STATE AND MUNICIPAL DEBT: TOUGH CHOICES AHEAD

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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STATE AND MUNICIPAL DEBT: TOUGH CHOICES AHEAD

THURSDAY, APRIL 14, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. Darrell E. Issa (chairman of the committee) presiding.

Present: Representatives Issa, Burton, Platts, Turner, McHenry, Chaffetz, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, Kelly, Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Connolly, Quigley, Davis, Braley, Welch, Murphy, and Speier.

Also present: Representatives Sensenbrenner and Moore.

Staff present: Ali Ahmad, deputy press secretary; Thomas A. Alexander, Howard A. Denis, and Peter Haller, senior counsels; Robert Borden, general counsel; Molly Boyl, parliamentarian; Lawrence J. Brady, staff director; Sharon Casey, senior assistant clerk; Katelyn E. Christ, research analyst; Benjamin Stroud Cole, policy advisor and investigative analyst; John Cuaderes, deputy staff director; Adam P. Fromm, director of Member liaison and floor operations; Linda Good, chief clerk; Tyler Grimm and Ryan M. Hambleton, professional staff members; Frederick Hill, director of communications; Christopher Hixon, deputy chief counsel, oversight; Sery E. Kim, counsel; Justin LoFranco, press assistant; Mark D. Marin, senior professional staff member; Laura L. Rush, deputy chief clerk; Peter Warren, policy director; Kevin Corbin, minority staff assistant; Ashley Etienne, minority director of communications; Carla Hultberg, minority chief clerk; Justin Kim, minority counsel; Lucinda Lessley, minority policy director; Amy Miller and Alex Wolf, minority professional staff members; Leah Perry, minority chief investigative counsel; Jason Powell and Steven Rangel, minority senior counsels; Dave Rapallo, minority staff director; Suzanne Sachsman Grooms, minority chief counsel; and Mark Stephenson, minority senior policy advisor/legislative director.

Chairman ISSA. Thank you. The committee will come to order.

Before I begin, and I don't think that I have to remind the audience broadly, but I will, decorum will be maintained here so that our two witnesses, both seated Governors, are heard without any unreasonable interruption. If you agree with them, smile. If you disagree with them, smile. The fact is that this is about America hearing from two Governors who have a high responsibility to serve their States, and we have a high responsibility to hear them.

The Chair cannot allow any disruptions. And I appreciate that all those who came to get a message out did so before the gavel, and I appreciate that if you would like to remain, you can remain for the entire hearing; we are open to the public. But if there is any disruption, your seats will go to the people waiting outside, who also would like to be in attendance. This committee has a longstanding history of doing that on a bipartisan basis.

I now recognize the ranking member for unanimous consent.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I ask unanimous consent that Representative Gwen Moore of the 4th District of Wisconsin be permitted to attend in this hearing pursuant to Rule 11, Section 2(g)(2)(c), and ask questions of the witnesses.

Chairman ISSA. Per our rule, without objection, so ordered.

The Oversight Committee mission statement is that we exist to secure two fundamental principles: first, Americans have a right to know that the money Washington takes from them is well spent and, second, Americans deserve an efficient, effective government that works for them. Our duty on the Committee on Oversight and Government Reform is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers because taxpayers have a right to know what they get from their government. We will work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people, bring genuine reform to the Federal bureaucracy. This is the mission of the Oversight and Government Reform Committee.

Today's hearing continues the committee's effort to examine crises brought on by out-of-control spending and mounting debt at the State level. Now, let me assure you that is not to say every State is out of control, but virtually every State in the Union, and many localities, have increased their debt load at a time in which debt service is at an all-time low.

The American people are well aware of the fiscal crisis Washington faces on a national level. They are ready for Congress to cut spending, and even President Obama has lauded recent spending cuts championed by the House Republicans.

What is less known is the severe fiscal problem that some of our States and municipal governments face. Already this year our Financial Services Subcommittee, under the leadership of Chairman Patrick McHenry, has done a great service by highlighting problems created by some irresponsible spending. I thank Chairman McHenry for his efforts.

The facts we have learned from the subcommittee are telling. Currently, States face a combined budget shortfall of roughly $112 billion for fiscal year 2012, an amount equal to approximately one-fifth of their budgets. That, if nothing is done, will pile on more debt for the future.

The evidence why this has occurred is clear: since 1990, State and local government spending has increased 70 percent faster than inflation. When the recession hit, State and local tax revenues simply no longer sustained that growth.

Looming just around the corner, unfunded or underfunded pension liabilities pose a daunting threat to State municipal budgets. This burdens taxpayers with an estimated $3 trillion in debt. I say estimated because nobody knows the full exposure the taxpayers have due to the fact that the bond markets are not transparent and the reporting rules do not force adequate disclosure.

Additionally, as we have seen here, when we have talked about the correct amounts to be withheld for our postal carriers, we find that there is up to $6½ billion of discrepancy between two opposing sides on this issue. Indeed, over the past 20 years, State and local governments have promised to government workers that they knew they could not keep in some cases, hoping that future wealth would continue to propel them.

Today we have two Governors with us and we are pleased to welcome Wisconsin Governor Scott Walker and Vermont Governor Peter Shumlin. They come from two very different States: one larger, one smaller; one in the midst of a tough downturn that may in fact continue for a very long time as many of the core industries that have created wealth begin to change, and that transition may be long and painful. Vermont, on the other hand, a wonderful State filled with a great deal of industry that may be facing challenges today, but are likely to be slightly less systemic than what Wisconsin faces. This doesn't change the fact that both Governors are dealing with the issues of shortfalls in their own way, and today we look forward to hearing how they are going to retain the viability of their State long after their terms have ended.

Unionized Federal workers don't even have collective bargaining rights. Governor Walker's bold reforms seem reasonable to those of us in Washington who understand that our retirement and health care system at the Federal level is not subject to collective bargaining, but in fact it is based on a single system uniform throughout the Federal work force and not debatable as to withholding or as to the benefits. That is not to say that Federal workers don't have a good program; they do. But their program has been based on a long list of requests considered by Congress and funded.

So as we deal with Federal issues, hopefully we deal with State issues who, in many cases, have less room to maneuver, are looking for more room to maneuver, and believe that they can achieve it through changes in their laws.

Last, the insolvency of Portugal, Italy, Ireland, Greece, and Spain, most often called the PIGS, tells us that States within a greater union can in fact be a challenge for the union. The independent countries of Europe that belong to the European Union are more loosely configured than our own States. That means that if we have insolvency in three, four, five of our States, we have a greater challenge to our common Nation than does the European Union. And yet the European Union has been constantly trying to figure out ways to maintain these states within the European Union, help them bail themselves out, and in fact insist that they change policies that have gotten them into this problem.

We are not here today to intervene in the sovereign States that are before us; we are here to understand what they are doing in self-help.

With that, I recognize the ranking member for his opening statement.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I ask unanimous consent that the statement of the National Education Association, dated April 14, 2011, be admitted into the record.

Chairman ISSA. Without objection, so ordered.

Mr. CUMMINGS. Thank you very much.

Mr. Chairman, I strongly support efforts to help States continue their economic recovery and eliminate the budget shortfalls caused by the most severe financial crisis since the Great Depression. Many States have been forced to make significant cuts in their budgets; trimming critical programs that help our Nation's veterans, assist the developmentally disabled, supply health care services to the poor, and provide nursing home services to our seniors. These are difficult decisions and I have great respect for our Governors who are able to work with governmental and nongovernmental entities to develop innovative ways to preserve as many services as possible for their citizens, while making fiscally responsible choices.

However, I strongly oppose efforts to falsely blame middle-class American workers for these current economic problems. We know better than anybody else in this committee why those problems came about. This recession was not caused by them. Working America, firefighters, teachers, and nurses, and so many others, who are, in the words of Theologian Swindell, so often unseen, unnoticed, unappreciated, and unapplauded, are not responsible for the reckless actions of Wall Street which led to this crisis in the first place.

I also strongly object to efforts by politicians who try to use the current economic downturn to strip American workers of their rights. Mr. Chairman, we are a country who has consistently increased rights, not taken them away. As a matter of fact, if it were not for that principle, I would not be sitting here today, and the women in this Congress would not be sitting here today; the right to negotiate working conditions that are safe, the right to negotiate due process protections against being fired arbitrarily, and the right to negotiate fair pay for an honest day's work.

Today's hearing is a study in contrast. We are very fortunate to have with us two State Governors, Governor Shumlin from Vermont and Governor Walker from Wisconsin, and we are glad to have them. Both face budget shortfalls this year. But they approached the rights of workers in drastically different ways. Governor Shumlin of Vermont faced a budget shortfall, ladies and gentlemen, of about $176 million for fiscal year 2012. He negotiated with State employees, who accepted a 2-year 3 percent pay cut. Vermont teachers also agreed to work three additional years before retiring and to contribute more toward their pensions. And the Vermont State Employees Association voted to increase their pension contribution by 1.3 percent over the next 5 years.

In addition to obtaining these concessions, Governor Shumlin also did something else: he proposed spreading additional cuts across various State agencies as well as raising additional revenue through select surcharges and assessments. In other words, he developed a plan to spread out and share sacrifices across the State. And we should note that those employees went along with it because they too wanted to strengthen their own State's fiscal situation.

Governor Walker took a very different approach in Wisconsin. He faced a projected shortfall of $137 million in the current fiscal year. Within days of the Governor's announcing a budget proposal to address this shortfall, labor leaders in Wisconsin agreed to accept all of his financial demands. They agreed to increase their pension contributions more than twentyfold and they agreed to double their share of the health insurance premiums.

But Governor Walker did not accept these concessions. Instead, he went much further by attempting to strip government employees of their collective bargaining rights; he demanded numerous provisions that had nothing to do with the State's budget and had no fiscal impact. For example, he wanted to require unions to hold annual votes to continue representing their members and he wanted to prevent employees from paying union dues through their paychecks. Governor Walker refused to meet with union leaders and he declared publicly that he would not negotiate with them.

One of the big questions we will have of Governor Walker today is why did he not say yes to the unions when they agreed to meet all of his financial demands. And on a broader level, what is motivating this extreme effort to dismantle the unions themselves? In my opinion, it is shameful to play politics with American workers and their families. These are real people, middle-class Americans who are trying to put food on their table for their family, keep a roof over their heads, educate their children, and plan for retirement that does not burden their loved ones. We should be helping these workers, not attacking them, because they are the engine and the author of the American recovery.

With that, Mr. Chairman, I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Opening Statement
Rep. Elijah E. Cummings, Ranking Member
Hearing on "State and Municipal Debt: Tough Choices Ahead"
(as prepared for delivery)

April 14, 2011

Mr. Chairman, I strongly support efforts to help states continue their economic recovery and eliminate the budget shortfalls caused by the most severe financial crisis since the Great Depression. Many states have been forced to make significant cuts in their budgets, trimming critical programs that help our nation's veterans, assist the developmentally disabled, supply health care services to the poor, and provide nursing home services to our seniors.

These are difficult decisions, and I have great respect for governors who are able to work with governmental and non-governmental entities to develop innovative ways to preserve as many services as possible for their citizens while making fiscally responsible choices.

However, I strongly oppose efforts to falsely blame middle-class American workers for these current economic problems. This recession was not caused by them. Working America – fire fighters, teachers and nurses – are not responsible for the reckless actions of Wall Street, which led to this crisis in the first place.

I also strongly object to efforts by politicians who try to use the current economic downturn to strip American workers of their rights – the right to negotiate working conditions that are safe, the right to negotiate due process protections against being fired arbitrarily, and the right to negotiate fair pay for an honest day's work.

Today's hearing is a study in contrasts. We are very fortunate to have with us two state governors, Governor Shumlin from Vermont and Governor Walker from Wisconsin. Both faced budget shortfalls this year, but they approached the rights of workers in drastically different ways.

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Governor Walker refused to meet with union leaders, and he declared publicly that he would not negotiate with them. One of the big questions we will have of Governor Walker today is why he did not say "yes" to the unions when they agreed to meet all of his financial demands. And on a broader level, what is motivating this extreme effort to dismantle the unions themselves?

In my opinion, it is shameful to play politics with American workers and their families. These are real people, middle-class Americans who are trying to put food on the table for their families, keep a roof over their heads, educate their children, and plan for a retirement that does not burden their loved ones. We should be helping these workers, not attacking them, because they are the engine and the author of the American recovery.

Contact: Ashley Etienne, Communications Director, (202) 225-5051.

Chairman ISSA. I thank the gentleman.

The Chair now recognizes the distinguished gentleman, subcommittee chairman, Patrick McHenry, for an opening statement.

Mr. MCHENRY. Thank you, Mr. Chairman. Thank you so much for holding this hearing today and, Governor, thank you for being here.

Over the past 2 months, Congressman Quigley, who is the ranking member of my subcommittee, we have held hearings on State budgets and pensions, and their impact on the municipal bond market. Two essential questions immediately stood out: first, what is the true debt burden facing our States and municipalities, and, second, what must be done to mitigate the immediate crisis and put all forms of government back on a solvent, fiscal trajectory.

After holding hearings with scholars, State senators, rating agencies, and other parties about State budgets and pensions, we confirmed what leading economists are predicting and what we will hear from the testimony today, that 2012 will be one of the most difficult budget years for States and municipalities on record. Forty-four States and the District of Columbia are now projecting aggregate budget shortfalls totaling $112 billion for this year alone, and it only gets worse from here on out.

If that wasn't enough, there are unfunded pension liabilities upwards of $3.2 trillion for States and $383 billion for local governments, some of which is kept off of States' accounting books, representing trillions of dollars in shadow accounting. Today, some of my colleagues on the other side of the aisle will use the words like extreme, tax increases, and use those words repeatedly to describe what is either happening in terms of cuts or what is necessary to get out of this situation.

We are not facing a revenue problem, it is a spending problem. But, as always, the numbers don't lie. Since 1990, State and local governments have increased spending by roughly 70 percent faster than inflation. In addition to this unchecked reckless spending, the looming burden of paying out trillions of dollars in lucrative public pensions and health care benefits leaves State and local governments in dire straits.

I have stated before that there will be severe consequences if we are dishonest about the fiscal obligations before us and refuse to change course. The cost of inaction will be borne by the young teachers who are told that their cash-strapped school districts can no longer afford their retirement benefits because it must finance the exorbitant benefits of others.

Many public servants like firefighters and policemen, faced with the possibility that their vital jobs that they hold will no longer provide a standard of living for their families will simply choose another career. In the end, the people that we count on to teach our children and to protect our homes and our families will realize that their government has failed them and actively hurt their retirement security. We have an opportunity to change that.

Numerous States have seen the writing on the wall and decided to take action. In recent years, at least 15 States passed legislation reform some aspect of their pension system. For example, Governor Mitch Daniels of Indiana successfully reformed collective bargaining, leading to more efficient and effective government. Governor Walker has boldly set out to push through similar initiatives in Wisconsin. We have seen this in the national news.

Even in the face of extremely heated political attacks, Governor Walker has shown that he understands and has a genuine commitment to reform and to prevent this fiscal calamity. The Governor's proposals were recently welcomed by the bond market and Moody's said that Governor Walker's plan will have a positive effect on the credit rating of his State. In the end, that will mean less cost and less expense to his taxpayers in order to get lending.

Change is never easy. But if we wish to ensure an honest retirement for those teach our children or protect our families, and leave the next generation a country as economically vibrant as the one that we inherited, we must be serious about the problems we face. It is our responsibility to be fair to our current retirees and honor our commitment to them, while at the same time not punishing the next generation of America for today's free spending ways. It is only possible if we take the necessary steps before it is too late. It is not too late. We still have the opportunity for change, and that is what this discussion here today is about.

Moreover, in light of the hearings that we have had and the discussion we will hear today, I think it is important that taxpayers and the market generally have the transparency necessary to understand the fiscal situation States are in. Taxpayers deserve it, those that are paying into the pensions deserve it, and the American people broadly deserve that.

Thank you, Mr. Chairman, for holding this hearing and thank you for your leadership. I yield back.

Chairman ISSA. I thank the gentleman and I thank him for what his subcommittee on a bipartisan basis has been doing on this matter.

We now recognize his partner, the ranking member of the Subcommittee on TARP, Financial Services, and Bailouts of Public and Private Programs, Mr. Quigley, for his opening statement.

Mr. QUIGLEY. Thank you, Mr. Chairman. I would like to thank you for convening today's third hearing on State and municipal debt. I would like to thank the chairman of the subcommittee for his efforts in those first two committee meetings. I would also like to thank our six witnesses for contributing their time and expertise today.

Let me begin by saying in the end I do think we have a revenue problem, and the revenue problem at the local level was because of the economic downturn. It shrunk local governments' revenue dramatically, cities and States alike. So it was a revenue problem.

Now, that doesn't mean that you should raise taxes, because I understand where you are coming from, but raising taxes during a recession is a bad idea. But we have to recognize that in the end this was in large part a revenue problem.

So having addressed that, the other things we will learn in these hearings is that many States had these big challenges, and you don't have to tell me; I come from Illinois. Illinois failed to heed the Old Testament story that advised that one should save during the seven good years to survive during the seven lean years. While Illinois's current administration didn't dig the hole that it got, it has to move forward on substantive fiscal reform.

Illinois and other States in similar situations owe it to their taxpayers to fix their budget. If States like Illinois, New Jersey, and California don't get serious about reform, they will never be able to keep the basic promises they have made. Reform should be emphasizing, reinventing, streamlining government and adapting to changing times, but reform should not demonize public sector workers who have dedicated their careers to government service. While States have the right to make their own policy, I strongly support collective bargaining rights for public sector workers, but recognize that we have to work together, collectively, to solve these problems.

Collective bargaining rights didn't cause the recession, and curtailing them won't fix State budget deficits. What will fix State budget deficits are common sense reforms that restore budgets through a sustainable path. Consider public sector collective bargaining facts and figures. A simple calculation shows that States that allow public sector collective bargaining have an average projected 2012 deficit of 14 percent relative to their budget. Fourteen percent is big, but States that forbid public sector collective bargaining have projected deficits at 16½ percent. Either way you spin it, ending collective bargaining rights won't reduce budget deficits.

Workers have to play a role to meet these fiscal realities. It is obvious we have to reduce deficits and long-term debt, but we shouldn't take advantage of the economic downturn to achieve longstanding ideological goals. Public sector should continue to have collective bargaining rights and we need to work together to achieve responsible reform.

Soon I will be releasing Part 2 of a series of reports on reinventing our Federal budget. This reform will recommend over a trillion dollars in savings over the next 10 years. This report builds on Part 1 I released in November, but also on a series of reports I released as a Cook County commissioner. I bring this up because I remember how frustrating it was to try to achieve substantive reform at the local level. The truth is these same frustrations are present here in Washington. But we can't let those frustrations get the better of us. States like Illinois need fiscal reform. We need to streamline, consolidate, and reinvent government not because it is unimportant, but because its mission is so important; it is where the wheels hit the street. And if we can remember the true heroes of 9/11 were civil service workers. That is why we should restore these local governments to sustainability rather than tear them down.

Thank you, Mr. Chairman, and I yield back.

[The prepared statement of Hon. Mike Quigley follows:]

Opening Statement, April 14, 2011, House Committee on Oversight and Government Reform
Rep. Mike Quigley

Mr. Chairman, I'd like to thank you for convening today's third hearing on state and municipal debt. I'd also like to thank our six witnesses for contributing their time and expertise. This committee has held two hearings on this topic.

What we've learned in those hearings is that many states have big fiscal challenges. Illinois is one of those states: Illinois failed to heed the Old Testament story that advised that one should save during the seven good years to survive during the seven lean years.

While Illinois's current administration didn't dig the hole that got it there, it has to move forward on substantive fiscal reform. Illinois and other states in similar situations owe it to their taxpayers to fix their budgets. They also owe it to public sector workers who have been promised a secure retirement. If states like Illinois and New Jersey and California don't get serious about reform, they'll never be able to keep the basic promises that have been made.

Reform should emphasize reinventing and streamlining government, and adapting it to changing times. But reform should not demonize public sector workers, who have dedicated their careers to government service.

While states have the right to make their own policy, I strongly support collective bargaining rights for public sector workers. We have to work together collectively to solve these problems. Collective bargaining rights didn't cause the recession, and curtailing them won't fix state budget deficits.

What will fix state budget deficits are commonsense reforms that restore budgets to a sustainable path. Consider public sector collective bargaining. A simple calculation shows that states that allow public sector collective bargaining have an average projected 2012 deficit of 14 percent relative to their budgets. Fourteen percent is big, but states that forbid public sector collective bargaining have even bigger projected deficits at 16.5 percent.

Either way you spin it, ending collective bargaining rights doesn't reduce budget deficits. Workers may have to play a role in meeting these fiscal realities. But we shouldn't take advantage of the economic downturn to achieve long-standing ideological goals.

Public sectors should continue to have collective bargaining rights, and we need to work together collectively to achieve responsible reform.

Soon I'll be releasing Part Two of a series of reports on reinventing our federal budget. This report will recommend over a trillion dollars in savings over the next ten years. This report builds on the Part One report I released in November, and also on a series of reports I released as a Cook County Commissioner.

I bring this up because I remember how frustrating it was to try to achieve substantive reform at the county level. The truth is, those same frustrations are present here in Washington.

But we can't let those frustrations get the better of us. States like Illinois need fiscal reform—we need to streamline, consolidate, and reinvent government because, at the end of the day, the mission of local government matters. That's why we should restore them to sustainability rather than tear them down.

Thank you Mr. Chairman and I yield back.

Chairman ISSA. I thank the gentleman.

Members may have 7 legislative days in order to submit additional statements and extraneous material.

We would now like to recognize our first panel of witnesses. No one on this side of the dais, currently, can introduce them as well as their own members, so with that I would call on Chairman Jim Sensenbrenner to introduce his Governor.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman. It is my pleasure and honor today to introduce my friend and constituent, Governor Scott Walker. I first got acquainted with Scott about 20 years ago when he was starting to get active in Republican politics. He was elected 17 years ago to the State Assembly and in 2002 he won a recall election for chief executive or county executive of Milwaukee County. He was re-elected to two full terms as a Republican in one of the most Democratic counties in the country, and his political success has been based upon the fact that he tells people where he stands and, once elected, implements that. He faced some very tough times in Milwaukee County as a result of an outrageous pension scandal that his predecessor was at the heart of. He was able to pass nine county budgets or proposed nine county budgets without a tax increase, and this background allowed him to be elected as the 45th Governor of Wisconsin last fall.

Very few people here, I think, knew who Scott Walker was until the last 2 months or so. However, those of us who have known Scott Walker and his commitment to principle were really not surprised that the proposals that he made to close not $137 million budget deficit, but a $3.6 billion budget deficit through the end of the next budget period.

So, again, I am sure that you will find Governor Walker as interesting as we in Wisconsin have. He is a very polarizing figure, but those of us who love him in Wisconsin really thank him for the job that he has done.

Chairman ISSA. I thank the gentleman.

With all the people that Governor Shumlin could have had introduce him, he chose Peter Welch. The gentleman is recognized.

Mr. WELCH. Thank you, Mr. Chairman, Mr. Ranking Member, members of the committee that I proudly serve on. It is my pleasure to introduce Governor Peter Shumlin of Vermont.

First of all, a couple things about Peter. He is a private sector person. He and his brother established and expanded a very successful private business, Putney Student Travel, in Southern Vermont. He has been on the front line of creating jobs, of having to pay good wages and good benefits, and deal with the practical realities of keeping a business going day in and day out, expanding it, growing it, and being an employer.

He also served in our citizen legislature in Vermont for many years, first in the House of Representatives and then for several terms in the State senate, and Peter, as the president pro tem of the State senate, that is our senate leader, served more years as senate president than any other Vermonter in history, and that is 10 years.

So he comes to his job with legislative experience, with private sector experience, with the obligation to pay bills and make the trains run on time. He is now serving as Governor of Vermont, after being elected in this past election. Just to give you a sense of how Vermont operates, he won a primary with four other Democrats, and there were a recount because his original margin of victory was about 200 votes. During the recount, Peter and the four other candidates, rented a van, and while we were awaiting the outcome of who won, went on a unity tour around the State of Vermont talking together, rather than fighting each other during the recount. Every single member of five excellent candidates all said we trust our town clerks; just let them do the count and we will accept the result.

He also comes to the job with the benefit of the tremendous history that we in Vermont are proud of, a bipartisan tradition, and it embraces really two things: No. 1, we fight hard in Vermont, Republicans and Democrats, just like we do here, but in Vermont Democrats think that Republicans usually have a merit to their argument and Republicans think Democrats have something to say, and we actually do our best to listen to each other because both sides have enough humility to appreciate that, in fact, there is truth on both sides and we have to come together for the good of the State.

Just a little bit of background, we had a Governor Snelling, Richard Snelling, very respected and revered. We had a downturn in the 1980's. He did something with the Democratic Speaker of the House to try to adjust the fiscal situation, because we pay our bills in Vermont. We don't have a balance budget amendment, but we are cheap and we pay our bills, we are frugal. The Democrats agreed to cut programs that were really important to them, the Governor agreed to a temporary surtax because we needed some revenues. It worked out; we came into balance. The taxes went down and we were able to support our programs.

We then had Governor Dean in good times. He cut taxes. He is a Democrat. And when he did that, he implemented some tough budget reforms to make sure we didn't spend just because we had a surplus. We sent money back to the taxpayer and we put into place budget controls.

Peter Shumlin is carrying on that tradition. When we got into a fiscal situation, Governor Douglas, his predecessor, Republican, worked with the unions and said, hey, we have to share the sacrifice here. They negotiated pay cuts; they started looking at benefits. They sat down at the table and worked it out and there was a sense of common purpose, shared sacrifice, and that is the second approach that has been embodied in Vermont. If there is pain that has to be sustained, we have to share that pain together, and what it has done is helped us make progress even in tough times.

Peter, just to give you an idea, as senate president, when we had a large Democratic majority, he did something that you would get mentally tested around here if you did it; he appointed Republicans to chair major committees. So in Vermont the two principles are listen to each other, there is truth on both sides, and work together and share sacrifice when sacrifice is required.

So it is my pleasure to introduce Governor Peter Shumlin of Vermont.

Chairman ISSA. I thank the gentleman.

Pursuant to committee rules, all witnesses will be sworn in. Would you please rise to take the oath and raise your right hands?

[Witnesses sworn.]

Chairman ISSA. Let the record reflect that all witnesses answered in the affirmative.

Please be seated.

Gentlemen, we have Congressmen who come before us, Senators who come before us, and Governors come before us. Governors are always the best witnesses; they understand that the 5-minutes allows for the Q&A, that in fact your entire testimony will be placed in the record. To help you with this, you will see the typical green, yellow, and red lights. As my predecessor on the committee said, in all 50 States we know what red means. So, with that, I recognize—we didn't do a coin flip, so who wants to go first? Governor Walker.

STATEMENTS OF SCOTT WALKER, GOVERNOR, STATE OF WISCONSIN; AND PETER SHUMLIN, GOVERNOR, STATE OF VERMONT

STATEMENT OF SCOTT WALKER

Governor WALKER. Thank you, Mr. Chairman, distinguished members of the committee, visiting Members as well. Governor, it is good to be with you here as well; we got to know each other a little bit after the elections with the new training for new Governors. It is an honor to be here today.

As was mentioned by several in the testimony, we are not alone in Wisconsin; there are 44 different States and the District of Columbia that are facing deficits. In fact, in total, over $111 billion in total deficits ranging from 2 to 45 percent of their budgets. In our case, in Wisconsin, for the next biennial budget, which starts July 1st, we face a $3.6 billion budget deficit.

Now, Governors across the country, Democrat and Republican alike, are facing that challenge; in many cases, proposals that we have seen from one end of the country to the other, Governors cutting, in many cases they are cutting billions of dollars from aid to local government, school districts and others; and in turn what it is forcing in many of those States is one of two things, either massive layoffs or massive property tax increases, and in many cases, sadly, some of both.

In Wisconsin we have a different option, a progressive, in the best sense of the word, a progressive option. For us, we are giving State and local governments the tools they need not just to balance this year or for the next 2 years, but for generations to come; and that is important. Now, some here and other places around the country may say that is a bold political move, but I would argue it is a very modest request. What we are asking from government employees like myself is a 5.8 percent contribution for our pension and a 12.6 percent contribution for health care. That is protecting the middle class. That protects middle-class jobs and middle-class taxpayers. And if you ask middle-class workers in my State, they will tell you they think what we are offering is pretty reasonable.

I will give you a good example; I don't have to go too far for that. My brother David works as a banquet manager, part-time as a bartender; his wife works for a department store. They have two beautiful kids; one just turned 4 the other day. They are a typical middle-class family. When this debate first started, he said to me, you know, I pay some $800 a month for my health insurance premiums and the little bit I can set aside for my 401K. I would love to have a deal. I would love to have a deal like what you are offering. I hear that all across my State. When I go to plants and factories and small businesses and farms, they say we would love to have a deal like that because, on average, our middle-class taxpayers are paying about 20 percent of their health insurance premiums.

In fact, you all know this with Federal employees. Federal employees pay, on average 28 percent of their health insurance premiums. As the chairman alluded to, Federal employees, for the most part, do not have collective bargaining rights for benefits and ultimately for salary. Makes me wonder why the protestors are in Madison and Columbia, not right here in Washington, DC. You have to look at the facts; it is very clear out there. What we are offering is more generous than what you offer Federal Government employees, and yet the outrage is not here, it is in our State capital.

More important, though, than just the fiscal impact, because what we are talking about here ultimately saves $1.7 billion in State and local government spending over the next 2 years in our biennial budget. It is not the only way we are balancing our budget, but it is a piece of that. The other important element to remember is this makes government work better.

I can think of no better example than a young woman by the name of Megan Sampson, who a year ago was named the Outstanding Teacher of the Year, a teacher in the Milwaukee public school system at the time, and a week later she got a pink slip. She was one of the teachers laid off. Why? Because her collective bargaining agreement required a contract that protected a system that pays more than $100,000 in compensation, total compensation per teacher, with no contribution for health care, and ultimately has a system based on seniority.

Our reforms allows schools and other local governments to hire and fire based on performance and merit, paying for performance so we put our best teachers and our best workers up front. That ultimately is going to make things work better. It worked in Indiana, when Mitch Daniels did this 6 years ago. We have seen the government more efficient, more effective, more accountable to the public; and ultimately great workers were rewarded in that State and continue to be rewarded today.

The last thing I would just tell you is this ultimately is good for the economy and our State as well because, in the end, investors want to look at a State where the State and local government is stable. We are showing that Wisconsin is open for business. And the thing, I guess, the most important point I would bring up to you today is when you think about what we are doing, we are really making a commitment to the future. I have two high school sons; in fact, some of their classmates are here today from Wauwatosa East High School. Our proposals are about making a commitment to the future so our children don't face even more dire consequences than what we face today.

For more than 200 years, this country has been based on leadership, where leaders cared more about their children and their grandchildren than they did about themselves. It is time here in Wisconsin and across this country. We have leaders again who worry more about the next generation than the next election, and that is exactly what we are doing.

Thank you, Mr. Chairman.

[The prepared statement of Governor Walker follows:]

House Committee on Oversight and Government Reform
Testimony of Governor Scott Walker (R-WI)
Thursday, April 14, 2011

Chairman Issa and Distinguished Committee Members, I appreciate this opportunity to testify before you today and look forward to our discussion regarding the budget challenges faced by states across this nation, Wisconsin's current state budget deficit and our committed approach to putting our state back on the path to prosperity.

In nearly every state across America, Governors are facing major budget deficits. In fact, according to the Center on Budget and Policy Priorities, 44 states and the District of Columbia face shortfalls in Fiscal year 2012 totaling more than$111 billion and ranging from 2 to 45% of their total state budgets. In Wisconsin, we are currently facing a biennial budget deficit of $3.6 billion.

Many Governors, Democrat and Republican alike, are cutting state aid to schools and other local governments - which forces massive layoffs, massive property tax increases or both.

In Wisconsin, we are doing something truly progressive. In addition to holding the line on spending and finding efficiencies in state government, we are implementing long term budget reforms focused on protecting middle class jobs and middle class taxpayers.

While our idea may be a bold political move it is a very modest request of our employees. We are reforming the collective bargaining system so our state and local governments can ask employees to contribute 5.8% for pension and 12.6% for health insurance premiums. These reforms will help them balance their budgets. In total, our collective bargaining reforms save local governments more than $700 million each year.

Most workers outside of government would love our proposal. For example, my brother David works as a banquet manager and as a part-time bartender. His wife works at a local department store. They have two beautiful children. They are a typical middle class family.

He told me that he pays about $800 a month for his health insurance and the little he can set aside in his 401(k). Like many other workers in our state, he would love a deal like the one I offered government workers.

Over the past several months, I have visited numerous factories and small businesses across Wisconsin. On these tours, workers tell me that they pay anywhere from 15% to 50% of their health insurance premium costs. The average middle class worker is paying more than 20% of his or her premium. Like my brother, they would love a plan like the one we are offering.

Even federal employees pay more than twice what we are asking state and local government workers to pay and most of them don't have collective bargaining for wages or benefits. These facts beg the question as to why the protesters are in Wisconsin and not in Washington, D.C. By nearly any measure, our requests are quite reasonable.

Beyond helping to balance current and future budgets, our reforms will also make our government work better.

In 2010, Megan Sampson was named an Outstanding First Year Teacher in Wisconsin. A week later, she received a layoff notice from the Milwaukee Public Schools. So why would one of the best new teachers be one of the first let go? Because her collective bargaining contract requires staffing decisions to be made based on seniority.

Ms. Sampson received a layoff notice because the union leadership would not accept reasonable changes to their contract. Instead, they hid behind a collective bargaining agreement that costs the taxpayers more than $101,000 per year for each teacher; a contract which protects a 0% contribution for health insurance premiums; and a contract that forces schools to staff based on seniority and union rules.

Our budget reforms allow school districts to assign staff based on merit and performance. That keeps great teachers like Ms. Sampson in the classroom.

And it works at the state level too. In 2005, Governor Mitch Daniels reformed collective bargaining in Indiana. In turn, the government became more efficient, more effective and more accountable to the public. Governor Daniels even encouraged employees to come forward with ways to save taxpayer dollars and they responded. Eventually, the state was able to reward top performing employees. This is true reform – making government work for the people.

Since January 3rd, we passed some of the most aggressive economic development legislation in the country. And on nearly every measure, many Democrats joined with all of the Republicans and an Independent to vote in favor of the various pieces of legislation. The Wisconsin legislature recognized that we are growing, not Republican or Democratic jobs, but Wisconsin jobs. Together, we worked to show that Wisconsin is open for business.

But sometimes, bi-partisanship is not so good. During several of the past budgets, members of both political parties raided segregated funds, used questionable accounting principles and deferred tough decisions. This, along with the use of billions of dollars worth of one-time federal stimulus money for the budget two years ago, left Wisconsin with the current $3.6 billion deficit.

Our reforms allow us to take a new and better approach. Instead of avoiding the hard decisions and searching for short-term solutions, we make a commitment to the future. The choices we are making now in Wisconsin will make sure our children are not left picking up the pieces of the broken state budget others left behind. Our reforms create the lowest structural deficit in recent history ensuring our budget is stable for decades to come. Moody's called our budget proposal "credit positive" because of our dynamic efforts to reduce the structural deficit.

These changes do more than just balance the budget; they give small businesses the confidence they need to grow and invest in our state. Investors want stability and our budget provides long-term fiscal certainty for our state and local governments.

We live in the greatest nation on earth. For more than 200 years we've had leaders who cared more about their children and grandchildren than themselves – leaders who have demonstrated the courage to make decisions in the best interest of the next generation – and not just the next election. This is truly a concept that America has always admired, but many have now forgotten as we face our greatest challenge – balancing our budgets.

My hope is that our actions in Wisconsin will remind the rest of the nation what makes our country great, but more importantly my sincere hope is that by reforming our state budget for the long haul we will be sending a strong signal to job creators from around the world that Wisconsin is Open for Business.

Chairman ISSA. Thank you, Governor.
Governor Shumlin.

STATEMENT OF PETER SHUMLIN

Governor SHUMLIN. Thank you so much, Chairman Issa, Ranking Member Cummings. Thank you so much for this invitation today, to all members of the Oversight and Reform Committee, and particular thanks to my friend and Congressman, Peter Welch, who does an extraordinary job for us down here in Washington. Thanks for that warm welcome.

It is great to be here also with Governor Walker. As Governor Walker mentioned, we met at the baby Governors school out in Colorado, and I don't want to give you any ideas, any of you Congress people running for Governor, but if you do, you get to go to school. We had a wonderful dinner together, Governor Walker and myself and his wonderful wife, and we share common challenges. We are among the biggest class of new Governors in the history of America and we share a very challenging job. In fact, I said to Governor Walker earlier, I said, if they had told us at baby Governors school the message that we were taking over, we might have rethought it, but it was too late. But we are dealing with some really tough economic times, as you know. And to help make Governor Walker's trip to Washington more valuable, I brought a little bit of Vermont maple syrup down, Governor. I just want to make clear that we are the No. 1 maple producer in the country, Governor Walker is No. 4, and our syrup, it doesn't come any better.

Chairman ISSA. Governor, how did you get that through TSA?

Governor SHUMLIN. That is one of the advantages of being Governor. Governor Walker can tell you about this. No more TSA. That is how I brought the syrup down.

We are both facing the first 100 days, we have similar challenges, creating jobs and raising incomes of those that are earning less money in Vermont or, on average, the same money as they were earning 10 years ago. That is both of our challenges in our respective States and the other Governors share it.

Mr. Chair, I just want to directly address the question of what is causing this fiscal crisis that both Governor Walker and I find ourselves in. We know it is a result of the greatest recession in American history. The result for us is declining revenues and expanding expenses as we face higher unemployment rates, higher service calls, and the rest, costs and the rests. That is the challenge.

