Center for American Progress

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Wage Boards for American Workers

Industry-Level Collective Bargaining for All Workers

By David Madland April 2018

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Introduction and summary

Raising wages and strengthening and growing the middle class are among the most critical challenges facing the country today. Wages for the typical worker have hardly budged in four decades, as the vast majority of economic gains have gone to the rich.[1]

The lack of wage growth has been a long-term problem, especially for communities that are struggling. In the Midwest, a region that some describe as having been left behind economically, the percentage of working-age adults who are employed is higher than the average share across the country.[2] While the Midwest—along with the rest of the country—could use additional jobs, what is especially plaguing the region is a lack of strong wage growth. Since 2000, Midwestern workers have experienced the worst wage growth of any region in the country.[3]

America not only needs more jobs but also—and especially—higher wages.

The U.S. economy's failure to provide good jobs with higher wages that help reduce inequality has already significantly damaged the country. The 2007–2009 financial crisis and Great Recession were both fueled in part by stagnant wages and extreme economic and political inequality that gave more power to the wealthy, drove Americans into great debt, and exacerbated Wall Street speculation.[4] The stability of American democracy may be threatened if these trends persist and if the economy continues to fail so many people.

Raising wages for most Americans requires several different policy reforms, including those that create tight labor markets, raise the minimum wage, promote in-demand skills, and strengthen government supports. However, the most effective and direct way to boost wages is to modernize how workers negotiate for a raise. Indeed, it is hard to imagine how the vast majority of workers can secure consistent pay increases without having the power to bargain for them.

Collective bargaining—where workers negotiate as a group with their employer—has proven to raise wages and reduce economic inequality.[5] Unfortunately, our current system of collective bargaining no longer works very well because the law hasn't kept up with changes in the economy.

Current law is dramatically tilted against workers trying to organize and bargain collectively, with virtually no repercussions for companies that break the rules.[6] This allows business owners to clamp down on their workplaces and stamp out unionization efforts through legal means—such as by forcing workers to attend mandatory anti-union meetings with their supervisor—and illegal means—such as by punishing or firing workers for supporting a union.[7] The weakness of penalties has become a bigger problem over recent decades as employers have increased their opposition to unions.

A central but lesser-known flaw in the current U.S. bargaining system is that it channels negotiations to the firm level—or a unit within a firm—instead of to a higher level such as a group of firms in an industry. As the percentage of workers in unions declines—currently it is just more than 6 percent in the private sector—firm-level bargaining leaves out a growing share of the workforce.[8] Firm-level bargaining also exacerbates conflicts between workers and employers because it generally causes unionized firms to have higher labor costs than their competitors, further incentivizing anti-union efforts.

Firm-level bargaining has become even less effective in recent years as companies have contracted out work and directly employed fewer people.[9] As firms' structures change, workers often have trouble negotiating with the firm that is actually in charge and increasingly risk receiving lower pay and losing benefits when their employer changes.

Further, over recent decades a growing number of sectors of the economy have become dominated by a few firms. Evidence is emerging that increasingly concentrated industry sectors are not only leading to higher consumer prices, but may be resulting in lower wages and fewer job changes for workers.[10]

The United States needs a different kind of collective bargaining that responds to the changes in the economy over recent decades. In this modernized bargaining system, virtually all workers would be able to collectively bargain; bargaining would occur primarily at the industry level; and workers would have sufficient power to negotiate with employers. This new kind of bargaining can be created through a national policy of bargaining through wage boards, where employers, workers, and the public negotiate collectively. Wage boards would represent a significant change from the current bargaining process, but they have a proven track record in several U.S. states as well as in other countries.

Wage boards raise compensation for all types of workers, whether they are contracted temp workers or employees of a dominant firm; whether they are in a union or not; and regardless of race, ethnicity, gender, and sexual orientation. Rather than allowing potentially arbitrary or discriminatory factors influence workers' pay levels, wage board panels set minimum pay levels based on measurable indicators such as the work and

required skills. Furthermore, because wage boards raise minimum standards for wages and benefits across an industry, they help reduce firms' incentives to try to cut labor costs by discriminating, contracting out work, or fighting unions.

Wage boards would also help boost productivity by ensuring that similar work receives similar pay. This enables a more efficient allocation of resources and encourages more cooperative firm-level relations between workers and their managers.[11] Wage boards would help high-road businesses compete on an even playing field, as low-road employers would face new minimum standards for pay and benefits.

Because of these and other advantages, the Center for American Progress along with a growing number of academics have called for reforms to labor laws that give workers greater power and elevate collective bargaining to an industrywide or regional level.[12]

In order for bargaining above the firm level to function properly, workers must be able to take collective action without fearing retaliation from their employer. Not only does current law fail to protect actions necessary for firm-level bargaining, but it also provides fewer protections for the kinds of actions—such as boycotting and striking—needed to make industry-level bargaining work. This is why policymakers must broaden and enhance worker protections.

Additionally, wage boards create a free-rider problem because workers will benefit from higher standards even if they do not pay the costs of achieving them. As a result, wage board policy reforms will need to establish new ways of joining unions and other worker organizations that do the work necessary for industry-level bargaining.

Although a key move in a new industry-level bargaining system should be to establish wage boards, it is also important to note that this kind of bargaining would work best in conjunction with—and indeed may depend upon—several complementary labor policies such as works councils, workers on corporate boards, and incentives for membership in unions, as described in the following section.[13] These policy reforms would complement and benefit workers more than an increase in the overall minimum wage because they would reach a broader range of workers as opposed to just those earning near the minimum wage, and ensure that workers have greater say in their working conditions.

The basic principle ingrained in federal law is that workers have the right to join together and bargain collectively to improve their conditions. Current law, however, does not guarantee these rights in practice. U.S. labor law needs to be updated to ensure that workers can exercise their collective voice and do so in the most effective manner.

CAP supports a number of reforms to remedy flaws in labor law, such as those to increase penalties for violations of worker rights and ensure workers are able to achieve a first contract. This report emphasizes reforms that go beyond the scope of the current debate to explain why the United States needs to modernize collective bargaining and how it can do so effectively. Modernizing collective bargaining will require several reforms, including wage boards, works councils, workers on corporate boards, and stronger unions. This report focuses on wage boards, a policy that:

- Brings together employers, workers, and the public to negotiate wages and benefits for an entire industry.
- Can raise wages for all workers, improving compensation for middle- and low-income workers, regardless of their race, gender, sexual orientation, or classification as independent contractors.
- Can make American industry more productive by helping similar work receive similar pay as well as by facilitating collaborative workplace relationships and promoting additional training.
- Has proven successful in several states, such as New York and California, as well as a number of other countries including Australia.

