



INSTITUTE FOR THE
AMERICAN WORKER

HOW TO EMPOWER WORKERS



**Embracing a
Pro-Worker
Agenda Built
on Choice**

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American workers today face an increasingly shifting and more technological job market, yet many laws governing employment are nearly a century old. Unfortunately, some political and union leaders have doubled down on those laws, and as a result, **workers are increasingly chasing permission instead of opportunity.**

When the National Labor Relations Act of 1935 was enacted to put the federal government in charge of most of America's private sector unions, the country had a largely blue-collar workforce. The portion of workers in manufacturing is under 8% today,¹ but it was around 1 in 3 workers in the World War II era.² Additionally, approximately 1% of workers are engaged directly in agriculture today,³ but over 21% were in agriculture in 1935.⁴

Today, the skills required for success quickly shift as the knowledge economy grows and traditional blue-collar jobs become increasingly technical and even automated. In the modern economy, more businesses compete for the same workers and consumers. To thrive in this ever-shifting landscape, American workers both need and want more flexibility, not less.

Some leaders feel workers must be reconnected to the Industrial Revolution's style of one-size-fits-all adversarial collective bargaining, along with even more government interventions in the private economy to

maximize job opportunities. They see the decline in union membership from around one-third of jobs in 1954⁵ to less than 10% today⁶ as a sign of a broken system rather than a natural shift toward different types of jobs, more competition, and changing preferences of the American worker. Interestingly, manufacturing employment in right-to-work states where union dues are optional was also up over 10% from 2014-2024 while manufacturing employment declined by 0.2% in forced unionism states — another sign of shifting times.⁷

President Joe Biden and his Acting U.S. Labor Secretary Julie Su certainly made clear in their "Good Jobs Initiative" that they saw union work as preferable to non-union work, despite worker preference. Acting Secretary Su went barnstorming across the country to tout union jobs as "good jobs" and to advance an agenda where "contractor labor solutions are minimized." These code words suggest a view that self-employment and small business careers without union leaders and union friendly politicians calling the shots are a growing problem rather than what American workers want.⁸

Would giving political leaders in Washington, D.C., greater domain over workers' lives bring a golden era to American families? It would not. **The reality is that worker choice, not the current approach to outdated one-size-fits-all bargaining, is the strongest form of worker voice today.** Rather than advancing a return to

forced unionism, leaders should champion a pro-worker agenda that puts workers first and recognizes the dignity found in all pathways of work, be that union or non-union, employment in a large firm, or self-employment. Empowering workers with choice will unlock greater opportunity and prosperity for the American worker in the rest of the 21st century and beyond.

What follows is a range of policy solutions for improving the status of workers in this country. Many of the recommendations can be found in the Institute for the American Worker's (I4AW) *Principles for Worker Freedom and Opportunity*.⁹ These pathways allow workers to seize the opportunities that they want for themselves and their families.



What Do Workers Want in Today's Economy, and Does One-Size-Fits-All Collective Bargaining Deliver It?

Workers today, like those in the past, are interested in greater pay and benefits. However, they now increasingly face government restrictions that undermine the opportunities they seek for their professional lives and for their families.

A century ago, America's majority blue-collar, labor-intensive workforce faced more challenges in establishing safer working conditions,¹⁰ and workers' livelihoods were more closely tied to local industrial bases and certain types of work. Today, American workers have safer and more diverse job options, but they all too often face challenging disruptions and barriers that come from dated and misguided government policies. Workers are looking for greater flexibility in how and where they work as they navigate the dynamic world around them and try to shape their careers to fit their lifestyles and family needs.¹¹

Union leaders and political supporters of an outdated labor framework, like former president Barack Obama, have often claimed that unions played the central role

in bringing about changes to the American workplace and making life better for workers.¹² It's worth noting the reality, however: American workers, competing businesses, and the public as a whole were all drivers of changes, with and without a union presence.

Look no further than in 1926 when Henry Ford instituted a trend-setting workweek of 5 days and 40 hours per week. While many smaller businesses may have already made some changes, this shift helped usher in new workplace norms across other industries. Ford auto workers didn't vote to unionize until 1941.¹³

Workplace safety also predated the rise of unions. It increased significantly in most industries from the early 20th century on, long before the National Labor Relations Act (NLRA) was enacted in 1935. For instance, a workers compensation law enacted in 1908 led to reduced lawsuits and worker strife on railroads¹⁴ as railway businesses adopted safety innovations that reduced costs. Factory electrification, improved lighting, and an increasingly stable and experienced workforce reduced fatalities in manufacturing — by over 38% between 1926 and 1939 alone — while a change from underground coal mining to strip mining improved miner safety.¹⁵

Tradeoffs for Workers: Independence v. Collective

Union leaders are adept at touting perceived benefits of joining a union, but the potential downsides of politically powerful interest groups taking over workforce policies are omitted by design from the message. States with right-to-work status may give workers more say than in forced unionism states, but the current coercive aspects of federal labor law may be a reason why unions have been on a decline in recent decades. Things might change for them, but only if they and the laws that govern them are refocused on worker empowerment rather than the current framework of one-size-fits-all collective bargaining.

Nearly all progressive members of Congress have endorsed the Protecting the Right to Organize Act (PRO Act),¹⁶ as have a few Republicans. Other

Republicans such as Sen. Josh Hawley (MO), who recently released an agenda to double down on the current outdated bargaining model,¹⁷ share the belief of many progressives that making sweeping changes to facilitate forced unionization is the way to worker empowerment. They certainly speak as if their policies would do so.

