What Progressives Can Learn from Conservative Cross-State Policy Feedback Successes: The Case of Labor Politics

Alexander Hertel-Fernandez
Columbia University
School of International and Public Affairs
ah3467@columbia.edu

Memo Prepared for the Clean Slate for the Future of Labor Law Convening on Available Forms of Worker Organizations, October 2018

Note: This paper draws from State Capture: How Conservative Activists, Big Businesses, and Wealthy Donors Reshaped the American States—and the Nation, forthcoming in January 2019 with Oxford University Press, as well as “From the Bargaining Table to the Ballot Box: Political Effects of Right to Work Laws,” NBER Working Paper No. 24259, co-authored with James Feigenbaum and Vanessa Williamson.

Over the past four decades, conservative political activists and donors, often bolstered by private-sector businesses, have built up organizations that have successfully pressed for significant policy changes across the U.S. states. These groups, and especially the American Legislative Exchange Council (ALEC), operating since 1973, the State Policy Network (SPN), since 1986, and Americans for Prosperity (AFP), since 2004, have organized in and out of state legislatures to push for right-leaning policies on a range of issues related to unions, taxes, government spending, health care, energy and the environment, and consumer rights. (Appendix Table 1 briefly summarizes the organizational histories of these three groups, which in other work I have dubbed the right-wing “troika”.)

Although the three networks, and especially ALEC and SPN, enjoyed growing victories throughout the 1990s and early 2000s, large state-level GOP gains after the 2010 and 2014 elections gave the troika many new opportunities for legislative successes. Take the example of right-to-work laws, which bar unions from collecting fees from non-members who benefit from union-negotiated collective bargaining agreements and job protections (known as fair share, representational, or agency fees). The number of right-to-work states – and the proportion of workers living in those right-to-work states – was relatively constant from the 1990s through 2010. Since 2010, however, five states have passed right-to-work laws, bumping the proportion of workers living in right-to-work states to nearly half of all workers. Notably, there is strong evidence to suggest that ALEC, AFP, and SPN all played a central role in pushing for the passage of the agency fee cut bills.

It is no coincidence that conservative cross-state lobbying groups and GOP politicians sought right-to-work laws after gaining control of legislatures and governorships. As this brief will describe, right-leaning advocacy groups and their allies in the Republican party have prioritized using policy, and above all labor policy, in ways that bolster the political resources of their allies and demobilize the political power of their liberal opponents. The State Policy Network described this strategy of feedbacks to its donors as follows: efforts to curb the power of labor unions like right to work, cuts to public employee collective bargaining, and restrictions
on union political activities have the promise of “permanently depriving the Left from access to millions of dollars in dues...every election cycle,” which will “defund and defang one of our freedom movement’s most powerful opponents, the government unions” while also “clear[ing] pathways toward passage of so many other pro-freedom initiatives in the states (original emphasis).”

Focusing especially closely on the case of labor politics and policy given the importance of the labor movement for the Democratic party coalition and conservative feedback effects, this paper lays out four lessons progressives might learn from conservatives’ victories across the states. These include:

- Organizing at the right levels of government,
- Leveraging spillovers between different domains and levels of government,
- Ensuring organizational mobilizations that connect feedback processes to the mass public, and
- Leveraging a range of proposals viable within different political contexts that make cumulative progress towards the same objective.

Together, reforms that hew to these principles have the potential to revitalize the labor movement – and with it, the cross-state electoral clout of Democrats and the possibilities of furthering a more progressive economic policy agenda. Just as conservatives have sequenced reforms to weaken the labor movement to achieve mounting victories over time – both in the labor domain and in other policy areas – so too should progressives use labor reform to bolster unions so they can pass liberal policies in other areas, including the other policy areas discussed at this workshop. Before I assess each of these lessons in more detail, I first justify my focus on labor politics and spell out its implications for progressive policy feedback effects.

Why focus on labor politics?

Why should liberal reformers and Democrats prioritize labor policy when it has not been an area that has received significant attention at either the national or state level in recent decades? The Obama administration, after all, famously let the Employee Free Choice Act fall by the wayside during the short window in 2009 and 2010 when Democrats enjoyed filibuster-proof majorities in Congress. Moreover, pro-union legislation is not typically part of the set of policies pursued by Democrats after they take control of state governments. Put simply, there is no liberal version of state-level right-to-work laws.

