

Investment Attraction, Growth
Stimulation, and Job Creation Through
Effective Labour Legislation

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CONTACT THE CHAMBER FOR A PRINT VERSION***

The Chamber

*Building the Best Business Climate in Canada,
Thereby Creating a City of Opportunity*

**Submission to: Government of Saskatchewan, Department of Economic
Development**

Re: Economic Development Potential of Right to Work Legislation

1.0 Introduction

This submission will explore the merits of Right to Work legislation from an economic development perspective. The transition process and the effectiveness of the legislation will also be analyzed. The experiences of regions that have implemented Right to Work or similar legislation from an economic growth perspective will be investigated. The examination will include New Zealand and the North American examples of Louisiana, Idaho, and Oklahoma.

Youth and talent retention strategies should be considered a primary objective in Saskatchewan.

Youth and talent retention strategies, as well as strategies implemented to spur economic growth, should be considered a primary objective in Saskatchewan which has suffered a continuous exodus of young working people. Strategies should be considered in the context of whether they will generate future cash to fund government services and economic activity as a whole. Future government cash flows will be compromised of personal income tax, sales tax, and property tax, just to name a few. Many strategies, including personal income tax cuts, have a short-term negative impact on government revenues, but over time will stimulate additional economic activity. The Saskatoon & District Chamber of Commerce has attempted to find new strategies that do not have an immediate drain on government resources but still stimulate investment attraction and job creation in order to provide additional job opportunities for young people to stay in Saskatchewan, broaden the tax base, and positively alter the demographic profile trend line of Saskatchewan. Right to Work legislation is just such a strategy. With no additional governmental cost attached to the implementation of Right to Work legislation, its cost-benefit ratio from an economic development perspective is infinite. The benefits are expected to be large and immediate based on our research, but even smaller and drawn out benefits would be valuable. In either case, with no government revenue cost attached, Right to Work legislation will, and has, proven itself to be a valuable tool for economic stimulation. Used in other jurisdictions to spur economic growth, Right to Work legislation should be considered for Saskatchewan.

2.0 Executive Summary

Saskatchewan is facing a major challenge: youth out-migration. As such, steps must be taken to ensure that the youth of this province have the opportunity to succeed here, rather than having to seek employment elsewhere.

Right to Work legislation is a cost-free method of improving the business climate.

While tax cuts have proven long-term benefits, they do have an immediate impact on government revenues. The Saskatoon & District Chamber of Commerce has been challenged by government to find alternate methods of improving the investment climate in Saskatchewan without damaging revenues that fund numerous social programs. Right to Work legislation is a cost-free method of improving the business climate while putting employees in a heightened position of power in the labour relationship.

Right to Work legislation provides employees with the right to choose to join, or to not join, a union and to join, or to not join, one union in preference of another. This change in the current structure of labour legislation would force unions to be accountable to their members. Unions would be required to provide benefit to their members at risk of losing their membership dues if the needs go unmet.

There are numerous significant benefits that stretch far beyond the increased freedom of choice. This legislation is a key component in site selection for multinational companies when looking to relocate or expand. It is also important to current businesses who are considering expansion but fear doing so because of a lack of Right to Work legislation.

Success after the implementation of this legislation can be seen in many regions both in North America and abroad. Idaho and many other U.S. Right to Work states are outpacing their forced union counterparts in many areas including economic growth, job creation, and wage growth. New Zealand has experienced an economic boom that is as a direct result of the implementation of Right to Work legislation.

Even beyond the clear improvements in the economic conditions of regions around the world, in Canada, recent Supreme Court decisions have caused the Right to Work debate to come into the public eye once again. Decisions stating that the right to associate also includes the freedom not to associate. This decision may make labour legislation that is not similar to Right to Work legislation illegal as it may violate the Charter of Rights and Freedoms.

The goal of the Government of Saskatchewan, regardless of political ideologies, must be to ensure that the tax base in Saskatchewan is expanding to meet the needs of social program funding. Without a strong tax base, even the most essential programs may not be available to

citizens. Right to Work legislation allows for an economic climate that is more conducive to investment, expansion, relocation from other jurisdictions, job growth, and wage growth.

Right to Work legislation is an effective tool that has been proven successful in stimulating economies around the world.

3.0 The State Of Saskatchewan

Currently, Saskatchewan labour legislation does not give employees entering a new workplace the choice to joining, or not to join, an already established union. They are required to pay dues as a condition of their employment. Unions, on the other hand, are required to secure the signatures of 50%+1 of the employees in order to receive certification.

Right to Work legislation is a cost-free method of improving the business climate.

Further, a secret vote, a fundamental democratic act, is not required for certification. If the process of union certification is considered to be similar to the electoral process, several contrasts can be illustrated. First, all that is required for certification is to gain sufficient signatures of employees. Often, a signature is not considered to be of great importance by individuals whereas a secret ballot carries a lot more weight and will be free from the pressure of others. Secondly, one of the two groups is silenced during the process. In a democratic society, all parties are free to express their opinions and positions. In the labour process in Saskatchewan, employers are not free to speak. This circumstance may prejudice union membership consideration where the opinion or wants of the individual are subservient to a historic decision. This can be seen as undemocratic. Further, no recertification process currently exists and decertification is cumbersome and divisive in a workplace.

Saskatchewan needs a variety of investment attraction and retention tools to expand the investment, employment, and tax base of Saskatchewan. While tax tools have been a particular focus for business organizations, the Provincial Government has consistently challenged these same organizations to propose methods other than tax tools to stimulate investment. Right to Work legislation is just such a tool.

3.1 Cost of the Youth Exodus

The cost of the exodus for 1999 was **\$9,071,200** in annually forgone personal income tax and sales tax revenue.

The cost of the exodus can be approximated and provide an estimate for the loss that the province of Saskatchewan experiences annually. In 1999, the Government of Saskatchewan levied \$2.1 billion in personal income taxes and provincial sales taxes. For the same year, Statistics Canada reported Saskatchewan inter-provincial out migration of 5,916 people. Using an estimated personal income and sales tax load carried by each individual of \$4,600, which the Chamber considers to be a conservative estimate, and a tax base of 457,600 taxpayers, the cost of exodus for 1999 was \$27,213,600. If just one-third of the individuals who left Saskatchewan were tax payers, then the cost of the exodus for 1999 is equal to \$9,071,200 in annually forgone provincial personal income tax and sales tax revenue¹. When this figure is discounted at 8%, the net present value of these cash flows is \$113 million for just one year's worth of exodus.

¹ Todd Merrell, Cost of the Exodus prepared for the Saskatoon & District Chamber of Commerce, September 2000.

The present value of the 1999 exodus alone resulted in \$887 million in lost GDP in Saskatchewan over the next 30 years.

The previous example considers only the loss in personal and sales tax revenues experienced by the provincial government and does not include fuel tax, tobacco tax, or property tax. In order to understand the magnitude of the exodus on the economy as a whole, the loss of personal income generated must be calculated. In 1999, per capita personal income for the province of Saskatchewan was calculated as \$14,900². In that same year, as stated previously, net inter-provincial out migration was 5,916 people. The loss of future economic activity from the exodus of 1999 alone is estimated to be over \$88,148,000. Using the same discount rate as above of 8% over a 30 year period, the loss to Saskatchewan is calculated to be over \$887,000,000 in present value terms. These figures do not account for the multiplier effect and represent approximately one-half of the loss of GDP (in \$1992) experienced by Saskatchewan in that same period. If this trend were reversed, Saskatchewan could dramatically boost its GDP just by ending youth exodus.