Such efforts, though, only jeopardize true worker empowerment and the flexibility workers need. Their already dated union model reinforces a top-down workforce vision that undermines worker opportunity in the 21st century.

Additionally, union leaders increasingly use the dues they collect from worker paychecks for political activism that does not directly address workplace issues their members face and does not fit their members' political viewpoints. Unions disclosed they spent nearly \$1.7 billion on political activism in the 2022 election cycle, mostly for left-leaning politicians and causes. A broader look at all union spending on public policy matters and elections in the same election cycle yields a figure of up to \$25 billion.¹⁸

A lack of consensus among union workers on many issues might suggest unions would focus on workplace matters, worker training, and member services. Instead, union leaders regularly use members' dues to advance policy agendas of their own.¹⁹ For instance, even though over 43% of union members planned to support President Donald Trump over Vice President Kamala Harris in the run-up to the 2024 election,²⁰ direct union spending on the Harris-Walz campaign outnumbered support for the Trump-Vance ticket by as much as 260 to 1.²¹

Union politics is not limited to just broadly supporting political candidates or parties, however. Here are just a few examples of contentious policy stances that divide union members, but where union leaders will use dues to allegedly speak on behalf of their members.

- Liz Shuler, AFL-CIO President, announced that “reproductive rights are worker rights.”²² This viewpoint has been backed by numerous unions, including the International Union of Painters and Allied Trades.²³

- Unions have advocated for sending hundreds of billions in taxpayer dollars toward government-backed “clean energy,” “green jobs,” and “environmental justice” agendas that undermine employment and economic growth for little in return.²⁴ Many unions belong to the Blue-Green Alliance, which advocates for severely restricting some energy sources and ramping up taxpayer spending on misguided green energy pushes. These unions include the United Automobile Workers (UAW), United Steelworkers (USW), Service Employees International Union (SEIU), American Federation of Teachers (AFT), International Union of Bricklayers and Allied Craftworkers (BAC), Communication Workers of America (CWA), and others.²⁵
- The AFL-CIO supports tax increases and opposes spending reductions across federal agencies.²⁶
- The National Education Association (NEA) has pushed to make American taxpayers pay off student loans,²⁷ trillions in personal debt that was voluntarily taken out by only some Americans.²⁸
- Some unions have increasingly strayed away from their original focus even in organizing. For instance, over 25% of the UAW's membership is now in academia, not in the automotive industry. From Maine to Alaska, the UAW has been organizing graduate student unions — people in settings that have little to do with workers on automotive factory floors.²⁹

Another problem is that many union leaders have taken advantage of insufficient transparency and accountability to use dues from worker paychecks for personal gain. Look no further than recent scandals involving leaders of the UAW who embezzled millions of dollars for personal benefit.³⁰ Or consider 1199SEIU's former president George Gresham spending hundreds of thousands of dollars on personal expenses.³¹

These stories play out time and again across America.³² The corrupt use of member dues even led to the bipartisan Labor Management Reporting and Disclosure Act (LMRDA) in 1959, also known as the Landrum-Griffin

Act. This law created new union reporting requirements in an attempt to reduce the rampant union leader corruption and racketeering of that era that is still being addressed by the Department of Labor (DOL) enforcement today.³³



A Look at the Union Leader Agenda Including the Protecting the Right to Organize (PRO) Act and Sen. Josh Hawley's Labor Framework

The PRO Act, the top labor priority during President Joe Biden's term in office, remains a major priority of union leaders and the Democratic Party in Congress today. This legislation would double down on the outdated collective bargaining model in the private sector in expansive ways, touching on many individual labor union priorities that were also a part of the Biden administration's regulatory agenda. The I4AW overview of the PRO Act summarizes some of the Act's key policies:³⁴

The Protecting the Right to Organize Act

- **Banning Right-to-Work:** Takes away protections in right-to-work states that prevent unions from getting private sector workers fired for declining to pay union fees.
- **Exposing Workers to Intimidation and Coercion:** Employers would be required to share their workers' personal contact information with a union during an organizing campaign. The information would include personal phone numbers, home addresses, and work and personal email addresses, all in an electronically searchable format.
- **Undermining the Secret Ballot in Union Organizing Elections:** If a union makes an unfair labor practice (ULP) claim against an employer, the employer

can try to convince what could be a very partisan National Labor Relations Board (NLRB) that it did not interfere in an election. If the employer fails this subjective test, the NLRB can allow the union to use the signature cards it collected in a union organizing campaign to bring about a certification election as a reason to grant a union control of a workplace. It doesn't matter if this is what workers want or what the union promised them. Businesses would be unionized via "card check," a process that exposes workers to intimidation tactics, rather than via a secret ballot election. In "card check" campaigns, union representatives gather "showing of interest" signatures face-to-face, and then count each signature as a "yes" vote for unionization instead of merely a yes to authorize a secret ballot election.

- **Forced Involuntary Arbitration:** Employers and employees could also be forced by government into a union contract via binding arbitration at the hands of third-party arbitrators. This might happen even if one of the parties never agreed to arbitration. Forced arbitration could work out poorly for workers and businesses, but even a bad contract means unions could begin collecting dues.
- **Allowing Union Gerrymandering to Win Union Organizing Elections:** The Obama-era "micro union" rule, resuscitated by the Biden administration, would be codified into law. This allows for small, gerrymandered parts of a business to be unionized rather than the workplace as a whole, making life more complicated for workers and businesses but easier for unions.
- **Destroying Independent Contracting:** By implementing a California-style "ABC test" to determine if workers can be self-employed or must be employees, the PRO ACT would reclassify numerous self-employed workers as employees under the NLRA. This would increase opportunities for unionization and destroy self-employment career pathways that so many rely on.
- **Erasing Franchising and Small Businesses:** An Obama-era "joint employer" standard would expand the definition of joint employer to cripple or even end

small business franchises, contractors, temporary staffing firms, and vendors. The policy would establish that when a business is serving another business or receiving a service from another business, the government can force a business and its workers to be considered employees of the other business as a joint employer. No longer would the government need to establish that a business had “direct and immediate” control over the workers of another business. Instead, a joint-employer determination could be made if the NLRB subjectively determined that indirect and potentially even theoretical control of some workers was sufficient. The Biden NLRB attempted a shift back toward the Obama standard via a rulemaking but was blocked in court.

