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Monopolistic Unionism Makes Schools Less Effective, More Expensive

‘[Coercive] Union Strength Variable . . . Has a Substantial and Statistically Significant Negative Relationship With Student Achievement’

By Stan Greer

For many years, the vast majority of Americans have rated the performance of the public schools of our nation as mediocre or worse. By more than a two-to-one margin, Americans agree that, on average, elementary and secondary schools in the U.S. are not as good as those of other wealthy countries.

Since 2007, *Education Next*, a journal sponsored by Harvard University’s Program on Education Policy and Governance, has annually conducted a nationwide survey of adults, including oversamplings of parents and teachers, to gauge the state of public opinion on education-related topics.

The breakdowns of responses to *Education Next*’s 12th annual survey, conducted this May, on questions pertaining to school quality track closely with those of all previous years:

Just 24% of Americans give the country’s public schools a grade of A or B. Similarly, most believe elementary and secondary schools in the United States are not as good as those in similarly developed countries. Overall, 53% say schools here are worse, and only 24% hold that they are better. Even among teachers, who generally think more highly of schools than the general public does, 49% say American schools are worse than those in similarly developed countries and mirroring the general population,, just 24% say they are better.¹

Public and teacher dissatisfaction with K-12 schools has remained high, year after year, even as the average per pupil expenditure has risen far more rapidly than inflation and household incomes.

¹ Albert Cheng, Michael B. Henderson, Paul E. Peterson, and Martin R. West, “Public Support Climbs for Teacher Pay, School Expenditures, Charter Schools, and Universal Vouchers: Results From the 2018 *EdNext* Poll,” *Education Next*, Winter 2019 edition.

Since 1980, Nationwide Per Pupil Expenditures Have Grown Nearly Twice as Fast as Inflation

According to Statista, a nonpartisan statistics, market research, and business intelligence portal based in Hamburg, Germany, that is regarded as one of the world's most successful statistics data bases, the average expenditure per U.S. pupil in average daily attendance in public elementary and secondary schools rose by 31.2% between the 2004-5 and 2014-15 school years.² That increase is nearly half again as great as the 21.4% increase in urban consumer inflation from 2005 to 2015 reported by the U.S. Labor Department.

It is remarkable that the rise in taxpayer expenditures outpaced 2005-2015 inflation by a wide margin despite the heavy toll taken on federal, state and local government finances by the Great Recession of 2008-2009.

And the \$12,224 per pupil expenditures reported by Statista for 2014-15 were *5.4 times* as great as the \$2,272 spent in 1980-1981. Overall, the consumer price index rose by barely more than half as much as per pupil expenditures from 1980 to 2015.

Ordinary citizens and teachers agree that the effectiveness of American public schools remains low after real taxpayer expenditures per schoolchild nearly doubled over the course of the past three and a half decades. What can be done to make them more effective?

One advantage American school reformers have over their counterparts in many other countries is that, thanks to the vertical separation of powers in the U.S. Constitution, the 50 state governments today retain a substantial degree of control over how schools are funded and managed.

Of course, there has been a massive rise in federal involvement in public elementary and secondary education since President Lyndon Johnson signed the Elementary and Secondary Education Act into law in 1965. But states remain largely free to choose, for example, how much they spend on schools and whence they get the money, whether they permit or prohibit vouchers to help parents send their children to private schools if they wish, and under what conditions, if any, they allow the operation of public charter schools that are free of some of the government regulations that are imposed on district schools.

North Carolina and Virginia Statutorily Prohibit All Forms of Government-Sector Union Bargaining

Employer-employee relations may be the single most important public education policy area over which states remain sovereign.

Thanks largely to the persistent and determined lobbying efforts of the members of the National Right to Work Committee, there is not now and there never has been a federal law forcing

² "U.S. Public Schools – Average Expenditure Per Pupil 1980-2015," © Statista 2018.

any state or local government employers to bargain collectively with unions, or, specifically, to recognize any union as employees' "exclusive" bargaining agent.³

States are free to refuse to adopt any law instituting compulsory union bargaining of any kind in public education as well as in other public institutions.

According to an analysis of state labor laws provided to the author of this fact sheet by the National Right to Work Legal Defense Foundation, two states, North Carolina and Virginia, have statutory prohibitions against any government-sector bargaining.

An additional 13 states – Alabama, Arizona, Arkansas, Colorado, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, Texas, Utah, West Virginia and Wyoming -- do not currently have and never have had a court decision, statewide statute or constitutional provision forcing K-12 public school employers to engage in any form of bargaining with any union.

