined were North Carolina, Tennessee, Georgia, and Alabama.
29. New Mexico Economic Development Department, *Five Year Plan for Strategic Economic Growth & Diversification, 2013-2018*.
30. Moody’s Analytics, *New Mexico State Précis*, December 2014.
31. Robert Atkinson and Adams Nager, *The 2014 State New Economy Index: Benchmarking Economic Transformation in the States*, Information Technology and Innovation Foundation, June 2014, <http://www.itif.org/publications/2014-state-new-economy-index>.
32. New Mexico Economic Development Department, *High Wage Jobs Tax Credit*, [http://www.gonm.biz/Tax\\_Incentives.aspx](http://www.gonm.biz/Tax_Incentives.aspx).
33. Letter from Jody Wassmer, Executive Vice President, Owensboro, Kentucky Chamber of Commerce, September 8, 2005.
34. Eric Fruits, *Right-to-Work and Economic Growth: A Comprehensive Analysis of the Economic Benefits to New Mexico of Enacting a Right-to-Work Law*, Rio Grande Foundation, July 2012.
35. The seven factors taken into account in the Rio Grande Foundation study are a state’s population, square mileage, tax rate, total tax revenue, percent of people who have graduated high school and college, and the corporate bond rate.
36. Bureau of Labor Statistics (U.S. Department of Labor) Current Employment Statistics program, various years, “State and Metro Area Employment, Hours, & Earnings” [database], <http://www.bls.gov/sae/#tables>.
37. In fact, in February 2012 the author used the same calculations to project the impact of RTW for Oregon—assuming that a RTW law would produce the same effects in Oregon as in New Mexico. See Eric Fruits and Randall Pozdena, *Right to Work is Right for Oregon: A Comprehensive Analysis of the Economic Benefits from Enacting a Right-to-Work Law*, Cascade Policy Institute, February 2012.