While the 1999 figures are a staggering example of the impact of the exodus, these concerns are compounded when further analysis is conducted. In the last three years, Saskatchewan has lost 22,000 people³. These people could have been in Saskatchewan building families, homes, and a stronger province. Their reasons for leaving are varied, however, many have left because of the lack of opportunity for professional growth and career opportunities. This exodus is not only damaging to the coffers of the provincial government, it is also damaging to the morale of the province.

3.2 The Glass Ceiling Effect – Reducing Reasons To Leave

For young people of any background, Saskatchewan currently represents a slow job creation economy. Seniority aspects of unionized work places create an age “glass ceiling” difficult to penetrate. In a province which desperately needs to reinvigorate its demographic profile, negative signals to young aspiring new workers should be regularly scrutinized for the effects of the status quo on the demographic profile of the Saskatchewan workforce.

While skill level and experience with a company are valuable assets, seniority in a union environment creates an uneven playing field for youth who are entering the job market. People with experience in the workplace benefit from the protection of labour laws concerning severance without cause. These people have a work history upon which to build a resume for future employment and benefit from an employment base in Saskatchewan that is largely family oriented and loyal to employees. Young, talented individuals who are enthusiastic about what they can do for a potential

² FP Markets Canadian Demographics 1999

³ Parker, James. Saskatoon Star Phoenix, October 11, 2001.

employer are seeking employment outside of Saskatchewan because of the age glass ceiling that exists in Saskatchewan's unionized environment and in the context of slow job creation. Knowing that their level of pay or job security is not tied to performance or level of skill creates a disincentive for youth remaining in Saskatchewan. Saskatchewan needs a labour policy framework that stimulates job creation and eases the "glass ceiling" effect now experienced in our province.

In the spring 2001 issue of Green & White, the University of Saskatchewan Alumni publication, the Glass Ceiling Effect was seen in action. Nurses in Saskatchewan are not paid for performance or ability. They are paid based on the number of years they have been employed as a nurse in Saskatchewan. Their pay does not reflect any experience they have gained in other provinces or other countries. This, once again, is a disincentive for returning to Saskatchewan after gaining valuable skills and experience elsewhere.

Nurses from Saskatchewan who have moved to the United States are being trained in a wide variety of areas. "If you want to specialize, they'll take [employees] with little or no experience...and provide all the education you need to work in that area" says Charlotte Slater-Lundford, a nursing graduate of the University of Saskatchewan who went to the United States where she saw more opportunities. Tracey Witter, a 1992 nursing graduate, said "...it didn't matter if you had worked as a nurse for four years or twenty years [in the United States] – if you had better credentials, you got the job." Tracey returned to Saskatchewan but the work experience gained in the United States was not recognized as she had been out of the SNRA during those years. While Tracey returned to Saskatchewan, wanting to be closer to friends and family, many are not willing to give up the higher pay and pay for performance enjoyed in the United States.

"There were people who had been in casual positions for up to six years waiting to get permanent jobs [in Saskatchewan]."
- Tracey Witter, U of S Green & White, Spring 2001

Perhaps the best example is the Glass Ceiling effect in the health care industry, once again, taken from the Saskatchewan nursing situation. "There were people who had been in casual positions for up to six years waiting to get permanent jobs [in Saskatchewan]" said Tracey. This exemplifies the reality of the issue and how it has become a barrier to the successful pursuit of a career in Saskatchewan for young people.

The Government of Saskatchewan has recognized the upcoming challenges relating to the aboriginal demographic profile in Saskatchewan. With aboriginal population growth outpacing that of the rest of the province and the social challenges associated with engaging aboriginal employment aspirations, the Glass Ceiling becomes an even more important discussion. The average age of the aboriginal community is less than 20 compared to approximately 35 for non-aboriginals. The

impact of these demographics is that a large number of people from a societal sector with traditionally high unemployment levels will be entering the workforce at a rate previously unseen. This trend, in combination with the challenges that face young people in general who are entering the labour market, spells potential disaster without a substantive and fundamental review of labour policies in the context of the youth exodus in Saskatchewan and the necessity to engage aboriginal youth in the economy. However, the implementation of Right to Work type legislation will reduce the Glass Ceiling Effect and, therefore, eliminate the barrier that aboriginal youth face when seeking employment.

A large percentage of those who leave Saskatchewan do not want to leave but are making a sound economic decision. What needs to be done to provide them with an incentive to return? This paper demonstrates that Right to Work legislation is an effective tool to shatter the glass ceiling.

3.3 The Need For Growth

Saskatchewan needs to grow at a much faster rate to quickly reverse rural depopulation and stop rural service erosion. “A recent economic analysis examining rural Saskatchewan said we will not see growth in rural areas until overall provincial growth exceeds six per cent. These are the most important and profound issues of the day in Saskatchewan”⁴ This target growth rate is twice that currently experienced in Saskatchewan. A sense of urgency to stem the decline of rural communities is needed. Effective labour legislation provides accelerated growth.

In order to see growth in rural areas, overall provincial growth in Saskatchewan must exceed 6%.

- Saskatchewan Business Magazine, August 2001

To mimic the demographic profile of the rest of Canada, Saskatchewan needs to create an additional 100,000 jobs for 19 to 45 year old workers. To mimic the Alberta demographic profile, Saskatchewan needs to create 190,000 jobs for this age group. Population exodus is disguising unemployment levels in Saskatchewan.

3.4 Jobs, Investment, and Growth Stimulated Through Right to Work Legislation

Population exodus is disguising unemployment levels in Saskatchewan.

In the United States, Right to Work legislation also shows a very dramatic impact on economic growth. The manufacturing sector, a sector that pays wages that are consistently higher than the national average, has seen a 20% growth rate in manufacturing establishments since 1977 in Right to Work states, while non-Right to Work states have seen a decrease of 0.3% over the same period. While the number of establishments might not accurately reflect the impact of this legislation, the comparative increase and decrease of persons employed in manufacturing, when analyzing the jurisdictions based on whether or not Right to Work legislation exists, cannot be ignored. In the United States, non-Right to Work states have lost more than 2.3 million manufacturing jobs since 1970. Right to Work states have gained

⁴ Martin, Paul. Saskatchewan Business Magazine, August 2001.

1.5 million manufacturing jobs since 1970. This change can be attributed to the existence of Right to Work legislation (See Appendix A).

Unemployment levels in Saskatchewan have been far below the national average, but this is largely the result of an out migration of the workforce. To date, Saskatchewan is not a high job creation jurisdiction. When people first become unemployed in Saskatchewan, their perception is that there is no opportunity in Saskatchewan and, rather than pursue the opportunities that do exist, they leave the market.

As further explored in Appendix A, the adoption of Right to Work legislation has spurred economic growth in various regions. New capital expenditures increased by 205.2% in Right to Work states versus 184.2% in forced union states. One in five new jobs in Right to Work states is high earning compared to one in eight in forced union membership states. Personal income growth has been nearly 25% faster in Right to Work states while living costs are an average of 15% lower.

3.5 Wage Rates and Accretive Labour Legislation

Personal income grows nearly 25% faster in Right to Work states and living costs are an average of 15% lower.

