

## **Is Forced Unionism Fueling The Health-Insurance Crisis?**

### **Data Indicate Federal Labor Law Stunts Creation of Jobs Providing Coverage For Workers and Their Families**

The U.S. Census Bureau recently reported that, between 1987 and 2001, the portion of Americans covered by private health insurance fell from 75.5% to 70.9%.<sup>1</sup> Had the public's access to private health insurance held steady over the past decade and a half, an additional 13 million Americans would be privately insured today.

Federal and state taxpayers are footing most of the bill for this unfortunate trend. During the same 1987-2001 period, the number of Americans on the taxpayer-funded Medicaid program soared from 20.2 million to 31.6 million. As many political observers have pointed out, runaway costs associated with Medicaid have played a major role in bringing about the multi-billion dollar budget deficits that state legislatures across the country are grappling with this year.

Although employers have been socked with double-digit percentage hikes in their employee-insurance benefit costs for several years running now, as a group they bear no responsibility for the long-term decline in private-health insurance coverage.

Between 1987 and 2001, the share of Americans with employment-based private insurance actually rose slightly, from 62.1% to 62.6%. The overall decline in private insurance was caused entirely by a sharp fall in the share of Americans covered under non-employment based private plans: from 13.4% to 8.3%.

It also should be pointed out that, in a number of states, employment-based private insurance has grown so rapidly over the past 15 years that it has fully offset the decline in other private insurance.

## **Growth in Ranks of Privately Insured Nearly Thrice as Fast in Right to Work States**

In 21 of the 50 states, the ranks of the privately insured grew by an average of 17.1% between 1987 and 2001, fast enough to keep up with the 17.0% growth in the U.S. population during this period. What facilitated the rapid increase in the number of jobs that are sufficiently productive to absorb the high cost of family health-care benefits in these states?

During the period under examination, these 21 states all had Right to Work laws barring the firing of employees for refusal to pay union dues to their "exclusive" union bargaining agent. (Late in 2001, Oklahoma became the 22nd Right to Work state.)

The record of the 29 states that did not have Right to Work statutes shielding employees from the federal labor-law provisions that authorize forced union dues between 1987 and 2001 is strikingly different. In these states, the number of people with private health insurance grew by just 6.1%, barely more than one-third as fast as in Right to Work states. (See the table at the end of this study.)

Since the decline in non-employment-based private insurance has been a nationwide problem, Right to Work states' advantage is almost entirely a result of faster growth in employment-based insurance. In Right to Work states, the number of people with job-based insurance grew by 27.0%, double the 13.5% increase in non-Right to Work states.

Obviously, there is a strong correlation between the presence of a state Right to Work law and more rapid growth in the number of jobs offering medical benefits.

But what may not seem obvious at first is the reason for this correlation. The most plausible explanation is that "exclusive" union bargaining has a negative impact on businesses' rates of investment and accumulation of physical and innovative capital, while Right to Work laws mitigate the harm inflicted.

Under federal labor law, virtually any private-sector employee may be forced to accept a union as his or her "exclusive" bargaining agent in employment-contract negotiations. The federal authorization for union monopoly bargaining applies to non-Right to Work and Right to Work states alike.

Employees who choose not to join the union that secures monopoly-bargaining privileges through an election or other means are stripped of their freedom to represent themselves, or to be represented by another union.

### **Monopoly Bargaining Puts 'Union Solidarity' Above Interests of Most Talented Employees**

It stands to reason that employees who are unusually talented or diligent do not benefit from being forced to work according to the same terms as others who lack their skills or motivation. And indeed proponents of compulsory unionism have over the years time and again bluntly stated that the interests of outstanding employees should be subordinate to "union solidarity."

When the U.S. Supreme Court rejected a legal challenge to the 1935 National Labor Relations Act's monopoly-bargaining provisions in its 1944 *J.I. Case* ruling, the majority opinion did not mince words.

Unless an "exclusive" union bargaining agent agrees that the employer may grant "advantages to individuals," wrote Justice Robert Jackson for the court, they "may prove as disruptive of industrial peace as disadvantages." Jackson did not contest the fact that some employees "individually deserved" increased compensation. But "interfering with the [union] organization" through implementation of such pay hikes could not be permitted.<sup>2</sup>

Today a wide array of data strongly indicate that many workers who are subject to union monopoly bargaining earn less as a consequence.

For example, in the manufacturing sector, which now employs 2.8 million unionized workers,<sup>3</sup> far more than any other private industry, in 2001 union-free

employees earned an average of \$17.84 an hour, while union members earned \$16.81, according to the Bureau of National Affairs.<sup>4</sup>

During the 1987-2001 period as a whole, an average of nearly a quarter of the manufacturing employees in non-Right to Work states were laboring under contracts negotiated by union monopoly-bargaining agents.<sup>5</sup>

These employees have consequently had relatively little incentive to improve their individual productivity. They know that their pay and benefits are unlikely to increase merely because they perform better. At the same time, employers know that their investments in physical capital and research and development (R&D) may yield only small benefits, because they can't offer individual employees additional compensation for making the most of them.

A number of studies conducted over the past two decades confirm that monopoly bargaining reduces businesses' investment in tangible and intangible capital.<sup>6</sup>

Economist Barry Hirsch of Trinity University in San Antonio, Texas, who has published many articles on labor economics in scholarly journals and sits on the Boards of Editors at four such journals, published a comprehensive study on monopoly bargaining's impact on investment in 1991. It found that, when the typical reduction in profits and other variables that are positively correlated with monopoly bargaining are taken into account, monopoly bargaining reduces a firm's capital investment by an average of roughly 20%, and R&D by at least as much.<sup>7</sup>

### **Forced Union Dues' 'Ripple Effect' Felt in Right to Work States**

Consequences of lower investment, as Hirsch pointed out, include lower productivity growth and lower job growth. Therefore, the negative correlation between union monopoly bargaining and growth in jobs that offer medical benefits cannot plausibly be dismissed as coincidental.

