NILRR FACT SHEET

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Top 10 Big Labor Lies and Misleading Claims About the Colorado Right to Work Amendment

Union Bosses and Other Compulsory-Unionism Apologists Aren't 'Entitled to Their Own Facts'

Now that it appears likely Coloradans will vote this November 4 on a proposed constitutional amendment that would prohibit the firing of employees for refusal to join or pay dues or fees to an unwanted union, union officials and other compulsory-unionism apologists have launched a $25-35 million-dollar campaign (according to their own, undoubtedly low-ball estimate) of lies and distortions to ensure the amendment doesn't pass.

On April 28, the office of Centennial State Attorney General Mike Coffman gave the go-ahead to the Right to Work Amendment, also known as Amendment 47. If it is approved, Colorado will join the 22 Right to Work states, including five in the Rocky Mountain region, that have already barred the exaction of compulsory union dues or fees from employees as a condition of employment.

A Big Labor front group calling itself "Protect Colorado's Future" has indicated it will try to block the initiative by challenging the validity of tens of thousands of the 133,000 petitions gathered by supporters to get it on the ballot. But this would seem to be a tall order, because Right to Work supporters gathered roughly 57,000 more petitions than the 76,000 they needed for ballot placement.

Instead, Big Labor is likely to try to repeat the successes it has frequently scored in the past against Right to Work initiatives and referenda by grossly distorting what Right to Work laws do and the economic records of the current Right to Work states.

And unfortunately, the Colorado media cannot be relied upon to even try to set the record straight. In fact, in some cases putatively "objective" reporters are likely to concoct the misinformation on their own. This has already happened at least once.

On April 18, the Denver *Business Journal* published an article by reporter Bob Mook that posed as a dispassionate effort to sort out the claims and counterclaims of supporters and opponents of a Colorado Right to Work law. In reality, Mr. Mook stacked the deck. He mentioned a 2007 fact sheet published by the National Institute for Labor Relations Research that showed, using U.S. Labor Department data, that from 2001 to 2006 private-sector employment in Right to Work states grew roughly five times as much, in percentage terms, as it did in non-Right to Work states.

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Mr. Mook then claimed that Northeastern University professor Joan Fitzgerald had rebutted the Institute's fact sheet, contending that the Right to Work job-growth advantage was in manufacturing only, and that such an advantage would not be important for Colorado, which doesn't have a large manufacturing sector. This "rebuttal" was completely off-target, since the Institute fact sheet, as noted above, actually concerned all private-sector jobs, both in manufacturing and in services, and not merely manufacturing.

Perturbed that a professor from a prominent university would make such an egregious error, the Institute contacted Dr. Fitzgerald after the Mook article appeared, only to learn from her that she had never spoken with Mr. Mook, nor had she even written anything about the Right to Work issue since 2001. Through subsequent e-mail exchanges with the *Business Journal*, the Institute confirmed that Mr. Mook had in fact used an article written by Dr. Fitzgerald in 2001 to "rebut" a 2007 Institute fact sheet based on Labor Department data that weren't even available when the article was published! (See Misstatement #6 below for additional details.)

After hearing from the Institute, the *Business Journal* published a rather cryptically worded correction of the April 16 Mook article in both its print and its electronic editions. One may hope that the *Business Journal* and other media will do a better job of reporting on the Right to Work initiative in the future. But the likelihood is that the bias in favor of forced unionism and sloppy reporting will continue.

As a public service, therefore, the Institute presents below a list of what it reckons will be the lies and misleading claims most commonly disseminated by Big Labor over the next five months as the day approaches when Coloradans may vote Amendment 47 up or down.

These lies and misleading claims are not being repeated only by union bosses, union militants, their conscious collaborators in the media, and academic admirers of Big Labor, but also by other journalists who, undoubtedly, do not know better.

Falsehoods and gross distortions of the actual facts are not a legitimate part of any public debate over whether or not Colorado should enact a Right to Work law. To paraphrase the late U.S. Sen. Pat Moynihan (D-N.Y.), proponents of compulsory unionism are entitled to their own opinions, but they are not entitled to their own facts.

