

So-called right-to-work is wrong for Montana

Research shows RTW law would not boost jobs and could lower wages for both union and nonunion workers

Report • By [David Cooper](#) and [Julia Wolfe](#) • February 26, 2021

What this report finds: Past EPI research has shown that unionized workers in the United States have higher wages and better benefits than nonunionized workers, and that states with “right-to-work” laws (laws weakening unions financially) have lower wages—for both unionized and nonunionized workers—than states without RTW laws. This new analysis shows that Montana, a non-RTW state that is considering an RTW law, has had a higher unionization rate, faster wage growth, and faster job growth than its RTW neighbors.

Why it matters: Despite promises that an RTW law would create jobs, Montana workers would not see employment gains were an RTW law enacted. Instead, an RTW law would curb their ability to collectively push for better wages, benefits, and working conditions.

Summary and key findings

State legislators in Montana are considering enacting a “right-to-work” (RTW) law—a misleadingly named policy that is designed to make it more difficult for workers to come together in a union to negotiate for better wages, benefits, and working conditions.¹ Since workplace improvements secured by unions typically spill over into nonunionized workplaces, RTW would have far-reaching harmful consequences for Montana workers—both those who are in unions and those who are not.

Despite the name, right-to-work laws do not confer any sort of right to a job. Rather, they dilute worker bargaining power by making it illegal for a group of unionized workers to negotiate a collective bargaining contract (a contract governing workplace wages, benefits, and working conditions) that includes “fair share fees.” A contract with fair share fees requires all employees who enjoy the contract’s benefits to pay their

share of the costs of negotiating and enforcing it. Under an RTW law, employees who don't join a union but who are still a part of the collective bargaining unit would get all of the benefits of union membership without paying their fair share of the costs. By making it harder for unions to collect these fair share fees, RTW laws aim to shrink union resources. Shrinking union resources impedes the ability of unions to negotiate better wages, benefits, and working conditions—and makes it harder for unions to help workers organize new unions or maintain existing ones.

Some supporters of RTW laws falsely claim that these laws ensure that no one is forced to be a member of a union or pay to advocate for political causes they do not support. But those things are already illegal under federal law. RTW laws are targeted specifically at fair share fees, which can only cover the costs of union representation, not political advocacy.

Proponents of RTW laws also claim that they boost employment by creating a “business-friendly” environment to attract employers from other states, but this is an empty promise. RTW laws have not succeeded in boosting employment in states that have adopted them. Further, arguing that adopting RTW laws will make states more appealing to businesses reveals the true intentions of RTW proponents: undermining unions to lower wages.

This report summarizes existing EPI research on the impact of RTW laws and presents new EPI analysis comparing wage and employment data for Montana with nearby RTW states. Together these findings show that the claims that RTW would boost the state's economy and attract new businesses are completely without merit.

Key findings:

- In Montana, a typical worker who is represented by a union contract has a higher hourly wage than a typical nonunion worker. Specifically, the median hourly wage of union workers in Montana is \$22.85, compared with \$16.95 for nonunion workers.
 - The wage advantage for union workers persists even when adjusting for education and other characteristics that partially explain why union workers have higher earnings. While sample sizes are too small to provide such regression-adjusted wages of union versus nonunion Montana workers, previous EPI research shows that nationally, unionized workers are paid 11.2% higher wages, on average, than nonunionized workers in the same industry and occupation with similar education and experience. This wage advantage is referred to as the “union premium” because, by controlling for other factors known to affect earnings, it isolates that part of the wage difference that can be attributed to union status.
- RTW laws are associated with lower wages and benefits for both union and nonunion workers.
 - Both unionized and nonunionized workers in RTW states are paid 3.1% less, on average, than workers with similar characteristics in non-RTW states, according to previous EPI research. If this average pay penalty for being in an RTW state were applied to the pay of a median or typical full-time, full-year Montana worker, it would amount to a \$1,143 loss in annual earnings.