The labour market can be analyzed in the same way as any other market for a product or service. When wage rates are increased beyond the point of market equilibrium, the demand for labour decreases as employers shift funds from labour to other methods of production seeking corporate cost minimization techniques. Firms will move spending from labour inputs to capital, arrest growth, or flee the market. A union push for wages that are higher than market equilibrium causes employers to reduce the number of employees. Wage increases at the detriment to profit growth can stall growth and even cause employment decline.

While above market-rate wages are damaging to those who are employed, perhaps even more damaging is the fact that they cause problems for those who are seeking employment. The longer an individual is out of the labour market, the less valuable their skills become as others enter the market. With technological advancements occurring at a rapid rate, what is useful today may not be useful tomorrow. The same is true of labour skills. While the individual is searching for a job that would exist if wages had not been raised, but is unable to find one, numerous social consequences experienced in addition to the shorter life of the individual's current skill base. The other alternative to this scenario is to relocate where job opportunities exist.

While wage equilibrium and wage growth do not seem to coincide, there is a definite relationship between the two. When wages are at market equilibrium, the companies who are employing people have resources at their disposal for expansion or increased production. With this expansion comes the need for more labour. The new workers, previously

unemployed, enter the job market and earn a wage. These workers are, presumably, not as highly skilled as those who received jobs before them. If they were more skilled, they would have been employed with the others being unemployed. When these less skilled workers enter the market, they are paid the wage that the market has set. For a company who hires new workers, they must increase the level of pay of those employees who were there prior to the increase in production or the decision to expand. These employees are assumed to be more valuable to the employer because of skill and experience with the company. If the employer decides to keep the more skilled employees at the same wage level as the new employees, there will be dissatisfaction in the labour relationship resulting in workers leaving the company. This is a virtuous cycle to which all jurisdictions aspire.

The resulting skill distribution is one of the major factors that helps wage rates grow, rather than having them inflated by other factors such as labour unions.

3.6 Cost of Living

An increase in wages that does not reflect the capacity of that product or service to produce a profit is dangerous. If increases outpace profitability, the number of consumers who are able to purchase a product or service is decreased and the future of the business is jeopardized.

Less available work means fewer workers, which means lower employment growth.

The Canadian example of this economic imbalance in the Quebec construction industry can be examined. With wages increasing at a rate beyond a rate the market could support, many potential homebuilders are no longer in a financial position to build. The result of this increase in wages and benefits has been to push 80% of all families in Quebec out of the house building market. Less available work means fewer workers, which means lower, if not negative, employment growth. When barriers to growth are eliminated, individuals and organizations will seize the opportunities and supply the demand of the market. In order to provide goods or services beyond current capacity, increased levels of investment are needed: investment in physical and human capital.

Findings of James T. Bennett, economist for George Mason University, indicate that families in Forced Union States pay nearly 25% more for food, housing, health care, transportation, utilities, property taxes and college tuition than families in Right to Work States⁵.

Through the analysis of the *Places Rated Almanac*, it is found that the cost of living is significantly higher in forced union states. While money income for families in forced union states may be higher, the adjusted

⁵ David Kendrick, "Right to Work Equals More Jobs, More Income" January 31, 1997

income for these same families, using the cost of living index from Savageau and D'Agostino⁶, is found to be lower.

The cost of living index calculated by Savageau and D'Agostino includes the costs of food, health care, transportation, recreation, utilities, property taxes, housing prices and rents, and state and local income and sales taxes. However, this index does not include Federal income taxes, which are calculated based on unadjusted incomes, placing families with higher unadjusted incomes at a significant disadvantage. Federal income tax further increases the disparity in disposable income between Right to Work and forced unionism states where Right to Work states enjoy the benefit of more disposable income compared to forced union states.

⁶ David Savageau and Ralph D'Agostino, *Places Related Almanac* (Foster City, CA: IDG Books, 2000).

4.0 Advantage For Workers

The idea behind union formation has historically been to promote the needs of workers and to provide them with more power against the employers in an often adversarial relationship. Right to Work legislation makes certain provisions that give employees even more power – the power of choice. While the role of this study is not to explore the individual rights aspect of this forced unionism, the freedom of choice that is removed in regions without Right to Work legislation must be recognized.

Personal income has grown 25% faster in Right to Work States in the United States.

The most direct advantage for workers, and the general population, in Right to Work regions is the faster rate of employment growth and wage rate growth. With more jobs becoming available at an ever-increasing rate, employees who find themselves without work or seeking a new career will not have to wait as long. With less time out of the workforce, the individual's skill base does not lose as much value as if he or she had been out for an extended period of time due to low, or no, employment growth. In addition, wages have been shown to grow at a much higher rate in Right to Work states as compared to non-Right to Work states. In fact, personal income has grown 25% faster in Right to Work regions in the United States. With the continuation of this trend, money income and adjusted income will both be higher in Right to Work states in the near future. A less direct but very important advantage is derived from an expanding work force. This expanding work force leads to an expanding tax base.

Adjust family income in Right to Work states averages CDN\$96,740 versus CDN\$93,740 in forced-unionism states – a difference of CDN\$3,000.

With workers being employed sooner and having the opportunity to participate in a growing number of fields, they become more valuable to companies competing to retain high quality employees. In order to retain these employees, wages and benefits must exceed those of competitors in Saskatchewan and other jurisdictions. Under Right to Work legislation, employees can see an immediate increase in disposable income if they choose not to pay union membership fees.

Under Right to Work legislation, employees see an increase in disposable income courtesy of increased competition for their services. Similarly to how demand for a product or service causes prices to increase, employee wages and benefits will increase with increased demand.

Employees have much to gain from the implementation of Right to Work legislation. The obvious advantage is the potential for an increase in disposable income. Since the employee may choose not to join a union and, therefore, not pay union dues, the employee has increased his or her disposable income. This income is injected into the economy and has a multiplier effect.

By placing the money that would have been paid in union dues in an RRSP at 8%, there would be approximately \$350,000 available at retirement.

One way that an economy experiences growth is if the disposable income of the participants in the economy increases. By eliminating forced union dues, the disposable income of these individuals increases. This income could be put towards housing, luxury items, clothing, charity, or investments. Many individuals would suddenly have more money to spend; however, the Saskatchewan tradition has been to save. By saving this money, often between \$1000 and \$2500 over three years, individuals will have more money saved for retirement. If those dues were invested in an RRSP at 8% over the working life of an individual, there would be approximately \$350,000 available at retirement.

Two early studies, conducted in 1977 and 1981, compared adjusted incomes in Right to Work states with adjusted incomes in non-Right to Work states. The studies both showed that while money income was higher in forced-unionism states, adjusted income was higher in Right to Work states.

Most importantly, employees have increased choice of career paths due to increased economic activity in the jurisdiction. This leads to wage competition for quality workers. With this competition, employees will find themselves in a position of increased power and have a heightened sense of job security. It is similar to selling an item at an auction with two parties running up the bid in order to get the item. The item in this case would be the hiring of quality employees.

In the absence of the economic stimulus caused by Right to Work legislation, the roles in the labour relationship are reversed. Employers try to keep unions from driving wages too high. Unions push to see their members' wages increase further, regardless of the employment growth impact or sometimes ignoring the impact on the competitiveness of the employer or the impact on the province. With Right to Work legislation, it would be employers increasing wages, but only to the point where the market supports the wage structure. The examples cited herein demonstrate that these market forces work to the advantage of employees through expanded employment opportunities and accelerated wage increases.