Yet this lack of attention has come at a real cost to Democrats and liberals. Even in its weakened state, the labor movement remains an incredibly important part of the Democratic party coalition, and a distinctive group in the American political economy. Few, if any, other organized interests have the capacity to move as easily between the economic and political domains; to organize the identities of individuals as workers and as politically engaged citizens; and to represent the interests of working and middle class Americans in both elections and public

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1 Pilkington 2018; Bragdon n.d..
2 Meyerson 2010.
policy battles. There is a long line of work documenting both the post-New Deal anchoring relationship between unions and the Democratic party, as well as how unions boost workers’ political and civic skills and interests, encourage members to participate in politics, provide considerable financing of Democratic political campaigns, and lobby on a range of left-leaning public policy issues at the local, state, and national levels.³

Even in recent decades, unions, especially public sector unions, have been the primary forces checking the power of business in politics—until conservatives can successfully pass policies to retrench that clout. The example of Wisconsin is instructive. Figure 1 plots the number of hours that the Wisconsin state chamber and the statewide education association reported lobbying the legislature, a crude but readily comparable measure of political power. From 1999 to 2011, the chamber—organized business’s main voice in Wisconsin legislative politics—was roughly balanced with the state education association in its lobbying efforts. While observed political advocacy is not the same thing as political power⁴, the graph nevertheless suggests that the two organizations were at parity for nearly two decades.

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⁴ Bachrach and Baratz 1962; Finger 2018.
Figure 1: Disclosed Lobbying by the Wisconsin Chamber of Commerce and Wisconsin Education Association

The figure shows hours of registered lobbying for the Wisconsin NEA affiliate (WEA) and Wisconsin Manufacturers and Commerce (the state chamber of commerce). Data from the Wisconsin Ethics Commission. 2017-2018 is partial data.

That balance of power changed in 2011 after the state passed legislation curbing collective bargaining rights and ending agency fees for nearly all public-sector workers (teachers included). Following that bill, the power of Wisconsin’s public-sector labor unions, and particularly the Wisconsin Education Association, plummeted and the organization ceased to be a significant force on the state political stage, as the lobbying figures show in the legislative sessions following 2011. “It decimated our ability to represent local and state government employees,” explained one veteran government union staffer.\(^5\) Another leader summed up the post-2011 situation more succinctly: “Do we have less boots on the ground? Yeah. Do we give the same amounts of money to the candidates? No.”\(^6\)

A similar story appears in Figure 2, which documents the dramatic decline in public-sector union membership and in the budgets of the Wisconsin Education Association following the passage of the 2011 legislation (Act 10). Membership in public-sector unions dropped from around 50% of all government employees to less than 20%, and revenue for the statewide

\(^5\) Brooks 2018.
\(^6\) Davey 2016.
National Education Association affiliate fell from around $25 million to around $7 million. The Act 10 drive thus shows clearly how state policy decisions can durably change the power of organized labor in ways that resonate for broader politics. As AFP’s president Tim Phillips put it neatly in an interview assessing the consequences of anti-union legislation for Wisconsin, “that’s how you change a state.”

Figure 2: Public-Sector Union Clout Has Plummeted in Wisconsin Since Act 10

Union membership data from UnionStats; Wisconsin NEA affiliate revenue data from IRS tax filings.

The Wisconsin story is mirrored in other states that passed right to work laws in recent years. Examining the passage of agency fee rollbacks across the states from 1980 to 2016, I find in joint work with James Feigenbaum and Vanessa Williamson that right-to-work laws durably disadvantage Democrats and liberal policymaking for years into the future. The passage of right-to-work laws, we find after comparing neighboring counties straddling state right-to-work lines, lowers Democratic vote shares and turnout up and down the ballot from the presidency down to state government. We show that weaker unions mean that fewer working class Americans are asked to participate in elections, one of the most important ways in which citizens are mobilized into politics. We further document how campaign contributions from unions to Democrats fall after the passage of those laws. Looking over the longer term, we find that weaker unions also have knock-on effects on other political outcomes. After the passage of right-to-work laws, states are less likely to elect working class candidates to state legislatures and Congress and state economic policy moves sharply to the ideological right. In one especially important example, we find that states are less likely to pass minimum wage increases in the wake of right-to-work laws.

In sum, state and national-level decisions about union policy matter a great deal for Democrats’ electoral fates and the success of progressive policy more generally. It is hard to imagine a sustained left without a vibrant labor movement for the reasons and evidence I

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7 Hohmann 2017.
articulated above. As a result, any consideration of feedback effects needs to put labor politics and policy front and center; labor reform ought to be a “day one” issue that can then pave the way for other progressive measures.