Now, without getting into how we got here, because I know that has been debated and we will save that debate for another day, I simply want to talk a little bit about what our challenge is as Governors to create jobs, economic opportunities, and balance our budgets. And when I look at it, I don't start with collective bargaining and I don't start with my public pensions; I start with the true costs. In Vermont, and this is true of most of the States in the country, health care is my biggest rising cost. I have watched health care costs in Vermont double over the last decade, from $2½ billion to $5 billion a year. In 2015 my banking insurance commissioner tells me Vermonters will be spending an additional $1.6 billion on health care, and that is the biggest cost in my State budget.

Now, what does that mean in real dollars? It means $2,500 by 2015, that is $1.6 billion, $2,500 out of every Vermonter's pocket, from those that were born yesterday to those at the other end of life, in a State where, on average, our people are making the same wages they were making 10 years ago. So I am going where the money is for both the State and the people of my State to grow jobs and economic opportunities. We are trying to get health care costs under control.

The second driver, believe it or not, is corrections. Our corrections budget has doubled in the last decade. Other Governors are facing similar challenges. So we are trying to go where the money is.

Now, I just want to talk a little about our experience with State pension and retiree health care obligations for State employees, because I think it really matters in this debate. What we have learned in this area is that there are steps that you can take to significantly reduce the cost to taxpayers without undermining traditional defined benefit plants, which most objective parties agree provide better retirement security, serve to retain quality employees, and are more efficient than a defined contribution plan. That is what we have learned.

How did we get there and how did we work together to get the job done? What we did—and I was then president of the senate with a Republican Governor and a Republican speaker—is we brought the unions together and we understood that it was going to be an example of shared sacrifice, and so did our State employees, as Congressman Welch suggested.

What did we get? In those discussions, the lesson we learned was that we get more with maple syrup than we do with vinegar. We brought them to the table, we talked it out, and here is the result: shared sacrifice, a 3 to 5 percent pay cut for all State employees, depending upon your range of salary over a 2-year period with no step increases; two, we got higher retirement contributions from our State employees; three, we raised retirement ages for State employees to help us with the problem; four, we reduced health care benefits to our State employees and some of our teachers; and, five, what this resulted in was a 25 percent reduction in our annual payment to pension funds and still have them fully funded.

So the point I am simply trying to make is you can get this job done, you can balance your budget, you can create jobs in your State without taking on the basic right of collective bargaining. Now, the reason I feel so strongly about that is I asked the question, Who got us into this mess and how do we deal with it? I can tell you, from my perspective as Governor, we just came through the toughest winter in about 20 years; lots of snow, lots of ice. Our plow trucks were out almost every day. We have eaten through our plowing budgets.

I have to tell you, I went out with a plow truck, as I am sure Governor Walker has done. We get out as Governors. And when I got behind the windshield of that plow truck in a driving snowstorm, with my plow truck driver, who was working seven or eight different levers with a 14-foot plow in front of that truck and a tractor trailer truck passing him on the right and some yahoo on the left, I have to tell you, in a full whiteout, working a 12 to 14-

hour day for about $14 an hour, that plow truck driver didn't get us into this mess. When I go and visit schools and I see the challenges our kids are dealing with, they didn't get us into this mess. My public employees didn't get us here. We have asked them to share the sacrifice in getting us out, but it doesn't mean that we take away collective bargaining, which is what made the middle class in America strong and the folks that are under assault in this recession.

So, in closing, Mr. Chair, I will simply say this: we have found, as I mentioned, that you can bring folks together around a table, compromise, get the job done, balance your budget, create jobs, be fiscally responsible; but you don't have to take on the basic principle of collective bargaining. You don't take on your firefighters, you don't take on your police officers, you don't take on your teachers; and you don't take on your hardworking employees; you work together with them with maple syrup, not vinegar. It works. Thank you.

[Applause.]

[The prepared statement of Governor Shumlin follows:]

Testimony of Governor Peter Shumlin, Vermont
House Committee on Oversight and Reform
April 14, 2011

Chairman Issa, Ranking Member Cummings, and members of the Oversight and Reform Committee, which includes my Congressman and friend, Peter Welch: thank you for the opportunity to testify today. Governor Walker, it's good to see you again. While we may have some differences on issues, we have some things in common, not least is that we are both wrapping up our first 100 days in office. I wish you the best as you continue your term.

I would like to start by directly addressing the question of what is causing the current fiscal crises that most of our states are experiencing. Put simply, these crises are the result of the greatest economic recession since the Great Depression. While we can save a debate over the cause of this recession for a different day, there is no doubt that my state and others like mine are facing significant budget shortfalls because our revenues are down and the need for government services is up. Thankfully, the economy is starting to show signs of improvement, and, while we will be left to deal with the impact of the recession for some time to come, the economic forecast is brightening.

In the long term, the most significant cost driver in Vermont is health care. We spend $5 billion on health care in our small state of 620,000, and that number is growing exponentially. Our other area of high spending is corrections, where we lock up too many non-violent offenders at a price that is high and growing.

Also on our list of long-term fiscal concerns is our state pension and retiree health care obligations for state employees. What we have learned in this area is that there are steps we can take to significantly reduce costs to taxpayers without undermining traditional defined benefit plans, which most objective parties agree provide far better retirement security, serve to retain quality employees, and are more efficient than defined contribution plans.

What is puzzling to me about the current debate about state budgets is that the focus has been not on bringing people together to solve common problems, like we have done in Vermont, but on division and blame.

I do not believe that those to blame for our current financial troubles are our law enforcement officers, firefighters, and other state employees whose services we take for granted. The notion that a state trooper making a middle class living with health care benefits for her family, or a snow plow driver who works long hours in dangerous conditions and makes a decent but modest wage, is responsible for this problem is simply false.

Does that mean that we shouldn't ask our state employees to do their part to get us out of our fiscal problems? Of course not – we can and should ask everyone to sacrifice, and we've done just that in Vermont. We negotiated a 3 percent cut in salary for all state employees, and those at higher income levels have taken a 5 percent pay cut, for two years with no step or other increases. With our public employees, we agreed to higher retirement ages for state employees and teachers, increased contribution rates, and ratcheted down retiree health benefits... all without lawsuits.

Our experience in Vermont stands in stark contrast with those of some other states in recent months. In fact, Vermont is an excellent illustration of what states can do when we put aside partisan differences, tone down heated rhetoric between labor and management, and work together for the best interests of our citizens.

Consider the changes to Vermont's Teacher pension and retiree health plans that went into effect this past July. The state's annual actuarially required pension contribution decreased by almost 25 percent right away. Long-term unfunded liabilities were reduced substantially. Several years ago, our state employees agreed to similar changes, with higher retirement ages and contribution levels. They have just agreed to another increase in their pension contribution rates starting in July.

These negotiations were long, difficult, and often tense. But they lacked the type of rancor and acrimony that we have seen recently in other places. What made the difference was the ability for both sides to give and take, not just take. I have often said that in Vermont, we find that we get a lot more with maple syrup than we do with vinegar. Maybe it's because we are a small state where we focus more on our similarities than our differences, but my sense is that if we can make these tough choices in Vermont, we can make them in other states as well.

Chairman ISSA. Thank you, Governor.

I will now recognize myself for the first round of questions.

Governor, the sign behind me, we don't normally point to the sign, it is just the title here today, but the last part where it says choice or necessity, the cuts you made, in cooperation with your various union groups of public workers, because probably, like most States, 80 percent of what you spend, you spend directly or indirectly on the people who work for the government. Was it a choice, was it a necessity to in fact find a way to provide essential services for less money and not go into deficit spending?

Governor SHUMLIN. It was a necessity in the respect that while we don't have a balance budget amendment, as Congressman Welch suggested, we have to balance our budgets to get the job done. So we made the choices that we do in Vermont because we really like our AAA bond rating. I am a business person. We want to be fiscally responsible, but we understand that we can't take care of the most vulnerable unless we balance our budget.

Chairman ISSA. Good.

I would like to ask Governor Walker the same question. We are rather in love with the title today, so why don't we get that answer out?

Governor WALKER. Well, I think in a rhetorical sense it certainly is necessary. But we have seen in the past, in my State's history, prior to us making these critical decisions right now, for many it was a choice, and the reason they failed to make the right choice is why we are here today, and that includes Democrats and Republicans before. For many, many years lawmakers and Governors in our State have failed to make the right choice, deferred tough decisions to the future. They raided segregated funds; they delayed payments; they used one-time Federal stimulus aid 2 years ago to balance their budget, and that is, along with the meltdown of the economy, largely why we and other States, I think, are facing major budget crises.

Chairman ISSA. Thank you, Governor. One of the reasons we titled today's hearing that way, knowing you would be here, is I happen to be from California, and we too, in our State, under Republicans and Democratic Governors, have been increasing debt while claiming to have balanced the budget. And I am an old businessman like Governor Shumlin. If your assets aren't, per se, going up and your liabilities are going up, you don't claim you are in balance; and that is a problem that I have seen in many States, and particularly my own.

Governor Shumlin, you mentioned one thing in your opening statement that was very interesting. You said a defined benefits plan is more efficient. I would be interested to see what efficiency do you get by having a plan which promises something in the future that no one can be sure of? Actuarials try, but obviously they often fail because you see these large adjustments. What is efficient about that versus knowing that an amount of money is going into a fund and that amount of money will be invested fairly and, in fact, will be available as it yields? Which one is more efficient from a standpoint of predictability?

And I am not talking about 401Ks or individual, I am saying, for example, trade unions in my State, if you are an electrical contractor, you can't control a contractor that hires you today versus tomorrow. So even though you try to be defined benefits, you are a defined contribution plan because you only get in the year in which you are employed as an electrical contractor from that company that is employing you, you only get that much money; and the next year you can't claw back the way your employees can claw back.

So why did you say that it was efficient? The efficiency question kind of lost me.

Governor SHUMLIN. Well, it is efficient for two reasons. The first is it gives the employee a guaranteed retirement plan. And I think there has been tremendous misunderstanding of that around the country——

Chairman ISSA. OK. And the second?

Governor SHUMLIN [continuing]. Which is that in Vermont, as an example, our average pension——

Chairman ISSA. No, I understand why it is more desirable for the recipient.

Governor SHUMLIN. Right.

Chairman ISSA. Here in the Federal Government we have a defined benefits plan.

Governor SHUMLIN. Right. The efficiency from my perspective——

Chairman ISSA. Yes.

Governor SHUMLIN [continuing]. As Governor, is simply that the returns for our investment, not taking a picture of it during the worst recession, but over time—and unlike General Motors, you don't go bankrupt, States don't go bankrupt; they never have and I believe bankruptcy has been greatly exaggerated——

Chairman ISSA. Well, it is not within the Constitution.

Governor SHUMLIN. Thank you.

Chairman ISSA. It gives you a choice.

Governor SHUMLIN. Therefore, we are held to a slightly different standard than a General Motors retirement plan, the point being the average return for us has been around 8½ percent, and it gives us the ability to efficiently deliver a predictable defined benefit for an employee who is often working for less than you would get paid for their lifetime——

Chairman ISSA. OK, I think I have your answer. I would like to get Governor Walker, along that line, why is that more efficient than knowing the amount that you give in a given year under the budget is the amount, and even if you invest it and you try to make the same returns, ultimately the State knows that the next year they are going to give a similar percentage? And like I say, the Federal Government has defined benefits, but why is that more efficient versus perhaps making sure that you budget without these ups and downs that come when the yield doesn't occur?

Governor WALKER. Well, I think when you look at benefits, be they in the public or the private sector, defined contribution is ultimately more efficient. That is not what I am advocating. In our case, just like you mentioned with the Federal Government, just like Vermont, we have a defined benefit as well, particularly for retirement with a pension. Although I think it is important to note what we are asking for is not changing the benefit itself; we are asking for people, again, myself included, to pay more as a contribution for the cost of that.

Representative Quigley talked in his opening statements about the State of Illinois. I think that is an important distinction. In Illinois, earlier this year, Governor Quinn and the legislature raised taxes on individuals and on businesses in a supposed attempt to balance their budget. Yet, today they have a pension system that is half funded.

We went the opposite way; we lowered the tax burden on job creators, we made it easier to do business in the State, we show that Wisconsin is open for business, and we have a pension system that is essentially fully funded. That is important because you get to the heart of this, that is why Illinois is in that category of California and others, because they failed to make the tough decisions to get their finances under control, and that is going to affect their economy.

Chairman ISSA. Thank you, Governor. As I recognize the ranking member, I just want to make one thing clear for the record. The Federal Government currently, for regular Federal workers, 28 percent of what goes into our health care benefits are paid for by the Federal worker. In the case of the Post Office, it has historically been 20 percent, but one of the major unions has renegotiated it to 25 percent. That is what is happening here centrally in Washington.

I recognize the ranking member.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

You know, the thing that I think stands out here is the fact that, and I say this to both Governors, that sometimes we may lose sight of and that is that, just like the postal workers, we had them before us a few days ago, they were able to shed 100,000 employees out of 700,000 in 3 years, and one of the things that they said is that they are Americans too, and they don't mind sacrificing.

And speaking of sacrificing, Governor Walker, when I listened to your testimony, you made it sound as if you had made very reasonable offers to the unions, but that they have been unreasonable by rejecting your offers. For example, you asked employees to contribute 5.8 percent for pension and 12.6 percent for health insurance premiums. You went on to say that most workers outside of government would love our proposal. You talked about your brothers and, like many other workers in our State, he would love a deal like the one I offered the government workers.

The thing that I did not hear, though, was that the unions agreed to double their share of the health insurance premiums and to increase their contributions to the pension system. That is not true? Well, what did they do? I want to hear what you have to say because I am reading an article from your local paper and I am just wondering what——

Governor WALKER. Sure. I will answer the question, Representative. Two of the statewide union leaders made a statement a week into the debate about suggesting that they thought they could accept that. In the weeks that followed, up until the bill was signed into law, nearly every local union that settled the contract settled it without a pension or a health care contribution. To me, actions speak louder than words. Those two statewide leaders could not speak for the unions and nearly 1,000 municipalities, 424 school districts and 72 counties. They are the ones who decide at the local level, and up until the bill was signed into law, they were not following the actions of their leaders. To me, actions spoke louder than words.

The other key difference here is we got into this trouble, and I acknowledge both parties in our State, Republicans and Democrats drove us into this by failing to make tough decisions. If we have a short-term fix, we just push the problem off to the future. What we give our permanent, long-term solutions the tools that State and local governments need, they can only get it if you make those sorts of changes. And in terms of workplace protections, Wisconsin has the strongest civil service protections in the country. That was passed more than a century ago. Those remain even with this new law in place. That protects grievances, that protects civil service protections in both hiring and firing decisions. All those protections remain even after these changes, Mr. Cummings.

Mr. CUMMINGS. Well, I am looking at an article from the Wisconsin Journal's Sentinel. I guess that is the local paper?

Governor WALKER. One of them.

Mr. CUMMINGS. In this article, Democrat State Senator Jon Erpenbach makes crystal clear that all the State and local public employees, including teachers, have agreed to the financial aspects of your proposal, and all they were asking for is that you not strip them of their collective bargaining rights. That is not accurate?

Governor WALKER. Again, that was the statement made by the statewide leaders. The actions they took after those statements, though, contradict those statements. If they agreed to the 5 and the 12, you would have seen in Janesville and La Crosse and all the other communities that settled contracts that they would have put their money where their mouth is and actually did that. That did not happen until after the bill was signed into law. So I think you are right about the story accurately explains what was proposed at the time, but in terms of what they actually did, their actions did not coincide with the statements of their statewide union leaders.

Mr. CUMMINGS. Did you ever consider dropping your collective bargaining demands? Did you ever consider that?

Governor WALKER. For us, to me, I was a county elected official for 8 years. We talk about shared sacrifice? Because my county faced a crisis, I gave, over those 8 years, $370,000 of my personal salary back. I made a personal sacrifice, just like I am going to pay for more for pension and more for health care as Governor of the State of Wisconsin. During that time I repeatedly met with my unions and asked them to make modest changes, modest changes in pension and health care contributions. In fact, 1 year I even asked them to consider a couple 35-hour work weeks in order to avoid massive layoffs, and every time the response I got from AFSCME was go ahead, lay four or 500 people off, we don't care. To me, that is why, when I talk about protecting the middle class, I am not just talking about middle-class taxpayers outside of government. Those middle-class workers that would have been laid off are people I represent as well, just like I do in the State of Wisconsin.

If I have to choose between massive layoffs or making these sorts of reforms, I would much rather stand on the side of protecting those middle-class jobs and protecting middle-class taxpayers, because, remember, the vast majority of people in the middle class in my State and across the country have been paying the bill for the expansive government year after year after year, and, to me, those are the people I am standing up to protect.

So you will never hear me speak an ill word throughout this entire debate, no matter what others may say out there, I have never said an ill word of any of the decent public servants who work, the 300,000 decent people in my State who work for both State and local government. I have great respect for them. I just know that in this together we have to make changes to make sure their jobs are protected into the future.

Mr. CUMMINGS. Thank you.

Chairman ISSA. I thank the gentleman.

The Chair now recognizes the chairman of the subcommittee, Mr. McHenry, for his round of questioning.

Mr. MCHENRY. Thank you, Mr. Chairman.

Governor Walker, I certainly appreciate your testimony. Governor Shumlin, thank you so much as well.

There is this discussion of tough choices. Now, when we are looking at what the government does, there are services that municipalities and States render to their people as a matter of collection of their tax revenue, whether it is local governments providing police and protection through the police or making sure that if somebody's house is on fire, you have a fireman show up. So there are tough choices between the services that the government provides and the obligations it has.

So, Governor Walker, can you discuss this challenge for a Governor who walks into a very tough budget situation, the challenge between do you continue to provide these services people expect, taxpayers expect, or do you continue providing a benefit for a select few, meaning you have a pension obligation, you have health care benefits and these types of things that the people that are getting the benefit are largely not paying to receive, and then you have the taxpayers who are footing the bill for that? Can you discuss that challenge?

Governor WALKER. Sure. Again, I will tell you not only as a Governor for the last couple months, for as a county official for 8 years prior to that, for us, we saw the distinction. We saw the challenge when, under the environment before we passed this bill into law, for local governments in particular, we were forced with the sacrifice like I faced or the problem we faced where, when we had a tough budget time, and we had it long before 2008 because of the pension scandal I inherited back in 2002, so we were dealing with this ahead of the curve even before the economic meltdown. When we tried to make, as I mentioned before, I think, some very reasonable changes when it came to what us, as government employees, paid for things like pension and health care, even some other adjustments temporarily as part of the work week, we did that for two reasons: one, to try and protect as many jobs as possible and, two, in turn, because those jobs provide services, to try and protect core services for the people we serve. That is essentially the impetus for me when I looked at the budget crisis we were facing going into the next 2 year cycle of $3.6 billion. I knew we had to make a fundamental change if we weren't going to go on the path that many other Governors across the country are, Democrat and Republican alike, where they are cutting billions of dollars from schools, from university systems, from local governments and other areas that affect all the things you mentioned.

And instead they are saying, OK, there are the cuts, now you either make it up through massive layoffs or you make it up through massive property tax increases. I said in my State I can't afford to have anybody, either in the public or the private sector, any more massive layoffs; I need more people working. We are changing the business climate. In fact, many of the issues Republican and Democrats alike, we brought together to pass legislation that made us one of the most proactive, pro-job agendas in the country. We had to do all that if we want to protect jobs.

By the same token, we know one of the other things that would cut down that recovery would be a massive tax increase. We saw it 2 years ago when my predecessor raised taxes on corporations and on individuals; we saw the jobs leave, we saw the exodus. We want those people to come back.

Mr. MCHENRY. And I understand competitiveness, especially in the Midwest, in terms of job creation, so there is competition on tax rates, obviously, right?

Governor WALKER. Absolutely. We love the fact that while our corporate tax rate is 7.9 percent, the effective tax rate in Illinois is now 9½ percent. We love that distinction because we want more people to come up to Wisconsin.

Mr. MCHENRY. Well, thank you. The other question I have is as opposed to a private sector pension, where those that are receiving the pension benefit are the ones that are affected by the changes, they are the only ones really affected, the difference with that and public sector pensions is that we, as taxpayers, have to foot that bill. So it is not simply a lie perpetrated to the recipient of the pension, saying perhaps too rosy a scenario on return on investment or underfunding these pensions, so on and so forth, it is also a lie to those taxpayers that have to foot the bill for those underfunded pensions or less than funded pensions.

So my question to you, Governor Walker, is do you believe that there is sufficient transparency and disclosure with public sector pensions today?

Governor WALKER. Oh, I think at both the State and local level, as well, there needs to be more transparency. One of the things we are the most proud about this budget is not only that we balanced the $3.6 billion deficit, but the fact that 2 years ago we had the largest structural deficit in State history. In my budget I present at the beginning of March to the State legislature, we reduced the structural deficit by more than $2 billion, a 90 percent reduction. It is where Moody's pointed out that they called it credit positive. When is the last time you heard anything called credit positive related to a government budget? They called it credit positive because we finally took control of what we should have been doing for years, and weren't from both political parties. That is incredibly positive. But the more people know about it, right now, actuaries and a lot of others pay attention to pensions and retirement systems. All of us should be because that is just deferring, in many cases it has been about deferring the problem to the next generation. We can't do that anymore.

Mr. MCHENRY. Thank you. I know my time has expired, but certainly those that are arguing now about public sector pensions, you have those that are saying these pensions are underfunded and it is bad, those are the optimists. Those that look at the pension system and say this is a calamity are the other side of the coin. No one is saying that public sector pensions are too well funded or even sufficiently funded. So thank you for your——

Governor WALKER. Well, and the one thing important to remember, I mentioned the Illinois-Wisconsin distinction, not only do they half fund it, but you have the speaker of the general assembly, a Democrat, a long-time union ally, spoke a month ago about the possibility of reducing the pension benefit itself. That is what happens when you don't take these issues seriously. That is not a Republican or Democrat issue; this is someone who has been a stalwart defender of unions who is now talking about, in Illinois the prospect of reducing the benefit. That, to me, would be unacceptable. We made a promise to our public servants about what the retirement benefits were going to be. We should protect that no matter what party we are in; we just have to fix it in the way in.

Chairman ISSA. Thank you, Governor.

We now recognize the former chairman of the full committee, Mr. Towns, for 5 minutes.

Mr. TOWNS. Thank you very much, Mr. Chairman.

Governor Walker, why do people in general, I have talked to people from your State, people just around the Nation, feel that your focus is on helping the corporations and basically the wealthy at the expense of the middle class and the poor? Why would they have that perception of you?

Governor WALKER. It would be erroneous. Maybe it is because they are watching some of the TV ads that groups from Washington played in the State of Wisconsin, because what we have done in the first month, first 2 months almost, Democrats voted for many of the measures we pushed through that create a better business environment in our State. Even the tax cuts we put in place were things like removing the State tax and health savings accounts, which isn't about corporations; it is about small businesses, it is about family farmers, it is about sole proprietorships. The incentives we put in for job creation were targeted specifically for jobs. So it is ultimately about the workers when a job is created and there is an incentive to do that.

The other things we did in our legislative package were all things that were about making it easier to do business in the State of Wisconsin. And in our budget the things that we are doing are about protecting jobs and protecting the middle class.

Mr. TOWNS. When you say make it easy, what do you mean by that, giving tax breaks to the big businesses?

Governor WALKER. No, we don't give tax breaks to big business. What we do is something that is targeted for small business and big alike. We have a specific job tax credit that if you create a job, there is a tax incentive in there, but it is tied specifically to job creation. So the person who benefits the most is the recipient of that job. If there is not a job there, they don't get a tax break.

Mr. TOWNS. What is the unemployment rate in Wisconsin?

Governor WALKER. We have a 7.4 percent unemployment rate. Still too high; obviously less than the national average. First 2 months of this year we have had about 13,000 jobs created in the private sector, about 8,200 new jobs in manufacturing, and next week we will put out our new job numbers and I think we are going to be well on the right path.

Mr. TOWNS. Did you have to lay off municipal workers or government employees in order to put your budget in place and to get the 13,000 that was increased? I am trying to get the real balance.

Governor WALKER. No, no, you are right. In our case, in putting this budget together, we actually avoided it. For the remainder of fiscal year 2011, the deficit of the budget put together by my predecessor, Jim Doyle, we had to make up about $137 million. We knew, to set the stage for the $3.6 billion deficit, we had to balance for the next 2-year budget we had to do a series of things. We made some other changes, some other reforms. So what we are talking about here today was one part of it; it saves about $1.7 billion over the next 2 years for both State and local government, but for State government the impact through the final couple months, through June 30th, which is the end of our fiscal year, was a $30 million savings. By getting that savings, we avoid having to lay off approximately 1,500 State workers. So we avoided layoffs that way.

Mr. TOWNS. Did you ever think about using maple syrup?

Governor WALKER. Well, I have some now. It is pretty good. It is not as good as the cranberry juice we make in Wisconsin, but it is pretty good.

Mr. TOWNS. Rather than using the vinegar.

Governor WALKER. Well, I have tried. As a county executive I tried for 8 years, and the unions basically told me lay off people, and to me that is just unacceptable. If you are truly for the workers, to me, in this economy, the last thing I want to do is see people laid off. And this was a much, much better approach.

Mr. TOWNS. Governor Shumlin, how did you get people to have a different attitude? I just don't quite understand why people in Wisconsin would think that way when Wisconsin is just like a lot of other States in this Nation.

Governor SHUMLIN. Well, thank you, Congressman Towns. I am sitting here listening to Governor Walker and I am sitting here realizing we all have similar challenges as Governors. Unlike Congress, we all have to balance our budgets. So the real question is what are we arguing about? And my point is if you want to go after collective bargaining, which I believe helped build this country, helped build the middle class that has been under assault in this recession, just come out and say it, I am going to go after collective bargaining. But if you want to balance your budget, you bring people in, you talk to them, you have a dialog.

I can guarantee you this, what Vermonters are looking for and what they expect is the same thing that they expect in Wisconsin and the same thing they wish for and expect in America: they want reasonableness, they want compromise, they want bright people working together to solve problems. And when you use vinegar, when you refuse to meet with unions, when you don't sit down and talk with them, when you take on an outright assault on a basic principle in a Democratic society, which is collective bargaining, the thing that my grandfather, when he got off the boat, and others now rely on and relied on to make a decent living, to come from a beet farmer to success in America, the thing that built our country, well, that is a different debate.

So I think really what we are talking about, because I sit and listen to Governor Walker talk about how he is approaching his challenges, all we Governors are doing the same things here, folks. The question is are you going to bring people together to solve problems or are you going to go after an assault on a basic principle in America, which is collective bargaining. I think we are trying to do two different things. If you want to go after collective bargaining, just come out and say, hey, we are taking you on. But don't try and blame the worst recession in American history on the need to go after public pensions.

I am listening to the question over here. You know, let's be honest about this. Taxpayers have always paid for a part of public pension retirement plans. This isn't something new, folks. This started with pensions, with asking public employees to give up economic opportunities that they might have if they did what I did and went into public sector and built a business and made a lot of money. In exchange for getting a lower wage, in exchange for less economic opportunity, they get a guaranteed $25,000, $22,000, on average, retirement once they are all done.

Now, it is not new news that taxpayers pay a portion of that and that employees pay the other portion. What is new is that in my State and Governor Walker's State we are asking the employees to pay more than they did before.

Chairman ISSA. The gentleman's time has expired.

Mr. TOWNS. Let me just say this, Mr. Chairman, in closing. Governor, keep using maple syrup.

Governor SHUMLIN. We are going to try.

Mr. TOWNS. Thank you.

Chairman ISSA. The gentleman from Utah, Mr. Chaffetz, for 5 minutes.

Mr. CHAFFETZ. Thank you.

Governor Shumlin, I would like to talk to you, if I could, about the pension plan in your State. I come from Utah. We have, I think, two things that have served us well. One is in our State constitution we have a balance budget amendment that has forced the issue to actually balance budget. No. 2, we have a defined contribution plan, as opposed to a defined benefit plan, and, consequently, our State has one of the lowest tax rates, business is thriving, and we have hundreds of millions of dollars in our rainy day fund.

Now, I went back and looked at the Pew study on Vermont and you actually are doing better than most States, funded about 92 percent. But explain to me. You had made a comment to the chairman here about the predictability of the pension program, and I want to talk about the health of that program, because I can't imagine that a defined contribution plan is not superior to a defined benefit plan because how do you account for that?

Governor SHUMLIN. Well, all I can tell you is that it served my and other States well that have used defined benefit plans, and that we have had over time——

Mr. CHAFFETZ. But the healthy over the course of time—if somebody told me they thought they were going to get an 8 to 8½ percent return, I said they are probably smoking those maple leaves. I can't imagine that you are getting 8 to 8½ percent return on that investment. Nobody is getting that kind of return right now.

Governor SHUMLIN. If you look at the averages for State pensions across the history of defined benefit plans, you will find that we get about an 8 percent return, on average. And obviously there are good years and bad years, but unlike General Motors, since we are not going bankrupt, you have to look at the averages, and that is what we have gotten. That is why Wall Street, when you——

Mr. CHAFFETZ. But do you think you are going to get that going forward?

Governor SHUMLIN. May I just finish, Congressman?

Mr. CHAFFETZ. Yes, but going forward do you think you are going to get that?

Governor SHUMLIN. We do. And that is why Moody's and the other bonding agencies allow us to assume that rate of return on our investments. We are not sort of making this up as Governors; that is what Wall Street requires us to do. It is based on history.

The second point that I think is really important, if you are a Governor, you have to deal with the real world, and the real world is if you were to move from a defined benefit to a defined contribution plan, hypothetically, it would cost you a ton of money in the first 10 to 15 years for the reason that the current employees help to support the pension obligations of the States in a defined benefit plan. If you pull the new ones out, you immediately have a higher up-front cost than you would otherwise because you have to support your existing defined benefit as you move to a defined contribution. So there are a lot of reasons why we Governors are not thrilled at the idea, and you are hearing this from Republicans and Democrats, this notion that if you just moved to a defined contribution, all our problems are going to be solved isn't in the real world for us Governors.

Chairman ISSA. Would the gentleman yield, very quickly?

Mr. CHAFFETZ. Yes.

Chairman ISSA. Governor, if you are fully funded, that is not true. If you are fully funded, you would be able to stop putting money in the moment you make the switch, because if you are fully funded, your 8½ percent would pay out all your benefits. So you can't have it both ways.

Governor SHUMLIN. We are adequately funded.

Chairman ISSA. Well, OK. As long as we understand that adequately is kicking the can down the road so that studies show that if you only got the rate of return of the Treasury, you would run out in 2023 with the current situation. You depend on a high return that you cannot bank on in your own statement.

I yield back.

Governor SHUMLIN. Well, if I can just finish. If I can answer that, Mr. Chair.

Chairman ISSA. It is the gentleman's time.

Mr. CHAFFETZ. Go ahead.

Governor SHUMLIN. If I can answer that, we don't make this stuff up as Governors. Both Governor Walker and I travel down to Wall Street to try and convince them that we are running sound economic States, that our bond rating depends on our economic future. We manage our retirement funds based upon the expectations of Wall Street. Now, Vermont is obviously doing that right since we have a AAA bond rating. One reason is that we use the actuarial projections that Wall Street gives us, which are higher than a Treasury return. And I am just telling you that if you really study this issue, you will find that Vermont is not doing anything radical here, we are doing what Wall Street expects us to do, and it is a higher return than the yield you would get on a Treasury yield, much higher.

Mr. CHAFFETZ. Governor, Chairman, as I conclude here, I don't want to go over my time, I really do think that a flashing red light for investors for this country, for the Congress, because we fully anticipate that States will try to be running back to the Congress to get—we can't even fund ourselves. We can't even manage our books here. I don't want the States to ever think the can come to the Federal Government to get a bailout. I think the States that have not made that difficult choice and made the difficult transition to a defined contribution plan are putting themselves in peril and at great risk. That is our experience in Utah. We made that difficult choice. It is on a more sound trajectory, and I think you will find that States who did make that effort and made that transition will be much more sound financially. That is my perspective of it. But I think it is going to be one of the big issues moving forward, Mr. Chairman.

I yield back.

Chairman ISSA. I thank the gentleman.

We now recognize the former mayor of Cleveland, Ohio, Dennis Kucinich, for 5 minutes.

Mr. KUCINICH. Thank you, Mr. Chairman.

Governor Walker, you said the union leaders agreed to the financial cuts, but then you blamed the local unions for not following through on these pledges. That is because you refused to drop your demand to strip workers of collective bargaining rights that had nothing to do with the budget, and refused to negotiate and rejected the unions' offer. Now, Governor Walker, if the unions in Wisconsin agreed to the financial cuts you sought, I don't understand how this can't continue to be characterized as a debate about State budget deficits. This is supposed to be a hearing about State and municipal debt. I don't understand how repealing collective bargaining rights for public workers shows us anything about State debt.

Let me ask you about some of the specific provisions in your proposal to strip collective bargaining rights. First, your proposal would require unions to hold annual votes to continue representing their own members. Can you please explain to me and members of this committee how much money this provision saves for your State budget?

Governor WALKER. That and a number of other provisions we put in, because if you are going to put in place a change like that, we wanted to make sure that we protected the workers of our State so that they had the right to know what kind of value they got out of it. It is the same reason we gave workers the right to choose, which is a fundamental American right, right to choose whether or not they want to be a part of a union——

Mr. KUCINICH. Could you answer the question?

Governor WALKER [continuing]. And whether or not they went up to $1,000——

Mr. KUCINICH. How much money does it save, Governor? Just answer the question.

Governor WALKER. It doesn't save any.

Mr. KUCINICH. OK.

Governor WALKER. In the same way that you——

Mr. KUCINICH. That is the point.

Governor WALKER. If you read the Federal budget——

Mr. KUCINICH. It obviously has no effect whatsoever.

Governor WALKER. I will answer your question.

Mr. KUCINICH. I am reclaiming my time. It obviously had no effect whatsoever on the State budget.

I want to ask about another one of your proposals. Under your plan you would prohibit employees from paying union member dues from their paychecks. How much money would this provision save your State budget?

Governor WALKER. It would save employees up to $1,000 per year they could use to pay for their pension and their health care contributions.

Mr. KUCINICH. Governor, it wouldn't save anything, or a minor administrative cost, if any. It is obvious what the real intent is here, and I will back it up.

Governor WALKER. It is to give workers a right. It is to give workers the right to choose.

Mr. KUCINICH. I will back it up.

Mr. Chairman, right here from the State of Wisconsin's Legislative Fiscal Bureau, this is a nonpartisan State budget agency much like the Congressional Budget Office, the Bureau was asked to identify provisions in the Governor's bill that are nonfiscal, nonfiscal policy items that have no State fiscal effect. This letter confirms the obvious, that Governor Walker's effort to repeal the rights of State workers is a nonfiscal, nonfiscal policy item; no effect on the State budget shortfall.

I ask unanimous consent that this letter be included in the record.

Chairman ISSA. Reserving the right, we will inspect it and plan to include it in the record.

Mr. KUCINICH. That is unusual you would reserve the right to object.

Chairman ISSA. The gentleman——

Mr. KUCINICH. I am claiming my time.

Chairman ISSA. The gentleman will suspend. Hold the time. We fully expect to include it in the record. Because it is not a publication that is widely distributed, we simply would like to receive it, and as soon as it has been quickly vetted during this hearing, it will be accepted. That is a consistent policy from both sides.

Mr. KUCINICH. I would like to respond.

Chairman ISSA. Yes.

Mr. KUCINICH. In the 14 years that I have been on this committee, I have never had a chairman reserve the right to object to putting an official document in the record that was central to the purpose of this hearing, determining whether or not you stripping collective bargaining rights, Governor, is a financial issue or not. It is not; it is a political issue. That is what I am proving.

Chairman ISSA. The gentleman is incorrect. Chairman Waxman did it repeatedly. In most cases, just as here, by the end of the hearing, items which were not part of widely distributed documents were accepted. I expect to do the same and I would work with the gentleman to get it done before the end of the hearing.

The gentleman may continue.

Mr. KUCINICH. Well, I just made it a matter of public record anyway.

The title of this hearing is choice or necessity. I think that what we have been able to demonstrate here is that the attack on collective bargaining rights is a choice, not a budget issue. There are budget issues as well that need to be addressed in Wisconsin. For example, according to the National Nurses United in U.S. States facing a budget shortfall, revenues from corporate taxes have declined $2½ billion in the last year. In Wisconsin, two-thirds of corporations pay no taxes and the share of State revenue from corporate taxes has fallen by half since 1981. That is published in The Nation by John Nichols. I won't ask to submit it by unanimous consent. Also, in The Real News Network, they have a report here that points out that the budget shortfall of $137 million in Wisconsin could have been covered if the State had just kept going its State legislated an estate tax, which they let expire after 2008. Also points out that if they had gone to collect the estate taxes from their wealthiest citizens, they could have paid down the debt.

Now, I just want to say, in conclusion, Mr. Chairman, that we really are here at the center of a great debate over the purpose of government. Whether there is such a thing as a public sphere with public servants who perform duties on behalf of the public, using resources that belong to the public, or is government going to be auctioned off to the highest bidder, to corporations who privatize and, inevitably, drive up the cost of government, drive up the cost of services, drive up taxes. That is where this debate is headed nationally. I think that Governor Walker has inadvertently done a public service by exposing the extent to which this mind-set of privatizing what is the public sphere, bringing this issue to the forefront.

So thank you for being here, both Governors.

Chairman ISSA. I guess that is a thank you.

The Chair now recognizes the gentleman from Oklahoma——

Mr. KUCINICH. Thank you, Mr. Chairman.

Chairman ISSA [continuing]. Mr. Lankford, for 5 minutes.

Mr. LANKFORD. Thank you, Mr. Chairman.

And thank you, both Governors, for taking away your time to be able to be here with us.

Governor Shumlin, I want to be able to do a point of clarification. You began your oral statement talking about how you didn't want to balance the budget based on the backs of those great employees, and I do concur, we have some terrific Federal employees as well, but the employees as well by dealing with benefits; you wanted to go after the real crucial issues. But then you ended your statement by saying but in the previous Governor's time, they did deal with payment pensions, retirements, all those things. So while you are not starting your time, you did say but we have just dealt with that few months ago, is that correct?