While employees are given a choice of whether to join a union, what is to say that they will not join? Employees have a right:

- To choose to join or to choose not to join a union
- To join a particular union in preference to joining some other union
- To resign from a union

4.1 Advantage For Unions – Effective and Efficient Unions Can Gain Support

“...traditional union membership was 70 to 75%...union membership is 95% now. Folks belong to the union because they now see a value to belonging.”

- Steve Fantauzzo, AFL-CIO

Some Right to Work legislation, once implemented, has eliminated one element of previous labour relations legislation which often made it difficult for a union to gain entry to a workplace. The 50%+1 rule means that in order for a union to be certified as the official collective bargaining representative, they must first receive the signatures of 50%+1 of the employees in that workplace. This section of legislation has been amended in some cases, including New Zealand. In New Zealand unions can now enter a workplace and represent only a small portion of the employees. The union is given a chance to prove itself to those who did not join. If it is gaining significant benefits for the members, others are likely to join. In the American states where Right to Work legislation exists, unions are formed via secret ballot only requiring majority vote.

A large number of economic theories are based on the existence of competition. When one group has a monopoly, even a union, it is thought that the group will abuse that power by raising prices when no other competition exists, and lowering prices below cost to drive other potential competitors out of business. This theory can be applied to unions in Saskatchewan. Union membership can be made a condition of employment, meaning that as long as the company is in existence, the union is supplied with members without having to provide services to those members that match the dues paid. This is not to say that all unions do not provide adequate levels of service for their members in relation to their dues; however, without competition for members, the incentive for the union to provide quality service is decreased. By providing employees with an option, unions will provide the level of service demanded by their members at fees supported by members. If the union cannot meet the demands, members will resign. If the union exceeds expectations, which occurred in the City of Indianapolis, union membership levels will skyrocket. In the case of Indianapolis, union penetration grew from about 75% to 95%⁷.

When any organization is required to compete, be it for market share or members, it will become more in tune with what their target market is demanding. Properly structured Right to Work legislation creates this competitive environment for unions. If the members of any given union are demanding a change in policy, services, or direction, the union will be forced to react to this demand. In the absence of Right to Work legislation, there is less motivation for unions to be responsive to demands of their members as the only way an employee can no longer be a part of their organization is if they terminate their employment with the company.

⁷ Fantauzzo, Steve. President of Indiana AFL-CIO, Presentation to Frontier Centre for Public Policy.

New Zealand Example

With the implementation of the Employment Relations Act on October 2, 2000 in New Zealand, the requirements for unions are as follows:

- Register as an incorporated society
- Register with the department of labour if the following criteria are met:
 - Their rules must be democratic
 - They must be independent of any employer

In New Zealand, these are the only conditions for the certification of unions. While it does seem lax, the Incorporated Societies Act places some constraints on unions.

The Incorporated Societies Act in New Zealand requires that the organization have a set of rules, be democratic, and have at least 15 members. In New Zealand this 15-member threshold replaces the 50%+1 rule currently in effect.

The New Zealand legislation does allow unions to have access to workplaces as long as they do not interfere with the course of operations, enter at reasonable times, and comply with health and safety regulations enforced at the workplace.

Idaho Example

With the passage of Right to Work legislation in various regions throughout the United States, union leaders were faced with a challenge that had not previously existed: asking potential members to join.

"[Union] Business agents have to learn something about contacting workers and asking him to join, which they haven't had a great amount of experience in"⁸

- Jim Kerns, AFL-CIO chief, Idaho

In Idaho in 1986, unions won fewer than half of the elections where they sought to represent employees of a particular organization. In 1994, they were successful at a rate of 63%.

In Idaho in 1986, private-sector unions won fewer than half of the elections where they sought to represent the employees of a particular organization. In 1994, unions were successful in elections at a rate of 63 percent for union formation. The implementation of Right to Work legislation has provided an incentive to unions to provide cause for their successful formation in the secret ballot process. With this experience, unions have been able to better represent their members and have become more accountable in Right to Work jurisdictions. This added responsiveness has been a significant benefit for unions and their members.

One issue that unions face is that of perception. Some employees see

⁸ Glenn 1987

unions as being their white knight while others see them as another bureaucracy that takes a portion of their income. Employers often see unions as an organization trying to drive up wages and benefits to levels beyond the market rate, regardless of economic conditions, thereby limiting the ability of the business to respond to market conditions. Employers are also concerned that scarce management resources will be directed to union management issues rather than service or product improvement or the development of new markets. Right to Work legislation changes this perception. As a union enters a firm, there are fewer barriers to entry. Once they are established, they must satisfy the demands of their members since those members could resign at any time. As the union satisfies, and often exceeds, expectations their membership will increase as others seek to share in the benefits.

If the union is unable to provide their members with services corresponding to the amount in dues paid, be those gains safety improvements or wage increases, members should have the option of resigning. Right to Work legislation forces unions to be competitive and accountable. Unions that are effective and efficient have the opportunity to thrive. Another aspect of union benefit to Right to Work legislation lies in the accelerated employment growth rate experienced in Right to Work jurisdictions. Even with a smaller static or slightly smaller share of the expanding work force in membership can grow provided the leadership offers effective representation for their members.

4.2 Advantage For Employers – Expansion Risk Reduced

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New
employees are
given the
option of
joining or not
joining.
—————

Employers are also aided by the implementation of Right to Work legislation as expansion is encouraged. Firstly, new employees do not automatically join a union that is already certified. The new employee is given the option of joining or not joining. This reduces the fear of business expansion that might have existed for some employers previously. When an employer considers expansion and the organization is close to reaching the 50%+1 signature card threshold, the employer may not wish to expand for risk of hiring someone who pushes the union drive over the limit. Even if there is no risk in exceeding the 50%+1 mark, employment expansion entails a changing relationship between employees and the employer. Any understanding that had been built on trust and formal or informal customs could be threatened during expansion. When this is compounded by a non-balloted unionization risk, many employers in Saskatchewan may have opted to not expand.

These risks are very real for businesses of the scale found in Saskatchewan, where small and medium sized private ownership employers are the norm. These employers often built these small businesses together with their employees and friends in a mutually supportive way with both formal and informal employment rules and

systems developed over time on a basis of mutual respect and trust. As the business' employment base expands, the historic relationships are challenged even in a non-union work environment. This dynamic is as difficult for the business owner as for the employee team, because the owner operator is growing and learning along with the business. Unionization risk is very threatening to this kind of owner, and expansion decisions can be influenced by this compounded business risk.

The New Zealand legislation allows for individual bargaining between employees and the employer. A new employee must be informed of any collective agreement, should one exist, and is required to work under that agreement for the first 30 days of employment. If the new employee does not join the union within the first 30 days, an individual agreement may be negotiated. The individual agreement must contain the following:

- Names of the employer and employee
- Work to be done by the employee
- Working hours
- Workplace
- Wage or salary rate
- Process by which problems with the employment relation are to be solved (explained in an easily understandable fashion)

Another aspect of the New Zealand legislation concerns strikes and lockouts. No strike or lockout is allowed to lawfully commence until 40 days after the beginning of bargaining. Employees are permitted to continue working, if desired, even in the case of a strike. The employer may also hire additional, temporary employees if there are reasonable grounds to assume that their employment is necessary for health and safety reasons. This would be the case in a hospital or with other emergency services.