To put these feedback effects in the theoretical context developed by Paul Pierson, embracing policies that bolster the labor movement has the potential to reshape politics at both the interest group and individual levels. Stronger unions can act as organized interests in the electoral and policymaking process. But such measures will also make unions more effective as intermediary institutions that themselves can shape individuals’ political skills, interests, and identities, and thus their capacities to participate in politics.

(One caveat: labor unions have many other important effects on individual workers and the overall economy: setting wages, negotiating health insurance and pension benefits, enforcing working standards, and offering workers a say in management decision-making. Some of these other economic consequences of unions may well contribute to their own feedback effects. In the remainder of the paper, however, I focus exclusively on the direct contributions of unions to politics—which extends well beyond workers who belong to unions or who work in unionized shops.)

Organizing at the right level of government, and across the whole country

One lesson that progressives can learn from conservative victories on labor policies is the importance of organizing at the right level of government given the structure of American political institutions. Spurred on by the rise of public-sector unions in the 1960s and 1970, which had begun to organize at the state-level, conservative activists realized that a singular focus on Washington, DC would be unproductive given the extent to which states controlled major policy decisions. As one executive director of ALEC lamented, in contrast to the conservative movement, “liberals understood the importance of the states some time ago,” and that liberal state legislators “are supported by a vast array of special interest groups that have been active in the states for a long time,” perhaps most notably public sector unions and especially the “radically liberal National Education Association.”

The irony is that since the 1970s, the tables have turned and it is liberals, not conservatives, who have ignored the states and focused their attention on either the local or the national levels. That is a big mistake. First, as ALEC’s executive director noted, states are responsible for setting important policies over a range of issues. When it comes to labor policy, it is states, not the federal government, that oversee the ability of public-sector unions to organize, collect dues, participate in politics, and collectively bargain (or not). States also have discretion over important aspects of labor market policy, like setting and enforcing the minimum wage or creating paid sick or family leave programs. And states can also use their public contracting activities to set labor standards in ways that encourage (or discourage) strong unions.

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9 Pierson 1993.
11 Brunelli 1990.
12 On minimum wage enforcement, see Galvin 2016.
Beyond the substantive importance of the states, cross-state political organizing, as savvy political activists have long recognized, gives multiple opportunities to achieve the same goal. “In the states, if you’re trying to get [something] passed and you’ve lost in Kansas, Nebraska and Texas, it’s not a total failure. You may well win in Arizona, California and New York that year. You’ve got 50 shots,” stressed one of ALEC’s early executive directors in making a sales pitch to potential corporate members. In addition, moving legislation across the states can pave the way for later national action, too. (I will explore both of these benefits to cross-state organizing in more detail in the following section.) As a result, by abandoning the states progressives are ceding significant ground to conservatives to entrench substantial policy victories over time.

Facing mounting conservative cross-state victories, progressives have shifted their energy to cities, especially on labor issues like the minimum wage. That is understandable to the extent that liberal voters are increasingly concentrated in urban areas, making progressive policy change easier in city and municipal governments. Figure 3 documents the rapid increase of city and municipal action on the minimum wage in both blue states under full Democratic control (left-hand plot), but also in an increasing number of states under split or full Republican control (right-hand plot). Minimum wage activists have similarly pushed for local measures to extend paid sick leave to workers as a condition of employment, given that many workers – and disproportionately low-wage, service sector employees – lack paid sick or family leave.

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14 Goldberg 2014.
Figure 3: Progressives Have Increasingly Turned to City-Level Minimum Wage Increases, 2012-2016

Local minimum wage ordinances from the University of California, Berkeley Labor Center’s Inventory of US City and County Minimum Wage Ordinances. Figure divided by state partisan control over 2012 to 2016.

If the story ended here, it might well provide a strong justification for progressives to abandon cross-state organization in favor of a city-based approach that could lock-in policy and political gains through new programs and their supportive constituencies. And indeed, some progressives have doubled down on this thinking. At their 2018 fall conference, members of the Democracy Alliance—the donor club of liberal millionaires and billionaires—attended a session on “City Lights: Rebuilding Progressive Politics One City at a Time” that trumpeted how “cities are primed to be incubators of policy ideas where we can reimagine, rebuild, and implement a progressive vision of government…Cities have substantial legal powers and the reach to solve national economic, social, and environmental problems.”

