Republicans for Labor: State-level Labor Power and Senate Policy-Making

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Abstract:

Despite a half-century of decline in membership and political influence, unions still play a prominent role in lobbying for congressional policy. For much of post-war history, policies around labor and employment have divided along partisan lines, seemingly confining labor's influence to politicians in the Democratic Party. Nevertheless, conventional wisdom attests to a time in the mid-late 20th century when there were a substantial number of moderate Republicans in Congress that would sometimes defect from their party line to vote for legislation supported by labor unions. In this paper, we construct a dataset of labor and employment legislation from 1970 to 2020 to examine the influence of state-level union density on Republican Senators' votes over the past half-century. We use a two-stage ordinary least squares model with a novel instrument to provide causal estimates of the effect of unionization on Senator voting behavior. The results suggest that the percentage of employed workers who are in unions in a state is strongly predictive of whether Republicans will defect in favor of labor policies supported primarily by Democrats.

Introduction

Over the past 80 years, the labor movement's efforts to make amendments to New Deal-era laws governing unions ("labor law") have met decisive resistance from the Senate. Efforts to advance employment laws that govern workers more generally, however, have a more mixed record. The passage of the Occupational Safety Act in 1970, for instance, ushered in a new era of government involvement in regulating the safety of workplaces. Significant advancements have also been made in the realm of family/sick leave, minimum wage/overtime laws, and unemployment benefits. What share of the success of these reforms can we attribute to the political efforts of labor unions? As labor scholars have long argued, unions do far more than just secure contracts for their workers through collective bargaining—as some of the most organized interest groups in the polity, unions advocate for working class issue preferences at all political levels (Galvin 2022; Sachs 2013; Hacker and Pierson 2011; Frymer 2008). If unions indeed are a political force to be reckoned with, how strong is that force? In this paper, we chronicle labor unions' longstanding involvement in employment law at the national level and provide new causal evidence that their involvement affects legislative behavior.

From union efforts to in the 60's and 70's to advance the Occupational Safety and Health Act to the "Fight for Fifteen" movement in the 2010's, unions have long been on the frontline of progressive employment law reform. Galvin (2020) argues that states with higher unionization rates were more likely over the last half-century to pass progressive state-level employment laws and suggests that these gains in employment law may be labor's most enduring legacy. We expand upon this argument to examine the

impact of the strength of the labor movement on employment legislation at the federal level. Since the Democratic party supports progressive reform on employment policy in most cases, the challenge for interest groups such as labor unions is often to persuade Republican congressman to defect from their party line and side with the Democratic bloc. This has happened repeatedly over the last half-century since the partisan re-alignment. Using data on union density at the state level paired with roll-call votes on all employment law bills and amendments since 1970, we show that the strength of the labor movement in a state has a positive causal effect on the probability that a Republican Senator[1] votes with the Democratic bloc.

The historical record that emerges from the field of labor history presents a starkly negative portrait labor's ability to shape federal policy (Rosenfeld 2014, Eidlin 2018; Gross 19784 Lichtenstein 2013). Labor's failures include a steady weakening of the NLRA through legislation and agency rulings (Brudney 2005. Gross 1974 that have undermined the ability of workers to organize and the expansion of "Right to Work" laws to twenty-seven states (Eidlen 2018, Goldfield 1987). Nevertheless, as illustrated in the brief history of congressional policies in the following sections, Congress has occasionally sided with laborers to advance pro-worker legislation in the form of employment legislation. As our data on will show, much of these gains are at least partially contingent on support from the Republican Party—a bloc of support that has virtually disappeared in the last decade or so of Congressional history.

Theories of congressional behavior range from accounts that center on ideology, the quest for reelection, desire for power, to sincere motivations to make good policy (Mayhew 1974, Dodd 1977). Without taking a firm stance on this debate, we argue that the relative density and political power of labor unions in a Senator's state should play a central role in their roll-call vote calculations in all but one of these theories. In the case of a reelection incentive, the motivation is straightforward as Congresspeople rationally appease the interests of their constituents by voting in a manner that is responsive to their preferences and attracts campaign funds. For Senators who want to make good policy, a state with an active labor movement should benefit more, for instance, from policies that benefit unions. For Senators who simply desire power, currying favor with a powerful interest group may pay off in the form of support in future quests for policymaking and reelection. If Senators are true ideologues, however, their calculations should be immune to levels or fluctuations in the proportions of workers who are unionized and the political influence that labor unions wield. In this case, the more relevant stage for union mobilizational influence is political selection (ie. elections).

Many prior studies across the social sciences have used measures of state union density as measured by the percentage of employed workers who are in unions to explore regional patterns in union density (Hirsch, MacPherson and Vroman 2001), the effect of particular state labor policies such as Right to Work on union density (Eidlin 2018; Devinatz 2011; Farber 1984), the impact of union density on voter turnout (Leighley and Nagler 2007), the relationship between unionization and income inequality (Kollymeyer 2018), and the impact of unionization on wages (Card et al.

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[1] [1] Our reason for focusing on Senators is two-fold. First, the Senate has long been the primary obstacle to passing widely popular employment bills, making Senators pivotal actors whose behavior is of theoretical interest. Second, data on union density is only available at the state-level. Since members of the House of Representatives only represent portions of states, we cannot accurately approximate the strength of labor in their districts using state-wide union density.

2017). In a recent study, Becher and Stegmueller (2018) compile public administration data at the congressional level to explore the relationship between union density and legislative responsiveness from 2005 to 2012. They estimate preferences of low and high-income Americans using data from the Cooperative Congressional Election Study on a wide range of policy issues and find that a standard deviation increase in union density increases legislative responsiveness to the low-income Americans by about six to eight percentage points.

The present study takes a different approach than prior studies by looking at the relationship between state union density and Senators' roll-call votes on just one major policy area—employment law. To allow for an historical analysis of the era since the partisan realignment, we begin our data collection in 1970 and extend it to 2020. We also restrict our analyses to the behavior of Republicans. Many prior studies have departed from the premise that the primary political problem of organized labor is to get Democratic lawmakers elected, given the stable alignment between unions and Democrats since the New Deal (Lichtenstein 2013; Schlozman 2015). Thus, Becher, Stegmueller, and Kappner (2018), for instance focus their analysis on the relationship between local union organizing and the propensity for electing Democrats. Given the necessity of Republican support in the Senate to pass federal labor and employment legislation, however, we believe more attention should be given to what may drive Republicans to defect in favor of legislation that unions support.