In New Zealand there is the possibility of having multiple unions in one workplace. The employer has the option of consolidating negotiations to save time and money for everyone. If a union does not agree to consolidate negotiations within 30 days, it will be treated as if the union has withdrawn its notice initiating bargaining.

The playing field could be quickly leveled with the implementation of Right to Work legislation in Saskatchewan.

4.3 Advantage For Saskatchewan

In an increasingly competitive and global market, Saskatchewan needs an edge in its ability to attract investment and the related job creation. Right to Work legislation acts as a major incentive for the expansion and attraction of business investment and job creation. The existence of Right to Work legislation is one of the most common elements of an initial selection tool for companies looking to relocate. According to Elizabeth Morris, President and Chief Economist for Insight Research Corporation, 90% of companies who plan expansions or relocations use Right to Work

Incentives such as low taxes, government support for site acquisition, and quality of life were ranked lower than Right to Work as a decision-affecting factor.

- Center for Business and Economic Research, University of Tennessee

For every company that has chosen to relocate or expand to Saskatchewan, as many as nine others have eliminated Saskatchewan as a possibility because of the lack of Right to Work legislation.

as one of their first “kickout” criteria⁹ (see appendix D). Kickout criteria are those aspects of the business climate which a company deems to be important in their decision to relocate or expand. If the absence of Right to Work legislation is a kickout criteria, any jurisdiction, including Saskatchewan, would be eliminated from location analysis at the preliminary assessment stage by the 90% of businesses cited in the Insight Research study. This means that Saskatchewan’s clear asset, in terms of quality of workforce, is ignored because legislative gaps exist concerning the absence of the Right to Work legislation in Saskatchewan. The Center for Business and Economic Research of the University of Tennessee found that incentives such as low taxes, government support for site acquisition, and quality of life were ranked less important than Right to Work as a decision-affecting factor¹⁰. Alberta currently has a tax advantage over Saskatchewan. The playing field could be quickly leveled with the implementation of Right to Work legislation in Saskatchewan.

Consider the consequences of being eliminated in the first round of evaluation because of the absence of Right to Work legislation. If what Insight Research Corporation claims is true and 90% of businesses use Right to Work legislation as an initial cause for elimination of a potential relocation region, then what has the opportunity cost of the absence of Right to Work legislation in Saskatchewan been? For every company that has relocated or expanded to Saskatchewan, as many as nine others have eliminated Saskatchewan as a possibility, exclusively because of the lack of Right to Work legislation. The one company that did choose Saskatchewan would have had to ignore the tax disadvantage and the lack of growth-friendly labour legislation in Saskatchewan when considering expansion or relocation. This situation would indicate that quality of life and labour costs do hold weight in the decision making process; however, these advantages are offset to a high degree. Based on Saskatchewan’s under-performance investment attraction and job creation record. Saskatchewan must eliminate as many barriers to investment entry as possible in order to invigorate the economy and reduce the exodus from Saskatchewan.

Saskatchewan boasts as being home to one major Asian manufacturing firm that has expanded regularly and employs several hundred workers. This business has commented consistently and positively about the quality of the workforce in Saskatchewan. Several Right to Work states in the United States boast as being home to a hundred or more Asian manufacturing concerns employing several thousand per Right to Work state. Some of these companies express concerns over the availability of a quality workforce, but still choose to locate in these Right to Work

⁹ Phillip D. Phillips, letter to Michael Dolton, Greater Twin Falls (ID) Chamber of Commerce, June 27, 1986.

¹⁰ David Kendrick, “Right to Work – The Idaho Experience” June 21, 1996

jurisdictions in spite of higher costs¹¹ and arguably a poor quality workforce as compared to Saskatchewan. A distinction between Saskatchewan and many of these jurisdictions is the presence of Right to Work legislation in these states. This illustrates the correlation between investment and job creation with the presence or absence of Right to Work legislation.

¹¹ KPMG Cost Competitiveness Study

5.0 Implementation And Transition: Learning From Experience

One of the major concerns with the possibility of any new legislation coming into effect is the implementation and transition from old practices to new. Right to Work legislation would have widespread impact and some difficulties would be encountered.

5.1 New Zealand

The majority of the problems that have been experienced in New Zealand are related to the implementation of the Employment Relations Act in October 2000. Prior to October 2, 2000 there was a more loosely defined Right to Work legislative environment. The main problem was with collective agreements that were already in place when the legislation came into effect. Any agreement that was in place on or before October 2, 2000 would remain unchanged until July 3, 2003 or the end of the agreement, whichever came first. After the expiration of the agreement, unions, as well as those individuals who withdrew their membership from the union, are free to renegotiate.

The shift from the Employment Contracts Act to the Employment Relations Act in 2000 included a transition period as well as a description of the course of events for various situations. For example, personal grievances and disputes that arose before October 2, 2000 were to be continued under the process outlined in the previous Employment Contracts Act. Other aspects, including negotiations in progress and individual employment agreements, were also covered.

The basis of the October 2000 legislation is that all parties involved in the employment relationship must deal with each other in good faith. Good faith is defined loosely but is described briefly. The basic requirement is that the parties may not mislead or deceive each other. This applies to all aspects of the employment relationship including, but not limited to, collective bargaining, interaction generally between employers, employees and unions, union access to workplaces, and consultation about restructuring¹².

The new legislation also protects the rights previously established for the Maori people, the original inhabitants of New Zealand. "The 'good employer' and EEO [Equal Employment Opportunities] obligations of State sector employers (including obligations relating to the recognition of the aims and aspirations of the Maori people, the employment requirements of the Maori people, and the need for greater involvement of the Maori people in the Public Service) are also unaffected by the Act."⁹. This situation is similar to that of Saskatchewan and the employment of Aboriginal people, as demographic and economic concerns associated

¹² State Services Commission, Guidelines to the Employment Relations Act - September 2000.

with this portion of Saskatchewan's population have been identified by the government and must be constantly monitored and addressed.

The current Act in New Zealand maintains that union membership, or non-membership, remains voluntary and that no employment, or denial thereof, shall be determined because of union membership. Undue influence may not be applied in an attempt to persuade a person towards or away from membership of a union or of a particular union.

Unions may now initiate negotiations in New Zealand no earlier than 60 days prior to the expiry of the current collective agreement, while employers may initiate bargaining no earlier than 40 days prior to the expiry of the collective agreement. If there is no collective agreement in place, negotiations may be started by either the employer or union at any time.

With the new legislation came the creation of three new organizations intended to aid in employment relations in New Zealand. (1) Mediation Services, was created to provide mediation for labour disputes rather than looking to the court to decide the outcome. It is hoped that this will be a less costly process and result in a less divisive approach to the employee/employer relationship. (2) The Employment Relations Authority is the body through which all labour conflicts, including personal grievances, must pass. From the Authority, the matters are sent to mediation or to the third organization, the Employment Court. (3) The Employment Court is the final course of action for employment relationship issues. The court may redirect the dispute to mediation or treat the situation as a judicial hearing.

New Zealand has implemented a mediation policy as the first act in a labour dispute. Mediation is a much less costly process, both from financial and time points of view, than the current process. New Zealand has employed approximately 40 mediators who will conduct the mediation process at the place of work rather than in the courts, making it a much more convenient course of action.

Where there are multiple unions or employers and there is more than one collective agreement that applies, the negotiation timeframe changes slightly. Unions may not initiate bargaining until 120 days prior to the end of the last collective agreement or 60 days before the first collective agreement expires, whichever is later. Employers may not initiate bargaining until 100 days prior to the expiry of the last or 40 days prior to the expiry of the first collective agreement, whichever is later.

