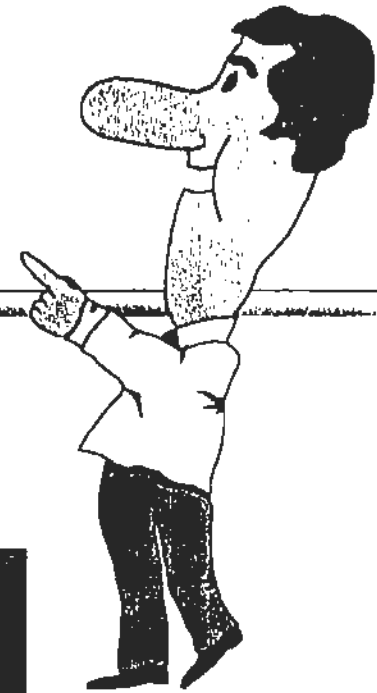




# Prevailing Wage Laws



*Peter Philips*  
*University of Utah*



# *Prof. Peter Philips, Univ. of Utah*

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- *Ph.D. Stanford University*
- *Expert on U.S. Construction Industry*
- *Consultant for U.S. Justice Department and U.S. Labor Department*

# Outline

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## ■ Original Intent of Prevailing Wage Laws

- Critics-Racist Jim Crow Laws
- Advocates-Create High Wage-Skill Growth Path

## ■ Effect on Construction Costs

- Critics-Build 4 Schools for Cost of 3
- Advocates-No Significant Cost Difference

## ■ Effect on Labor and Product Markets

- Critics-Racial Exclusion
- Advocates-Better Training, Better Conditions, Better Product



# *Ulysses Grant & 1868 Republican Congress*

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*Pass 1st Prevailing Wage Law:*

*1868 National 8-Hour Law*

- *No reductions in the wages paid to workmen on account of any reduction of hours of labor.*

# *1881 AFL's First Convention*

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- *eliminate child labor*
- *free, compulsory schooling*
- *abolish convict labor*
- *abolish foreign labor coming under contract*
- *factory safety*
- *prohibit Chinese immigration*

## *1891 Sam Gompers Goes to Kansas to Advocate State Prevailing Wage Law*



- *“Eight Hours of Work, eight hours of rest and eight hours for mental and moral improvement.”*
- *abolition of child labor; 8-hour day; worker safety; women’s suffrage; equal pay for equal work*
  - *Sam Gompers AFL*



## *Atkins vs. Kansas 1903*

### *Legalized Prevailing Wage Laws*

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## **Justice John Marshall Harlan Wrote the Court Opinion:**

- *“When the eight hour law was passed...the leading idea clearly was to limit the hours of total of laborers ...without reduction in compensation for the day’s service”*



## *Plessy vs. Furgesson 1896* *Legalized Jim Crow Laws*

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### **Justice John Marshall Harlan** **Famous Dissent:**

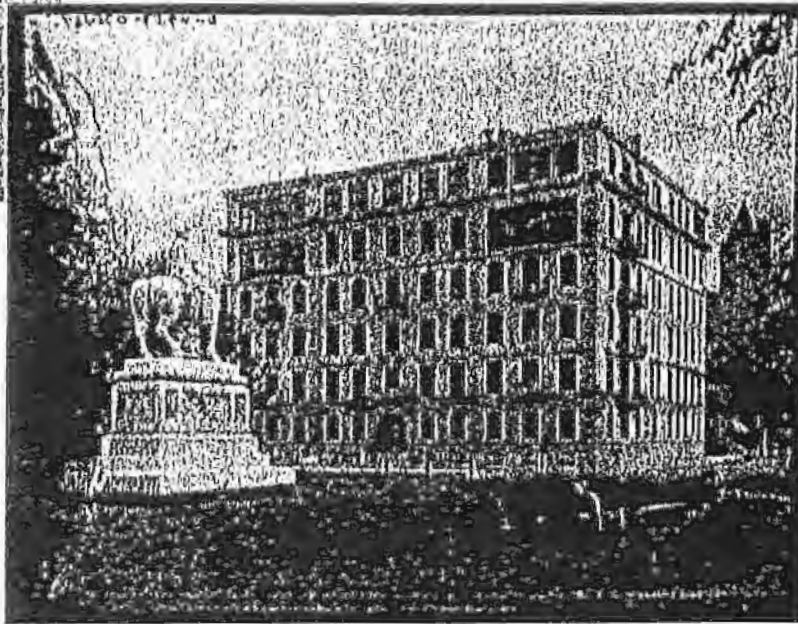
- *“The arbitrary separation of citizens on the basis of race, while they are on a public highway, is a badge of servitude wholly inconsistent with civil freedom and equality before the law”*