Our theoretical approach can thus be summarized in three key points. First, since Democrats are usually allied with labor on bills that make it the floor, analyzing voting behavior across parties produces null results due to the lack of variation in Democratic votes. Second, given the institutional features of the U.S. Congress and the obstacle of the filibuster pivot, passing progressive employment legislation requires defections from Republican Senators. Third and finally, we hypothesize that states with more powerful labor movements will be most effective in influencing these key defections.

We begin this paper by examining the history of employment legislation in the United States since the New Deal, contrasting the paucity of "labor laws" regulating unions per se to the significant expansion in employment laws. We then review the history of four major areas of employment law: 1) the regulation of wages and hours through minimum wage, prevailing wage, and overtime laws 2) laws that allow for paid and/or unpaid family or medical leave 3) laws regulating unemployment benefits and 4) laws regulating occupational safety and health. Next, we introduce our data and methods for examining roll-call votes and propose a theoretical model of the probability that a Republican Senator will defect by voting with the Democratic bloc. We use a two-stage ordinary least squares model (2OLS) with a novel instrument to provide causal estimates of the effect of unionization on Senator voting behavior. We end with a discussion of our findings and implications of our model for future studies.

Labor law stagnates, Employment law stumbles forward

Since the passage of the National Labor Relations Act in 1935, there have been just two significant amendments to labor law, both of which advance the interests of employers (Lichtenstein 2013, Gross 2010) . The first development occurred in 1947 with the passage of the Taft-Hartley Act, which opened the legal path for "Right to

Work" legislation through a clause in section 14b which bans union security agreements, allowing workers in a unionized shop to opt out of paying dues. This creates a free-rider problem whereby workers defect from financially supporting the union while still benefitting from the fruits of union-negotiated collective bargaining agreements (Gross 1974). Ellwood and Fine (1987) use data on union representation elections and find that the introduction of RTW laws between 1951 and 1977 reduced union organizing activities and led to a 5 to 10 percentage point long-run decline in the unionization rate. Section 14b of the act also gave new legal grounds for employers to file Unfair Labor Practice suits against unions to be heard by the National Labor Relations Board.

The second amendment to the NLRA came in 1959 with the passage of the Landrum-Griffin Act, which was meant to address widespread publicity surrounding allegations of corruption and intimidation among leadership in major American labor unions (Gross 1978). The act imposed stricter financial reporting requirement on unions and established financial penalties for officials who misused funds. It also included a ban on secondary boycotts (union efforts to boycott an employer to punish it for its dealings with another employer that is actively being boycotted or struck) and included provision to allow greater latitude for individual states to set the terms of labor relations.

Since the Landrum-Griffin Act, there have been four major attempts to reform the NLRA in a progressive direction that have passed the House of Representatives and failed in the Senate (Dark 2015; Rosenfeld 2014). The first occurred in the wake of significant Democratic gains in the 1964 elections when unions and their congressional allies sought to advance a repeal of section 14b of the Taft-Hartley Act. After passing the house with 221 votes, including 21 Republicans, the bill failed to secure a cloture vote with just 6 Republicans joining 45 Democrats in favor. In 1978, Senator Harrison Williams Jr. of New Jersey (D) sponsored the Labor Law Reform Act which passed the house in 1977 with 252 votes, including 31 Republicans. The bill would have allowed for more speedy union elections and would have imposed steeper penalties for employers that violated the NLRA. In the years since 1935, employers had become increasingly sophisticated at maneuvering to violate provisions in the Act around coercion and retaliation against workers who attempted to organize their workplace (Logan 2006). To stem this new tide of "union busting" that Logan (2006) dubs the "union avoidance industry," penalties in the proposed act included extra relief for workers who were the victims of unfair labor practices and a three-year ban on federal contracts for employers who violated the NLRA. Once again, the bill failed to reach the threshold for cloture, this time with 14 Republicans defecting to join 44 Democrats in support of cloture.

In the 1990's, unions attempted to ensure the viability of arguably their most powerful tool, the strike, by advocating for legislation that would guarantee that workers keep their jobs during a strike and ban the permanent replacement of striking workers. In 1994, a final version of the bill received 239 votes in the House, including 17 Republicans, but attracted the support of just 3 Republicans to join 50 Democrats in the Senate to vote for cloture. In the mid-late 2000's, several iterations of the "Employee Free Choice Act" were proposed, which sought to restore balance to the union-employer relationship by allowing for a "card-check" mechanism for unionization that allowed unions to form through a simple majority sign-up process rather than an election. The bill would have also included steeper penalties for employers that committed Unfair Labor Practices. In 2007, the bill received 241 votes in the House but failed to pass the

Senate with just 1 Republican (Arlen Specter of Pennsylvania) joining 48 Democrats and 2 Independents in voting for cloture. In 2021, the House of Representatives passed a sweeping progressive reform to the NLRA that included a card-check provision and steeper fines for employer violations. The vote (225-206) was largely party line, with just five Republicans joining the Democratic majority in favor. The bill was never taken up in the Senate, where it would have faced certain defeat via filibuster.

Regulating hours and wages

While attempts to amend federal labor law floundered in the Senate, campaigns to reform employment law have had more mixed results. The origins of the Fair Labor Standards Act can be traced in large part to the organized efforts of labor unions. In the late 1880's, the 8-hour day was a major goal of the newly minted American Federation of Labor (AFL), but early leaders did not support enshrining the standard through legislation—they instead sought voluntary compliance on the part of the employers (Samuel 2000). In 1931, the AFL supported the passage of the Davis-Bacon Act, which established a prevailing wage requirement for workers on federal contractors **EXPLAIN DAVIS-BACON**, but they stopped short of advocating for other, more universal employment laws. By the mid-1930's, however, the Congress of Industrial Organizations (CIO) along with a substantial number of member-unions of the AFL amassed substantial support for a universal employment standards bill. In 1937, leadership at the AFL began negotiations in earnest with President Roosevelt, Congress and the CIO (Grossman 1978). Secretary Frances Perkins, who herself had campaigned for such a set of standards by convening annual conferences of labor groups in the early to mid 1930's, mediated the negotiations (Downey 2009). These efforts eventually culminated in the passage of the Fair Labor Standards Act in 1938, which set a federal minimum wage, capped weekly working hours, and imposed substantial restrictions on child labor.

