
Public Hearing

before

ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION

"Testimony concerning the impact of outsourcing and off-shoring on private and public sector employment, which employment sectors are most affected, ways to reduce outsourcing and off-shoring in the State, and possible relevant changes in State laws and regulations"

LOCATION: Committee Room 9
State House Annex
Trenton, New Jersey

DATE: November 16, 2007
2:00 p.m.

MEMBERS OF COMMISSION PRESENT:

Assemblyman Jeff Van Drew, Chair
Jim Leonard
James P. Marketti



ALSO PRESENT:

Gregory L. Williams
Office of Legislative Services
Commission Secretary

Christopher Jones
Assembly Majority
Commission Aide

Mary C. Beaumont
Assembly Republican
Commission Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

APPENDIX

**Local 1033
Communications Workers of America**



OFF-SHORING:

THE INVESTMENT SIDE OF THE EQUATION

Testimony Presented To:

**New Jersey State Assembly
Outsourcing and Off-Shoring Commission**

November 16, 2007

**Rae C. Roeder,
President
CWA Local 1033**

Table of Contents

Statement
of

November 16, 2007	1	CWA Local 1033
October 12, 2007	2	CWA Local 1033 Press Release
October 2007	3	SIC Alternative Investments
	4	Oak Hill Capital Partners Holdings
November 30, 2005	5	Genpact Press Release
	6	Global Outsourcing 100
September 25, 2005	7	Wachovia Press Release
October 01, 2007	8	CWA Local 1033 Correspondence
September 23, 2007	9	New York Times 09-23-27
	10	Outsourcing Companies owned by Oak Hill
October 24, 2007	11	CWA Local 1033 Correspondence
May 05, 2005	12	NJ Senate Bill 494
May 05, 2005	13	NJ Assembly Resolution 184
April 20, 2007	14	New York State Senate Bill Invest in America Act
	15	lv - h

CWA
COMMUNICATIONS WORKERS OF AMERICA
LOCAL 1033

5
)
President
Rae C. Roeder

321 West State Street
Trenton, New Jersey 08618
A.F.L.-C.I.O.
(609) 394-7725
FAX (609) 393-7111

Treasurer
Dennis W. Reiter

Executive Vice President
Dianne Spence-Brown

Secretary
Anthony F. Miskowski

10
**CWA Local 1033 Testimony provided to
The New Jersey Assembly Outsourcing and Off-shoring
Commission**

November 16, 2007

15
Mr. Chairman and Distinguished Members of the Assembly
Outsourcing and Off-shoring Commission:

My name is Rae Roeder President of CWA Local 1033 and I have
20 here today with me Mr. Anthony Miskowski, Secretary of Local
1033.

CWA Local 1033 represents more than 7,000 members in state
government (primarily in Trenton) including workers at:

25 Banking and Insurance;

Education;

Military and Veterans Affairs;

Treasury (Taxation, Revenue, Lottery, State Distribution Center
Pensions, and Division of Investments);

30 Motor Vehicle Commission;

Law and Public Safety (Division of Law, Civil Rights, Alcohol and
Beverage Control);

Highway Safety and the civilian workers at State Police);
Secretary of State's Office;

35 The Office of Public Advocate and the Office of Public Defender;
The State Library and the Library of the Blind .

We thank you for the opportunity to present testimony concerning
the serious matter of the wholesale exportation of millions of
40 American jobs to labor pools overseas in the practice known as
outsourcing and off-shoring.

We commend the efforts of the New Jersey legislature to focus on
the insidious practice of off-shoring by virtue of enabling legislation
45 that created this commission.

We are aware that New Jersey has been on the forefront of this
issue. Senator Shirley Turner's Bill S-494 signed by Acting
Governor Codey on May 05, 2005 protects jobs from outsourcing
50 to foreign countries by requiring all services under state contract or
subcontract to be performed within the United States. At the time
of introduction Senator Turner's bill truly represented a voice in the
wilderness. New Jersey was only the fifth state in the nation at that
time to enact legislation or executive action on outsourcing.

55

) Since enactment of S-494, states all around the nation have sponsored hundreds of legislative bills to stem the practice that is not only displacing our workers but also diluting the salary/wage base of highly skilled professional American workers.

60

However, the members of your committee need to realistically assess if it is a case of too little too late, or whether the entities of government and labor can still work together to stem the snowballing momentous trend encouraged by Corporate America that views outsourcing/off-shoring as a means to trim costs and thereby increase the bottom-line profits and shareholder dividends.

Furthermore the practice is vigorously promoted by an active foreign (primarily Asian) lobby that seeks to elevate their National Domestic Product of their country through utilization of an enormous labor pool. ***The Business Processing Outsourcing*** (BPO) Industry is expected to generate \$13.8 billion in 2007 according to a recent article. The Economic Clock is ticking...

75 In the past decade, we have witnessed the unabated expansion of a practice that appeared to be relegated primarily to “telemarketing” and “phone help center” functions to much more specialized areas like “data entry” and “computer programming” to professional services provided by accountants, auditors and

analysts, and even lawyers. To paraphrase the Reverend Martin
80 Nielmoller:

“First they came for the phone center workers. Since I purchased
my cell phone made in Denmark, I did not speak up,,,,,

85 Then they came for the data processing and tech workers
Having just purchased a laptop manufactured in Japan, I did not
speak up....

Then they came for the clerks who process the property tax relief
90 applications and sent their work to India... Having just received my
property tax assessment I did not speak up....

Then they came for the accountants... Having just been audited by
the IRS... I did not speak up...

95 Then they came for the lawyers....

The outsourcing/privatization of American jobs overseas has
become an increasing concern across the American labor
100 landscape. A recent **New York Times** article dated September 25,
2007 entitled “*Outsourcing Works so Well, India is Sending Jobs
Abroad*” underscores the extent of the situation. Since your

Commission appears to focus on the key issues we shall not dwell on preaching to the choir. Needless to say, apparently no segment of labor is immune to the contagion of outsourcing overseas and that includes many job functions performed by public workers.

The foreign-based **Business Processing Outsourcing (BPO)** Centers have become so lucrative that they are engaged in outsourcing on yet another level by sending the workers that they trained at their training/processing centers to other countries and establishing BPO subsidiaries in countries other than their own. ***If the Mountain will not come to Mohammed, Mohammed will go to the Mountain.***

What message is this sending to our college age youth who have been fed the promise of deferred gratification?: “If you attend a trade school, a community college or a private/public university and train for years learning your discipline..... If you do this and not enter the labor market for four years and, if you pay the ever escalating cost of your education you will be rewarded by acquiring a professional skill that will feed you and your family for the rest of your life”.

However, the training conducted at these foreign training centers occurs over of a period of six months and less. Their certifications

)
are measured in days. You mark our words, that the certificates and licenses, and degrees and diploma now offered at American educational institutes will not be worth the paper they are printed on very possibly at an outsourced printing facility. As they say;
130 ***Teach a man or woman to fish and you feed him or her for the rest of his/her life....***” In America, we have been teaching our youth to fish but then granting the fishing rights to off-shore waters and telling them in effect there are no fish to be caught.

135
However germane to our testimony here is to inform the Commission that if the State of New Jersey is actively investing in outsourcing then any legislative bill or Commission recommendation that ideologically opposes off-shoring merely represents ineffective lip service.

140

We repeat in case you missed what we just said: ***The State of New Jersey is investing in off-shoring and doing so by using public pension funds .***

145
CWA Local 1033 has been actively opposing the alternative investment program of the State Investment Council for the better part of five years since its inception.... The reasons are far too complex to outline today but for the most part we believe that the
150 “outsourcing” of the investment functions to consultants and

) external managers on Wall Street is not in the best interest of the workers that we represent at the Division of Investment.