- Since the Great Recession, median wages have grown faster in Montana (12.9% from 2007 to 2019) than in its neighboring RTW states (8.2% from 2007 to 2019).
- By weakening unions, RTW laws fuel growing economic inequality. EPI’s regularly updated national tracker shows that as union membership declines, the share of income going to the top 10% increases.
- RTW laws are associated with reduced unionization. In Montana, 6.5% of private-sector workers are represented by a union, compared with only 4.0% of private-sector workers in neighboring RTW states.
 - Nationally, 8.5% of private-sector workers in non-RTW states are represented by a union, well above the average private-sector unionization rate in RTW states (5.2%).
- RTW laws have not boosted employment in states that have adopted them. In fact, rigorous studies have found that RTW laws have no causal impact on job growth or unemployment, contrary to the claims of RTW proponents.
 - In recent years, private-sector job growth in Montana has outpaced that of its RTW neighbors. From 2007 to 2019, employment grew 10.1% in Montana compared with 8.6% in neighboring RTW states.

Note that all findings in this report are for public- and private-sector workers, unless explicitly stated otherwise. While the Montana RTW law would apply to public- and private-sector unions, in effect it targets private-sector unions because of a Supreme Court case that prohibited fair share fees in union contracts covering government workers.² “Unionized” workers are workers covered by a collective bargaining contract.

RTW laws were created to weaken unions, not guarantee a job

RTW laws were first enacted in the late 1940s in response to the large expansion of union representation that occurred in many U.S. industries during the late 1930s and early 1940s. The laws originated in the Jim Crow South, with the initial push widely credited to Texas businessman, lobbyist, outspoken racist and anti-Semite Vance Muse and the Christian American Association (CAA). Muse and his allies viewed the prospect of solidarity between Black workers and working-class white workers as a threat to the racist social hierarchy in the South, and the political dominance of wealthy white plantation owners and industrialists. In the 1940s, the CAA succeeded in passing a variety of anti-union laws in the South, including RTW laws, as a means of helping ensure that workers remained divided along racial lines (Kromm 2012; Pierce 2017).

Although the phrase “right to work” implies some expansion of workers’ rights or a guarantee of employment, RTW laws do neither of these things. They were designed to subvert the growth in unions by restricting unions’ resources and making it harder for workers to negotiate and enforce contracts with employers. Under the federal law that protects the right of private-sector workers to engage in collective action (the National Labor Relations Act or NLRA), unions must represent all workers covered by a union

contract, even those who choose to not be a part of the union.³ Because this representation can often be costly, unions typically require nonmembers protected by the union contract to pay “fair share fees”—a percentage of regular union dues that covers only the most basic costs of union representation. In states with RTW laws, however, unions are forbidden from requiring workers who have opted out of the union—but still enjoy the union’s benefits—to pay fair share fees. In practice, this results in nonmembers at unionized businesses receiving all the benefits of union representation—higher wages and benefits, legal protection, and representation in the case of a dispute with an employer—without having to contribute anything toward the union’s costs. This “free riding” starves unions of resources, diminishing their ability to negotiate new contracts and organize new groups of workers.

Fair share fees and the problem of free riding

Under the law, unions are obligated to represent every worker in a bargaining unit if a majority of the unit votes to unionize, regardless of whether a worker joins the union. In fair share states, unions and employers can negotiate to require every worker who is represented by the union and receives the benefits of the collective bargaining agreement to pay a fair share fee in the form of union dues or a dues equivalent. So-called right-to-work laws make these fair share fees illegal, meaning that workers can receive the benefits of union representation without joining the union or paying a fair share fee toward the union’s costs of representation.

Without the ability to collect fair share fees, unions are financially vulnerable: Because workers opting out of the union can “free ride”—receiving all the benefits and protections provided by the union, but without joining the union or paying a fair share fee toward the union’s costs of representation—the capacity to collect union dues is weakened.

In many other settings, membership fees to cover an organization’s operating costs are common, and not the affront to freedom that RTW proponents claim them to be. For example, condo and homeowner associations require fees to cover the collective costs of upkeep and improvements. Similarly, attorneys cannot appear in court unless they are dues-paying members of the state bar association. Yet in RTW states, unions are forced to provide all the benefits of a union contract for free to workers who choose not to pay their fair share.

Proponents also sometimes claim that RTW laws ensure that no one is forced to be a member of a union or to pay to advocate for political causes they do not support. However, federal law already prohibits workers from being required to join a union as a condition of employment and forbids unions from spending membership dues on political activity. RTW laws limit fair share fees, which specifically cover the costs of union representation, not political advocacy.