Since 1938, efforts to strengthen employment laws through amendments the Fair Labor Standards Act have met intermittent success. The original version of the act created a federal minimum wage and a standard of "time-and-a-half" for workers who worked over 40 hours in a single week; it exempted workers in agriculture, transportation, local retail stores, public employees, certain seasonal employees and several other categories of workers (Samuel 2000)[2]. By 1946, the AFL was campaigning actively to amend the FLSA to increase the minimum wage to $1 and hour. In 1949 ,the minimum wage was raised from 40 cents an hour to 75 cents an hour and a new section was added to the act to cover homeworkers. In 1955, unions from both the CIO and AFL banded together in a successful campaign to increase in the minimum wage to $1. In the 1960s, several amendments were passed that increased the minimum wage and expanded coverage to workers in the retail trade industry, public schools, nursing homes, laundries, agricultural workers, and the entire construction industry. In 1974, Congress increased the minimum wage and expanded coverage to supervisory employees of federal, state, and local governments and many domestic workers. After another increase in the wage in 1976, an amendment in 1977 created a schedule for four more increased between 1978 and 1981.The amendments also allowed for a provision to

employ students at a lower wage rate and allowed special waivers for children 10 to 11 years old to work in agriculture; an overtime exemption for employees in hotels, motels, and restaurants in the original bill was also eliminated.

The minimum wage was raised again in 1990, 1991, 1997, 2007, 2008, and, finally, in 2009 to $7.25 where it remains today. Traditional models of policymaking suggest that policy change should occur when the status quo is more extreme than the preferences of the pivotal actors in Congress, but Clinton (2011) has demonstrated empirically that the history of the FLSA from 1971 to 2000 was distinguished by a strong status quo bias. Since 2009, every attempt to amend the FLSA has failed to pass through the Senate. Recent proposals include the Minimum Wage Fairness Act of 2014 which would have raised the minimum wage to $10.10 and a provision in a 2020 budget reconciliation bill that would have raised the minimum to $15 (the latter provision was struck down by a ruling of Senate Parliamentarian). The 2014 act garnered 55 votes in a Senate cloture vote, including 1 Republican (Senator Bob Corker of Tennessee).

The involvement of labor unions has been central in all these efforts. The recent goal post of $15 an hour, for instance, was set by "Fight for 15—" a campaign launched and funded by the Service Employees International Union. While more success has been obtained at the state level, labor unions remain active in lobbying congress to amend the FLSA and it is a centerpiece of the AFL-CIO's public legislative agenda.

Family and Medical Leave

Attempts to create paid leave policies for sickness, maternity, or family emergency have an even more mottled history. In 1919, the International Labor Organization (led by a commission headed by AFL president Samuel Gompers) adopted a convention calling for 12 weeks of paid maternity leave, including free medical care during and after pregnancy, and job guarantees upon return to work (Dvorak 2021). While countries across the world have responded to the call, paid leave policies have scarcely made it onto the agenda in the United States.

In the early 1980s, the Women's Legal Defense Fund circulated the first draft of what would eventually become the Family and Medical Leave Act of 1993, calling for universal paid sick and maternity leave (Lenhoff 1993). While the labor movement was slow to uptake the policy as priority (initially sidelining it as more of women's rights concern than a labor issue), the women's labor movement worked to organize broader labor union support. By 1991, the FMLA was among ALF-CIO's top three policy priorities submitted to Congress and labor unions/federations made up the plurality of the roughly 200 members of the "Family Leave Coalition." The final draft of the FMLA, which passed in 1993, made considerable concessions to conservative Congressman, including stripping provisions that guaranteed payment during leave. Sixteen Republican Senators defected from their party line to support the bill. This "unpaid leave" bill remains the only universal federal leave legislation passed in the United States to this day.

Unemployment

The first federal unemployment program was created as part of the Social Security act of 1935 at the heigh of New Deal policymaking. In the early 1930's when

nearly a quarter of the American population was unemployed, several state legislatures considered passing unemployment benefits programs, including Wisconsin which passed the first such bill in 1932 (Price 1985). Three years later, the Social Security Act created a policy infrastructure for states to pass unemployment benefits programs backed by federal funding through a payroll tax on employers of eight persons or more (states could apply for 90% of the funds from this tax to cover program costs). Eligible programs excluded farm workers, government employees, employees in nonprofit industry or in domestic service, family members of employers, and seamen. For the most part, however, states retain significant latitude for states to tailor eligibility requirements and benefit levels. Since 1935, Congress has held over 100 votes on bills and amendments that would alter the basic structure of the program. In 1954, benefits were extended to federal civilian employees and, in 1958, benefits were extended to non-active-duty military personnel.

The first major reform to the program occurred in 1970, when the program's coverage was extended to firms with one or more employees, certain non-profits with four or more employees, state institutions of higher education and state hospitals, agricultural processing firms, and work performed overseas by American citizens for American employers. While Democrats and progressive interest groups sought to set a federal standard for minimum benefits as part of 1970 bill, Republicans blocked the effort (just three Republican Senators voted in favor of federal standards, all from high union density states—Hawaii, New York, and New Jersey). States retain their considerable control over the terms of their respective programs to this day. During times of economic recessions, Congress has often considered and passed extensions to the number of weeks that individuals could claim benefits (this sometimes occurs as part of omnibus bills that are excluded from this analysis such as the CARES act of 2020 which received unanimous support in the Senate and provided an additional $600 of monthly benefits backed fully by federal funding). In these times of crisis, extensions of coverage tend to receive considerable bipartisan support; the Unemployment Compensation Act of 2008, for instance, passed with 89 votes for passed, and just 6 "no" votes from Republicans from the South and West.