The terms of collective agreements change slightly from the previous legislation. Now, collective agreements must be for a specified term not

exceeding three years in length. There must also be a coverage clause and a clause setting out how the agreement can be changed within its term.

When a new employee joins a company where a collective agreement already exists, the employer must advise the employee, firstly, that there is a collective agreement in place, that the employee may join the union if so desired, that if the employee does join the union he or she will be bound by its terms, and about the 30-day rule. The 30-day rule is established for new employees. During the first 30 days of employment with an organization where a collective agreement is in place, the new employee must work under the terms of that agreement. After the 30-day period has expired, the employee is free to choose to join the union and continue under the collective agreement or to negotiate an individual employment agreement.

While fixed term employment is permitted, however, there must be reasonable rationale for the employment agreement to be fixed term. Before a fixed term agreement may be implemented, the employer must clearly identify the period for which the agreement is in place as well as explain the reasons the agreement is for a fixed term. Legitimate reasons for fixed term agreements include parental or educational leave, the undertaking of a specific project with a finite duration, positions where there is no guarantee of funding for the employee's position beyond a fixed term, and to cover a temporary increase in the normal workload of the firm.

The New Zealand example makes provisions for employees to learn about their rights in the employment relationship as well as collective bargaining rights. This comes in the form of "Employment-Related Educational Leave" for union members to take training courses on improving employment relations. The number of union members and not the size of the workplace restricts this leave. For a workplace of 60 employees with 50 union members, 3 days may be allowed for education. If the workplace had been 200 employees with 50 union members, the same 3 days would be provided. In any case, no more than 5 days leave per year may be taken for employment-related education.

Union members are also entitled to attend at least two union meetings each calendar year. As a transitional piece, employees who were union members prior to October 2, 2000 would be allowed to attend one union meeting before December 31, 2000. The attendance at these meetings would be on pay. The attendance does not, however, occur without restrictions. The union is required to give the employer at least 14 days notice, advise the employer of the duration of the meeting, make arrangements with the employer to ensure that the employer's business is

maintained during the meeting, and give the employer a list of members who attended the meeting.

In New Zealand, if an employee resigns from a union but does not resign as an employee, which can be done at any time, he or she remains bound by the collective agreement under which he or she was previously covered. The employee is covered by that agreement, and may not be covered by any other agreement, until 60 days prior to the termination of the collective agreement. This prevents employees jumping from one union to another in a given workplace for minor changes in benefits.

Access by unions to the workplace was also outlined in the October 2000 legislation. Union representatives may only exercise the right of entry at reasonable times and in a reasonable manner having regard for normal business operations; and if they believe on reasonable grounds that a union member is working in the workplace or that the union's membership rules cover the employees. The union representative must comply with the employer's reasonable health and safety requirements as well as any relevant security procedures. Access may be denied in order to avoid prejudice to the security or defence of New Zealand, or to the investigation or detection of offences. One suggestion for employers was the training of "front-line staff," meaning receptionists and other like employees, in relation to union access to the workplace.

New Zealand saw the unemployment rate fall from 10% in 1991 to 5.9% in 1996 after the 1991 implementation of the Employment Contracts Act.

When a union or unions seek a collective agreement with two or more employers, a secret ballot is required to ensure that it is the desire of the union members to participate in multi-employer bargaining. Multi-employer bargaining may take place only where the employees affected by bargaining are performing similar jobs.

Sections of the Act concerning strikes and lockouts have the public interest in mind. A strike cannot begin until 40 days after the expiry of the collective agreement. Strikes and lockouts are lawful in essential services as long as notice is provided and that the labour action does not have any public health or safety implications. Employers may suspend striking employees without pay if they are striking and suspend non-striking employees if normal work is not available because of the strike. The employer may use existing employees to do the work of striking employees if the employees are free to choose not to, and agree to work. The employers may not hire additional workers to replace those who are on strike unless it is necessary for health and safety reasons.

Working days lost due to strike activity declined from 99,032 in 1991 to 23,770 in 1993.

Prior to the October 2 legislation, other "Right to Work like" legislation existed in New Zealand. This legislation was seen, by unions, as an anti-union movement. A contrasting view put forward by supporters of the previous legislation was that it encouraged a closer relationship between

In 1991 alone, GDP grew by 15%, a figure equaling the growth of GDP in New Zealand for the ten-year period between 1974 and 1984.

the employer and employees according to the New Zealand Manufacturer’s Federation. To demonstrate the success of the previous Right to Work legislation, since the enactment of the previous laws in New Zealand in 1991, New Zealand saw the unemployment rate fall from 10% in 1991 to 5.9% in March of 1996. Working days lost due to strike activity declined from 99,032 in 1991 to 23,770 in 1993. In 1991 alone, GDP grew by 15%, a figure equaling the growth of GDP in New Zealand for the ten-year period between 1974 and 1984¹³. After the changes noted for October 2000, business organizations expressed concern over the Country’s ability to compete with their trade rival China. With a less investment friendly environment in New Zealand and an ever-expanding global economy, businesses are now at risk of being forced out of the market by foreign companies who are subject to less restrictive legislation. These next few years will test this hypothesis, however, if these business concerns only partially affect investment decisions and business risk appetite, investment attraction and the job creation rate will be adversely affected.

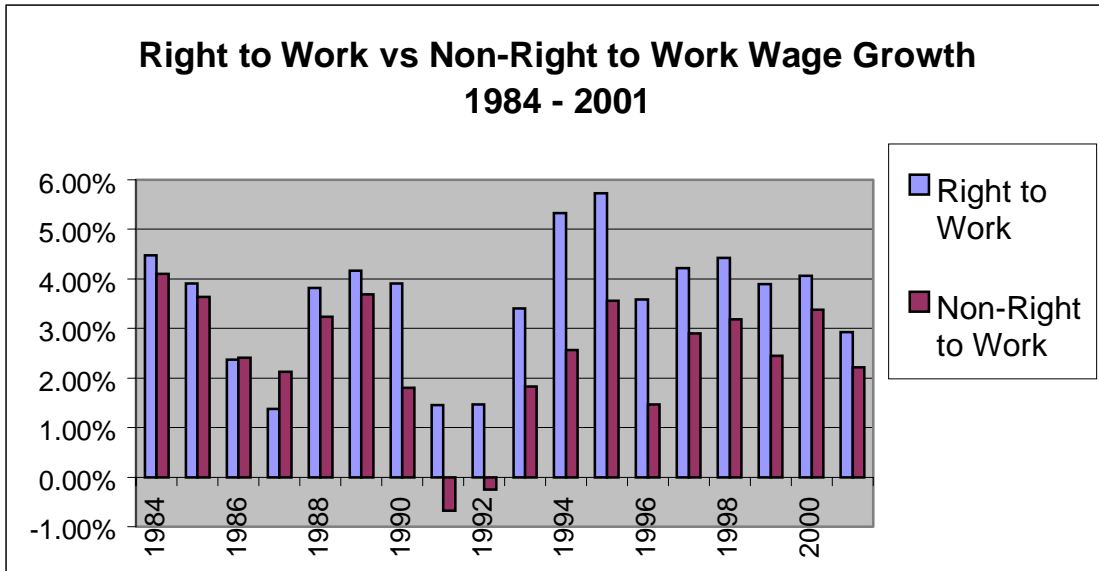
5.2 The United States

There are currently twenty-one Right to Work states in the United States. Most of these states adopted Right to Work legislation soon after the implementation of the Taft-Hartley Act. This Act allows individual states to take control of their labour situation. Ten states enacted Right to Work laws in the 1940s and seven more in the 1950s and 60s. This move created a more appealing environment for investors in these States. The States enacting Right to Work legislation experienced significant economic growth and expansion. Non-Right to Work states saw only minor change. The following table shows employment growth figures for Right to Work versus non-Right to Work states between 1977 and 1997 (see Appendix B for additional figures):

