

# AFL-CIO Government Affairs

## *State Government Relations*



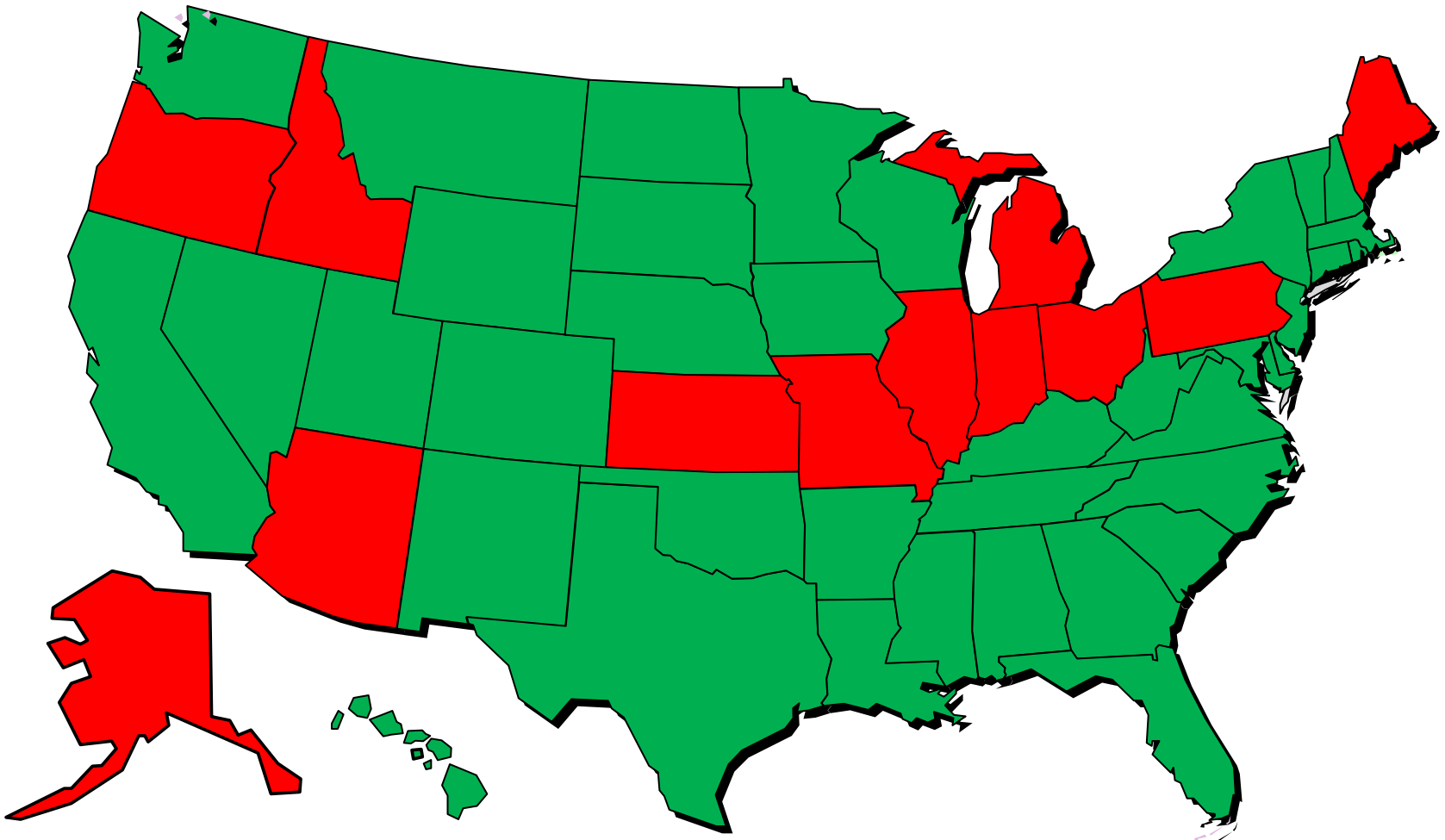
## **Collective Bargaining, Payroll Deduction for Union Dues, and So-Called “Paycheck Protection” /Paycheck Deception**

**Monday, 4/15/13**

### **Speakers**

- Steve Kreisberg, AFSCME
- Larry Gold, AFL-CIO
- Cathy Sherwin, AFL-CIO

# 2013 Attacks on Public Sector Rights



# “Paycheck Protection” Proposals to Defund the Labor Movement

- “Paycheck protection” is the close cousin of “right to work”:
- A virtuous label and a deceptive policy to render unions ineffectual
- Seeks to pit unions against their members and the other workers they represent
- Depends upon appeals to short-sighted individual interests over solidarity with others