But as progressives have tried to pursue more liberal urban initiatives, they have faced two big obstacles. First, they have found that cities have few levers for substantially bolstering union membership or political power, which generally rest at the state and national levels. And equally importantly, the troika has responded to local-level progressive initiatives by vigorously embracing state preemption, or when states bar cities from passing measures that exceed the generosity of state level policies. A state with a minimum wage preemption law, for instance, bars cities from passing their own minimum wages that exceed the state law.

Figure 4 plots the share of the US population living in a state with either preemption of local minimum wage rates or local paid sick and family leave programs. It also indicates the year in which ALEC began focusing on preempting local labor market programs through a new model bill push (2011) with the dashed vertical line. Figure 4 shows that an increasing proportion of the US population now lives in states with both kinds of preemption – with an especially big increase after ALEC began focusing on these issues in 2011. In 2000, fewer than 2% of
Americans lived in a state preempting local minimum wage hikes. By 2016, that share had increased to nearly six in ten Americans. The trend for preemption of city-wide paid leave initiatives is similarly striking. No state had paid leave preemption on the books in 2000, but by 2016 nearly four in ten Americans lived in a state barring local paid sick leave initiatives unless the state had already created such a program.

In short, the combination of weak city authority over labor policy coupled with state power over preemption severely curtails the ability of blue cities located within red states to take action on their own – foreclosing the possibilities of progressives using control of city government to bolster the labor movement in the ways imagined by many liberals, including many progressive donors. Given the distribution of political power across America’s states and cities, then, progressives cannot retreat to urban enclaves and neglect the states.

**Figure 4: Conservative Networks Have Rapidly Spread Preemption Laws of Local Labor Markets, 2000-2016**

The figure shows the share of the U.S. population living in states with local minimum wage preemption or local paid or family leave preemption. Dashed vertical line indicates 2011, the year in which ALEC began distributing local labor policy preemption bills to its members. Source is author’s review of state legislation and the US Census Bureau.

It is not enough for progressives to simply focus on winning back state governments, however. An important challenge to earlier progressive efforts to reestablish clout across the states is that they have tended to be concentrated in states that were already progressive strongholds. Public-sector labor unions, perhaps the best-positioned organizations to counter conservative mobilization from the left, still never had a deep reach across all states. The power of government employee unions in the South and Southwest was much weaker than in the
Pacific, Northeastern, or Mid-Atlantic states. Figure 5 provides one vivid illustration of this regional restriction of public-sector union strength. The figure plots the proportion of state legislators and legislative staff responding to a survey I fielded in 2017 who said that they relied “very frequently” or “frequently” on public-sector labor unions when drafting or evaluating legislation. The figure clearly demonstrates how government unions have tended to lack influence within state legislatures outside of the Northeast, Pacific coast, and upper Midwest.

**Figure 5: The Political Power of Public-Sector Labor Unions is Geographically Restricted**

![Map of the United States with color-coded regions indicating the proportion of state legislators or legislative staff responding to 2017 survey who reported “very frequent” or “frequent” reliance on public-sector labor unions when considering, drafting, or evaluating legislation. The map uses color bands to show varying levels of reliance: 30-35%, 35-36%, 42-47%, and 49-50%.](image)

Figure plots the proportion of state legislators or legislative staff responding to 2017 survey who reported “very frequent” or “frequent” on the following item: “How frequently have you relied on the following organizations when considering, drafting, or evaluating legislation?” Figure maps out responses by Census region.

In a similar vein, as best as I can tell, the State Innovation Exchange, the latest effort by center-left donors, activists, and organizations to counter ALEC, is concentrating its attention on states with already-powerful unions and progressive caucuses of legislators. To fully realize the same level of organizing present on the right, then, progressives will need to make in-roads into states in which they have not historically held power, especially in the South, Midwest, and West, so that they can spread policies – and political victories – over the country as a whole.

*Leveraging interactions between institutional venues*

If one important lesson conservatives have learned about American politics is how it is not enough to organize at just the local or national level, a second and closely related lesson is how to leverage spillovers between institutional domains. The American political system offers
many different venues through which to pursue policy change – like the judiciary, state legislatures, Congress, or the bureaucracy. Crucially, these venues are not independent from one another, and successes in one domain can unleash new resources that activists can use to push reforms in another arena. In the area of labor policy, conservatives have moved seamlessly from litigation into electoral and legislative politics and back again to the courts, all with the goal of retrenching the power of labor unions.