MISSTATEMENT #1: "In the 28 non-'right to work' states, federal law protects those workers who do not want to join the union." *– Downloaded at http://www.coaflcio.org/righttoworkissue.htm on the Colorado AFL-CIO web site, May 7, 2008.*

The fact is, federal law specifically authorizes union officials and employers to cut deals forcing workers who don't join a union to pay dues or fees that can be as high as full union dues, or be fired from their jobs. Technically such workers haven't "joined" the union. But how significant is that?

If federal law permitted you to join a union over your employer's objection, but not to pay dues if the employer objected, then would your right to join a union really be protected by the law? Labor-law specialists and the man in the street alike understand that would not constitute genuine protection. Similarly, the right not to join a union isn't truly protected by current federal law.

It is also a fact that current federal law specifically authorizes contracts that tell workers they do have to join a union within a few weeks after they get the job. And the overwhelming majority of

private-sector union contracts in non-Right to Work states today state baldly that new hires have to become union "members." Union officials never have to tell workers individually and plainly they have a technical right not to join, but can pay forced dues (often euphemistically mislabeled as "agency" fees) instead. Union officials frequently provide such notice only once in writing, and typically do so in fine-print legalese, and buried in the middle of lengthy union propaganda that workers who don't want to join a union aren't apt to read.

Current law effectively helps Big Labor mislead millions of workers into believing they have to join the union flat out, or be fired. And many do join, even though they want nothing to do with the union. See the U.S. Supreme Court's decision in *Marquez v. Screen Actors Guild* 525 U.S. 33 (1998), particularly the concurrence by Justices Kennedy and Thomas, for more information.

MISSTATEMENT #2: "A right-to-work law would allow the government to intervene in labor-management relations . . . ." – *Regional Laborers union chieftain James Hansen, in an April 30, 2008 "Speakout" for Denver's* Rocky Mountain News.

Union officials shed crocodile tears for employers when they lament that state Right to Work laws violate businesses' "freedom of contract."

The fact is, for nearly 80 years, it has been illegal under federal law for businesses to negotiate contracts with employees that prohibit the employees from joining a union. Neither may businesses negotiate contracts that prohibit employees from contributing to a union financially.

Does Big Labor want to repeal this "restriction on the freedom of contract"? Certainly not! Nor do Right to Work supporters. But as long as the ban on "union free" contracts remains in place, it is only fair to the individual worker that contracts forcing him to join or pay dues or fees to a union as a condition of employment also be banned.

If you're for banning "union-free" contracts, but against banning "union-only" contracts, you're not for the "freedom of contract." You're simply for Big Labor special privileges.

MISSTATEMENT #3: "By [federal] law, unions must represent all workers – members and nonmembers – in contract negotiations and other workplace issues . . . ." – *Colorado AFL-CIO web site, see Misstatement #1 above.*

Under both federal and state law, union officials have always had the option to negotiate "members-only" contracts with employers that do not affect the terms of employment of workers who do not wish to join or pay dues to a union.

But from the early 1960's until recently, Big Labor rarely if ever tried to exercise its members-only option. Instead, union organizers focused their efforts on imposing monopoly bargaining on all the employees in a so-called "bargaining unit."

Monopoly bargaining in the private sector is authorized and promoted by both the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA), and in the public sector by numerous state laws. Under monopoly bargaining, employees lose the individual right to bargain for themselves over their wages, benefits, and work rules, and must allow a union agent to negotiate in their stead, like it or not.

And once union officials have rejected their members-only option and exploited NLRA, RLA, or state labor-law provisions to seize monopoly power, they then use that power as an excuse for demanding that the employer acquiesce to a contract forcing union nonmembers to pay union dues or fees just to get or keep a job.

Of course, Big Labor propaganda has long obscured the fact that union bosses have a members-only option that they scorn because they prefer to wield monopoly power over workers. Over the past few years, however, forced-unionism propaganda has run foursquare into reality.

More and more officials of AFL-CIO-affiliated and other unions, eager to use members-only bargaining as a "foot in the door" toward securing monopoly-bargaining privileges, now admit the fact that members-only bargaining has always been permissible under both federal and state laws.

On August 14, 2007, the bosses of seven large AFL-CIO-affiliated unions filed a petition to the National Labor Relations Board (NLRB) acknowledging that the U.S. Supreme Court has ruled repeatedly that "members-only contracts [do] not violate the [National Labor Relations] Act. . . . The [NLRB] has likewise approved . . . members-only recognition and bargaining and the contracts resulting from such bargaining."