The development and importance of wage boards

Collective bargaining and unions help give workers a voice and power in the U.S. economy and democracy. Workers who are unionized and bargain collectively earn roughly 14 percent more per hour than comparable workers and are much more likely to have health and retirement benefits.[14] When enough workers in an industry or region are able to bargain collectively, nonunion firms tend to raise their wages as well.[15]

Collective bargaining can be particularly powerful for groups that face discrimination—such as women and people of color—by creating fair processes, raising wages, and closing pay gaps.[16] Unions also help boost economic mobility not only for their members but also for entire regions.[17]

When workers unionize, they make politicians more responsive to the concerns of ordinary Americans and provide a key political counterbalance to wealthy special interests. Union members are much more likely to vote, take political action, join other kinds of membership groups, and be more charitable because unions provide workers—particularly those with less education and lower incomes—with the means and opportunity to stand up for themselves and participate more fully in our democracy.[18]

Polls show that 61 percent of Americans approve of labor unions—an approval rating similar to that in the 1970s and 1980s.[19] Yet despite generally positive approval ratings over the past several decades and polls showing that a majority of workers would like to join a union, the share of unionized private-sector workers has fallen sharply.[20] Today, just more than 6 percent of private-sector workers are union members, which is about as low as union density has been since the National Labor Relations Act was passed in 1935 and lower than the roughly one-third of private-sector workers in the 1950s.[21] The decline of unions and collective bargaining is responsible for roughly one-third of the rise in inequality among male workers over recent decades, according to research by Harvard University's Bruce Western and Washington University's Jake Rosenfeld.[22] Estimates also indicate that nonunion workers have lost roughly $133 billion in annual wages due to weakened unions.[23]

In the modernized system, the new roles that unions will perform, such as helping negotiate minimum wage and benefits standards across an industry, will be different from the roles many people associate with today's unions. The new system will also foster different kinds of worker organizations, such as works councils. The proposed reforms can be thought of as both modernizing unions and creating new types of organizations. While they will perform additional new roles, both unions and other worker organizations will be critical to the modernized system.

The research described above demonstrates that collective bargaining raises wages. Under the new system, all workers will be able to bargain collectively, not just those who are union members. Academic research indicates that industry-wide collective bargaining structures have the potential to not only raise wages but also reduce overall economic inequality including gender pay gaps even more than firm-level bargaining does.[24]

In Australia, which has a wage board-like system as well as collective bargaining, more than 60 percent of workers have their wages set by wage awards or collective agreements.[25] Further, wage growth for the majority of workers in Australia has far surpassed that for workers in the United States over recent decades.[26]

Experience with wage boards in U.S. states shows how significant wage increases could be from a national wage board policy.

In 2015, the New York wage board set the minimum hourly wage for fast-food workers to increase from $8.75 to $15 over a period of several years. The scheduled rate of increases is fastest for employers in New York City and slower for those in other parts of the state.[27] This slower phase-in for upstate New York is particularly noteworthy because it indicates that wage boards can consider concerns about some industries' and regions' ability to absorb rapid wage increases. In addition, higher wages can help struggling regions by boosting economic demand and providing greater incentive for firms to invest. Also in 2015, through a separate wage board process, New York raised the minimum wage for some tipped workers in the hospitality industry by 50 percent.[28] California currently has wage orders for 17 different industries that set minimum wages and address other issues such as overtime.[29]

As previously mentioned, wage-board-style bargaining is also likely to boost economic productivity. Increasing productivity, or making more with the same or fewer resources, creates the potential for improvements in American standards of living and is thus critical to the long-run success of any labor relations system. Unfortunately, over recent decades,

productivity growth has been significantly slower than it was during the decades following World War II.[30] Although there is significant room for wage increases without additional productivity increases—U.S. wages have grown far slower than productivity has increased—over the long-run, higher productivity is a necessary but insufficient condition for higher wages. Indeed, faster productivity growth makes it possible for faster wage growth. Thus, a modern labor relations system should strive to boost productivity.

Wage boards would help increase productivity in several ways. First, higher wages help reduce turnover and encourage innovation.[31] Second, similar pay for similar work enables a more efficient allocation of resources, which speeds up the movement of labor and capital from low- to high-productivity activities.[32] Third, by elevating conflict about pay scales to outside the firm, wage boards can enable greater collaboration within the workplace.[33] Fourth, wage boards promote worker training by minimizing the employees' financial incentives to leave firms once they are trained.[34] Fifth, by making the rationale for pay increases clearer and more transparent—such as by identifying measurable skills—wage boards may be particularly motivational for workers who seek to advance their careers. Finally, wage boards can and should be paired with policies to improve our public workforce training system, as discussed in more detail later in this report.

In short, wage boards will give workers a stronger voice in the economy as well as our democracy and will raise wages and help rebuild the middle class.

Wage board basics

There are many ways to achieve a bargaining system where most bargaining is done above the level of the firm. However, the system that makes the most sense for the United States would build on the wage board model that currently exists in several states including California and New York. In the proposed system, representatives of workers, businesses, and the public would form a panel with the power to set minimum workplace standards for industries, regions, and occupations. Because union power has been eroded by decades of attacks, a tripartite system is necessary to bring all parties to the table. As worker organizations gain strength, however, the wage board system could evolve so that more bargaining takes place directly between representatives of workers and groups of firms.

The basic goal for these panels would be to foster negotiations about how much of industry revenues should go to workers versus employers and then set standards to help achieve these levels.

The panels would set minimum wages for jobs across an industry as well as wage scales requiring higher pay for greater skills or experience. The wage board could also set minimum benefit and scheduling requirements as well as profit sharing requirements. Panels could go above the legislated standards, such as the minimum wage, but not below. Indeed, if a $15 minimum wage were legislated, wage boards could be used to determine whether it could be phased in more quickly in some industries or regions.[35]

Standards that panels set would be floors. Individual workers and firm-level unions could negotiate for improvements but could not go below set minimums. Similarly, state and local governments could set higher standards.

All workers in an industry would be covered whether they were employees or independent contractors and whether or not they were unionized. Only by including independent contractors can wage boards cover all workers and ensure that standards are not undercut. Wage board standards would include a premium for independent contractors to compensate for the additional costs that independent contractors

bear—such as employer-side payroll taxes—and to minimize incentives for employers to cheat by classifying employees as independent contractors.[36] Only the wages of poorly paid and relatively powerless independent contractors would be directly impacted by the wage board, as many independent contractors already negotiate with their clients for higher pay rates than those of an employee doing similar work.[37]

Wage boards' ability to set base pay levels above the legislated minimum wage and higher wage scales for particular skills, as well as benefit and scheduling standards and profit sharing requirements, ensures that they can help improve working conditions for both middle- and low-income workers.

A stripped-down version of this model recently occurred in New York state's fast food industry, where representatives of workers, employers, and the public came together to evaluate the industry and set a $15 minimum wage.[38] To help imagine what a more full-fledged version of this model could become, consider the National Football League (NFL) as well as TV show writers. The analogies are not perfect, but they do provide a general understanding of what may seem like a difficult concept.

In the NFL, the players' union and the 32 team owners bargain collectively to divide up the total share of league revenue and provide minimum salaries for rookies and veterans. For example, NFL players will receive at least 47 percent of league revenue under their current agreement, and in 2017, rookies were paid a minimum season salary of $465,000 while veterans earned higher minimums based on their seniority.[39] Of course, teams can—and many do—pay players more than league minimums.

Similarly, the Writers Guild of America East and West negotiate a nationwide Minimum Basic Agreement with the Alliance of Motion Picture and Television Producers that provides for minimum wages; portable pension and health benefits; a process to receive proper credit for one's work; and residual payments to writers when produced content is exhibited outside of its initial window. Writers can—and frequently do—negotiate for higher standards, but employers cannot pay less than the agreed upon minimums. In 2017, for example, a writer of a story and teleplay for a 30-minute primetime network TV show received a minimum fee of $26,303, and roughly 40 to 50 percent of that amount for each prime-time network rerun that airs, depending on the show's budget. Moreover, the company is required to pay an additional 19 percent contribution on top of the writer's salary and TV residual payments to the Writers Guild of America's pension and health fund to cover the writer's benefits.[40] Minimum payments for non-network primetime shows are less,

but follow a similar format. Even when a writer changes employers, their work is still covered by the Minimum Basic Agreement, and they therefore continue to receive the minimum pay and benefits that the collective bargaining agreement guarantees.