Occupational Safety and Health

Until the passage of the Coal Mine Safety Act of 1969 and the Occupational Safety and Health Act in 1970, almost all regulation of workplace safety and healthy in the United States occurred at the state level (Rosner and Markovitz 2020)[3]. After a string of tragedies that increased the salience of workplace safety and health in the 1920s and 1930s[4], the FDR administration sought to expand the role of the federal government in supporting state efforts to promote industrial hygiene and safety. In the 1930's, the

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[3] The major exception is the Walsh-Healey Act of 1936, which required companies with federal contracts worth $10,000 or more to main certain health and safety standards (Rosner and Markovitz). The Coal Mine Health and Safety Act of 1969 constituted a major breakthrough in workplace regulation, but its regulations are industry specific.

[4] The Hawks Nest Tunnel disaster in West Virginia, for instance, claimed up to 1,000 lives from unsafe working conditions related to exposure to silica dust and denied rest breaks. The tunnel was part of large hydroelectric project managed by Union Carbide (Cherniak 1986).

Public Health Service began disbursing grants to local and state departments of health to combat the proliferation of health issues such as silicosis and asbestosis. By 1941, 24 states established offices of industrial hygiene. At the federal level, the Department of Labor established the Division of Labor Standards in 1934 which took an activist role in educating and advocating for labor on health and safety issues, but it had virtually no formal regulatory authority (Markovitz and Rosner 1985).

The Occupational Safety and Health Act of 1970 created the Occupational Safety and Health Administration (OSHA), housed in the Department of Labor, to regulate and investigate workplace standards. It also established the National Institute for Occupational Safety and Health, housed within the Department of Health, Education and Welfare to conduct scientific analyses that would inform the regulatory activities of OSHA. From its inception, OSHA has been subject to fierce partisan battles to define the scope of its activities through congressional legislation and federal appointments. Since 1970, the Senate has voted on several dozen amendments to the Act, most of which concerned the standards by which fines are to employers assessed and exemptions for firms in certain industries or firms that do not meet a minimum number of employees.

The last major proposed reforms to OSHA, in the 1990s and early 2000's, would have set new ergonomic standards to prevent injuries related to sitting, standing, and repetitive motion. The final Senate vote to expand OSHA's authority to include ergonomics took place in June of 2000, when just a single Republican Senator (Arlen Specter from Pennsylvania) defected to vote with the unsuccessful Democratic bloc. Sidestepping Congress, the Clinton administration acted unilaterally in November of that year by issuing new agency rules that regulated repetitive stress disorders. Within two months of George W. Bush's presidential inauguration, however, Congress passed a joint resolution revoking OSHA's authority over ergonomics in a largely party-line vote (the bill passed 56-44 in the Senate, with full Republican support and 6 Democratic votes). **MENTION UNION INVOLVEMENT**

Outside of OSHA, Congress has also taken up several proposals for regulation of workplace conditions of particularly hazardous industries such as the mining and railroad industries. Since the last amendments to OSHA were considered in 2001, the Senate has only considered four bills/amendments related to occupational safety and health.

Data and methods

We constructed a dataset of all proposed legislation that received a roll-call vote in the Senate[5] since 1970 regarding the Fair Labor Standards Act, family/sick leave, unemployment benefits, and occupational safety and health. In order exclude multi-dimensional bills that individual Senators might for or against for reasons unrelated to unemployment law, at least 50% of summary bill text available on voteview.com must

pertain directly to the area of employment law being coded for.[6] Bills were coded by the author and two research associates. Appropriation bills that appropriate funding for the Department of Labor but do not amend relevant legislation were also excluded. To get leverage on votes that are contentious, we exclude all bills on which over 80 percent of voting senators were aligned in their votes. The remaining data set includes 15,357 individual votes over 359 bill/amendments for the period between 1970 and 2020.

Hypotheses:

> **Hypothesis 1**: Republican Senators in states with higher union density will be more likely to vote with Democrats.

Given the history asymmetric partisan polarization (Hacker and Pierson 2015, Hertel-Fernandez 2019), I expect union density to have less of an impact on Senate Republicans 's votes as the party shifts further to the ideological right:

> **Hypothesis 2**: The predictive power of union density on Republican Senators' votes decreases over time as Republicans become more ideologically conservative.

> **Hypothesis 3:** The absolute number of Republican Senators who defect decreases over time as Republicans become more ideologically conservative.

Independent and Dependent variables

Pro-labor votes were coded at the Senator-level as those votes that aligned with the votes of the majority of voting Democrats.[7] Votes take a value of 1 if they are pro-labor and 0 otherwise.

The primary explanatory variable, state-level union densities, is calculated as the percentage of non-agricultural wage and salary workers who are union members;. these data are constructed by Hirsch and Macpherson (2021). Since employment laws such as have different substantively different impact on states with more robust economies and/or higher wage-rates, we control for state GDP per capita. State-level population

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[6] For original bills that meet these criteria, all subsequent amendments to the bills are included in the dataset. For purposes of the 50% threshold requirement, bill text is coded at the sentence level. Keywords for compiling the dataset of votes included labor, employ*, work*, wage, compensat*, salary, leave, davis, bacon, davis-bacon, sick, FMLA, FLSA, OSHA, safety, health, occupation, and job. For unemployment legislation, the word "unemployment" must be mentioned in the bill title or description and the bill text summary must pertain, at least in part, to the extension of benefits for the unemployed in the form of cash assistance or material benefits such as reduced cost/free health-care access or food assistance, and/or reduced federal taxes (excludes tax incentives based on homeownership status). For employment legislation implemented through amendments to other non-related bills, only the amendments that are squarely related to employment law are included. For a. longer description of coding rules along with information on inter-code reliability, see online appendix.

[7] (e.g., if 50 Democrats and 4 Republicans voted against a bill, and 46 Republicans voted for it, then a no vote would be the pro-labor vote

data was retrieved from the U.S. Census Bureau and state GDP is taken from a dataset constructed by Constantini and Paradiso (2021).[8]

We also account for the steady decline in union density across time. From 1970 to 2020, average state-level unionization declined from 27.8% to 10.0%. Even states with the lowest unionization rates in 1970, for instance, would be considered high unionization states when considered in the context of the distribution in the 2020. To account for this shift[9], we incorporate fixed effects for year.