- ***The Institute for Justice Alledges:***
- *Prevailing Wage Laws Are Racist*
- *After massive migration of southern blacks north*
- *Blacks competed for whites' jobs*
- *White workers and unions defended themselves with racist laws*

# *IFJ says that a VA Hospital built by Alabama contractor in NY*



- *was built in Rep. Bacon's district*
- *was built by black construction workers*
- *was catalyst for Davis Bacon--the purpose of the law was to keep blacks out of northern construction*

# *However*

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- *80% of migrant construction workers to NY came from the Midwest and high planes states*
- *two-thirds of Alabama construction workers in 1930 were white*
- *and the Northport, Long Island Veteran's Hospital was built by an integrated Southern crew*

# *Robert Bacon said race was not the issue:*

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- *“the contractor has brought in nonunion labor from the South to do this work, some of them Negroes and some of them white, but all of them are being paid very much less than the wage scale prevailing in New York”*

# *Congressman Fiorello LaGuardia defending D-B*

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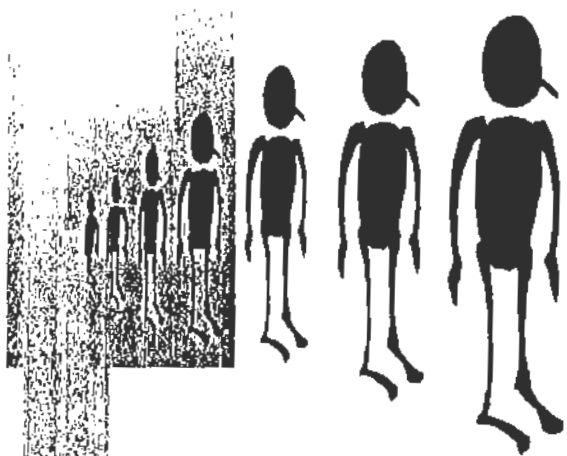
- *“I saw with my own eyes the labor that [an Alabama contractor] imported from the South. These unfortunate men were huddled in shacks living under most wretched conditions and being paid far below standard. These unfortunate men were being exploited by the contractor.”*

# *Representation Rate*

- *100% Means black participation in an occupation mirrors the pattern for society as a whole*



# *What Does More or Less than 100% Mean?*



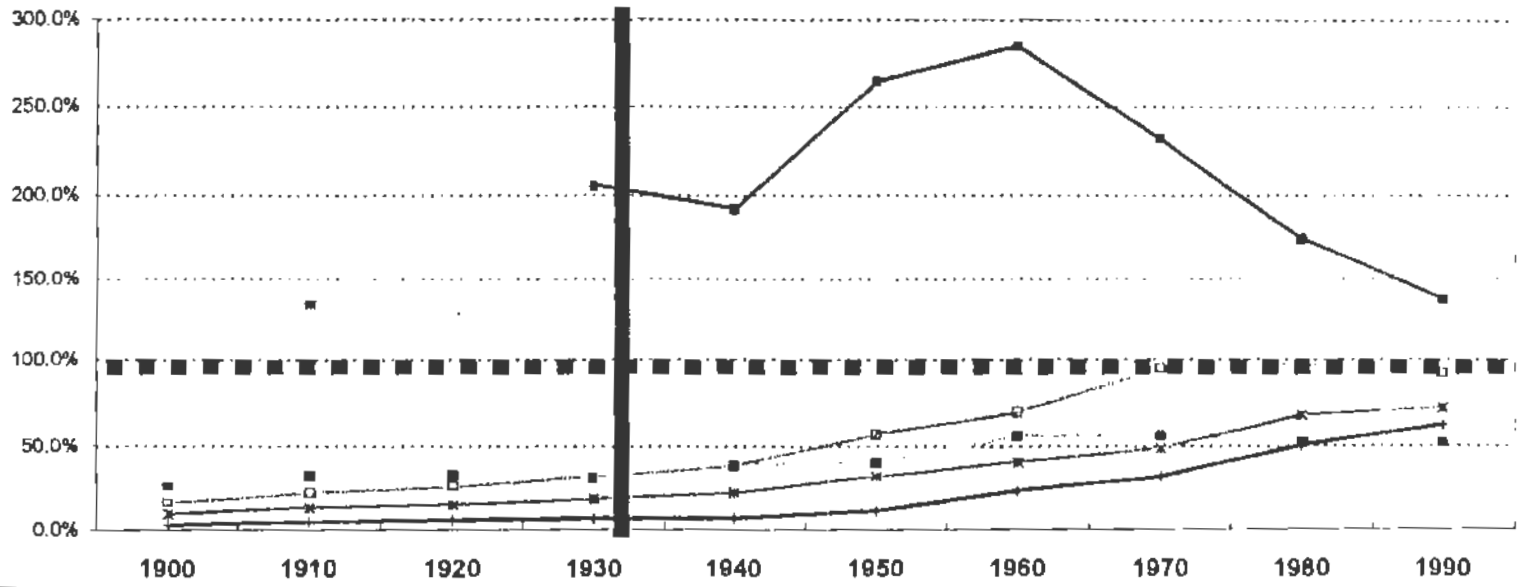
- *Above 100% means over-representation in an occupation (crowded in)*
- *Below 100% means under-representation (boxed out)*