- **Instituting Ambush Elections:** Instead of allowing workers and businesses time to educate themselves on union election processes and what is at stake, the PRO Act would force an expedited process that leaves workers with incomplete information before having to vote.

Former NLRB board member Marvin Kaplan dissented against one of the board’s Biden-era ambush election rules that the PRO Act would require. He argued that its supporters value “quick elections over fully informed voters.”³⁵ As I4AW noted in evaluating a similar Biden-era NLRB rule, “The hasty process leaves workers with a lack of opportunity to be presented different perspectives and weigh the true costs and benefits of unionizing before an election is held, as well as potentially having no opportunity to vote by secret ballot on union representation if businesses fail to meet complicated NLRB demands.”³⁶

Sen. Hawley’s Labor Framework — The “PRO Act Lite”³⁷

Surprisingly, Republican Sen. Josh Hawley’s 2025 labor agenda³⁸ promotes several PRO Act provisions and combines them with parts of the harmful Warehouse Worker Protection Act (WWPA), which has been introduced the last two Congresses by progressive leader Sen. Ed Markey (MA).³⁹ Sen. Hawley argues his framework

Hawley’s Pro Act Lite	PRO Act Section	WWPA Section	Is this Provision New?
Forcing Initial First Contracts	Sec. 107		No
Banning Employer Meetings on Unionization	Sec. 104		No
Establishing “Ambush” or “Quickie Elections	Sec. 105		No
New Civil Penalties + Private Right of Action	Sec. 109		No
One-Sided Notice Postings	Sec. 104		No
Ban on Productivity Metrics and Standards		Sec. 201	No
Resurrecting the Failed Ergonomics Standard & First-Aid Provider Standard		Sec. 301	No

“creates a better workplace for American workers and helps protect good American union jobs.” The real result, however, is that American workers and businesses would cede power to union leaders and government agencies.

Sen. Hawley’s framework policies include:

- **Forced Initial Union Contracts: The Faster Labor Contracts Act, S. 844.**⁴⁰ Endorsed by unions such as the Teamsters, this legislation would force businesses to begin collective bargaining negotiations within 10 days of a new union requesting it. After 90 days, the federal government would force mediation on the union and business. Shortly after that, third-party arbitration would result in a contract that workers, the business, and the union could all dislike.

In other words, shortly after a union forms, workers could face new workplace terms they personally oppose, or that they did not want to see imposed on their bosses/supervisors. Gallup found in 2024 that over 83% of workers are highly or somewhat satisfied with their bosses or immediate supervisors.⁴¹ The consequence of a bad contract combined with a union contract’s limits on communications between workers and managers could turn many positive workplace relationships negative.

- **Banning Employer Meetings on Unionization.** Americans support employers being able to require meetings on the topic of unionization so that workers hear from both sides, according to recent polling commissioned by I4AW.⁴² Sen. Hawley, though, would ban employers from holding such meetings. Interfering with freedom of speech and the freedom of contract of businesses would undermine worker education and tilt the playing field in favor of union leaders.
- **Forcing Ambush Elections.** If union organizers gather enough signatures to call for a certification election, workers are entitled to a timely election. But the process that leads to unionizing a workplace is a complex one, with workers and employers alike needing time to understand and consider its implications. Sen. Hawley, however, seeks to implement a rapid process of holding union

elections in under 20 days, much like the PRO Act calls for and the Biden-era NLRB advocated.

- **Chilling Penalties and Lawsuits.** The Hawley framework, like the PRO Act, would create steep penalties for businesses, and even employees serving the business, that could ruin the lives of people who make honest mistakes. Employees who bring charges before the NLRB against employers could also work with trial lawyers to bring actions to federal court within 60 days of an ULP (ULP) claim. This would further complicate the challenging process faced by businesses with limited or no in-house counsel to advise them on how to properly handle complex, shifting requirements from the NLRB.
- **Pro-Unionization Posting Requirements.** Sen. Hawley would do nothing to ensure workers understand their rights not to join a union and to refrain from collective bargaining. On the other hand, he would mandate that businesses post information on how to unionize. Employers would already face the prospects of “ambush elections” — those held very quickly after a union collects enough signatures to force an election — and various restrictions on their behavior. The posting requirements would further deny workers balanced information. It also would increase the burden of red tape that employers must bear.
- **Ban Productivity Standards and Metrics.** Sen. Hawley’s PRO Act Lite framework includes Warehouse Worker Protection Act requirements that “would go far beyond prohibiting so-called unsafe work speed quotas,” I4AW has explained. “It would effectively prohibit all warehouse workplace metrics and productivity standards. Productivity metrics provide valuable insights into a business’s operations. ... Depriving businesses of these metrics, especially small businesses, will harm their ability to compete, protect their workers, and expand.”⁴³
- **Ergonomics and First Aid Provider Mandates.** The Occupational Safety and Health Administration (OSHA) would be tasked with implementing a difficult-to-administer ergonomics standard. The standard was considered so difficult and costly when enacted via a rule in 2001 that Congress used the

Congressional Review Act in a bipartisan fashion to overturn it, which also barred OSHA from issuing a similar regulation again.⁴⁴ The costs of reenacting the OSHA standard could exceed \$8.2 billion annually for American businesses but bring no clear benefits.⁴⁵ The framework would also force warehouse distribution centers of all sizes to have highly trained first aid providers available at each location and provide occupational medicine consultation through board-certified physicians. No matter the intent of this requirement, the costs and administrative burdens could be significant for many businesses.