The example of conservative efforts to cut union agency fees is instructive. Although conservative networks and activists have pushed for legislation that would curb the right of public-sector unions to collect fees from non-members in favorable states under full GOP control (right-to-work bills), using past victories in other states to show potential supporters in later states that such a reform was possible. One ALEC chair who heads up their labor committee argued in an SPN publication that right-to-work in Michigan would not “have happened in 2012 without…Indiana’s passage of right-to-work,” as his group was able to show wavering Michigan Republicans that “in the election after Indiana passed right-to-work [the Republicans] did not lose a single seat in the state Senate and even picked up nine seats in the House.” In this way, the conservative networks leveraged the fact that state politicians are highly attuned to past victories and loses in neighboring states to bolster the passage of agency fee cutbacks in increasingly ambitious terrain.

While full-on right-to-work is at least feasible in states under full Republican control, such measures are obviously non-starters in many of the Democratically-controlled states with the most powerful public-sector labor unions. In 2014, for instance, over 40% of all public-sector union members worked in just three states: New York, California, and Illinois. Accordingly, to reach unions in these states conservative activists had to work through the federal courts, which had the power to impose binding rulings in states like New York where legislative action was impossible – providing another example of how the conservative networks have leveraged spillovers between institutional venues.

The 2014 Supreme Court decision in *Harris v. Quinn* was the first significant victory on this front for conservatives. That case involved a group of workers who provided care to disabled individuals eligible for Medicaid benefits. Although these workers were technically employed by the patients they served, the workers were paid through the federal-state Medicaid program. As a result, the Illinois state government ruled in 2003 that these workers should be considered state employees for the purposes of union representation. A dozen other states followed Illinois’ lead in the ensuing years to facilitate the unionization of home health aides. States extended the logic to cover other similar state-reimbursed employees, like day care providers, as well.

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16 This followed a narrower 2012 Supreme Court decision in *Knox v. SEIU*, which ruled that public-sector unions needed to obtain affirmative consent from workers to collect special assessments. Justice Alito crucially laid the groundwork for a First Amendment challenge to public-sector agency fees more generally in this decision that litigants would pursue in *Harris* and then *Janus*. 
Because Illinois is not a right-to-work state, home health aides since 2003 were required to pay fair share fees to their unions even if they were not union members themselves. A group of dissenting workers sued the state to protest this requirement and the case was eventually heard by the Supreme Court. Appealing to the Court’s conservative majority, the plaintiffs in *Harris* successfully argued that Illinois home health aides did not count as full-fledged state employees for the purposes of agency fees. That had the immediate effect of permitting dissenting non-members to opt out of paying agency fees to their union. But more ominously, Justice Alito’s controlling opinion signaled that the conservative members of the court were deeply skeptical about the constitutionality of agency fees altogether, inviting further challenges that would invalidate such fees for all public-sector employees.

The way that conservative anti-union activists responded to the decision nicely captures the effectiveness of moving between institutional venues in pursuit of the same outcome. First, right-leaning cross-state organizations launched large publicity campaigns to educate home health aides about their new rights under the *Harris* decision and how they could save money by leaving the union. Think-tanks affiliated with the State Policy Network, for instance, began broadcasting TV spots with sympathetic health aides seated next to the disabled family members they cared for, describing how the workers decided to leave their union to have a little extra money to spend on themselves and their loved ones.17 “Keep your money in your paycheck,” implored one aide, and visit “SEIUoptout.com” for more information. “SEIU does not want caregivers to know that they now have a choice,” warned another advertisement. The group that aired the spot, the Freedom Foundation, also organized door-to-door drives to the houses of registered health aides and child care providers who were union members. As one childcare aide in Seattle recounted to a journalist, she had “received a stream of emails, letters and robocalls – some two dozen of them – telling her she had the right to stop paying union dues,” culminating in a visit from a canvasser from the Foundation who came with a personal appeal for her to leave the union.18

Conservative efforts do not stop with appeals to individual members, however. The Freedom Foundation, aided by other right-leaning groups opposed to public-sector unions, have used state and federal litigation to further expand the reach of the *Harris* decision and check union efforts to temper *Harris*'s effects on their membership rolls and coffers. For instance, in the wake of the *Harris* decision, some unions negotiated collective bargaining agreements that required prospective home health aides to attend a mandatory union orientation. The hope was that these orientations could convince aides to voluntarily join the union instead of free-riding off of the union’s collective bargaining and job protection efforts. The Freedom Foundation identified plaintiffs who would sue the state to revoke this requirement, which SEIU ultimately did (though additional litigation is ongoing).19

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18 Greenhouse 2016.
19 See https://www.freedomfoundation.com/labor/dshs-aiding-seiu-misinformation-of-home-care-workers/
In a separate case, the Freedom Foundation sued the state to determine the time and location of voluntary union orientation meetings and has begun showing up to those meetings to hand out competing information to workers about why workers should not join the union. And of course the most significant follow-up litigation to *Harris* came in the form of the *Friedrichs* and then *Janus* cases, which called for an end to all agency fees for all public-sector workers. Although the Court deadlocked over *Friedrichs* after the unexpected death of Justice Antonin Scalia in 2016, it ended agency fees using the same logic Justice Alito had laid out in *Harris* in its 2018 *Janus* decision. (The next step laid out for conservative opponents of public-sector unions in *Janus* is to sue unions for all agency fees they have charged in the past, which would effectively bankrupt many unions.)