Governor SHUMLIN. It has been an ongoing effort. Both the previous Governor, Republican Governor—don't forget, I was president of the senate——

Mr. LANKFORD. Correct.

Governor SHUMLIN [continuing]. So I actually helped negotiate the——

Mr. LANKFORD. Correct.

Governor SHUMLIN [continuing]. With the speaker, the agreement with the teachers union.

Mr. LANKFORD. I was just trying to provide some clarification because you were talking about you didn't want to do that on the backs of workers at this point. You sought corrections and you saw health care as a major issue, but you just dealt with some of the retirement issues recently as well.

Governor SHUMLIN. I don't mean to suggest that we did not ask our State employees to make sacrifices, we did and they did.

Mr. LANKFORD. Great.

Governor SHUMLIN. All I am suggesting is that we did it by bringing them to the table.

Mr. LANKFORD. Sure. OK. So it is just the method on that side in the cooperation that the others had with all the leadership as well. Obviously, it takes two to tango on that one, as well people to be able to come together.

Let me ask you a quick question. Do you think the Federal Government should be involved in bailing out States when they have debt issues? Is there a point in time that you say this State is so far in debt and so far out of balance the Federal Government should step in and bail them out?

Governor SHUMLIN. That is a question I am going to leave to you. That is why I never want to run for Congress.

Mr. LANKFORD. Actually, that is a question I am asking you because, as a Governor, you obviously represent the intents of a State.

Governor SHUMLIN. I will answer it this way. I don't think you are going to have to. And I think that the case for the bankruptcy of States is greatly exaggerated for political reasons. When I go to Wall Street and I say, hey, as I did a few weeks ago, we are in pretty good shape in Vermont, Wisconsin is in pretty good shape, tell us about some of the States we are really worried about, California, New York, Illinois, and others, and they say, this is Wall Street speak and the rating agencies, we think that the case is being exploited for political reasons; that there are not States that need to go bankrupt.

Mr. LANKFORD. Right.

Governor SHUMLIN. That we are going to see our way through this and that the case for pension crisis is being overstated by Washington.

Mr. LANKFORD. OK.

Let me ask the same question to Governor Walker. Do you think the Federal Government should bail out individual States?

Governor WALKER. No.

Mr. LANKFORD. Let me ask a followup question to both of you, as we have time, and that is are there things we are doing as a Federal Government that drives up your cost as a State? What I am looking for and what my committee has been dealing a lot with are unfunded mandates, things that say I would like to get my budget under control, these things I can manage, these things I cannot because the Federal Government has these set of requirements. Are there things we are doing to cause you more debt and more problems in spending?

Governor WALKER. I see I have 2 minutes. There is no way I can answer that question in 2 minutes——

Mr. LANKFORD. I will allow your staff to submit all you can for the record on that.

Governor WALKER. No. 1 thing you could give us, block grant Medicaid.

Mr. LANKFORD. OK.

Governor WALKER. If you give us a block grant for Medicaid, that is—I had to put $1.2 billion more of general purpose revenue, that is State aid, State funding, into this next budget even though I had to cut everywhere else. It is the biggest part of my budget growing; it is the biggest challenge out there. We have maintenance of efforts that require us to maintain things by the Federal Government when we have other things that would work better to manage those costs. We need to get to a point—we have led the country, places like Gunnerson, Luther have been ahead of the curve when it comes to the idea and concept of medical homes, paying for performance, paying for outcome, not paying for procedure. If we had that option, I think any of us——

Mr. LANKFORD. Now, you are aware that—I am also on the Budget Committee—when we brought up that idea, we have been told that the Governors will certainly kick people out of nursing homes and they were ruthless to their populations, and you can't be trusted with any of these funds.

Governor WALKER. Well, that argument was made back in the 1990's when my good friend, Tommy Thompson, was Governor and he pushed welfare reform. Bill Clinton ultimately embraced that welfare reform and, in the end, States were given block grants. All those same sorts of charges were made back then and, instead, we had some of the most successful welfare reform during that generation. We can do the same thing now.

Mr. LANKFORD. Governor Shumlin, are there areas that we are doing as a Federal Government that is causing you pain as far as on the financial side?

Governor SHUMLIN. Yes. And just in terms of Governor Walker's response, we are all concerned about health care costs, Medicaid and Medicare. The only thing I would caveat with is just a block grant makes me nervous because as our populations grow older, which is happening in all of our States, as costs and utilization goes up, I don't want it to be an excuse for the Federal Government to get out of its obligation on sharing cost and saying, hey, we are giving you a block grant, you are on your own, if utilization goes up, it is your problem. So how that flexibility gets translated is really important to us; the details matter.

Second, another big driver for us is education costs and No Child Left Behind, and there is no question that those mandates are driving education expenses in our public schools, requiring us to teach to a test, and requiring extraordinary paperwork of teachers, when they could be teaching.

Mr. LANKFORD. Thank you very much.

With that, I yield back.

Chairman ISSA. I thank the gentleman.

We now recognize the gentleman from Iowa, Mr. Braley.

Mr. BRALEY. Thank you, Mr. Chairman.

My name is Bruce Braley, and I am proud to be a public employee. In fact, Governor Walker, when you were a 6-year-old growing up in my district in Plainfield, Iowa, I got my first job as a public employee with the Poweshiek County Conservation Board, and I learned how to clean toilets and I learned how to mop floors and scrape gum off the bottom of school desks, and I also worked out in the blazing sun building bridges on farm-to-market roads, driving an ax into spikes into creosote-treated lumber; and 1 day on the job my left hand caught on fire. So I know a little bit about what public employees do.

You mentioned the TV ads that groups from Washington ran against you, and yet you, yourself, had a large amount of support from secret donor groups like the ones that attacked me in my campaign. Are you willing to go on the record here today and denounce the influence of outside secret money in political campaign ads?

Governor WALKER. I thought the purpose of today was to talk about debt and——

Mr. BRALEY. Well, let's talk about that. You ran campaign ads on the principle of good government, and I thought that is what we were here to talk about today. In fact, you ran a campaign ad called Real Leadership, and when the campaign ad ran, it says your focus was bringing people together to solve problems. Do you remember that ad?

Governor WALKER. Yes. And I would argue if you want me to— you asked me a question and I say I remember it, and that is exactly what I did——

Mr. BRALEY. OK, you have answered the question.

Governor WALKER. In my first month and a half, when Democrats and Republicans came together to push economic development——

Mr. BRALEY. Excuse me. This is my time, Governor.

Governor WALKER. Well, you asked me a question.

Mr. BRALEY. You answered my question. I asked you if you remembered it.

Governor WALKER. If you want to do a political stunt, go ahead.

Mr. BRALEY. I am not doing a political stunt. I think if Dr. Phil were here, he would say how is that working for you?

You also ran an ad called Yes, We Can, and you said working together we can put government back on the side of the people again. You also ran an ad called Make it Right, talking about scandal benefiting politicians. You ran all those campaign ads.

Well, this is your chance to make it right. Are you ready to apologize to the people of Wisconsin for hiring the 27-year-old son of one of your major campaign donors, who is a lobbyist, and that individual had no college education, very little managerial experience, and had two drunk driving convictions and was hired for an $81,000 a year job, when you obviously had better qualified applicants? Are you ready to make an apology today to the people of Wisconsin? That doesn't sound like good government to me.

Chairman ISSA. The Chair will ask the gentleman to suspend. Please turn off the clock.

The Chair would remind all participants, although Members here at the dais have a right to speak for 5 minutes and say anything they want and we will consider it germane, our witnesses are only asked to respond to items which they came here prepared to respond to that are consistent with the subject of the hearing. So it is for the witness to decide whether a question is germane, while in fact Members here have an almost unlimited right to say what they want to say during their 5 minutes.

The gentleman may continue.

Governor WALKER. When I grew up in Plainfield, at least for the years I lived there, and Chuck Grassley was our State assemblyman back then, there were good, decent people, many of whom were farmers, many of whom were deacons at my father's church, who recognized when times were tough, you had to make tough decisions, particularly when times were tough in the finances of the church, and that is exactly what we are doing. You may not want to talk about that, you may want to talk about anything, and I will answer your question about the 27-year-old.

Mr. BRALEY. I would be interested in your answer because that is the question the people of Wisconsin want to hear today.

Governor WALKER. Well, I am glad you are interested in the people of Wisconsin——

Mr. BRALEY. I am.

Governor WALKER [continuing]. Because that person was five levels below me. When that hiring was brought to my attention, I and my staff go back and have that person taken out of that position, and I acknowledged the fact that there were more qualified people and I asked someone else to be put into that. So that is the answer to your question.

Mr. BRALEY. Well——

Governor WALKER. Now, would you look at——

Mr. BRALEY. I am reclaiming my time.

Governor WALKER. Well, if you don't want to hear the truth, then keep it up.

Mr. BRALEY. The Milwaukee Journal, Mr. Chairman, has written an article about this and noted that two of the highly qualified candidates for that administrative post were Oscar Herrera, a former State cabinet secretary under Republican Governor Scott McCallum, who had a doctoral degree and 8 years of experience overseeing the cleanup of petroleum-contaminated sites. The second, Bernice Madison, was a professional engineer who served since 2003 in the post to which Mr. Duchenne was appointed and had 25 years of experience in State government.

And since the whole focus of this hearing is on good government practices and how that affects the debt that States have, I think it is time that we got some straight answers from the people who are radically reforming State governments, and that is why this is so important. And I would ask the chairman to hold a hearing, and I have a letter for the chairman, since we have broad jurisdiction, according to the committee's Web site, to look into the other factors that are impacting State budgets, including cronyism in State government. And I have a letter to the chairman to that effect. I ask unanimous consent for the article from the Dubuque Telegraph Herald titled, Walker Insults Young Worker With Cronyism, published on April 11, 2011, to be made a part of the record. And I yield back.

Chairman ISSA. Without objection. The gentleman yields back.

[The information referred to follows:]

Telegraph Herald (Dubuque, IA)

April 11, 2011 Monday

Walker insults young workers with 'cronyism'

BYLINE: the TH Editorial Board

SECTION: A; Pg. 4

LENGTH: 631 words

where we stand Walker's attempt to make it right feels like a slap in the face to the unemployed. When the people cried "cronyism," Wisconsin Gov. Scott Walker reacted. Walker swiftly reversed the promotion of a 27-year-old son of a lobbyist whose appointment to an $81,500 administration job sparked complaints.

Now he only makes $62,000. Actually, Brian Deschane never reported to the job where he was reassigned and has reportedly resigned. That's probably for the best. To the many Wisconsinites (and Americans in general) who are unemployed or underemployed, the demotion wasn't going to "make it all better." It's clear Brian Deschane got the job in the first place because of his father, Jerry, a well-connected lobbyist and contributor to the Walker campaign. Deschane the younger has been twice convicted of drunken driving, has no college degree and has little management or other relevant experience. That resume led Walker to promote him to a division within the Commerce Department that oversees environmental and regulatory matters and dozens of employees. When he got called on it, Walker sent the young man back to his old job, where he still would have collected a handsome salary. It's particularly frustrating when you consider the number of 20-somethings out there looking for work, trying to break into a career field in these difficult times. It's an insult to the talented pool of young workers Wisconsin has to offer. By demoting him, Walker basically admitted the hire was the result of Deschane's father's connection. That obvious cronyism is not easily remedied, but firing him would have been a good start. Deschane has apparently bowed out himself. But that doesn't make Walker look any better. Iowa Gov. Terry Branstad's support of a state board to handle public-information complaints was qualified last week when Branstad said his office would be exempt from oversight by the panel. Branstad has said he would sign legislation creating a Public Information Board to help enforce the state's open meetings and open records laws. But Branstad told the Daily Iowan that the panel would not review his office. "The chief executive should not be subject to having people harass him all the time by filing all kinds of accusations and things like that," he said in an interview. Ouch. It's going to be hard to get other governmental officials on board with this if that's the way it's depicted, as a form of "harassment." Creating such a panel is important because currently there is little effort put toward enforcing the laws that require government entities to remain accessible and open to the public. Branstad considers himself a staunch supporter of transparency in government, and by our scorecard, he has had a good record. But exempting his office from the scrutiny of this board would be detrimental to its effectiveness. Here's hoping the governor reconsiders and is willing to lead by example. What better time than National Volunteer Week (April 10-16) to give a salute to the 180 Dubuque citizens who serve on the city's 32 boards and commissions. These volunteers play a critical role in contributing to the services the city offers, and the way in which the city provides those services. Good news: You, too, can make such a contribution, provide leadership and help guide the direction the city takes. About 17 people are needed to fill current and upcoming vacancies on city boards and commissions including the Historic Preservation Commission, the Housing Commission, the Human Rights Commission and many others. Do you have something to offer your community? The opportunities are ample. Check out the city clerk's section of the city website, www.cityofdubuque.org. Editorials reflect the consensus of the Telegraph Herald Editorial Board.

LOAD-DATE: April 11, 2011

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

Chairman ISSA. The Chair now recognizes the gentleman from Florida, Mr. Ross, for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman.

Governors, thank you both for being here. This is very insightful for me, especially in my home State of Florida, where we are also going through some of the similar exercises that you all have gone through. It is interesting because when we look back at the history of collective bargaining, especially with public sector unions, it was Franklin Delano Roosevelt and both President John F. Kennedy who did not feel that there should be collective bargaining or there should be public sector unions. So being here today on this issue I think shows the evolution of this and why it is such a crucial issue, especially in light of the debt and deficits that each State in this country is facing.

The Federal Government and the Office of Personnel Management has published consecutively for years, up until 2008, a study of the amount of time that was spent by union employees on official time. The last time this was published was in 2008, and it shows that Federal Government union employees spent 3 million hours of official time to engage in union-related activities. This was a cost to the Federal taxpayers of about $120 million in 2008. Unfortunately, upon repeated requests by several Congressmen and the Competitive Enterprises Institute under this President, we have not received a response from that.

In your respective States, and I will start with you, Governor Walker, do you keep track of any official or union business done on official time?

Governor WALKER. I wouldn't have the numbers off the top of my head, but I know both at the State level and we see the same thing at the local level. We certainly saw that when I was the Milwaukee County executive. And it is an interesting cycle because taxpayers in many cases are paying taxpayers' money which not only goes to workers, but in many cases then goes to government employee unions, who then use that money for political purposes, when then elect candidates who then advocate for more government and higher taxes on the middle class. It is a vicious circle.

Mr. ROSS. So Wisconsin does keep track of official time spent on union activities?

Governor WALKER. For example, there is time at both the State and the local level that people who are employees of the government who are designated as union officials have to account for time that is taken as part of their contracts. In many cases we saw at the local level, the county, the number of individuals who were on the payroll who were working for the union.

Mr. ROSS. Governor Shumlin, is it the same situation in Vermont?

Governor SHUMLIN. It is not an issue in Vermont. Our public employees unionized work hard, and they work long days and long nights, and we are certain that that is what they are doing and that is what they do with their time. You know, we are a small State where everybody knows what everyone is doing, and in Vermont we work hard and our public employees work just as hard as our private sector employees.

Mr. ROSS. In Florida, we are deliberating now in the legislature on something that was deliberated back when I was in the legislature there, what was known as a paycheck protection act, and it would require that the employees make an affirmative acknowledgment and confirmation that they will sign over a certain part of their paycheck to union dues, instead of it just having taken out regularly. Is that something that has been entertained in either of your States?

Governor Walker.

Governor WALKER. That is in the legislation that I signed the law approximately a month ago, and the concept of that is, in the interest of workers, they should have the right to choose. If they want to have that money taken out, if they want to be part of a union and if they ultimately want to have the choice of the way that they give that money to that union or not, they should be the one that chooses it.

Mr. ROSS. Governor Shumlin.

Governor SHUMLIN. It hasn't been any significant part of the debate. You know, we are really, like Governor Walker, we are facing a tough economy and a tough budget challenge trying to balance it, and thanks to the largesse of Congress, the last budget deficits for all we Governors haven't really had to be dealt with because we got so much money from Washington. That is over and we have to balance the budgets the old fashioned way. So we are making tough cuts, tough choices, and I am doing it by focusing on what matters, which is health care costs, corrections, and other areas where I have explosive growth, and I am not worrying too much about union dues.

Mr. ROSS. In accomplishing these objectives, whether they be pro-union or anti-union, whatever they may be requires people to come to the bargaining table, it requires people to come to consensus or compromise; and one of the issues that we saw in Wisconsin was that there were senators on the Democrat side who left the State and failed to come to the table to address. And as a public official, as one who was elected, I take personal offense to somebody who abrogates their responsibility by not owning up to their obligations to make these decisions, as difficult as they may be.

So, Governor Shumlin, I would ask you do you condone such activities, where elected officials leave the State or abrogate their responsibilities to enforce their obligations as an elected official?

Governor SHUMLIN. Well, I have to tell you I have my hands full dealing with the challenges that I am facing in Vermont and I don't comment much on what is happening in the other 49 States. I am just focused on what is happening in Vermont. In Vermont, everyone is working together with lots of maple syrup to get tough things done.

Mr. ROSS. Thank you.

Governor Walker.

Governor WALKER. Obviously, I had great concern. When I talk to factory workers over the last month or two, if you walked off the job for 3 weeks, you wouldn't be working there anymore. I think that is pretty clear out there. So I think there is a real challenge and obviously the individuals in those 14 senate districts are going to decide whether or not that makes a difference in the long term.

But you said something else about working together, and I believe in that. But I also believe more important than working together is people want results. So in the beginning of this year we worked together with Democrats and Republicans and one Independent we have in the legislature. We passed the most aggressive job-creating legislation in the country. We showed that Wisconsin was open for business. But sometimes working together is a problem. In the past, Democrats and Republicans worked together and they pushed the problem off to the future, and at some point leaders, no matter what part, have to stand and say we have to do something about it, and that is what we are doing here.

Mr. ROSS. Thank you, and I yield back.

Chairman ISSA. The Chair now recognizes the gentleman from Vermont, Mr. Welch, for his questions.

Mr. WELCH. Thank you, Mr. Chairman.

Governor Shumlin, I see that seated behind you is Matt Finsey, who is a leader of the Public Employees Union, the firefighters; he is sitting next to his brother from Wisconsin. You are the Governor, he is a public employee union. Did one of you not get the memo that you are not supposed to get along?

Governor SHUMLIN. I don't know if I didn't get it, but all I can tell you is we get along great, as you know, and there is nothing better than our firefighters working hard for us and sacrificing their lives for us every single day.

Mr. WELCH. You know, as I have listened to Governor Walker describe his problems, it seems to me very similar to what you described to me this morning when we had breakfast as to the problems you face in Vermont. Governors cannot escape the consequences of the greatest recession that we have had since the Depression, and that recession is brutal and shows no mercy, whether it is a Republican Governor led State or a Democratic Governor led State. You have described your approach, but clearly there are points of real contention that you have to deal with as Governor. You have a legislature that is pushing you, and you are resisting, to raise revenues; you have public employees who, yes, they did cooperate, but, on the other hand, they have to represent their members and stand up for wages and benefits. Just maybe give a brief summary of how you managed to get from here to there.

I am going to want to be able to talk to Governor Walker too, and I don't have that much time.

Governor SHUMLIN. I will try to be very brief. You know, really, as you know, my guess is that my approach isn't much different than other Governors across the country. We are trying to create jobs and economic opportunities, and I mentioned the middle class has been kicked in the teeth over this recession, harder than I think they have been kicked in years, and we are trying to find ways to raise their income. And we do that by going after real savings in health care, by going after the recidivism in our corrections budget that is costing taxpayers $47,000 a year, we have a high recidivism rate, and by going where the real money is while we resisting raising taxes so that we can actually grow jobs and economic opportunities.

You heard Governor Walker talk about wishing to import jobs from Illinois, and we are all doing that. I am hoping to bring in a few jobs from New Hampshire and Massachusetts and New York as we manage our budget. We are a great place to do business, work, raise a family, the best place in the country, in my judgment. And we do it by getting along and by using common sense and reasonableness.

Mr. WELCH. Let me ask Governor Walker. I just want to make an observation. We have a problem here in Congress, and this is my own personal observation after serving for 5 years. There is too much of a winner-take-all attitude. Because when I hear my Republican colleagues say we have to deal with spending, I happen to think they are right. But I also think we have to look at other things, too, like the tax code and revenues. I would say that quite candidly. A lot of disagreement from some of my colleagues.

But one of our problems in Congress is a winner-take-all approach, where, even if you "win," and you see this with the health care debate, the Democrats "won" on health care last year, but now the first act of the new Congress is to repeal it. If you win in a way where the other side feels they didn't have a seat at the table or things were crammed down, and both sides can be doing this, there is a price because you end up winning on the vote but you don't make progress on the policy. And, obviously, your State is the center of the storm with a very hard confrontation between two sides, and I am asking if you would just observe or comment on your thoughts about whether there is a price that may be paid in your State as a result of the fact that the approach that was taken did result in this enormous confrontation and a lot of controversy and a lot of pain, that continues even after your policy, I think, prevailed.

Governor WALKER. Yes, and I think the results, obviously, were frustrating. One of the things that frustrated me the most is I think if you are going to participate in democracy, you have to be in the arena. And when 14 of my colleagues in the capital decided to leave for 3 weeks, it made it pretty difficult to do that. In fact, in particular, one of them, someone we worked with before on jobs initiatives, spent a good chunk of that time trying to work with us and, as he revealed in the Wisconsin State Journal a week ago Sunday, he was closer to us than he was to his other colleagues. My hope is that people like him and others will continue to come to the table and work on our jobs agenda, the things we need to continue to do, and I think we will be on the right track.

But, again, I go back to what I said before. People want us to work together, but they want that because they want results. When I look at what Mitch Daniels did 6 years ago in Indiana, essentially for the State, he did what we are proposing and what we propose in this legislation to do. His numbers were far below mine in that first year, the first 6 months he was in office. He was dealing with some of the same passions, just not as big, because he did it through an executive order, not through a piece of legislation. But 4 years later he was re-elected with 58 percent of the vote because, in the end, people saw the results. All the fears didn't materialize and the results proved that in that State the government got better, got more efficient, got more effective, and ultimately good public employees in Indiana were rewarded.

Mr. WELCH. I yield back. Thank you, Mr. Chairman.

Chairman ISSA. I thank the gentleman.

The Chair now recognizes the gentleman, Mr. Kelly, for 5 minutes.

Mr. KELLY. Thank you, Mr. Chairman.

And both Governors, thank you for being here.

I come from the private sector, so I understand a little bit about having your own skin the game and being able to sign the front half of the check. I know that sometimes down here we lose perspective about whose money it is we are spending. And I have to tell you, when somebody else is picking up the tab, it is easy to keep saying go ahead and keep on partying.

Now, I want to ask you this specifically, because the chairman started off with a discussion, also Mr. Chaffetz, about defined benefits in pensions, and I know in Pennsylvania that while all of us took a hit when the stock market went down with our pensions and we lost quite a bit of it, at the end of the day that was a loss. If you can, in both your States, tell me about who makes up the loss for the benefit that is calculated. I really think defined benefits is a complete illusion; it gives us the belief that somehow the future is both predictable and reliable, and we all know it isn't. So please tell me the deficiency, the difference between what the defined benefit is based on what the actuaries are saying and the actuality of it. Who makes up the difference for that?

Governor SHUMLIN. You know, I think it is really important to stick with the facts, and the fact of the matter is, if you look at Vermont, this is what happened: In the worst stock market crash in a long time, we watched it go from roughly $12,000 to $6,000, the Dow, the average person in a defined contribution plan sold their stocks when they got discouraged, somewhere between $8 and $6,000. Those who were in defined benefit plans had people like Vermont advising them to hold on and hold out, and that is what we did. So now our retirement plans are higher than they were in the depths of the loss. The average small investor now has lost what they saved for retirement.

So, again, it is a great example where a defined benefit plan protects workers more ably than a defined contribution plan, and Vermont's example is exactly proof of that theory.

Mr. KELLY. OK, but my question is who makes up the difference in the loss.

Governor SHUMLIN. My point is there was no loss; we have gotten the gains back.

Mr. KELLY. I understand what you are saying, but there is somebody who does provide the safety net, and we both know that.

Governor Walker.

Governor WALKER. Yes. It is the taxpayers. In our case, before these reforms, you have talked a lot today about, for example, my proposal of the 5.8 percent contribution. One of the things I want to make clear, because it is different than Vermont and other States., before this reform, other than literally a handful of State employees, the taxpayers were picking up both the employee contribution and the employer. So I am not upping the employee contribution, I am actually having the employees of the State, including me, actually pay the employee contribution. Again, something that is done in the private sector, as you know, the employer pays part, the employee pays the other part.

And what I found out when I was traveling the State in the midst of this debate, particularly when I go to manufacturing plants and guys would point out they were paying 25 to 50 percent of their health insurance premiums, most of them having a retirement plan, it wasn't a pension, it was a 401K, and many of them, to keep people working, were suspending the employer match just to be able to keep people from being laid off. That is the reality. And then when I would walk them through what I was asking, because they would see the ads and they would think, hey, wait a minute, you are taking all this money away. Just as an example, in the basic family plan that my family has, we will go up to pay about $200 a month in premiums, versus about $90 a month. Again, most people, in the private sector, middle-class taxpayers wonder, wow, that is unbelievable.

Mr. Kelly. And I have to tell you I think that is the important thing to understand. If I have a defined benefit, then I can go ahead and stick with that plan because, come hell or high water, I am still going to get my defined benefit. When you are a person whose real money, their money, is in the program and you have a choice to opt out now and try to keep what you have or lose it, then you are really put in a box; and I think most people in this country don't understand. Now, my daughter is a teacher, my wife is a teacher. I have a lot of friends whose benefits are guaranteed, and they are guaranteed by people in the private sector who will see a raise in their taxes to cover the loss of these pensions, and I think that is where the divides come.

This is not about union workers versus non-union workers, Republicans versus Democrats; this is about Americans. And if we are going to share the gains and we are going to also participate in the pain, we better understand that when you have your own money in the game, it is a vast difference between somebody who is guaranteed a benefit, regardless of what they put in, and that is the important thing. Taxpayers make up the difference in all these losses. That is the model and that is what is wrong with it. You don't have the safety net in your private plan, but the public sector does, and I think that is a vast difference and I think it makes it a lot easier to stick with a plan that is upside down and say, you know, what, I'll go ahead and ride it out because one way or the other I am still made whole.

Thank you so much for both of you being here. I appreciate it.

And I yield back, Mr. Chairman.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Virginia, Mr. Connolly, for 5 minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman, and welcome, Governors.

Governor Shumlin, did I understand in your testimony that you said that the pension fund in Vermont has an 8, 8½ percent return, annual return?

Governor SHUMLIN. That is correct. That is what we have had over time. And I think it is really important to address the question of who pays and the statement just made that taxpayers do.

At least in Vermont—maybe we are unique; I don't think so—80 percent of the benefits that we pay out are paid for by return on investment.

Mr. CONNOLLY. Eighty percent?

Governor SHUMLIN. That is correct.

Mr. CONNOLLY. You are a member of the National Governors Association?

Governor SHUMLIN. Excuse me?

Mr. CONNOLLY. You are a member of the National Governors Association?

Governor SHUMLIN. Yes.

Mr. CONNOLLY. Is it your understanding from your fellow Governors that Vermont is unique and that most State pension funds are in fact under water or about to go so?

Governor SHUMLIN. It is not my understanding that most are under water, no.

Mr. CONNOLLY. Mr. Chairman, I would ask unanimous consent to enter into the record correspondence provided by the National League of Cities, NACo, NASAC, ICMA, NSA, and a number of other organizations pointing out, as a matter of fact, that most State pension systems are very solvent and have been quite stable for the last half century.

Chairman ISSA. Have they been received by the parliamentarian yet?

Mr. CONNOLLY. We have copies here, Mr. Chairman.

Chairman ISSA. OK. Bring them up. We will reserve and make a final decision by the end of the hearing.

Mr. CONNOLLY. Thank you very much.

Governor Walker, when you campaigned for Governor, did you campaign on the issue of collective bargaining being a problem with respect to Wisconsin's budget?

Governor WALKER. I talked about wages and benefits overall, even ran campaign ads on it. But I didn't specify exactly what form; I talked about the broad spectrum. And, in fact, AST Wisconsin, one of the unions that objected to us in campaign flyers pointing out some of my statements about collective bargaining and mediation arbitration and other issues. So that was an issue that was part of the campaign.

Mr. CONNOLLY. Explicitly?

Governor WALKER. Again, I didn't run an ad saying I am going to do exactly this, but I talked about the full range and I talked about it in a couple of debates, about the fact of the full spectrum of issues.

Mr. CONNOLLY. Good. I had 43 debates when I ran for re-election last year. That is a lot of debates.

Governor WALKER. I didn't have that many, I am glad.

Mr. CONNOLLY. Probably more than most Members of this body.

Governor WALKER. That is impressive.

Mr. CONNOLLY. And I enjoyed every one of them.

Chairman ISSA. That is also more than most Members.

Mr. CONNOLLY. Exactly.

But the collective bargaining, in your debates with your opponent, you actually brought up collective bargaining and said that is something I am going to address if elected Governor?

Governor WALKER. I talked about the whole spectrum. I talked specifically about the 5 and 12 percent. They said how far are you willing to go? I said I am willing to change the law from one end of the spectrum, whether it is a modest change or an outright change. I talked about it there; I talked about it again in the transition; I talked about it——

Mr. CONNOLLY. Governor Walker, I am asking a very specific question. Did you explicitly single out——

Governor WALKER. No. No. I talked about the whole range.

Mr. CONNOLLY. So you might concede that some might be surprised, then, that you made collective bargaining such a centerpiece of your so-called reform efforts after you were sworn in.

Governor WALKER. No, I would say no because for 8 years as county executive I not only talked about it, I actually brought it up. I did what was called the Reality Tour, where we talked about the challenges, that we were unsustainable and that collective bargaining was driving that.

Mr. CONNOLLY. So from your point of view nobody should have been surprised once you were elected and sworn in.

Governor WALKER. Hundred percent correct.

Mr. CONNOLLY. Were you, then, surprised at the reaction that generated in your State?

Governor WALKER. Not in my State. For 8 years I took on the status quo in a county that had never elected a Republican before. I was elected with 54, then 57, then 59 percent, because I think in times of crisis people aren't so much concerned about Republican or Democrat; they want leadership, and that is what we took on. That is what we are trying to do at the State level.

What did surprise me, candidly, was the level of national attention, the folks that came in from Washington and others to be a part of that debate.

Mr. CONNOLLY. Thank you. Let me ask a quick question. You got a famous phone call from somebody pretending to be David Koch, and he said, well, I tell you what, Scott, once you crush these bastards, I'll fly you out to Cali and really show you a good time. You responded to that by saying, all right, that would be outstanding. What did you mean by that and what did you think he meant?

Governor WALKER. At that point I was down in the call, I had two other people waiting for me and I was trying to get off the call and get on to the next issue.

Mr. CONNOLLY. It wasn't that you honestly thought it was Mr. Koch and that he was promising to reward you for what you were doing?

Governor WALKER. Did not in that regard, no.

Mr. CONNOLLY. The flying out to Cali thing didn't strike you?

Governor WALKER. No. I didn't even know what Cali is.

Mr. CONNOLLY. Have you ever had a conversation with respect to your actions in Wisconsin and using them to punish members of the opposite party and their donor base?

Governor WALKER. No.

Mr. CONNOLLY. You have never had such a conversation?

Governor WALKER. No.

Mr. CONNOLLY. Thank you. My time is up.

Governor WALKER. I spent 8 years talking about the challenges of the county official, the fact that I had a series of unions in Milwaukee County who constantly told me to lay people off, as opposed to making modest changes.

Mr. CONNOLLY. Thank you. My time is up.

Chairman ISSA. Thank you.

Dr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Thank you, Governors, for being here today.

Governor Walker, I believe your home State and my home State of Tennessee has constitutional requirements to balance the budget. Obviously, that constitutional requirement does not exist in Washington, DC. Do you believe that these constitutional requirements give you additional support and leverage you need to make the difficult decisions that need to be made to get your fiscal spending under control?

Governor WALKER. Yes. And I think both of us as Governors talk about the fact that, as Governors, even with either party, for us to succeed and to have States grow their economy, we have to have a balanced budget. Whether it is a constitutional requirement, a legal requirement or otherwise, I think the States that are going to succeed, regardless of who are the Governors, are the States that take their fiscal challenges head on.

Mr. DESJARLAIS. Thank you. This last election it was pretty clear to me, coming from the private sector, that the American people have sent a referendum that they feel government, overall, is too large and it is too intrusive, and it is in the way of creating jobs. So I take heed to that as we sit in these hearings and we justify a lot of the programs within the Federal Government and whether they are good or not, and we have had discussions whether or not private sector versus public sector pay is fair.

Governor Walker, how would you gage the pay and benefits afforded to the public sector workers in Wisconsin? Critics have said that your reforms are hurting a group of workers that are already worse off than their private sector counterparts. Are they wrong?

Governor WALKER. Well, let me just point out two quick things in that. One, this debate, to me, has never been about the level of pay or compensation, because I think there are great people who work at the city, the county, or school district State Government. I have said that repeatedly. What this is about is balancing the budget and making sure we can do it long-term and giving our State and local governments the tools. There have been plenty of studies and there are studies all over the map. There are studies whether you have a higher education degree or not, whether it is higher or lower.

I think the key is, again, when I have toured the State and when I talk to the constituents I have and I talk to the people in the middle class working in our factories and farms and other locations, they realize they are the ones that foot the bill for more and more government, and they think it is realistic that if they are paying, on average 20 percent for health care, they are paying something for their pension or 401K, whatever they may have, they think it is realistic that the rest of us who work in the government pay something similar to that.

Mr. DESJARLAIS. Thank you.

Governor Shumlin, you had mentioned in your testimony earlier that you went to where the money was to help get your fiscal house in order, and you mentioned health care. I was wondering if you had some insight that you could share with us to how you went about that and if you have a solution to the health care crisis and the cost.

Governor SHUMLIN. Wow. Well, how long do we have? The answer is yes, we are working very hard to pass a health care bill that will be the first in country where health care is a right and not a privilege; where it follows the individual; is not required by the employer, which we think will be a huge jobs creator; but, most importantly, as Governor Walker suggested earlier when he was talking about health care, where we actually reimburse providers based upon keeping people healthy, health care outcomes instead of the fee per service model. And we have put together an ambitious plan which is passing the senate almost as we speak; it has already passed the house, so I am going to sign it into law. Then we are going to come down to Congress and beg you for a few waivers. So I am so glad that we have this opportunity to start begging now.

Mr. DESJARLAIS. OK. We will be interested to see how that turns out, as we certainly have our challenges here. Do you believe that collective bargaining is really a basic human right?

Governor SHUMLIN. I believe it is a basic right in democratic society. And I say that as a guy who grew up, born and raise, in Vermont. My ancestors, like so many probably in this room, came to this country with nothing, passed through Ellis Island, ended up picking beets, my great, great grandfather out in the Midwest somewhere; and, frankly, were it not for the right to collectively bargain, I don't believe that my relatives or most middle-class Americans would have the opportunities for economic progress that they enjoy today.

Mr. DESJARLAIS. You had made a comment at the National Governors Association meeting that the ability to collectively bargain is a basic human right in democracy. This is in direct contradiction with Franklin Roosevelt, who was a pro-union person, and he said meticulous attention should be paid to the special relations and obligations of public servants, to the public itself, and to the government. The process of collective bargaining as usually understood cannot be transplanted into public service, and it goes on to say a strike of public employees manifests nothing less than intent on their part to obstruct the operations of government until their demands are satisfied. Can you comment on that?

Governor SHUMLIN. I would just say that even someone as great as Roosevelt could be wrong once.

Mr. DESJARLAIS. I might disagree on that point, but my time is out and I thank you for your comments.

I yield back.

Mr. GOSAR [presiding]. I thank the gentleman.

I want to acknowledge my colleague, Mr. Murphy, from Connecticut.

Mr. MURPHY. Thank you very much, Mr. Chairman.

Both Governors, thank you for you attendance today and for sticking with us throughout this process.

I guess I just have a simple statement and question for you, Governor Walker. I guess for those of us that have been watching this debate play out, and I think this has been covered by several of my colleagues, it is hard to square the concessions that have been made by the unions, their willingness to come to the table and the continued drive to strip them of collective bargaining rights, and obviously there has been a lot of conversation around the country as to how this plays in to a much broader debate that is happening around the Nation. When we look at the amounts of outside money that has been spent in Wisconsin, both with respect to your election, to the fight over the legislation, and then most recently, in the last few weeks, with respect to this election for the court, it is hard to make the argument that this debate only plays out in the context of Wisconsin's budget fight. In fact, some of the key players in this drama seem to be pretty open about how this is ultimately about trying to kill a pretty important constituency for working families, and I think we had the quote on the board earlier when Mr. Connolly was asking his questions, but let me read it aloud.

The State senate leader, Scott Fitzgerald, said recently during an interview on Fox News, he said, "If we win this battle and the money is not there under the auspices of the unions, certainly, what you are going to find is President Obama is going to have a much more difficult time getting elected and winning the State of Wisconsin." And in a fund-raising letter that he sent out, he was making the pitch that Republicans should be supported because they faced down big labor's bully tactics in the Democratic walkout on the State senate to break the power of unions in Wisconsin once and for all.

This sounds a lot like a much broader political play to try to defeat your opponents, to try to defeat the advocates for working families, and I guess I am sure you have a good answer to this question, but I would like to know if you agree with the statements of your State senate leader, Scott Fitzgerald, and how you address the concerns of many of ours that the reason that you have $2.1 million being spent on behalf of your candidate for the court, the reason that you have groups like the Koch brothers pouring in thousands and thousands of dollars is because this is about a much broader effort and it seems that some of the key players in the fight, certainly in the State legislative level, are very open about how this is a much broader assault on unions and the allies of unions.