155 Furthermore, the outsourcing of the investment is not in the best interest of the active and retired participants of the pension fund that we consider the stakeholders/shareholders, and certainly it is not in the best interest of the taxpayer both on the state and national level. Furthermore, CWA will contest in a court of law the legality of the use of external managers.

160 Our fight continues.....and we attend the monthly meetings of the State Investment Council (SIC) held at the Rutgers University Campus. The past three months we have sent a busload of our members to see first hand the so-called ***transparent decision-making process***.

165 As you may know, the SIC has established an investment policy that thus far committed \$12.8 Billion of the state workers' \$82 billion fund into an ***alternative investment fund*** that includes a truck load of 50 private equity funds, 40 real estate funds and 35
170 hedge funds. Many of these funds are partnerships and therefore hold an IRS tax advantage. Also, many of the private equity companies have established reinsurance companies registered in Bermuda (for instance) that enable them to ***legally*** invest hundred of millions of dollars tax free -- once again, thanks to legal tax

175 loopholes. Needless to say, such off-shore practices divert billions
) of dollars from the national and state economies and deprive our
country of hundred of millions of dollars in tax revenues.

Therefore, we request that the Outsourcing and Off-Shoring
180 Commission vigorously oppose the allocation of pension funds of
public workers in private equity firms that invest in outsourcing/off-
shoring enterprises or have direct ownership in companies that
actively engage in the practice. We provide documentation of one
such example for your review and consideration.

185

By far, the lowest blow of all is illustrated by the case of ***Oakhill
Capital Partners***, a private equity company that owns (40) forty
companies including two re-insurance companies registered in
Bermuda and five other companies that are actively engaged in the
190 practice of outsourcing/off-shoring. Our members were at the least
incensed and insulted to find out that their pension funds were
utilized to invest in companies that some day could potentially
displace them with lesser educated, lesser trained foreign workers.

195 The New Jersey Investment Council committed a \$75 million (Jul-
05) allocation to ***Oak Hill Capital Partners II*** plus an additional
\$250 million to ***Oak Hill Capital Partners III*** (Sep—07) for a total
of \$325 million as part of its alternative investment strategy in

private equities. According to our research, Oak Hill boasts a 30% ownership in **Genpact** (formerly GE Capital International Services or GECIS) that claims to be the leading global outsourcing company headquartered in Gurgaon, India.

CWA Local 1033 brought our objections in writing to the SIC at their October meeting and were told by Director Clark and Chairman Orin Kramer that the nature of a global economy was such that if you excluded investment in Oak Hill Capital you would also have to exclude investment in GE Capital which was producing interest of about 15% annually since they own a 40% stake in Genpact. We do not agree with the current investment policy and insist that they do more intensive **“due diligence”** to prevent **our money** from investing in an unconscionable anti-worker practice.

Subsequently, our review of the SIC Investment report for October 2007 revealed that substantial investments were made to acquire \$30 million worth of shares in GE. Further research also revealed that **Wachovia** signed a seven-year contract with Genpact by establishing a Wachovia subsidiary business processing outsourcing center in India. And sure enough, the October SIC report indicates that substantial funds in Wachovia stock were purchased to the tune of 810,000 shares for \$40 million. Again in

)
correspondence dated October 24, 2007, CWA Local 1033
submitted our objections in writing to the SIC and copies of our
225 correspondence are included herein.

We respectfully include in these binders the documentation that
outlines the scope of our concerns. We know that you will find it
informative and useful. We are just scratching the surface of the
230 problem as related to the testimony provided here today and will
provide the Commission with other information and data to
contribute to understanding the extent that outsourcing has in
terms of the investment side of the equation.

235 We especially would like the Commission to focus on the New
York state Senate Bill included in the binder that I sponsored by
Senator Lavallo that prohibits the investment of New York Public
Pension Funds in corporate entities engaged in outsourcing/off-
shoring enterprises. This Commission should recommend that the
240 New Jersey Legislature likewise sponsor such a measure.

Thank you for your time and consideration.

P.S.

245 President Marketti presented an impressive list of questions at the
beginning of your last public hearing and as usual Jim focuses on

) complex questions that require intensive research. I was especially struck by question #35: ***Does the State of New Jersey offer or grant any sorts of public subsidies to companies that***

250 ***outsource and/or off shore jobs?*** Part of that answer appears to be absolutely yes and that is in the form of investments from the state employees pension fund that will be utilized to perpetuate even more off-shoring. In this sense, ladies and gentlemen, the off-shoring juggernaut has become institutionalized in the State of
255 New Jersey.

)
260

265

CWA LOCAL 1033
COMMUNICATIONS WORKERS OF AMERICA

321 West State Street
Trenton, New Jersey 08618
609-394-7725 FAX 609-393-7111

OCTOBER 12, 2007

PRESS RELEASE

Subject: CWA Local 1033 to Oppose the Investment of Pension Money in Outsourcing and Off-Shoring Enterprises

CWA Local 1033, comprised of more than 7,000 state government workers, announces its campaign to vigorously oppose the investment of public worker pension funds in companies that facilitate the outsourcing, privatization and off-shoring of jobs belonging to American workers. "In recent years, a number of companies have replaced skilled workers from New Jersey with lower paid foreign labor in a practice known as outsourcing or off-shoring," according to a New Jersey Assembly resolution that created a special legislative commission to study the issues related to this practice.

"We are no longer merely talking about telemarketing jobs, but just about every job function performed by the public workers that we represent as well as workers in the private business service industry including accountants, auditors, analysts, and computer specialists," stated Rae Roeder President of CWA Local 1033. "This is a rude slap in the face to state workers when the State Investment Council uses pension funds to invest in a practice that can potentially cause their replacement by a lesser-trained, lesser-educated and lower-paid foreign worker," Roeder added. "At the very least, foreign outsourcing dilutes the salary/ wage base and marketability of the professional expertise of our state workers".

The New Jersey State Investment Council (SIC) committed a \$75 million allocation to **Oak Hill Capital Partners II** at their July 2005 meeting plus an additional \$250 million to **Oak Hill Capital Partners III** at their September 20, 2007 meeting for a total commitment of \$325 million as part of its alternative investment strategy in private equities. According to the research staff of CWA Local 1033, Oak Hill boasts a 30% ownership in **Genpact** (formerly GE Capital International Services, or GECIS) that according to their financial profile claims to be the leading global outsourcing company headquartered in Gurgaon, India.

CWA Local 1033 intends to file this information with the seven-member *Outsourcing and Off-Shoring Commission*, chaired by Assemblyman (D) Jeff Van Drew. The legislative resolution that created the commission states their mission: "As the preservation of jobs in New Jersey is of critical importance to the economic well-being of the State and the economic dislocation caused by a company outsourcing jobs threatens the health, safety, and welfare of the people in this State, the public interest will be best served by studying this issue as comprehensively as possible."

It is the position of CWA Local 1033 that it would be contrary to the philosophy of the State of New Jersey to oppose the practice of off-shoring while at the same time use the retirement security of state workers to invest in companies dedicated to their possible economic displacement.