# “Paycheck Protection” Proposals to Defund the Labor Movement

First conceived in the mid-1990s as ballot measures and state and federal legislation

Prominent initial supporters included:

- Americans for Tax Reform (Grover Norquist)
- Educational Alliance (CA Christian activist group)
- Chambers of Commerce
- National Federation of Independent Business
- Wealthy individual conservatives/Republicans

# “Paycheck Protection” Proposals to Defund the Labor Movement

- California Proposition 226 in 1998 the first significant state ballot measure fight over “paycheck protection”
- Measure would condition union spending on political contributions and expenditures on specific individual advance written permission
- Applied to dues whether paid via payroll deduction or otherwise
- Labor movement spent over \$25 million for come-from-behind 52%-48% victory

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Similar Oregon ballot measures defeated after expensive campaigns in 1998 and 2000
- Proposed Nevada measure in 2000 invalidated by union lawsuit before election
- Unsuccessful public sector measure was among 2005 Schwarzenegger ballot propositions, all defeated
- Otherwise, 2000s saw many legislative proposals but none of substance were enacted, and “paycheck protection” waned as anti-union cause

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Resurgence of “paycheck protection” in wake of midterm election debacle for Democrats and progressives
- American Legislative Exchange Council and other right-wing groups reactivate the tactic
- With Congress gridlocked, Republicans and conservatives again focus on state legislatures to impose “paycheck protection” on private and public sector workers

# “Paycheck Protection” Proposals to Defund the Labor Movement

- “Paycheck protection” proposals apply to private or public sector workplaces, or both
- Almost always one-sided: restrictions imposed on unions, and on payroll deductions that unions use, but not other groups or payroll deductions that they receive
- Variations include:
  - Direct restrictions on union political, legislative and other advocacy and contributions to other groups
  - Indirect restrictions by conditioning that spending on advance individual employee approval



# “Paycheck Protection” Proposals to Defund the Labor Movement

- Individuals given authority to approve or block uses of their own dues or fees
- Particular union spending subject to special member votes
- Prohibition of use of payroll-deducted funds for broad range of “political” purposes
- In all cases, ordinary democratic procedures overridden and significant administrative costs imposed on Labor

- Meanwhile, ALEC opposes proposals to condition business political and lobbying spending on prior shareholder approval; after all, they:
- “..place an onerous burden on these organizations..”
- “..deter [corporations] from participating in public debate..”
- “..undermine the very purpose of the First Amendment..”

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Dozens of “paycheck protection” proposals introduced in states since 2011
- None have yet qualified for the ballot in any state
- Three have been enacted by legislatures, in Alabama, Arizona and Puerto Rico, but lawsuits are succeeding
- Wisconsin has outlawed public employee payroll deduction of dues, period – and a lawsuit failed

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Alabama statute enacted at end of 2010
- Applies to public sector in this RTW state
- Bars payroll-deducted dues to any group that engages in “political activity,” including contributions, “political advertising,” polling and other vaguely defined activities
- Federal court enjoined statute on First Amendment grounds
- Has also denied motion to dismiss union claims that state Republican legislators and governors unlawfully retaliated against public sector unions’ opposition to their election
- Appeals court has asked state Supreme Court to determine several state law issues

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Arizona statute enacted in 2011
- Applies to both private and public sectors
- Bars wage deductions for “political purposes,” including candidate elections, ballot measures and “political issue advocacy”
- Exempts “public safety” employees, as well as charitable groups and health benefits providers that receive payroll deductions
- Federal court issued injunction in 2011 on First Amendment “viewpoint discrimination” ground; not appealed
- In March 2013, same court issued final judgment invalidating law on same ground, plus federal preemption in private sector

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Puerto Rico statute enacted in 2011
- Require unions and corporations to secure secret ballot votes of majority of entire membership, at simultaneous meetings of members, in order to approve very independent political expenditure
- Although not payroll-deduction-based, statute implicates same “advance authorization” concerns as other paycheck protection laws
- Federal appeals court in 2012 enjoined law on First Amendment grounds