The lesson from conservative networks’ advocacy against public union agency fees leading up to, and following, the *Harris* decision is that it is insufficient for reformers to focus exclusively on one or two institutional venues alone. Instead, successful policy feedback strategies need to consider the full array of potential tactics that could yield a favorable outcome – and how those tactics can be sequenced in ways that build sequentially on one another. In the case of agency fees, the *Harris* decision opened the way for state-based organizing and litigation that could further retrench the power of public unions, even within a Democratically-controlled liberal stronghold like Washington state. Separately, however, conservative activists pursued litigation through *Friedrichs* and *Janus* (and now with the agency fee recoupment cases) that would further deal significant blows to unions all across the country. Progressives should similarly think about the right sequence of labor reforms that build on one another and across states and venues in a cumulative fashion.

*Organizing to connect feedback processes to the mass public*

Aside from emphasizing how durable policy change that reshapes politics requires shifting between institutional venues, the case of public-sector agency fees also underscores how feedback processes are not automatic and require continued investment in political organization and mobilization to register effects, especially in the mass public. As Daniel Galvin and Chloe Thurston explain, “policies do not always, or even very often, generate their own political supports” and instead require active organization to ensure that the feedback loops are closed.

This is particularly likely to be true when considering feedback effects involving the mass public. For such effects to reverberate throughout the political system, individuals need to perceive a policy’s benefits and how their own lives are affected by the policy. Individual citizens are less likely to be closely monitoring the political landscape for these details than are organized interest groups whose main work involves lobbying or political advocacy, and so these

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21 Scheiber 2018.
22 Galvin and Thurston 2017, 334.
23 Arnold 1990; Mettler 2011.
mass-level feedback effects are especially likely to require organizational drives that help citizens to make the necessary links to close feedback loops.

Anti-union conservative activists recognized these limitations of mass feedback effects, and instead of ending their work with the 2014 court victory in *Harris*, they took to the public, literally going door to door as we saw to help home care workers to understand the implications of the decision and how those workers could opt-out of paying dues to their unions while still benefiting from their union’s collective bargaining agreements and job protections. This canvassing and mobilization thus closed the feedback loop weakening unions and Democratic politics more broadly by helping workers to take advantage of their newly-obtained opt-out rights.

Beyond the specific case of home health aides, conservative activists have taken a similar approach in right-to-work states with the National Employee Freedom Week initiative. The annual event, co-sponsored by AFP, ALEC, and many individual SPN affiliates, involves “a national effort to inform union employees about the freedoms they have to opt out of union membership and let them make the decision that's best for them.” Affiliated organizations pledge to reach out to workers all across their respective states with information on how much money they could be saving if they stopped paying union dues while still benefiting from union-negotiated provisions (as is permissible in right-to-work states), including the necessary paperwork that workers can print out and mail to their union to sever their memberships.

Perhaps the most ambitious drive, however, has unfolded in the wake of the *Janus* decision, which SPN has billed as “the opportunity of a lifetime” to defund the public-sector labor movement. “Imagine tens, even hundreds, of millions of dollars currently used to push damaging left-wing causes and candidates vanishing,” the Freedom Foundation described in a donor proposal about the upcoming *Janus* opt-out campaigns that they had planned. One journalist reported that the Freedom Foundation had trained 80 canvassers to start knocking on the doors of public-sector workers in California, Oregon, and Washington to convince those workers to opt-out of their unions. The Freedom Foundation’s ambitious goal was to shrink membership rolls in those three states by 127,000 members, and it had been planning for the *Janus* decision for months by acquiring lists of public employees and conducting grassroots activist trainings. SPN affiliates in Illinois, Michigan, Ohio, and Pennsylvania are leading large-scale targeted opt-out campaigns with the support of the national network as well.