RTW laws undermine unions, which are critical for raising wages and combating inequality

By restricting union resources, RTW laws make it harder for workers to exercise their right to organize a union and collectively bargain. EPI analysis of pooled 2017–2019 Current Population Survey Outgoing Rotation Group (CPS-ORG) microdata finds that states with RTW laws have lower unionization rates than non-RTW states (EPI 2021). On average, only 7.8% of workers in RTW states were covered by a union contract, whereas in non-RTW states, 14.9% of workers were covered by union contracts.

This pattern is the same when looking only at the private sector. Just 5.2% of private-sector workers in RTW states are union members or are covered by a union contract, compared with 8.5% in non-RTW states.

Even after controlling for other factors that can be related to unionization—industry, occupation, education, age, gender, race, ethnicity, and foreign-born status—private-sector workers in RTW states are still 5.6 percentage points less likely to be union members or to be covered by a union contract than their peers in non-RTW states⁴ (Jones and Shierholz 2018).

Figure A shows that Montana and its neighbors mirror this nationwide pattern. While 6.5% of private-sector workers in Montana are represented by a union contract, the average private-sector unionization rate in the neighboring RTW states is just 4.0%.⁵

By lowering the share of the workforce represented by unions, RTW laws aim to weaken workers' bargaining power with their employers, lowering wages and benefits, and allowing business owners and shareholders to capture more of the income generated by the firm. The employer-employee relationship always has a fundamental power imbalance, which companies often exploit to deny workers their fair share. By coming together in a union to negotiate with their employer, workers can negotiate higher wages, better benefits, safer worker conditions, and a more democratic workplace.⁶

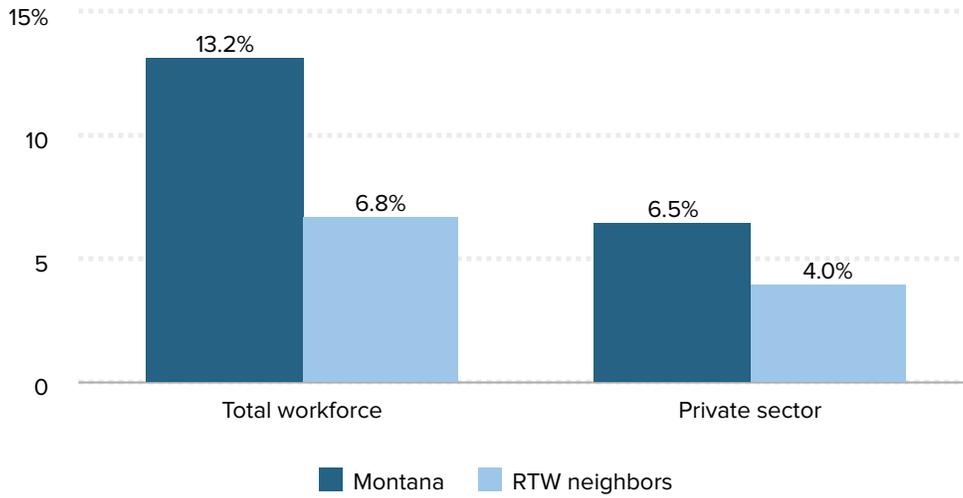
The benefits of this collective action are clearly shown by examining wage data; wages are consistently higher for union workers than nonunion workers. **Figure B** shows that is certainly the case in Montana, where workers who are represented by a union contract are paid \$5.90 more per hour than their peers without a union contract. The typical unionized worker in Montana is paid \$22.85 per hour, while a typical nonunion worker receives only \$16.95 per hour.

It is important to note that some of these wage differences are affected by other factors related to union membership. For example, union members tend to have higher levels of education and experience, resulting in higher wages that are not the direct result of collective bargaining. However, even after controlling for these factors, workers still see a significant union wage premium, as evident in national, regression-adjusted wage comparisons conducted by EPI last year. Nationally, unionized workers are paid 11.2% more in wages on average, compared to their nonunionized peers (workers in the same industry and occupation with similar education and experience) (McNicholas et al. 2020). This

Figure A

RTW laws undermine worker organizing

Union coverage rates in Montana and neighboring RTW states, by sector



Note: The coverage rate in neighboring RTW states is calculated by averaging the coverage rate in each state. Neighboring RTW states are Idaho, South Dakota, and Wyoming.