# Trends in Black Construction Employment Not Changed by DB

Over-representation

Davis Bacon 1931



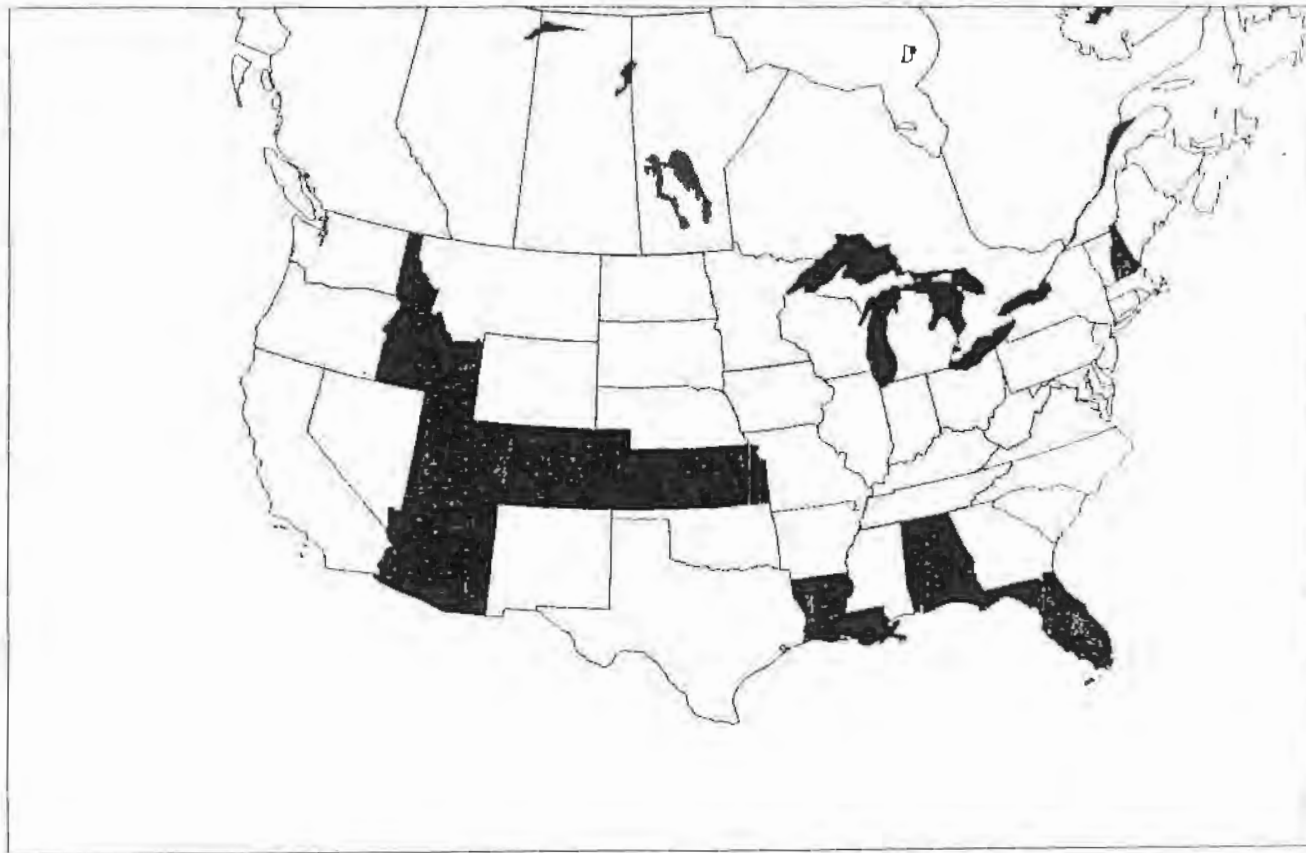
Under-represented

• Carpenters — Electricians — Plumbers — Painters — Laborers



# *Do Prevailing Wage Laws Effect Minority Wages?*

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# *Minority Workers Have Benefited from Prevailing Wage Laws*