I guess I specifically want to know if you disagree with that very specific statement made by the senate leader.

Governor WALKER. Two things. One, I think any outside observer of politics in our State would probably jump to that conclusion for all the parties involved. They would look at the $4 million the unions pumped in during the debate and the TV ads that went on; they would look at the money you reference and others and say outside of Wisconsin there is a lot of people who are viewing this in a larger context.

Mr. MURPHY. Except this fight wasn't started by labor; this fight was started by——

Governor WALKER. No, but you just asked about the money and I clearly recognize that. I want to put in context that there is a lot of money all the way around coming from all sorts of sources, and I think a lot of whom are looking at multiple reasons for this. I can't answer for Scott Fitzgerald, I can't for others; I can answer for Scott Walker, and I can tell you for me it is about, certainly in part, about the budget, but it is also ultimately about making government work better and, I think, protecting—when I talk about the middle class, it is not just the paying middle class, it is even middle class individuals who work for State and local government because, for us, we ultimately believe, and we have seen the alternative, we are protecting middle-class jobs by avoiding what many other States are doing with massive layoffs at both the State and local level, and by ultimately putting in place a system where the government is going to work better, particularly for schools. I have two kids in a public school. I care very deeply about it. I would like to have a system, like we do elsewhere in society, where we pay for performance, not just reward based on seniority. I would like to have people based on merit and performance. This measure, these reforms empower us to keep our best teachers in the schools, to keep our best city and county and State workers in place, and that is part of the package as well.

Mr. MURPHY. My time is almost up. I understand you can't speak for him, but you can certainly opine as to whether you agree with your State senate leader when he says that this is ultimately about trying to defeat President Obama in Wisconsin. Do you agree with——

Governor WALKER. I can tell you what it is for me. It is not about that, it is ultimately about balancing the budget now and in the future; not just in the temporary, because we have had too many people temporarily trying to push our problems off to the future. This is a long-term answer and it is about long-term reform in our government so our schools, our local governments, and our States operate better. That is what it is for me.

Mr. MURPHY. There are millions of dollars being pumped into the State who disagree with that vision, but I appreciate your answer. Thank you very much.

Mr. GOSAR. I thank my colleague.

I want to acknowledge my colleague, Mr. Gowdy, from South Carolina.

Mr. GOWDY. Thank you, Mr. Chairman.

Governor Shumlin, I noted the conciliatory tone in both your introduction and your opening statement. I made a couple of notes. You mentioned the Unity Tour, which I found inspiring. You said come to the table. You mentioned the word reasonableness and openness, and on four different occasions you said come together. My question to you is how do you do that when the side with whom you disagree has absconded from the State and is essentially a fugitive from responsibility. What table do you sit at when you are not in the same State?

Governor SHUMLIN. Well, you know, you don't apply the reasonableness plea in the heat of the crisis; you avert the crisis. And I will just tell you by way of our experience under the Republican Governor, Jim Douglas, we needed to get roughly $25 million out of our pensions for teachers to balance our budget, and things weren't going so well in those negotiations with the Governor. So the Democratic senate president, myself, and the Democratic speaker sat down with the union and said, listen, we are going to have to get these savings, and we can do it with you or we can do it without you, and, really, we would like to do it with you, and they turned to us and said we want to do it with you. So my point is when you are going to work together, when you are going to do what the American people want most desperately from their politicians, and God knows they want it from Washington right now and so do I, reasonableness, compromise, common sense, you have to start with that foot; you can't ask for it once you have created a crisis.

Mr. GOWDY. But there is a concept of mutuality that is inherent or required for that to happen. I know you would agree with me. I also want to say inherent in your comments, to me, and in your testimony, frankly, is civility.

Governor SHUMLIN. Right.

Mr. GOWDY. In the last 2 weeks alone, Members of this body have been told by a colleague to go to hell. Not purgatory, not shule, not haitis, not the river sticks, but hell. We have been told that we want to kill women. And my colleague from Virginia just made a reference to a surreptitious phone call that was placed to an elected official. Will you help me and join me in decrying the rhetoric and the tactics that I just laid out?

Governor SHUMLIN. You know, I think that civility has to be applied to all public officials, and I think that we need to raise the bar collectively, and that applies to Washington, it applies to State governments across this country. We have——

Mr. GOWDY. Do you think that making surreptitious phone calls, pretending to be someone you are not, enhances civility and discourse in this country?

Governor SHUMLIN. All I can say is I have no disagreement with you that the civility tunnel runs both ways, and we all have a responsibility as public servants, and the American people expect it, for us to be civil all the time.

Mr. GOWDY. You, in response to Dr. DesJarlais, I think, and, again, I always allow for the possibility that maybe have been misquoted, the ability to collectively bargain is a basic human right in democracy. What is your authority for that statement? What is your constitutional authority for saying that?

Governor SHUMLIN. Well, free speech.

Mr. GOWDY. Beyond your ability to say it, where would you point me in the Constitution for support for the underlying notion?

Governor SHUMLIN. You know, it is my belief, as a Governor of a State, that collective bargaining is a right and something that has served this country with extraordinary progress and distinction, and it has allowed, as I mentioned, families like mine, who came from nothing, to succeed economically in the best democracy, in the best economy, in the best business climate that anyone could ever design. So all I can say is I see it as a basic right.

Mr. GOWDY. Are there exceptions?

Governor SHUMLIN. We are allowed to organize.

Mr. GOWDY. Are there exceptions?

Governor SHUMLIN. Not that I can think of.

Mr. GOWDY. Law enforcement?

Governor SHUMLIN. I think law enforcement should be able to collectively bargain just like anybody else. They have in our State and it has had great results.

Mr. GOWDY. In my State of South Carolina, we laid off prosecutors, law enforcement officers, and teachers; we furloughed them for 5 days last year because we have a fiscal crisis like almost every other State. Is that something that you would entertain in your State? Could you ever see furloughing the core functions of government, which all three of those categories are, could you ever see that happening?

Governor SHUMLIN. We actually did move our courts from a 5-day week to a 4-day week. I would not furlough——

Mr. GOWDY. Your Federal courts or State? Because the Federal judges have always been on a 4-day week.

Governor SHUMLIN. We have noticed. Our State judges.

Mr. GOWDY. I see my time is up. Thank you.

Mr. GOSAR. I thank the Member.

Acknowledge my colleague, Mr. Tierney, from Massachusetts.

Mr. TIERNEY. Thank you, Mr. Chairman.

Thank you, Governors, for being here today.

Governor Shumlin, let me just ask you. When you were trying to resolve your fiscal problems in the State, did you start off with the unions by telling them that you were going to require them to hold annual votes to continue representing the government employees, that you were going to no longer deduct union dues from the employees' paycheck, and then expect them to come to the table and start a really good solid conversation with you? Is that the way you began your conversation?

Governor SHUMLIN. No, Congressman Tierney, that is not what I led with.

Mr. TIERNEY. OK. I just think that is a point worth making. But let me also ask you what percentage of your annual State government spending is the contributions to your pension accounts?

Governor SHUMLIN. It is about 4 percent, and I think it is important that we remember that. When I talk about the real challenges of Governors having to balance a budget, my health care costs are going up by double digits, my corrections budget has doubled. My challenge is not pensions. Of course it is a consideration, but our pension funds are now performing quite well and we are doing OK.

Mr. TIERNEY. Governor Walker, what percentage of your State spending is related to the pensions account?

Governor WALKER. If you look overall—and I don't have the exact percentage off the top of my head, but——

Mr. TIERNEY. Well, let me ask you this——

Governor WALKER [continuing]. But I can give you the numbers——

Mr. TIERNEY. I prefer you give me the percentage, but if you don't know that, is it significantly more or less than the 4 percent——

Governor WALKER. Well, the total budget for the next biennial is about $60 billion. The total amount of savings that we have from the reforms we put in is 1.4 for the——

Mr. TIERNEY. You don't choose to answer the question. Look, the National Association of State Retirement Administrators says that less than 3 percent of all State and local government spending is generally used to fund public pension funds.

Governor Shumlin, you are at 4 percent, so you think that is generally, roughly right?

Governor SHUMLIN. That is correct.

Mr. TIERNEY. Governor Walker, do you want to make an opinion one way or the other or pass on it because you——

Governor WALKER. Again, I can followup and give you the percentage based on the numbers.

Mr. TIERNEY. I would appreciate it if you would do that. Thank you.

We talked just a second, Governor Shumlin, about the defined benefit versus the defined contribution on that. From your earlier conversation, my understanding is that you recognize that when you switch from defined benefit to defined contribution, there is a tremendous shift in the risk to the beneficiary, am I right?

Governor SHUMLIN. Risk and cost.

Mr. TIERNEY. And they both go more heavily onto the shoulders of the employees, correct?

Governor SHUMLIN. And the taxpayers.

Mr. TIERNEY. And basically, generally, in your State and I think in others, that when this original situation was set up, that was part of the bargaining process, that the employee may have taken less in pay or some other area they were negotiating on in return for having a little more security in retirement, am I right?

Governor SHUMLIN. That is the promise that was made.

Mr. TIERNEY. OK. So it was the employer making that deal, as well as the employee.

Governor SHUMLIN. That is correct.

Mr. TIERNEY. Seems like a fair deal to you, fair thing to negotiate?

Governor SHUMLIN. Yes.

Mr. TIERNEY. Let me ask both of you, if I could, on that. Do either of you ask for the authority for bankruptcy for your respective States?

Governor WALKER. No.

Mr. TIERNEY. Governor Shumlin.

Governor SHUMLIN. No.

Mr. TIERNEY. OK. Do either of you believe that a bankruptcy court is better able to overcome political differences than the political process in your State, Governors and legislature?

Governor WALKER. No.

Governor SHUMLIN. No.

Mr. TIERNEY. Do either of you think that the bankruptcy court is better able to restore fiscal stability in your respective States?

Governor WALKER. No.

Governor SHUMLIN. No.

Mr. TIERNEY. And do either of you think that the bankruptcy court would be a better manager of your State's finances?

Governor WALKER. No.

Governor SHUMLIN. No.

Mr. TIERNEY. OK. So you both agree with the letter that Governor McGuire, who is a Democrat from Washington, and Governor Heineman, who is a Republican from Nebraska, sent to congressional leaders that essentially made that point. Their letter said that allowing States to declare bankruptcy is not an authority that any State leader has asked for, nor would they likely use it. States are sovereign entities in which the public trust is granted to its elected leaders. The reported bankruptcy proposal suggests that a bankruptcy court is better able to overcome political differences, restore fiscal stability, and manage the finances of a State. These assertions are false and serve only to threaten the fabric of State and local finance.

Would each of you gentlemen be pretty much in agreement with that comment?

Governor SHUMLIN. That is the NGA's position and I support it.

Mr. TIERNEY. Governor Walker.

Governor WALKER. I agree.

Mr. TIERNEY. Thank you.

I yield back. Thank you, Mr. Chairman.

Mr. CUMMINGS. Would the gentleman yield? Would the gentleman yield?

Let's go back to you, Governor Shumlin. You know, you were talking about the maple syrup and whatever and your methodology. There was one word that you left out, and the reason why I think you got the cooperation that you got is because of respect. The workers felt that you respected them. I heard your story, and I wouldn't be here either if it were not for unions. No doubt about it. My parents were former sharecroppers in Manning, SC, came up to Baltimore, got a union job, and that is why I am here today. So I just wanted you to know. And they felt respected.

Governor SHUMLIN. I appreciate your comment. Obviously, respect for our firefighters, for our police officers, for the folks that risk their lives every day, for the folks plowing the roads and all of our public employees is incredibly important to any chief executive.

Chairman ISSA [presiding]. The gentleman from Arizona, Mr. Gowdy. I am sorry, the gentleman from Arizona, Dr. Gosar.

Mr. GOSAR. Thank you.

I want to get back to our original topic here, about State and municipal debt. We are not talking apples to apples in your States. Let me get this right. You actually are a tax giver to the Federal Government and you are a tax taker from the Federal Government, if I am not mistaken, right? For every dollar of tax you get only 82 cents back and Vermont gets $1.12 back, right?

Governor WALKER. You know, I am an expert on the cheese in our States, not the apples.

Mr. GOSAR. OK. Well, apples and cheese go along with wine and maple syrup.

Governor WALKER. Yes, that is true.

Mr. GOSAR. But there is a difference. So my link here is that I am coming back to the basic core problem with all States is the Federal mandate, and things that some of the States should be doing, right? Particularly Governor Shumlin, you talked about health care and corrections. Isn't that a 10th amendment right?

Wouldn't you like, don't you like the ability to have some flexibility in regards to oversight of those funds?

Governor SHUMLIN. Well, yes, frankly, but you need to define what we mean by flexibility, because my fear is, as we have this——

Mr. GOSAR. Well, part of—I think you are going there.

Governor SHUMLIN. If I can just finish what we were saying. As we get a little bit toward the next budget discussion is that flexibility means we are going to leave the requirements and take the money on behalf of the Federal Government, and the States are going to be in tougher shape than we are in already with under-reimbursements for Medicaid and Medicare.

Mr. GOSAR. Well, and I understand, because with the unfunded mandate there is this hidden cost that no one wants to talk about, and that is for that Federal law to be enacted in a State, we hire more workers that are not on the private sector, they are on the public sector, and, therefore, these roles continually go up. So part of this is based upon, or the majority, if I look across the board, coming from Arizona, and, holy cow, we will get to those numbers here in a second. But the problem is the budget problems in each of the States are derived by the unfunded mandate by the Federal Government.

Governor SHUMLIN. You know, I think that is an oversimplification. I think the budget challenges in the States are derived from the worst recession in American history that was brought on by a lot of greed on Wall Street and a housing bubble that got transferred to Main Street. That was the culprit.

Mr. GOSAR. Oh, I have to stop you there, because didn't we also have a problem with the Federal Government in that? Didn't the Federal Government establish itself in the risk pool and all the aspects of risk telling the regulators and telling the banks and telling the financiers you will do this? So there is equal blame to go around, and that is not where we want to go about.

Governor SHUMLIN. All right, but I would actually argue that if we want to get into that, that it was the lack of regulation——

Mr. GOSAR. Thank you.

Governor SHUMLIN [continuing]. Of Wall Street that led us to the crisis.

Mr. GOSAR. And that is government. Once again, government problems, and coming from the Federal Government. But what I am trying to get back to is it is not an oversimplification, because when we are telling you a rule, if it is intrinsic to the Federal Government's mission, do you think they ought to pass the buck to you or they should fully fund it?

Governor SHUMLIN. I think the Federal Government should keep its promises to the States.

Mr. GOSAR. And are you prepared to honor those promises to communities?

Governor SHUMLIN. Absolutely.

Mr. GOSAR. OK. So when we are talking about health care and corrections, I am having a problem here on where this unfunded mandate is coming from, because we constantly are kicking the can down the road and these are the core principle problems that you brought up, health care and corrections.

Governor SHUMLIN. Well, you know, it isn't the mandates. We don't have Federal mandates standing in our way in the way of corrections that are really a budget challenge. On health care we——

Mr. GOSAR. Wait a minute. I have a famous sheriff out in my neck of the woods and the Federal Government is breathing down his neck and telling him, yes, you can do that, no, you can't do that. So there is some oversight in regards to the Federal Government that dictates exactly how you can incarcerate a prisoner or how you have to go through a process, does it not?

Governor SHUMLIN. I don't see it as a cost driver in my State budget.

Mr. GOSAR. Hmm.

How about you, how do you feel, Governor Walker?

Governor WALKER. Well, there is no doubt that not only the mandates from the Federal Government to the State government, but many times the mandates that then go on to the local governments are driven largely by the mandates that start here. And to the extent that we get more freedom and flexibility, one thing the Governor said earlier I would concur is I would love to have a block grant. I want to make sure that that doesn't mean that that is just say, here, have it, now we are going to cut it in half, either. I realize that there is a core group of people on things related to Medicaid, but I do believe if you put the power back in the hands of the people at the State level, the States are better equipped to tackle those challenges and in turn can—one State versus another State is going to have very different needs and very different outcomes. And the more that we can adjust to that and not have a one-size-fits all, the better off we are going to be.

Mr. GOSAR. Thank you.

Chairman ISSA. I thank the gentleman.

The gentlelady from New York, Mrs. Maloney.

Oh, she has returned. The gentlelady from California, Ms. Speier.

Ms. SPEIER. Thank you, Mrs. Maloney and thank you, Mr. Chairman.

And thank you both for your participation here today. I don't know that I would have done this if I were the two of you, but I am glad that you have.

Let me start off with Governor Walker. I have here a Web site, www.standwithwalker.com, that is supported by the Americans for Prosperity and it is, of course, funded by the Koch brothers, and in it they say the following: When public sector workers gain sweetheart contracts filled with plush benefits unheard of in the private sector, the taxpayer loses every time.

Do you agree with that statement?

Governor WALKER. I haven't seen that statement before, but I know one of your colleagues asked me earlier who pays, for example, for the pensions and things of that nature, it is the taxpayers. So I don't know about that statement in particular, but conceptually who pays for the pension and health care benefits? It is the taxpayers, including public sector employees who are taxpayers as well.

Ms. SPEIER. Well, these are quite facts about Wisconsin's budget repair legislation.

The second point is respecting the public trust. When teachers choose not to teach purely to pad their already lavish contracts. Do you believe that statement, that they have lavish contracts?

Governor WALKER. Lavish contracts? No. Again, you weren't here earlier, but I was asked about that as well, and I pointed out, to me, this is not about—I forgot which of your colleagues, one of the doctors asked whether I thought public employees were paid too much or too little, and I said that is not what this is about. This is about trying to balance the budget and provide long-term reforms that make government work better.

One other——

Ms. SPEIER. Let me ask you this. Excuse me for reclaiming my time. Do you think the teachers in Wisconsin are paid adequately?

Governor WALKER. If we could set up a system where we rewarded based on performance and merit, I would be even willing to pay more.

Ms. SPEIER. Well, let me just——

Governor WALKER. But we don't have that system right now; we have one solely based on seniority.

Ms. SPEIER. Do you know what the starting teacher's salary is in Wisconsin?

Governor WALKER. Starting? Depends on the district. I know, for example, the Milwaukee public school system, the total compensation package for an average employee is about $101,000.

Ms. SPEIER. Well, the starting teacher's salary in Wisconsin is $25,222, and Wisconsin ranks 49th in the Nation in terms of starting salaries for teachers.

Governor WALKER. And the reason for that is because that talks about starting salaries, not total benefit packages. So, for example, if you are in a school district like many where they don't pay anything for health care, that is an added benefit in terms of what the costs are.

Ms. SPEIER. You are 49th in the Nation in what you pay your school teachers.

Now, let's talk about contributions. How much have you received in contributions from the Koch brothers?

Governor WALKER. From the Koch brothers? None directly that I know of. There are probably other groups that supported us, but I don't know what the total is.

Ms. SPEIER. Well, I am under the impression you received $43,000 from the Koch brothers during your gubernatorial campaign.

Governor WALKER. Could be. I had 50,000 contributors. I couldn't tell you who they were.

Ms. SPEIER. Did you take the phone calls of all those 50,000 contributors when you were in the middle of that crisis?

Governor WALKER. I talked to a whole lot of people every day.

Ms. SPEIER. All right.

Let's move on to Governor Shumlin. I was really impressed by one of the statements, many of the statements you made, but one in particular, in which you said that Wall Street really believes that this crisis creation is really relative to the States and their potential bankruptcy is really a figment of the imaginations of some who are politically motivated to create that kind of angst. Could you expound on that a little bit?

Governor SHUMLIN. Sure. And I want to be careful, because if I misspoke, I want to be careful here. I hope I didn't say it was a figment of the imagination.

Ms. SPEIER. No, it was my term.

Governor SHUMLIN. OK. What they said was, and in meeting with rating agencies that I just went through, and Governors do that, we go down and make sure that our bond ratings are strong and that they know how we are managing our budgets, and what they said in two of the three rating agencies is, when I asked about this question, that they feel like the doom and gloom about pensions of the States is greatly exaggerated for political reasons; that they don't think any States are going bankrupt; that they don't think it is the States' biggest challenges; and that they are puzzled by the current perceived crisis.

Ms. SPEIER. Now, in much of our discussion today about defined contribution, what is missing is the fact that the taxpayers have to pay 50 percent of that pension benefit every single month, regardless. And in a defined benefit plan, as you pointed out, 80 percent of the cost is actually borne by the growth that the investments receive. The taxpayers then end up only paying about 20 percent. Is that not correct?

Governor SHUMLIN. That is correct. And another point that is important to remember is, which I mentioned earlier, but I want to make sure it is emphasized, that in this financial crisis we have asked our public employees, our unionized employees to pay more. Both our teachers and State employees have agreed to pay more, to increase the share that they are paying. Somehow that is getting lost between the trees here. The fact of the matter is, yes, you are correct, 80 percent of payments come from investments in the fund; and, second, we have asked our employees and they have agreed to pay more than they were paying pre-crisis. So we are balancing this crisis, to some degree, on their backs.

Ms. SPEIER. Thank you.

I yield back.

Chairman ISSA. I thank the gentlelady and I thank Governor Walker and Governor Shumlin for being here.

Mrs. MALONEY. [Remarks made off mic.]

Mr. WALBERG [presiding]. I am up next.

Mrs. MALONEY. [Remarks made off mic.]

Mr. WALBERG. I accept that. No, we are not closing. I am just allowing the chairman a vote opportunity in Judiciary Committee, as I was voting and chairing a subcommittee. I was dealing with a noncontroversial issue and I apologize for not being here. Davis-Bacon is what we were talking about, so I had to be there. But I did read your testimonies and appreciate you being here, so I did want to ask some questions.

Governor Walker, I also appreciate the fact of what you build in Milwaukee and enjoy riding my Road King. I understand you ride as well. And I have enjoyed both in Wisconsin and in the beautiful State of Vermont. There are days I wish I were there right now.

As a former State official in the State legislature, I am very familiar with your situation, Governor Walker. When I started my tenure back in 1982 there, we had a $1.8 billion budget deficit. A process of a number of years we enacted 26 tax cuts, regulatory reform, a number of things that went to ultimately, when I left in 1999, we had a budget surplus, a rainy day fund of $1 billion. Hasn't history repeatedly proven that lowering taxes encourages economic growth and ultimately increases revenue for the States?

Governor WALKER. Yes, we have seen that in the past, and we saw the opposite of that 2 years ago when my predecessor and the legislature moved to pass a budget repair bill in 24 hours that raised taxes by about $1 billion, and we saw, obviously, higher unemployment and job loss after that. So clearly raising taxes in an economic crisis is not the right answer. The more you put money back in the hands of job creators, I believe the better off you are going to be.

Mr. WALBERG. Build the economy.

Governor WALKER. Absolutely.

Mr. WALBERG. Well, right now Michigan, as you know, in talking with our new Governor, we are at a $5.7 billion budget shortfall. Governor Snyder is taking some aggressive steps and being pushed back as well, as you have experienced, including dealing with an emergency manager authority over municipalities. That leads to my question. What do you think of that type of authority and what are some other reforms that may need to be pursued in order to strengthen the fiscal standing of States like your own?

Governor WALKER. I would have to look specifically at what Rick is proposing there in terms of oversight of the local government. I will tell you, though, this goes to the heart, as a former county official, of what I am talking about and why we pushed reforms that weren't just about the momentary. They weren't just about fixing things together, or even over the next 2 years, but about providing long-term relief. Let me be clear, because I think sometimes people confuse this into thinking this has an impact on private sector unions. It doesn't; collective bargaining is fully intact for any of the private sector unions out there. This legislation that we signed into law doesn't have an impact on that for the public sector. To be able to make changes that ensure stability, financial stability in governments at the State and the local level, we had to make these changes, and even more so to make sure that government can continue to be reformed, and where we can improve the system and ultimately reward good employees. That also was a part of this package as well.

So, in totality, I believe we give local governments the kind of long-term tools they need not only to balance their budgets, but to make prudent decisions so they can protect core services.

Mr. WALBERG. I appreciate that. Well, I was going to ask both Governors, but let me continue my questioning here at this point. What steps can, Governor Walker, or should not, I guess the positive and the negative, what steps can or should not Congress do to help you in your budget situation? And I guess following up with that, do you agree that another State bailout is not the solution?

Governor WALKER. Well, to me, asking the taxpayers, and me as a Federal taxpayer, which obviously we are reminded of this week, asking me to bail out another State isn't something I am particularly interested in as a taxpayer. To me, I think each of us in each of the 50 States have to make, in many cases, the tough decisions to ensure that we not only balance our current budgets, but we make long-term decisions. And if we look to other people at the Federal level or other entities to do that, I think that puts us in a very precarious position.

One other thing, if I might digress for just 1 second from your question. The gentleman from Massachusetts, and I apologize, I think his nameplate is turned, asked me a question about process, and one thing is just important to put in the record. We didn't start the debate the way that it has been characterized. In December, after the elections but before I was sworn into office, the public sector unions in the State rushed to the lame duck session in the legislature and to the Governor and tried to pass through contracts that would have locked us in to a more dire financial situation with costs that I believe we couldn't account for with a $3.6 billion deficit on the horizon. So that was the initial act.

Now, we were successful in appealing even to some of the Democrats in the legislature to stop that from happening and giving us a chance to do that, but when people ask why didn't we begin by negotiating, it was really the tone was set early on by the process that was taken after the election but before we were sworn in, and that is why it became clear to us that we needed to empower both our State and local government to make those sorts of long-term changes.

Mr. WALBERG. I thank the Governor and now turn to Ms. Maloney. And I thank you for putting up with the confusion that went on there.

Mrs. MALONEY. Well, thank you and thank you for your very thoughtful questions.

Welcome, Governor. I thank you for your testimony and for being with us here today.

Governor Walker, many unions and some elected officials, including some Republican Governors, have criticized your actions as extreme, referring to them as some sort of fringe effort to attack workers' rights and dismantle unions. How do you respond to these criticisms? Do you feel your actions were extreme or out of the mainstream in any way?

Governor WALKER. No, because I believe fundamentally if what we have heard said over and over again was a fundamental right, you all in Congress would be acting on it right now. You do not have collective bargaining, other than Postal Service workers, for the vast majority of public employees who work for the Federal Government for wages and for benefits. If it is a fundamental right, why aren't you debating it right here now? It is not; it is a government entitlement. Collective bargaining is important for the private sector, for the examples we have heard about the impact it has had on families and legacies. Private sector unions are my partner in economic development, I work with them, and I hope to work with our public employees.

Mrs. MALONEY. OK.

Governor WALKER. But collective bargaining itself is not a fundamental right. Rights come from the Constitution, and nowhere in the Constitution does that clearly define that.

Mrs. MALONEY. Well, many of the criticism does come from unions, but I have a stack of editorials here from major papers across the country, and I would like to go through some of the headlines. We have the Chicago Sun Times, and its editorial says, Cut Pensions But Don't Bust Unions. We have the Philadelphia Enquirer, and it says, A Bridge Too Far. The Los Angeles Times says, "Wrong in Wisconsin." And the Boston Globe, its headline says, By Overreaching, Wisconsin Governor Hinders Reforms in All States. I even have some editorials from your own State's papers, the Milwaukee Wisconsin Journal, the Centennial, and the Green Bay Press Gazette. I would like to read from a few of these and get your response.

The Philadelphia Enquirer calls your actions "a partisan plot masquerading as fiscal prudence." The New York Times says, "Even when unions have made concessions, Republican officials have kept up the attack. The Republicans claim to be acting on behalf of taxpayers, and this is not believable." The LA Times says your claim "that public employee unions must be crushed in order to balance the State's budget is deeply disingenuous." And the Milwaukee Wisconsin Journal Centennial writes that "unions have conceded on benefits, but parts of Walker's budget repair bill unfairly targets collective bargaining for public employees." Even the Green Bay Press Gazette, a newspaper that I believe endorsed you when you ran for Governor, says your approach "casts the debate as an anti-union campaign and not a tough but fair shared sacrifice."

So what is your reaction to these statements by respected papers across our country?

Governor WALKER. Sure. Thank you for your question. I would point out two things. One, just a factual error that a couple of those papers alluded to and I mentioned before. The unions did not reach settlements. Two public employee unions made a statement, neither of which was codified in any agreement and none of which——

Mrs. MALONEY. But, Governor, this was not referring to those specifics——

Governor WALKER. No, I will answer your other point——

Mrs. MALONEY. But may I finish? Because my time is expiring. I believe the point that they made in these editorials is the same point that many of us on this panel have been trying to make today, and we are trying to make the point that it is one thing to ask for shared sacrifice for financial reasons, but it is very unfair, and you appear to be trying to strip American workers of their rights, and there does not seem to be any financial rationale at all. That is what these editorials are making.

Governor WALKER. Sure.

Mrs. MALONEY. Instead, it appears very much to me and to others to be ideologically and politically motivated.

Governor WALKER. Per your original question, I would say many of those same voices said the same thing about Mitch Daniels in 2005. After his time in office, after people saw the benefits of the collective bargaining reforms he put in place, where government got more efficient, more effective, more accountable, and where ultimately public employees who were doing a great job got rewarded, the people in his State re-elected him with 58 percent of the vote. I think it is because they recognized results. They wanted results, and that is what they got.

Chairman ISSA [presiding]. I thank the gentlelady.

We now recognize the former chairman of the full committee, the gentleman from Indiana, Mr. Burton, for 5 minutes.

Mrs. MALONEY. Mr. Chairman, may I put these editorials in the record?

Chairman ISSA. Without objection, so ordered.

Additionally, the earlier unanimous consent for Mr. Connolly is accepted, so his will also be placed in the record.

[The information referred to follows:]

Maloney for [illegible]

Los Angeles Times ARTICLE COLLECTIONS

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Editorial

Wrong in Wisconsin

The state's attack on unions is misguided, but that doesn't mean the status quo is sustainable.

February 24, 2011

The firestorm ignited in Wisconsin over public employee unions is now spreading to Indiana and Ohio, and will probably spark elsewhere before it's extinguished. As union members man the barricades to protest efforts to strip them of collective bargaining rights, Democratic lawmakers flee their home states to forestall action and conservatives vow to prevent unions from sucking government treasuries dry, what's striking about the debate is how little the opposing sides seem to understand or acknowledge each other's arguments. Wisconsin's approach to unions is decidedly the wrong one, but that doesn't mean the status quo is sustainable.

Wisconsin Gov. Scott Walker's claim that public employee unions must be crushed in order to balance the state's budget is deeply disingenuous. Though it's true that raising workers' pension and healthcare contributions would help reduce the state's $3.6-billion shortfall, that's no reason to take away collective bargaining rights on such benefits in perpetuity. Unions have curbed worker exploitation, raised living standards and reduced the gap between rich and poor nationwide, and benefits wrested by unions after long struggle are now enjoyed and taken for granted by Americans from all walks of life. Moreover, it's no fault of Wisconsin's teachers and other state workers that past administrations have awarded overly generous contracts.

At the same time, though, union backers seldom acknowledge that there are important differences between public employee and private-sector unions that render the former more troublesome. The biggest is that when companies can no longer afford the benefits they've given to their workers, they can file for bankruptcy protection and terminate their union contracts, negotiating new ones that allow them (and the jobs they provide) to survive. State governments don't have that luxury; to meet rising labor commitments, they must continue to raise taxes or cut services. Further, private-sector contract negotiations are by their nature adversarial, with one side representing workers and the other representing managers who are deeply concerned with protecting profits. When it comes to government labor contracts, all too often union representatives are negotiating with politicians who owe their jobs to union backing and who are spending money that isn't theirs. What's more, approving an unsustainable pension deal comes with little political cost, because by the time it starts dragging the state into the red, the officials who approved it have left office.

This is why states all over the country, including California, are wrestling with unaffordable public pension obligations. But there are better ways of solving this problem than stripping unions of collective bargaining rights. If politicians can't be trusted to represent taxpayer interests in contract talks, maybe states could appoint independent expert panels to do the job, rather like the compensation committees that set CEO pay at some corporations. Or labor union influence over elections could be curbed. But the easiest thing would be to simply renegotiate separate contracts for newly hired workers. Indeed, Wisconsin's unions have shown every sign that they're willing to make sacrifices, if Republican leaders would listen.

February 22, 2011

Spreading Anti-Union Agenda

Like a wind-whipped brush fire, the mass union protests that began in Madison, Wis., last week have spread to the capitals of Ohio and Indiana where Republican lawmakers also are trying to cripple the bargaining power of unions — and ultimately realize a cherished partisan dream of eradicating them. In each case, Republican talk of balancing budgets is cover for the real purpose of gutting the political force of middle-class state workers, who are steady supporters of Democrats and pose a threat to a growing conservative agenda.

In Ohio, Republican legislators, backed by Gov. John Kasich, have introduced a bill to end collective bargaining for state employees, in addition to imposing budgetary givebacks. Former Gov. Ted Strickland, a Democrat who was defeated by Mr. Kasich last year, has called the bill a "coordinated attack on the working middle class." Thousands of union supporters showed up at the Capitol in Columbus on Tuesday, but the party appears to have the votes to pass the measure.

Across the border, Republicans are pushing a bill that would make Indiana what is misleadingly known as a "right-to-work" state. That means workers cannot be required to join public- or private-sector unions or pay dues, starving unions of the money they need to operate. Democrats in the Indiana House left the state to prevent a vote, tying up all legislation for two days. Thousands of workers have rallied on the Statehouse grounds. Gov. Mitch Daniels (who ended collective-bargaining rights for state workers in 2005) has supported the bill's concept but on Tuesday urged Republicans to drop it because it could interfere with other items on his agenda.

Conservative leaders in most states with strong unions have in the past generally made accommodations with organized labor, often winning support on social issues in return. That changed this year after wealthy conservatives poured tens of millions of dollars into the election campaigns of hard-right candidates like Mr. Kasich and Gov. Scott Walker of Wisconsin.

As Eric Lipton reported in The Times on Tuesday, the billionaire brothers Charles and David Koch, who have long been staunch union opponents, were among the biggest contributors to Mr. Walker. (Americans for Prosperity, the conservative group financed by the Kochs, will begin running anti-union broadcast ads in Wisconsin in the next few days.)

Some public sector unions have contracts and benefits that are too rich for these times, but even when they have made concessions, Republican officials have kept up the attack. The Republicans' claim to be acting on behalf of taxpayers is not believable.

In Wisconsin, union leaders agreed to concessions requested by Mr. Walker: to pay nearly 6 percent of their wages for pension costs, up from nearly zero, and double payments for health insurance. At that point, most governors would declare victory and move on. Instead, Mr. Walker has rejected union concessions and won't even negotiate. His true priority is stripping workers of collective-bargaining rights and reducing their unions to a shell. The unions would no longer be able to raise money to oppose him, as they did in last year's election, easing the way for future Republicans as well.

The game is up when unionized state workers demonstrate a sense of shared sacrifice but Republican lawmakers won't even allow them a seat at the table. For unions and Democrats in the Midwest, this is an existential struggle, and it is one worth waging.

philly.com

TUESDAY, FEBRUARY 22, 2011

Editorial: Wisconsin on the Susquehanna?

An IOM editorial in the Daily News:

COULD WISCONSIN labor pains come to Pennsylvania?

Around the nation, people are watching the battle in Wisconsin between newly elected Republican Gov. Scott Walker and the unions that represent teachers, social workers and other public-sector employees.

State workers have agreed to wage and benefit cuts to help fill a $3.2 billion budget shortfall, but Walker wants to go further - he wants to essentially eliminate the right of government employees to collectively bargain.

The fight has many people wondering if Gov. Corbett will try something similar to help balance the multibillion-dollar budget deficit in Pennsylvania. Here's a news flash: He already has. Although our new governor has indicated he won't try something as sweeping as the legislation in Wisconsin, he has backed several key proposals that would substantially weaken the power of organized labor in Pennsylvania.

The clearest proposal that targets public-sector unions is the push to privatize state liquor stores. Promoted as a way to generate a big chunk of money for the state budget and improve consumer choice, the change will also mean eliminating thousands of union positions in state government. The state liquor stores employ nearly 2,200 unionized employees, which is about 3 percent of all state workers. If liquor sales are privatized, all of these employees will be laid off and most likely not be in a union if re-hired by a private store.

Another less obvious example is the bipartisan legislation to create a program that will allow low-income parents to get a voucher to send their children to a private school. Although this initiative is framed as a way to offer choices to students stuck in low-performing schools, it will also drain funding from public schools, which are unionized. The money will go to private schools where teachers do not have the right to collectively bargain, which means it reduces the number of union workers providing state-funded services.

These specific ideas, all strongly supported by Corbett and likely to make it into his first budget, don't directly attack the collective-bargaining process. But some conservative members of the Legislature are trying to build support for a more drastic measure. A package of bills sponsored by Rep. Daryl Metcalfe, R-Butler, head of the State Government Committee, would transform Pennsylvania into a "Right-to-Work" state. The legislation would strip unions of the ability to collect dues from all employees in a workplace that had voted in an election to become unionized. That means the unions will have a lot less clout at the bargaining table with employers.

In the debate over public-sector unions, both sides make good arguments. It's no surprise that well-paid, well-pensioned state workers are going to come under scrutiny in the kind of severe budget crises that states are experiencing. On the other hand, diminishing public-sector unions will mean workers will lose jobs - and that leads to a whole other set of budget stresses. Compared with Pennsylvania, though, Wisconsin is handling this debate the right way: loudly, and out in the open.

Too bad the debate over Pennsylvania's lawmakers' generous salaries, pensions, health care and other perks hasn't reached the same volume.

One small step . . . is all it takes

After Tuesday night's speech and response, though, neither side seems ready to take that step.

Feb. 22, 2011

Gov. Scott Walker sat down Tuesday night for a heart-to-heart talk with the people of Wisconsin, and he gave it to them straight: We're in a real fix. We have a big budget hole to fill.

The Democrats responded that Walker is assaulting a basic right - collective bargaining.