Source: EPI analysis of pooled 2017–2019 Current Population Survey Outgoing Rotation Group microdata (EPI 2021).

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wage advantage is referred to as the “union premium” because, by controlling for other factors known to affect earnings, it isolates that part of the wage difference that can be attributed to union status. Unfortunately, sample sizes are too small to provide such regression-adjusted wages of union versus nonunion Montana workers.

Unions also help close wage gaps for Black and Hispanic workers, who typically receive a larger wage boost from unionization than white workers. Previous EPI research shows that white workers represented by unions are paid 8.7% more than their nonunionized peers who are white (workers in the same industry and occupation with similar education and experience), but Black workers represented by unions are paid 13.7% more than their nonunionized peers who are Black, and Hispanic workers represented by unions are paid 20.1% more than their nonunionized peers who are Hispanic (McNicholas et al. 2020).

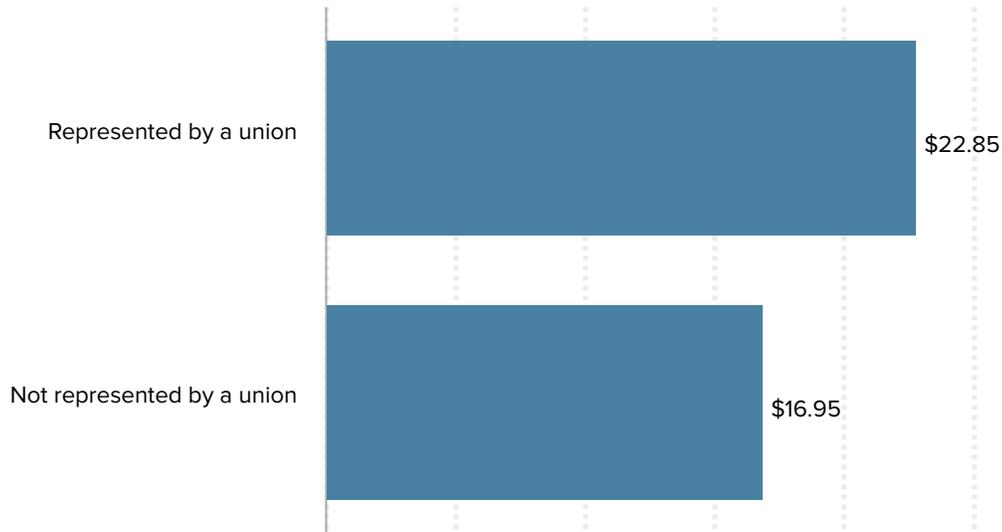
Unionization boosts wages and working standards across industries for both union and nonunion workplaces, particularly in places where employers must compete for staff with unionized companies. When unions negotiate good wages and benefits for their members, other employers have to offer better compensation packages to attract and retain the workers they need. But in the same way that unions can raise standards across industries and economies, weakening unions can undermine them just as broadly. For this reason, RTW threatens not just unions, but also the nonunion workers who benefit from these positive “spillover” effects.

Across the country, workers (both unionized and not in unions) in RTW states tend to have

Figure B

Union workers in Montana typically have higher hourly wages than nonunion workers

Median hourly wages in Montana, by union status



Note: Data are in 2019 dollars.

Source: EPI analysis of pooled 2017–2019 Current Population Survey Outgoing Rotation Group microdata (EPI 2021).

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lower wages, as shown in **Figure C**. The median wage in non-RTW states is \$20.42, compared with \$17.92 in RTW states. Even after controlling for a range of individual demographic and socioeconomic factors known to affect earnings as well as for state macroeconomic indicators, past EPI research shows that hourly wages for all workers in RTW states are 3.1% lower than hourly wages in non-RTW states (Gould and Kimball 2015). If this average pay penalty for being in an RTW state were applied to the median or typical full-time, full-year Montana worker, it would amount to a \$1,143 loss in annual earnings. Similarly, workers in RTW states are less likely to have employer-sponsored health insurance and retirement benefits (Shierholz and Gould 2011).