There's an alternative to the PRO Act and Sen. Hawley's plans: Rather than have federal officials and union leaders ignite more top-down union control and use governmental power, hand the torch to American workers and empower them to increase union accountability and improve individual choice.

The path forward isn't found only in denouncing the PRO Act and Sen. Hawley's misguided policies. It also isn't found in embracing "sectoral bargaining," which allows government and union leaders to steer large sectors of the economy into industry-wide contracts and mandates that supposedly safeguard workers and industries from competition.⁴⁶ Sector bargaining, like the PRO Act and Sen. Hawley's framework, is a pro-union, anti-worker framework that undermines worker autonomy and American entrepreneurship with top-down control that can slow growth and opportunity.



PRO-WORKER LABOR POLICIES

Pro-worker advocates can do much better. They can embrace policies that reorient unions toward more democratically run, accountable, worker-driven structures that could make unions more viable and create better relationships between workers and businesses. Considering over 95% of union workers never voted for the union that represents them in the workplace, it's more pressing than ever that workers be empowered to have a real voice.⁴⁷

Senate HELP Workers Package

This includes advancing a Senate Health, Education, Labor and Pensions (HELP) Committee reform agenda spearheaded by Chairman Bill Cassidy (LA), referred to here as the **"HELP Workers Agenda."** This agenda aims to empower workers in key union and workplace matters by giving workers a more direct say in union representation, requiring greater union transparency, and ensuring greater protections for unionized workers, including privacy. HELP Workers Agenda reforms include:

- S. 3114, the Union Members Right to Know Act, introduced by Sen. Bill Cassidy (LA). This bill provides opt-in requirements before unionized workers pay non-representational fees to unions and ensures unions regularly inform workers of their rights. (See below for additional information on this legislation)
- S. 3128, the Worker Privacy Act, introduced by Sen. Tim Scott (SC). This bill secures information privacy for workers by letting workers decide what information is shared with unions and requiring unions to use contact information only for updating workers on representation proceedings unless workers give additional permissions. (See more on information privacy in the Employee Rights Act section).
- S. 3116, the Fairness in Filing Act, introduced by Sen. Bill Cassidy (LA). This bill would penalize individuals, including union and business leaders, who file unfair labor practice charges that are frivolous or in bad faith. These charges are often filed to impede the exercise of labor rights by other parties or cause other forms of hardship rather than hold a guilty party accountable for actual wrongdoing.
- S. 3115, the NLRB Stability Act, introduced by Sen. Bill Cassidy (LA). This bill would prevent the NLRB from enforcing requirements on businesses that conflict with U.S. court of appeals rulings they are trying to follow. This prevents businesses from having to navigate conflicting legal requirements that could lead to penalties no matter which action they take.
- S. 3124, the Protection on the Picket Line Act, introduced by Sen. Tommy Tuberville (AL). This bill would protect employees from harassment and abuse

by providing safeguards for employers to discipline workers engaged in abusive behavior towards their coworkers, even if that activity occurs in the context of legal union activity. Some labor figures, including NLRB members, have argued that section 7 of the National Labor Relations allows these acts of abuse and discrimination so long as those actions take place during organizing campaigns, elections, and other legally sanctioned events.

- S. 3117, the Worker RESULTS Act, introduced by Sen. Bill Cassidy (LA). This bill would secure several important rights for workers. First, secret ballot union elections would be guaranteed and two-thirds of workers would have to participate in a secret ballot union election in order for a majority vote to be valid. Secondly, it would ban “no raid” agreements from being added to union contracts, which otherwise reduce worker options by preventing different unions from seeking to represent workers when union contracts are expiring. Finally, the legislation also would not allow unrelated and unsubstantiated ULP charges to delay or dismiss union elections or proceedings. In other words, the bill would limit contract “bars,” settlement bars, and blocking charges, used for instance by union leaders who file ULP claims to stop a representation or decertification election they feel won’t go their way.⁴⁸



The Employee Rights Act

The Employee Rights Act (ERA), H.R. 4154/S. 2984,⁴⁹ is the crown jewel of legislative reforms in the labor space by addressing a broad range of both union and non-union worker reforms.⁵⁰ This transformative legislative package introduced by Sen. Tim Scott (SC) and Rep. Rick Allen (GA) includes many different provisions to ensure unions are oriented toward workers instead of union leaders and political agendas. It would also preserve small business entrepreneurship and self-employment pathways. If lawmakers were to enact this bill, they would give a major victory to worker voices.