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- *Controlling for age, schooling, craft and sex--in prevailing wage law states compared to no -law states*
  - *white construction workers earn 10% more*
  - *non-whites earn 10% more*
  - *blacks earn 11% more*

# *Critics--These Higher Wages Raise Public Construction Costs*

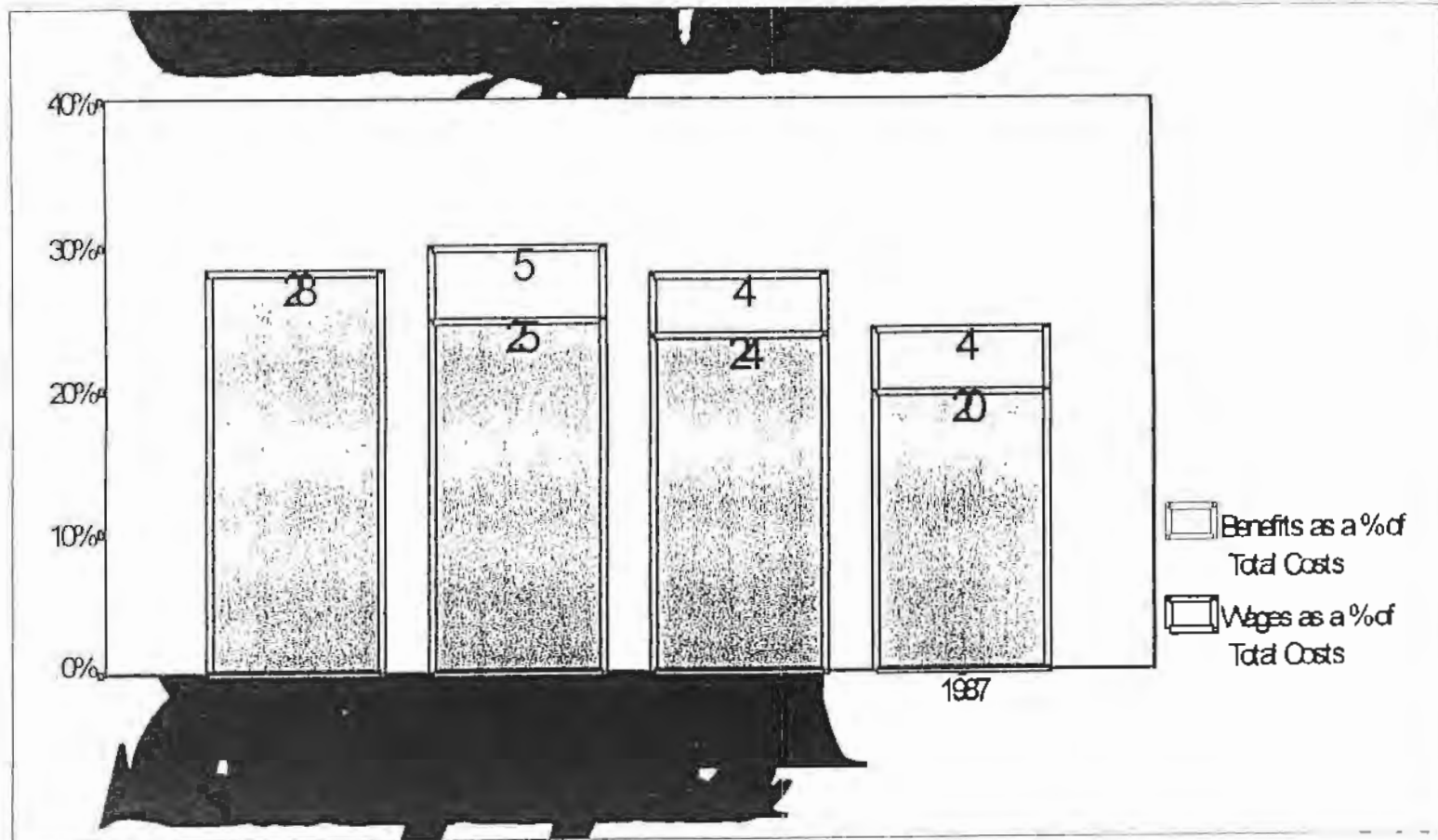
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■ *New Mexico Governor Gary Johnson (a merit shop contractor)*