In sum, progressive activists seeking to entrench their own policy feedback effects would be wise to draw from this experience and not simply assume that a legislative or judicial victory signifies the end of a political battle. For policy changes to register effects, especially in the mass public, activists have to stay on the ground to show to citizens how those policies affect their lives and connect the policies to concrete political actions.

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26 Eidelson 2018.
27 Brooks 2018.
28 See also Patashnik 2008; Patashnik and Zelizer 2013.
Adapting reforms to varying state political contexts

The final lesson that progressives can learn from conservatives involves taking advantage of varying political contexts to achieve the same policy objective in multiple states at once. Despite the fact that conservative networks across the states are seeking the same objective of weaker unions, especially in the public-sector, not all groups pursue the same policies in service of that goal. As the State Policy Network has summarized in a “tool kit” for its affiliates, advocates of “responsible, limited government reforms” need to select “the best reform based on [their] state’s political and cultural environment”; stressing that “SPN’s extensive research on successful and unsuccessful union reforms nationwide shows that the only way to curb union influence is through systematic reform efforts targeting multiple states. Success does not hinge on a single reform tactic.”

To that end, SPN called for activists to pursue union recertification requirements (like those passed Iowa and Wisconsin) in states that have “legislative majorities and executive branches that support union reform”; opt-out campaigns in right-to-work states for private sector workers (and before Janus, public-sector workers) in states where conservatives lacked full control of the legislature and the governorship but where state laws permit SPN affiliates to request lists of public employees and union members through public record laws; and right to work laws in states where conservatives enjoyed veto-proof majorities in the legislature and a strong ally in the executive who could stand up to the public backlash such a proposal would likely engender. In other writing, SPN and ALEC have also emphasized how smaller reforms can pave the way for larger ones within the same state. Measures to cut back the power of public labor unions, for instance, can then make it easier to pass other reforms to the private sector, as the case of Wisconsin exemplifies well. This logic also extends to non-labor legislation, too; weaker unions can then make it easier to pass other “free-market reforms,” as SPN has explained to its allies. The case of Iowa is relevant here: after retrenching public-sector union collective bargaining and organizing rights, the GOP-controlled state government was able to pursue a number of cuts to other labor market regulations and social programs, including preempting local-level minimum wage increases.

By tailoring their ambitions to the local political climate, SPN was able to rack up additional wins that they would not have achieved pushing for all-or-nothing proposals. That is important for narrower concerns of organizational maintenance for conservative advocacy groups because it provides concrete evidence to donors and supporters of victories even in states under full Democratic control of government. And in addition, these incremental victories slowly chipped away at the power of organized labor across the country as a whole, too. That is because unions, and especially public unions, transfer revenue from “blue” states with stronger memberships to “red” states with weaker members. On average, for instance, around 20% of the budgets of state National Education Association affiliates in right-to-work states comes from transfers from wealthier unions in non-right-work states. Cuts to the budgets of those wealthier unions because of membership declines thus reduce the possibilities of redistribution to boost the power of unions in less favorable political climates.

29 Bragdon n.d.
In sum, liberal reformers ought to take away a similar lesson that they do not need to pass the same legislation in all states to achieve the same objectives. Instead, they should focus on figuring out what policies are viable in different contexts that can produce political gains within and across the states – and make other policy objectives more viable.

**Feedback effects and the future of American labor movement**

As this brief has made clear, conservatives have built up a strategy for using policy feedbacks to durably disadvantage unions – and Democrats – over many decades. Turning the tide after years of success, especially after the 2018 *Janus* decision and a slew of additional state-level cutbacks to other union rights, will not be easy. But the advantage of starting from behind is that progressives can expand on what has worked especially well from past conservative victories. Conservative opponents to public-sector unions learned from those unions’ successes in starting groups like ALEC and AFP. If they are to survive the conservative backlash in present-day, unions would be wise to learn from their opponents.

A full examination of specific policy proposals that fit these four principles is outside the scope of this short paper. But I can briefly summarize one set of reforms to bolster the labor movement that capitalize on what conservatives have done so well over the past decades. I focus on the public-sector labor movement both because of those unions’ political importance to the Democratic party coalition and because public sector labor law is much more tractable than private-sector labor law. As conservative advocacy has shown, states can pass legislation changing the contours of public-sector unionism, while reform of private-sector unions will require new federal legislation that amends or supersedes the National Labor Relations Act.

The biggest issues facing public-sector unions in the face of *Janus* and conservative state-level victories are membership declines and related revenue drops. Any progressive efforts to shore up the public labor movement need to start with those problems. In the spirit of the lessons I spelled out above, what states should do depends on their distinct political climates.