Boiled down, here's what we heard: No one is budging.

We're right. You're wrong.

Enough.

There is still room for compromise.

Walker is right to take on collective bargaining and budget-busting benefits. The Democrats are right that the unions have conceded on benefits and that parts of Walker's budget-repair bill unfairly target collective bargaining for public employees.

The state faces a fiscal emergency - a $137 million deficit for the rest of this fiscal year; a $3.6 billion hole over the next two years. Faced with similar deficits, past governors have patched over the holes. Wisely, Walker is vowing to fill them.

"Some have questioned why we have to reform collective bargaining to balance the budget," Walker said in his televised speech. "The answer is simple. The system is broken: It costs taxpayers serious money - particularly at the local level."

The deal he offered public workers for pensions and health insurance is a good one. In addition to asking workers to pay a greater share, the state should limit bargaining in some respects. Where Walker overreached is trying to push through changes in state law that would make it nearly impossible to bargain.

But here's the thing: Both sides seem to view compromise as a weakness.

Republicans want to pass Walker's proposals intact.

Those 14 missing Senate Democrats say they want a compromise but aren't willing to return to hammer one out - even though there's a lot at stake.

"The missing Senate Democrats must know that their failure to come to work will lead to dire consequences very soon," Walker said. He's right.

But life is good in Illinois. Senate Democrats have raked in more than $300,000 in campaign donations in recent days, and Jon Erpenbach of Middleton is on cable television lately almost as much as Rachel Maddow.

Besides that, since this mess began, some of the rhetoric hasn't lent itself to compromise. We're talking to you, Sen. Lena Taylor. Playing the Hitler card on Walker? A fact-check by PolitiFact showed how outrageous your comments were.

Walker was elected to make changes in how Wisconsin does business. But he has to be fair. As David Brooks argues, Walker should ask for shared sacrifice. So far, what we've seen is sacrifice demanded from one set of workers - justifiably - but an exemption for a large swath of others. That would be most public safety workers.

Democracy can be messy. That doesn't mean it has to be this messy. Governor, Democrats, clean it up. It takes a first step.

Editorial: Cut pensions but don't bust unions

February 24, 2011 1:14AM

The Great Divide in Tuesday's mayoral election was not race or ethnicity or even the Loop vs. the neighborhoods. It was city workers vs. the rest of us.

Unionized city employees voted in lopsided numbers for Gery Chico, worried that a Mayor Rahm Emanuel would raid their pensions to solve the city's financial crisis. Many more Chicagoans voted for Emanuel precisely because they want a mayor who will do just that — squeeze the unions for major concessions to pension deals that threaten to bring down the city.

This is where we find ourselves — working people against working people — and it hardly seems fair in a nation with an income gap not seen since the Jazz Age. Twenty percent of Americans collect half the nation's income. It is, nonetheless, the hard truth that public employee pensions across the country must be renegotiated or local and state governments, including Chicago and Illinois, risk going bankrupt.
Nobody has a better solution.

The challenge in Chicago and Illinois is to extract those union concessions without wallowing in the mud of union-busting, as Republican Gov. Scott Walker is doing in Wisconsin. Walker forced his unions to cry "uncle" weeks ago on pay and pension cuts; now he's just out to destroy them.
But Illinois frankly has the opposite problem — a Democratic leadership so beholden to union money and ideology that they have been unwilling or unable to extract significant long-term concessions.

Gov. Quinn has been playing footsie with the unions for two years. House Speaker Mike Madigan only this month finally broached the possibility of demanding pension concessions from employees.
It is just that sort of cozy alliance between Democrats and government unions — the unions get the pols elected and then the pols hand the unions sweet deals — that has led conservatives to call for the abolishment of government employee unions.

But nobody who understands the role of unions in improving working conditions and creating a stable middle class in this country — a partial check on that shameful income gap — should favor busting unions, public or private. Elected officials, unaccountable to future taxpayers, have always been too quick to grant long-term benefits that government was unprepared to fund. They've then stood back and allowed back-breaking pension fund deficits to pile up year after year. That long-term debt, not the benefits themselves, are the primary source of government debt. In Chicago, four city employee pension funds will run out of money by 2030. A bill approved by the Illinois General Assembly would stick city homeowners and businesses with a paralyzing $550 million property tax increase in 2015 to put those pensions on a path to solvency.

In Springfield, the state's pension debt is now $86 billion. A two-tiered pension system passed last spring does little to reduce that price tag.

Democrats such as Quinn and Illinois' public unions are no doubt deeply troubled by the union-busting rhetoric racing across Wisconsin. They fear it will spread south of the border.

If so, there is really only one solution. As Emanuel hinted at (but never spelled out) during his campaign for mayor, it's past time to demand a negotiated reduction in current public employee pensions.
As Emanuel also said, "Denial is not a long-term strategy."

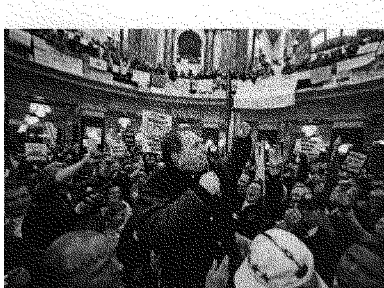
Thursday, Feb. 24, 2011

Editorial: Public employee unions must learn lesson from Wisconsin

The assault on public employee unions by Republican governors in Wisconsin and a growing roster of other states is a cynical ploy to bust the political power of Big Labor and its Democratic allies.

But those unions made themselves plump targets by extracting lucrative benefits during boom times, then zealously guarding them despite the worst recession in decades.

That lesson ought to resound loud and clear in California, where shared sacrifice is essential to plug a $26.6 billion hole in the state budget and balance local government budgets.



Associated Press - Teamsters President James Hoffa addresses a rally Wednesday in the Wisconsin state Capitol in Madison. It was the ninth day of protests over Gov. Scott Walker's proposal to curtail the collective bargaining rights of state workers.

Taxpayers will have to kick in; many Californians, including some of the most vulnerable, will receive fewer services. The leaders of unions for state and local employees alike have to recognize that some benefits are simply unsustainable.

So far, they have been able to avoid reality by spending millions each and every election to keep their stranglehold on the Legislature and many local elected boards. They showed their muscle again Tuesday evening at the Capitol, where about 2,500 public employees rallied in support of their Wisconsin brethren.

You don't need to look far for evidence that the standoff in Wisconsin is as much about politics as budget savings. In his bid to limit union bargaining power, Gov. Scott Walker is targeting teachers and others friendly to Democrats while exempting police and firefighters, whom Republicans apparently don't have the courage to confront. Two of the biggest unions have agreed to pay more of their pensions and health care, but Walker is holding out for his draconian bill.

In California, collective bargaining rights are in no immediate jeopardy. A bill introduced Tuesday by a Republican assemblyman to eliminate bargaining for pension benefits has no real chance of passage.

It will take political courage and public pressure to go beyond the concessions won by Gov. Arnold Schwarzenegger and imposed by the Legislature last year, which were grudging and insufficient. While banning some kinds of pension-spiking was long overdue, the lower pension formulas apply to future employees, so taxpayers won't see much savings for decades.

Voters – many of whom saw their 401(k) accounts devastated in the downturn and are now facing the unpleasant prospect of working past age 65 – are becoming more aware of the relative richness of the benefits received by public employees. The more they learn, the angrier they get. Polls show growing support for shifting public employees from defined pensions to 401(k)-type plans.

An initiative to limit pensions, require employees to pay more and mandate 401(k)s for new employees could be on the 2012 ballot. So could another to ban public employee unions from automatically deducting money from members' paychecks to use for political campaigns. One to strip public employees of their bargaining rights entirely could also make it to voters.

That means time is running out for the union leaders. Working with Gov. Jerry Brown and the Legislature, they need to demonstrate that collective bargaining can lead to reasonable compromises to help the state fix the budget. A good place to start would be the negotiations with six unions representing correctional officers, some public safety officers, scientists, engineers and attorneys.

If unions don't cooperate, they risk voters exacting a far higher price.

THE SACRAMENTO BEE sacbee.com

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In California, collective bargaining rights are in no immediate jeopardy. A bill introduced Tuesday by a Republican assemblyman to eliminate bargaining for pension benefits has no real chance of passage.

It will take political courage and public pressure to go beyond the concessions won by Gov. Arnold Schwarzenegger and imposed by the Legislature last year, which were grudging and insufficient. While banning some kinds of pension-spiking was long overdue, the lower pension formulas apply to future employees, so taxpayers won't see much savings for decades.

Voters – many of whom saw their 401(k) accounts devastated in the downturn and are now facing the unpleasant prospect of working past age 65 – are becoming more aware of the relative richness of the benefits received by public employees. The more they learn, the angrier they get. Polls show growing support for shifting public employees from defined pensions to 401(k)-type plans.

An initiative to limit pensions, require employees to pay more and mandate 401(k)s for new employees could be on the 2012 ballot. So could another to ban public employee unions from automatically deducting money from members' paychecks to use for political campaigns. One to strip public employees of their bargaining rights entirely could also make it to voters.

That means time is running out for the union leaders. Working with Gov. Jerry Brown and the Legislature, they need to demonstrate that collective bargaining can lead to reasonable compromises to help the state fix the budget. A good place to start would be the negotiations with six unions representing correctional officers, some public safety officers, scientists, engineers and attorneys.

If unions don't cooperate, they risk voters exacting a far higher price.

Government Finance Officers Association
International City/County Management Association
National Association of Counties
National Association of State Auditors, Comptrollers and Treasurers
National Association of State Retirement Administrators
National Council on Teacher Retirement
National League of Cities
US Conference of Mayors

April 14, 2011

The Honorable Darrell Issa
Chairman, Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Issa:

The organizations listed above, representing state and local governments, wish to set the record straight about the current status of the municipal bond market in relation to today's Committee's hearing, *State and Municipal Debt: Tough Choices Ahead.*

The facts about the current state of the municipal securities market are clear. As the Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs heard earlier this year, the rating agencies and other industry experts have stated consistently that it is highly unlikely that massive defaults will occur in the municipal securities sector, especially with state and local debt.

Specifically:

- No states have defaulted on their debt since Arkansas in 1933.
- Since 1970 only four local governments have defaulted on their bonds (excluding technical defaults).
- In 2010 there were fewer municipal defaults than the year prior.
- The historical default rate in the entire municipal sector is less than 1/3 of 1%, compared to a corporate default rate that exceeds 10%. (Fitch)
- Between 1970 and 2006, triple-A municipal bonds' default rate was 0% compared to a 0.52% default rate for triple-A corporate bonds. (Moody's)
- The recovery rate of payment for governmental debt exceeds the corporate recovery rate, with a recovery rate for general obligation and tax-backed debt at 100%.
- Debt service typically is only about 5% of the general fund budgets of state and municipal governments.
- Long-term debt is not issued for operating budgets but instead for capital projects that help governments pay for public projects, such as the construction or improvement of schools, streets, highways, hospitals, bridges, water and sewer systems, ports, airports and other public works.
- In many municipal bankruptcies, the jurisdictions have not defaulted on their debt/municipal bonds and have protected investors (including the largest in history–Orange County, CA in 1994).
- Most state and municipal governments operate under a standard practice of paying their debt service first before covering all other expenses; in some cases this is required by law or ordinance.

Additionally, although the Subcommittee in its previous hearings has linked the short-term post-recession fiscal challenges facing state and local governments with long-term issues such as public pensions and benefits. These two categories are distinct. There is not an immediate crisis related to public pension funding but rather it is a long-term concern, which state and local government leaders are addressing specifically for each entity. Recently 30 states and many local governments have made changes to their public pension plans.

Furthermore, state and local government officials neither seek nor want federal authority to declare bankruptcy or other specific 'bail out' legislation related to public pensions and the municipal securities industry. We simply ask that the federal government "do no harm" and not create additional unfunded mandates and burdens on state and local governments that would hamper their ability to recover from the recession as quickly as possible.

We would welcome the opportunity to discuss these issues with you in further detail.

Sincerely,

Government Finance Officers Association, Susan Gaffney, 202-393-8468
International City/County Management Association, Beth Kellar, 202-289-4262
National Association of Counties, Mike Belarimo, 202-942-4254
National Association of State Auditors, Comptrollers and Treasurers, Cornelia Chebinou, 202-624-5451
National Association of State Retirement Administrators, Jeannine Markoe Raymond, 202-624-1417
National Council on Teacher Retirement, Liegh Snell, 540-333-1015
National League of Cities, Lars Etzkorn, 202-626-3173
US Conference of Mayors, Larry Jones, 202-861-6709

Sample of letters sent to House Members.

February 16, 2011

VIA FACSIMILE

The Honorable Gary Ackerman
2111 Rayburn House Office Building
Washington, DC 20515-3205

Dear Representative Ackerman:

On behalf of the national organizations listed above—representing State and local governments, officials and public retirement systems—we are writing to express our strong opposition to H.R. 567. This legislation creates a dangerous precedent with regard to federal taxation and regulation of state and local governments and represents a fundamental lack of understanding regarding the operations and funding of public pensions and the strong accounting rules and strict legal constraints already in place requiring open and transparent governmental financial reporting and processes.

Further, this legislation ignores the extensive efforts made at the state and local levels to close short-term budget deficits as well as address longer-term obligations such as pensions. Inaccurate and misleading descriptions of the state of public finance and pensions are unhelpful, and Federal intrusion into areas that are the fiscal responsibility of state and local governments are unwarranted.

At a time when Congress and the Administration are both discussing the need to remove regulatory barriers, it makes little sense to impose disruptive and costly federal requirements that only serve to interfere with state and local government recovery and reform efforts. We strongly urge you to learn the facts about the retirement systems sponsored by your state and local governments, and oppose H.R.567.We have attached a fact sheet on public pensions for your review.

If you have any questions or would like additional information, please do not hesitate to contact our organizations' legislative representatives:

Deseree Gardner, National Association of Counties, (202) 942-4204
Neil Bomberg, National League of Cities, (202) 626-3042
Larry Jones, United States Conference of Mayors, (202) 293-7330
Elizabeth Kellar, International City/County Management Association, (202) 962-3611
Cornelia Chebinou, National Association of State Auditors Comptrollers and Treasurers, (202) 624-5451
Barrie Tabin Berger, Government Finance Officers Association, (202) 393-8467
Tina Chiapetta, International Public Management Association for Human Resources, (703) 549-7100
Leigh Snell, National Council on Teacher Retirement, (540) 333-1015
Jeannine Markoe Raymond, National Association of State Retirement Administrators, (202) 624-1417

Attachment (1)

Mr. BURTON. Governor, you can't run out on me now; I was going to say something nice about you.

Unidentified SPEAKER. Congressman Burton, he is going to be right back, and we just——

Chairman ISSA. Ladies and gentlemen, we are going to take a 2-minute recess.

[Recess.]

Mr. BURTON [presiding]. Governor Walker, I really appreciate you mentioning Mitch Daniels. He is my Governor and we think he has done one hell of a job, and we are proud that you think so as well. And he did a lot of the things that you have tried to do in Wisconsin by executive order, and, as you said very clearly, the State is in good fiscal condition. He has done an outstanding job and we are very proud of him, and that is why he got re-elected by such a large majority. And he won re-election at a time that, for the first time since 1964, we lost a State to the Democratic candidate, Mr. Obama, for President. So it shows you against the tide he did very well.

I would like to ask you, Governor Shumlin, you don't have a balanced budget requirement in your State.

Governor SHUMLIN. No, we do not.

Mr. BURTON. And you are going to adopt a single payer system for health care?

Governor SHUMLIN. We are trying, yes.

Mr. BURTON. And how are you going to pay for that?

Governor SHUMLIN. Well, our challenge in health care reform across the country in both Federal and State, in my judgment, has been that no one has gotten cost containment right. So our first challenge is to design a system where we are using our dollars more efficiently and ensuring that we are spending less on health care. Once we figure out how to get cost containment right, and that is a real challenge, as you know, we are then going to figure out the best publicly financed method to pay for it, and that decision will be made in 2013.

Mr. BURTON. Are you familiar with the situation in Tennessee with their plan or the situation in Massachusetts with their plan?

Governor SHUMLIN. I am not clear what you are alluding to.

Mr. BURTON. Well, I mean, they went to a program that is not exactly like yours, but similar; the government was going to control the health care and the expenditures and that sort of thing.

Governor SHUMLIN. Well, I can tell you that I don't study Massachusetts and other States as much as I study Vermont and, frankly, we have already done that. We have Dr. Dynasaur, which covers all our children. The Republican Governor, Jim Douglas, passed Catamount, which covers you up to 300 percent of poverty with a great benefits package. We have VHAP, Vermont Health Access. So no one has better access, I don't believe, with the exception of maybe Massachusetts, than the State of Vermont. So my challenge is that we have done access; we now have a cost problem. They are doubling every 10 years; it is driving businesses and middle-class Americans who are paying more and more money for less and less insurance. We think we can get it right in Vermont.

Mr. BURTON. Without raising taxes?

Governor SHUMLIN. Well, the point is we are raising taxes right now because health care premiums are going up so quickly, the tax being money coming out of Vermonters' pockets at a higher rate than they can earn for rising health care costs. I pay it as a business person when I give my employees health insurance; it is a health care tax. Rising cost for a tax on business and a huge hindrance to job creation.

Mr. BURTON. So you probably will have a tax increase.

Governor SHUMLIN. No, we won't have a tax increase. What we will do is design a system where we spend less on health care than we are spending now and find a way to pay for it where it follows the individual and isn't required by the employer. The tax increase now is coming from the rate at which health care costs are growing, about twice of our income. That is what we are trying to fix.

Mr. BURTON. I understand there is going to be an offset there, but how do you make the offset? I mean, you have to have the money to offset the rising cost of health care. How are you going to get it?

Governor SHUMLIN. We are going to reduce the rising cost of health care. We are getting the money right now——

Mr. BURTON. No, no, I understand that. But if you can't reduce the rising cost. Let's say it doesn't work——

Governor SHUMLIN. If we can't reduce the cost, we won't pass the bill.

Mr. BURTON. You won't pass the bill.

Governor SHUMLIN. That is right.

Mr. BURTON. So you won't have a tax increase.

Governor SHUMLIN. Our goal is to pay less for health care and ensure that we are delivering quality health care to all Vermonters without the waste.

Mr. BURTON. Well, I understand, and you are a very good politician; you are skating the issue. You are not saying you will not raise taxes, but, if necessary, you probably would have to.

Governor SHUMLIN. What I am saying is that we are paying the tax right now. It is on my business; it is on every business in Vermont; it is every Vermonter's——

Mr. BURTON. I understand, Governor.

Governor SHUMLIN [continuing]. Paying for premium.

Mr. BURTON. I can see how you got elected, Governor; you are sharp.

Let me just say, Governor Walker, I don't see how the local municipalities in your State who are facing rising costs could possibly have survived without huge property tax increases or other tax increases unless you did what you did, so I was very happy that you had the perspicacity to hang in there when you had those problems. I would just like to ask you now—I know this is before the court, your supreme court. Do you have any idea when they are going to make a ruling on your case?

Governor WALKER. Well, an appeal has been made to the supreme court right now. Very well, maybe likely today, the circuit court mentioned yesterday they may even, by today or tomorrow, put forth a ruling on the original issue on the open meetings law. But one way or the other it will probably end up in the supreme court, but it could be as early as this week.

Mr. BURTON. And that will probably be a close vote, I would imagine, on the supreme court.

Governor WALKER. It is hard to tell. I am not a lawyer, but when I was in the legislature I had the audacity to actually read the legislation I voted on, so sometimes I was accused of being a lawyer. But I read the statutes, and in this case the law is pretty clear, and I think in the end, whether it is the circuit court, the court of appeals, or the supreme court, ultimately they will rule in favor of the legislature. I have said all along it is not if this will be the law, it is when.

Mr. BURTON. They are providing a speed reading course for Members of Congress so they can read 2,500 pages in one 24-hour period, so I am happy that you in Wisconsin were reading the bills.

As I understand it, the State and local governments, you asked the employees to contribute 5.8 percent to their pensions and 12.6 percent to their health care premiums, and the current private sector employees are paying about 20 percent. So what you were talking about was substantially less, even though you were having an increase, substantially less than what the private sector was paying.

Governor WALKER. That is correct. Middle-class taxpayers in our State are paying more and they are also, on top of that, paying for the government that they will have to pay for.

Mr. BURTON. Now, do you have a merit pay system in Wisconsin?

Governor WALKER. We have a civil service protection system where we have some benefits for those non-represented employees, but we don't have the same things under those individuals who are represented employees. This would allow us to do that not only at the State level, but ultimately at the local level, which is particularly important in schools, cities, towns, counties, so forth. We could pay for performance and that would be exceptional.

Mr. BURTON. Very good.

Well, I see the boss is back, so I will turn the chair back to him and I yield back.

Chairman ISSA [presiding]. The Chair now recognizes the gentlelady from the District of Columbia.

Mr. CUMMINGS. Mr. Chairman? Mr. Chairman.

Chairman ISSA. The ranking member is recognized.

Mr. CUMMINGS. I would just ask unanimous consent that Ms. Norton be given 7 minutes, as was Mr. Burton. He just took 7 minutes. I just want to make sure we got equal time, that is all.

Chairman ISSA. Absolutely. We have run over on almost every person, but certainly I expect that the next speaker may run over a similar period of time.

The gentlelady from the District of Columbia.

Ms. NORTON. Thank you. Thank you both.

I am very grateful for both of you to come this morning because you present us with a contrast in approaches running a State government in hard times, and I certainly want you to know that I recognize that there would be great differences between your two States. Both of you, though, come from States with a history of strong unions and collective bargaining, so in an important way you are comparable. But, of course, there has been quite different results with those unions. You are facing something of a backlash, Governor Walker, court cases and all the rest of it. I do want you to know that I believe you faced a terribly serious situation. For a new Governor to come in and be faced with what you and, for that matter, Governor Shumlin were faced with is nothing to do anything but take seriously. There are certainly no more funds from the Federal Government, as your predecessor had. We are not mitigating anything for you out there. And cuts are proceeding here. Now there are warnings that we could face a double dip. I am telling you that is what happened in 1937. The history books tell us that President Roosevelt experienced something of a backlash to his spending to get out of the Great Recession, and then in 1937 they called the results the Roosevelt Depression. So I think the States don't even have what we have.

I would like to ask you, Governor Walker, have you yet met with your top union leaders?

Governor WALKER. As has been the practice in the past, the head of the Office of State Employee Relations, Greg Gracz, has talked to them about how we move forward from this point.

Ms. NORTON. Wouldn't it be good, now that you have come out of the worst of the fight, to seek a meeting with them so as to mend as much of the breach as you could?

Governor WALKER. Again, on not only this issue, but on where the employee contracts go forward from this point, that is why Mr. Gracz set up that meeting. And on other issues beyond just the public employee contracts, but with the head of the AFL–CIO, for example, on issues related to unemployment compensation and changes that need to be made in the future or may need to be made, we have an Unemployment Compensation Council, and both he and——

Ms. NORTON. You are the head of the government. You had the press conferences; you called the shots. These people are not going away. You would not have to be engaged in negotiation with them or in the details, but a simple meeting, would that not send a signal to the State that you at least had reached out in hope of better relations in the future?

Governor WALKER. Well, my better relations at this point have been with the workers of the State. I have reached out and talked——

Ms. NORTON. Many of the workers are in fact represented, and unless they believe that their unions have a better relationship, I don't know why in the world they would figure that somehow you could jump over them and have a better relationship, given what has already happened to them, Governor Walker.

Governor WALKER. Again, the common practice in the past is to work through the position that Mr. Gracz has right now——

Ms. NORTON. All right, Governor Walker, I see that you are just where you were. It is what happened in the past that led to the most serious breach Governors had with his workers in memory.

Let me ask Governor Shumlin. You have also had hard times in your State, and let me see if the figures I have been given are correct: that the State employees voted to accept the 2-year 3 percent cut; that the teachers are agreeing to three additional years of work before retiring and to contribute a greater percentage of their pay toward their pensions, and pensions are at the root of much of the trouble of the States; that your State Employees Association voted to increase the pension contribution by 1.3 percent over the next 5 years. How have you been able to get unions to give up so much and apparently to maintain some kind of relationship with collective bargaining in your State?

Governor SHUMLIN. Well, Congresswoman Norton, you know, I think you got to the heart of it right in the beginning of your comments. The first thing that I did as Governor, after getting sworn in, that every day, was call the Vermont State Employees Association, our State employee union, into the office and tell them that I needed to make $12 million worth of additional cuts, and I wanted their cooperation, through hiring freezes and other methods, which are not part of the list of concessions——

Ms. NORTON. Did you threaten them if they didn't——

Governor SHUMLIN. I absolutely didn't threaten them. I said we have to work together to solve this problem. And guess what? They stood with us and we have made the cuts. In fact, we have exceeded the $12 million target that we needed to get for this fiscal year.

My point is I have seen both examples. In the last 8 years we had a Republican Governor who never invited the teachers union up to his office and, therefore, turned to the speaker and myself to get the concessions on the $25 million from them. My point is that reasonableness, compromise, common sense, that is what the American people are looking for. But what they are looking for more than anything is for us to all sit around the table together to solve real problems. We have done that in Vermont. I know that other Governors are doing it. I think we all would be well served by that approach.

Ms. NORTON. Governor Walker, I wouldn't be so presumptuous as to give you any advice. You know your situation better than any of us. But if I may, Mr. Chairman, use an analogy based on relationships here in the Congress, you are aware that the Congress is considered to be very polarized. Now, the chairman and I are on very different sides when it comes to matters affecting national policy and affecting even the District of Columbia. But when I have had a disagreement with him, while I have not recruited him to my position, I have always felt that this was somebody I could talk with and that we would have a civil conversation. I am known to be combative, sir. I represent people who have a vote in this committee but don't have any vote on the House floor, second per capita in Federal income taxes. But I don't say I never want to speak to these Republicans who are going to vote for this congressional resolution coming up. So I am not going to tell you what to do, but I do want you to know I am in the minority here, and whether I was in the minority or the majority, and even though we vote often party line, we maintain good relationships.

Analogizing that to your situation, after you have had a tough fight with a bunch of unions, I would want to take the high road and say I am the big guy here; I am calling you in, this is why I did it, I hope things go better in the future, and be done with it.

Thank you, Mr. Chairman.

Chairman ISSA. I thank the gentlelady.

We have a vote. I do not want to hold the Governors over, so we have two people left present who have not spoken. I am going to ask you to be at or below 5 minutes so that you both can get in, and then we will recess this panel and thank the Governors.

Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman.

I want to thank both you gentlemen for not only your patience, but your very thoughtful responses. I am concerned that there appears to be a systematic attack on American workers, and part of that attack seems to be designed to blame them for fiscal challenges facing the States.

Governor Shumlin, in your testimony you attribute State budget shortfalls not to American workers, but to "the greatest economic recession since the Great Depression." As you stated, our revenues are down and the need for government services is up. Is that an accurate depiction?

Governor SHUMLIN. Absolutely.

Mr. DAVIS. The Washington Post columnist Ezra Klein explained the same point with respect to Wisconsin; indicated whatever fiscal problems Wisconsin is or is not facing at the moment, they are not caused by labor unions. That is also true for New Jersey, for Ohio, and for the other States. There was no sharp rise in collective bargaining in 2006 and 2007, no major reforms of the country's labor laws, no dramatic change in how unions organize. And yet the State budgets collapsed; revenues plummeted, taxes had to go up, and spending had to go down all across the country. Blame the banks, blame global capital flows, blame lax regulation of Wall Street, blame home buyers or home sellers, but don't blame the unions, not for this recession.

Governor Walker, how do you respond to that view?

Governor WALKER. Thank you, Representative, for your question. As I mentioned earlier in my testimony, I think there are a number of reasons that brought at least Wisconsin to a $3.6 billion deficit. One, like Vermont and other States, is the economy, no doubt about it. You mentioned a bunch of different reasons that people acknowledge were a part of the recession. I won't get into the details of that, but tell you that one significant part, without a doubt, is the economy. And that is why we are working so hard to improve that and show that Wisconsin indeed is open for business so future budgets are easier to tackle.

In our State, though, beyond that, and something I have acknowledged is not a partisan issue, it has been Democrats and Republicans alike in the past, have deferred tough decisions. For 16 years, the last 8 biennial budgets—and it goes back before that, probably, but for at least 16 years since the State started measuring the structural deficit, State lawmakers and past Governors have deferred tough decisions by raiding things like the transportation fund or the patient compensation fund in our State, by pushing off school aid payments to the next biennial, by——

Mr. DAVIS. Well, let me ask you——

Governor WALKER. And then the last point I just mentioned was 2 years ago the last budget was balanced with several billion dollars of one-time Federal stimulus aid. All those things, which I believe my colleague mentioned as well, all those things collectively added to our problems. What we have tried to identify are possible solutions, and my reforms that we are talking about here today represent a portion of that. About $1.7 billion with the savings in the next 2 years will come from those, but I have a $3.6 billion deficit, so——

Mr. DAVIS. Well, let me ask you. There are those who suggest that you have balanced your budget on the backs of middle-class working families; you have cut funding for public education, low cost prescription drugs, and in-home health care; and at the same time gave tax breaks to wealthy corporations. How do you justify that position?

Governor WALKER. I would say that is just not true. If you look down the line at the budget we proposed, the biggest beneficiaries of our budget are middle-class taxpayers in the State of Wisconsin. The biggest tax relief we provide is an absolute freeze on the property tax levy in the State of Wisconsin in our budget. That affects middle-class taxpayers as much as anybody else out there.

In terms of the middle class, I would contend, in our State, the middle class are the very people who have been paying the largest share of taxes to pay for the expanse of government in the past. If you look at just the numbers, $3.6 billion. Our reforms save $1.7 billion. That means the rest of that, nearly $2 billion that has to be balanced, come from a variety of other areas. Some of that has to come from a reduction of State aid to local governments, but that is because, in turn, unlike other States that are cutting aids to local governments, we are actually giving them the tools to balance their budget without massive cuts in service, without massive layoffs.

Mr. DAVIS. Thank you very much, Mr. Chairman. My time is up.

Chairman ISSA. I thank the gentleman.

The gentlelady from Wisconsin.

Ms. MOORE. Thank you so much, Mr. Chairman. The Governor and I have a really long history; we are friends. I am crazy about his kids and his wife, but I am not going to spend my 5 minutes pretending that we agree on anything.

I am going to start by suggesting to you, Governor, that I just believe your $3.6 billion structural deficit. I think that I served on the finance committee for many years, and the chairman has asked the right question. State and local government spending cuts, choice or necessity. That $3.6 billion deficit—I am not going to call it a structural deficit—is simply the difference between what the agencies request and your austere budget. So in between there there is a lot of debate about whether or not there is a $3.6 billion structural deficit.

You know, even when you consider stuff like the Medicaid payment, which was one-time only, $169 million, $200 million in that patient compensation fund that the courts say you have to pay back—but, of course, that wasn't even in your budget repair bill—or the $58 million for the Minnesota Reciprocity Fund, which also was not in your budget reconciliation bill, the Fiscal Bureau for current year fiscal 2011, you had $121 million in cash, which is not a lot of money. So you started out by giving $117 million worth of tax breaks, which reduces revenue for the next fiscal year. And, in contrast to giving these wealthy people tax breaks, you cut the earned income tax credit, doubling the taxes on the poorest parents by cutting their earned income tax credit.

With respect to collective bargaining, you know, you said in your testimony that folks were running and having a fit to settle contracts that they had been working on for a year. All 11 examples that you have given, members were already making concessions around health care, every single 1 of the 11 people that you raised. You said yourself that the pension fund is 99.67 percent funded. So the question is choice or necessity. And in terms of public workers making more money than the private sector, that is not true; they make 8.2 percent less considering their education and training, and that is what pension funds are, deferred compensations. They have bargained for years for less money in order to have a pension, which is deferred compensation.

Now, let me ask you, choice or necessity. Did you really have to end Medicaid benefits for dialysis patients or put waiting lists for disabled people who need home health care? What in the world does balancing a budget have to do with your program in Milwaukee to expand education vouchers so that the richest person in Milwaukee County can take $6,500 away from the poorest kids in the State for education? What in the world does that have to do with balancing a budget?

You reinstate the 30-hour work week on welfare recipients and you tax welfare recipients $20 a month to balance the budget. Transportation. I know, if there is time, if the chairman gives us time, because I am using my 5 minutes to make my statement. You know, you are going to say you gave $410 million to your favorite fund and your favorite folk you love to the highway people, $410 million, Governors in the past have raided it for education. You took a billion dollars out of education, which most Governors don't do. But you didn't do it for transit. There are 12 communities in Wisconsin that give 24 million rides a year that are going to suffer because of what you have done. And you know, you are going to lose $46 million in Federal funding because you have taken collective bargaining away, and that is against Federal law.

So, you know, Governor, I asked the question, if you have time to answer, State and local government spending cuts, choice or necessity? And I yield back the balance of my time.

Chairman ISSA. Would the gentlelady yield for a question?

Ms. MOORE. Yes. I have 10 seconds left.

Chairman ISSA. Well, in that 10 seconds, what Federal law requires collective bargaining and you would lose money over it?

Ms. MOORE. Transportation. There is a transportation prohibition against—we have communities in Wisconsin that provide public transportation, and you have to have public workers collective bargaining agreements in place in order to get the transit reimbursement.

Chairman ISSA. Would the gentlelady be willing to put that in the record, the data supporting it?

Ms. MOORE. Yes.

Chairman ISSA. Thank you.

Ms. MOORE. Thank you.

Chairman ISSA. I thank the gentlelady and I thank our two Governors. Members, left and right, have a lot of unanswered questions, but only because many of us spent too much time not asking the questions, and in some cases we simply ran out of time. So I would ask both the Governors if you, with the aid of your staff, would mind answering some supplemental questions from the committee.

[Witnesses answer in the affirmative.]

Chairman ISSA. Let the record show you have answered in the affirmative, which I appreciate. Additionally, at the beginning we received general leave for you to add additional information that you choose to, perhaps expanding on any answers you gave or providing supplemental information.

I thank you again. This has been great for the committee and I am sure good for those who took the time to watch or to attend.

With that, we stand recessed until about 10 minutes after the last vote.

[Recess.]

Chairman ISSA. It is now my pleasure to recognize the second panel of witnesses. Dr. Andrew Biggs is a resident scholar at the American Enterprise Institute for Policy Research; Mr. Mark Mix is the president of the National Right to Work Committee; Dr. Robert Novy-Marx is a professor of finance at the University of Rochester Simon Graduate School of Business; and Dr. Desmond Lachman is a resident scholar at the American Enterprise Institute for Public Policy Research and an adjunct professor at Georgetown University.

Pursuant to the House rules, all witnesses will be sworn in. Would you please rise to take the oath?

[Witnesses sworn.]

Chairman ISSA. Let the record indicate all witnesses answered in the affirmative. Please be seated.

We will suspend opening remarks. I simply want to thank you for your patience. I know that we had an audience that included your presence, and your testimony is every bit as important because ultimately the facts will determine a great deal of what the committee does going forward.

With that, Dr. Biggs.

STATEMENTS OF DR. ANDREW BIGGS, RESIDENT SCHOLAR, THE AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH; MARK MIX, PRESIDENT, NATIONAL RIGHT TO WORK COMMITTEE; DR. ROBERT NOVY-MARX, PROFESSOR OF FINANCE, UNIVERSITY OF ROCHESTER SIMON GRADUATE SCHOOL OF BUSINESS; AND DR. DESMOND LACHMAN, RESIDENT SCHOLAR, THE AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH

STATEMENT OF DR. ANDREW BIGGS

Mr. BIGGS. Thank you very much. Chairman Issa, Ranking Member Cummings, and members of the committee, thank you for the opportunity to testify with regard to the financial and budgetary challenges facing State governments. I will touch on three topics related to State government finances: public sector pensions, public employee compensation, and State investment practices.

Financing for public employee pensions poses significant challenges. But as bad as the current pension funding situation may appear, the reality is likely far worse. The GAO reports that funding for public sector pensions currently equals around 12 percent of public sector wages. But these figures are based on current accounting rules which allows plans to discount guaranteed benefit liabilities using expected interest rate on a portfolio of risky assets. Economists are nearly unanimous in believing this approach to be both technically wrong, as it understands the true value of plan liabilities, and from a policy perspective dangerous, as it encourages State and local pensions to take excessive investment risk.

If public sector pensions were required to use economically sound accounting rules, the cost of pension funding would rise from around 12 percent of employee wages to an astronomical 46 percent. This latter figure represents the true value of the pension benefits being promised and the true burden being placed on the public. The difference between the 12 percent and 46 percent figures represents the value of the risk that State pension funds are taking. States reduce the apparent pension cost burden by investing in risky assets. But this merely increases the contingent liabilities borne by taxpayers should investment returns falter.

Whether States resolve rising employee health and pension costs by increased taxes or reduced benefits depends in part upon how they judge the overall compensation of public sector employees. A number of recent studies have concluded that public employees in Wisconsin and other States are significantly underpaid relative to what similar individuals would receive in the private sector. These studies have been cited in arguing against changes to public sector compensation. But existing analyses of State and local pay significantly undercount future pension benefits, omit entirely retiree health coverage, and ignore the value of higher public sector job security. Correcting for these errors generates very different conclusions.

In certain large States, such as California, average public employee compensation is around 30 percent above what similar private sector workers would receive. In Wisconsin we found a public sector pay premium of around 10 percent.

While compensation varies from State to State, the broad view that State and local employees are significantly underpaid is almost certainly false.

Finally, I wish to touch on the investment practices of State and local pensions. Public pension accounting literally says that a plan that takes more investment risk immediately becomes better funded, to the tune of tens or even hundreds of billions of dollars. For policymakers seeking to avoid difficult choices, riskier investment portfolios are an attractive alternative. Since the mid-1980's, the typical public sector pension portfolio has nearly doubled the share of equities that it holds. Today the shift is toward so-called alternative investments, which include private equity, hedge funds, and the like.