■ *“...without the constraint of the Little Davis-Bacon Act, we could build four schools instead of three for the same amount of money.”*

- *State of the State Address, January 16, 1996*

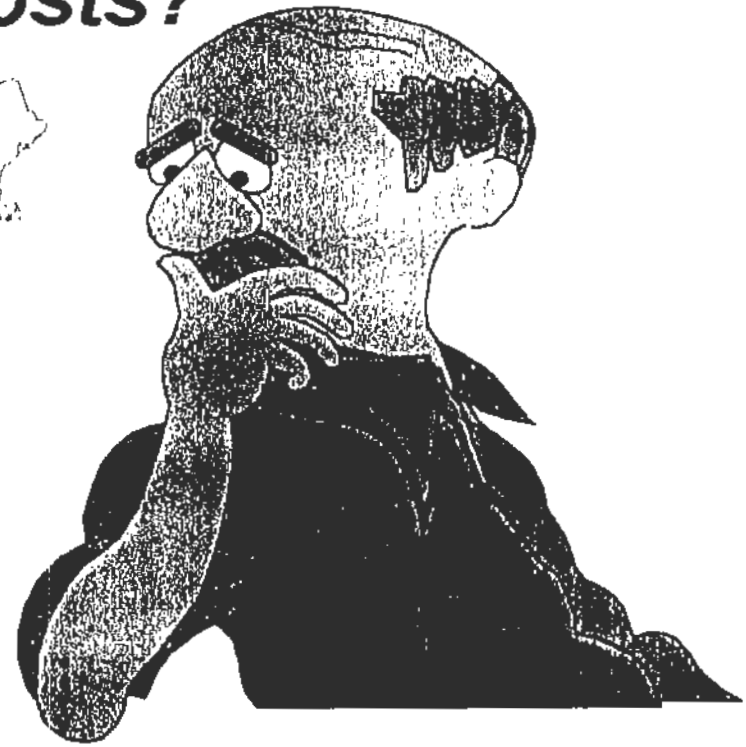
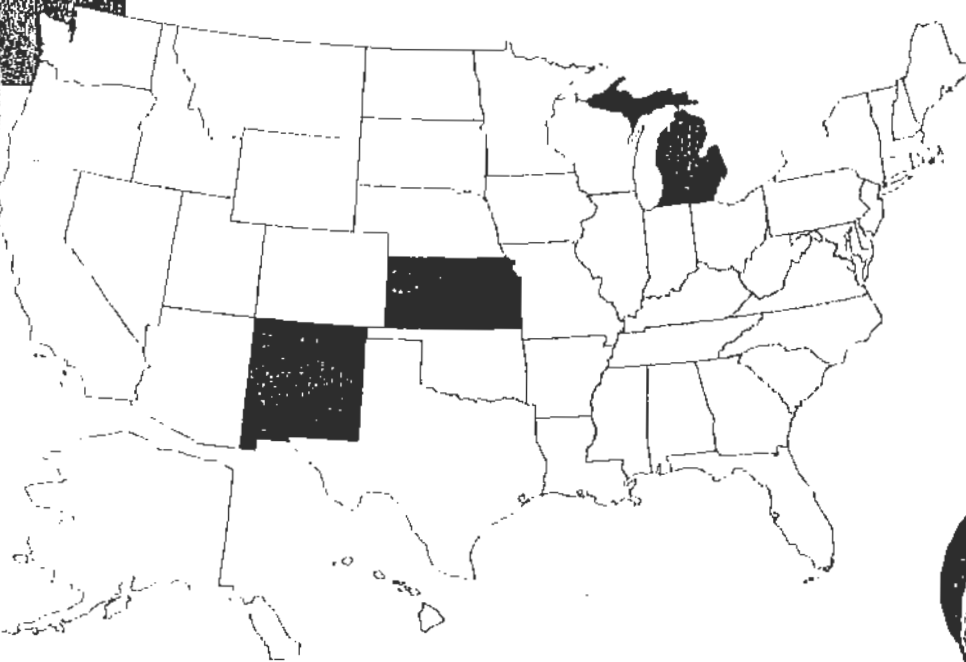
# One Little Problem: Everyone Has to Work for Free



# *New Mexico & Kansas Studies Plus a Michigan Analysis*

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## ■ **Do Prevailing Wage Laws Increase School Building Costs?**



# *Legal History*

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- ***New Mexico Has Had a Prevailing Wage Law Since the 1930s***
- ***Kansas--the First State to Pass a State Prevailing Wage Law, Repealed Its Law in 1987***
- ***Michigan Law Suspended Nov. 1994 to May 1997 (ERISA Preemption)***