The following are key pro-worker union reforms found in the ERA that could also be implemented as individual

reforms outside of the ERA:

- **Free and Fair Union Elections Through Secret Ballots:** Workers should have the right to vote in secret ballot elections so they can express their true preference without outside influence. There should be open and robust debate during union organizing campaigns, and workers should hear from both sides so they can make informed decisions. All of this is enhanced by secret ballots. Members of the public (more than 70% in a recent survey) prefer secret ballot elections over “card check” campaigns for union organizations. People in union households prefer it even more, weighing in at 76%.⁵¹ It’s no surprise that people prefer secret ballot elections.
- **Worker’s Choice:** Employees should be able to refrain from joining or paying a union. Beyond that, they also should be free to negotiate directly with their employer and not be forced to accept representation from a private third party union they do not support. This also means unions shouldn’t have to represent workers who are not members. By ending the current practice of union contracts and union leadership representing even non-members in the workplace, the **Worker’s Choice Act**⁵² found within ERA would establish this important pro-worker policy of individual contracts, thus improving union policy.⁵³
- **Privacy Protections:** Unlike the PRO Act, the ERA protects workers’ privacy by empowering them to choose what contact information is shared with a union seeking to organize them. Under current law, workers do not have the option to opt out of having their personal contact information shared with a union, such as their home address, phone number, and personal email.
- **Legal Clarity for Independent Workers:** The ERA gives workers the freedom to choose how and when they want to work in self-employment pathways, including in the gig economy. It provides much-needed legal clarity and harmonization by amending the Fair Labor Standards Act (FLSA) and the National Labor Relations Act (NLRA) with a predictable control and economic dependence test, making it easier for entrepreneurs to work for themselves. Note: see the section below

on improving self-employment pathways for additional reforms.

- **Defending and Expanding Small Business**

Entrepreneurial Pathways: A properly crafted “joint employer standard” would be another helpful reform. It would ensure that business-to-business relationships occur the way all parties want them to proceed. In doing so, it would help to fuel the small business growth that has been the backbone of America’s economy.

The ERA includes provisions from the **Save Local Business Act**⁵⁴ to do just that — codify a pro-worker, pro-entrepreneur joint employer standard in law and remove uncertainty and harmful barriers.

It would be difficult to overstate the positive impact of a stable pro-worker, pro-entrepreneur joint employer policy. Consider the business model of franchising, used by more than 820,000 businesses employing nearly 9 million workers.⁵⁵ Millions of additional workers and small businesses eagerly operate as vendors and contractors to other businesses to earn their living. The 2024 joint employer standard President Biden’s NLRB put in place cut off these productive relationships and favored unionization and lawsuit campaigns by trial lawyers. Congress then acted on a bipartisan basis to reject this standard. President Biden vetoed the congressional action, but thankfully a federal court rejected the subjective and indirect standards the rule imposed on businesses.⁵⁶ It is now time to enact a permanent standard that helps American small businesses thrive.

Additionally, a more narrowly tailored bill titled the **American Franchise Act**⁵⁷ has been introduced in Congress to clarify the joint employer standard in the franchise industry. It affirms that franchisors and franchisees are treated as separate and independent employers under federal law.

- **“Opt-In” Political Protections:** This legislation requires unions to secure an annual opt-in from each worker before they collect any dues for political and other non-representational activities.

- **Stopping Union Violence and Extortion:** By including the reforms found within the **Freedom from Union Violence Act**,⁵⁸ the ERA takes on some of the violence and extortion that workers and employers can face during union-organizing campaigns, collective bargaining negotiations, and other union activities. This policy would help close legal loopholes that give unions cover from penalties for violent and destructive actions.

This is critical because what may surprise readers is that our laws and federal agency interpretations of laws actually allow for some violent activity. For example, the 1973 Supreme Court ruling in *United States v. Enmons* exempted unions from the Hobbs Anti-Extortion Act of 1946. The Supreme Court found that violence “to achieve legitimate union objectives” was exempt. This finding may have contributed to the tens of thousands of incidents of property damage and personal injury as well as hundreds of deaths attributable to union violence since 1975.⁵⁹

- **Empowers Employers to Help Stop Union Harassment:** The ERA includes a provision clarifying that employers have a right to protect workers from union harassment, discrimination, and demeaning language and conduct during organizing campaigns and strikes.
- **Ensures Equal Representation for All Employees:** The ERA bans union leaders from including diversity, equity, and inclusion (DEI) initiatives, hiring practices, and other workplace policies in collective bargaining contracts. This helps ensure equal representation for all workers and a collective bargaining process focused more directly on job-related matters.
- **Enfranchises Legal Workers:** The ERA ensures anyone voting in a union election is a citizen or legally authorized to work in the United States.

Restrictions on Union Discrimination and

Harassment: A Biden-era interpretation of federal labor law also permits racist and sexist harassment at the workplace if it is tied to labor union activity, as I4AW recently documented in its report *Battle of the 7s*.⁶⁰ Title VII of the Civil Rights Act of 1964

penalizes people for discrimination and harassment in the workplace if they make racist and sexist comments. But Lauren McFerran, Chair of the NLRB during much of President Biden's time in office, argued that the NLRA exempts certain harassment if it relates to Section 7 of the Act.

Additional Pro-Worker Policies Beyond the Employee Rights Act

As transformative as the ERA would be for American workers, here are some additional reforms pro-worker leaders could embrace.

- **The Right-to-Work:** Without right-to-work, unions can get workers fired for not paying them. State governments can enact right-to-work laws for private sector employees, and around half the states have done this. Ensuring full worker autonomy over whether to pay union fees gives workers power over their paychecks, and it gives union leaders the incentive to be more accountable to the workers they hope to represent. The **National Right-to-Work Act**⁶¹ would expand this well-deserved right to all private sector workers.