And on January 4, 2008, lawyers for the entire six million-member "Change to Win" conglomerate filed a separate NLRB petition also acknowledging the permissibility of members-only bargaining under current law. In cases where union bosses refuse to exercise their members-only bargaining option and seek and obtain a monopoly instead, that's obviously no excuse for forcing workers to pay dues or fees to an unwanted union.

MISSTATEMENT #4: All workers who are compelled to accept a union as their "exclusive" bargaining agent receive "benefits . . . because of union representation . . . ." – *Colorado AFL-CIO web site, see Misstatement #1 above.*

This is an especially useful canard for forced-unionism apologists because even many Big Labor critics naively assume that union officials' aim is to get workers fatter paychecks and more lavish benefits at the expense of employers. But Big Labor's real goals are substantially different and are often consistent with lower paychecks and fewer benefits for employees.

In a February 2008 essay published in the *Education Gadfly* blog, education investigative journalist Mike Antonucci summed up the agenda teacher union bosses pursue at the bargaining table: Make the union "the sole source of teacher advancement, benefit and protection."

"If you receive a raise or promotion based on your own performance, why do you need a union?" Mr. Antonucci explained. His point clearly applies to a wide array of union officials today, but teacher union bosses are the best example because they are so open and unapologetic about what they are doing.

Top officials of the massive National Education Association (NEA) teacher union and state and local NEA affiliates nationwide are diehard proponents of the so-called "single salary schedule," which dictates that each teacher's pay is based solely on length of tenure and graduate and postgraduate degrees earned (regardless of subject area). Because they and their American Federation of Teachers (AFT/AFL-CIO) cohorts wield monopoly-bargaining power in the vast majority of school districts across America, NEA union officials have been very successful at thwarting efforts by school officials and legislators to deviate from the "single salary schedule."

As a consequence, teachers in math, science, and other hard-to-fill subject areas across the country get paid substantially less than they would if a teacher union boss were not their monopoly-bargaining agent. And school districts across the country are, as a second consequence, finding it harder and hard to recruit math and science teachers; college graduates with math and science training understandably opt instead to go into the private sector, where they can be appropriately compensated for their special skills.

In the Mile High City, the shortages of math and science teachers have gotten so bad that last month the Denver Public Schools (DPS) system proposed that a large portion of the funds available for teacher compensation increases next year go into, as the *Rocky Mountain News* reported May 23, "incentive-based pay, such as for those who teach difficult subjects in hard-to-staff schools . . . ."

Top bosses of the Denver Classroom Teachers Association (DCTA/NEA) union vehemently oppose this plan. Back in February, Mr. Antonucci pinpointed the reason why:

> If a math teacher in a low-income school can receive more money than a kindergarten teacher in a wealthy suburban school, the math teacher doesn't need the union (he's making more money based on his performance) and the kindergarten teacher doesn't need the union (he hasn't seen an extra dime). They both need the union only if it is the sole means by which to benefit.

The evidence is clear that not just teachers, but a wide array of other unionized employees who have skills that are in short supply, or are especially hardworking, get compensated less, not more, as a result of being under union monopoly control. Forcing such workers to pay a union they have chosen not to join dues or fees for the "benefits" of being under Big Labor monopoly control adds insult to injury.

MISSTATEMENT #5: "There's absolutely no correlation between lower union density and economic growth." – *Pro-forced unionism professor Ray Hogler, quoted in the Denver* Business Journal*, April 18, 2008.*

In the 22 Right to Work states as a group, there is a far smaller share of employees subject to union monopoly bargaining than in the 28 forced-unionism states in the aggregate. And Dr. Ray Hogler, a management professor at Colorado State University and prominent Big Labor apologist, contends that Right to Work laws are not merely correlated with lower monopoly-bargaining density, but also an important cause of it.

He may well be correct on that point. But regardless, the best available evidence indicates that both employees and employers economically benefit from less union monopoly.

That's because Dr. Hogler is certainly wrong in another contention, that is that there's "absolutely no correlation between lower union density and economic growth."