EMPLOYMENT GROWTH 1977 - 1997		
Industry	Right to Work States	Non-Right to Work States
Non-Agricultural	72.9%	36.5%
Manufacturing	14.3%	-13.1%
Construction	53.6%	41.6%

In the graph below, the wage growth (%) is indicated for Right to Work states and for non-Right to Work states. Since 1984, Right to Work states have seen positive wage growth whereas non-Right to Work states experienced negative wage growth in both 1991 and 1992. In 11 of the 13 years since 1984, wage growth in Right to Work states exceeded that of non-Right to Work states. Source data is included as Appendix F.

¹³ Wolfgang Kaspar, University of New South Wales



The State-by-State legislation is very similar since the Federal government took proactive steps to give control of the labour process to state authorities. Most is centered on the individual rights of the employee with some, including Idaho, which has highlighted creating a climate that is encouraging towards economic growth.

In the United States during the 1940s and 1950s, two of the most recognizable supporters of the implementation of Right to Work legislation were the United States Chamber of Commerce and the National Manufacturers Association of the United States.

As previously mentioned, the transition process to Right to Work in the United States was facilitated by the adoption of the Taft-Hartley Act. With the adoption of the Act, the National Labour Relations Board was established. The goal of this board was to deal with disputes in labour relationships as well as disagreements over the Act itself. A second organization was established on the national level to help improve the negotiation process. This second organization was the Federal Mediation Service. The employer and the union could use the mediation service to reach a mutually beneficial agreement.

The Taft-Hartley Act also placed restrictions on the political involvement of both unions and employers. The Act was also intended to prohibit political contributions as a means to influence labour legislation.

While it may seem that the United States saw only brief popularity of Right to Work legislation through the 40s and 50s, there have continuously been states attempting to defend and enact legislation to enable employees to choose to join, or not to join, a union or labour

Looking at long-term growth, Right to Work States have gained 1.5 million manufacturing jobs since 1970 while Forced Union states have lost 2.3 million.

association. Two States most recently working to achieve Right to Work status are Colorado and Oklahoma. These states are specifically seeking to spur economic growth and create investment opportunities within their States.

According to a 1997 Political Media Research poll, over 80% of all Coloradans oppose forcing workers to pay union dues as a condition of their employment. A survey by Financial World Magazine concluded that economic growth in the 21 Right to Work states has outpaced non-Right to Work states by 25% since 1991...
- Hispania News, 1999

5.3 Louisiana

In 1976, Louisiana enacted Right to Work legislation in order to encourage investment, with support from two major groups. The first was by business that saw an opportunity to create a more attractive business climate. The second was by individual rights activists who felt that people were given the freedom to choose where they worked, how they got to work, and many other freedoms, but were not given the right to choose to join, or not to join, a union.

It has been argued by proponents of forced unionism that social programs, including education, suffer at the hands of Right to Work legislation. Our investigation can find no correlation between Right to Work states in a given jurisdiction and observations regarding declining quality of social or educational programs. For example, Louisiana is on the leading edge of educational progress. Students in Louisiana were, on average, 33 points higher on SAT scores than non-Right to Work states.

5.4 Idaho

The resulting impact was that personal income grew 15.4% between 1987 and 1995 in Idaho following the enactment of Right to Work legislation.

“It is hereby declared to be the public policy of the State of Idaho, in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization or on refusal to join, affiliate with, or financially or otherwise support a labor organization.”

- § 44-2001. Declaration of public policy.

Idaho enacted Right to Work legislation following the Bunker Hill incident. Not the Bunker Hill of 1776, but rather the loss of 1,500 mining

jobs because of union interference in the negotiation process between labour and management. The national officials of the Steelworkers union over-ruled the employees of the Bunker Hill mining company in January of 1982. Right to Work legislation would have prevented this disaster.

After implementation of Right to Work legislation, Idaho saw its per-capita personal income grow by 15.4% from 1987 to 1995. This was the highest growth rate in the United States according to the U.S. Commerce Department's annual estimates. In 1994 alone, per-capita personal income grew by 8.8%, the third highest growth rate in the United States. The two states with higher rates of increase, Arizona and Nevada, are also Right to Work States.

“Employers in the Boise area find it so hard to find enough workers that fast-food restaurants have abandoned the minimum wage and replaced billboards for hamburgers with billboards pleading for applicants.”

- The Economist, 1996

Manufacturing employment in Idaho grew 36.2% from 1987 to 1995 after having declined by 8% in the previous five years while it was a forced union state.

In addition to long-term benefits being experienced by Idaho, there were immediate results that show the impact of Right to Work legislation. In the five years prior to the enactment of Right to Work laws in Idaho, manufacturing employment in that state declined by 8%. Following the enactment of Right to Work legislation from 1987 to 1995, a 36.2% increase in manufacturing employment was experienced. This increase was the fifth largest in the United States in that period. Not only was there significant growth in the manufacturing sector, the construction industry saw a 105% increase in employment¹⁴.

“(Idaho’s) economic gains probably would not have been possible without the state’s Right to Work law.”

- Jim Hawkins, Director Idaho Department of Commerce

5.5 Oklahoma

On September 25, 2001, State Question 695 went to the voting public. The question was as follows:

The measure adds a new section to the State Constitution. It adds Section 1A to Article 23. The measure defines the term “labor organization.” “Labor organization” includes unions. That term also includes the committees that represent employees.

¹⁴ David Kendrick, “Right to Work Equals More Jobs, More Income” January 31, 1997

The measure bans new employment contracts that impose certain requirements to get or keep a job. The measure bans contracts that require joining or quitting a labor organization to get or keep a job. The measure bans contracts that require the remaining in a labor organization to get or keep a job. The measure bans contracts that require payment of dues to labor organizations to get or keep a job. The measure bans contracts that require other payments to labor organizations to get or keep a job. Employees would have to approve deductions from wages paid to labor organizations. The measure bans contracts that require labor organization approval of an employee to get or keep a job.

With 447,072 votes in favor of the above question (see appendix G), 54% of total votes, Oklahoma became the first Right to Work state in the 21st century and the first since Idaho in 1986. The vote was heavily supported in major urban areas including Oklahoma City, however, there was widespread support in rural districts as well. This move is seen by business as a positive step towards improving the investment climate and, therefore, stimulating growth in Oklahoma.

With 54% of total votes, Oklahoma became the first Right to Work state in the 21st century and the first since Idaho in 1986.

What the state of Oklahoma recognized that led to their battle for Right to Work legislation was that their neighbors to all sides were experiencing tremendous growth while their economy was seeing only mild improvement.

The impact of the lack of Right to Work legislation became compounded when other states began strong public relations campaigns towards business highlighting Right to Work.

“(there is) a distinct line running north and south where the light stopped. We made it a point to tell (business) prospects that is where the light of Right to Work stopped – at the border of Oklahoma.”