Instrumental Variable Design

As a source of exogenous variation, we instrument state-level union densities using right to work (RTW) laws. Considerable literature in labor economics has established that RTW laws have long-term negative causal effects on unionization rates (Farber 1984; Ellwood and Fine 1987; Ichniowski & Zax 1991). Because this causal effect has been theorized to increase over time, we use a continuous indicator of RTW passage—the number of years prior to each vote that a Senator's state passed a right to work law. The following equation is a reduced form of our theoretical model, where I is the index for a Senator-vote pairing, t is and index for year, P is the probability that a Senator will vote in the pro-labor direction, U is the percentage of private sector workforce that is unionized, V is the ratio of Republican to Democratic votes in the most recent presidential election, G is state GDP per capita, and e is the error term.

$$P_{it} = \alpha_{it} + U_{it} + V_{it} + G_{it} + \epsilon_{it}$$

To estimate this relationship, we fit a two-stage OLS model that predicts unionization based on RTW variables in the first stage and uses a linear probability model in the second stage. We correct all models for inherent heteroskedasticity using robust standard errors. In the first stage. we estimate the effect of right to work laws on union density (U) using the following equation, where R is the number of years since a right to work law was passed.

$$U_{it} = \alpha_{it} + R_{it} + V_{it} + G_{it} + \epsilon_{it}$$

Solving equation 2 for R_it by using the predicting the fitted regression values allows us to substitute our instrument for U into the first equation, resulting in the following equation:

$$P_{it} = \alpha_{it} + \hat{U}_{it} + V_{it} + G_{it} + \epsilon_{it}$$

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[8] usgovernmentspending.com.
[9] Even states with the lowest unionization rates in 1970, for instance, would be considered high unionization states when considered in the context of the distribution in the 2018.

Table 1 displays the results of the first stage of the model, suggesting that our RTW measure is strongly correlated state union density. Each additional year of right to work laws in a state is associated with a decline unionization rate of .13%. A state that had a 20% unionization rate in 1970 and passed a right to work laws in 1947, for instance, is predicted by the model to have its unionization rate declined to 11.8% by 2020. Figure 1 displays the relationship between RTW and unionization by plotting the RTW variable against the partial residuals from the model in Table 1 . The plausibility of this design ultimately rests satisfaction of the exclusion restriction—in this case, the assumption that right to work laws only affect how Senators vote by impacting the unionization rate. As previous research has shown (Farber 1984; Ellwood and Fine 1987; Ichniowski & Zax 1991), right to work laws depress unionization rates by inducing a free-rider problem that leads individuals to opt out of paying union dues. As the number of free riders increase, union coffers get starved of valuable resources that in turn depress future organizing work to increase membership or lobby influence. Since the effect of RTW on union funds runs through the direct effect of RTW on membership rates, we can plausibly assume that the exclusion restriction assumption is satisfied.

Table 1: First Stage Regression of RTW on Union Density

	Dependent variable:
	Union Density
RTW	−0.126*** (0.002)
Republican Vote Share	−3.776*** (0.101)
State GDP	4.168*** (0.082)
Constant	35.367*** (0.439)
Observations	15,357
R^2	0.664
Adjusted R^2	0.663
Residual Std. Error	4.882 (df = 15306)
F Statistic	603.991*** (df = 50; 15306)
Note:	*p<0.05; **p<0.01; ***p<0.001

Figure 1. Partial Residuals Plot for RTW
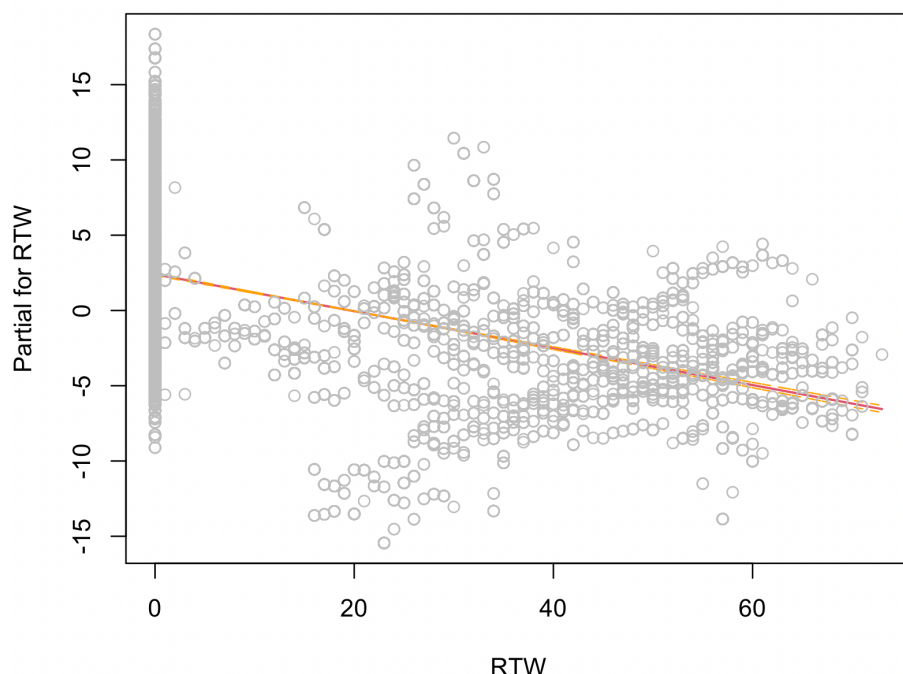
Our approach builds on previous attempts to explore the causal effects of union density/strength using strategies such as instrumental variable estimation. DiNardo and Lee (2004) investigate the effect of unions on wage increases using a regression discontinuity design that exploits data on firms in which unions narrowly lost or won a representation election. Becher and Stegmueller (2020) instrument unionization using geographical proximity to capital-intensive industries that labor unions dominated in the early 20th century in order to explore the impact of unions on legislative responsiveness. Farber et al. (2021) leverage the introductions of the NLRA and the War Labor Board as exogenous shocks to explore the relationship between unionization and inequality in the 20th century.