Rae C. Roeder, President
609-731-7077 cell phone

Alternative Investment Program Approved Investments

07

Fund Name	Approval Month	Inception Date	Commitment	Contributions	Total Distributions
Private Equity					
Oak Hill Capital Partners II, LP	Jun-05	Jul-05	\$75,000,000	\$56,096,219	\$ (6,497,270)
Quadrangle Capital Partners II, LP	Jun-05	Aug-05	\$50,000,000	\$22,606,680	\$ (4,202,215)
Warburg Pincus Private Equity IX, LP	Jun-05	Aug-05	\$200,000,000	\$172,343,924	\$ (7,842,240)
Apollo Investment Fund VI, LP	Jul-05	Nov-05	\$100,000,000	\$47,584,365	\$ (12,609,376)
Blackstone Capital Partners V	Jul-05	Oct-05	\$100,000,000	\$55,027,323	\$ (5,029,255)
Credit Suisse (Separate Account - 2 yrs)	Aug-05	Nov-05	\$450,000,000	\$95,052,097	\$ (9,429,138)
Goldman Sachs - Sep. Acct. (3 yrs.)	Aug-05	Feb-06	\$400,000,000	\$52,290,437	\$ (2,328,516)
Hamilton Lane - Sep. Acct. (2 yrs.) (NJHL)	Aug-05	Feb-06	\$400,000,000	\$71,718,583	\$ (622,122)
Avenue Special Situations Fund IV, L.P.	Oct-05	Nov-05	\$20,000,000	\$20,000,000	\$
BlackRock Asset Management (SONJ) - Sep. Acct. (2 yrs.)	Oct-05	Sep-06	\$100,000,000	\$76,621,480	\$
InterMedia Partners VII, LP	Nov-05 / Mar-07	Dec-05	\$75,000,000	\$38,290,515	\$
JLL Partners Fund V, LP	Nov-05	Dec-05	\$50,000,000	\$31,631,965	\$ (8,660,501)
Black Diamond Opportunity Fund II	Dec-05	Feb-06	\$40,000,000	\$13,069,863	\$ (435,198)
Wayzata Opportunities Fund, LLC	Dec-05	Feb-06	\$40,000,000	\$42,985,505	\$ (4,752,000)
JP Morgan Venture Capital Inst'l Investors III, LLC	Feb-06	Jun-06	\$50,000,000	\$7,239,031	\$
OCM Mezzanine II, LP	Feb-06	Mar-06	\$50,000,000	\$34,850,000	\$ (4,065,205)
Madison Dearborn Partners (MDCP V)	Mar-06	May-06	\$125,000,000	\$93,693,244	\$ (10,977,449)
Texas Pacific Group Partners V	Mar-06	Sep-06	\$250,000,000	\$124,702,459	\$ (8,944,660)
Blackstone Mezzanine Partners II	Apr-06	Apr-06	\$45,000,000	\$20,070,936	\$ (2,216,582)
Carlyle Mezzanine Partners	Apr-06	May-06	\$50,000,000	\$34,681,562	\$ (1,692,591)
Lexington Capital Partners VI	Apr-06	Jun-06	\$50,000,000	\$20,294,979	\$ (2,336,271)
Lindsay Goldberg & Bessemer II	May-06	Jul-06	\$100,000,000	\$33,102,443	\$ (368,972)
Partners Group Secondary 2006	May-06	Sep-06	\$50,696,000	\$27,172,008	\$ (773,014)
Centerbridge Partners	Jun-06	Jun-06	\$80,000,000	\$9,515,657	\$
DLJ Merchant Banking Partners IV	Jun-06	Jun-06	\$50,000,000	\$23,660,516	\$
GTCR Partners IX	Jun-06	Sep-06	\$70,000,000	\$9,332,418	\$ (4,425,614)
MHR Institutional Partners III	Jun-06	May-07	\$75,000,000	\$24,556,238	\$ (1,678,641)
Warburg Pincus Private Equity VIII, LP (Secondary)	Jun-06	Jun-06	\$25,750,000	\$22,956,634	\$ (9,244,419)
Avenue Asia Special Situations IV	Jul-06	Aug-06	\$40,000,000	\$10,646,522	\$ (57,917)
Onex Partners II	Jul-06	Aug-06	\$100,000,000	\$59,014,997	\$
Gleacher Mezzanine II	Aug-06	Nov-06	\$40,000,000	\$654,793	\$
Lehman Crossroads Fund XVIII VC fund	Aug-06	Nov-06	\$50,000,000	\$12,000,000	\$ (3,691,662)
Audax Mezzanine II	Sep-06	Nov-06	\$50,000,000	\$17,265,842	\$ (842,775)
Hellman & Friedman Capital Partners VI	Dec-06	Apr-07	\$100,000,000	\$24,873,377	\$ (4,467,925)
Newstone Capital Partners	Dec-06	Feb-07	\$50,000,000	\$25,088,172	\$ (555,082)
Credit Suisse - Emerging Manager - Sep. Acct. (2 yrs.)	Jan-07	Apr-07	\$100,000,000	\$23,172,112	\$
Fairview Capital Partners - Sep. Acct. (2 yrs.)	Jan-07	May-07	\$100,000,000	\$4,500,000	\$
Silver Lake Partners III	Jan-07	Jan-07	\$100,000,000	\$451,686	\$
TPG STAR	Feb-07	Mar-07	\$100,000,000	\$16,042,962	\$
Court Square Capital Partners II	Mar-07	Jun-07	\$100,000,000	\$24,029,880	\$
Lehman Brothers - New Jersey Direct Investment Fund	Mar-07	Aug-07	\$100,000,000	\$5,000,000	\$
MalinPatterson Global Opportunities Partners III, LP	Apr-07	Jun-07	\$100,000,000	\$10,010,535	\$
THL Equity Fund VI	Apr-07	Apr-07	\$75,000,000	\$24,027,011	\$ (1,672,912)
Avenue Special Situations Fund V, LP	Apr 07 / Sep 07	May-07	\$200,000,000	\$35,000,000	\$ (13,021,934)
KPS Special Situations Fund III	Apr-07	May-07	\$25,000,000	\$	\$
Vista Equity Partners Fund III	May-07	Jul-07	\$100,000,000	\$35,956,550	\$
New Mountain Partners III	May-07	Jul-07	\$100,000,000	\$14,367,430	\$ (6,673,502)
Sheridan Production Partners I-B	Jul-07	Aug-07	\$50,000,000	\$4,761,301	\$
Warburg Pincus Private Equity X	Sep-07	Oct-07 ✓	\$400,000,000	\$	\$
Oak Hill Capital Partners III, LP	Sep-07	not yet closed	\$250,000,000	\$	\$
TPG -TAC 2007 Fund (loan fund)	Sep-07	not yet closed	\$100,000,000	\$	\$
Oak Tree Loan Fund	Sep-07	not yet closed	\$200,000,000	\$	\$
WLR Recovery Fund IV	Oct-07	not yet closed	\$100,000,000	\$40,000,000	\$
			\$5,901,446,000	\$1,668,010,251	\$ (140,114,957)

Note: The State Investment Council approved a \$75 million to allocation to Oak Hill June 2005