Public sector workers already enjoy protection under a Supreme Court ruling. The Court guaranteed voluntary membership for every federal, state, and local government employee in its 2018 *Janus v. AFSCME* ruling.⁶²

- **Voting Quorums:** The quorum required to hold a valid union election should be a majority of all workers, or at least a significant plurality. In many elections that determine whether there will be a union, however, far less than half the workers vote, and only a majority of those who do vote need to say “yes” for the union to prevail. As IAW mentioned in its *Unions Need Democracy* paper, Jetstream Ground Services unionized in 2023 with only 87 out of 339 workers — barely a quarter of the total — voting for the union. A vote held at a California Starbucks remains unresolved, and it could lead to unionization, even though only 3 of 28 workers voted for the union.⁶³

Bills that would enshrine secret ballot voting protections for workers include the Employee Rights Act and the **Secret Ballot Protection Act**.⁶⁴ The **Worker Enfranchisement Act**⁶⁵ would also require that at least two-thirds of workers vote in a union election for it to be valid.

- **Regular Recertification Elections:** As few as 5% of workers have voted for the unions that represent them,⁶⁶ and it is quite difficult for workers to successfully complete the steps needed to decertify a union. Given these facts, recertification elections would greatly improve workers' opportunity to decide what representation they want, if any. For instance, there could be recurring recertification elections, such as every 3 years, or when the workforce has turned over by more than 50% since the most recent election.⁶⁷ Recertification models exist in Wisconsin, Iowa, and Florida for government employees. These models could be applied to the private sector with new federal legislation.⁶⁸
- **Union Transparency:** Given the history of union corruption and the sizable cost of union dues, workers deserve transparency in union finances and what activities their unions undertake. Furthermore, they should be well-informed by unions on what their rights are regarding union membership, dues, voting rights, and more. The 1959 LMRDA establishes many transparency requirements and rights for unionized workers. However, in helping workers fully access these rights, there are additional steps that can be taken:
- **Access to Union Information:** The LMRDA requires unions to disclose financial and activity reports each year so that union members know how unions are spending their hard-earned money. Reports also let union members as well as the government explore areas of concern. The LM-2 form is the main financial reporting document large unions must file annually. The Office of Labor Management Standards (OLMS) oversees this form, and it should make all efforts necessary to ensure unions provide accurate information to their members. Some additional actions that could be done through legislation or regulatory changes include:

- Institute more LM-2 reporting requirements, including a FORM LM-2 Long Form for larger unions. This would require greater itemization of expenses, reporting on union strike fund and political activity expenses, and salaries and benefits of union officers across multiple unions. Increased itemization would help members and government officials identify overall compensation and conflicts of interest,⁶⁹ such as unions paying people to infiltrate workplaces to organize workers rather than fulfill a job role. Note: see the Start Applying Labor Transparency Act below.
- Reinstitute annual reporting requirements for union trusts. The Form T-1 further uncovers how certain union controlled funds are used.⁷⁰
- Reinstate an “intermediate bodies rule” for intermediate unions like state and regional unions with public sector employees. When such unions operate under the umbrella of private sector national and international unions, this rule would require these state and local unions to be included in LM-2 reporting requirements like the larger unions they are subordinate to.⁷¹
- **Start Applying Labor Transparency (SALT) Act, H.R. 2952:**⁷² A union that seeks to establish itself in a workplace sometimes pays organizers to get a job in that the workplace. This tactic gives the union access to target workers for support in a stealthy, deceptive manner. As IAW President F. Vincent Vernuccio notes, “Unions should make the case for representation in plain sight and let the workers decide. Instead, unions are deceiving employers and the very employees they want to represent. The SALT Act would correct this loophole in federal labor law, which does a disservice to workers who deserve to have all the facts before making an informed decision about union representation.” The SALT Act would require unions to disclose the identity of such organizers.
- **Union Members Bill of Rights:** Title I of the LMRDA outlines a Union Members Bill of Rights and lays out unions’ responsibility toward the workers they represent. If properly adhered to, the Union

Members Bill of Rights could help ensure unionized workers are fully informed of their rights and would make unions more accountable for falling short. Key provisions include a worker’s right to:⁷³

- Nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings.
- Meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting.
- Vote by secret ballot or at regular conventions on any changes to union dues or assessments placed on workers, with some exceptions.
- Sue a labor organization and its officers in court and/or an administrative agency.
- Receive a copy of any collective bargaining contract affecting the requesting employee.
- **Union Members Right to Know Act (included in HELP Worker Agenda):** Would require opt-in consent before a worker pays for non-representational activity. This is just like a provision in the ERA, but it also requires unions to inform workers of their Beck rights.⁷⁴
- **What are Beck rights?** These rights are important for those without right-to-work privileges, and they originate from the 1988 Supreme Court ruling in *Communication Workers of America v. Beck*.⁷⁵ The ruling ensured that workers can opt out of union membership. It does not forbid unions from assessing fees on non-members, but it limits those fees to the costs of collective bargaining and internal union administration. In practice, unions tend to impose union fees for activities that should be exempt under the Beck ruling, but the ruling does give workers additional freedom of association rights.

- **No forced “neutrality” agreements:** They jeopardize secret ballots and personal information privacy for workers while making employers forswear meetings and generally any information sharing with employees about union matters. A so-called neutrality agreement between a business and union undermines a worker’s ability to learn about the prospects of unionization through dialogue with the employer. Unfortunately, unions and their political supporters increasingly apply pressure to force these on the American workforce. For example, 33 U.S. senators wrote a letter to pressure 13 non-union automakers to accept neutrality agreements.⁷⁶

Legislation such as **H.R. 719, “To amend the Labor Management Relations Act to prohibit neutrality agreements...,”** from the 118th Congress would ban neutrality agreements for private sector unions by interpreting business neutrality as a form of organizing assistance. This assistance is a “thing of value” to union leaders and illegal, which would be further scrutinized if this bill became law.