Moreover, a total of 24 states -- Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia and Wyoming -- have for at least the past decade-and-a-half prohibited the extraction of compulsory union dues or fees from elementary and secondary public school teachers as a condition of employment.

In other words, nearly half of the 50 states have prohibited forced union financial support as a teaching job condition since before today's high school seniors were in kindergarten.

Meanwhile, 22 states -- Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont and Washington – have until now statutorily authorized or (in the case of Missouri only) tolerated the firing of public school teachers for refusal to bankroll a union they never asked for, and don't want.

New Analysis Makes Apples-to-Apples Comparisons of State Educational Outcomes

Late this June, the U.S. Supreme Court finally ruled, in a case in which National Right to Work Foundation attorney William Messenger was the civil servant plaintiff's counsel of record, that laws and other policies forcing public employees to pay for union advocacy in order to keep their jobs violate the First Amendment.

However, since this landmark High Court decision (*Janus v. American Federation of State, County and Municipal Employees Council 31*) did not come down until after the 2017-2018

³ For an account of how the national Right to Work group, with relatively little assistance from other lobbying organizations, defeated a 2007-2010 attempt by Organized Labor to prevail upon Congress to federalize compulsory union recognition and monopoly bargaining in state and local public-safety employment, see "Right to Work Members Win Against Long Odds," *National Right to Work Newsletter*, January 2011, pp. 8-7.

academic year was already over throughout the nation, policy changes resulting from it clearly did not have any impact on any nationwide standardized test of student achievement whose results are known at this time.

Consequently, the latest available nationwide standardized tests can be used to gauge what impact handing forced-dues and other monopoly powers over teachers to government union officials has on educational outcomes, and to inform policymakers in all 50 states about how the roughly \$700 billion taxpayers annually fork over for public education⁴ can be used more effectively.

To make valid comparisons of state education outcomes, one must first of all use a standardized test that, unlike the SAT or the ACT, is administered to all or a random sampling of all schoolchildren at a particular grade level across the country. The U.S. standardized test that comes closest to universal participation is the National Assessment of Educational Progress (NAEP).

As NAEP's web site reports, it is "the only assessment that measures what U.S. students know and can do in various subjects across the nation, states, and in some urban districts":

NAEP is given to a representative sample of students across the country. Results are reported for groups of students with similar characteristics (e.g., gender, race and ethnicity, school location), not individual students. National results are available for all subjects assessed by NAEP. State and selected urban district results are available for mathematics, reading, and (in some assessment years) science and writing.

In an effort to improve public understanding of what works and what doesn't work in K-12 education, University of Texas (UT) economist Stan Liebowitz and UT research fellow Matthew Kelly recently conducted a policy analysis for the Washington, D.C.-based Cato Institute drawing on 2017 state NAEP results for math and reading and 2015 results for science. (The NAEP math and reading tests are offered to fourth and eighth graders in all 50 states every two years. The science tests are offered to fourth and eighth graders every four years.)

Reporting on their findings in *Reason* magazine's November issue,⁵ Liebowitz and Kelly note that other investigations of state education performance, such as *U.S. News & World Report's* annual "Pre-K-12 Education Rankings," draw on state NAEP scores. However, they add, *U.S. News* and others use these data "in a misleading manner."

The single greatest problem with rankings of state educational outcomes such as *U.S. News's* is that they do not control for demographic differences in the composition of test takers for various states. Consequently, many states do well

⁴ See "How Much Money Does the United States Spend on Public Elementary and Secondary Schools?" National Center for Education Statistics (U.S. Department of Education) *Fast Facts*.

⁵ "Everything You Know About State Education Rankings Is Wrong," pp. 20-25.

simply because they are populated by families from more socioeconomically successful ethnic categories -- not because they are actually doing a good job educating their various categories of students.

By using the racial and ethnic information supplied by NAEP to control for demographic differences among the 50 states, Liebowitz and Kelly are able to make “apples-to-apples” state comparisons.⁶

Seven of the 10 Top-Ranking States For Educational Quality Have Longstanding Right to Work Laws

According to the Liebowitz-Kelly analysis, seven of the top 10 states for educational quality (Virginia, #1, Florida, #3, Texas, #5, Georgia, #7, Wyoming, #8, Indiana, #9, and North Dakota, #10) have longstanding protections for K-12 educators’ Right to Work.⁷

The average quality ranking for teacher Right to Work states is #22, compared to #26 for states where teacher forced union dues were still permitted until *Janus*.