To understand more specifically how a wage board could work, consider the example of truck drivers. Several decades ago, most truck drivers could earn a solid middle-class income in part because of collective bargaining. Over recent decades, however, the percentage of unionized drivers has declined; the industry has been deregulated; and more of the work is contracted out, meaning many drivers have become dependent on larger firms.[41] Today, a smaller percentage of drivers earn a decent living, and many receive poverty-level wages.[42]

With a wage board, truck driving and delivery services could become a middle-class job. For long-haul trucking, the wage board could set minimum national standards for the industry analogous to the minimums in the contracts for television writers and NFL players. For drivers with the additional skills required to transport hazardous cargo, these minimums would be higher. For truck drivers on local routes, the board could set minimum standards that include regional variations. The standards would apply to all drivers, regardless of if they were independent contractors or employees. State wage boards could improve upon these standards. As the industry evolves toward driverless transportation, the wage board could still ensure that the workers in the industry—whose jobs include monitoring the truck and load's status and making the final delivery—could still earn a decent wage allowed by the greater productivity generated in the industry.

The bargaining panel process would provide strong legal protections for participating workers as well as some funding and other incentives for worker organizations to facilitate worker participation. This is designed to ensure that workers and their representatives can mount a persuasive case for raising wages and have sufficient power to encourage business and government representatives to seriously consider supporting increases. The goal is to enable workers to stand on relatively even footing with employers.

This part of the process is critical because if workers do not have sufficient power and protections, the wage board process is unlikely to lead to tangible improvements in workers' lives. Without structures to ensure strong worker participation, employers will be able to use their superior resources to dominate—just as they have in recent years in Congress and state legislatures as well as in their efforts to prevent work-

ers from forming unions and at the bargaining table with existing unions. Indeed, without a structure that allows for substantive worker participation, the wage board process could lead to lower standards for workers and drain the limited resources of workers and their representatives. A wage board process that lacks strong worker participation would create an additional forum that would spread thin already under-resourced unions and thus make it easier for employers to reduce standards through their superior power to compete in every forum available—including the workplace, legislatures, and the wage board.

While the full wage board model requires changes to federal law, states have the power to enact many elements of the model, as described in detail in the Center for American Progress Action Fund's (CAPAF) report, "How State and Local Governments Can Strengthen Worker Power and Raise Wages."[43] Additional details on how wage boards can be structured can be found in the section below.

The structure of wage boards

There are a number of ways to achieve the basic goals outlined in this report of raising wages and fortifying worker voice, as a prior CAP report, "The Future of Worker Voice and Power," and CAPAF report, "How State and Local Governments Can Strengthen Worker Power and Raise Wages," have explained. This report emphasizes one of those ways, and the following section provides additional details on how the wage board system could be structured.

Bargaining panels would have 11 members—five representing employers, five representing workers and one representing the government. The panels would make recommendations based on a majority vote. The government representative would be the U.S. secretary of labor or their delegate. Employers would choose employer representatives through the employers' industry associations. If the industry did not have an employer association, or if it failed to meet representativeness requirements, employer representatives would be chosen by the secretary of labor based on specified criteria.[44] Worker representatives would be chosen proportionally based on worker organization membership in the industry. In industries with no existing worker organizations, or where worker organizations do not meet minimum representativeness thresholds, worker representatives would be selected by the secretary of labor based on specified criteria.[45]

In setting standards, panels would be tasked with establishing a fair wage for workers based on a range of economic and social factors, including the skill level of the work; current compensation in the industry; productivity; revenue; profits; pay ratios between executives and median- and low- wage workers; the cost of living; and what is necessary for workers' health and well-being.[46] Bargaining panels would be national and could make adjustments to allow for regional wage variations.

Just like with the minimum wage, state governments—and local governments with the proper authority—would be able to set their own standards so long as they were higher than those set by federal bargaining panels. States could use a similar wage board process to do so, and could even form regional wage boards with neighboring states.

Industrywide panels would be scheduled to convene every few years, but panels could be triggered more frequently if enough workers or businesses petitioned for one. In the case of inaction, standards would automatically increase to keep pace with inflation. This set default would incentivize workers to push for wage board action so that they can benefit from real wage increases and would ensure workers do not lose ground if the board does not act. Panels would be ruled by majority vote, except in the case that the panel seeks to reduce standards below prior levels, in which case a supermajority would be required. Panel decisions would be subject to approval by the secretary of labor. Panels could go above the legislated standards such as the minimum wage but could not go below them, even with a super-majority vote.

The secretary of labor would determine the industry categories for each separate wage board. In determining industries, the secretary should aim for consistency with classification schemes in use by the agency, as well as strike a balance between coherence of the industry and limiting the overall number of industry committees.[47] Industrywide panels would cover all workers in a given industry and could set different wages for different occupations within the industry. The secretary of labor would issue guidance for categorizing workers into industries and occupations. Employers would then classify their workers, a decision that would be contestable with the Department of Labor and through private right of action. Employers would be responsible for repaying all lost compensation if they wrongly categorize workers, and would be subject to fines and damages that escalate for repeated occurrences to dissuade the practice. Wage boards would have a modest staff and would be available to help employers with classification.

For occupations that are widely dispersed across multiple industries, the secretary could, on a limited basis, create an entire wage board panel based on a single occupation.[48] The secretary would have the authority to determine if additional data need to be collected to help determine industries or to facilitate the workings of any wage board.

The bargaining panel process would be designed to encourage worker participation in several ways. The panels would be required to hold at least one public hearing in each region of the country, where priority would be given to the worker organization representing the most workers in the industry—with similar priority given to the most representative employer organization. Worker organizations would be given access to worksites and information on the workers in their industry in order to recruit them into the process. Worker organizations would also receive funding to cover the costs of participating in wage boards, including the costs of organizing workers to participate. Funding would be paid directly from wage board awards into a trust for proportional distribution. Workers would also be able to voluntarily contribute to a worker organization of their choice through a payroll deduction.[49]

The right to speak freely, protest, engage in political activity, and strike for higher wages in an industry or from a group of employers—not just a single employer—would be guaranteed and enforcement of penalties for violations would be meaningful. Similar protections would be provided for participation in works councils.

Wage board standards would be enforced by the Department of Labor as well as by states and private actors through the courts. Enforcement of wage board standards would follow the co-enforcement model that utilizes the capabilities of the Department of Labor, civic and worker organizations, and private rights of action.[50] The wage board awards would provide unions and other worker organizations with funding to help educate workers about the standards. These groups could also collect a share of awards if they help workers recover stolen wages or benefits. States could also provide higher standards and more stringent enforcement, akin to Occupational Safety and Health Administration state plans. Firms that exhibit significant control over companies they contract with would be jointly responsible for adhering to workplace standards.

If one-third of the workers in an industry or region have joined a union or similar worker organization, then the board would step back from its standard-setting role to support collective bargaining that occurs directly between employers and employees.[51] In this case, the wage board, with the approval of the secretary of labor, would extend to all companies in the industry or region any collectively bargained agreement with higher standards than the board has set.[52] To encourage direct multi-employer bargaining, several additional policy changes would be needed. Among these necessary changes are those that would require the National Labor Relations Board (NLRB) to enforce worker preference for multi-employer bargaining units; enhanced protections for strikes, secondary boycotts, and concerted activity discussed previously; and NLRB arbitration of last and final offers.[53]

In short, wage boards would bring together workers, firms, and the public to negotiate over minimum workplace standards across industries. Wage boards build on existing policies and structures and are designed to work together in a comprehensive package of labor policies. Most importantly, wage boards would create a new framework for negotiations that would raise wages and boost productivity.