- **The Original Teamwork for Employees and Managers Act (TEAM Act) of 1995:** The original TEAM Act sought to provide a clear legal framework for employee involvement programs. Supporters recognized that the National Labor Relations Act gave the NLRB power to charge businesses with ULPs whenever they created relationship models the NLRB felt competed with and therefore undermined unions. This legislation sought to “allow employers to establish, assist, maintain, or participate in an organization or entity in which employees participate, to at least the same extent practicable as do representatives of management, to address matters of mutual interest (including, but not limited to, issues of quality, productivity, efficiency, and safety and health” so long as the entities didn’t claim to be the exclusive bargaining representative of employees or enter collective bargaining agreements.⁷⁷

Note: A newer TEAM Act has been introduced in more recent Congresses.⁷⁸ This version may have positive pro-worker intent behind it, but several parts of it

would allow alternative organizations to operate much like unions. It is not clear how workers could opt out of membership in those organizations, how workers could dissolve them, or which obligations employers would have toward them. Furthermore, individuals might be selected as the lead representative of workers, displacing the idea of workers taking the lead themselves. These union-like entities would have access to private board meetings, further undermining employer-employee relations outside of these new organizations. This version of the TEAM Act should be rejected, while the original version noted above would be a victory for workers.

- **Union Decertification Protections:** Under the leadership of President Biden’s appointees, the NLRB in 2024 implemented a multi-part rule significantly undermining the ability of workers to decertify a union.⁷⁹ For instance, unions can put up “blocking charges” that accuse a business of an ULP. Even if the charge is invalid, it blocks the decertification process until the matter is resolved.

Next, there is a “contract bar” provision that prevents workers from attempting to decertify a union for up to three years once an employer recognizes a union. Congress should pass a bill that would ensure workers can decertify a union at any time and for any reason, including a desire to hold unions accountable for corruption and poor representation.

- **Competition, Not Conglomeration:** Mandating one-size-fits-all bargaining for workers across entire industries with sectoral bargaining would harm competition. It also would impair the labor market flexibility needed for workers and small businesses to excel. Sectoral bargaining, finally, would lead to stagnant wages and cost increases. Rather than pulling entire industries under expansive mandatory union contracts, implementing the Worker’s Choice Act referenced above would allow for open workplaces geared toward individual worker needs and interests.
- **Worker Earnings Not Limited to Union Contracts:** Workers who make valuable contributions deserve

bonuses or pay increases; they should not be subject to a union contract that caps their pay. Unfortunately, union contracts can stop businesses from offering pay raises to specific workers. Most organized businesses can't reward outstanding performers under restrictive collective bargaining agreements. Unions would challenge such actions to prevent the business from undermining their control, even if rewards would benefit the workers. Look no further than Edinboro, Pennsylvania. In Edinboro, Pennsylvania, a Giant Eagle grocery store gave raises to a couple dozen employees, only for the United Food and Commercial Workers Local 23 union to challenge the move in court and block the raises as a violation of their contract.

- **The Rewarding Achievement and Incentivizing Successful Employees (RAISE) Act**, legislation that has regularly been introduced in Congress, would fix this problem by ensuring businesses can always pay workers above what any union contract stipulates.⁸⁰ This would also be possible under the broader Worker's Choice Act since workers could negotiate compensation and other benefits with employers on their own in unionized workplaces.



Additional Worker Voice Beyond Union Policy

Unions now represent less than 6% of private sector workers, the result of a downward trend that has continued for decades.⁸¹ It's possible that the reforms recommended in this paper might lead to a rise in union membership. Regardless of whether that happens, employment policies outside of labor policy must be preserved and improved so workers have expanded choice and more opportunity.

Tax, regulatory, and budget reforms could help American workers. We also recommend the following pro-worker reforms to empower workers to find their best career pathways through more choice and flexibility:

- **Improving self-employment pathways:** Many interest groups want to limit self-employment,⁸² but entrepreneurs and workers should be free to decide whether they want to work for an employer or for themselves. Regardless of profession, education level, or expected income, freedom should be for everyone.

Federal and state agencies have developed employment tests through legislation, regulations, and court rulings. These tests help determine if workers fall under employee or independent contractor status, and in many instances, these tests undermine the will of workers to be independent. One harmful measure is California's "ABC" test nationwide, which significantly hurt self-employment in the state. Supporters of a federal PRO Act want to impose a California-style ABC test. The Biden administration, for its part, implemented an anti-worker independent contractor rule at the DOL and a new standard at the NLRB.⁸³

One possible reform is Rep. Kevin Kiley's **Modern Worker Empowerment Act**,⁸⁴ H.R. 1319. Similar to the classification provisions in the ERA, this would harmonize the employment test used by the DOL in enforcing the FLSA and the test the NLRB uses in enforcing the National Labor Relations Act. It uses factors that are more straightforward than the current ones, and it defends independent worker pathways.

Sen. Tim Scott's **Modern Worker Empowerment Act**,⁸⁵ which has the same name and intent as Rep. Kiley's legislation, takes a slightly different approach by creating a permanent pro-worker employment test but only under the FLSA rather than across multiple federal agencies.

Would self-employed workers want this reform? The Bureau of Labor Statistics (BLS) recently found in a survey that only approximately 8% of independent contractors would prefer a traditional work arrangement.⁸⁶ Many Americans prefer instead to work under their own contracts. They believe contracts let them earn higher income, be their own boss, and pursue more meaningful work.