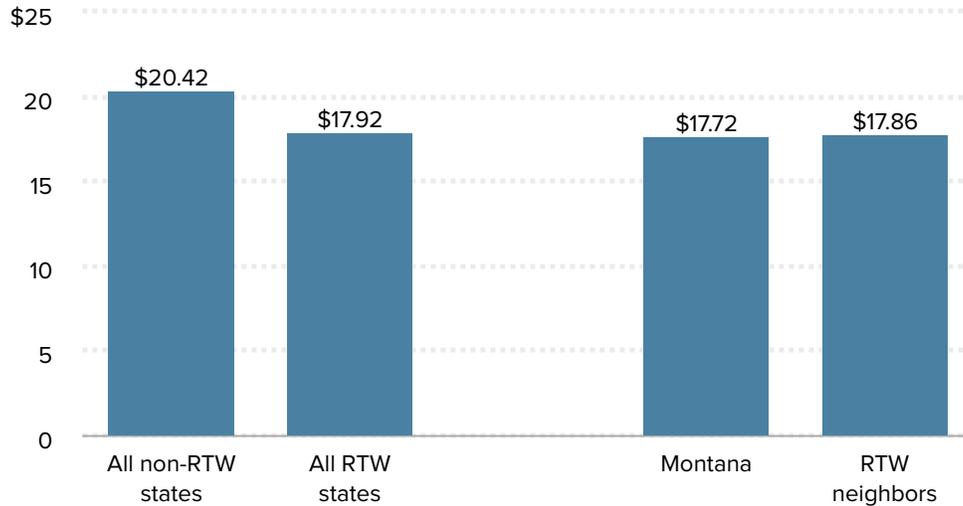
Figure C also shows that a typical worker’s wage—represented by the median wage, the wage of someone in the exact middle of the wage distribution—in Montana is similar to the wages of typical workers in neighboring RTW states. The median wage in Montana is \$17.72 an hour, just below the median in the RTW states of Idaho, South Dakota, and Wyoming (\$17.86). Breaking that three-state average down into individual states (not shown), the median in Montana is just below South Dakota (\$17.88) and above the median in Idaho (\$17.08). Wyoming’s median (\$18.63) is a bit of an outlier, likely driven by the higher concentration of raw materials extraction jobs and public-sector jobs in the state—both sectors that tend to have higher wages.⁷

Although wage *levels* are similar across states in the region, **Figure D** shows that real

Figure C

Nationally, workers in RTW states have lower wages

Median hourly wages, by RTW status, nationally and comparing Montana with neighboring states, 2019



Note: Median wages by RTW status are calculated by averaging the median wages in each state. Neighboring RTW states are Idaho, South Dakota, and Wyoming. Data are in 2019 dollars.

Source: EPI analysis of pooled 2017–2019 Current Population Survey Outgoing Rotation Group microdata (2021).

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(inflation-adjusted) wage *growth* in Montana outpaced its RTW neighbors in the wake of the Great Recession, particularly in from 2016 to 2019, prior to the COVID-19 pandemic. As of 2019, the typical worker in Montana is paid 12.9% more than they were in 2007. Wage growth over that same period averaged just 8.2% for the typical (median) worker in Montana’s RTW neighbors. Wage growth was particularly sluggish in Idaho (3.4%, not shown), with Wyoming also lagging behind (7.5%, not shown). This suggests that protecting workers’ right to organize will be critical in ensuring that Montana workers see substantial wage growth during the recovery from the COVID-19 recession.

By strengthening workers’ bargaining power with employers, unions have always been a critical counterbalance against inequality. Yet, as shown in **Figure E**, with shrinking union membership since the 1950s—in part because of the proliferation of RTW laws and other anti-union policies—a growing share of income has gone to those at the top. By 2019, the top 10% was capturing nearly half of all annual income generated in the United States (McNicholas, Shierholz, and Poydock 2021).