Modernizing other elements of the collective bargaining system

Wage boards are one piece of a larger vision for a modernized collective bargaining system.[54] Wage board bargaining should be complemented by measures—including works councils, representation on corporate boards, and incentives for union membership—that give workers greater voice at their workplace. Indeed, by elevating most wage negotiations from the firm level to the region or industry level, wage boards create a need and opportunity for additional kinds of firm-level participation by workers, as well as incentives for union membership.

Works councils create a collaborative setting for workers to help resolve issues on the job, make the firm run better, and give workers an additional way to discuss workplace issues among themselves and with managers. Worker membership on the board of corporations helps ensure that critical decisions made by individual firms—such as decisions to outsource or invest in facilities in the United States—consider the long-term interests of the firm and its workers. It is important to note that these additional forms of worker voice function best when they are accompanied by—and not replacing—workplace unions and collective bargaining.[55]

Works councils and worker representation on corporate boards provide economic benefits that support industrywide bargaining. Academic research on works councils and similar organizations generally finds that they are associated with increased productivity because they provide a forum for workers to discuss and resolve workplace issues.[56] Research in Germany found that the longer works councils have existed at a firm, the greater productivity improves, strongly suggesting that works councils' efforts, along with the knowledge and trust built over years of collaboration, results in these beneficial outcomes.[57]

Placing workers on corporate boards is an important step toward further democratizing the workplace, allowing workers to have a say not only in smaller day-to-day issues through works councils but also on major strategic questions. With this change, workers would have input on significant decisions that affect the direction of a firm and the lives of its employees, such as how much firms outsource production

and strategies toward developing employees' skills. Board-level representation can ensure that the needs and interests of workers are given a voice on par with shareholders, many of whom only have a short-term interest in the firm, while employees may have a longer-term commitment to the firm and the community.

Representation on corporate boards can enable additional cooperation between workers and employers, and some studies have found that it modestly reduces economic inequality and provides greater job stability for firm employees.[58] Research also indicates that corporate board-level representation is compatible with strong firm performance.[59]

Incentives for membership in unions and other worker organizations help address industrywide bargaining's free-rider problem, in which workers benefit from higher standards even if they do not pay the costs of achieving them. A key way to address this problem is to include worker organizations in the provision of key societal benefits, such as through workforce training or unemployment insurance. This policy has been successful in a number of countries at strengthening worker organizations and improving the delivery of public services.[60]

To provide more detail about how works councils, workers on corporate boards, and incentives for membership could be implemented, consider the following proposal: Employers above a minimum threshold size would be required to hold elections for works councils every two years at each of their worksites.[61] Workers would choose their representatives on the works council, not whether to have a works council. Works council representatives could affiliate with a union if they so choose.

Works councils would have guaranteed access to information on the company's economic situation, employment forecasts, wage structure, and anticipated changes to workplace conditions. Companies would be required to consult and jointly decide with the works council on changes to the workforce and working conditions. Works councils would have no formal say in decisions about wages or benefits.

All workers—from initial petitioners to candidates—would be protected from retaliation for their participation, and employers would be required to stay neutral during the election process. To avoid firms contracting out so much work that they fall below the threshold size for being required to have a works council, workers at small firms could petition to form a works council with workers that contract with the same larger firms.[62]

Works councils would select workers for representation on corporate boards, so that the boards of public and privately held corporations above a minimum size would have worker representation. Board membership would be evenly divided between members chosen by shareholders and members chosen by workers. The chair of the board would break ties. The chair would be chosen by shareholders but approved by employee representatives. Works councils, along with unions, would help support board-level representatives with research and information.

Incentives for union membership would be provided though a new workforce training policy.[63] A new dedicated source of funding would be provided for training delivered in partnership by labor organizations and industry groups. Labor organizations could use this training platform and access to workers to recruit dues-paying members.

Raising wages and growing the middle class

Raising wages and strengthening and growing the middle class requires a range of policies, including those that promote higher levels of employment; boost educational attainment; enhance the government safety net; and reform trade policy. Each of these progressive policy goals plays an important role in helping the middle class. Unfortunately, though a necessary part of achieving these ultimate goals, strengthening collective bargaining does not always receive as much priority as those other policies. Collective bargaining complements these policies and often can help address their limitations.

Policies to increase education and skills would help many workers earn higher wages and boost economic productivity. Still, a skills-only approach would do relatively little to raise wages in the short-term and there are limits to what it could do for workers' wages over the long-term. A significant number of jobs simply do not require a college degree or equivalent workforce training. And while workers with college degrees or more have fared relatively well compared with their noncollege graduate counterparts, they have seen their wages grow slower than productivity over the past two decades.[64] Wage board bargaining not only supplements education and training by ensuring that these investments lead to higher wages, but also complements them by fostering a clear connection between greater skills and greater pay. It could also help encourage companies to make greater investments in training.[65]

Similarly, increasing taxes on the wealthiest Americans to ensure that they pay their fair share and by providing necessary benefits for low- and middle-class Americans is something that U.S. policymakers must do. However, it is not a stand-alone solution. There is a dignity in earning a living wage that is hard to replace. Furthermore, the scale of expenditure required to ensure that incomes increase in proportion to productivity for all workers—including both low- and middle-income workers—would be quite large. Consider the cost of boosting 2013 household market incomes for the bottom 80 percent of Americans by income to the level they would be at had they kept pace with productivity growth over the past 25 years. In 2013 alone, this would have required spending more than twice as much as what was spent on Social Security that year.[66] Similar additional expenditures would be required in subsequent years.

Reforming trade policy to create a level playing field and benefit workers at least as much as multi-national companies would help workers over the long-term but would have less short-term impact on wages, even if unwinding current trade deals were possible. More importantly, because the vast majority of the workforce works in untraded services, the wages of most workers are not particularly affected by trade.[67]

While raising the minimum wage helps millions of low-income workers, the policy delivers more for those at the bottom of the wage distribution than it does for those in the middle. Incentives to promote worker ownership and broad-based profit sharing tend to increase total compensation and productivity and should be expanded.[68] But policies that would spread profit sharing to all workers would likely cause employers to substitute incentive pay for wages if workers do not have the power to bargain over their compensation package. Moreover, profit sharing and worker ownership operate best when supplemented by high wages and empowered workers. That is why profit sharing should be a subject for wage board negotiations rather than a stand-alone solution to the wage challenge.

Strengthening the rights of immigrant workers and providing a pathway to citizenship would likely have a modest but meaningful impact on the wages of low-income workers. Although President Donald Trump has blamed immigrants for stagnant wages, most research suggests that, in general, immigrants complement U.S.-born workers rather than replace them and thus do not impact wage levels significantly.[69] In many circumstances, the participation of immigrant workers can actually increase wages. Even negative estimates suggest that immigration is at most a small part of the wage and employment problem, particularly for middle-income workers. Much of the negative impact immigrants can have on wages is largely due to their lack of legal rights, which weakens the floor for all workers.[70]

Policies to achieve higher levels of employment, such as investments in human and physical infrastructure and a jobs guarantee, can help raise wages across the board by ensuring that labor markets are tight and workers are in demand. However, tight labor markets provide the most benefits for workers who are willing and able to shop for a new employer. Not every worker wants to threaten to quit in order to receive a pay raise, and not every employer pre-emptively raises wages to avoid losing employees. Furthermore, policies that support employment will have a hard time raising wages if the underlying private-sector economy remains below full employment. Even if the government becomes the employer of last resort, the wage for government employment will become a floor which private employers need only match.

Workers will benefit the most if they can leverage the power of both higher employment and collective bargaining. Policies to promote higher levels of employment help workers strengthen their voices in negotiations, while collective bargaining ensures that tighter labor markets lead more evenly and directly to real workplace improvements.