While federally-authorized monopoly bargaining, as previously noted, is the law of the land in all 50 states, the share of workers who are affected by it is more than twice as high in non-Right to Work states as in Right to Work states.<sup>8</sup>

Furthermore, in Right to Work states those employees who are subject to monopoly bargaining remain free to protest contracts that do not properly reward them for their individual efforts by resigning from the union and withholding their dues. As a result, union officials operating in Right to Work states are less likely to insist on pay formulae and work rules that shortchange outstanding workers.

Therefore, it isn't surprising that for many years businesses have been able to generate good jobs that come with health benefits at a far faster clip in Right to Work states than in non-Right to Work states. Although in 1987 Right to Work states were home to just 35% of the U.S. population, since then they have enjoyed 50% of the nationwide increase in workers and family members with employment-based health insurance.

The entire country has profited from the growth in good jobs in Right to Work states. And the entire country has been harmed by non-Right to Works states' failure to keep up.

Since 1990, a net total of roughly six million employees, their family members, and other Americans have moved from non-Right to Work states to Right to Work states.<sup>9</sup> Therefore, despite the fact that the number of people with employment-based health insurance has grown twice as fast in Right to Work states, the share of privately-covered residents in both groups of states has remained relatively stable.

Right to Work states have certainly benefited from the influx of employees who have fled from non-Right to Work states in search of good jobs.

But the ongoing out-migration of millions of Americans from non-Right to Work states carries with it substantial frictional costs that must be covered by businesses and taxpayers in states that are gaining as well as in states that are losing population.

## **National Right to Work Law Would Restore Balance Between the States**

A coauthor of a recent study of 1990s out-migration from nine non-Right to Work states in the Northeast has said this phenomenon "should be viewed as a major policy concern," especially since many of the out-migrants are young and well-educated.<sup>10</sup>

The study found that, despite substantial immigration from abroad, the number of 25-39 year olds in the Northeast (defined as the six New England states plus New York, New Jersey and Pennsylvania) is actually declining because of out-migration, mostly to Right to Work states in the South and West.<sup>11</sup>

National Right to Work legislation that is expected to be reintroduced early in the 108th Congress would go a long way toward ending this "brain drain" and restoring the balance between the states.

The Right to Work measure would repeal the federal labor-law provisions that authorize compulsory union dues and "fees," and thus effectively abolish private-sector forced dues in all 50 states.

Besides restoring the freedom of choice of employees in non-Right to Work states, this bill would close federally-imposed loopholes that leave railroad and airlines employees and employees on so-called "exclusive" federal enclaves unprotected by state Right to Work laws.

And by facilitating the creation of new businesses and productive, well-compensated jobs, the Right to Work Bill would help increase the availability of private medical insurance and contain the now-skyrocketing growth of Medicaid and other taxpayer-funded health programs.

## FOOTNOTES

1. U.S. Census Bureau, "Historical Health Insurance Tables," September 20, 2002 ([www.census.gov/hhes/hlthins/historic/hihist4.html](http://www.census.gov/hhes/hlthins/historic/hihist4.html)). All subsequent statistics pertaining to health insurance coverage are also derived from these tables.
2. U.S. Supreme Court, *J.I. Case v. N.L.R.B.*, 321 U.S. 332 (1944), (<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=321&page=332>).
3. U.S. Department of Labor, "Union Members in 2001," January 17, 2002 (<ftp://146.142.4.23/pub/news.Release/union2.txt>), pp. 8-9.
4. Barry T. Hirsch and David A. Macpherson, *Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2002 Edition)*, Bureau of National Affairs, Inc., Washington, D.C., 2002, p. 24.
5. See Footnote 4, pp. 30-35, 71-76, 112-117, and also the 2000 edition of the *Union Membership and Earnings Data Book*, pp. 112-117.
6. Barry T. Hirsch, "Unionization and Economic Performance," in Fazil Mihlar, editor, *Unions and Right to Work Laws*, The Fraser Institute, Vancouver, B.C., 1997, pp. 35-64.
7. *Ibid*, *Labor Unions and the Economic Performance of Firms*, W.E. Upjohn Institute for Employment Research, Kalamazoo, Mich., 1991, pp. 69-90.
8. Bureau of National Affairs, Inc., *2002 Source Book on Collective Bargaining: Wages, Benefits, and Other Contract Issues*, Washington, D.C., 2002, p. 185.
9. U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, (120th Edition), Washington, D.C., 2000, p. 25.

U.S. Census Bureau, "Estimated Components of State Population Change: April 1, 2000 to July 1, 2002" (<http://eire.census.gov/popest/data/states/tables/ST-EST2002-07.php>), December 27, 2002.

10. Northeastern University (Boston, Mass.), University Communications and Public Relations, July 8, 2002 news release.
11. Andrew Sum, Ishwar Khatiwada, Jacqui Motroni, Nathan Pond, "Moving Out and Moving In: Out-Migration and Foreign Immigration in the Northeast Region and New England During the 1990s," Center for Labor Market Studies, June 2002 ([www.nupr.neu.edu/07-02/movingout.html](http://www.nupr.neu.edu/07-02/movingout.html)).