In forthcoming research, I calculate that public sector pensions have actually increased the risk of their target portfolio allocations since the financial crisis of 2007. There is the danger that rather than learning from experience, pensions will seek to double-down in an effort to avoid the inevitable. A number of States have also issued billions of dollars of pension obligation bonds, meaning, in effect, they are making risky investments with borrowed money.

But increased risk in pension investments make State and local finances as a whole more subject to the shifting winds of financial markets. Moreover, it is not clear that lawmakers fully understand the investments they are making. The solution to this problem is better pension accounting that removes the dangerous incentives toward ever-increasing levels of investment risk. Better information is the key to better policy.

Lawmakers around the country can turn State and municipal finances around, just as lawmakers here in Washington can turn around Federal finances. But time is a luxury that is growing short. While still mired in a recession, it is difficult to contemplate painful long-term reforms. But there is reason to believe that such reforms, if properly enacted, can generate new confidence among citizens, businesses, and financial markets that American government at all levels has the capacity to get on top of its budgetary problems. And during an economic slowdown, renewed confidence is essential to a recovery.

Thank you very much.

[The prepared statement of Mr. Biggs follows:]

American Enterprise Institute
for Public Policy Research

Statement before the United States House of Representatives

Committee on Oversight and Government Reform

Hearing on State and Municipal Debt

Andrew G. Biggs

Resident Scholar

American Enterprise Institute

April 14, 2011

Chairman Issa, Ranking Member Cummings, and Members of the Committee. Thank you for the opportunity to testify with regard to the financial and budgetary challenges facing state governments. My name is Andrew Biggs and I am a resident scholar at the American Enterprise Institute. However, the testimony I will deliver today is my own and does not reflect any institutional positions of AEI.

I will touch on three topics related to state government finances: pension financing; public employee pay; and state investment practices. All present challenges to state and municipal governments. But context is nevertheless required, as governments face different levels of challenges and have so far responded in different ways. Some states have maintained balanced or near-balanced budgets through the financial crisis, while others have run significant deficits. Some have responsibly funded their pensions even during difficult times, while others have fallen back on borrowing and accounting tricks. The differences arise from how hard different states were hit by the recession and how hard their elected officials worked to address their budget problems.

On average, the states currently borrow approximately 23 cents of each dollar they spend, equal to around 1 percent of GDP.[1] To be fair, the states are models of fiscal rectitude relative to the federal government, which borrows 39 cents of each dollar it spends.[2] But the states, which are governed by balanced budget rules and lack the ability to print money, are less able to run deficits with impunity.

Currently, New Jersey has the largest budget deficit of any state in the country at around 2 percent of state GDP. But within around 10 years, the Government Accountability Office predicts, states and local governments *on average* will face a structural deficit of around 2

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[1] Sources: Center on Budget and Policy Priorities; Bureau of the Census.

[2] Source: Congressional Budget Office.

percent of GDP, that is, deficits not driven by the business cycle but by the general mismatch between revenues and outlays.[3]

Stabilizing state and local debt levels, the GAO found, would require an immediate and permanent 12.5 percent reduction in all state outlay or an equivalent increase in state revenues. For context, the CBO calculates that closing the federal fiscal gap over the same time period would require cutting spending by 25.8 percent, meaning that all sectors of government are facing the need for a significant fiscal consolidation.[4] This implies that, should state and local governments encounter a true financial crisis, the federal government's capacity to help may be constrained.

While I remain hopeful that states can avoid any significant disruption, the world is a dangerous place and it is worrying that so many levels of our government remain financially vulnerable.

Pension financing

Financing for public employee pensions poses significant challenges. Many states and localities remain unable to meet their full required pension contributions. And, economists are almost universal in believing that the accounting rules governing current contribution rates significantly understate the plans' true liabilities. As bad as the current pension funding situation may look, the reality is likely far worse.

The GAO reports that funding for public sector pensions currently equals 11.8 percent of public sector wages, up from 9.8 percent of wages in 2009. The typical state devotes three to four percent of its budget to pension funding.[5] But, as I noted in recent testimony before the Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs, current pension accounting practices allow plans to discount benefit liabilities that are guaranteed

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[3] Government Accountability Office. "State and Local Governments' Fiscal Outlook." April 2011.

[4] Congressional Budget Office. "Long Term Budget Outlook, 2010." August 2010.

[5] Munnell, Alicia H., Aubry, Jean-Pierre, and Quinby, Laura. "The Impact of Public Pensions on State and Local Budgets." Center for Retirement Research, SLP#13. October 2010.

by law using the expected interest rate on a portfolio of risky assets.[6] Economists are nearly unanimous in believing that this approach is both technically wrong and, from a policy perspective, dangerous.

According to economic theory as well as the practice of financial markets, the discount rate used to value a liability should reflect the relative risk of the liability, not of any assets set aside to fund the liability. As the Vice Chair of the Federal Reserve Board put it, "While economists are famous for disagreeing with each other on virtually every other conceivable issue, when it comes to this one there is no professional disagreement: The only appropriate way to calculate the present value of a very-low-risk liability is to use a very-low-risk discount rate."[7] Likewise, an article in the respected *American Economic Review* states that "Finance theory is unambiguous that the discount rate used to value future pension obligations should reflect the riskiness of the liabilities."[8]

If public sector pensions were required to use economically sound accounting rules, the cost of pension funding would rise from around 12 percent of employee wages to an astronomical 46 percent.[9] This latter figure represents the true value of the pension benefits being promised and the true burden being placed on the public. States reduce the *apparent* pension cost burden by

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[6] Biggs, Andrew G. Statement before the United States House of Representatives, Committee on Oversight and Government Reform, Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs. "State and Municipal Debt: The Coming Crisis? Part II." March 15, 2011.

[7] Kohn, Donald L., "Statement at the National Conference on Public Employee Retirement Systems Annual Conference." New Orleans, Louisiana, May 20, 2008. <http://www.federalreserve.gov/newsevents/speech/kohn20080520a.htm>

[8] Brown, Jeffrey R. and Wilcox, David W., "Discounting State and Local Pension Liabilities," *American Economic Review*, vol. 99, May 2009. See also Novy-Marx, Robert and Joshua D. Rauh, "The Liabilities and Risks of State-Sponsored Pension Plans," *Journal of Economic Perspectives* Vol. 23, No. 4 (Fall 2009), pp. 191–210.

[9] This figure is based upon a recent actuarial analysis of the Florida Retirement System under a range of discount rates. Robert S. DuZebe. "Study Reflecting Impact to the FRS of Changing the Investment Return Assumption to one of the following: 7.5%, 7.0%, 6.0%, 5.0%, 4.0% and 3.0%. Milliman. March 11, 2011. It is inclusive of the "normal cost" of pensions (the cost of benefits accruing in that year) and the amortization of unfunded liabilities from prior years.

investing in risky assets, but this merely increases the contingent liabilities borne by taxpayers should investment returns falter.[10]

The Public Employee Pension Transparency Act sponsored by Rep. Devin Nunes would require pensions to at least disclose these figures. We cannot take a "see no evil" approach to pension financing issues. The sooner we recognize these realities through better accounting rules the sooner we can address them.

Public sector pay

Public sector compensation has generated controversy in states around the country as governors and legislatures have sought to bring outlays under control. It is important that governments at all levels get compensation right. If public employees are paid less than those individuals could earn in the marketplace, government will be unable to attract the workers it needs. Alternately, if public employees are overpaid then resources that could be better used elsewhere are effectively wasted.

A number of recent studies conclude that state and local government employees are underpaid relative to what individuals with similar education and experience would earn in the private sector. One well-publicized study concluded that state and local workers nationwide receive total compensation, inclusive of benefits, about 7 percent *below* that paid in the private sector.[11] Other state-specific studies have reached similar conclusions for workers in Wisconsin, Ohio, New Jersey and other states.[12]

These studies accurately account for state employee salaries, which are on average around 8 percent lower than what these individuals would likely earn in the private sector, ranging from a

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[10] For a discussion of pension obligations as contingent liabilities, see Biggs, Andrew "An Options Pricing Method for Calculating the Market Price of Public Sector Pension Liabilities," *Public Budgeting & Finance*, forthcoming.

[11] Bender, Keith A. and John S. Heywood, "Out of Balance? Comparing Public and Private Sector Compensation over 20 Years," Center for State and Local Government Excellence and National Institute on Retirement Security, April 2010

[12] See Keefe, Jeffrey, "Debunking the Myth of the Overcompensated Public Employee," Economic Policy Institute *Briefing Paper* No. 276, September 15, 2010 and subsequent state-specific studies published by the Economic Policy Institute.

low of -22 percent to a high of +0.6 percent.[13] But these studies significantly understate public sector pension benefits, omit the value of retiree health care, and place no value on public sector job security. [14]

- Pensions: A recent actuarial analysis of the Florida Retirement System performed at the request of Gov. Rick Scott showed that to match the guaranteed benefits paid to public retirees, a private sector worker with a defined contribution plan would need to save 29 percent of his pay.[15] Public pensions' aggressive investing and faulty accounting not only hides their high costs, they also hide the true value of benefits paid to retirees. Adjusting for these factors would increase average public sector compensation by around 18 percent. [16]
- Retiree health: Most public sector employees become eligible for subsidized health care in retirement, a benefit that is increasingly rare and stingy in the private sector. Most public pay studies ignore the value of retiree health care, but it can be significant. The State of California's Department of Personnel Administration, in a website advertising the government as a potential employer, notes that a typical public retiree will receive almost $500,000 in government payments during retirement.[17] A Milwaukee school teacher receives even more generous retiree health coverage, whose cost is equivalent to

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[13] These figures are based upon data from the Census Bureau's Current Population Survey, where public and private salaries are compared after controlling for differences the respective workforces in education, experience and other earnings-related characteristics.

[14] For more details on these issues see Biggs, Andrew and Jason Richwine. "Are California Public Employees Overpaid?" Heritage Foundation Working Paper. February 24, 2011; and Biggs, Andrew and Jason Richwine. "Public-Sector Compensation: Correcting the Economic Policy Institute, Again." Heritage Foundation Backgrounder #2539. March 31, 2011.

[15] See DuZebe, Robert S.. "Study Reflecting Impact to the FRS of Changing the Investment Return Assumption to one of the following: 7.5%, 7.0%, 6.0%, 5.0%, 4.0% and 3.0%. Milliman. March 11, 2011.

[16] Since we lack data on the actual benefits retirees will receive in the future, most pay studies infer benefit levels using the contributions that employers make toward those benefits today. But if public pension accounting rules and aggressive investment practices allow plans to make lower contributions per dollar of future retirement benefits, this will understate the benefits that will actually be received by public sector retirees.

[17]California Department of Personnel Administration, "Total Compensation Survey--Benefits" at *http://www.dpa.ca.gov/tcs2006/benefits.htm#retireeHealth.*

a more than 20 percent salary increase in every working year.[18] While good national data does not exist, retiree health coverage likely adds roughly 7 percent to total public sector compensation. When pensions and retiree health are properly accounted for, state and local employees shift from being underpaid on average by around 7 percent to being overpaid by around 18 percent.

- Job security: While state and local employees have suffered far more from layoffs than federal workers, they continue to have job security that far outweighs that enjoyed by private sector employees. This job security is valuable by itself, and even more so if it protects a premium received through salaries and benefits. For a typical state/local employee, better job security is equivalent to around an extra 5 percent of compensation.

It is important to note that public sector compensation can vary significantly from state to state, meaning that state-specific analysis is necessary to deliver any hard policy conclusions. Nevertheless, the broad view that state and local employees on average are significantly underpaid is almost certainly false.

Financial implications

Public pension financing raises a distinct issue from contribution rates and benefit levels: the management of assets set aside to meet future benefit liabilities. In their search for higher returns, states and localities are increasingly shifting to riskier and more exotic investments. This not only increases their sensitivity to shifting market returns but, with the trend toward so-called "alternative investments," raises the possibility that governments are taking on risk that they do not fully understand.

For instance, New Jersey recently approved rules allowing its pensions to invest up to 38 percent of their holdings in alternative investments, versus the current level of under 17 percent. These

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[18] "Milwaukee Public Schools. Retiree Healthcare And Life Insurance Programs. Actuarial Valuation As Of July 1, 2009." Actuarial analysis performed by firm of Gabriel Roeder Smith and Company. June 25, 2010. Normal costs as listed on page 1 are adjusted upward by 25 percent to account for the higher cost of coverage purchased in the individual market. The individual vs group market differential is derived from Buntin, Melinda Beeuwkes, José S. Escarce, Kanika Kapur, Jill M. Yegian, and M. Susan Marquis, "Trends and Variability in Individual Insurance Products," *Health Affairs*, September 24, 2003.

investments, according to Wilshire, carry significantly higher risks than stocks.[19] But under current accounting rules, the risks of pension investments are literally ignored – they are not disclosed, and they do not factor into plan funding decisions. Indeed, in forthcoming research I calculate that public sector pensions have actually *increased* the risk in their target portfolio allocations since the financial crisis of 2007.[20] We should worry about states becoming like a late-night gambler, hoping to recoup prior losses by doubling down.

Recent market declines highlight the difficulties facing public pensions. According to the Federal Reserve, total public pension assets as of the beginning of this year were 8.5 percent below their pre-financial crisis levels. Making matters worse, public pensions generally assume that assets will earn 8 percent annually, meaning that pension assets are today 27 percent below their pre-crisis *projected* levels. It would require 11.5 percent annual returns from now until 2020 for assets to return to projected levels. Wilshire Consulting has estimated that public pension plans will return only around 6.5 percent annually over the coming decade, meaning it is entirely possible that things will get worse before they get better.[21]

In addition, a number of states have issued so-called "pension obligation bonds," in which states effectively fund their pensions with borrowed money. These bonds can appear attractive as they allow states to borrow at lower interest rates and invest using the higher interest rates assumed by their pensions.[22] In accounting terms, at least, they generate "free money." But this is nothing other than investing on margin, buttressed by accounting rules that make it seem as if risk does not matter. In the real world, some governments have found themselves on the losing end of pension obligations bonds, paying out more in interest than they made on the investments. New Jersey issued such bonds in 1997 and 1998, just prior to the dot-com market meltdown. Illinois

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[19] For instance, Wilshire's estimated standard deviation of annual returns for domestic equities is 16 percent while that of private equity is 26 percent.

[20] Biggs, Andrew G. "How Have Public Sector Pensions Responded to the Financial Crisis?" Prepared for "How the Global Financial Crisis is Reshaping Retirement Security." A Wharton School/Pension Research Council/Boettner Center Conference. May 5 and 6, 2011

[21] Wilshire Consulting (2011). "2011 Wilshire Report on State Retirement Systems: Funding Levels and Asset Allocation." February 28, 2011.

[22] See Munnell, Alicia H. , Thad Calabrese, Ashby Monk, and Jean-Pierre Aubry. "Pension Obligation Bonds: Financial Crisis Exposes Risks." Center for Retirement Research. SLP#9. January 2010.

issued $10 billion in 30-year pension obligation bonds in 2003, on which it is likely to have lost money to date. But undeterred – or more likely, with few other options – Illinois issued additional pension bonds in 2010.

In short, state and local government finances are coming to resemble hedge funds, with the worrying exception that they are being run by elected officials rather than by hedge fund managers. For instance, in 2008, five southeastern Wisconsin school districts lost up to $120 million after issuing debt to invest retiree health funds in so-called "synthetic collateralized debt obligations," a case the SEC is now investigating on charges that the districts were misled. But this merely highlights that as state and municipal investments have become more sophisticated – public sector pensions are in fact the largest single investor in hedge funds – governments ignore many of the fundamentals of what these investments are intended to do, which is to secure guaranteed benefits to current and future retired public sector employees. State and local investment funds have significant expertise on the asset side, but make almost no attempt to apply that expertise to asset-liability management.

The increased risk state pensions are taking makes overall state finances more subject to the whims of the market. And, as we have seen, financial crises can come at unforeseen times and from unforeseen places.

Conclusion

Lawmakers around the country can turn state and municipal finances around, just as lawmakers here in Washington can turn around federal finances. But time is a luxury that is growing short. While still mired in a recession it is difficult to contemplate painful long-term reforms. But there is reason to believe that such reforms, if properly enacted, can generate new confidence among citizens, business and financial markets that American government at all levels has the capacity to get on top of its budgetary problems.[23] And, during an economic slowdown, renewed confidence is essential to a recovery.

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[23] See Biggs, Andrew G. "Statement before the United States House of Representatives, Committee on Ways and Means. Hearing on Impediments to Job Creation." March 30, 2011.

Chairman ISSA. Thank you.
Mr. Mix.

STATEMENT OF MARK MIX

Mr. MIX. Mr. Chairman, thank you for the opportunity to participate.

May we live in interesting times. That was allegedly an old Chinese blessing; more accurately a curse that seems to be pronouncement appropriate for the topic of today's hearing.

Clearly there are tough choices ahead as States and municipalities deal with the clear and present danger of fiscal crisis. There is growing evidence that the fiscal house of many States and municipalities are in desperate states. Several questions arise as a takeoff point for this discussion, but an obvious one is what municipalities and States must do to fix it. But that question can't be answered until we understand the cause of the condition. This is where I will comment.

I believe that the primary cause of the current condition is the inability to implement reform as a result of actions taken decades ago that empowered government union officials with privileges that are inappropriate to the functions of government. Specifically, I am talking about granting private sector labor organizations the privilege of a monopoly bargaining over government workers. Let's be clear here. This does not mean that government workers don't have the right to join a union and they can't associate; it means about recognition. That right shouldn't be taken away for the right to join and associate.

But it does mean that the model we ascribe to the private sector is completely inappropriate for government, and that is now becoming clear. And I am in good company with that premise. As we have heard already the testimony of Members of Congress citing President Roosevelt's opposition to government bargaining. But he also agrees with George Meany, the new President of the AFL–CIO in 1955, who said it is impossible to bargain collectively with the government.

At the February 1959 meeting of the AFL–CIO executive council, a statement prepared by representatives of the Government Employee Council was endorsed which included the following. It said, in terms of accepted collective bargaining procedures, government workers have no right beyond the authority to petition Congress, a right available to every citizen.

In New York City, the petri dish of government union power, Democrat Mayor Robert Wagner was advised to break a campaign pledge made to government union officials because granting union monopoly bargaining would grant too much power to union officials and wet their appetites for even more. His advisors told him it would give unions too much sway over elected officials. And Wagner's advisors were right. After the New York City model had been in place for several years, former New York AFSCME Union President Victor Gotbaum boasted, we have the ability to elect our own boss.

A New York State court spelled it out more precisely in the years earlier, in a case called Railway Mail Associates versus Murphy, in which they opined to tolerate or recognize any combination of civil service employees of the government as a labor organization or union is not only incompatible with the spirit of democracy, but inconsistent with every principle upon which our government is founded. To admit as true that government employees have the power to halt the functions of government unless their demands are satisfied is to transfer to them all legislative, executive, and judicial power. Nothing could be more ridiculous.

Fast forward to today. We see dramatic impact of the process which is inconsistent with every principle upon which our government is founded. In May 2010, the Business Insider Web site published a list of the nine States most likely to default. The news and analysis oriented site ranked heavily unionized California, Illinois, Massachusetts, Michigan, Nevada, New Jersey, New York, Ohio, and Wisconsin as the worst default risks. An average of 61 percent of public sector employees in those nine States with the worst default risk are under union monopoly bargaining power in 2009. That is overall public unionization of 20 percent higher than the typical State.

In the nine States with the worst default risk from 1999 to 2009, aggregate private sector jobs fell 4.2 percent, but State and local government jobs increased by 9 percent. Not one of the 22 States with the 2009 public sector unionization rate of under 30 percent was found to be on the Business Insider's most likely to default list.

Further, Washington Examiner editor Dave Freddoso recently analyzed the relationship between public sector unionization and State per capita debt. Freddoso found that among the States with fewer than 40 percent of State and local government workers unionized, the median per capita State debt in 2007 was $2,238. Among the States between 40 and 60, the median debt was $3,609. But among the States with more than 60 percent of the State and local government workers unionized with monopoly bargaining laws, the median per capita debt was $6,380. And these are 2007 numbers, before we even got to the economic crisis.

Excessive spending, taxation, and debt are endemic to governments everywhere, but there are large measurable differences between the States that have handed monopoly privileges to public safety union officials and States that have resisted the pressure. In any discussion of State municipal debt and the tough choices ahead, they must include the issues of growing government union monopoly power and the impact on the States, municipalities, and, most important, taxpayers.

[The prepared statement of Mr. Mix follows:]

TESTIMONY OF MARK A. MIX, PRESIDENT,
NATIONAL RIGHT TO WORK COMMITTEE
House Committee on Oversight and Government Reform
Thursday, 14 April 2011

Chairman Issa, Members:

I'd like to thank the Chairman and the Committee for the opportunity to participate in this hearing. My name is Mark Mix, and I am President of the National Right to Work Committee, in Springfield, Virginia.

The Committee, established in 1955, is a nonprofit, nonpartisan, single-purpose organization made up of more than two and a half million members and supporters dedicated to the principle that all Americans must have the right to join a union if they choose to, but none should ever be forced to affiliate with a union in order to get or keep a job. The Committee's members and supporters are men and women in all walks of life, from every corner of America, union members as well as nonunion employees who, through their voluntary contributions, support the Committee's work. Poll after poll demonstrates that nearly 80% of all Americans sympathize with the Committee's objectives and oppose forcing workers to affiliate with a union as a job condition.

This Committee is today considering the important question of "State and Municipal Debt: Tough Choices Ahead." I am pleased to offer the National Right to Work Committee's views on this real and serious problem.

Although the National Right to Work Committee does not involve itself with the minutiae of public financing, long-term public debt, or other fiscal issues, we do understand at least one long-term cause of the crises which currently face too many state and local governments nationwide. That understanding is derived from long and intimate experiences with the constitutional and public-policy implications of public-sector monopoly bargaining or, as its apologists euphemistically prefer, "collective bargaining."[1]

[1] "Collective bargaining" does not require the monopolistic powers granted under most state and Federal statutes, which grant unions the power of "exclusive" representation of bargaining (continued...)

The issue of public-sector monopoly bargaining has been in the public eye in recent months, much more so than at any time in recent memory, particularly with proposals in Wisconsin and Ohio to impose varying limits upon it. More accurately, most frequently in the public eye have been caricatures of the policies offered by Governor Walker of Wisconsin and Governor Kasich of Ohio.

One caricature which comes from union partisans is the notion that such proposals seek to "silence" government employees.[2] Nothing in any of the proposals to limit or repeal unions' monopoly bargaining power suggests that public employees should not retain their First Amendment rights to speak on public policy issues, or to join together in voluntary associations to do so. In fact, clear evidence from Wisconsin, Ohio, Indiana, Pennsylvania, and other states show these First Amendment protections are alive and well. However, the slander that proposals to limit the special powers possessed by public-employee unions would somehow "silence" public employees is based upon the premise that government unions are somehow entitled to the ***preferred*** place at the table given to them by many existing state monopoly-bargaining statutes.

Another canard is the assumption that the power granted to government unions is some how a "right." The notion that "rights" are at issue is equally false. The United States Supreme Court has plainly held that there is no Federal constitutional "right" to monopoly bargaining.[3]

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[1] (...continued)
units of employees, extinguishing the right of individual employees who do not want union representation to bargain over their own terms and conditions of employment.

[2] One website declared various state efforts to limit public-sector monopoly bargaining to be "an ideological war to silence public employees." World Peace Journal (http://www.worldpeacejournal.com/apps/blog/show/prev?from_id=6395050).

[3] *Smith v. Arkansas State Highway Emp., Local 1315*, 441 U.S. 463, 465 & n.2 (1979) ("the First Amendment does not impose any affirmative obligation on the government to listen, to respond or, in this context, to recognize the association and bargain with it") (*per curiam*); **see also** *Winston-Salem/Forsyth County Unit, Educators' Ass'n v. Phillips*, 381 F.Supp. 644, 648 n.4 (M.D.N.C. 1974) ("sovereignty ... signifies the right of the people of a state to govern themselves under the form of government of their choosing" and that "the prospect of public employee collective bargaining impinges upon those rights") (three-judge court).

Indeed, when the Supreme Court rendered that decision, it relied upon two prior decisions of the Seventh Circuit,[4] in which Wisconsin lies.

These misrepresentations of what is actually at issue with public-sector monopoly bargaining are no less serious than the corrosive effects of such practices on the public *fisc*. Put simply, public-sector monopoly bargaining is a major contributing factor — perhaps **the** major contributing factor — to the fiscal mess in which many local and state governments find themselves today. For example, the website Daily Beast last year considered the public debt of the fifty States. Although that website did not make the connection, a review of the data demonstrates a close correlation between high state debt and the existence of public-sector monopoly bargaining. Indeed, one has to travel far down the list — to No. 13, South Carolina — before one finds a Right-to-Work state. The first twelve states with high debt-to-gross domestic product ratios permit public-sector monopoly bargaining. Indeed, only two other Right to Work states (South Dakota and Louisiana) appear in the top twenty-five states with the highest debt-to-gross domestic product ratios.

On the other hand, a majority of the states with the **lowest** debt-to-gross domestic product ratios are Right to Work states.

There is an inevitable and irresolvable conflict between specially-privileged union political power and popular, representative government. Fundamental to our system of government is legal equality of opportunity, for all individuals, to influence the political decision-making process. However, public-sector monopoly bargaining perverts the processes of government by granting to labor unions a preferred status in the public debate over the allocation of scarce public resources.

The American system of representative, republican self-government presupposes that the

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[4] *Hanover Township Federation of Teachers v. Hanover Community School Corp.*, 457 F.2d 456, 461 (7TH CIR. 1972), **quoting** *Indianapolis Education Assn. v. Lewallen*, 72 LRRM 2071, 2072 (7TH CIR. 1969) ("'there is no constitutional duty to bargain collectively with an exclusive bargaining agent'").

state may act only for the *common*, or *public*, good.[5] From the very beginning of our nation, it has been an article of faith that "government is, or ought to be, instituted for the common benefit, protection and security of the people ... and not for the particular emolument or advantage of any single man, ... or sett of men, who are a part only of that community ...."[6] Thence the precept emerges that *all* of the people are entitled to legal equality of opportunity to exercise a voice in the governmental process. A representative, republican government cannot exist separate from the people, but "rests on the foundation of a belief in rule by the people not some, but all the people."[7]

Our system of popular sovereignty presupposes that governmental programs and policies will represent a consensus derived in some regular manner from the sometimes complementary, sometimes conflicting, interests of the people taken as a whole. It is only the operation of this process which uniquely determines the public interest — that is, the process by which a free people, acting individually or in voluntary associations, none of which possesses monopolistic powers rivaling those of government itself, seeks to secure through governmental action the kind of services the majority desires and the minority can accept. Our system might, therefore, be described as one of pure procedural justice: a system designed not to advance particular substantive views favoring specially privileged interests, but rather, to define a general procedure for making decisions in the common interest, reserving the question of the specific content of public policy to be settled by the unimpeded operation of the process itself.[8] As Justice John Marshall Harlan said, "laws which define the structure of political institutions ... are designed with the aim of providing a just framework within which the diverse political groups in our

[5] Locke, John, *Second Treatise on Government* §§ 89, 110, 131, 135, 142 and *passim*.

[6] Pa. Const. declaration of rights § 5 (1776); *accord*, Del. declaration of rights §§ 1, 5 (1776); Md. Const. declaration of rights § 4 (1776); Mass. Const. preamble, pt. I, art. 7 (1780); N.H. Const. pt. I, arts. 1, 8, 10 (1784); Vt. Const. ch. 1, §§ 5-7 (1777); Va. Const. bill of rights § 3 (1776); U.S. Const. preamble (1789).

[7] *United Public Workers v. Mitchell*, 330 U.S. 75, 114 (1947) (Black, J., dissenting).

[8] *Cf.* B. Barry, *Political Argument* ch. vi (1965).

society may fairly compete and are not enacted with the purpose of assisting one particular group in its struggle with its political opponents."[9]

Such a system can function, however, only if the basic rules do not themselves embody or tolerate mechanisms which arbitrarily favor one group over all others in the competition to acquire and exercise political influence. Of course, the actions of government affect different individuals, classes, and interests in different and unequal ways. But there is no rational or objective means to measure these differences, or to compensate for them by weighting the political voices of some differently from the voices of others. Therefore, our system of government irrebuttably presumes — as the Supreme Court has held, time and again — that access to the political process must be available to all on an equal basis.[10]

Public-sector monopoly bargaining violates this principle of political equality for all citizens. And by granting a preferred status to government employees in the competition for scarce public resources, it undermines the very legitimacy of government itself.

Public-sector labor relations are inherently and inextricably political, and public-employee unions are among the most active and powerful political pressure-groups in the country, rivaling even the major political parties themselves. This is not a debatable point, but a consensus view. Although there is a large disparity as to the pros and cons of public-sector bargaining and on the extent to which it should be encouraged or allowed,[11] there is no doubt of

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[9] *Hunter v. Erickson*, 393 U.S. 385, 393 (1969) (Harlan, J., concurring).

[10] *E.g., Lubin v. Panish*, 415 U.S. 709 (1974); *Kusper v. Pontikes*, 414 U.S. 51 (1973); *Dunn v. Blumstein*, 405 U.S. 330 (1972); *Bullock v. Carter*, 405 U.S. 134 (1972); *Cipriano v. City of Houma*, 395 U.S. 701 (1969); *Williams v. Rhodes*, 393 U.S. 23 (1968); *Harper v. Board of lections*, 383 U.S. 663 (1966); *Carrington v. Rash*, 380 U.S. 89 (1965); *Reynolds v. Sims*, 377 U.S. 533 (1964).

[11] D. Bok & J. Dunlop, *Labor and the American Community* 331-338, 340 (1970); M. E. Dimock & G. O. Dimock, *Public Administration* 256 *et seq.* (4th ed. 1969); K. Hanslowe, *The Emerging Law of Labor Relations in Public Employment* 115-17 (1967); R. Horton, *Municipal Labor Relations in New York City: Lessons of the Lindsay-Wagner Years* 123 (1973); F.C. Mosher, *Democracy and the Public Service* 188 (1968) (public-sector bargaining "more nearly resembles standard interest-group tactics"); M.H. Moskow, J.J. Loewenberg & E.C. Koziara, *Collective Bargaining in Public Employment* 252-77 (1970); S.D. Spero & J.M. Capozzola, *The* (continued...)

the essentially political nature of public-sector monopoly bargaining. One early commentator observed that:

> [M]unicipal labor relations is an inherently political process. The allocation of public money and the fixing of public and managerial policies, two major functions of the labor relations process, are central political acts in any organized society.

Horton, Raymond D., *Municipal Labor Relations in New York City; Lessons of the Lindsey-Wagner Years* 123 (1973). Another spoke of the intricate interplay of political forces that public-sector bargaining was bound to produce, concluding that:

> [U]nlike the directors of a private corporation, [elected officials] ... have a ... quite separate interest: to stay in office. And they do that by maintaining a majority coalition among the electorate. The decisive factor for them is the desires, expectations, and loyalties of that coalition. In other words, and still in the positive rather than the normative sense, it may pay to play pro-union politics or it may not, depending upon the composition and attitudes of the voting constituency. If it does not, the officials can back their managers to the hilt in negotiations, and a unity of interest can prevail that parallels the usual private-sector bargaining case. But if it pays to take the pro-union route, then the mayor and his council may well find themselves in the unhappy dilemma of dual allegiance — to their subordinate executives and to their voting constituents. Furthermore, an ably led union of public employees will be fully aware of this conflict of interest and naturally will be tempted to exploit it to its own advantage: it may make extreme demands in bargaining in order to create a crisis; and it may also seek to bypass the managers in hopes of getting a back-door deal directly with city hall.

Hildebrand, George H., "The Public Sector", in Dunlop & Chamberlain, eds., *Frontiers of Collective Bargaining* 131-32 (1967) (footnote omitted).

No less an authority than former Secretary of Labor John T. Dunlop remarked regarding the far-reaching political influences of public-sector bargaining and strikes:

> Strikes among some government employees at times have been directed less against the immediate government employing agency than toward securing for the agency appropriations or grants from the politically responsible executive

[11] (...continued)
Urban Community and Its Unionized Bureaucracies: Pressure Politics in Local Government Labor Relations 73 *et seq.* (1973) ("municipal collective bargaining quickly becomes a political contest"); O. G. Stahl, *Public Personnel Administration* 271 *et seq.* (6th ed. 1971); D.T. Stanley, *Managing Local Government Under Union Pressure* 18, 88, 136-152 (1972); J. Steiber, *Public Employee Unionism* 193 *et seq.* and *passim* (1973); K.O. Warner & M.L. Hennessy, *Public Management at the Bargaining Table* 318 *et seq.* (1967); J. Weitzman, *The Scope of Bargaining in Public Employment* 3, 7 (1975); H. Wellington & R. Winter, *The Unions and the Cities* 24-32 (1971).

> or legislative body — that is, funds that are outside the resources of the agency. The strikes in New York City of teachers and of transport workers involved this factor, compelling the mayor and the governor to develop resources to meet the requirements of an acceptable settlement. The timing of budget making and collective negotiations in government employment is central to settlement of disputes; indeed, the failure of such coordination has been a major factor in some strikes of government employees. "It is a fundamental principle in government employment that collective negotiations and the resort to procedures to resolve an impasse be appropriately related to the legislative and budget making process."

"The Function of the Strike", in Dunlop & Chamberlain, eds., *Frontiers of Collective Bargaining* 109 (1967) (footnote omitted).

Many observers have recognized this unique character of public-sector bargaining, noting that its occurrence in a political environment inevitably results in distortions of the political process. These distortions — elected officials abandoning their posts and duties to prevent required quorums; mass electoral recall efforts; the politicization of judicial elections — have all or in tandem been writ large in Wisconsin, Ohio, and Indiana, when political leaders have challenged the special privileges granted to labor unions. For these unions — particularly in Wisconsin, where union officials offered temporary acceptance of the fiscal elements of Governor Walker's proposal in exchange for maintenance of their monopoly-bargaining and forced-dues privileges — the power to maintain their ability to engage in partisan activities such as supporting the election of sympathetic public officials, or opposing the election of unsympathetic candidates, was elevated over the immediate economic interests of those employees they purport to represent.

The union officials' goal, of course, is to render illusory the distinction between labor and management, a goal rendered inevitable when such a scheme is superimposed on a system of democratic government:

> [One of the anomalies] of collective bargaining in the public sector is that the union can often invade the management decision-making structure. Particularly in public school and junior college districts, organized teacher groups have succeeded in electing their members, relatives, or sympathizers to school and governing boards. Under these circumstances it is often impossible for the management decision-making group to hide its bargaining strategy and tactics from employees. Democratic government does allow almost anyone to run for office, but this tactic may make collective bargaining a farce.

Clark, "Politics and Public Employee Unionism: Some Recommendations for an Emerging Problem", 44 Cinn. L. Rev. 680, 686-87 (1975), **quoting** Rehmus, "Constraints on Local Governments in Public Employee Bargaining", 67 Mich. L. Rev. 919, 926 (1969).

Public-sector monopoly bargaining is, therefore, nothing less than a struggle for political power. But it is a quest for political power in which one interest group — public-sector labor unions — is granted the privilege to exercise a quasi-governmental authority over public employees. This power to control public employees carries with it the power to bring politicians, the general public, and the government, to their financial knees.

Representative government is poorly prepared to meet the political challenge of unions empowered to compel unwilling civil servants to contribute financial support to campaigns of political and ideological activism. The general public is — in political terms — a diffuse, unorganized agglomeration of individuals and groups, none of which possesses any power to coerce compliance with its demands from others. Conversely, government unions constitute compact, structured organizations with institutional continuity, political sophistication, the power to bargain for public employees who may not want their "representation," and — frequently — the special privilege of compulsion provided by forced-unionism provisions.

As one observer noted:

> [i]n the public sector employees already have, as citizens, a voice in decisionmaking through customary political channels. **The purpose of collective bargaining is to give them ... a larger voice than the ordinary citizen.**

Summers, Clyde W., "Public Employee Bargaining: A Political Perspective", 83 Yale L.J. 1156, 1193 (1974) (emphasis added). In his view,

> [o]ne consequence of public employee bargaining is at least partial preclusion of public discussion of those subjects being bargained. And the effect of an agreement [between the union and the employer] is to foreclose any change in matters agreed upon during the term of the agreement.

Id. at 1192 (footnote omitted).

On the basis of observations such as these, moreover, other careful observers have asked:

> whether the attempt to institutionalize collective bargaining procedures in government would, in effect, remove the public from any decisional role in a

> policy area that has a direct bearing on the lives of citizens.... Certainly, decisions pertaining to employee job interests, through their effects upon cost and services, are crucial to the public as well as to the employees. The problem can be expressed in the form of the following hypothesis: the "professionalization" of collective bargaining will intensify the forces of bureaucracy and elitism in government, and result in a further erosion of the citizen's capacity to govern his affairs through access to the machinery of government on a basis of equality with other citizens.

Love & Sulzner, "Political Implications of Public Employee Bargaining," 11 Ind. Rel. 18, 24 (1972).

Decades of experience under public-sector monopoly bargaining statutes demonstrate beyond question that, from a fiscal perspective, public officials are ill-equipped to cope adequately with the dangers the situation presents. Popular sovereignty ultimately rests upon the responsiveness of public officials to the demands of individuals and the voluntary associations which they form in order to advance their political and social interests. But the fact of American political life that running for popular office is an expensive proposition leads politicians increasingly to seek the support of well-financed pressure groups, especially those with large voting constituencies. Obviously, the grant of a government license to public-sector labor unions has a deleterious effect on popular sovereignty.