Results

Table 2 displays the result of the 2OLS models with (2) and without (1) control variables. In the full model, we find that a 1% increase in unionization increases the probability of a Republican defection by 1.1%. For a more intuitive illustration, we can take the predicted values of the model in years for which we have the most data and examine how increasing unionization affects probability of defection. In 2010, the year for which we have the most data, going from the mean union density (~11%) to one standard deviation below (~5.4%) reduced the probability of defection from ~38% to ~33%[10]. In 1977, the decline is more dramatic as the probability of defection goes from ~50% for states near the mean to ~38% at a standard deviation below the mean. These

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[10] These figures are meant to be illustrative and therefore are not precise. Given the limitations of the dataset, hypothetical calculations for figures at particular moments are not possible—these calculations are based on predicted values from the model and may deviate from the mean (or mean - σ) by 1-2% points.

results lend substantial support for our first hypothesis which predicts that Republican Senators in states with higher union density will be more likely to vote with Democrats.

Table 2: 2OLS of Effect of Union Density on Probaility of Pro-Labor Votes

	Dependent variable:	
	Pro-Labor Vote	
	(1)	(2)
$\hat{U}$	0.015*** (0.001)	0.011*** (0.001)
Republican Vote Share		−0.069*** (0.011)
State GDP		−0.021 (0.012)
Constant	0.112** (0.039)	0.252*** (0.063)
Observations	15,357	15,357
R^2	0.139	0.143
Adjusted R^2	0.137	0.140
Residual Std. Error	0.450 (df = 15308)	0.449 (df = 15306)
F Statistic	51.634*** (df = 48; 15308)	50.917*** (df = 50; 15306)
Note:		*p<0.05; **p<0.01; ***p<0.001

The effect of unionization is not uniform across time, however. Table 3 plots the results of 2OLS models using the predicted values from the full dataset in stage 1 and subset by decade in stage 2. Confirming hypothesis three, the predictive power of unionization generally goes down over time. The coefficients for $\hat{U}$ are positive and significant in every decade except the 2010's, when the coefficient is essentially 0 and not significant.

Table 3: 2OLS by Decade

	Dependent variable:				
	Pro-Labor Vote				
	1970s	1980s	1990s	2000s	2010s
	(1)	(2)	(3)	(4)	(5)
$\hat{U}$	0.023***	0.019***	0.012***	0.011***	0.003
	(0.006)	(0.004)	(0.003)	(0.002)	(0.003)
Republican Vote Share	−0.050	−0.004	−0.141***	−0.057**	−0.038
	(0.035)	(0.026)	(0.035)	(0.018)	(0.024)
State GDP	0.022	−0.023	−0.041	−0.047*	0.001
	(0.083)	(0.033)	(0.033)	(0.019)	(0.019)
Constant	−0.133	0.135	0.999***	0.013	0.377***
	(0.234)	(0.138)	(0.086)	(0.036)	(0.039)
Observations	4,322	2,948	3,303	1,805	2,824
R^2	0.054	0.077	0.180	0.237	0.079
Adjusted R^2	0.052	0.073	0.177	0.231	0.076
Residual Std. Error	0.487 (df = 4309)	0.468 (df = 2935)	0.443 (df = 3290)	0.312 (df = 1792)	0.442 (df = 2814)
F Statistic	20.606*** (df = 12)	20.267*** (df = 12)	60.329*** (df = 12)	46.263*** (df = 12)	26.756*** (df = 9)
Note:					*p<0.05; **p<0.01; ***p<0.001

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To explore Hypothesis 3, figure 2 plots the mean percentage of Republican Senators who defect in each congress. Confirming hypothesis 2, average defections drop steadily over time (the extreme value for the 114th Congress, 2015-2017, is a function of the fact that there is only a single vote in the dataset for that Congress). The mean rate of defection drops from 48.8% in the first five congresses of the data set to 30.4% in the last five congresses. This is consistent with the well-documented trend of increasing polarization in American politics (McCarty 2011, Poole and Rosenthal 1997).

Figure 2. Defection Rates by Congress
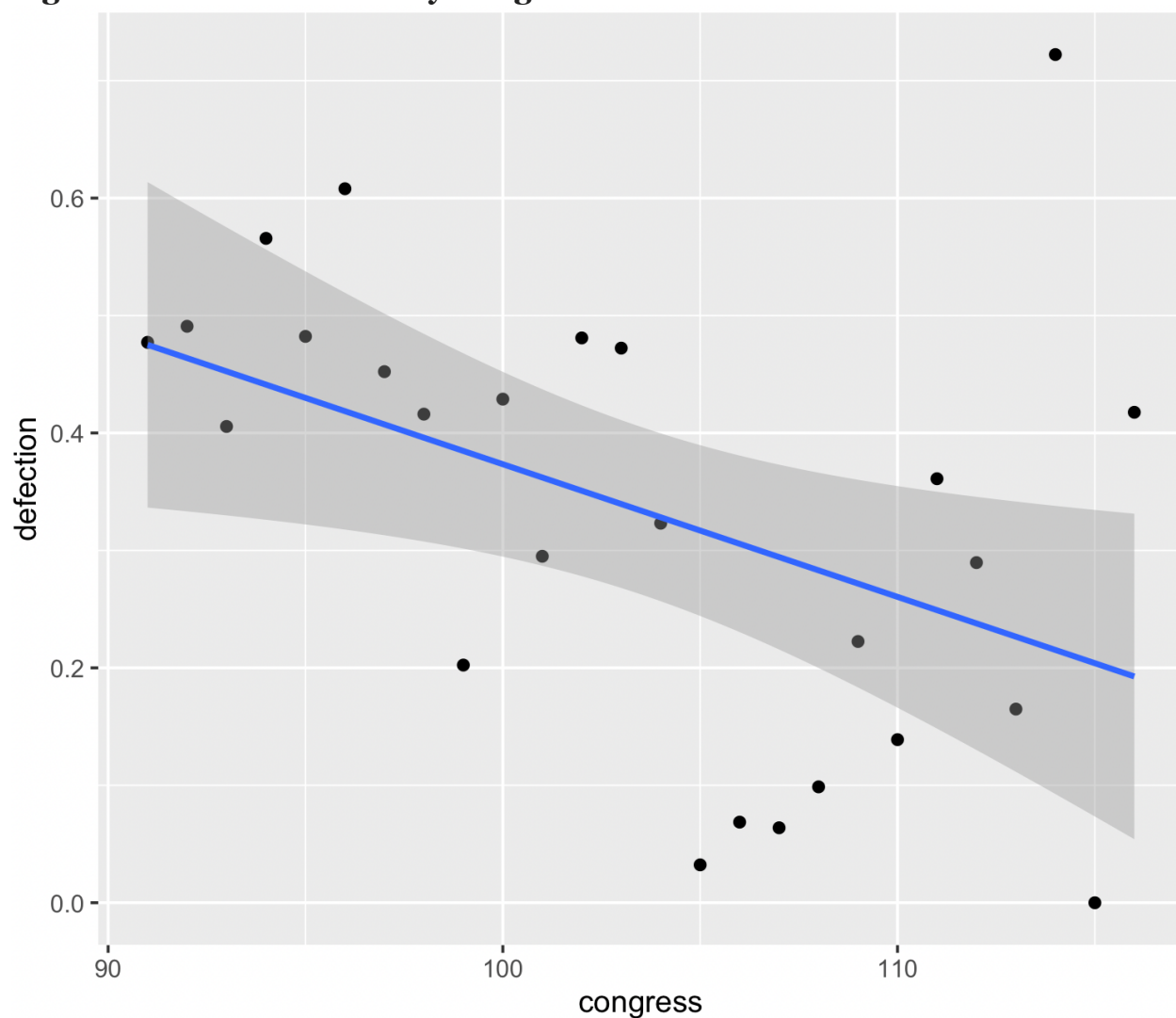
Robustness checks