# *Types of Analysis*

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- *Here versus There Cost of Construction*
  - *New Mexico v. Utah*
  - *Kansas v. Missouri*
- *Before and After Cost of Construction*
  - *Michigan with Law*
  - *Versus during Suspension*
- *Compare Inflation Adjusted Sq. Foot Cost*

# *New Mexico Study: Nine States Being Compared*

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**Dark States=No Law**  
**Gray States=Law**



# Study Results:



- For All School Types, Square Foot Construction Costs Were Cheaper in Prevailing Wage Law States

<b>Status of State Prevailing Wage Law</b> <i>(All 9 States)</i>	<u>Has P.W. Law</u>		<u>No P.W. Law</u>	
	<b>Count</b>	<b>Mean</b>	<b>Count</b>	<b>Mean</b>
<b>Structure Type</b>				
OFFICES	23	\$95	20	\$93
WAREHOUSES	12	\$61	8	\$96
ELEMENTARY SCHOOLS	116	\$67	59	\$73
MIDDLE SCHOOLS	76	\$66	28	\$77
HIGH SCHOOLS	31	\$70	22	\$81

# *Michigan Analysis: 1992-1998*

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- *Dodge Start Data= Accepted Bid Price*
- *Before and After ERISA Suspension*
- *Versus During Suspension*
- *Compares Inflation Adjusted New School Sq. Ft. Cost*

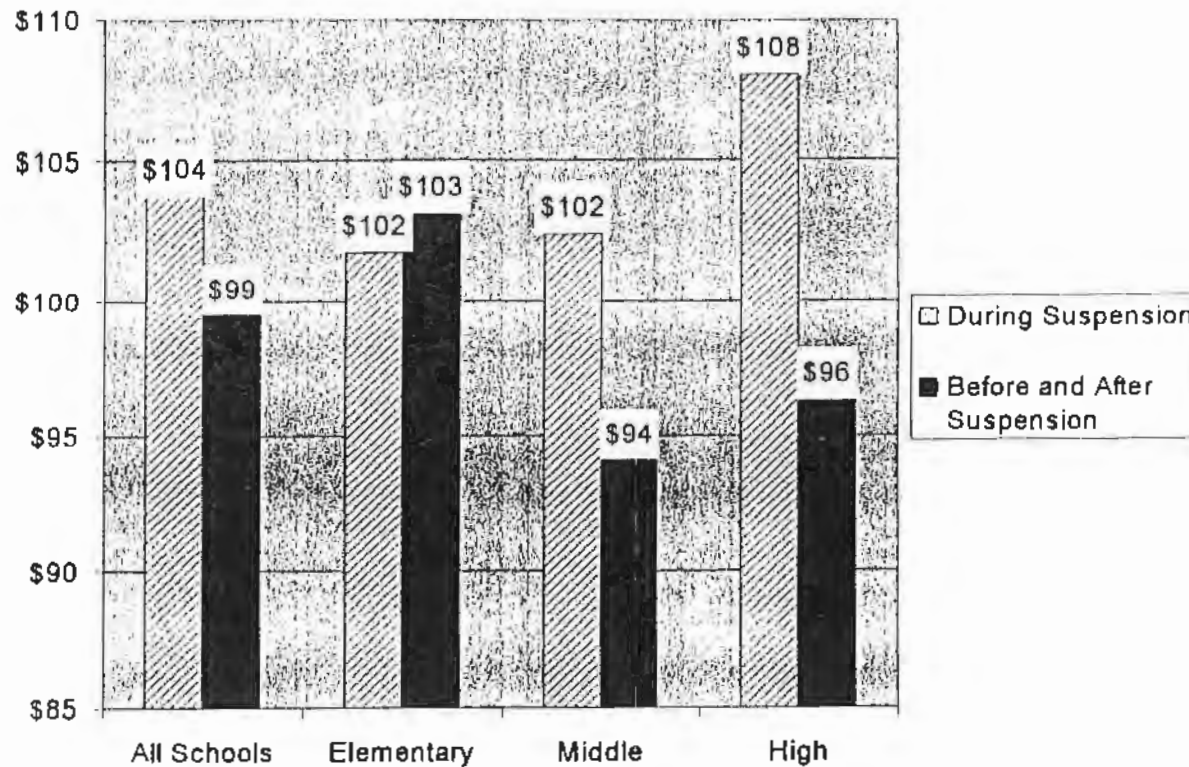
# *Real Square Foot New Construction Cost Before During and After ERISA Preemption*