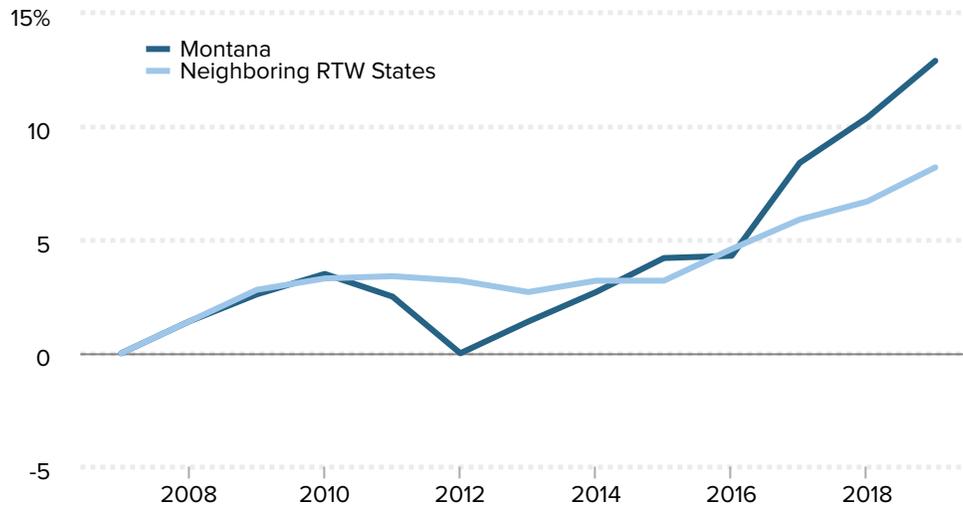
Rigorous research has shown that the decline in unionization throughout the country is directly responsible for between one-fifth and one-third of all the growth in inequality since the early 1970s (Western and Rosenfeld 2011).

RTW is not the job creator its proponents claim

Figure D

Wages have grown faster in Montana than in neighboring RTW states

Median real hourly wage growth since 2007



Note: Median real wages are calculated using rolling 3-year pools of microdata, so values for 2019 represent 2017–2019 and so on. Neighboring RTW states are Idaho, South Dakota, and Wyoming.

Source: EPI analysis of 2005–2019 Current Population Survey Outgoing Rotation Group microdata (EPI 2021).

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it to be

Proponents of RTW laws often claim that enacting such laws makes states more attractive to businesses seeking to relocate and consequently leads to stronger job growth. However, this is a false promise: Research shows that there is no causal link between a state’s RTW status and its job growth performance.⁸ For example, studies on the impact of Oklahoma’s enactment of RTW in 2001 found that the measure significantly reduced private-sector unionization, but had no measurable effect on the rate of employment growth (Eren and Ozbeklik 2015; Lafer and Allegretto 2011). Similarly, researchers at the University of Kentucky examined state economic performance across Southern U.S. states from 1964 to 2004 and found that right-to-work status had no relationship to state economic outcomes (Jepsen, Sanford, and Troske 2008).

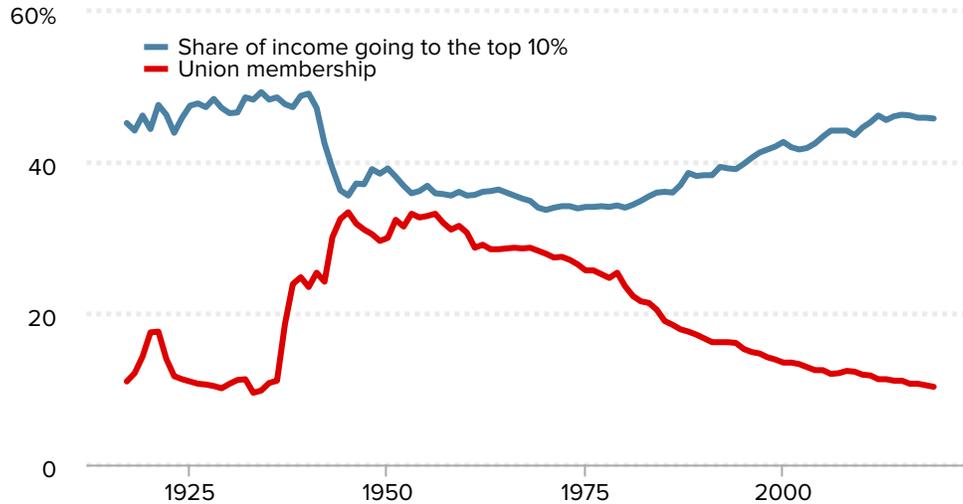
Comparisons between non-RTW Montana and its RTW neighbors illustrate this point. As shown in **Figure F**, Montana added jobs at nearly an identical pace to its RTW neighbors as the nation emerged from the Great Recession. In fact, Montana has added jobs more quickly than its RTW neighbors since 2015. Relative to 2007, private-sector employment in Montana has increased by 10.1%. Over the same period, Montana’s RTW neighbors had 8.6% private-sector employment growth.