We conduct several robustness checks to probe for the validity of the identification strategy. First, we probe whether the effect of unionization on roll-call votes is consistent across our five major policy areas. Table 4 displays the results of the 2OLS models separated by policy area in the second stage. The coefficient for

unionization is significant for all policy areas except occupational safety and health. For unemployment law, the coefficient is very near to 0, suggesting that the effect of unionization is largely driven by three of the five policy areas: FLSA amendments, Family/Medical Leave, and Davis-Bacon/prevailing wage laws.

Table 4: 2OLS by Policy Type

	Dependent variable: Pro-labor Vote				
	FLSA	Unemploy	Leave	OSH	Davis-Bacon
	(1)	(2)	(3)	(4)	(5)
$\hat{U}$	0.019***	0.005*	0.016***	−0.003	0.029***
	(0.002)	(0.002)	(0.004)	(0.004)	(0.004)
Republican Voteshare	−0.1834***	−0.031*	−0.014	−0.089**	−0.078*
	(0.018)	(0.016)	(0.032)	(0.032)	(0.032)
State GDP	−0.061***	−0.013	−0.092**	0.034	0.152***
	(0.017)	(0.017)	(0.034)	(0.038)	(0.038)
Constant	−0.219**	0.262**	−0.148	.873***	0.109
	(0.081)	(0.090)	(0.111)	(0.181)	(0.157)
Observations	4,247	6,385	853	2,398	1,213
R^2	0.216	0.142	0.176	0.184	0.270
Adjusted R^2	0.212	0.138	0.167	0.176	0.258
Residual Std. Error	0.385 (df = 4223)	0.457 (df = 6356)	0.436 (df = 843)	0.452 (df = 2374)	0.389 (df = 1192)
F Statistic	50.660*** (df = 23)	37.534*** (df = 28)	20.035*** (df = 9)	23.269*** (df = 23)	22.044*** (df = 20)
Note:					*p<0.05; **p<0.01; ***p<0.001

These results may be a function of the levels of consensus across bill types. If a bill is widely popular across the two parties, then the lobbying power of unions may be less pivotal and therefore not significant in our model (notwithstanding the constraint of our dataset that excludes levels of consensus of 80% or greater). On bills such as these, Republican defection is can be better explained by any number of omitted variables, including state-level concerns, ideological interests, and the lobbying power of other interest groups. To probe this hypothesis, we compared the mean rate of defection across policy areas using Welch two sample t tests. Rates of defection for OSH (and unemployment (41.2) policies were indeed much higher than the sample average, indicating greater consensus for these two policy areas. The average rate of defection for OSH was 54.3%, significantly higher (p<0.001) than the rest of the sample at 34.4%. For unemployment bills, the average rate of defection was 40.9%, significantly higher (p<0.001) than the rest of the sample at 35%.

Next, we examine whether the influence of unions is primarily confined to certain regions such as the Northeast where unions have relatively longstanding power and influence. We reproduce our 2OLS estimates by separating the data into four different census regions. If the relationship is mostly explained by northern Republicans, we should only see significant estimates for northeast region. The results of the analysis suggest that the influence of unions is present in all regions *except* the northeast (see Appendix). This is likely a function of the much higher intercept for Northeast Republicans who are much more likely to vote progressively to begin with. This produces a ceiling effect whereby the influence of union density is near 0.

Discussion

      After over a half-century of declining unionization rates, the persistent headline regarding the political power of unions is that the labor movement is but a shadow what it once was. While legislative victories are indeed few and far between, our analyses suggest that unions have been influential players when Congress considers legislation that affects workers. Previous work on the labor movement and its relationship to Congress has highlighted the importance of decisive defeats with respect to reforming labor law. Using a novel instrumental variable, we provide causal evidence that unions can indeed affect legislative behavior at the Congressional level. While labor law stagnates, unions have made important contribution to the evolving landscape of employment law.

      What motivation does labor have to sway employment law in a progressive direction? Seen as part an ideological movement for promoting workers' causes, the interest of labor unions in reforming employment law is obvious. Alternatively, more robust employment standards could be interpreted as raising the floor for future bargaining efforts (Lichtenstein 2005). Further downstream, labor union's public efforts to serve non-members by promoting progressive policies may ingratiate them to prospective members. These motivations may not be consistent across unions, however.