In short, a number of policies are necessary to ensure stable, long-term wage increases for the vast majority of the population. Collective bargaining complements these policies and plays a critical role that is hard, if not impossible, to replicate. Collective bargaining directly gives workers power to negotiate for better working conditions. Other policy solutions increase worker power indirectly, meaning that their ability to raise wages depends on an additional course of action that may not always take place. In addition, workers engaged in the collective bargaining process gain agency and organization and thus can help provide the necessary political support for tighter labor markets, a higher minimum wage, reformed trade policy, a stronger safety net, and increased investments in skills and education.

Conclusion

Modernizing the U.S. collective bargaining system would help raise wages and give workers greater voice and power, which would help address some of the fundamental challenges facing our economy and democracy. Moreover, the modernized system would help raise economic productivity, providing long-term economic benefits for workers and employers.

The changes proposed are significant but proportional to the challenges the country faces and are based on proven policy successes. No other policies have the ability to so broadly and consistently raise wages. The solutions to the nation's workforce challenges are at our disposal—the only question is whether the United States has the political will to move forward.

About the author

David Madland is a senior fellow at the Center for American Progress. He has written extensively about the economy and American politics on a range of topics, including the middle class, economic inequality, retirement policy, labor unions, and workplace standards such as the minimum wage. His book, *Hollowed Out: Why the Economy Doesn't Work without a Strong Middle Class*, was published by the University of California Press in July 2015. Madland has a doctorate in government from Georgetown University and received his bachelor's degree from the University of California, Berkeley.

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Endnotes

1 Author's calculation based on data from Bureau of Labor Statistics, "Average Hourly Earnings of Production and Nonsupervisory Employees: Total Private [AHETPI]," retrieved from Federal Reserve Economic Database, available at https://research.stlouisfed.org/fred2/series/AHETPI (last accessed September 2017); Bureau of Labor Statistics, "Consumer Price Index for All Urban Consumers: All Items [CPIAUCSL]," retrieved from Federal Reserve Economic Database, available at https://research.stlouisfed.org/fred2/series/CPIAUCSL (last accessed September 2017); author's analysis using updated 2015 data from Thomas Piketty and Emmanuel Saez, "Income Inequality in the United States, 1913-1998," *The Quarterly Journal of Economics* 118 (1) (2003), available at http://eml.berkeley.edu/~saez/TabFig2015prel.xls.

2 Brendan Duke and Andrew Schwartz, "The Midwestern Great Recession of 2001 and the Destruction of Good Jobs" (Washington: Center for American Progress, 2017), available at https://www.americanprogress.org/issues/economy/reports/2017/06/07/429492/midwestern-great-recession-2001-destruction-good-jobs/.

3 Duke and Schwartz, "The Midwestern Great Recession of 2001 and the Destruction of Good Jobs."

4 David Madland, *Hollowed Out: Why the Economy Doesn't Work without a Strong Middle Class* (Oakland, CA: University of California Press, 2015); Atif Mian and Amir Sufi, *House of Debt*, (Chicago: University of Chicago Press, 2014); Alice Martin, Helen Kersley, and Tony Greenham, "Inequality and financialization: A dangerous mix" (London: New Economics Foundation, 2014), available at http://b.3cdn.net/nefoundation/005f379c2df9c812f1_gqm6ivky0.pdf.

5 David Madland and Alex Rowell, "Unions Help the Middle Class, No Matter the Measure" (Washington: Center for American Progress Action Fund, 2016), available at https://www.americanprogressaction.org/issues/economy/reports/2016/06/09/139074/unions-help-the-middle-class-no-matter-the-measure/.

6 David Madland, Alex Rowell, and Gordon Lafer, "Anti-Democratic Attacks on Unions Hurt Working Americans" (Washington: Center for American Progress Action Fund, 2017), available at https://www.americanprogressaction.org/issues/economy/reports/2017/06/26/167907/anti-democratic-attacks-unions-hurt-working-americans/.

7 Kate Bronfenbrenner, "No Holds Barred: The Intensification of Employer Opposition to Organizing" (Washington: Economic Policy Institute, 2009), available at http://www.epi.org/files/page/-/pdf/bp235.pdf

8 Bureau of Labor Statistics, "Union Members Summary," Press release, January 26, 2017, available at https://www.bls.gov/news.release/union2.nr0.htm.

9 David Weil, *Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Cambridge, MA: Harvard University Press, 2014); Mark Barenberg, "Widening the Scope of Worker Organizing" (New York: Roosevelt Institute, 2015), available at http://rooseveltinstitute.org/widening-scope-worker-organizing/.

10 See for example, Marc Jarsulic and others, "Reviving Antitrust" (Washington: Center for American Progress, 2016), available at https://www.americanprogress.org/issues/economy/reports/2016/06/29/140613/reviving-antitrust/; José Azar, Ioana Elena Marinescu, and Marshall Steinabum, "Labor Market Concentration," working paper, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3088767; Marshall Steinbaum, "How Widespread Is Labor Monopsony? Some New Results Suggest It's Pervasive," Roosevelt Institute, December 12, 2017, available at http://rooseveltinstitute.org/how-widespread-labor-monopsony-some-new-results-suggest-its-pervasive/.

11 For a general review of research on employer and economic benefits see David Madland, "The Future of Worker Voice and Power" (Washington: Center for American Progress, 2016), available at https://www.americanprogress.org/issues/economy/reports/2016/10/11/143072/the-future-of-worker-voice-and-power/. For some case studies, see Ronda Sauget and Marv Finkelstein, "Project Labor Agreements (PLAs) and Tripartite Approach Model for Construction Project Management Success" (Collinsville, IL: Southwestern Illinois Building Trades Council, 2015), available at http://www.swilbuildingtrades.com/pdf/PLAs_TAM_overall%20%281%29.pdf.

12 Madland, "The Future of Worker Voice and Power"; David Madland and Alex Rowell, "How State and Local Governments Can Strengthen Worker Voice and Raise Wages" (Washington: Center for American Progress Action Fund, 2017), available at https://www.americanprogressaction.org/issues/economy/reports/2017/05/02/166640/state-local-governments-can-strengthen-worker-power-raise-wages/; Kate Andrias, "The New Labor Law," *The Yale Law Journal* 126 (1) (2016): 1–261, available at http://www.yalelawjournal.org/article/the-new-labor-law; Barenberg, "Widening the Scope of Worker Organizing"; Brishen Rogers, "Libertarian Corporatism is Not an Oxymoron," *Texas Law Review* 94 (7) (2016): 1623–1646, available at http://www.texaslrev.com/libertarian-corporatism-is-not-an-oxymoron/; David Rolf, "Toward a 21st-Century Labor Movement," *The American Prospect*, April 18, 2016, available at http://prospect.org/article/toward-21st-century-labor-movement; Howard Wial, "The Emerging Organizational Structure of Unionism in Low-Wage Services," *Rutgers Law Review* 45 (3) (1993): 671–738; Matthew Dimick, "Productive Unionism," *UC Irvine Law Review* 4 (2) (2014): 679–724, available at http://www.law.uci.edu/lawreview/vol4/no2/Dimick.pdf.

13 For additional details see Madland, "The Future of Worker Voice and Power."

14 Madland and Rowell, "Unions Help the Middle Class, No Matter the Measure."

15 Jake Rosenfeld, Patrick Denice, and Jennifer Laird, "Union decline lowers wages of nonunion workers" (Washington: Economic Policy Institute, 2016), available at http://www.epi.org/publication/union-decline-lowers-wages-of-nonunion-workers-the-overlooked-reason-why-wages-are-stuck-and-inequality-is-growing/.