Montana’s experience in reducing unemployment coming out of the Great Recession was

Figure E

As union membership declines, income inequality increases

Union membership and share of income going to the top 10%, 1917–2019



Source: Reproduced from Figure A in *Working People Have Been Thwarted in Their Efforts to Bargain for Better Wages by Attacks on Unions* (Shierholz 2019).

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also essentially the same as that of its RTW neighbors. **Figure G** shows that Montana’s unemployment rate peaked at 7.7% in 2010. The unemployment rate in the neighboring RTW states was lower at 6.9%. Yet by 2016, unemployment rates across the region were within a few tenths of a percentage point. By 2019, Montana’s unemployment rate was down to 3.5%—the exact same rate as in South Dakota and Wyoming (not shown). Idaho’s unemployment rate spiked to higher levels than its neighbors during the Great Recession, but fell to 2.9% by 2019 (not shown), bringing the average of the RTW states to 3.3%. Given the nearly identical unemployment trajectories of Montana and its RTW neighbors, there is little evidence that having an RTW law provided any advantage to Montana’s neighbors in reducing unemployment.

Conclusion

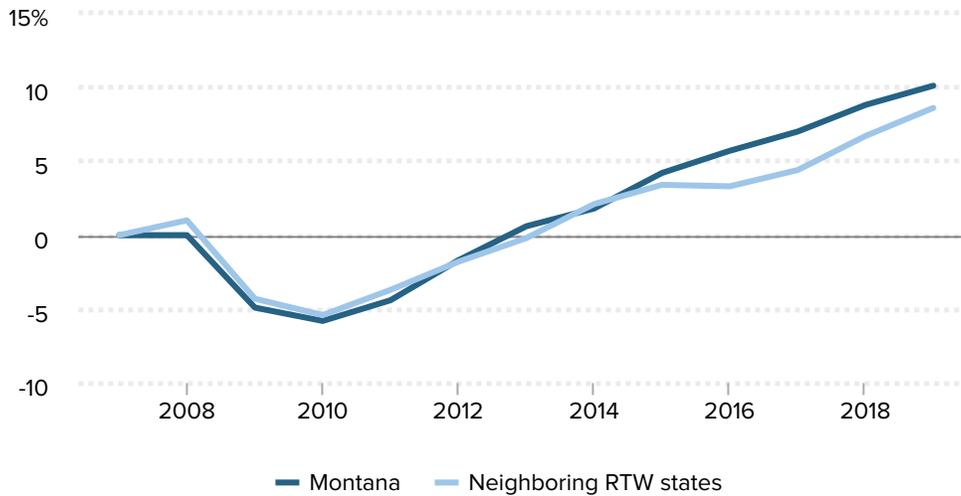
The RTW law proposed in Montana’s legislature represents a direct attack not just on the state’s union workers, but on all of Montana workers who benefit from the better wages, benefits, and labor standards that unions advocate for in the workplace and in the state house. If Montana’s legislators care about strengthening their economy, then they should focus on empowering the workers who drive economic growth. RTW laws do just the opposite by undermining workers’ ability to come together collectively to negotiate and advocate for good jobs, safe workplaces, and shared prosperity.

Rather than embracing a policy designed to weaken unions, Montana lawmakers should instead pursue policies that address the state’s real needs. That includes raising pay for

Figure F

Job growth in Montana has outpaced that of its RTW neighbors

Change in private-sector employment, 2007–2019



Note: Employment change in neighboring RTW states are calculated by averaging the employment change in each state. Neighboring RTW states are Idaho, South Dakota, and Wyoming.

Source: EPI analysis of BLS Current Employment Statistics data (BLS-CES various years).