# “Paycheck Protection” Proposals to Defund the Labor Movement

- Wisconsin “Act 10” was enacted in 2011, and sparked huge demonstrations and now, ultimately unsuccessful litigation
- One provision bans payroll deduction of union dues and agency fees by employees, but exempts certain “public safety” employees
- In January 2013 federal appeals court upheld this provision against First Amendment and Equal protection Clause claims, concluding that it is viewpoint-neutral and the public-safety exemption is rationally supported by “labor peace” concerns

# “Paycheck Protection” Proposals to Defund the Labor Movement

- New “paycheck protection” bills loom in 2013
- Most immediately, two Missouri bills:
- HB 64, passed by the House, would apply in the private and public sectors and condition union political spending of payroll-deducted funds on annual written advance authorization, while exempting first responders and trade associations
- SB 29 would condition public sector union spending on political contributions and expenditures on prior annual written employee authorization using a specific form



# A Message Frame that Works

**Clear, simple value-based messaging**

**Counter opposition attempts to marginalize unions and divide non-union voters from union workers**

**Make a unique and effective case in each state**

**Define and undermine the credibility of political opposition by exposing their true motives and corporate-backed funders – define the “bad guys” in your state.**

# OUR MESSAGE

Define the  
Situation from  
the perspective  
of the public

This is about politics  
Not economics

**Talking to Members  
and the Public  
About the  
Attacks**

Impact on  
public

Attacks  
Middle Class

Source of  
the  
Problem

Motivations  
for Attack

# Our opposition attempts to marginalize unions and divide non-union voters from union workers



Connecting with and winning the support of voters is key. We need to expose who's behind these laws and what's their motivation.

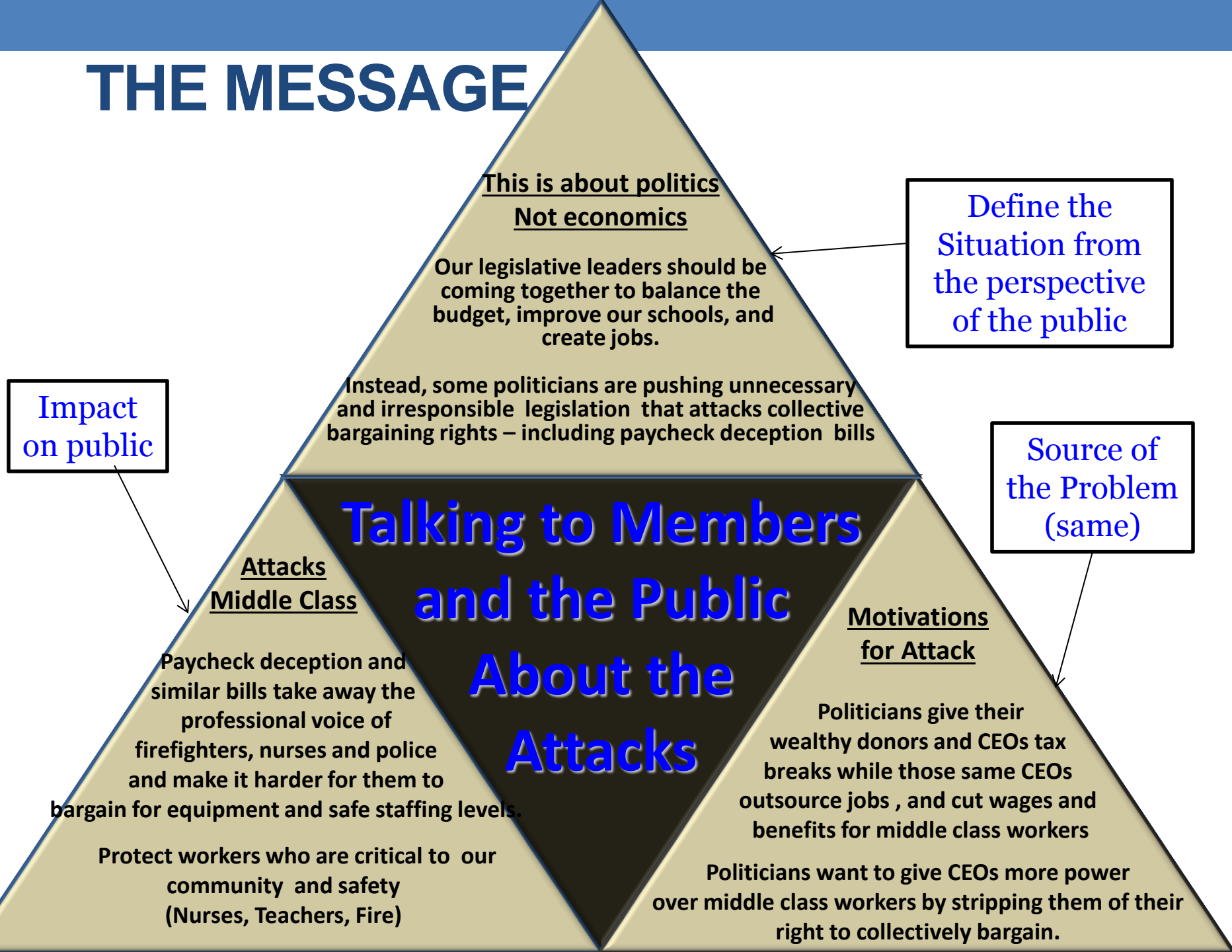
We must not play on our opponent's ground or get into the weeds of the policy attacks on worker rights.