In states with full Democratic control of government, states ought to pass legislation that would partially or fully finance public-sector unions for the lost revenue from agency fees they now face post-*Janus*. In essence, state governments would be reimbursing unions for the labor peace that a stable system of collective bargaining and grievance protections offers them.\(^{30}\) In states where full or partial reimbursement is not politically feasible, progressive activists might pursue measures that encourage greater union membership, such as allowing unions to meet with prospective or incoming hires to discuss the benefits of the union. Anything state governments can do to facilitate face-to-face interactions between union recruiters and workers would help provide an opportunity for the sort of “relational” organizing that scholars such as Hahrie Han and Marshall Ganz emphasize as crucial to the construction of social movements.\(^ {31}\) Democratic states should also make it easier for public-sector unions to collect political contributions from their members by changing the default option from opting in to opting out of such assessments.

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\(^{30}\) See Tang 2018 for a more developed proposal.  
\(^{31}\) Han 2014.
A third approach, similarly viable in a broader array of states, is for unions to offer services beyond collective bargaining for which they could charge state governments. One example comes from ongoing work I am conducting in Iowa and Colorado, where teachers unions offer high-quality professional development classes, workshops, and conferences that their educator-members value very highly. Unions could contract with local and state governments to provide these classes on a fee-for-service basis – and these trainings could provide additional opportunities to pitch non-members on joining the union. These tangible, valuable benefits and services are at the heart of what Peter Murray calls “functional organizing” – and the key to the success of other large-scale groups like the NRA, the AARP, and many evangelical mega-churches. As Murray sums up about these groups, “This is the true secret of scale: offering benefits and services that build deep and lasting relationships with members, and then activating those members for long-term, systemic change goals.”

In their capacity as political organizations with extensive campaign and advocacy experience, unions might also consider charging parties or other interest groups for political support or consulting they could offer where appropriate and legal. And lastly, public-sector unions might follow the lead of the National Education Association and create new categories of membership for “allies” willing to make financial contributions to unions, especially around political advocacy. Such “ally” membership categories ought to be treated very carefully (with more limited governance rights, for instance), but could help to bolster and diversify unions’ finances. (The Democracy Alliance has taken such an approach in recent years to encourage greater participation by philanthropic foundations and labor unions.)

These are only a partial list of potential policies activists could pursue. But together, they offer a menu of reforms that states could pass in the coming months and years that would help to grow union clout in the wake of Janus and state-level cutbacks, thereby paving the way for even more ambitious pro-labor reforms and progressive victories.

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33 Murray 2013. See also Strom 2016; Rolf 2018 for similar arguments.
### Appendix Table 1: Introducing the Right-Wing Troika

<table>
<thead>
<tr>
<th>The American Legislative Exchange Council (ALEC; $8-10M per yr.)</th>
<th>The State Policy Network (SPN; $78M+ per yr.)</th>
<th>Americans for Prosperity (AFP; $150M+ per yr.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Thousands of state legislators, hundreds of large companies, &amp; conservative activists/philanthropists</td>
<td>• Coordinates and supports more than sixty affiliated think tanks in all fifty states</td>
<td>• Nearly 3 M activists and 500+ paid staffers; paid directors in 36+ states</td>
</tr>
<tr>
<td>• Develops and disseminates legislative language through policy task forces</td>
<td>• Testifies for model bills produced by ALEC</td>
<td>• Active during and between elections</td>
</tr>
<tr>
<td>• Disseminates examples of introduced/enacted bills to lawmakers (100-200 bills based on ALEC models enacted each year)</td>
<td>• Produces media coverage (OpEds, interviews, letters) in support of bills</td>
<td>• Organizes rallies, petitions, and district contacts with lawmakers</td>
</tr>
<tr>
<td>• Uses regular convenings and the provision of expert advice to encourage lawmakers (who often lack staff) to support the ALEC legislative agenda</td>
<td>• Commissions polls with tailored wording to show public support for bills and regulatory measures</td>
<td>• Runs ads supporting and opposing legislators, model bills produced by ALEC</td>
</tr>
<tr>
<td>• Created in 1973</td>
<td>• Many of its affiliates participate on ALEC task forces</td>
<td>• Develops coalitions with other right-wing organizations</td>
</tr>
<tr>
<td></td>
<td>• Created in 1986</td>
<td>• Commissions polls with tailored wording to show public support for bills and regulatory steps</td>
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<tr>
<td></td>
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<td>• Created in 2004</td>
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**Works Cited**