They appreciate having flexibility to support their lifestyles, which is especially important to working mothers⁸⁷ and people with disabilities who can't work a typical 9-to-5 job.

Nearly 73 million people have performed some amount of freelancing work in 2025.⁸⁸ That number continues to rise, so protecting a pathway for self-employed work would be a major breakthrough.⁸⁹ Supporting self-employment would also help bring flexibility reforms to traditional roles that workers seek, enhancing career opportunities across America.

- **Scheduling flexibility:** Independent contractors may value flexibility but so do employees in traditional workplaces. Congress could greatly expand choice and flexibility by affording private sector workers the same options as federal employees. The **Working Families Flexibility Act**, S. 1158, would allow workers to choose between earning overtime pay or accumulating paid leave for overtime worked, with either pay or leave earned at 1.5 times the usual rate.⁹⁰ This commonsense solution empowers workers in a way that benefits businesses as well. Unlike forcing paid leave mandates, it would not lead to job losses and pay cuts.
- **Legalizing Flexible and Tailored Benefits:** Workers and their employers or business clients should be free to establish benefits that are best for them. They should not be forced into one-size-fits-all government mandates — or worse — banned from having benefits offered at all.

Tailored benefits are particularly important for the self-employed workforce. **Independent contractors, according to the BLS, are nearly 11 percentage points less likely to have health insurance** than traditional employees.⁹¹ Research on Uber independent drivers, for instance, showed that more than half of those with health insurance had it through a spouse.⁹²

Rep. Kevin Kiley's **Modern Worker Security Act**, H.R. 1320, is an example of legislation that could secure parity for self-employed workers by removing governmental barriers to better benefits. The

legislation would allow businesses to voluntarily contribute benefits to independent contractors without reclassifying those contractors as employees. It would protect businesses that might otherwise face penalties for trying to do a good thing.⁹³

In April 2025, the Senate Health, Education, Labor, and Pensions (HELP) committee under Chairman Bill Cassidy released a new paper that supports legalizing portable benefits pathways at the federal level. "Companies struggle to extend benefits and protections to independent workers out of fear of incurring lawsuits under the same laws meant to protect workers," it noted.⁹⁴

Sen. Cassidy then followed up on this work by introducing **The Unlocking Benefits for Independent Workers Act**,⁹⁵ which would ensure businesses can provide voluntary benefits to contractors. This includes traditional retirement and health benefits as well as new models like portable benefits accounts that are user-directed. In complementary fashion, the **Independent Retirement Fairness Act**⁹⁶ empowers independent workers to participate in existing retirement plan pathways like pooled employer plans and single employee pension IRAs that current laws and regulations deny to independent contractors.⁹⁷

Further, Sen. Rand Paul (KY) and Rep. Tim Walberg (MI) have introduced the **Association Health Plans Act**⁹⁸ in their respective chambers of Congress. This legislation would legalize pathways for small businesses and independent workers to come together to offer affordable health care plans under the association health plan (AHP) model.

States are also already leading the way, including Utah,⁹⁹ Tennessee,¹⁰⁰ and Alabama.¹⁰¹ They represent a growing list of states enacting, in a strong bipartisan fashion, voluntary benefits accounts and benefits access for self-employed workers. Recent polling shows the American public broadly supports this type of policy reform.¹⁰² Pro-worker federal and state reforms would combine to unleash access to affordable benefits that government barriers have held back for decades.



Conclusion

Famous French historian and philosopher Alexis De Tocqueville visited America in the early to mid-1800s, making observations about American culture that many say ring true even to this day. One of his great observations, well captured in *Democracy in America*, was how Americans created voluntary associations to address countless issues that arose. Americans, he said, find ways to solve problems collectively and create changes without relying solely on government.¹⁰³

Unions, like other associations, certainly seek collective action to bring about their desired changes. Unlike the associations Tocqueville admired nearly two centuries ago, however, today's unions are defined too much by their involuntary nature: Involuntary payments from workers who must surrender a portion of their paycheck as a condition of employment, involuntary representation of workers who would prefer to handle their own affairs, and involuntary negotiations and contracts between union leaders and businesses.

These are all part of the forced-association model aided by government overreach. This model has led to unions' decline over the last century as the economy and worker preferences evolved. Union advocates, however, have doubled down on forced association.

Private sector labor unions could be reoriented back toward a more democratic model if policymakers make the reforms suggested in this report. Labor unions based on freedom of association, acting in a reformed environment, could create true value for members who join voluntarily. Unions could continue in the tradition Tocqueville observed so long ago. If this were to happen, unions might evolve to gain new members, providing new services that even businesses might embrace.

Alternately, unions could continue their slow decline, held captive by misguided political leaders who choose a government-led anti-worker model that traps Americans in a framework designed to fit last century's economy and workplaces. We cannot double down on this outdated model at the expense of American

workers, and the reforms listed in this study offer a clear path forward.

Many pro-worker policies extend well beyond union matters, providing greater freedom for workers at traditional workplaces and workers who wish to pursue self-employment and small business careers. These policies include enacting pro-worker employment tests, embracing small businesses that operate as franchises and vendors, increasing scheduling flexibility at traditional workplaces, and making voluntary portable benefits available to millions of workers, to name a few.

Workers who are equipped with an updated labor policy framework won't need to rely on the decisions of Washington politicians or union leaders. Instead, workers will be empowered to associate with the businesses and institutions that help them lead productive and fulfilling lives in the modern economy.

Through giving Americans and their families choice and flexibility, we will create the best outcomes so that everyone can chase the American Dream—without needing anyone's permission but their own.

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