Note: The SIC approved a \$250 million to allocation to Oak Hill Sept. 2007

V - CLOSED IN SEPT 07

16x

Alternative Investment Program
Approval Investments

Oct-07

Fund Name	SIC	Approval Month	Inception Date	Commitment	Total Contributions	Total Distributions
Real Estate						
CBRE Strategic Partners US IV, LP	Nov-05	Nov-05	Dec-05	\$50,000,000	\$23,637,853	
BlackRock Diamond Property Fund, LP	Nov-05	Nov-05	Jun-06	\$50,000,000	\$50,000,000	
JP Morgan Alternative Property Fund, LP	Dec-05	Dec-05	Apr-06	\$50,000,000	\$50,000,000	(\$125)
Capmark Commercial Realty Partners II, LP (formerly GMAC)	Feb-06	Feb-06	Mar-06	\$75,000,000	\$58,986,028	
Blackstone Real Estate Partners V, LP	Feb-06	Feb-06	Feb-06	\$75,000,000	\$70,851,127	(\$35,458,296)
Guggenheim Structured Real Estate Fund II, LP	Mar-06	Mar-06	Mar-06	\$50,000,000	\$37,499,999	(\$1,165,365)
Clitgroup Capital Partners Europe, LP	Mar-06	Mar-06	Nov-06	\$75,000,000 (2)	\$21,153,597	(\$2,986,895)
Walton Street Real Estate Fund V, LP	Mar-06	Mar-06	Jun-06	\$75,000,000	\$39,930,974	
CIM Urban REIT, LLC	Apr-06	Apr-06	Jun-06	\$50,000,000	\$12,290,598	(\$549,193)
REEF Global Opportunities Fund II	Apr-06	Apr-06	Oct-06	\$100,000,000	\$77,816,877	
TA Associates Realty Fund VIII	Jul-06	Jul-06	Oct-06	\$100,000,000	\$50,000,000	(\$262,322)
Warburg Pincus Real Estate Fund I	Jul-06	Jul-06	Sep-06	\$100,000,000	\$34,900,000	
RLJ Lodging Fund II	Jul-06	Jul-06	Sep-06	\$75,000,000	\$58,008,335	(\$4,702,659)
MacFarlane Urban Real Estate Fund II	Jul-06	Jul-06	Nov-06	\$75,000,000	\$806,682	(\$382,653)
Prudential Property Investment Separate Account (PRISA)	Sep-06	Sep-06	Dec-06	\$300,000,000	\$300,000,000	
Walton Street Real Estate Fund V, LP (Side Car)	Nov-06	Nov-06	Jan-07	\$25,000,000	\$5,434,783	
Westbrook Real Estate Fund VII, LP	Nov-06	Nov-06	Jan-07	\$40,000,000 (3)		
Carlyle Realty Partners Fund V	Nov-06	Nov-06	Feb-07	\$100,000,000	\$19,684,890	(\$83,332)
Heitman Core Property Fund	Nov-06	Nov-06	Jan-07	\$100,000,000	\$36,665,300	
Morgan Stanley Prime Property Fund	Nov-06	Nov-06	Jan-07	\$100,000,000	\$150,000,000	
Prudential Property Investment Separate Account II (PRISA II)	Dec-06	Dec-06	Aug-07	\$150,000,000	\$150,000,000	
Capmark UK Realty Partners, LP	Dec-06	Dec-06	Jun-07	\$100,000,000	\$33,500,000	
Blackstone Real Estate Partners VI, LP	Dec-06	Dec-06	Apr-07	\$35,000,000 (5)	\$32,532,269	
CBRE Strategic Partners Europe III, LP	Jan-07	Jan-07	Feb-07	\$100,000,000	\$30,631,034	(\$17,603,305)
AEW Core Open-End Fund	Feb-07	Feb-07	May-07	\$54,400,000 (4)	\$543,793	
CIM Real Estate Fund III, LP	Apr-07	Apr-07	not yet closed	\$100,000,000		
Capri Urban Investors, LP	Apr-07	Apr-07	Aug-07	\$50,000,000	\$4,549,391	(\$1,142,472)
LaSalle Asia Opportunity Fund III	Apr-07	Apr-07	Sep-07 ✓	\$50,000,000		
ARA Dragon Fund	Jul-07	Jul-07	not yet closed	\$100,000,000		
RLJ Real Estate Fund III	Jul-07	Jul-07	Sep-07 ✓	\$100,000,000		
Walton Street Real Estate Fund VI, LP	Jul-07	Jul-07	Aug-07	\$75,000,000		
Walton Street Real Estate Fund VI, LP (Side Car)	Jul-07	Jul-07	Oct-07 ✓	\$50,000,000		
Capmark Realty Partners III, LP	Jul-07	Jul-07	Oct-07 ✓	\$25,000,000		
General Motors Investment Management Corporation (GMIMCo)	Jul-07	Jul-07	Aug-07	\$50,000,000	\$17,672,603	
Guggenheim Structured Real Estate Fund III, LP	Sep-07	Sep-07	not yet closed	\$150,000,000		
CBRE Strategic Partners US Opportunity Fund V, LP	Sep-07	Sep-07	Sep-07 ✓	\$100,000,000		
L&B Diversified Strategy Partners, LP	Sep-07	Sep-07	not yet closed	\$75,000,000		
Tucker Development and Acquisition Fund (TDAF)	Oct-07	Oct-07	not yet closed	\$50,000,000		
Five Mile Capital Partners II, LP	Oct-07	Oct-07	not yet closed	\$50,000,000		
				\$3,129,400,000	\$1,217,096,132	(\$64,336,617)

✓ - CLOSED IN SEPT 07

17

32

Alternative Investment Program
Approved Investments

Oct-07

Fund Name	SIC	Approval Month	Inception Date	Commitment	Total Contributions	Total Distributions
Hedge Funds						
Archipelago Partners, LP		Jan-06	Jun-06	\$150,000,000 (a)	\$150,000,000	
AG Garden Partners, LP (Angelo Gordon - Sep. Account)		Jan-06	Mar-06	\$150,000,000 (b)	\$135,000,000	
OZ Domestic Partners II, Limited		Jan-06	Jun-06	\$150,000,000 (c)	\$150,000,000	
The BGI Multi-Strategy Fund Limited		Jan-06	Jun-06	\$100,000,000	\$100,000,000	
Goldman Sachs Hedge Fund Partners		Feb-06	Aug-06	\$300,000,000 (h)	\$250,000,000	
RC Woodley Park, LP (Rock Creek Diversified Mkt Neutral Fund)		Feb-06	Aug-06	\$200,000,000 (i)	\$175,000,000	
Arden Alternative Advisors		Feb-06	Jun-06	\$100,000,000	\$100,000,000	
Rock Creek Partners Fund		Oct-06	Dec-06	\$50,000,000	\$11,545,556	
Golden Tree		Nov-06	Jan-07	\$100,000,000	\$100,000,000	
King Street Capital		Nov-06	Feb-07	\$100,000,000	\$100,000,000	
Davidson Kempner Institutional Partners		Nov-06	Dec-07	\$100,000,000	\$100,000,000	
Omega Advisors		N/A	Jan-07	\$75,000,000 (j)	\$75,000,000	
York Capital Management, LP		Jan-07	Feb-07	\$100,000,000	\$100,000,000	
Intrepid Capital Management		Feb-07	Apr-07	\$75,000,000	\$75,000,000	
Satellite Asset Management		Feb-07	Apr-07	\$100,000,000	\$100,000,000	
Black River Multi-Strategy Leveraged Fund		Mar-07	Jul-07	\$100,000,000	\$100,000,000	
Canyon Value Realization Fund		Mar-07	Jun-07	\$75,000,000	\$75,000,000	
Farallon Capital Institutional Partner, LP		Apr-07	Jun-07	\$150,000,000	\$150,000,000	
Protégé Partners, LP		Apr-07	Jun-07	\$150,000,000	\$150,000,000	
Blackstone Pacific Opportunity Fund		Apr-07	Jun-07	\$100,000,000	\$100,000,000	
Blackstone Emerging Markets Fund		Apr-07	Jun-07	\$100,000,000	\$100,000,000	
Ascend Partners Fund II, LP		Apr-07	Jul-07	\$100,000,000	\$100,000,000	
Silver Point Capital		May-07	not yet closed	\$75,000,000	\$75,000,000	
Glennview Institutional Partners, LP		Jul-07	Jul-07	\$100,000,000	\$100,000,000	
BlackRock Credit Investors Fund		Sep-07	Oct-07 ✓	\$400,000,000	\$75,000,000	
AG Diversified Strategies Fund		Sep-07	Oct-07 ✓	\$150,000,000	\$75,000,000	
Canyon Special Opportunities Fund		Sep-07	Sep-07 ✓	\$100,000,000	\$100,000,000	
Golden Tree Opportunities Fund		Sep-07	Sep-07 ✓	\$100,000,000	\$100,000,000	
Pimco Investment Management Company, LLC (PIMCO)		Oct-07	not yet closed	\$125,000,000	\$100,000,000	
Centerbridge Partners, LP		Oct-07	not yet closed	\$100,000,000	\$100,000,000	
				\$3,775,000,000	\$2,821,545,556	\$0
Total Commitments / Contributions / Distributions				\$12,805,846,000	\$5,706,651,940	(\$204,451,574)
Net Contributions				\$5,502,200,366		

✓ - CLOSED IN SEPT 07

(a) Commitment increased to \$150M from \$65M on 9/21/06 (b) Commitment increased to \$150M from \$85M on 9/21/06. (c) Commitment increased to \$150M from \$50M on 9/21/06. (d) Commitment increased by \$250 million on 7/20/06. (e) Commitment increased by \$200M on 11/16/06. (f) Commitment to be increased by \$200M on 3/15/07. (g) Commitment to be increased by \$25M on 3/15/07. (h) Commitment to be increased by \$50 million on 4/19/07. (i) Commitment to be increased by \$50 million on 7/19/07. (j) Commitment to be increased by \$100 million on 9/20/07.