The fact is, according to the U.S. Commerce Department, the real GDP of the U.S., in chained 2000 dollars, grew by 15.3% from 2000 to 2006 (the most recent year for which state-by-state data are available). But the aggregate real GDP of the 12 states with the highest share of private-sector employees under union "exclusive" bargaining (as reported on the http://unionstats.com web site) in 2000 grew by just 11.7%.

Meanwhile, the aggregate real GDP of the 12 states with the lowest share of private-sector employees under union monopoly control grew by 21.2%. That demonstrates a very strong negative correlation between monopoly-bargaining density and economic growth.

As we shall see below, the fact that a far lower share of employees are forced to accept union "representation," like it or not, in the typical Right to Work state than in the typical non-Right to Work state is just one of several plausible explanations for why Right to Work states are growing faster. But lower union monopoly-bargaining density apparently in itself constitutes an important economic advantage.

MISSTATEMENT #6: Right to Work states' job-growth advantage over non-Right to Work states is "solely . . . [in] manufacturing . . . ." – *Reporter Bob Mook, writing in the Denver* Business Journal*, April 18, 2008.*

Apparently concerned that a blanket denial that forced unionism is negatively associated with job growth would not be credible, Big Labor apologists today typically suggest that the negative correlation is confined to the manufacturing sector.

In a recent article for the Denver *Business Journal*, reporter Bob Mook (while falsely attributing his own views to Northeastern University professor Joan Fitzgerald, see pages one and two above) used this false premise to argue that a Right to Work law wouldn't benefit Colorado, because it isn't "a large manufacturing state."

U.S. Labor Department data actually show that, *pace* Mr. Mook, <u>over the past five years private-sector employment of all kinds, manufacturing and service jobs alike, grew well over twice as fast in Right to Work states as in non-Right to Work states</u>.

From 2002 to 2007, private-sector jobs in Right to Work states increased from 40.92 million to 44.85 million, or 9.6%. Meanwhile, forced-dues states' private-sector employment went from 67.27 million to 69.72 million, a gain of just 3.6%.

In western Right to Work states alone, private-sector employment grew by 20.1% from 2002 to 2007, compared to 7.4% growth for western non-Right to Work states in the aggregate and 6.9% for Colorado alone. In every one of the five Rocky Mountain Right to Work states, private-sector employment grew more than twice as fast as in Colorado.

Where forced union dues are legal, union bosses use their power to disrupt labor markets, jack up costs, and bankroll Tax & Spend, regulation-happy state legislators and governors. Therefore, it's no surprise that a state's Right to Work status is strongly positively correlated with private job growth in all sectors, not just manufacturing.

MISSTATEMENT #7: "[W]orkers in 'right-to-work' states earn significantly less . . . ." – *Colorado AFL-CIO web site, see Misstatement #1 above.*

There is simply no dispute about the fact that, on average, the cost of living in Right to Work states is significantly lower than in non-Right to Work states. Even data furnished in the American Federation of Teachers (AFT/AFL-CIO) union's "Survey and Analysis of Teacher Salary Trends 2002," published in July 2003, show that on average living costs (excluding all taxes) are roughly 15% higher in non-Right to Work states than in Right to Work states.

Study after study that factors in cost-of-living differences shows that, on average, employees' real earnings and incomes are higher in Right to Work states than in forced-unionism states. For example, a National Institute for Labor Relations Research study using a cost-of-living index published by Congressional Quarterly (CQ) found that the average cost of living-adjusted weekly earnings in Right to Work states in 2005 were $723, compared to $688 in non-Right to Work states.

A subsequent Institute study using the cost-of-living index for 2006 published by CQ found that disposable per capita income for the 22 Right to Work states that year was $31,746, roughly $1900 more than the non-Right to Work state average of $29,803.

There is also compelling evidence that state Right to Work laws benefit citizens at all income levels. In 2006, just 8.2 out of every 1000 residents of Right to Work states had to rely on federal welfare (TANF) to get by, compared to 17.2 out of every 1000 in non-Right to Work states collectively. In light of such data, it takes a lot of moxie for the union brass to claim that forced unionism raises incomes and reduces poverty!