Real Square Foot New Construction Cost Using the Consumer Price Index-Housing				
		ELEMENTARY SCHOOLS	MIDDLE SCHOOLS	HIGH SCHOOLS
Before Suspension	Mean	\$100	\$96	\$101
	Median	\$95	\$83	\$97
	Number of Schools	N=16	N=11	N=7
During Suspension	Mean	\$102	\$102	\$108
	Median	\$104	\$111	\$101
	Number of Schools	N=20	N=17	N=15
After Suspension	Mean	\$107	\$90	\$62
	Median	\$88	\$83	\$62
	Number of Schools	N=13	N=4	N=1

Years=1992 through 1998

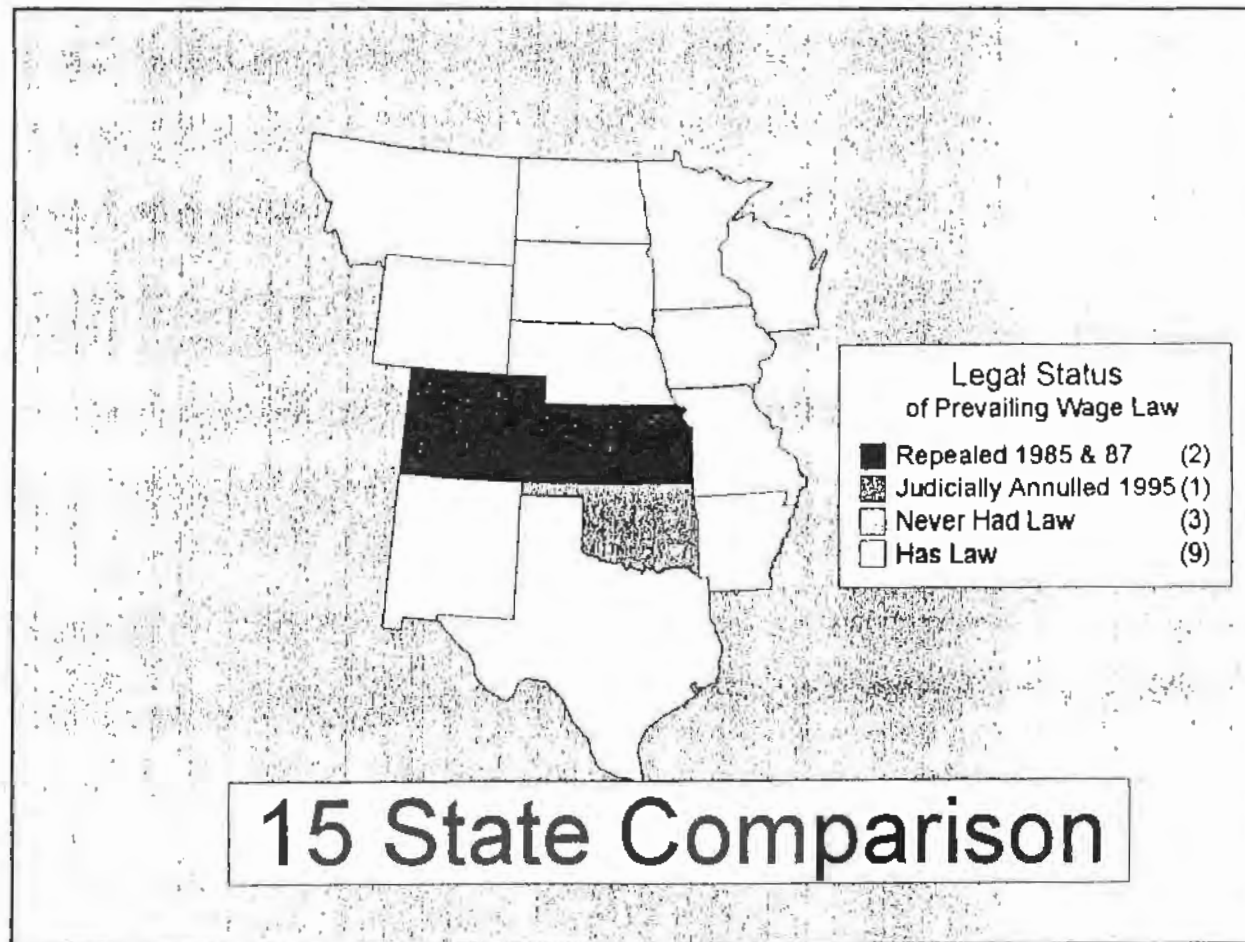
# Mean Sq. Foot Cost of New Schools During Suspension Compared to Before and After

Mean Square Foot Cost of New Public Construction



Note:  
None of  
These  
Differences  
in Means  
Is Statistically  
Significant