In addition to ranking states for education quality, Liebowitz and Kelly conduct several regression analyses in order to ascertain which factors contribute to or detract from schools’ effectiveness. They find that, among the variables they studied, “union strength” (an index derived from how extensive teacher union officials’ monopolistic legal privileges are, how much political clout they wield, and their “market share” of educators, among other closely related factors⁸) has the most markedly detrimental impact:

The union strength variable . . . has a substantial and statistically significant negative relationship with student achievement. The coefficient in the nominal expenditure regressions . . . [suggests a] shift from weakest to strongest unions would move a state about 45% of the way through the total range, or equivalently, alter the rank of the state by about 23 positions. This is a dramatic result

Regressions that adjust each state’s educational expenditures for regional cost of living also show a “large” negative relationship between “union strength” and educational quality, but “it is only about half the magnitude of the coefficient in the nominal expenditure regressions.”

Liebowitz and Kelly conclude that their findings are “consistent” with the view that “[monopolistic] unions are

⁶ “Fixing the Current Biased State K-12 Education Rankings,” *Social Service Research Network*, May 25, 2018.

⁷ While Indiana’s general Right to Work law was not adopted until 2012, Right to Work protections for teachers and other public school employees were instituted in a 1995 statute. See IC-20-29-4-2, “School Employee Not Required to Join or Financially Support Employee Organization.”

⁸ The index for union strength used by Liebowitz and Kelly was originally supplied by Amber Walker, Janie Scull, and Dara Zeehandelaar in their study “How Strong Are U.S. Teacher Unions: A State-by-State Comparison,” Thomas B. Fordham Institute, October 2012.

negatively related to student performance, presumably by opposing the removal of underperforming teachers, opposing merit-based pay, or due to union work rules. . . . [In general,] studies that most effectively control for heterogeneous student populations, as we have, tend to find more negative relationships, such as those found here.

The Liebowitz-Kelly policy analysis focuses on efficiency as well as quality. They explain that it is “important to consider, on behalf of taxpayers, how much government expenditure is undertaken to achieve a given level of success.”

In order to be fair to high cost-of-living states, “where above normal education costs may reflect price differences rather than greater extravagance in spending,” they calculate an efficiency rating “based on education quality per adjusted dollar of expenditure, where the adjustment is to control for statewide differences in cost of living”⁹

All of the Nine Highest-Ranking States For Education Efficiency Protect Teachers’ Right to Work

In the state rankings that assess how well ethnically and racially diverse students do relative to how much schools spend in cost of living-adjusted dollars, all of the nine highest-ranking states -- Florida, Texas, Virginia, Arizona, Georgia, North Carolina, Indiana, South Dakota and Colorado -- have been protecting educators’ Right to Work for more than two decades. Six of these states -- Texas, Virginia, Arizona, Georgia, North Carolina and Colorado -- either do not statutorily authorize or explicitly prohibit union monopoly bargaining as well as other forms of union bargaining in K-12 public education.

The average efficiency ranking for teacher Right to Work states is #20, compared to #30 for states where teacher forced union dues were still permitted until *Janus*.

The efficiency rankings expose the wastefulness of forced-unionism states like New York, “which spend a great deal for mediocre performance.”

In contrast to unionization, which is clearly “negatively related to student performance,” a state’s average class size and the share of its students who are in private schools do not appear to have a measurable impact on student performance, according to Liebowitz and Kelly. They do identify a small positive impact from the availability of charter schools as an alternative to public schools directly managed by government officials, but it is modest compared to the negative consequences of monopolistic unionism.

What conclusions can concerned citizens and state policymakers draw from “Fixing the Current Biased K-12 Education Rankings”?

First, the evidence in this paper strongly indicates that, when a majority of Supreme Court justices ruled that public-sector forced union dues are unconstitutional in the *Janus* case, they

⁹ The cost-of-living adjustments used by Liebowitz and Kelly are taken from the Missouri Economic Research and Information Center’s Cost of Living Data Series 2017 Annual Average.

simultaneously laid the groundwork for public schools in the 22 states where teacher forced dues had been legal up to that time to do a better job of educating schoolchildren at a more reasonable cost to taxpayers.

Second, Liebowitz and Kelly's findings should encourage state lawmaker in jurisdictions where monopolistic unionism continues to be authorized and promoted in public education post-*Janus* to eliminate or at least roll back government union officials' special legal privileges to codetermine with school officials how teachers are compensated and managed.

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Stan Greer is the National Institute for Labor Relations Research's senior research associate. He may be reached by e-mail at stg@nrtw.org or by phone at 703-321-9606. Nothing here is to be construed as an attempt to aid or hinder the passage of any bill before Congress or any state legislature.