16 Janelle Jones and John Schmitt, "Union Advantage for Black Workers" (Washington: Center for Economic and Policy Research, 2014), available at http://cepr.net/documents/black-union-2014-02.pdf; Toke Aidt and Zafiris Tzannatos, *Unions and Collective Bargaining*, (Washington: World Bank Publications, 2002); Elise Gould and Celine McNicholas, "Unions help narrow the gender wage gap," The Working Economics Blog, April 3, 2017, available at http://www.epi.org/blog/unions-help-narrow-the-gender-wage-gap/.

17 Richard Freeman and others, "Bargaining for the American Dream" (Washington: Center for American Progress, 2015), available at https://www.americanprogress.org/issues/economy/report/2015/09/09/120558/bargaining-for-the-american-dream/.

18 David Madland and Nick Bunker, "Unions Make Democracy Work for the Middle Class" (Washington: Center for American Progress Action Fund, 2012), available at https://www.americanprogressaction.org/issues/economy/reports/2012/01/25/10913/unions-make-democracy-work-for-the-middle-class/; Jasmine Kerrissey and Evan Schofer, "Union Membership and Political Participation in the United States," *Social Forces* 91 (3) (2013): 895–928, available at https://academic.oup.com/sf/article-abstract/91/3/895/2235806?redirectedFrom=fulltext; Jonathan E. Booth, Daniela Lup, and Mark Williams, "Union Membership and Charitable Giving in the United States," *Industrial and Labor Relations Review* 70 (4) (2016): 835–864, available at http://journals.sagepub.com/doi/abs/10.1177/0019793916677595.

19 Art Swift, "Labor Union Approval Best Since 2003, at 61%," *Gallup News*, August 30, 2017, available at http://news.gallup.com/poll/217331/labor-union-approval-best-2003.aspx.

20 Richard B. Freeman, "Do workers still want unions? More than ever" (Washington: Economic Policy Institute, 2007), available at http://www.sharedprosperity.org/bp182/bp182.pdf.

21 Bureau of Labor Statistics, "Union Members Summary," Press release, January 26, 2017, available at https://www.bls.gov/news.release/union2.nr0.htm; Gerald Mayer, "Union Membership Trends in the United States" (Ithaca, NY: Cornell University Industrial and Labor Relations School, 2004), available at http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1176&context=key_workplace; Barry T. Hirsch, "Sluggish Institutions in a Dynamic World: Can Unions and Industrial Competition Coexist?" (Bonn, Germany: IZA Institute of Labor Economics, 2007), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1001419; Barry T. Hirsch and David A. MacPherson, "Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review* 56 (2) (2003): 349–354, available at http://unionstats.gsu.edu/; Richard B. Freeman, "Spurts in Union Growth: Defining Moments and Social Processes." In Michael D. Bordo, Claudia Goldin, and Eugene N. White, eds., *The Defining Moment: The Great Depression and American Economy in the Twentieth Century* (Chicago: University of Chicago Press, 1998), available at http://www.nber.org/chapters/c6896.pdf.

22 Bruce Western and Jake Rosenfeld, "Unions, Norms, and the Rise in U.S. Wage Inequality," *American Sociological Review* 76 (4) (2011): 513–537, available at http://journals.sagepub.com/doi/10.1177/0003122411414817.

23 Rosenfeld, Denice, and Laird, "Union decline lowers wages of nonunion workers."

24 Francine D. Blau and Lawrence M. Kahn, "International Differences in Male Wage Inequality: Institutions Versus Market Forces," National Bureau of Economic Research, Working Paper 4678 (Cambridge, MA: National Bureau of Economic Research, 1994) available at http://www.nber.org/papers/w4678.pdf; Toke S. Aidt and Zafiris Tzannatos, "Trade unions, collective bargaining, and macroeconomic performance: a review," *Industrial Relations Journal* 39 (4) (2008): 258–295; International Trade Unions Confederation, "Frontlines Report: April 2013" (2013), available at http://www.ituc-csi.org/IMG/pdf/en_ituc_frontlines_full_report_april_2013_web.pdf; Jill Rubery and Damian Grimshaw, "Gender and the minimum wage" (Geneva: International Labor Organization, 2009), available at https://www.ilo.org/legacy/english/protection/travail/pdf/rdwpaper33a.pdf; Jane Pillinger, Verena Schmidt, and Nora Wintour, "Negotiating for Gender Equality," (Geneva: International Labor Organization, 2016), available at http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_528947.pdf; Jane Pillinger, "Bargaining for Equality" (Brussels: European Trade Union Confederation, 2014), available at http://www.genderpaygap.eu/documents/2014_bargaining_equality_en_ETUC.pdf.

25 38.9 percent of non-managerial employees have their wages set by collective agreement. 24.5 percent of non-managerial employees have their wages set by wage award only. See Australian Bureau of Statistics, "6306.0 – Employee Earnings and Hours, Australia, May 2016," available at http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6306.0Main%20Features2May%202016?opendocument&tabname=Summary&prodno=6306.0&issue=May%202016&num=&view (last accessed November 2017).

26 Lawrence H. Summers and Ed Balls, "Report of the Commission on Inclusive Prosperity" (Washington: Center for American Progress, 2015), available at https://www.americanprogress.org/issues/economy/report/2015/01/15/104266/report-of-the-commission-on-inclusive-prosperity/. Not that in very recent years wage growth in Australia has been slow, possibly in part due to Australia's Fair Work Commission awards being anchored to inflation adjustments. See James Bishop and Natasha Cassidy, "Insights into Low Wage Growth in Australia," *Reserve Bank of Australia Bulletin*, March Quarter (2017): 13-20, available at https://www.rba.gov.au/publications/bulletin/2017/mar/pdf/bu-0317-2-insights-into-low-wage-growth-in-australia.pdf.

27 New York Department of Labor, "Order of Acting Commissioner of Labor Mario J. Musolino on the Report and Recommendations of the 2015 Fast Food Wage Board," September 10, 2015, available at https://labor.ny.gov/workerprotection/laborstandards/pdfs/FastFood-Wage-Order.pdf.

28 See New York Department of Labor, "Order of Acting Commissioner of Labor Mario J. Musolino on the Report and Recommendation of the Minimum Wage Board," February 24, 2015, available at https://labor.ny.gov/workerprotection/laborstandards/pdfs/wage_board_order.pdf. Note that the minimum wage for some tipped hospitality workers was increased by 50 percent, by greater than 50 percent, or by less than 50 percent.

29 State of California Department of Industrial Relations, "Industrial Welfare Commission," available at https://www.dir.ca.gov/iwc/wageorderindustriesprior.htm (last accessed November 2017).

30 Bureau of Labor Statistics, "Labor and Productivity Costs," available at https://www.bls.gov/lpc/prodybar.htm (last accessed November 2017).

31 For evidence of the productivity-enhancing benefits of higher wages, see, among others, Justin Wolfers and Jan Zilinsky, "Higher Wages for Low-Income Workers Lead to Higher Productivity" (Washington: Peterson Institute for International Economics, 2015), available at http://blogs.piie.com/realtime/?p=4700; Nick Bunker, "Abundance and the direction of technological growth," Washington Center for Equitable Growth, February 18, 2016, available at http://equitablegrowth.org/abundance-and-the-direction-of-technological-growth/; Rebecca Riley and Chiara Rosazza Bondibene, "Raising the Standard: Minimum Wages and Firm Productivity" (London: National Institute of Economic and Social Research, 2015), available at http://www.niesr.ac.uk/sites/default/files/publications/Minimum%20wages%20and%20firm%20productivity%20NIESR%20DP%20449.pdf; Michael Reich, Peter Hall, and Ken Jacobs, "Living Wages and Economic Performance: The San Francisco Airport Model" (Berkeley, CA: University of California, Berkley Institute of Industrial Relations, 2003), available at http://laborcenter.berkeley.edu/pdf/2003/sfo_mar03.pdf.