# *Kansas Study:* *11 States Being Compared*



# *Kansas Results for Elementary Schools: No Cost Difference*

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- *States with Prevailing Wage Laws*
  - *365 new schools*
  - *\$76.86 per square foot*
  
- *States without Prevailing Wage Laws*
  - *81 new schools*
  - *\$76.23*
  
- *Kansas (No Law) 18 new schools  
mean=\$83*

# *Kansas Results for Middle Schools: No Cost Difference*

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- *States with Prevailing Wage Laws*
  - *238 new schools*
  - *\$70.02 per square foot*
- *States without Prevailing Wage Laws*
  - *30 new schools*
  - *\$72.35*
- *Kansas 12 new schools mean=\$69*

# *Kansas Results for High Schools: No Cost Difference*

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- *States with Prevailing Wage Laws*
  - *187 new schools*
  - *\$72.87 per square foot*
- *States without Prevailing Wage Laws*
  - *35 new schools*
  - *\$70.72*
- *Kansas 9 new schools mean=\$66*



# *But while There Was No Gain, There Was Pain*

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- *Average wage rates in Kansas construction fell after repeal by 11%*
  - *inflation adjusted wages*
  - *across all construction--not just public works*
- *Surrounding states with prevailing wage laws, wages fell by 2%*

## *Benefits Fell by More than Wages*

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- *After repeal, total contributions by Kansas construction contractors to pensions and health insurance fell by 17%*

## *Shift from Collective Bargaining to the Merit Shop Creates Fall in Benefits*

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- *Virtually all union construction workers receive pensions and health insurance*
- *In Kansas, 10% of the merit shop construction workers are covered by a pension*
- *Only 4% receive health insurance from their merit contractors*
- *The 17% drop in overall employer benefit contributions is due to a shift from the covered to the uncovered sector of construction*

## *With Lower Wages and Benefits--Hard to Train and Retain Skilled Workers*

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- *The Merit Shop accounts for only 12% of all registered apprentices in Kansas construction*
- *Union contractors train 88% of apprentices*
- *Apprenticeship training in Kansas fell by 38% after repeal of the prevailing wage law*

# *This Is a Nation-Wide Problem*

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## ■ *Engineering News-Record Survey*

- *Top 400 general contractors and top 600 specialty contractors*
- *“The industry has known for the past decade that it was headed for manpower trouble...Nonunion contractors working in bustling areas appear to have the biggest manpower problems. For example, 56% of the union crafts ...have no labor shortages while only 10% of the open shop crafts have no problem.”*

## *In U.S. Collective Bargaining Accounts for 85% of All Graduating Apprentices in Construction*

(1)	(6)	(7)
	Share of All Graduates	
	Union	Nonunion
Electrician	76.7%	23.3%
Carpenter	92.3%	7.7%
Plumber/Pipefitter	81.8%	18.2%
Sheet Metal	81.5%	18.5%
Structural Steel	99.6%	0.4%
Roofer	92.3%	7.7%
Painter	95.4%	4.6%
Bricklayer	90.3%	9.7%
Operating Engineer	98.3%	1.7%
Other	89.1%	10.9%
<b>All trades</b>	<b>85.2%</b>	<b>14.8%</b>

# *Merit Shop Recognizes the Problem*

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- *Report commissioned by merit contractors Brown & Root, Fluor Daniel and HB Zachry*
- *“Clients have created a ‘playing field’ which forces contractors to undercut one another to obtain work. Combined with the fact that craftsmen are treated as expendable commodities, woefully inadequate training opportunities over the years, and alternative service sector jobs which are now available at competitive wage rates and superior benefits, it is easy to understand why large numbers of people aren’t knocking on the industry’s door.”*

## *But Outside Collective Bargaining, the Problem is Hard to Solve*

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- *Training, pension and health are long-term cost that do not have to go into today's bid*
- *Collectively bargained contracts force contractors to embed this long-term cost in their bids--so much for training per hour, etc.*
- *Without the discipline of a contract, each merit shop contractor is afraid his competitor will undercut him by excluding long term cost consideration in their bid.*



# *The Result Is a Construction Labor Force that Is:*

- *Younger*
- *Less Experienced*
- *Less Trained*
- *Less Productive*

Serious Injury Rates in Kansas Rose  
After Repeal by 21%

## *In Sum: After Repeal in Kansas*

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- *Wages fell by 10%*
- *Benefits fell by 17%*
- *Apprenticeship training fell by 38%*
- *Serious injuries rose by 21%*
- *But there were no measurable cost savings on public construction*