- Ron Russel, Arkansas Chamber of Commerce¹⁵

5.6 Other Countries

Great Britain has also taken steps towards Right to Work legislation. Through the Employment Act, adopted by Parliament in 1982 and amended in 1988 and 1990, employees were given the choice of joining or not joining a union.

Section 1 (1) of the Employment Act of 1990 states:

1 (1) It is unlawful to refuse a person employment:

(a) because he is or is not a member of a trade union or

(b) because he is unwilling to accept a requirement

(i) to take steps to become or to remain or not to become a member

¹⁵ Oklahoma Gazette, March 2000.

of a trade union;
(ii) to make payments or suffer deductions in the event of his not being a member of a trade union.

In 1911 legislation called the Code of Obligations, Switzerland established a very simple statement that provides employees and employers with the right to choose.

The provisions of a collective agreement or of a private agreement that coerce employers or laborers to join an association are null and void.

Canada and Australia are the only two industrialized countries that have not implemented Right to Work or similar legislation.

6.0 Business Response In New Zealand to the 2000 Legislation

The response to the 2000 legislation from business in New Zealand has been mixed. Different groups have had different reasons for the support, or lack thereof, of the proposed legislation. In general, it is too early to tell if there have been any significant improvements from previous legislation as there have been only a few agreements signed since the October 2, 2000 adoption date. As collective agreements begin to expire and are renegotiated, a better picture of the impact of the new labour legislation will be provided. The next few years will tell the tale as to the effectiveness of the new legislation in terms of investment, economic stimulation, job creation, and wage growth.

6.1 New Zealand Manufacturers Federation Response

The New Zealand Manufacturers Federation opposed the implementation of the revised Employment Relations Act in 2000. Their opposition was based on a fear that the relationship they, as managers, had built with employees would be damaged by outside influence. The outside influence is not from government or from unions, but from other countries that are exporting more and more to New Zealand. For example, imports from China increased 33% in a one-year period. The competitive pressure from China for New Zealand illustrates the need for diligence on the part of all governments to keep all legislation globally competitive.

6.2 New Zealand Union Response

Since the implementation of the Employment Relations Act, there has been an increase in union membership in New Zealand. Union density was approximately 18%, only half that of Canada, prior to the new legislation. Union officials attributed the lower density up to October 2000 to the previous legislation that encouraged contract employment over the traditional employment relationship. Managers, however, claim the low union density was due to the adoption of new management practices, including Total Quality Management, which led to a closer relationship between employers and employees.

7.0 Supreme Court Decision

8 of the 9 justices held that the Charter guarantees the right, not only to associate, but to not associate.

There has been a recent challenge put forward regarding the province of Quebec's legislation that unionizes all construction employees in the province. The challenge went all the way to the Supreme Court. The basis for the challenge was that the legislation requiring membership in a union in order to gain or maintain employment in the construction industry violates the guarantee of freedom of association in s.2(d) of the Canadian Charter of Rights and Freedoms.

The legislation was upheld by a narrow margin of 5 to 4, however, this was on the basis that the history of labour relations in the Quebec construction industry was found to justify an infringement of Charter Rights.

When examining the overall issue, 8 of the 9 justices held that the Charter guarantees the right, not only to associate, but to not associate. Extending beyond the right of association, 5 of the 9 justices affirmed that mandatory union membership violates the Charter right of association.

There was extended reasoning given for finding mandatory union membership in violation of the Charter. It was said that mandatory union membership imposes ideological conformity.

5 of the 9 affirmed that mandatory union membership violates the Charter right of association.

"Ideological conformity does not require that there be evidence of an imposition of union values or opinions on the member, evidence of a limitation of the member's free expression, or evidence that the union participates in causes and activities of which the member disapproves. Rather the interpretation of ideological conformity must be broader and take place in context. In this case this context would take into account the true nature of unions as participatory bodies holding political and economic roles in society which, in turn, translates into the existence of ideological positions. To mandate that an individual adherence is required to a scheme advocating state-imposed compulsory membership which affects freedom of conscience and expression, as well as liberty and mobility interests, because such adherence itself is a form of ideological coercion."

- SCA News, October 2001

The ruling also noted that workers had no way of not joining a union, even if a majority wanted to be non-union, and still work in the industry. This opens the door for other challenges on the basis that legislation that prevents the joining or not joining of a union limits opportunities for a majority who chooses to join or to not join a union.

8.0 Conclusion – Expected Benefits For Saskatchewan

Higher employment growth and higher disposable income, derived from a more attractive investment climate, are all immediate benefits of Right to Work legislation. With increased employment comes increased personal income tax revenues, increased sales tax revenues, increased property tax revenues, and a decreased strain on social assistance programs. The tax base will widen, thereby decreasing the tax burden that individuals currently carry, making Saskatchewan an even more attractive place to live.

The priority of the Saskatchewan government must be to create a climate that spurs non-government job creation for the citizens of Saskatchewan.

The priority of the Saskatchewan government must be to create a climate that spurs non-government job creation for the citizens of Saskatchewan. The reason for the desire for non-government jobs is that a government paid position increases the strain on available funds for other programs. A non-government job causes an increase in personal income tax and sales tax revenues without causing a corresponding increase in government expenses.

What needs to be considered is this: If there is no positive employment growth, will the current provincial government revenue stream be able to support all current and future programs for the people of Saskatchewan?

It should be noted that Right to Work legislation is not intended to eliminate unions. In fact, the state with the 8th highest number of union members is Texas, with over 505,000 union members, a Right to Work state. The purpose is to give the employee the option of joining or not joining based on the efficiency and effectiveness of the union. If the employee feels that the union is doing a good job of representing his or her interests, there is no reason for that employee to resign from, or not join, that union. If, however, the union is not representing employees well, then employees should not be required to remain a part of a group. The same logic can be applied to any organization. If the members are not getting what they want from the group, they should be allowed to voluntarily withdraw from it.

Several conclusions can be drawn from the experiences of New Zealand and the United States as well as from the facts and historical trends of Right to Work legislation:

- *Implementation of Right to Work legislation creates a more attractive investment climate for existing businesses and potential new businesses which in turn results in a higher job creation rate, wage rate increases, and an expanded tax base. These observations are consistent in regions with both similar and different economic conditions to those in Saskatchewan*

- *Implementation of Right to Work legislation has the potential to create more opportunities for employees in Saskatchewan, particularly for young workers*

In addition to the clear investment and job creation stimulative impact of Right to Work legislation, symbolically the enactment of Right to Work-like legislation demonstrates an important signal to current and potential investors that there is a clear interest in attracting investment in Saskatchewan. It also indicates that steps have been taken to make the region more investment friendly. The main issue that must be addressed is one of education and understanding concerning the benefits of such a move. Implementation of Right to Work legislation is best accompanied by efforts to educate employees, employers and unions so that all parties involved in the labour relationship are aware of their rights.

Right to Work legislation should not be ignored as a tool to stimulate the Saskatchewan economy and brighten the future of Saskatchewan.

There is no doubt that Right to Work regions have experienced greater economic growth and have created a business climate that is conducive to business expansion and increased investment in the region. This is a tax and budget cost-free opportunity to stimulate greater job growth rates and to create a broader tax base in Saskatchewan. It should not be ignored as a tool to stimulate the Saskatchewan economy and brighten the future of Saskatchewan.

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