It is hardly a coincidence that states facing the most severe budget crises are those with long histories of public-sector monopoly bargaining. One would have to suspend his or her disbelief to conclude that public officials will routinely and resolutely defend the interests of unorganized taxpayers when confronted with the demands of government union officials who command both sizable financial resources and a politically-disciplined block of reliable votes. As Justice Stewart observed, "Those in power, whatever their politics, want only to perpetuate it."[12] And successful public-sector unions have learned how to "intertwin[e] themselves with their nominal employer through patronage-political support arrangements." Burton & Krider, "The Role and Consequences of Strikes by Public Employees," 79 Yale L.J. 418, 432 (1970). Indeed, this "intertwining" has become such a commonplace that it has been given a name: the

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[12] *Branzburg v. Hayes*, 408 U.S. 665, 724-25 (1972) (Stewart, J., dissenting).

"Hanslowe Effect." Laws coercing union financial support have the potential:

> of becoming a neat mutual back scratching mechanism, whereby public employee representatives and politicians reinforce the other's interest and domain, with the individual public employee and the individual citizen left to look on, while his employment conditions and his tax rate and public policies generally are being decided by entrenched and mutually supportive government officials and collective bargaining representatives over whom the public has diminishing control.

Hanslowe, K.L., *The Emerging Law of Labor Relations in Public Employment* 115 (1967).

In the private sector, the "Hanslowe Effect" takes the form of the "sweetheart" contract. But it is hardly as insidious and dangerous there as it is in government employment. In the private sector, market forces of supply and demand, and the ever-present necessity to make a profit, all insure that most employers will resist unreasonable union demands in collective bargaining. Thus, union officials generally remain on one side of the bargaining table, and the employer on the other.

In the public sector, conversely, the political nature of monopoly bargaining, the political aspirations of public officials, and the political activism of government unions all conspire to establish a curiously inverted condition. With politicians actually or potentially beholden to unions for political support, the unions come in fact to occupy the advantageous position that private employers appeared to possess before the law prohibited the company union. That is, the union officials in effect sit on **both** sides of the bargaining table. Moreover, because there is no necessity that public services show a profit, the resistance of public officials to union political pressures is even further reduced. The lack of effective market checks, in addition to the "Hanslowe Effect," thus makes the danger from government union power a critical, and perhaps fatal, threat to control of elected and appointed public officials by the taxpaying public.

Public-sector monopoly bargaining promotes the ability of unions to exchange dollars and votes for special political influence at the expense of society in general. It causes precisely the corruption, the perversion of the political process, that this Congress has repeatedly sought to avoid through various campaign-finance "reform" schemes: "the integrity of our system of representative democracy is undermined" "[t]o the extent that large contributions are given to secure political quid pro quos from current and potential office holders."[13] And the exercise of this power has led to the fiscal crises faced by many states and their municipal governments.

It has been a staple of labor law statisticians for decades that, while private-sector unionization rates — where market forces operate to impose some level of economic discipline — have declined, government-employee unionization rates have been on a steady increase.[14] In 2008, nearly 41% of all government employees (federal, state, and local) were unionized,[15] and government unionization was 60% or more in seven states.[16] Also in 2008, residents of those states paid an average of a 22% higher share of their income in state and local taxes than residents of states which have below-average public-sector unionization.

Moreover, in fiscal 2008, eight of the ten states with the most long-term debt as a share of personal income had government unionization rates exceeding 50%.[17] In contrast, also in that year, each of the ten states with the lowest long-term debt as a share of personal income had public-sector unionization rates below the national average. In five of these least-indebted states, public-sector unionization was less than half the national average.

States, cities, towns, and counties across the United States are facing their worst fiscal crisis since the Great Depression. It is clear that eliminating the special monopoly-bargaining privileges granted to labor unions in government wherever they are currently authorized is a critical part of the solution to the problem of putting state and muncipal fiscal houses in order.

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[13] *Buckley v. Valeo*, 424 U.S. 1, 26-27 (1976).

[14] Most recent statistics show that, for the first time, such rates declined slightly in 2010.

[15] Hirsch, Barry T., and David A. Macpherson, "Union Membership, Coverage, Density, and Employment Among Public Sector Workers, 1973-2010," available at http://www.unionstats.com/ (last accessed on 14 April 2011).

[16] Hirsch and Macpherson, "Union Membership, Coverage, Density and Employment by State, 2008," available at http://www.unionstats.com/ (last accessed on 14 April 2011).

[17] New York Citizens Budget Commission, "In the Danger Zone: A Comparative Analysis of New York State's Long-Term Obligations" at 3, Table 1 (March 2010).

Chairman ISSA. Thank you.
Professor Novy-Marx.

STATEMENT OF DR. ROBERT NOVY-MARX

Mr. NOVY-MARX. Contrary several of the statements made here this morning, State and local pension systems are significantly underfunded. The shortfalls faced by these systems represent massive debts that public employees and retirees expect State and local taxpayers to repay. The amounts that are owed are large enough to threaten the continuing viability of many State and local government systems and impose considerable risk for Federal taxpayers.

The exact magnitude of the problem has been concealed by the flawed accounting methodology prescribed by the Government Accounting Standards Board [GASB]. I can illustrate these flaws with a simple example. If I take a dollar out of my right pocket and put it into my left pocket, I presume that you will all agree that doing so has made me neither richer nor poorer. The idea that moving money from one pocket to another could somehow makes you richer insults common sense.

Yet, this is the idea upon which the States' current claims that pension funds are only a trillion underfunded is based. Under GASB rules, a plan's reported financial status improves when it takes on more investment risk. When a plan moves a dollar from its right pocket bonds into its left pocket stocks, it magically gets richer, less underfunded.

This logic is clearly flawed. A dollar of stocks is not worth more than a dollar of bonds. When you, as an individual, move money from your money market fund into the stock market, you are not suddenly richer. You do not get to pretend that you owe less on your home mortgage. The payments that you are obligated to make on your house are completely unchanged. How you invest your assets has no impact on the current value of your liabilities. This is just as true for the States as it is for individuals, despite GASB's claims to the contrary.

Properly accounted for, the unfunded portion of pension promises already made to State and local workers is roughly $3 trillion, or three times as large as that recognized under GASB. This exceeds all recognized State and local debt combined and represents a debt owed to State and local government workers of roughly $25,000 for each U.S. household.

These large unfunded liabilities are a serious concern, but perhaps even more troubling is how the current methodology accounts for new benefit accruals; that is, how governments value the retirement benefits as a part of workers' total annual compensation. Under current accounting, the annual recognized cost of newly earned pension benefits averages roughly 12 to 15 percent of total wages, with plan members contributing, on average, slightly less than half that amount. The true cost of these service accruals is roughly twice as large, 25 to 30 percent of total wages, meaning that each year most State and local workers earn employee financed pension benefits worth more than 20 percent of their salaries.

This is not to say that public employees are overcompensated. I personally value services provided by government workers and am certain that many public sector workers are underpaid. This does not, however, provide an excuse for misvaluing the benefits they receive. Undervaluing the deferred compensation these pension benefits represent has serious negative consequences for the way government is operated. It encourages excessive growth in the public sector; it also encourages States to finance current operations with off balance sheet debt, leaving even larger bills for future taxpayers.

In negotiations between States and their workers, undervalued retirement benefits give both sides at the bargaining table incentives to trade current wages for future pension benefits. Workers will happily give up a dollar today for two dollars worth of benefits, but the government accounting methodology values it less than a dollar. Current administrations may happily agree to this arrangement if it frees up money in current budgets. As a result, State, city, and county pension plans have become a pervasive tool for circumventing balanced budget requirements.

Because the current contributions fall short of the cost of new benefit accruals, the State and local pension problem is getting worse, not better, and this represents a concern for the Federal Government. If the Federal Government cannot credibly commit to allowing States to fail, then the States have little incentive to fix their problems. In the event of a Federal bailout, taxpayers in fiscally more responsible States will subsidize those in more profligate States. So any State that undertakes the unpalatable combination of tax increases and service cuts required to address this pension problem now risks losing its share of any Federal funds used in the future to rescue the system.

The Federal Government, consequently, has an urgent need to establish incentives for States to deal with their pension problems. The Public Employee Pension Transparency Act, H.R. 567, is a useful first step. Congress should consider even stronger measures, however, to ensure that Federal taxpayers are not the ultimate underwriter of State debts. These should include incentives for States to close current plans to new workers and, instead, enroll new hires in transparent defined contribution plans and Social Security. They should also encourage States to fully recognize the true magnitude of their legacy pension liabilities.

Thank you.

[The prepared statement of Mr. Novy-Marx follows:]

Professor Robert Novy-Marx Testimony

State and local pension systems are significantly underfunded. The shortfalls faced by these systems represent massive debts that public employees and retirees expect state and local taxpayers to repay. The amounts that are owed are large enough to threaten the continuing viability of many state and local government systems, and pose considerable risks for federal taxpayers.

The exact magnitude of the problem has been concealed by the flawed accounting methodology prescribed by the Government Accounting Standards Board (GASB). I can illustrate these flaws with a simple example. If I take a dollar out of my right pocket, and put it into my left pocket, I presume that you all will agree that doing so has made me neither richer nor poorer. The idea that moving money from one pocket to another could somehow make you richer insults common sense.

Yet this idea is the basis of the states' current claims that their pension funds are "only" $1 trillion underfunded. Under GASB rules a plan's reported financial status improves when it takes on more investment risk. When a plan moves a dollar from its right pocket (bonds) to its left pocket (stocks), it magically gets "richer" (less underfunded).

This logic is clearly flawed. A dollar of stock is not worth more than a dollar of bonds. When you as an individual move money from a money market fund into the stock market you are not suddenly richer. You do not get to pretend that you owe less on your home mortgage. The payments you are obligated to make on your house are completely unchanged. How you invest your assets has no impact on the current value of your liabilities. This is just as true for the states as it is for individuals, despite GASBs claims to the contrary.

Properly accounted for, the unfunded portion of pension promises already made to state and local workers is roughly $3 trillion, or three times as large as that recognized under GASB. This exceeds all recognized state and local debt combined, and represents a debt owed to state and local government workers of roughly $25,000 for each US household.

Professor Robert Novy-Marx Testimony

These large unfunded liabilities are a serious concern. Perhaps even more troubling, however, is how the current methodology accounts for new benefit accruals– that is, how governments value retirement benefits as a part of workers total annual compensation. Under current accounting the annual recognized cost of newly earned pension benefits averages roughly 12-15% of total wages, with plan members contributing, on average, slightly less than half that amount. The true cost of new service accruals is roughly twice as large, 25-30% of total wages, meaning that each year most state and local workers earn employer financed pension benefits worth more than 20% of their salaries.

This is not to say that public employees are overcompensated. I personally value the services provided by government workers, and am certain that many public sector workers are underpaid. This does not, however, provide an excuse for misvaluing the benefits they receive. Undervaluing the deferred compensation these pension benefits represent has serious negative consequences for the way governments operate. It encourages excessive growth in public sector costs. It also encourages states to finance current operations with off balance sheet debt, leaving even larger bills for future taxpayers.

In negotiations between states and their workers, undervalued retirement benefits give both sides at the barging table an incentive to trade current wages for future pension benefits. Workers will happily give up a dollar today for two dollars worth of benefits that the government accounting methodology values at less than a dollar. Current administrations may happily agree to this arrangement if it frees up money in current budgets. As a result, state, city, and county pension plans have become a pervasive tool for circumventing balanced budget requirements.

Because current contributions fall short of the cost of new benefit accruals, the state and local pension problem is getting worse, not better, and this represents a concern for the Federal Government.

If the Federal Government cannot credibly commit to allowing states to fail, then the states have little incentive to fix their problems. In the event of a Federal bailout taxpayers in fiscally more responsible states will subsidize those in more profligate states. So any state that undertakes the unpalatable combination of tax increases and service cuts required to address its pension problems now risks losing its share of any Federal funds used in the future to rescue the system.

The Federal Government consequently has an urgent need to establish incentives for states to deal with their pension problems. The Public Employee Pension Transparency Act (H.R. 567) is a useful first step. Congress should consider even stronger measures, however, to ensure that federal taxpayers are not the ultimate underwriters of state debts. These should include incentives for states to close current plans to new workers, and to instead enroll new hires in transparent defined contribution plans and Social Security. They should also encourage states to recognize the true magnitude of their legacy pension liabilities.

Chairman ISSA. Thank you.
Dr. Lachman.

STATEMENT OF DR. DESMOND LACHMAN

Mr. LACHMAN. Thank you, Mr. Chairman, and thank you for inviting me to testify before this committee.

The European sovereign debt crisis offers a cautionary tale to the United States about the very high costs that could be associated with continuous delays in fashioning a credible medium-term plan to address its budget problems.

In 1999, when the Euro was first launched, the European Stability and Growth Pact required that member countries contain their budget deficits to no more than 3 percent of GDP and that they maintain their public debt levels at below 60 percent of GDP. Despite those strictures, by 2009 Greece and Ireland registered budget deficits around 15 percent of GDP, while Portugal and Spain registered budget deficits in the region of 10 percent of GDP. It is now expected that Greece and Ireland's public debt to GDP will reach over 160 percent and 120 percent, respectively, by 2012, even under optimistic assumptions.

A notable feature of the European debt crisis is that until very recently markets failed to discipline profligate governments in the European periphery, and those governments were able to borrow at interest rates only marginally higher than those required of the German government. Markets also provided the financing that made possible massive housing market bubbles in Ireland and Spain, and they failed to exercise the desired disciplinary function in the mistaken belief that this time was different and that eurozone membership would automatically make countries in the European periphery converge to the strong economic performance of German economy.

The important lesson for the United States is that when markets did finally turn on the European periphery, they did so in an abrupt and dramatic fashion. Greek and Irish governments were effectively shut out of the capital markets, they were forced to seek bailout packages from the IMF and the EU, and, more recently, last week, the caretaker Portugese government was also forced to seek an EU bailout as external funding for the Portugese government totally dried up. Despite these massive bailout packages, markets are still demanding very high interest rates now of these countries, and these high interest rates imply that the market is attaching a very high probability to the likelihood that these countries will actually default on their sovereign debt within the next 3 to 5 years.

As a condition for the bailout lending, the IMF and EU are requiring of Greece and Ireland massive budget adjustment of the order of 10 percent of GDP over the next 3 years. Countries in the European periphery are now finding that attempting to dramatically tighten their budgets without being in a position to weaken their currencies to boost export growth is a recipe for steep economic recession in these countries. Sadly, Greece and Ireland are already finding this out. Over the past 2 years, GDP has declined in Greece and Ireland by 8 and 12 percent, respectively, and the unemployment rates have both climbed beyond 14 percent.

To sum up, Europe's recent difficult experiences with the public finances would seem to offer the United States the following four cautionary lessons. First, U.S. policymakers should not take comfort from the fact that despite its very poor public finances, the U.S. Government can still finance itself at very low interest rates. Up until early 2010, the Greek, Irish, Portuguese governments all were able to fund themselves at relatively low interest rates, only to find themselves subsequently virtually shut out of the capital market.

The second point is that when markets finally do lose confidence in the sustainability of a government's public finances, they tend to do so in an abrupt and disruptive manner. This tends to be highly disruptive to financial markets and it tends to be associated with prolonged and deep economic recessions. One also finds that once a government loses the market's confidence, it proves difficult to regain the market's trust.

Third, dependence on foreign sources of financing exposes a government to the vicissitudes of foreign credit markets. It also places a government in a position where foreigners can dictate the terms of future lending that can be harmful to a country's economic prospects.

Finally, disruption in a government's bond market can have important implications for the financial system, which tends to be a primary holder of government bonds. Experience shows that a weakened financial system is generally associated with lower long-term growth.

Thank you.

[The prepared statement of Mr. Lachman follows:]

(Testimony for House Committee on Oversight and Government Reform)

Lessons for the US from the European Sovereign Debt Crisis

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April 14, 2011

Introduction

1. The European sovereign debt crisis offers a cautionary tale to the United States about the very high costs that could be associated with continuous delays in fashioning a credible medium-term plan to address the deep budget problems at the US federal and state levels. For many years, markets provided ample funding at very low interest rates to the Greek, Irish, and Portuguese governments, despite the clearest of evidence that major economic imbalances were building in those countries. In so doing, markets repeated the all too often made mistake of thinking that "this time the large imbalances are different" and that a day of reckoning would not come.

2. When markets finally did turn against the European periphery towards the end of 2010 they did so abruptly and they caused interest rates to rise sharply for the Greek, Irish, and Portuguese governments. This has now plunged those economies into deep economic recessions and has raised unemployment rates to record levels. Despite massive official bailout packages for Europe's peripheral countries from the IMF and EU, markets are now pricing in a very high probability that these countries will default in the next three to five years. This could constitute a major shock to the European banking system, which has a very high exposure to the periphery. It could also pose a serious challenge to the global economic recovery.

Major Imbalances in Europe's Periphery

3. In 1999 when the Euro was launched, the European Stability and Growth Pact required that member countries contain their budget deficits to no more than 3 percent of GDP and maintain their public debt to GDP ratios below 60 percent. Despite these strictures, by 2009 Greece and Ireland registered budget deficits of around 15 percent of GDP, while Portugal and Spain registered budget deficits in the region of 10 percent of GDP (Figure 1). It is now expected that Greece and Ireland's public debt to GDP ratio will reach over 160 percent and 120 percent, respectively by 2012, even under optimistic assumptions about economic growth and budget adjustment (Figure 2).

4. The emergence of major economic imbalances in the various countries in Europe's periphery can be traced to different underlying causes. In the case of Greece and Portugal these imbalances owed mainly to years of profligate government spending in the context of sclerotic economies burdened by deep structural rigidities. In the case of Ireland and Spain, today's imbalances owe mainly to the bursting of massive housing market bubbles that made those in the United States pale.

5. A notable feature of the European debt crisis is that until very recently markets failed to discipline profligate governments in the European periphery and these governments were able to borrow at interest rates only marginally higher than those required of the German government. Markets also provided the financing that made possible massive housing market bubbles in Ireland and Spain. Markets failed to exercise their desired disciplinary function in the mistaken belief that "this time was different" and that eurozone membership would automatically make countries in the European periphery converge to the strong economic performance of the German economy.

Europe's day of reckoning

6. When markets did finally turn on the European periphery, they did so in an abrupt and dramatic fashion (Figure 3). The Greek and the Irish

governments were effectively shut out of the capital markets as interest rates spiked by between 300 and 700 basis points. Greece and Ireland were forced to seek IMF-EU bailout packages of EUR110 billion and EUR65 billion, respectively. More recently, last week the caretaker Portuguese government was also forced to seek a EU bailout as external funding for the Portuguese government totally dried up. Despite the massive IMF and EU bailout packages, markets are still demanding very high interest rates on the periphery countries' sovereign debt. These high interest rates imply that the market is attaching a very high probability to the likelihood that these countries will default on their sovereign debt within the next three to five years.

7. The reason for the market's present deep skepticism about the prospects for restoring fiscal sustainability in the European periphery is that the market correctly perceives that Europe's periphery lacks the policy instruments to put its public finances back on a sustainable path. Locked in a euro straight jacket, Greece, Ireland, and Portugal cannot resort to inflating their way out of their large public debt. Nor can they attempt to devalue their currencies so as to make their exports more attractive abroad and thus offset the negative impact of the fiscal retrenchment being imposed on them by the International Monetary Fund.

8. As a condition for their bailout lending, the IMF and EU are requiring of Greece, Ireland, and Portugal budget adjustments of the order of 10 percentage points of GDP over the next three years. Countries in the periphery are now finding that attempting to dramatically tighten their budgets without being in the position to weaken their currencies to boost export growth is a recipe for steep economic recessions in these countries. Sadly, Greece and Ireland are already finding this out. Over the past two years, GDP has contracted in Greece and Ireland by 8% and 12%, respectively, and their unemployment rates have both climbed beyond 14% (Figures 4).

9. The seemingly intractable economic problems in Greece, Ireland, Portugal, and Spain constitute a serious risk to the European banking system. Although these economies constitute a relatively small part of the overall European economy, their cumulative sovereign debts exceed $2 trillion. The major part of this debt is held by German, French, and

British banks, whose fortunes in turn are enmeshed with those of U.S banks (Figure 5). Eventually, these countries' debts will likely be written down by at least 30 cents on the dollar, which will hit the European banking system about as hard as did the 2008 Lehman meltdown.

Lessons for the United States

10. The United States budget deficit has swollen to over US$1.5 trillion, or around 10 percent of GDP, while its public debt to GDP ratio has already risen to around 70 percent. This has placed the United States' public finances on a clearly unsustainable path, even before considering the serious public finance problems at the state level. It is of note that US public debt levels as a percent of GDP are on a path to reach within a year or two those levels at which a funding crisis in Europe's periphery was triggered.

    Europe's recent difficult experience with its public finances would seem to offer the United States the following cautionary lessons:

    a. US policymakers should not take comfort from the fact that, despite its very poor public finances, the US government can still finance itself at very low interest rates. Up until mid-2010, the Greek, Irish, and Portuguese governments all were able to fund themselves at relatively low interest rates only to find themselves subsequently virtually shut out of the capital market.

    b. When markets finally do lose confidence in the sustainability of a government's public finances they tend to do so in an abrupt manner. This tends to be highly disruptive to financial markets and it tends to be associated with prolonged and deep economic recessions. One also finds that once a government loses the market's confidence it proves difficult for it to regain the market's trust.

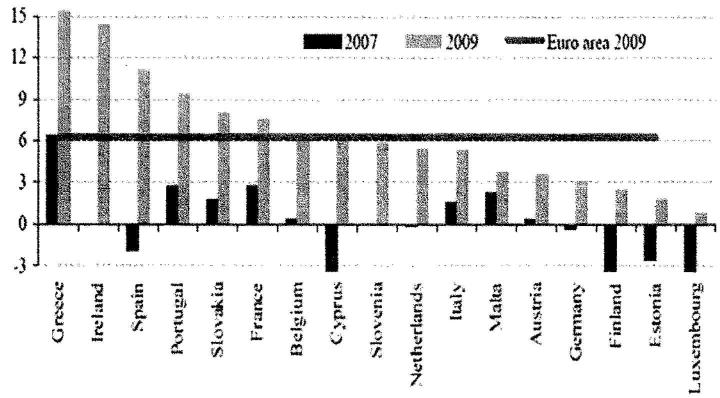
    c. Dependence on foreign sources of financing exposes a government to the vicissitudes of foreign credit markets. It also places a government in a position where foreigners can dictate the terms of future lending that can be harmful to a country's economic growth prospects.

d. Disruption in a government's bond market can have important implications for the financial system, which tends to be a primary holder of government bonds. Experience shows that a weakened financial system is generally associated with lower long-term economic growth.

Figure 1.

Europe: General government deficits

(as a percentage of GDP)

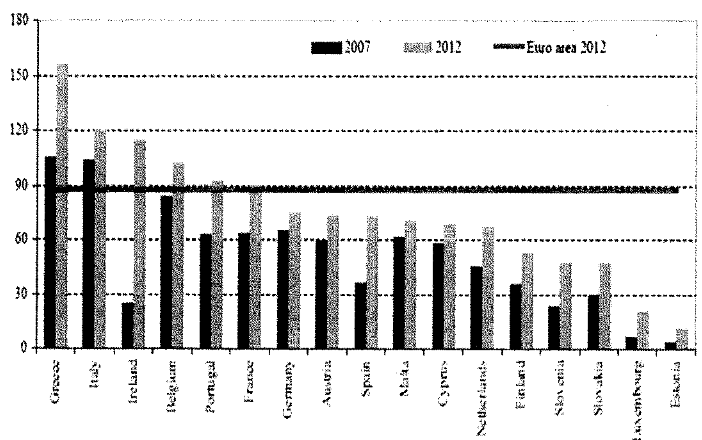


Source: European Commission's economic forecast autumn 2010 [6]

Figure 2.

Europe: General government gross debt

(as a percentage of GDP)



Source: European Commission - Autumn 2010 Forecast [7]

Figure 3.

European Periphery 10 year Credit Default Spreads

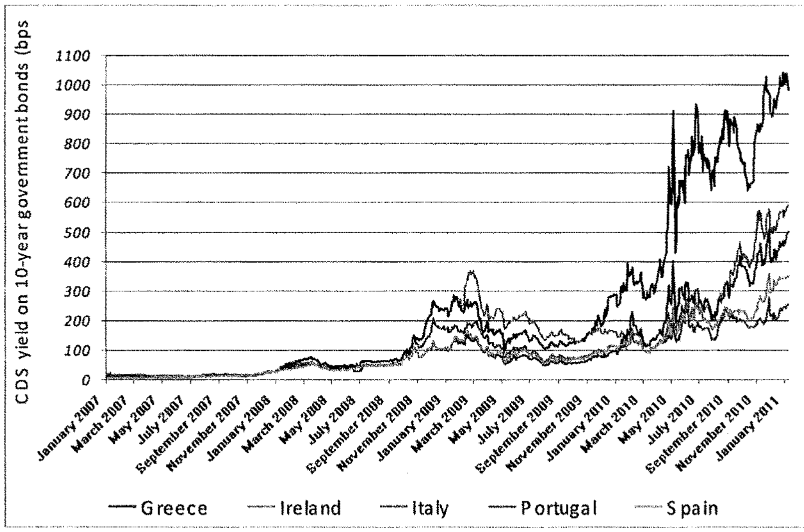


Figure 4.

The Greek Economy is Collapsing

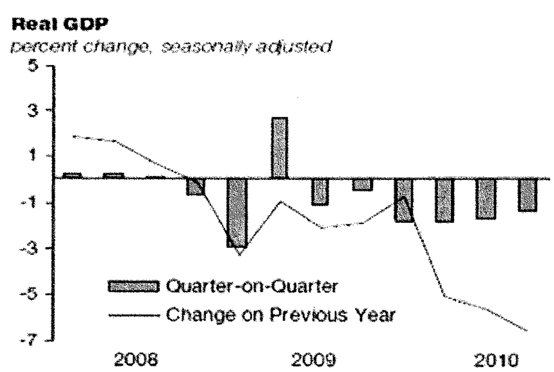
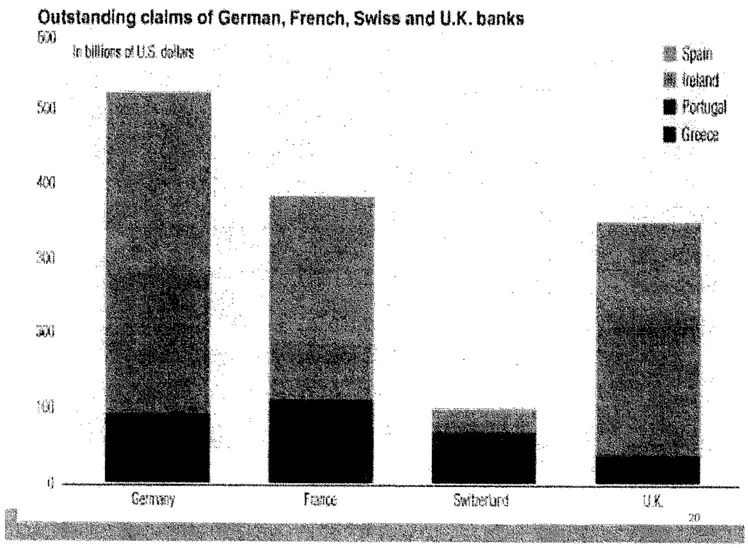


Figure 5.

European Bank Exposure to the Periphery



Chairman ISSA. Thank you. I will yield myself 5 minutes at this time.

Professor Novy-Marx, in some of your published studies you seem to take issue with Vermont's Governor's theory that he is, first, fully funded and then adequately funded. If we make reasonable assumptions that today, for some reason, they chose to go to a defined contribution, how much underfunding would there be in the legacy of Vermont's system?

Mr. NOVY-MARX. So I don't know if you are talking about a soft freeze or a hard freeze. Are we talking about moving forward to DC plans or just new hires?

Chairman ISSA. Well, if you assume that it is all workers, that whatever they have accrued they keep, and obviously there is some middle ground of those who are 3 or 4 or 5 years, but assuming you phased it out very quickly——

Mr. NOVY-MARX. It would improve the position of their financial status in the pension plan.

Chairman ISSA. It would improve that, but what would be the shortfall in their pension? In other words, if they achieve the 8½ percent starting the day that you shut it off, they would be able to make all of their payments forever, is that correct?

Mr. NOVY-MARX. They would have a small shortfall, but not a huge shortfall, if they made 8 percent on the assets.

Chairman ISSA. What is the reasonable belief that 8½ percent can be made, particularly considering that they have credit default swaps——

Mr. NOVY-MARX. It is less than 50 percent that they would make that sort of return. Essentially, they borrowed a lot of money to speculate in the stock market. And if the stock market does better than the cost of their borrowing, they will be in a better position. If it does worse, they will be in a much worse position. But I view this idea that you can achieve 8½ percent by investing in the stock market as essentially borrowing public money to speculate in the stock market.

Chairman ISSA. And if we assume for a moment that there is some discount for inflation in the 8½ percent, let's call it 2½ percent, they are really saying they want to say 6 percent over inflation, would that be correct, roughly?

Mr. NOVY-MARX. So——

Chairman ISSA. So they are looking at making——

Mr. NOVY-MARX. In the terms of their own plans, they assume inflation rates that are higher than the market or consensus estimates.

Chairman ISSA. If we were to use a baseline—and this may delve into others—if we were to use a baseline, let's say, of from any given time until 1980, in other words, not the last 30 years, is there any ability to achieve broadly 6 percent over inflation in America's 20th century? Is there any 20-year period in which you can earn that kind of money?

Mr. NOVY-MARX. The two decades after World War II, the U.S. market did very well and your returns would have exceeded that.

Chairman ISSA. Are there any 20 years in which you can't?

Mr. NOVY-MARX. There certainly are, yes.

Chairman ISSA. So what we are really doing is we are saying we think we are going to make it, but if we don't—and I want to get to the next point—if we don't make it, then what happens? And I am a Californian, so I live this every day. During good times, good economic times, times in which the market is performing and so is America, the need for the social safety network generally goes down, so the government spending, State government spending, Medicaid and so on, typically goes down. If that is the case, then when you have lower spending you have higher earnings within those 10 or 20 years.

Turn it around. When the market goes to heck in a hand basket, typically you have people laid off and greater public need. Is that sort of universally agreed to by all the panel?

[No audible response.]

Chairman ISSA. So no matter what we are dealing with, we are assuming that the present system is one in which you must pay in more over a three, 5-year period—all of these plans have a certain waiting period; typically they are trailing 3 years or something, some of them go five—but in any really long bad time of 10 years, for example, you are going to have to pay in more at a time in which you are paying out more. Is that generally true?

Mr. NOVY-MARX. That is true.

Chairman ISSA. So for any of you on the panel, even forgetting about ideological reasons that we may want to choose other systems, the Governor of Vermont said this was more efficient. Let's assume efficiency is as he defines. Is it better for the reliability to the taxpayer, the people who will count on services in bad times and who, in fact, don't want to be misled in good times, is there any basis to say that that system of needing more money paid into pensions at a time when there is less to pay and more needed, and then needing less so you look good exactly at a time when it is only because people need less from the government?

Mr. BIGGS. I think you have put your finger on the fundamental error in the Governor's reasoning. The bad times for the pension, the bad rates of return on its investments will correlate with bad times in the rest of the economy, which means more people out of work, lower tax revenues, higher expenditures or unemployment benefits, things like that. So you are asking taxpayers or contributors to the plan to pay extra into the plan to make up for losses at exactly the time they are least able to do that. So that is the problem. When you get this correlation between the poor market outcomes and poor outcomes in other parts of the economy, it makes it more painful to do those things. A market valuation approach to looking at pension financing implicitly takes that into account; whereas, the current GASB rules ignore that fact.

Chairman ISSA. Anyone else have a brief—yes, doctor.

Mr. LACHMAN. I would just add to the point that you are making that we don't live in ordinary times, that we are living in a period where we have had an acid price bust, where we have had real strains in the banking system. There is plenty of economic research that shows that those periods are followed by unusually low growth, where you would expect to get very poor returns on equities. All you have to do is look at the Japanese experience right now. In 1989, the NIKKEI was at 39,000; today, 23 years later, it is at 10,000. So we are living in a different time. To expect to get an 8 percent return after an economic crisis like this would seem to me to be heroic.

Chairman ISSA. Thank you.

The gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

You know, you all heard the testimony of the two Governors, did you not? And you heard Governor Walker, numerous times, saying that he liked what Mitch Daniels did in Indiana. Did you all hear that? It sounds like he may be his mentor. But let me ask about the legislation recently introduced in Indiana. This legislation would make it a misdemeanor for an employer to require an individual to become or remain a member of a labor organization, pay dues, fees, or other charges to a labor organization, or pay charity to another third party that represents dues, fees, or other charges required of members of a labor organization. Governor Mitch Daniels originally favored this legislation and prior bills that opposed unions. In 2005, he signed an executive order limiting collective bargaining for State workers. As a result, according to an April 13th National Review article, the number of State union workers shrunk from over 16,000 in 2005 to now nearly 1500.

Mr. Mix, your organization supports Indiana's legislation, is that right?

Mr. MIX. [Remarks made off mic.]

Mr. CUMMINGS. I can't hear you, I am sorry.

Mr. MIX. Sorry. We oppose the statutory imposing of bargaining rights in Indiana going back to the middle of 1990. It was imposed by executive order by Governor Evan Bayh and then there was executive order signed by Governor Frank O'Bannon to force Indiana employees to pay dues or fees to the union to keep their job. What Governor Daniels did was simply repeal that executive order that authorized bargaining in the State. There was never a statute there.

Mr. CUMMINGS. So you——

Mr. MIX. We support what Governor Daniels did, yes.

Mr. CUMMINGS. You support what he did. And despite your organization's support, Governor Daniels has now withdrawn support from this legislation. Have you heard that?

Mr. MIX. He has indicated that he opposes consideration of a right to work bill, which was the reason the 39 Democrats left the State for 33 days and shut down the Indiana legislature. He opposes that right to work bill that is pending in the Indiana house right now.

Mr. CUMMINGS. And on February 22nd, an article featured in Politico indicated that the Governor thought there was a better time and place to have a debate. Is that right?

Mr. MIX. I think that is right. That is accurate.

Mr. CUMMINGS. He also stated that even the smallest minority has "every right to express the strength of its views and I salute those who did." Do you agree with that?

Mr. MIX. Well, if Governor Daniels is talking about the fact that 39 Democrats left the State to stop this legislation, I disagree with him.

Mr. CUMMINGS. All right. I only have a limited amount of time. I heard you. You disagree with him. OK.

Mr. MIX. I disagree with him praising 39 members leaving their jobs to stop the bill, yes.

Mr. CUMMINGS. You disagree with him.

Mr. MIX. Yes, sir.

Mr. CUMMINGS. Your organization does not just support the concept of this legislation, you have financially pushed it, have you not, your organization?

Mr. MIX. What legislation are you talking about?

Mr. CUMMINGS. I am talking about the subject matter that we are talking about right now, that is——

Mr. MIX. The right to work bill is different than what Governor Daniels did. We have been involved in Indiana for a while now, yes.

Mr. CUMMINGS. So you put some money in this. And according to an article on March 23rd in the Fort Wayne Journal Gazette, your organization began a "$100,000 statewide media campaign to try to get the issue back on the table." Does that sound accurate?

Mr. MIX. Absolutely.

Mr. CUMMINGS. "And one newspaper tries to shame Daniels and Bosma for bending to the unions." Mr. Bosma is the Republican speaker of the Indiana house, is that right?

Mr. MIX. Yes, sir.

Mr. CUMMINGS. And, Mr. Mix, did you organization place those advertisements?

Mr. MIX. We did.

Mr. CUMMINGS. And staff have identified at least 10 Republican Governors, including Governor Daniels, who have distanced themselves from Governor Walker and, in particular, his assault on collective bargaining rights for workers. But your organization continues to agree with Governor Walker's actions, is that correct?

Mr. MIX. Yes.

Mr. CUMMINGS. I think this hearing has demonstrated that Governor Walker wildly overreached by insisting on stripping the rights of American workers, even when such measures would have had absolutely no impact on the State budget.

Mr. Biggs, I wanted to followup on a point that I think is extremely important. As Governor Shumlin made very clear in his testimony earlier, the budget shortfalls that are affecting States today were not caused by middle-class American workers, they were not caused by these teachers and nurses, policemen, firefighters. Shumlin testified that "I would like to start by directly addressing the question of what is causing the current fiscal crisis that most of our States are experiencing. Put simply, these crises are the result of the greatest economic recession since the Great Depression."

Dr. Biggs, do you agree with that?

Mr. BIGGS. I think that is generally correct, yes.

Mr. CUMMINGS. And, Dr. Biggs, on March 15, 2011, you testified before this committee and you seemed to agree with Governor Shumlin's point. In your testimony you said this, you said the fiscal crisis at the State and local level has many causes. The proximate cause is the significant economic recession, from which the U.S. economy still struggles to recover. Did you say that?

Mr. BIGGS. That's correct.

Mr. CUMMINGS. And in your testimony today, Mr. Biggs, you explained that different States may have different challenges based on how the economic crisis affected them. You stated that when looking at the financial challenges faced by States, the differences arise from how hard the States were hit by the recession. Is that right?

Mr. BIGGS. That is also correct, yes.

Mr. CUMMINGS. And so you are not alone, as I close, in your views that these budget shortfalls are a result of the recession, and let me read Ezra Klein, what he wrote in The Washington Post. He says, "There was no sharp rise in collective bargaining in 2006 and 2007, no major reforms of the country's labor laws, no dramatic change in how unions organize, and yet State budgets collapsed."

So I say this to all of the witnesses. If you want to talk about balancing the State budgets, then let's talk about the budget, let's talk about the real reasons for shortfall, and let's talk about the real solutions.

I see my time has expired. Thank you.

Mr. MCHENRY [presiding]. I thank the ranking member.

Ms. Buerkle is recognized for 5 minutes.

Ms. BUERKLE. Thank you, Mr. Chairman, and thank you to our panelists for being here today and for answering our questions.

My first question is sort of a followup to my colleague, Mr. Cummings's, question. Mr. Mix, in your written remarks you note that there is a close correlation between high State debt and the existence of public sector monopoly bargaining. Can you explain that for me and just expound on that a little bit?