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low-wage and middle class workers through such policies as raising the minimum wage and expanding access to overtime, addressing the workplace challenges exposed by the COVID-19 pandemic by expanding access to paid sick leave and affordable child care, and making investments in vital public services and state infrastructure through education and health care investments. Such policies would set Montana up for a strong recovery and ensure a more productive and equitable economy for Montana’s future.

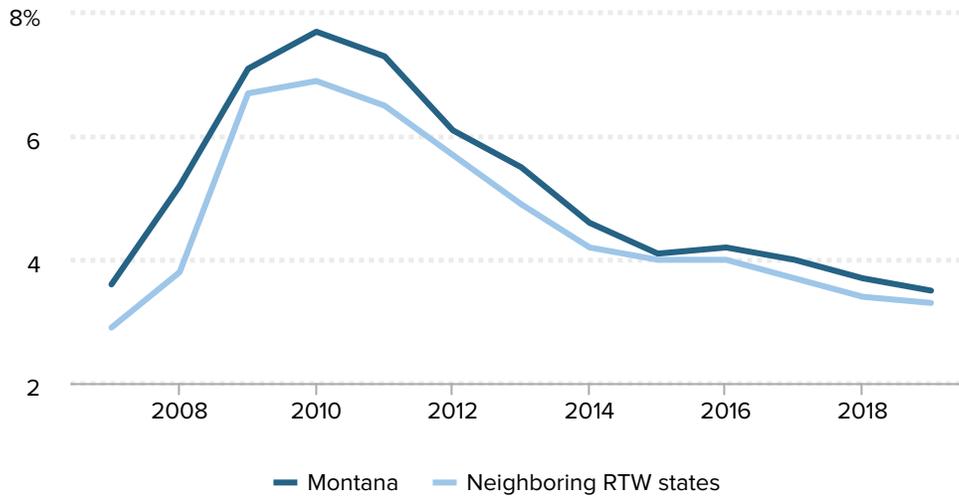
Endnotes

1. The proposed right-to-work bill in Montana is [HB 251](#).
2. *Janus v. American Federation of State, County, and Municipal Employees, Council 31 et al.* https://www.supremecourt.gov/opinions/17pdf/16-1466_2b3j.pdf.
3. Twenty-five states and the District of Columbia have laws that comprehensively protect public-sector workers’ right to form and join unions (McNicholas et al. 2020).
4. While this difference certainly reflects the impact of RTW laws, it may also in part reflect the effect of unobservable factors that are correlated with both RTW and unionization at the state level, such as other anti-union policies or practices.
5. Throughout this report, “RTW neighbors” refers to Idaho, South Dakota, and Wyoming. North Dakota is also a right-to-work state, however, the oil and gas boom that occurred there following the Great Recession led to extraordinary job growth making the state an outlier on nearly all

Figure G

Montana and its RTW neighbors have similar unemployment rates

Unemployment rates, 2007–2019



Note: The unemployment rate in neighboring RTW states are calculated by averaging the unemployment rates of each state. Neighboring RTW states are Idaho, South Dakota, and Wyoming.

Source: EPI analysis of Bureau of Labor Statistics Current Population Survey data (BLS-CPS various years).

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economic measures. Since the North Dakota's atypical experience in the wake of the Great Recession reflects unique access to natural resources, not broader macroeconomic conditions or policy, including it would distort any comparisons between the region's RTW and non-RTW states.

6. For a full discussion of the benefits of unionization, and the obstacles that workers face when organizing, see McNicholas et al. 2020.
7. In Wyoming, 7.2% of workers are employed in the “natural resources and mining” industry and 23.8% work in government. Nationally, these sectors make up just 0.5% and 15.0% of the workforce respectively. Both of these sectors have higher median wages—\$26.42 for natural resources and mining and \$24.74 for public administration—than the overall workforce (\$19.33), according to EPI analysis of Current Population Survey Outgoing Rotation Group microdata (EPI 2021).
8. Studies that have purported to show positive employment effects from RTW laws typically fail to control for a host of factors that would affect employment, such as the education level of the workforce to the proximity of transportation hubs to a state's natural resources or level of manufacturing. See Lafer and Allegretto 2011.

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