MISSTATEMENT #8: "Quality-of-life issues such as health care, education, . . . and poverty suffer greatly in 'right-to-work' states." *– Colorado AFL-CIO web site, see Misstatement #1 above.*

This is wrong across-the-board. To start with, at a time when the ranks of the privately insured are shrinking in a number of states, Right to Work status is positively correlated with expanding access to private-health insurance.

According to U.S. Census Bureau data, from 1999 (the first year for which data comparable to the latest data were collected) until 2006, the number of people in western Right to Work states with private health insurance increased by a healthy 10.8%. That's more than triple the 3.1% increase in western forced-dues states as a group and far greater than Colorado's 6.4% increase.

Right to Work states are also greatly outperforming forced-dues states in the overall task of educating their young people, retaining them once they are educated, and attracting educated residents of other states. Census Bureau data show that, from 2000 to 2006, the number of college-educated adults (aged 25 and up) in western Right to Work states grew by 31.8%, compared to increases of just 17.8% in Colorado and 19.1% in western forced-dues states as a group.

As for poverty, we have already seen above that residents of non-Right to Work states nationwide in 2006 were more than twice as likely to have to rely on federal welfare to get by than were residents of Right to Work states. The share of Right to Work state residents who depended in 2006 on taxpayer-funded Medicaid for their health insurance (12.0%) was also lower than the share (13.2%) in non-Right to Work states, although the margin was not nearly as great.

MISSTATEMENT #9: Right to Work states gain new firms by offering "cheap labor" . . . . – *Dr. Ray Hogler, see Misstatement #5 above.*

Right to Work states are actually creating far more "expensive" jobs (those for college-educated employees) than are non-Right to Work states. That's why, as we saw above, from 2000 to 2006 the college-educated adult population of western Right to Work states grew by nearly 13 percentage points more than the college-educated population of western non-Right to Work states as a group and by 14 percentage points more than did Colorado's college-educated population.

Right to Work states are also creating more jobs for non-college educated citizens than are non-Right Work states. However, Right to Work states' job-creation advantage is actually a bit smaller when it comes to such "cheap" jobs, to use Dr. Hogler's condescending term.

From 2000 to 2006, the number of non-college educated citizens, aged 25 and up, in western Right to Work states grew by 17.8%, 11.6 percentage points more than in western non-Right to Work states as a group and just 10.4 percentage points more than in Colorado.

Denigrating jobs for employees without college degrees is no way to spur creation of jobs for the highly educated. Fortunately, Right to Work states are showing that sound labor policy can spur the creation of both types of jobs.

MISSTATEMENT #10: The only potential beneficiaries of state Right to Work laws are employees who wish to remain independent, but are "being driven into unions against their will and forced to financially support organizations they may not like . . . ." – Rocky Mountain News *editorial, April 18, 2008.*

This misstatement at least contains a kernel of truth. Employees who already have been or may in the future be corralled into an unwanted union benefit most of all from Right to Work laws. For example, Ernest Duran, president of Local 7 of the United Food and Commercial Workers (UFCW) union, admitted in a widely circulated letter last month that roughly 50% of the Colorado grocery workers who now belong to his union would quit if they were given the free choice not to belong or pay dues.

However, <u>employees who are voluntary union members, union-free employees who are unlikely ever to be unionized, employers of all kinds, consumers and taxpayers all also benefit when forced union dues and fees are abolished</u>.

As was noted above, by eliminating Big Labor's illicit power to lobby for higher and higher taxes and more onerous regulation of business with forced union dues collected in-state, Right to Work laws foster good overall climates for all kinds of jobs and businesses. Less heavy tax burdens and more reasonable regulatory regimes help businesses increase productivity faster, which lowers costs for consumers and increases employees' real compensation.

Of course, Right to Work laws are not economic panaceas. In Right to Work states as well as forced-dues states, federal law authorizes union monopoly bargaining over private employees. And, as Dr. William T. Wilson of the Midland, Mich.-based Mackinac Center for Public Policy has pointed out, "union-negotiated employee contracts typically have the perverse impact of reducing pay of the most productive workers while increasing compensation of the less productive workers."

But Right to Work laws mitigate the harm by "forc[ing] a union to bargain more in the immediate interest of all members because members can withdraw from a union at any time without cost to themselves."

Workers thus have a substantially greater incentive to be productive and creative, and businesses benefit, ultimately to the good of all employees, shareholders and customers.

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