(1) Corresponds to €40.0 million; (2) Corresponds to €59 million; (3) Reduced from \$50 million to \$40 million at closing; (4) Corresponds to €40.0 million. (5) Corresponds to 17.5 million pounds.

18.
36

Exhibit 26a

Schedule of Private Equity Commitments / Investments by Type¹

Updated October 11, 2007

Type / Fund Name	Fiscal Year 2008 YTD		Full Yr. Plan		Cumulative (YTD & Fiscal Year 2006-2007)		Cumulative		Cum. Invested / Cum. Committed %
	Actual	%	Actual	%	Actual	%	Amount Invested ²	%	
Domestic LEO >\$5B (Direct)	\$ 400,000,000	34.8%	\$ 1,150,000,000	31.9%	\$ 1,475,750,000	27.9%	\$ 508,496,937	33.3%	34.5%
Warburg Pincus Private Equity X (Sept 2007)	\$ 400,000,000	34.8%			400,000,000	7.6%	-	0.0%	0.0%
THL Equity Fund VI					75,000,000	1.4%	22,354,099	1.5%	29.8%
Silver Lake Partners III					100,000,000	1.9%	451,686	0.0%	0.5%
Hellman & Friedman Capital Partners VI					100,000,000	1.9%	24,030,602	1.6%	24.0%
Warburg Pincus Private Equity IX, LP					200,000,000	3.8%	164,501,684	10.8%	82.3%
Apollo Investment Fund VI, LP					100,000,000	1.9%	34,974,989	2.3%	35.0%
Blackstone Capital Partners V					100,000,000	1.9%	49,998,068	3.3%	50.0%
Madison Dearborn Partners (MDCP V)					125,000,000	2.4%	82,715,795	5.4%	66.2%
Texas Pacific Group Partners V					250,000,000	4.7%	115,757,799	7.6%	46.3%
Warburg Pincus Private Equity VIII, LP (Secondary)					25,750,000	0.5%	13,712,215	0.9%	53.3%
Domestic MMBQ >\$1B (Direct)	\$ 250,000,000	21.7%	\$ 750,000,000	20.8%	\$ 1,270,000,000	24.0%	\$ 338,065,802	22.1%	26.6%
Oak Hill Capital Partners III, LP (Sept 2007)	250,000,000	21.7%			250,000,000	4.7%	-	0.0%	0.0%
Sheridan Production Partners I-B (July 2007)					50,000,000	0.9%	4,761,301	0.3%	9.5%
Vista Equity Partners Fund III					100,000,000	1.9%	35,956,550	2.4%	36.0%
New Mountain Partners III					100,000,000	1.9%	7,693,928	0.5%	7.7%
Court Square Capital Partners II					100,000,000	1.9%	24,029,880	1.6%	24.0%
InterMedia Partners VII, LP					75,000,000	1.4%	38,290,515	2.5%	51.1%
TPG STAR, LP					100,000,000	1.9%	16,042,962	1.1%	16.0%
Onex Partners II					100,000,000	1.9%	59,014,997	3.9%	59.0%
Oak Hill Capital Partners II, LP					75,000,000	1.4%	49,598,949	3.2%	66.1%
Quadrangle Capital Partners II, LP					50,000,000	0.9%	18,404,465	1.2%	36.8%
JLL Partners Fund V, LP					50,000,000	0.9%	22,971,464	1.5%	45.9%
Lindsay Goldberg & Bessemer II					100,000,000	1.9%	32,733,471	2.1%	32.7%
DLJ Merchant Banking Partners IV					50,000,000	0.9%	23,660,516	1.5%	47.3%
GTCC Partners IX					70,000,000	1.3%	4,906,804	0.3%	7.0%
Domestic Small / MMBQ <\$1B (S.A.)	\$ -	0.0%	\$ 200,000,000	10.7%	\$ 325,000,000	6.1%	\$ 85,622,960	5.6%	26.3%
Credit Suisse - Sep. Acct. (2 yrs.) ³					125,000,000	2.4%	10,895,151	0.7%	8.7%
CSFB - Sep. Acct. (2 yrs.)					200,000,000	3.8%	74,727,809	4.9%	37.4%
International Buyouts (S.A.)	\$ -	0.0%	\$ 200,000,000	10.7%	\$ 566,666,667	10.7%	\$ 121,680,503	8.0%	21.5%
Goldman Sachs - Sep. Acct. (3 yrs.) ⁸					66,666,667	1.3%	-	0.0%	0.0%
Hamilton Lane - Sep. Acct. (2 yrs.) ⁴					100,000,000	1.9%	-	0.0%	0.0%
Goldman Sachs - Sep. Acct. (3 yrs.)					200,000,000	3.8%	52,290,437	3.4%	26.1%
Hamilton Lane - Sep. Acct. (2 yrs.)					200,000,000	3.8%	69,390,066	4.5%	34.7%
Subtotal - Buyout	\$ 650,000,000	69.3%	\$ 1,300,000,000	69.3%	\$ 2,942,416,667	55.6%	\$ 1,053,866,202	69.0%	35.8%
Emerging Manager (S.A.)	\$ -	0.0%	\$ 100,000,000	2.8%	\$ 100,000,000	1.9%	\$ 27,117,030	1.8%	n/a
Credit Suisse - Sep. Acct. (2 yrs.) ⁶					50,000,000	0.9%	22,617,030	1.5%	45.2%
Fairview Capital Partners - Sep. Acct. (2 yrs.) ⁷					50,000,000	0.9%	4,500,000	0.3%	9.0%
Venture Capital - (ToE)	\$ -	0.0%	\$ 150,000,000	4.2%	\$ 150,000,000	2.8%	\$ 24,239,031	1.6%	16.2%
Lehman Brothers - NJ Direct Investment Fund ⁹					50,000,000	0.9%	5,000,000	0.3%	10.0%
Lehman Crossroads Fund XVIII VC fund					50,000,000	0.9%	12,000,000	0.8%	24.0%
JP Morgan Venture Capital Instl Investors III, LLC					50,000,000	0.9%	7,239,031	0.5%	14.5%