32 Douglas Hibbs and Hakan Locking, "Wage Dispersion and Productive Efficiency: Evidence for Sweden," *Journal of Labor Economics* 18 (4) (2000): 755–782, available at http://www.jstor.org/stable/10.1086/209976. For examples of pay for similar workers depending on the firm they work for, see Alan B. Krueger and Lawrence H. Summers, "Efficiency Wages and the Inter-Industry Wage Structure," *Econometrica* 56 (2) (1988): 259–293, available at https://www.jstor.org/stable/1911072. For evidence that more centralized bargaining structures are associated with reduced pay inequality, see Michael Wallerstein, "Wage-Setting Institutions and Pay Inequality in Advanced Industrial Societies," *American Journal of Political Science* 43 (3) (1999): 649–680, available at https://www.jstor.org/stable/2991830; Miriam A. Golden and John B. Londregan, "Centralization of Bargaining and Wage Inequality: A Correction of Wallerstein," *American Journal of Political Science* 50 (1) (2006): 208–213, available at https://www.jstor.org/stable/3694266; International Trade Unions Confederation, "Frontlines Report: April 2013"; Karl Ove Moene and Michael Wallerstein, "Pay Inequality," *Journal of Labor Economics* 15 (3) (1997): 403–430, available at http://www.jstor.org/stable/10.1086/209866; Chad Syverson, "What Determines Productivity?", *Journal of Economic Literature* 49 (2) (2011): 326–365, available at http://home.uchicago.edu/syverson/productivitysurvey.pdf.

33 Teresa Ghilarducci, "Freeman and Medoff, What Do Unions Do?" *Journal of Legislation* 12 (1) (1985): 119–121; On cooperation, see also Stephen J. Deery and Roderick D. Iverson, "Labor-Management Cooperation: Antecedents and Impact on Organizational Performance," *Industrial and Labor Relations Review* 58 (4) (2005): 588–609; Robert Buchele and Jens Christiansen, "Labor Relations and Productivity Growth in Advanced Capitalist Economies," *Review of Radical Political Economics* 31 (1) (1999): 87–110; Aidt and Tzannatos' 2008 literature review on unions, bargaining coverage, and economic performance found that extension "does not bring with it worker-management cooperation and other productivity-enhancing 'voice' factors." See Toke S. Aidt and Zafiris Tzannatos, "Trade unions, collective bargaining, and macroeconomic performance: a review," *Industrial Relations Journal* 39 (4) (2008): 258–295.

34 Anke Hassel, "What Does Business Want? Labour Market Reforms in CMEs and Its Problems." In Bob Hancke, Martin Rhodes, and Mark Thatcher, eds., *Beyond Varieties of Capitalism: Conflict, Contradictions, and Complementarities in the European Economy* (Oxford, England: Oxford University Press, 2007); Christian Dustmann and Uta Schönberg, "Training and Union Wages," *The Review of Economics and Statistics* 91 (2) (2009): 363–376; Organisation for Economic Co-operation and Development, "OECD Employment Outlook: Collective bargaining: Levels and coverage," available at http://www.oecd.org/els/employmentoutlookpreviouseditions.htm (last accessed December 2017); Stefan Zagelmeyer, *Governance Structures and the Employment Relationship: Determinants of Employer Demand for Collective Bargaining in Britain* (Oxford, United Kingdom: Peter Lang AG, 2004), p. 166; Marius R. Busemeyer and Torben Iversen, "Collective Skill Systems, Wage Bargaining, and Labor Market Stratification." In Marius R. Busemeyer and Christine Trampusch, eds., *The Political Economy of Collective Skill Formation* (Oxford, United Kingdom: Oxford University Press, 2011).

35 Andrias, "The New Labor Law,"; 29 U.S.C. § 208 (c) (1940). Wage boards were used in this way under the original Fair Labor Standards Act. Note that the Fair Labor Standards Act limited the range of minimum wages that could be implemented by the committees and wage orders.

36 Karla Walter and Kate Bahn, "Raising Pay and Providing Benefits for Workers in a Disruptive Economy" (Washington: Center for American Progress, 2017), available at https://www.americanprogress.org/issues/economy/reports/2017/10/13/440483/raising-pay-providing-benefits-workers-disruptive-economy/.

37 Walter and Bahn, "Raising Pay and Providing Benefits for Workers in a Disruptive Economy."

38 New York State Department of Labor, "Fast Food Wage Board," available at https://labor.ny.gov/workerprotection/laborstandards/wageboard2015.shtm (last accessed December 2017).

39 NFL and NFL Players Association, "Collective Bargaining Agreement," available at https://nfllabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf (last accessed December 2017).

40 Writers Guild of America, "Schedule of Minimums, 2017 Theatrical and Television Basic Agreement," available at http://www.wga.org/uploadedFiles/contracts/min2017.pdf (last accessed November 2017). See page 6 for wages, page 28 for residuals, and page 44 for benefits.

41 Brett Murphy, "Rigged," USA Today, June 16, 2017, available at https://www.usatoday.com/pages/interactives/news/rigged-forced-into-debt-worked-past-exhaustion-left-with-nothing/; Barry T. Hirsch, "Trucking Regulation, Unionization, and Labor Earnings: 1973-85," *The Journal of Human Resources* 23 (2) (1988): 296–319.

42 Lydia DePillis, "Trucking used to be a ticket to the middle class. Now it's just another low-wage job." *The Washington Post*, April 28, 2014, available at https://www.washingtonpost.com/news/wonk/wp/2014/04/28/trucking-used-to-be-a-ticket-to-the-middle-class-now-its-just-another-low-wage-job/?utm_term=.8f02f6980e77; Rebecca Smith, David Bensman, and Paul Alexander Marvy, "The Big Rig: Poverty, Pollution, and the Misclassification of Truck Drivers at America's Ports," (New York: National Employment Law Project and Change to Win, 2015), available at http://www.nelp.org/content/uploads/2015/03/PovertyPollutionandMisclassification.pdf.

43 David Madland and Alex Rowell, "How State and Local Governments Can Strengthen Worker Power and Raise Wages" (Washington: Center for American Progress Action Fund, 2017), available at https://www.americanprogressaction.org/issues/economy/reports/2017/05/02/166640/state-local-governments-can-strengthen-worker-power-raise-wages/. See also Kate Andrias, *Social Bargaining in States and Cities: Toward a More Egalitarian and Democratic Workplace Law*, (Cambridge, MA: Harvard Law and Policy Review, forthcoming).

44 In this case, the secretary of labor would choose from nominees who meet alternative criteria, such as representing a smaller number of employers in the industry.

45 In this case, the secretary of labor would choose from nominees who meet alternative criteria, such as representing a smaller number of workers in the industry or representing workers in a similar industry.

46 See, for example, Australia's Fair Work Act 2009, which establishes a modern awards objective that establishes criteria which the Fair Work Commission must take into account when setting awards. See Australian Government, "Fair Work Act 2009," available at https://www.legislation.gov.au/Details/C2017C00323 (last accessed January 2018).

47 For example, the North American Industry Classification System is used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data. See Bureau of Labor Statistics, "Industries at a Glance," available at https://www.bls.gov/iag/ (last accessed November 2017).

48 For example, the Standard Occupational Classification system could be used to categorize occupation-based wage boards. See Bureau of Labor Statistics, "Standard Occupational Classification," available at https://www.bls.gov/soc/ (last accessed November 2017).

49 Payroll deduction would ideally be administered in such a way that employers do not know who is a member of what organization. For example, payroll deductions could go to a clearinghouse that would distribute funds to worker organizations.