      Although labor unions are often viewed as comprising a unified political bloc (i.e.. the "labor movement"), the movement is not without its divisions. While the principal controversy motivating the 2005 split between the AFL-CIO and the unions that comprised Change To Win Coalition was about resource allocation and organizing strategy, the split also brought with it the departure of some the AFL-CIO's most progressive member unions (e.g. SEIU, United Farm Workers, and the Union of Needletrades, Industrial, and Textile Employees). Many of these unions have since rejoined the AFL-CIO, but the divisions are illustrative of the heterogeneity within the labor movement that may explain the findings of our models. While we can take for granted *most* unions/federations support for the progressive positions in our dataset of legislation, particular unions in particular state might stake out contrary positions. For instance, building trade unions and police unions are known to take conservative positions in contrast to most of the labor movement (Van Horn and Schaffner 2003; Levin 2020). In states where these unions represent a strong lobbying force, their efforts may explain some of our findings.

      The lack of predictive power in the final decade of our dataset represents an important juncture in labor's political history. What explains this change? First, the average state union density has been declining steadily over the period of our study. From 1970 to 2020, the national average drops from 27.8% to 10.9%. Labor's lack of power in the 2010's may thus be a function of the crossing of a critical threshold in the rate of unionization. For an alternative explanation, we might consider the fact that the Republican party has undergone significant change over the course of our study. The 1970's were a transformative period in Congress. By the end of the decade, the partisan re-alignment of Southern states was all but complete and partisan polarization began its upward trend (Poole and Rosenthal, 1984, Poole and Rosenthal 1997, McCarty, Poole, and Rosenthal 1997). For our purposes, much of this polarization can be accounted for by Republican's rightward shift on economic issues (McCarty 2011; Hacker and Pearson

2010), which should reduce the rate of defection and thus drive down the primary coefficient in our model.

Our dataset can help us illustrate the extent of this polarization. The average rate of defection drops from 48.8% in the 1970's to just 30.4% in the 2010's. In the last 5 years of the 2010's, the average was a mere 1.9%. The defections were on two pandemic-era resolutions relating to paid sick/family leave; the six defectors were Lisa Murkowski (AK), Susan Collins (ME), Marco Rubio (FL), Richard Burr (NC), Rob Portman (OH), and Shelley Capito (WV).

Over the entire study period, the most polarizing bill types are those having to do with the minimum wage, Davis-Bacon, and family/sick leave. Unemployment and OSH bills seem, on the other hand, to attract higher degrees of consensus. For unemployment bills, much of this may be explained by the fact they are often proposed during times of severe economic crisis (2007-2008; 1973-1975; 2020-2021) when Congress acts in a relatively swift and unified manner to pass legislation aimed at recovery. The reasons higher rates of consensus on OSH policies and the near-0 effect of union density on defections are less clear to us and could be a topic for further research.

We can also explain union's lack of power in the 2010's as a function of changing norms surrounding the filibuster. Since Mitch McConnell assumed Senate leadership in 2007, shifting norms (Smith 2014; Thomas & Ornstein 2012) led to sharp increase in the use of filibusters to block legislation (Fu and Howell 2022). A simple majority, therefore, is no longer sufficient to make progressive employment law reform. The higher threshold for passing legislation thus may render union's ability to flip just a few Republican votes meaningless. Aware of this hurdle, some Republicans who otherwise might defect might choose to toe the party line rather than defect for the sake of a symbolic gesture.

Our account is of course limited by several features of our study design. First and foremost, we consider only employment laws. We would be remiss to understate labor unions' lack of success in reforming the laws most pertinent to them (e.g. the NLRA), which have had crippling effects on their ability to grow in size in strength. Second, we focus only on Republican defections. Our model takes for granted the allegiance of the Democratic party to labor's legislative agenda. This maybe the case for some areas of policy for some members of the party, but it is certainly not uniformly true. The unwillingness for Democratic leadership to make labor law reform a central legislative priority stands in stark contrast to the intuition of our model.

Conclusions

Labor's success in promoting progressive employment laws at the federal and state levels may be its most enduring legacy. Our analyses demonstrate that for the bulk of the last 50 years, labor has been pivotal in swaying Republicans to join the side of progressive employment law reform. Our findings serve as an important counterpoint to a literature that is otherwise dominated by documenting the labor's impotence in American politics. Long after their peak, unions continue to do more than just secure favorable contracts for their own members. Unions, armed with their high level of organization and relatively coherent political identities, continue to influence public

policies and even shape mass attitudes (Frymer and Grumbach 2021,; MacDonald 2019).

While our model reveals that union influence wanes in the 2010's, recent union drives may be cause for optimism for the labor movement. From Amazon to Starbucks, shop floors in companies that have long been considered impervious to the organizing efforts of unions are now home to hundreds of new bargaining units (Hsu 2022). For the just the second time in two decades, unionization rates are expected to increase 2022. Moreover, public approval of unions 2021 hit a 57-year high of 68% (Brenan 2021).

Overall, our analyses demonstrate that unions play an important role in American congressional politics. Employments laws are of immense value to American workers. They ensure higher wages, safer working conditions, more human hours, and dignity in times of unemployment. If not for the influence of unions over the last-half century, much of these gains might never have been realized.

Appendix:

Table 5: 2OLS by Region

	Dependent variable:			
	Pro-Labor Vote			
	Northeast	Midwest	South	West
	(1)	(2)	(3)	(4)
$\hat{U}$	−0.007	0.008*	0.007**	0.012**
	(0.010)	(0.003)	(0.002)	(0.003)
Republican Vote Share	−0.313***	−0.037	−0.071***	−0.033
	(0.055)	(0.036)	(0.023)	(0.022)
State GDP		0.041	0.025	−0.041
		(0.042)	(0.019)	(0.022)
Constant	1.021**	0.375*	0.434**	0.163
	(0.321)	(0.147)	(0.103)	(0.138)
Observations	2,528	3,395	5,360	4,074
R^2	0.126	0.139	0.159	0.167
Adjusted R^2	0.108	0.126	0.151	0.157
Residual Std. Error	0.471 (df = 2478)	0.449 (df = 3344)	0.432 (df = 5309)	0.438 (df = 4023)
F Statistic	7.267*** (df = 49; 2478)	10.792*** (df = 50; 3344)	20.099*** (df = 50; 5309)	16.169*** (df = 50; 4023)

Note: $^{*}p<0.1$; $^{**}p<0.05$; $^{***}p<0.01$

Note: State GDP was omitted from model for the Northeast due to multicollinearity.

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