Exhibit 26a
Schedule of Private Equity Commitments / Investments by Type¹

Type / Fund Name Distressed (Direct)	Updated October 11, 2007		Fiscal Year 2008 YTD		Cumulative (YTD & Fiscal Year 2006-2007)		Cumulative		Cum. Invested / Cum. Committed
	Actual	%	Actual	%	Actual	%	Amount Invested ²	%	
WLR Recovery Fund IV (October 2007)	\$ 200,000,000	17.4%	\$ 300,000,000	8.3%	\$ 620,000,000	11.7%	\$ 145,838,629	9.5%	23.5%
MaulinPatterson Global Opportunities Partners III, LP	100,000,000	8.7%	100,000,000	1.9%	100,000,000	1.9%	-	0.0%	0.0%
Avenue Capital Partners V, LP	100,000,000	8.7%	200,000,000	3.8%	200,000,000	3.8%	21,978,066	1.4%	11.0%
KPS Special Situations Fund III					25,000,000	0.5%	-	0.0%	0.0%
Avenue Asia Special Situations IV					40,000,000	0.8%	10,588,605	0.7%	26.5%
Avenue Capital Partners IV, LP					20,000,000	0.4%	20,000,000	1.3%	100.0%
Black Diamond Opportunity Fund II					40,000,000	0.8%	12,634,664	0.8%	31.6%
Wayzata Opportunities Fund, LLC					40,000,000	0.8%	38,233,505	2.5%	95.6%
MHR Institutional Partners III					75,000,000	1.4%	22,877,597	1.5%	30.5%
Centerbridge Partners					80,000,000	1.5%	9,515,657	0.6%	11.9%
Mezzanine (Direct)									
Newstone Capital Partners		0.0%	\$ 100,000,000	2.8%	\$ 285,000,000	5.4%	\$ 116,477,341	7.6%	40.9%
Gleacher Mezzanine II					50,000,000	0.9%	20,620,247	1.3%	41.2%
Audax Mezzanine II					40,000,000	0.8%	654,793	0.0%	1.6%
OCM Mezzanine II, LP					50,000,000	0.9%	13,574,180	0.9%	27.1%
Blackstone Mezzanine Partners II					50,000,000	0.9%	30,784,795	2.0%	61.6%
Carlisle Mezzanine Partners					45,000,000	0.9%	17,854,354	1.2%	39.7%
					50,000,000	0.9%	32,988,971	2.2%	66.0%
Co-Investments (S.A.)									
Merrill Lynch - Sep. Acct. (2 yrs.)		0.0%	\$ 300,000,000	8.3%	\$ 100,000,000	1.9%	\$ 75,999,358	5.0%	76.0%
					100,000,000	1.9%	75,999,358	5.0%	76.0%
Secondaries (Direct)									
Lexington Capital Partners VI		0.0%	\$ 50,000,000	1.4%	\$ 100,696,000	1.9%	\$ 44,357,703	2.9%	44.1%
Partners Group Secondary 20065					50,000,000	0.9%	17,958,708	1.2%	35.9%
					50,696,000	1.0%	26,398,995	1.7%	52.1%
Loan Funds - Debt Related									
TPG - TAC 2007 (Sept 2007)	\$ 300,000,000	26.1%	\$ 300,000,000	8.3%	\$ 300,000,000	5.7%	\$ 40,000,000	2.6%	13.3%
OCM Loan Fund (Sept 2007)	\$ 100,000,000	8.7%	200,000,000	3.8%	200,000,000	3.8%	-	0.0%	0.0%
	\$ 200,000,000	17.4%					40,000,000	2.6%	20.0%
Total	\$ 1,150,000,000	100.0%	\$ 3,600,000,000	100.0%	\$ 5,293,112,667	100.0%	\$ 8,893,112,667	100.0%	28.9%

1 Commitment amounts include funds that have been presented to the SIC through October 2007 (i.e.: this meeting) even if we have yet to "close" on the investment.

2 Net of total notifications of contributions and distributions through October 8, 2007.

3 Fiscal Year 2007 assumptions: Credit Suisse mandate (\$250mm) committed over a 2-year period.

4 Fiscal Year 2007 assumptions: Hamilton Lane mandate (\$200mm) committed over a 2-year period.

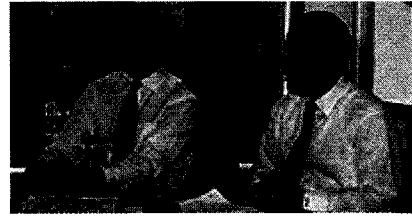
5 Represents a €40mm commitment using the FX rate at the date of closing (9/29/06).

6 Fiscal Year 2007 assumptions: Credit Suisse Emerging Manager mandate (\$100mm) committed over a 2-year period.

7 Fiscal Year 2007 assumptions: Fairview Capital Partner mandate (\$100mm) committed over a 2-year period.

8 Fiscal Year 2007 assumptions: Goldman Sachs mandate (\$200mm) committed over a 3-year period.

9 Fiscal Year 2007 assumptions: Lehman Brothers mandate (\$100mm) committed over a 3-year period.



PORTFOLIO

Representative Investments (current and former)

Ability

Ability is a start-up Bermuda-based reinsurance company focused on acquiring long-term care insurance businesses.

[Back to Previous Page](#)



Alibris, Inc.

Alibris is a transaction processing system and online exchange for books, music and video retailers.

[Visit Web Site](#)

[Back to Previous Page](#)



Align Technology, Inc.

Align Technology designs, manufactures, and markets Invisalign®, the world's leading invisible orthodontic product for the treatment of misaligned teeth. Invisalign® offers a series of clear, removable aligners that both orthodontists and dentists distribute to their patients.

[Back to Previous Page](#)

American Savings Bank

American Savings Bank was a \$24 billion California savings and loan association which had been seized by the Federal Savings & Loan Association after a history of significant losses. In cooperation with the federal government, the firm restructured the bank into American Savings. In December 1996, American Savings merged into Washington Mutual, Inc.

[Back to Previous Page](#)



American Skiing Company

American Skiing Company is an operator of alpine ski, snowboard and golf resorts in the U.S.

[Visit Web Site](#)

[Back to Previous Page](#)



Ariel Holdings, Ltd.

Ariel Reinsurance Holdings is a catastrophe reinsurer founded in 2005 to capitalize on the dislocations in the reinsurance market following recent hurricanes.

[Visit Web Site](#)

[Back to Previous Page](#)



Atlantic Broadband Group, LLC

Atlantic Broadband is a cable operator which provides analog and digital video services as well as high-speed data services to subscribers in Miami Beach, Western Pennsylvania, Maryland, and Delaware.

[Visit Web Site](#)

[Back to Previous Page](#)



Bell + Howell Company

Bell + Howell Company was a diversified information products and services provider.

[Back to Previous Page](#)



Blackboard Inc.

Blackboard is a leading global provider of enterprise software applications and related services to the education industry. Blackboard-branded software is used by millions of students across thousands of educational institutions, primarily in the U.S. postsecondary education market.

[Back to Previous Page](#)



Butler Animal Health Supply LLC

Butler Animal Health Supply is the largest U.S. distributor of companion animal health products to veterinarians. Through a national distribution network and a comprehensive sales force, Butler distributes a broad range of products, including prescription pharmaceuticals, vaccines, medical equipment, and supplies, on behalf of hundreds of vendors to tens of thousands of veterinary clinics.

[Visit Web Site](#)

[Back to Previous Page](#)



Caribbean Restaurants, Inc.

Caribbean Restaurants is the exclusive Burger King franchisee in Puerto Rico and the largest quick-service restaurant on the island.

[Back to Previous Page](#)



Cincinnati Bell, Inc.

Cincinnati Bell is a diversified telecommunications services provider located in Cincinnati, Ohio that services more than one million local access lines and 500,000 wireless subscribers.

[Back to Previous Page](#)



Duane Reade, Inc.

Duane Reade is the largest drugstore chain in New York City, which is the

DR



largest drugstore market in the U.S., representing approximately 5% of all domestic drugstore sales. The company has prime real estate locations in the highly defensible New York metropolitan market, which is less penetrated by large drugstore chains and mass merchants than most markets.