50 Janice Fine and Jennifer Gordon, "Strengthening Labor Standards Enforcement through Partnerships with Workers' Organizations," *Politics & Society* 38 (4) (2010): 552–585; Madland and Rowell, "How State and Local Governments Can Strengthen Worker Power and Raise Wages." See also *Wage Theft Prevention and Wage Recovery Act*, H.R. 3467, 115 Cong. 1 sess. (Government Printing Office, 2017), available at https://www.congress.gov/bill/115th-congress/house-bill/3467/text.

51 Note if union membership subsequently falls below one third, then the board would resume its standard-setting role based on the most recently collectively-bargained and extended contract.

52 Note that the reasons why the secretary could choose not to extend the contract would be limited.

53 Note that Mark Barenberg has proposed that the NLRB would be directed to define bargaining units with the maximum potential for worker empowerment. See Barenberg, "Widening the Scope of Worker Organizing"; Josh Chetwynd, "Play Ball? An Analysis of Final-Offer Arbitration, Its Use in Major League Baseball and Its Potential Applicability to European Football Wage and Transfer Disputes," *Marquette Sports Law Review* 20 (1) (2009): 109–146. Note that this arbitration could potentially be done by a private arbitrator agreed to by both sides.

54 Madland, "The Future of Worker Voice and Power."

55 For more details on works councils and unions and collective bargaining see Madland, "The Future of Worker Voice and Power." For details on how workers on boards can build power, see Susan R. Holmberg, "Fighting Short-Termism with Worker Power" (New York: Roosevelt Institute, 2017), available at http://rooseveltinstitute.org/wp-content/uploads/2017/10/Corp-Gov_FINAL.pdf.

56 While not all research shows positive productivity effects from works councils, most studies do. See Steffen Mueller, "Works Councils and Establishment Productivity," *Industrial and Labor Relations Review* 65 (4) (2012): 880–898; Steffen Mueller, "Works Councils and Labour Productivity: Looking beyond the Mean," *British Journal of Industrial Relations* 53 (2) (2015): 308–325; John T. Addison, Claus Schnabel, and Joachim Wagner, "Works councils in Germany: their effects on establishment performance," *Oxford Economic Papers* 53 (4) (2001): 659–694; Olaf Hubler and Uwe Jirjahn, "Works Councils and Collective Bargaining in Germany: The Impact on Productivity and Wages," *Scottish Journal of Political Economy* 50 (4) (2003): 471–491. See also Hans Böckler Foundation, "Co-determination: Works Council Pays Off," available at http://www.boeckler.de/35927_35964.htm (last accessed August 2016); For U.S.-focused studies on general labor-management partnership, see Jody Hoffer Gittell, Andrew Von Nordenflycht, and Thomas A. Kochan, "Mutual Gains or Zero Sum? Labor Relations and Firm Performance in the Airline Industry" *Industrial and Labor Relations Review* 57 (2) (2004); Eileen Appelbaum, Jody Hoffer Gittell, and Carrie Leana, "High-Performance Work Practices and Sustainable Economic Growth" (Washington: Center for Economic and Policy Research, 2011), available at http://cepr.net/publications/reports/high-performance-work-practices-and-sustainable-economic-growth.

57 Steffen Muller and Jens Stegmaier, "The Dynamic Effects of Works Councils on Labor Productivity: First Evidence from Panel Data" (Halle, Germany: Halle Institute for Economic Research, 2015), available at http://www.iwh-halle.de/e/publik/disc/14-15.pdf.

58 See for example Felix Hörisch, "The Macro-economic Effect of Codetermination on Income Equality." Working Paper 147 (University of Mannheim, 2012); Robert Kleinknecht, "Employee Participation in Corporate Governance: Implications for Company Resilience," *European Journal of Industrial Relations* 21(1) (2014): 57–72; E. Han Kim, Ernst G. Maug, and Christoph Schneider, "Labor Representation in Governance as an Insurance Mechanism." Working Paper 411 (European Corporate Governance Institute Finance, 2014).

59 As one review of the literature on board-level employee representatives in Germany showed, 10 studies found positive impacts on firm value, productivity, or corporate performance; and 11 found no significant impacts; and seven found negative impacts. See Aline Conchon, "Board-level employee representation rights in Europe: Facts and trends" (Brussels: European Trade Union Institute, 2011), available at https://www.etui.org/Publications2/Reports/Board-level-employee-representation-rights-in-Europe.

60 For more details, see the discussions in Madland, "The Future of Worker Voice and Power," and Madland and Rowell, "How State and Local Governments Can Strengthen Worker Power and Raise Wages."

61 For more details on how regular workplace elections could be conducted, see Michael M. Oswalt, "Automatic Elections," *UC Irvine Law Review* 4 (2) (2014): 801-856.

62 A complement to this policy would be that independent contractors as well as part-time workers would have a vote proportional to the amount they work for the firm and receive full voting rights if they work over half time for a single employer. For more insights on addressing the fissuring problem see Barenberg, "Widening the Scope of Worker Organizing."

63 For more details, see Madland and Rowell, "How State and Local Governments Can Strengthen Worker Power and Raise Wages;" Angela Hanks and David Madland, "Better Training and Better Jobs" (Washington: Center for American Progress, 2018), available at https://www.americanprogress.org/issues/economy/reports/2018/02/22/447115/better-training-better-jobs/.

64 Neera Tanden and others, "Toward a Marshall Plan for America" (Washington: Center for American Progress, 2017), available at https://www.americanprogress.org/issues/economy/reports/2017/05/16/432499/toward-marshall-plan-america/.

65 For more on this see page 23 in Madland, "The Future of Worker Voice and Power."

66 Author's calculation using supplemental data from Congressional Budget Office, "The Distribution of Household Income and Federal Taxes, 2013" (2016), available at https://www.cbo.gov/publication/51361; Bureau of Economic Analysis, "National Data," (U.S. Department of Commerce, 2017), table 1.9.3, available at https://bea.gov/iTable/iTable.cfm?ReqID=19&step=4&isuri=1&1921=flatfiles#reqid=19&step=4&isuri=1&1921=flatfiles (last accessed January 2018); Bureau of Labor Statistics Beta Labs, "Index/Level and Office of Productivity and Technology and Work Hours: Nonfarm Business," available at http://beta.bls.gov/dataViewer/view/timeseries/PRS85006033 (last accessed January 2018); Social Security Administration, "Trust Fund Data," available at https://www.ssa.gov/oact/STATS/table4a3.html.

67 Bureau of Labor Statistics, "Employment Projections," (U.S. Department of Labor, 2017) table 2.1, available at https://www.bls.gov/emp/ep_table_201.htm.

68 Karla Walter, David Madland, and Danielle Corley, "Capitalism for Everyone" (Washington: Center for American Progress, 2015), available at https://www.americanprogress.org/issues/economy/reports/2015/07/21/117742/capitalism-for-everyone/.

69 The National Academies of Sciences, Engineering, and Medicine, "The Economic and Fiscal Consequences of Immigration" (2017), available at https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration; Michael Greenstone and Adam Looney, "What Immigration Means for U.S. Employment and Wages," Brookings Institution, May 4, 2012, available at https://www.brookings.edu/blog/jobs/2012/05/04/what-immigration-means-for-u-s-employment-and-wages/.

70 Adriana Kugler and Patrick Oakford, "Comprehensive Immigration Reform Will Benefit American Workers" (Washington: Center for American Progress, 2013), available at https://www.americanprogress.org/issues/immigration/reports/2013/09/12/74014/comprehensive-immigration-reform-will-benefit-american-workers/.

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