Mr. MIX. Yes, ma'am. I think the correlation between the cost of government and the proposition that union density is something that is becoming clear, and if you look at the numbers that I cited from the study regarding per capita median State debt per person, I think you see that coming clearly. I think it is important also to understand that the idea of bargaining and the ability for a private third party to engage themselves in the relationships between taxpayers and their elected officials is something we need to address, and I think if you look at the States, the nine States that are running the risk of default, all those States had a union density over 60 percent in the government sector.

Ms. BUERKLE. I represent an area of New York State and actually, Professor Novy-Marx, it is close to Rochester, so we are one of those 44 States that was spoken of this morning, that we teeter on this delicate balance here, so I would like to just followup, again, with my colleague, Mr. Cummings' comment with regards to Governor Walker. Do you feel that he overreached, Mr. Mix?

Mr. MIX. I don't. I think the idea that allowing workers the choice to join or financially support a labor union is a basic right. Part of the legislation that Governor Walker talked about and was in question here today was a provision granting Wisconsin public employees the right to work free of union compulsion. Any member that believes the union represents them well and wants them to speak for them can voluntarily join that organization and have their voices heard, just like any other citizen can. But we should not presume that every worker out there supports what organized labor is doing for them and that there is a benefit conferred on those people. What we ought to do is give them the choice. And what union officials ought to do is represent only those workers that want their representation, because we know that any organization that is brought together through voluntary means is inherently stronger than any organization that is cobbled together by compulsion.

Ms. BUERKLE. Thank you.

My next question is for Dr. Lachman. You note in your written remarks that the U.S. budget deficit has swollen, as we know, to close to $1½ trillion, about 10 percent the GDP. It is on a path to reach, within a year or two, the levels of funding crisis that we have seen in other countries. What common sense practical steps can we take as a Nation to just avoid what we have seen from some of those countries?

Mr. LACHMAN. Well, you are absolutely right that the United States is on a path that is clearly unsustainable and that will lead to a debt crisis going down the road. The sensible thing for the United States to do would be to have a medium term budget program that seriously and credibly addressed those problems that brought down the deficit progressively over time. You are seeing that, for instance, in the United Kingdom right now, where they have a medium term budget plan that is going to be reducing the budget deficit by something like 1.8 percentage points of GDP a year, bringing it down from something like 10 to 3 within a period of time, but they are doing it in a credible way, with actual measures passed through the Parliament. It would seem that that is what is needed if you are going to be assuring markets that you are seriously dealing with the problem, rather than just running up huge deficits and then have the markets fear that the Federal Reserve is going to monetize it and we are going to be off to the races on inflation.

Ms. BUERKLE. And just in the few seconds that I have left, can you just define or expand on that credible way that you are talking about?

Mr. LACHMAN. Well, I think that it is important to do things in a variety of ways. To back-load a fiscal plan isn't really credible; there are a lot of changes that might occur down the road, that what one is wanting is wanting up-front concrete measures where there is a clear congressional commitment that measures are going to be actually implemented. It is no good just talking about we intend to do things; you have to back it up by action that markets are going to believe that you are actually going to be delivering. Having benchmarks, having a path on which you are going, having concrete measures that you are going to be taking, actually passing those measures would give those markets a lot more confidence right now. And I think that the only point that I was really trying to get across is not to be fooled by the fact that the U.S. Government, with its huge deficit, is able to borrow in the treasury market at, say, 3 percent on 10-year bonds. That can move in a heartbeat.

Ms. BUERKLE. Thank you very much.

Thank you to all our panelists. I yield back.

Mr. MCHENRY. I thank my colleague. I now recognize myself for 5 minutes.

Dr. Biggs, I had this discussion before in the series of hearings we have had about the State and municipal debt crisis. There is a choice government has to make with the revenues it gets from its people. So when we have pension funds, a discussion about pension funds, if it is a private sector pension fund, if it is underfunded, those that should receive the pension are the ones that are getting harmed. If it is underfunded in the private sector, there is another group, sort of the forgotten man, if you will, that are the taxpayers, that are either going to pay higher taxes because these pensions were underfunded, whether it is through union contracts or whatever it may be. Then you have not only the taxpayers, but those people that desire a benefit out of their government. For instance, you live in a city and they lay off half the fire department or some of the police, or they don't have frequent trash service. There are services you would diminish in order to meet certain events.

Can you talk about this in terms of what that actually means, those choices?

Mr. BIGGS. Well, I think this plays very well into the issue of how we measure the pension liabilities. One of the arguments for the way current accounting rules for pensions, government is different than the private sector; government is infinity lived, it is very big, it will go on forever, so we can ignore this risk. But when you look at how the risk is actually allocated, government is a pass-through entity; it doesn't bear the risk, it distributes it to different stakeholders. So when we look around the country today, we see individuals who are having to pay higher taxes to support pensions; we see layoffs in government work forces; we see cuts in other programs so they can make room for their pension contributions. So it is not the government that is bearing the risk of those market downturns, it is effectively individuals who are bearing it. So that is why we should value these pension liabilities the way that individuals do it.

I think one sort of troubling aspect of the way defined benefit pensions in the private sector have worked in practice is often the market risk is one-sided. In very good economic times part of the money goes to help fund the pension, but there is also the temptation to raise benefits. We saw this in California, we have seen it in New Jersey, we have seen it in Washington State. But in the down times it is the taxpayer who takes that risk. So any time you have one-sided bets, you are setting yourself up for some problems. But the key issue is it is not government that is bearing the risk, it is people in all aspects of our lives. So we want to catch that issue there in terms of how we value these liabilities.

Mr. MCHENRY. Can you also discuss in terms of asset sales, whether at the State or municipal level, that you have an asset that local governments have sold in order to meet immediate expenses. These assets sales is a form of indirect bankruptcy, if you will.

Mr. BIGGS. In a sense, I guess selling off an asset is like borrowing, because the asset, in theory, would give you value down the road. But if you are selling it off, you are saying we are going to get some cash today but we are giving up all the stream of payments that we otherwise could have had. But I think the point you make is correct. If you are having to sell off assets that you would otherwise want to keep in order to make payments, it is a form of partial bankruptcy; it is, in effect, eating your seek corn, because those are assets you are going to need down the road.

Mr. MCHENRY. You mentioned the importance of getting the accounting right and, Dr. Novy-Marx, you did as well, even more specific. But, Dr. Biggs, can you talk about this in terms of accounting and——

Mr. BIGGS. The funny thing is my father was a certified public accountant, and I remember growing up thinking all these accounting things are so boring and why would you want to do that. What I have discovered working in public policy is what you do about a problem really depends on how you measure the problem. The way we currently measure public pension financing, we learn two things from that. The current measures tell us the problem is small and can be solved by taking more investment risk. Using proper accounting measures we realize the opposite; the problem is large and taking more investment risk isn't going to solve it. So talking about accounting sounds boring, but I think if you really measure things correctly you get an idea how big your problem is and what will and what won't fix it.

Mr. MCHENRY. Dr. Novy-Marx.

Mr. NOVY-MARX. Thank you. I am not an expert on unions and don't have a lot to say about them, per se, but I think there is a real danger in bargaining over things which are improperly valued. So I think that the valuation of the pension liabilities very much interacts with the bargaining, because if we way undervalue these benefits, it makes it extremely hard for the government side to bargain from a fair position.

Mr. MCHENRY. So, Dr. Biggs, in terms of this, there is the GASB versus FASB. You have the government accounting—and to you, Dr. Novy-Marx, because I think you both can shed some light on this. There are different accounting standards for the public sector, as opposed to the private sector. I am interested in this difference. And I also have a very specific question. So, if you will answer the specific question and get to the larger point, because my time is running short. Actually, I am over time, but with the graciousness of my colleagues.

The SEC has designated FASB as the accounting for publicly held companies. What about designating GASB in terms of being able to capture—the SEC basically captures stale data at the broker-dealer level. What about capturing that data more upstream, from the issuer? Would that be better? Would that give more transparency and more disclosure, and can you touch on that?

So if you will answer that, then get to the larger point, I would appreciate it.

Mr. BIGGS. Pension disclosure in the public sector I think is not as strong as it is in the private sector, where often in the public sector the actuarial reports come out a year or more after the events that they are trying to date. I have written about private sector pension accounting and I have been critical of it in ways, but it much more closely approximates how you should measure the liabilities. A private sector pension benefit is very secure, but it is not guaranteed. If the sponsor goes bankrupt, the retirees can lose some of their benefits. So those liabilities are discounted at a rate of return derived from corporate bonds. That means it is very safe, but it is not totally safe.

With public sector pensions, the benefits are effectively guaranteed, often by State constitutions. That means they should be discounted at a lower interest rate. Instead, they are discounted at a higher discount rate. The GASB rules have things just precisely opposite of the way they should be.

Mr. MCHENRY. Dr. Novy-Marx.

Mr. NOVY-MARX. I have nothing to add; I agree with him completely.

Mr. MCHENRY. OK.

Finally, and then we will go to my colleague, Mrs. Maloney, Devin Nunes has introduced a piece of legislation in terms of transparency, perhaps strikes at the heart of making sure you have accurate disclosures for public sector pensions. Dr. Biggs, can you touch on that? Are you favorable to this perspective? What are your thoughts on it?

Mr. BIGGS. I think the disclosure bill sponsored by Congressman Nunes would be very helpful in that it would require every State to disclose the market value of their pension liabilities, which means, A, you would get the numbers that would be much more accurate but, B, they would also be uniform between States.

I testified several weeks ago alongside several individuals from the ratings agencies, and I got the impression they simply took the data from the public sector pensions as they published it. But I think it is important if you have a better measure of the liabilities and also a measure that is truly apples to apples from State to State. So I think that would be a very, very helpful step.

Mr. MCHENRY. Anyone have anything to add there?

Mr. NOVY-MARX. I think it would be a very helpful step as well. I think that there is actually a lot more information they can disclose. They actually forecast expected cash-flows every year into the future in calculating the liability, and there is no reason that they don't disclose that; it should be public information, they are public entities.

Mr. MCHENRY. Thank you. Thank you.

Mrs. Maloney for 5 minutes.

Mrs. MALONEY. Thank you, and I thank all of you for your testimony. I regret I had a conflict with another meeting, but I did read your testimony and it contributes to the debate, so thank you.

I would like to begin with Dr. Biggs, and I am going back to a lot of the debate that we had in the panel before you. Many people blame the poor financial condition of States on public pension systems, as if pension underfunding is the primary cause of a State's financial problems. In fact, the Republican staff on this committee issued two briefing memos that made this exact argument: "The largest threat to State and municipal fiscal security is the government-sponsored pension plans."

Yet, in the prior panel there were a series of editorials that I put together for this hearing from clear across the country, and they were saying that it wasn't a financial problem in those particular editorials. So my question, Dr. Biggs, is given what we heard from the Governors and from the editorial boards, do you agree with this assertion that the largest threat to State municipal fiscal financial security is government-sponsored pension plans?

Mr. BIGGS. Well, as I stated in my testimony, the drivers and the cause of the deficits that State and local governments are suffering from now were distinct from public pension plans, were distinct from public employee compensation. The question you are asking, though, is slightly different: What is the largest threat to State and local finances? And that raises some different questions because the pensions have shifted so heavily toward risky investments that even a small change in the rate of return they would receive would have significant impact on planned financing and on State budgets. For example, recently in California the Board of CalPERS, the public plan there, rejected their actuary's recommendation they shift from an assumed rate of return of 7.75 percent down to 7½ percent, and the argument the people made was we can't afford the extra payments that would be required by assuming a reduction of one quarter percentage point in our assumed rate of return.

The problem is if you are investing in the sorts of assets they are, which are heavy on equities, foreign investments, hedge funds, if you can't afford to lose 25 basis points on your rate of return, you are in very big trouble.

Mrs. MALONEY. Well, actually, there is another hearing going on in Financial Services I need to get to on a regulatory reform bill. We tried to really bring some controls and safety to some of these investments, but I would like to ask about an analysis by the National Association of State Retirement Administrators, and according to this analysis, less than 3 percent of all State and local government spending was used to fund public pension benefits. Do you agree with this or do you dispute this data?

Mr. BIGGS. No, I agree that that figure is correct. The problem is, first, that a lot of States, with the amount they are paying today, are not meeting the obligations they are supposed to pay under the more lax accounting rules from GASB and, B, if they use more honest accounting, they would have to pay significantly more than that. One example I looked at was Illinois, which was not even meeting its sort of actuarially required payments. If they had to pay the market value of their payments, it would be something like 14 percent of their State budget. That gets very, very difficult.

Mrs. MALONEY. Well, I would like to cite another study from the Center for Economic and Policy Research, and according to this study, the primary cause of pension shortfalls in our country was the economic collapse that we suffered in 2008, rather than inadequate contributions to government retirement programs.

Mr. BIGGS. I think the argument made in that paper was that the shortfalls we are looking at now were a result of the downturn in the assets that they held. One reason they were holding so much risky assets was because it allows them to discount their liabilities at a high interest rate. So, in effect, the poor state of funding we are seeing now is a function of the investment choices they made, and those investment choices they made were driven by the accounting.

Mrs. MALONEY. We are trying to bring more accountability in those investment choices, but I would like to ask Dr. Biggs isn't it true that while pension plan underfunding is a problem for some States, there are more than a dozen States rated by The Pew Center as solid performers?

Mr. BIGGS. Let me put it to you this way: The Department of Labor has standards for the health of private sector pension plans. I believe a private sector pension plan that is under 80 percent funded is considered endangered, and a plan that is under 60 percent funded is considered critical. If public sector plans were required to use private sector accounting methods, I don't believe there would be a public sector plan in the country that would be more than 60 percent funded. They would all be considered critical. The account is very, very important here.

Mrs. MALONEY. Well, I agree you need accurate and uniform accounting systems. We just came out of a national recession, and it was certainly the greatest recession in my lifetime, and probably yours. To me, it seems inaccurate and very unfair to tie the current financial problems that some States face with public retirement systems underfunding to a long-term pension crisis. Most economists, even from the Bureau of Labor Statistics, Dr. Hall, states that this was the first recession that was caused by the financial markets; it caused this deep pain and this recession. And to say that because some States have some problems, that this is the cause of the problem——

Mr. BIGGS. I don't believe I have said that public pensions are the cause of the problems. I am not really aware of anybody else who has said that. What I would say is that the public pensions, because they were investing so aggressively, are particularly vulnerable to the financial downturn that we had and, second, even if the recession was caused by other factors, we can't go back to Wall Street or we can't go back to the housing market and say fix our problems. We have the problems that we have and we have to make some decisions on how to fix our budgets going forward and how to fix these programs so that they are more robust in future years.

Mrs. MALONEY. If I am hearing you correctly, you said many of the problems came from investing so aggressively. So if the managers of the pension funds are the ones that are putting them in jeopardy, maybe we need stricter standards there and capital requirements and so forth.

Mr. BIGGS. It is not the managers. What happens in most States is the legislature will set the discount rate that they want to use for the pension; they will say we want to use a 8 percent discount rate. And they tend to choose a high discount rate because that makes the liabilities look small; that makes the annual payments small. Then the fund itself has to go out and say, well how are we going to get 8 percent? You can't get 8 percent without taking a lot of risk. So now they are shifting more and more into alternative investments. An example I had, Wisconsin school districts were investing their pension funds in synthetic collateralized debt obligations. It is the chasing of returns that is driven by the fact that a high return is imposed on them by legislatures who want to minimize the payments they want to make today.

Mr. MCHENRY. Thank you.

If you have any final questions?

Mrs. MALONEY. No. Thank you very much. Really, thank you very much.

Mr. MCHENRY. Thank you. I appreciate the gentlelady's comments and questions and I appreciate the panel's testimony here today. This is certainly a critical issue, as we have heard from the Governors and as we have heard from previous hearings on municipal and State debt crisis that they are facing, budget crisis.

Dr. Lachman, I have heard you speak before. I wanted to ask a final question, if I might. Does the Euro survive?

Mr. LACHMAN. It depends what you mean by that. If you mean are countries going to leave the Euro, my strong conviction is they certainly are going to leave the Euro. If we look where the Euro is going to be in 5 years' time, I would be highly surprised if Ireland, Greece, Portugal, Spain, maybe Italy, whether they are part of the Euro. But that doesn't mean that the Euro disappears as a currency. What you could get is you could get the Euro which is going to have as its members the original strong countries of the north; the Germanies, the Frances, the Finlands, the Belgiums, and so on.

Mr. MCHENRY. Thank you, Dr. Lachman. I appreciate you indulging me on that question.

I do appreciate your testimony, and if you have further things for the record we would certainly welcome that.

Members will have 7 legislative days to submit questions or comments for the record.

Thank you for your testimony and thank you for your hard work.

[Whereupon, at 2:22 p.m., the committee was adjourned.]

[Additional information submitted for the hearing record follows:]

GWEN MOORE
4TH DISTRICT, WISCONSIN
COMMITTEE ON
FINANCIAL SERVICES

CAPITAL MARKETS AND GSEs
INTERNATIONAL MONETARY POLICY AND TRADE

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April 18, 2011

The Honorable Darrell Issa
Chairman
House Oversight and Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa,

I want to thank you again for allowing me to participate in the House Oversight and Government Reform Committee's hearing, *State and Municipal Debt: Tough Choices Ahead?* I appreciate the opportunity to hear from the witnesses and to share my insights regarding the events that recently occurred in my state of Wisconsin.

As you requested, I submit for the record information on federal requirements that states maintain collective bargaining agreements as a condition of receiving federal transit funds. This provision of federal law is codified at Section 5333(b) of Title 49 of the U.S. Code (49 U.S.C. § 5333(b)) and is enforced by the Department of Labor. Again, after reading this, it is apparent to most observers that the changes in public collective bargaining laws that have been made in Wisconsin would certainly trigger this provision. A copy of the law is enclosed.

According to the Department of Labor, under this provision, *"an employer who receives federal mass transit funds must protect all covered mass transit employees affected by the use of the federal money. The U.S. Department of Labor (DOL) must approve the arrangements made to protect these employees. For covered employees, these arrangements include:*

- *Preserving their rights and benefits;*
- *Continuing their collective bargaining rights;*
- *Protecting them against a worsening of their employment conditions;*
- *Assuring jobs for employees of acquired mass transit systems;*
- *Providing priority of reemployment if the employee is laid off or his job is eliminated; and*
- *Providing paid training."*

Also included for the record is an estimate produced by the nonpartisan Wisconsin Legislative Fiscal Bureau about how State of Wisconsin legislation affecting collective bargaining laws will affect the state's federal transit funding. I hope that this material responds to your request and that all of it will be added to the hearing record. Again, thank you for your invitation to be a part of this hearing and your efforts to ensure that the hearing record accurately reflects what is at stake as states and municipalities devise their budgets.

Sincerely,

Gwen Moore
MEMBER OF CONGRESS

CC: The Honorable Elijah Cummings, Ranking Member

-CITE-

49 USC Sec. ***5333*** 02/01/2010

-EXPCITE-

TITLE 49 - TRANSPORTATION

SUBTITLE III - GENERAL AND INTERMODAL PROGRAMS

CHAPTER 53 - PUBLIC TRANSPORTATION

-HEAD-

Sec. 5333. Labor standards

-STATUTE-

(a) Prevailing Wages Requirement. - The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) Employee Protective Arrangements. - (1) As a condition of financial assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for -

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

-SOURCE-

Office of Labor-Management Standards (OLMS)

Question and Answers

WHAT IS SECTION 13(c)?

Section 13(c) is included in the Federal Transit Law, and is located at Section 5333(b) of Title 49 of the U.S. Code (49 U.S.C. § 5333(b)). This Federal statute requires that employee protections, commonly referred to as "protective arrangements" or "Section 13(c) arrangements" must be certified by the Department of Labor and in place, before Federal transit funds can be released to a mass transit provider.

WHAT EMPLOYEE PROTECTIONS DOES SECTION 13(c) REQUIRE?

As a general rule, Section 13(c) protects transit employees who may be affected by Federal transit funding. Section 13(c) requires the continuation of collective bargaining rights, and protection of transit employees' wages, working conditions, pension benefits, seniority, vacation, sick and personal leave, travel passes, and other conditions of employment. Section 13(c) also requires paid training or retraining for employees affected by Federal assistance. If a transit employee loses his or her job or is placed in a lower paying job due to Federal funding, Section 13(c) requires that the grant recipient pay a displacement or dismissal allowance to the employee for a period equal to the employee's length of service, not to exceed six years. A displacement allowance pays the difference between the current position and the one from which the employee was removed. A dismissal allowance pays an employee the full wage for the position the employee lost. Section 13(c) does not protect employees from adverse effects that are not caused, directly or indirectly, by Federal funding, such as changes in the volume and character of employment resulting from causes other than the project. The protections applicable to a specific grant are contained in the Section 13(c) arrangements. Copies of these arrangements can be obtained from the transit grant recipient or the employees' union.

DOES SECTION 13(c) GUARANTEE CONTINUED EMPLOYMENT WITH A TRANSIT PROVIDER?

If Federal funds are used by a transit provider to acquire another transit entity, the employees of the acquired entity must be assured of continued employment with the new provider. Along with previous rights, privileges, and benefits, the new provider must continue to honor existing collective bargaining rights.

However, the situation is different for an employee of a transit provider that was not acquired with Federal funds who loses his or her job as a result of Federal funding. In this non-acquisition situation, an employee must be given priority of reemployment for any vacant position with any employer under the control of the grant recipient, but is not entitled to an assurance of employment. Such an employee must be paid a displacement allowance, if appropriate. If there are no vacant positions available, the employee is entitled to a dismissal allowance.

DOES SECTION 13(c) CONFER COLLECTIVE BARGAINING RIGHTS UPON TRANSIT EMPLOYEES?

Section 13(c) requires the continuation of any collective bargaining rights that were in place when the employer started receiving Federal funds. However, if transit employees did not have the right to bargain collectively at the time their employer began receiving Federal funds, Section 13(c) does not grant that right. Where transit employees do not have the right to bargain collectively, but have the right to meet and confer or present grievances under state law or as an ongoing practice, Section 13(c) mandates that these practices must continue. The Section 13(c) arrangement is not a collective bargaining agreement and does not create a collective bargaining relationship where one does not already exist.

HOW ARE THESE EMPLOYEE PROTECTIONS DEVELOPED?

These protections are typically developed and agreed to by the transit employees' representative, union, and the grant applicant. If this agreement meets the requirements of Section 13(c), the Department will certify the protections. The Department only mandates specific protections when the parties are unable to agree, or the negotiated provisions do not satisfy the requirements of Section 13(c). If the transit employees are not represented by a union, the Department certifies a standard "non-union" protective arrangement which can be viewed at the following website: Non-Union Certification Terms. The Department's guidelines describing how the protective arrangements are developed are contained at Part 215 of Title 29 of the Code of Federal Regulations, 29 C.F.R. Part 215, which can be viewed at Transit Employee Protection Guidelines.

CAN THE PROTECTIVE ARRANGEMENTS BE CHANGED?

The Department usually certifies subsequent grants to the same transit provider based on protective arrangements that are already in place. However, the Department's guidelines allow the parties to change the existing protective arrangements if a party submits an objection that "raises material issues that may require alternative employee protections," or "concerns changes in legal or factual circumstances that may materially affect the rights or interests of employees." 29 C.F.R. § 215.3(d)(3). If the Department finds that an objection is sufficient, it directs the parties to renegotiate the provisions of the protective arrangements that are at issue. The Department will certify the newly negotiated protective arrangements provided they meet the requirements of Section 13(c). If the parties are unable to reach agreement, the Department will determine the appropriate arrangements, after all sides have had the opportunity to submit written views and arguments. See 29 C.F.R. § 215.3(e). [Section 215.3 can be viewed at Transit Employee Protection Guidelines.]

IF OBJECTIONS ARE FILED TO THE TERMS FOR CERTIFICATION BY A UNION OR A TRANSIT AUTHORITY, IS THE OTHER PARTY REQUIRED TO RESPOND TO THE OBJECTIONS?

No. However, the parties are encouraged to discuss any issues raised in an objection as soon possible. At the end of the 15-day review period provided for the parties, the Department has up to ten days to consider any objections filed by either party. Although not required by the Department's guidelines, if comments on objections are received by the Department before a response has been issued, the Department may consider those comments in reaching its determination of the sufficiency of the objections.

WHAT TRANSIT EMPLOYEES ARE COVERED BY SECTION 13(c)?

Section 13(c) requires that the protections apply to all transit employees in the service area of the Federally funded project. Consequently, protective arrangements must be in place for the grantee's employees, those of any contractors of the grantee providing transit services, and those of other mass transit providers in the service area.

DO SECTION 13(C) PROTECTIONS APPLY TO NON-UNION EMPLOYEES?

Yes. For grantees where neither their employees, nor those of any other transit provider in the service area are represented by a union, Section 13(c) protections are contained in a "non-union" certification developed by the Department of Labor. The "non-union" certification can be viewed at the following website: Non-Union Certification Terms.

For grantees whose employees are represented by a union, substantially equivalent protections must be provided to all non-union employees in the service area.

WHAT IS THE "SERVICE AREA" OF A PROJECT?

The service area includes the geographic area over which the project is operated, adjacent areas, and the area whose population is served by the transit project receiving Federal funds. For instance, if a transit system connects or competes with a second transit system, employees of that second system are considered to be in the service area of the project. If a transit system feeds into a facility that serves rail and bus, then the rail and bus employees would be entitled to protections as service area employees. This can result in a transit company or authority providing protective arrangements for employees other than its own, and negotiating such arrangements with union representatives even though it may not bargain collectively with its own employees.

HOW DOES A TRANSIT EMPLOYEE FILE A CLAIM UNDER SECTION 13(c)?

A transit employee who is represented by a union should contact his union representative for a copy of the Section 13(c) arrangements and for guidance as to how to file a claim. If not represented by a union, the employee should be able to obtain a copy of the protective arrangements, as well as a copy of any separate procedures for filing a claim, from the grant recipient. If an employee is unable to obtain a copy of the protective arrangements or other information necessary for filing and processing a claim, the employee should contact the Division of Statutory Programs (ESA/OLMS) of the U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 by phone (202) 693-0126 or by fax at (202)693-1342.

WHAT IF THE TRANSIT PROVIDER DISPUTES THE VALIDITY OF A SECTION 13(c) CLAIM?

All Section 13(c) arrangements contain provisions to resolve disputes regarding the interpretation, application, and enforcement of the protective arrangements, including disputes regarding the validity of a claim.

ARE SECTION 13(c) PROTECTIONS REQUIRED EVEN IF THE FEDERALLY FUNDED PROJECT WILL NOT HARM TRANSIT EMPLOYEES?

Yes. The law requires that Section 13(c) arrangements must be in place and certified by the Department of Labor before Federal transit funds can be released, regardless of the funding's potential impact on transit employees.

WHAT CAN A TRANSIT PROVIDER DO TO REDUCE THE LIKELIHOOD IT WILL HAVE TO PAY SECTION 13(c) CLAIMS?

The transit authority is liable for claims successfully brought by employees whose rights have been affected by the project supported by Federal transit assistance. The transit provider can lessen the likelihood it will have to pay Section 13(c) claims by reducing personnel through attrition, or by offering employees work in other jobs with equal or better pay and working conditions, retraining them for these jobs if necessary. By planning and implementing changes in ways that minimize the adverse effects on employees, the transit provider can minimize the likelihood of claims.

CAN A UNION OBJECT TO CERTIFICATION OF A PENDING GRANT BECAUSE OF AN IMPASSE IN COLLECTIVE BARGAINING NEGOTIATIONS OR A BACKLOG OF OUTSTANDING GRIEVANCES?

The Department does not view an impasse over negotiations of a collective bargaining agreement or a backlog of grievances as grounds to deny certification or as a valid objection justifying renegotiation of Section 13(c) arrangements under its processing guidelines. While Section 13(c) requires that a recipient of Federal assistance continue collective bargaining rights of employees, it does not require that the parties reach agreement in their negotiations or grievance processing. Generally, there are existing procedures such as factfinding, arbitration, or the right to strike or lockout, which can be used to resolve such disagreements.

IF A TRANSIT AUTHORITY DOES NOT EMPLOY ANY UNION WORKERS, WHY ISN'T A NON-UNION CERTIFICATION ALWAYS USED?

Section 13(c) requires that the grant recipient protect the interests of all mass transit employees in the service area of the Federally funded project, including those of its contractors as well as employees of other transit providers in the service area. If none of these employees are represented by a union, the Department will certify the grant on terms and conditions of the "non-union" certification. If any of those employees are represented by a union, the non-union certification cannot be used, and the union must be given the opportunity to take part in developing the Section 13(c) arrangements with the grant recipient.

WHY DOES A TRANSIT AUTHORITY HAVE TO DEAL WITH THE UNION REPRESENTING SOMEONE ELSE'S TRANSIT WORKERS?

Section 13(c) protections are required for all transit employees in the service area of a Federally funded transit project, regardless of whether they work for the grant recipient. If any of these employees are represented by a union, it must be given an opportunity to develop, with the grant recipient, protective terms for the employees it represents. This process does not create a collective bargaining relationship between that union and the grant recipient if one does not already exist.

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February 16, 2011

TO: Representative Tamara Grigsby
Room 307 West, State Capitol

FROM: Al Runde, Fiscal Analyst

SUBJECT: Impact of Local Collective Bargaining Changes under SS SB 11 on Federal Transit Aid

As requested, this memorandum provides information on the federal requirements related to local collective bargaining agreements between local units of government and transit workers. The memorandum also provides information as to whether the state's federal transit funding could be impacted by the proposed changes in local collective bargaining laws included under Special Session Senate Bill 11 (SS SB 11).

Special Session Senate Bill 11

SS SB 11 would make various changes to municipal employees' collective bargaining rights currently provided them under the municipal employee relations act (MERA). Specifically the bill would prohibit municipal employers from collectively bargaining with a general municipal employee with respect to any factor or condition of employment except wages. This would be a significant change to the number of factors or conditions of employment on which municipal employees are allowed to collectively bargain.

Existing Transit Funding

In 2010, transit systems in the state received $60.9 million in federal operating transit aid as follows: (a) $21.3 million for Tier A-1 (Milwaukee County); (b) $7.1 million for Tier A-2 (Madison); (c) $19.1 million for Tier B systems (systems serving populations between 50,000 and 200,000); and (d) $13.4 million for Tier C systems (systems serving populations less than 50,000).

In addition, in 2010, the state received specific capital funding of: (a) $5.6 million for new and replacement buses; (b) $1.3 million in fixed guideway modernization funding; (c) $1.4 million in transportation planning funds; (d) $2.3 million in federal elderly and disabled aid; and (e) $2.4 million in federal job access reverse commute program funding.

US Department of Labor Collective Bargaining Protections for Transit Workers

The U.S. Department of Labor indicates the following relative to federal labor law and the collective bargaining rights of transit workers (see attachment):

"...federal statute requires that employee protections, commonly referred to as "protective arrangements" or "Section 13(c) arrangements" must be certified by the Department of Labor and in place, before federal transit funds can be released to a mass transit provider."

As a general rule, federal labor law (under US Code 49 Section 13(c)) protects transit employees who may be affected by federal transit funding. It requires the continuation of collective bargaining rights, and protection of transit employees' wages, working conditions, pension benefits, seniority, vacation, sick and personal leave, travel passes, and other conditions of employment. It also requires paid training or retraining for employees affected by federal assistance.

Section 13(c) requires the continuation of any collective bargaining rights that were in place when the employer started receiving federal funds. However, if transit employees did not have the right to bargain collectively at the time their employer began receiving federal funds, section 13(c) does not grant that right. Where transit employees do not have the right to bargain collectively, but have the right to meet and confer or present grievances under state law or as an ongoing practice, section 13(c) mandates that these practices must continue. The section 13(c) arrangement is not a collective bargaining agreement and does not create a collective bargaining relationship where one does not already exist.

These protections are typically developed and agreed to by the transit employees' representative, union, and the grant applicant. If this agreement meets the requirements of section 13(c), the Department will certify the protections. The Department only mandates specific protections when the parties are unable to agree, or the negotiated provisions do not satisfy the requirements of section 13(c). If the transit employees are not represented by a union, the Department certifies a standard "non-union" protective arrangement.

The Department usually certifies subsequent grants to the same transit provider based on protective arrangements that are already in place. However, the Department's guidelines allow the parties to change the existing protective arrangements if a party submits an objection that "raises material issues that may require alternative employee protections," or "concerns changes in legal or factual circumstances that may materially affect the rights or interests of employees". If the Department finds that an objection is sufficient, it directs the parties to renegotiate the provisions of the protective arrangements that are at issue. The Department will certify the newly negotiated protective arrangements provided they meet the requirements of section 13(c). If the parties are unable to reach agreement, the Department will determine the appropriate arrangements, after all sides have had the opportunity to submit written views and arguments.

Impact on Federal Funding

Relative to Section 13(c) would affect only those transit systems that are unionized and would involve the collective bargaining rights in place at the time the federal transit aid was first received. Most bus transit systems in the state are staffed by unionized transit workers. In addition, a few of the Tier C shared-ride taxi systems may involve unionized workers.

According to information from the U.S. Department of Labor, the proposed changes in collective bargaining rights included under SS SB 11 could impact the ability of unionized transit systems in the state to receive existing federal transit aid, unless actions are taken to protect the collective bargaining rights of their employees (see the attached memo from Mr. John Lund). If the federal Department of Labor makes the determination that the changes in local transit worker collective bargaining rights resulting from the collective bargaining changes under SS SB 11 affect the continuation of collective bargaining rights, and protection of transit employees' wages, working conditions, pension benefits, seniority, vacation, sick and personal leave, travel passes, and other conditions of employment, the Federal Transit Authority could not provide federal transit funding under these provisions.

Currently, Milwaukee County contracts with a private, nonstock corporation known as Milwaukee County Transport Service, Inc. (MCTS) to provide transit services in Milwaukee County. MCTS is the transit system that is eventually provided federal transit aid and is responsible for obtaining the required certification from the U.S. Department of Labor regarding the 13(c) requirements. According to MCTS, its transit workers are employed directly by MCTS and those workers bargain collectively with the MCTS management and not Milwaukee County. Therefore, the proposed chances to the current law collective bargaining rights under MERA likely do not apply to MCTS transit workers, or any other state transit system under a similar ownership arrangement and federal transit funding to such systems would not likely be affected.

In addition, many shared-ride taxis systems, which also receive federal transit operating assistance, are privately owned and operated. In 2010, these systems served 40 nonurbanzied areas in state with populations of 50,000 or less. These systems generally contract with the local municipalities for the provision of transit service. As a result, such systems would also not likely be affected by the proposed changes to municipal employee collective bargaining rights included in SS SB 11.

As indicated earlier, the state received $73.9 million federal transit funding in 2010. Approximately $22.5 million of this funding was for the Milwaukee urbanized area. Other non-specific funds may also go to Milwaukee urbanized area. In addition, in 2010, shared-ride tax systems received $4.8 million in federal transit aid. Therefore, $27.3 million in the state's federal transit aid would not likely be affected by the changes in SS SB 11. However, the remaining $46.6 million to Tier A-1, Tier B, and Tier C bus systems could potentially be withheld from state transit systems under the federal 13(c) provisions as a result of the changes to municipal collective bargaining under SS SB 11, unless further actions are taken.

The state and those transit systems that receive federal transit aid directly have yet to apply for their federal fiscal year 2011 federal transit funding. The state applies for aid for those nonurbanized systems serving areas of 50,000 in population or less. All other systems apply directly to FTA for their annual federal funding. At the time of the application for federal funding, each applicant has to certify that the 13(c) collective bargaining provisions have been met. FTA than provides the certifications to the U.S. Department of Labor for their review and for public comment.

I hope this information is helpful. Please contact me if you have any further questions.

AR/le
Attachments

GWEN MOORE
4TH DISTRICT, WISCONSIN
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FINANCIAL SERVICES

CAPITAL MARKETS AND GSEs
INTERNATIONAL MONETARY POLICY AND TRADE

COMMITTEE ON BUDGET

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April 18, 2011

The Honorable Darrell Issa
Chairman
House Oversight and Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa,

I want to thank you again for allowing me to participate in the House Oversight and Government Reform Committee's hearing, *State and Municipal Debt: Tough Choices Ahead?* I appreciate the opportunity to hear from the witnesses and to share my insights regarding the events that recently occurred in my state of Wisconsin.

As you requested, I submit for the record information on federal requirements that states maintain collective bargaining agreements as a condition of receiving federal transit funds. This provision of federal law is codified at Section 5333(b) of Title 49 of the U.S. Code (49 U.S.C. § 5333(b)) and is enforced by the Department of Labor. Again, after reading this, it is apparent to most observers that the changes in public collective bargaining laws that have been made in Wisconsin would certainly trigger this provision. A copy of the law is enclosed.

According to the Department of Labor, under this provision, *"an employer who receives federal mass transit funds must protect all covered mass transit employees affected by the use of the federal money. The U.S. Department of Labor (DOL) must approve the arrangements made to protect these employees. For covered employees, these arrangements include:*

- *Preserving their rights and benefits;*
- *Continuing their collective bargaining rights;*
- *Protecting them against a worsening of their employment conditions;*
- *Assuring jobs for employees of acquired mass transit systems;*
- *Providing priority of reemployment if the employee is laid off or his job is eliminated; and*
- *Providing paid training."*

Also included for the record is an estimate produced by the nonpartisan Wisconsin Legislative Fiscal Bureau about how State of Wisconsin legislation affecting collective bargaining laws will affect the state's federal transit funding. I hope that this material responds to your request and that all of it will be added to the hearing record. Again, thank you for your invitation to be a part of this hearing and your efforts to ensure that the hearing record accurately reflects what is at stake as states and municipalities devise their budgets.

Sincerely,

Gwen Moore
MEMBER OF CONGRESS

CC: The Honorable Elijah Cummings, Ranking Member