[Visit Web Site](#)

[Back to Previous Page](#)



eGain Communications Corporation

eGain Communications is a leading provider of customer service and contact center software. The company offers software solutions both as a hosted, web-based service and in a traditional, more customizable version that is installed and managed by the client.

[Visit Web Site](#)

[Back to Previous Page](#)



EXL Services, Inc.

EXL Services is a leading provider of business process outsourcing services to the financial services industry and the corporate finance departments of Global 1000 companies. The company combines in-depth knowledge of insurance, banking, finance, and accounting with proven expertise optimizing large-scale processes on a global basis.

[Visit Web Site](#)

[Back to Previous Page](#)



Financial Engines, Inc.

Financial Engines provides personalized, independent investment advice, and portfolio management to 401(k) participants through its software offerings. Founded by Nobel Prize-winning economist William F. Sharpe, Financial Engines serves millions of employees at many of America's largest corporations including more than 50 of the Fortune 500.

[Visit Web Site](#)

[Back to Previous Page](#)



GATX Logistics, Inc.

GATX Logistics provided a range of third-party logistics services for its customers, including contract warehousing, value-added assembly, freight management, and contract transportation services.

[Back to Previous Page](#)



Genpact Limited

Genpact Global is a global provider of business process outsourcing services with tens of thousands of employees worldwide. The company, formerly known as G.E. Capital International Services, or Gecis, was founded by General Electric Company in 1997.

[Visit Web Site](#)

[Back to Previous Page](#)

IPWireless, Inc.

23x



IPWireless offers consumers and small businesses a high speed, proprietary technology platform that enables fully-portable, wireless Internet access at up to 14 Mbps.

[Visit Web Site](#)

[Back to Previous Page](#)



Jacobson Companies, Inc.

Jacobson is a third party logistics provider.

[Visit Web Site](#)

[Back to Previous Page](#)



Local TV, LLC

Local TV is a group of nine local television stations in the southern, northeastern and Midwestern U.S. markets.

[Visit Web Site](#)

[Back to Previous Page](#)



MeriStar Investment Partners Lessee, L.P.

MeriStar Investment Partners Lessee, L.P. is a joint venture among MeriStar Hospitality Corporation, Interstate Hotels & Resorts, and Oak Hill Capital Partners. The portfolio includes several properties under the brand names Embassy Suites, Hilton, Marriott, and Sheraton.

[Back to Previous Page](#)



Metrika, Inc.

Metrika is a manufacturer and marketer of single-use diabetes monitoring products. Using proprietary technology, Metrika integrates miniaturized digital electronics, micro-optics, and dry reagent chemistries into easy-to-use hand-held, low-cost, single-use monitoring devices.

[Back to Previous Page](#)

National Re Corporation

National Re was a direct writer of property and casualty reinsurance to primary insurers. Two years after completing its initial public offering, National Re was acquired by General Reinsurance.

[Back to Previous Page](#)



NSA International, LLC

NSA is a direct seller and marketer of Juice Plus+, a natural whole food fruit and vegetable supplement, in the U.S. and more than 20 countries worldwide.

[Visit Web Site](#)

[Back to Previous Page](#)



24x

1 100



OH Aircraft Acquisition, LLC

OH Aircraft Acquisition is a newly formed aircraft leasing platform launched with an order for six B777F aircraft.

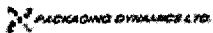
[Back to Previous Page](#)



Oreck Corporation

Oreck Corporation is a multi-channel manufacturer, direct marketer, and retailer of vacuum cleaners and home and commercial floor care products.

[Back to Previous Page](#)



Packaging Dynamics

Packaging Dynamics is a full-service manufacturer of liquid filling equipment and machinery for food packaging and industrial businesses.

[Back to Previous Page](#)



Physician Oncology Services

Physician Oncology Services is a platform of outpatient radiation oncology centers.

[Visit Web Site](#)

[Back to Previous Page](#)



Primus International Inc.

Primus is a global Tier 1 supplier of components and subsystems, including desk-sized kits, assemblies and flight critical components, to the global aerospace industry.

[Visit Web Site](#)

[Back to Previous Page](#)



Progressive Moulded Products Ltd.

Progressive Moulded Products is a leading Tier 1.5 automotive interior subsystem supplier in North America.

[Back to Previous Page](#)



RSC Holdings, Inc.

RSC Equipment Rental is a provider of rental equipment to construction industry.

[Visit Web Site](#)

[Back to Previous Page](#)

25x

**SVTC Technologies, LLC**

SVTC is a provider of outsourced services to the semiconductor industry, including access to equipment, IP and engineering services.

[Visit Web Site](#)

[Back to Previous Page](#)

**Telecity Group plc**

Telecity Group is a leading European provider of co-location and managed data center services. Through its network of carrier-neutral data centers throughout Europe, Telecity Group offers secure, controlled environments staffed by specialized engineers, to businesses that want to outsource all or part of the management of their technology infrastructure.

[Visit Web Site](#)

[Back to Previous Page](#)

**The Container Store, Inc.**

The Container Store is the category-defining specialty retailer of storage and organizational solutions. The company currently operates highly-productive destination specialty retail stores across the U.S., an internet and mail order business, and a wholesale business.

[Back to Previous Page](#)

**TravelCenters of America, Inc.**

TravelCenters of America is the largest and only nationwide operator of full-service travel centers in the U.S.

[Back to Previous Page](#)

**Vertex Data Science**

Vertex is a U.K.-based technology and process outsourcing company with distinct expertise in financial services, utilities billing, public sector outsourcing, and high-value customer service.

[Visit Web Site](#)

[Back to Previous Page](#)

**WideOpenWest, LLC**

WideOpenWest is a cable operator providing analog and digital video, high-speed data, and digital telephony services to customers in Chicago, Cleveland, Columbus, and Detroit.

[Back to Previous Page](#)

**Williams Scotsman, Inc.**

Williams Scotsman is the largest provider of modular space solutions in North America. Scotsman's products, which include mobile offices, modular classrooms, and other multi-unit modular structures, offer customers flexible, low-cost, and timely solutions to meet temporary space needs on an outsourced basis.

CWA
COMMUNICATIONS WORKERS OF AMERICA
LOCAL 1033

President
Rae C. Roeder

321 West State Street
Trenton, New Jersey 08618
A.F.L.-C.I.O.
(609) 394-7725
FAX (609) 393-7111

Treasurer
Dennis W. Reiter

Executive Vice President
Dianne Spence-Brown

Secretary
Anthony F. Miskowski

October 1, 2007

Orin Kramer, Chair
State Investment Council
PO Box 290
50 West State Street
Trenton, New Jersey 08625-0290

Dear Investment Council:

The outsourcing/privatization of American jobs overseas has become an increasing concern across the American labor landscape. A *New York Times* article dated September 25, 2007 entitled "*Outsourcing Works so Well, India is Sending Jobs Abroad*" underscores the extent of the situation. The Executive Board of CWA Local 1033 ideologically opposes such efforts since it represents a direct threat to the economic security of American workers who are not only the most productive workers in the world according a study released by the International Labor Organization (ILO) on September 1, 2007 and the United States Department of Labor (September 1, 2007) but they are also among the best trained and best educated.

The importation/exportation of lesser trained and lesser educated workers from foreign labor pools dilutes the economic salary/wage base of American labor. Clearly we are not merely referencing telemarketing jobs that pay minimum wage but also so-called "white collar" jobs requiring years of technical and professional educational training in the technical/trade schools and universities. Furthermore, job functions performed by accountants, auditors, and analysts are job titles represented by CWA Local 1033.