# Protecting Collective Bargaining Key Takeaways From Successful Fights :

- **Where voters are concerned, “It’s all about me.”** Focus on their safety, well-being, economic interests.
- **Make everyday heroes (nurses, teachers, firefighters) the allies of voters.** Make them the face, avoid the “us versus them” dynamic.
- **Refuse to be defensive & don’t take the bait.** Avoid spending time refuting union-bashing. Stick to bigger principles.
- **Values-laden language wins.** Voters understand the world and frame political choices through their values.
- Don’t get bogged down in policy details, facts & figures.
- **Tell powerful stories.** Voters connect with real people whose stories they can relate to.



# THE MESSAGE



# Good Messengers



**Workers**

**Firefighters, nurses, and  
teachers**

**Small business owners**

These attacks on public service workers are unfair –  
unsafe and unnecessary

# We Are Missouri Coalition Launches Online Story Collection Showcasing Workers Responses to Jefferson City Attacks

**\*\* [WorkingVoices.Tumblr.com](https://www.workingvoices.com) \*\***





# Use Social Media

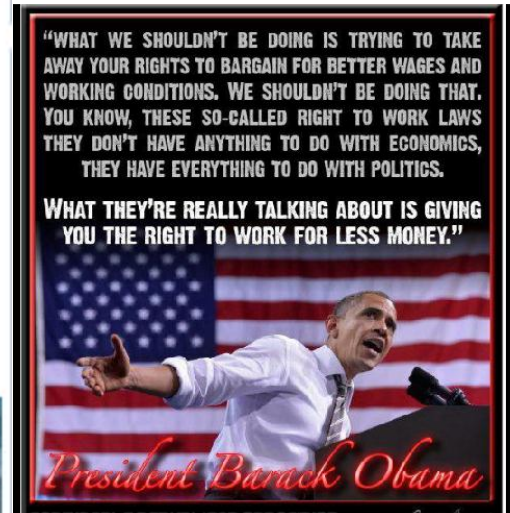


Wisconsin State AFL-CIO shared SEIU's photo.  
Sunday

The truth is, right-to-work-for-less laws DON'T help state economies. States with these laws DO have lower wages and fewer people with health insurance.

Michigan can't afford that.

Please LIKE and SHARE.



Iowa Federation of Labor, AFL-CIO  
Liked · 22 minutes ago

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Like Comment Share Edit

Maggie Tessen, Carlton Andy Shoemoe and 2 others like this.

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**Occupy Chicago** @OccupyChicago

2m

RT @WeAreMichigan: We're hearing word that voting will be taking place shortly in the House. Let's keep the pressure up! [#savemi](#)

Followed by Andy Richards

[Expand](#)



**John** @JohnSerwach

2m

Call gov. Snyder at 888-979-7646 and ask him to veto Right to work legislation... And RT! Thanks!! [#savemi](#) [#RTW4Less](#)

Followed by Todd Cook

[Expand](#)



**Emily Heffling** @emilyheffling

3m

"@ocsea: Dems offer amendment to take out fiscal note so bill can be repealed. No vote just gavelled down. Shame on them. [#savemi](#) [#miunion](#)."

[Expand](#)



**Kitty** @KRansome83

3m

Word has it that voting will be taking place shortly in the [#MI](#) House. Let's keep the pressure up! [#savemi](#)

Followed by R.Saddler and 15 others

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**Zaid Jilani** @ZaidJilani

3m

Why can't we have a "Right To Invest" law that allows investors to opt funds out of corporate political spending? [#RTW](#) [#SaveMI](#)

Retweeted by Doug Foote

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# Questions and Discussion



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