The New Jersey Investment Council committed a \$75,000,000 (Jul-05) allocation to **Oak Hill Capital Partners II** plus an additional \$250,000,000 to **Oak Hill Capital Partners III** (Sep—07) for a total of \$325,000,000 as part of its alternative investment strategy in private equities. According to our research, Oak Hill boasts a 30% ownership in **Genpact** (formerly GE Capital International Services or GECIS) that claims to be the leading global outsourcing company headquartered in Gurgaon, India.

We respectfully request that the Investment Council review and withdraw its investment in Oak Hill Capital Partners. Please address this issue at the October 18, 2007 SIC Meeting.

Respectfully,

Rae C. Roeder

Copy: William Clark

H.R.

Exhibit 17
COMMON PENSION FUND B
20 Largest Total Purchases and Sales for Domestic Equities
7/1/07 through 9/30/07

PURCHASES:

Cusip	Company Name	Shares Purchased	\$ Amount Purchased
912810FR	UNITED STATES TREAS TIPS	125,000,000.00	136,156,850.58
36241KMQ	GNMA	100,000,000.39	99,781,250.39
912810FS	UNITED STATES TREAS TIPS	100,000,000.00	97,776,653.20
912828GS	UNITED STATES TREAS NTS	100,000,000.00	95,593,750.00
12513TAA	CDX STRUCTURED NOTES	70,000,000.00	64,625,000.00
912810FJ	UNITED STATES TREAS BDS	50,000,000.00	58,425,781.25
3137EAAY	FHLMC NOTES	50,000,000.00	51,647,350.00
912810FF	UNITED STATES TREAS BDS	50,000,000.00	51,226,562.50
31398ADM	FEDERAL NATL MTG ASSN NOTES	50,000,000.00	51,138,100.00
36295JMQ	GNMA	50,000,000.30	50,226,562.80
36290UCC	GNMA	49,999,999.62	50,124,999.62
36292LD6	GNMA	49,999,999.78	49,937,499.78
36241KMP	GNMA	50,004,908.44	49,684,564.49
90983VAA	MCGUIRE AIR FORCE BASE MILITARY	50,000,000.00	47,679,000.00
831641EJ	SBIC 2007-10B	45,000,000.00	45,000,000.00
947074AF	WEATHERFORD INTL INC.	36,350,000.00	37,099,990.00
46428724	ISHARES TRUST GOLDMAN SACHS	340,000.00	35,639,300.00
20030NAV	COMCAST CORP	30,000,000.00	31,299,600.00
72201410	PIMCO HIGH INCOME FUND	2,200,000.00	30,842,124.93
36962G3H	GENERAL ELECTRIC CAPITAL CORP BD	30,000,000.00	29,898,900.00

SALES:

Cusip	Company Name	Shares Sold	\$ Amount Sold
912810EW	UNITED STATES TREAS BDS	100,000,000.00	111,902,343.75
912828EJ	UNITED STATES TREAS NTS	81,000,000.00	80,269,101.56
912828AU	UNITED STATES TREAS NTS	75,000,000.00	73,752,929.69
912828BG	UNITED STATES TREAS NTS	50,000,000.00	49,242,187.50
912828DV	UNITED STATES TREAS NTS	50,000,000.00	47,855,468.75
912828FS	UNITED STATES TREAS NTS	40,000,000.00	40,503,125.00
25746UAA	DOMINION RESOURCES INC. NOTES	35,000,000.00	37,567,950.00
912828EX	UNITED STATES TREAS NTS	37,000,000.00	36,913,281.25
035229CV	ANHEUSER BUSCH CO INC NOTES	35,000,000.00	32,539,150.00
20030NAE	COMCAST CORP NOTES	30,000,000.00	29,121,000.00
251799AA	DEVON ENERGY CORP DEBS	25,070,000.00	28,995,460.60
9128276T	UNITED STATES TREAS NTS	25,000,000.00	25,629,882.81
9128277L	UNITED STATES TREAS NTS	25,000,000.00	25,612,304.69
912828EU	UNITED STATES TREAS NTS	25,000,000.00	25,011,718.75
9128274V	UNITED STATES TREAS NTS	25,000,000.00	25,001,953.13
912828BH	UNITED STATES TREAS NTS	25,000,000.00	24,926,757.81
59156RAJ	METLIFE INC. SENIOR NOTES	25,000,000.00	24,836,000.00
912828AP	UNITED STATES TREAS NTS	25,000,000.00	24,654,296.88
500769BE	KFW GUARANTEED GLOBAL NOTES	25,000,000.00	24,520,000.00
61746SBS	MORGAN STANLEY NOTES	25,000,000.00	24,492,000.00

Colony

Exhibit 11
COMMON PENSION FUND A
20 Largest Total Purchases and Sales for Domestic Equities
7/1/07 through 9/30/07

PURCHASES:

Cusip	Company Name	Shares Purchased	\$ Amount Purchased
88731710	TIME WARNER INC.	3,300,000.00	68,001,510.00
17296710	CITIGROUP INC.	1,365,000.00	63,683,228.52
12486QU0	S&P 500 INDEX SXZ+UO	1,330,000.00	57,093,708.00
20030N20	COMCAST CORP. "A SPL"	1,700,000.00	47,512,110.00
24702R10	DELL INC.	1,500,000.00	41,910,650.00
46625H10	J.P. MORGAN CHASE & CO.	892,000.00	40,486,047.11
92990310	WACHOVIA CORP.	810,000.00	40,451,067.00
6050510	BANK OF AMERICA CORP.	803,000.00	40,092,217.80
94974610	WELLS FARGO & CO.	1,100,000.00	39,306,811.54
12686C10	CABLEVISION SYSTEMS-NY GRP-A	1,100,000.00	37,497,690.00
35671D85	FREEMPORT-MCMORAN COPPER-B	335,000.00	30,204,635.32
70816010	PENNEY (J.C.) CO., INC.	445,000.00	28,895,813.00
G9144P10	TYCO ELECTRONICS LTD	800,000.00	27,485,500.00
3783310	APPLE INC.	210,000.00	27,389,598.68
38255010	GOODYEAR TIRE & RUBBER CO.	950,000.00	26,923,775.00
65163910	NEWMONT MINING CORP.	550,000.00	25,881,251.48
30231G10	EXXON MOBIL CORP.	300,000.00	25,195,500.00
12486Q9V	S&P 500 INDEX SXZ+VO	500,000.00	24,210,000.00
61166W10	MONSANTO CO.	305,000.00	21,211,280.44
46428773	ISHARES DJ US REAL ESTATE	300,000.00	20,494,020.00
87986810	TEMPLE-INLAND INC.	360,000.00	20,321,768.45

SALES:

Cusip	Company Name	Shares Sold	\$ Amount Sold
12486QU0	S&P 500 INDEX SXZ+UO	3,000,000.00	123,663,765.00
12488U9T	S&P 500 INDEX SXM+TT	3,000,000.00	107,659,050.00
30231G10	EXXON MOBIL CORP.	1,230,000.00	102,524,003.40
17275R10	CISCO SYSTEMS, INC.	2,800,000.00	88,793,740.20
43707610	HOME DEPOT, INC. (THE)	1,977,997.00	73,185,889.00
3783310	APPLE INC.	330,000.00	45,468,800.63
65248000	NEWS CORP. CL A	2,000,000.00	43,952,845.97
18450210	CLEAR CHANNEL COMMUNICATIONS,IN	1,200,000.00	43,899,555.11
74271810	PROCTER & GAMBLE CO. (THE)	623,370.00	39,969,997.13
52490810	LEHMAN BROTHERS HOLDINGS INC.	400,000.00	28,383,845.41
6050510	BANK OF AMERICA CORP.	580,000.00	28,074,734.01
62007610	MOTOROLA, INC.	1,600,000.00	27,674,854.71
51783410	LAS VEGAS SANDS CORP.	171,000.00	23,664,977.48
9061310	BIOMET, INC.	479,050.00	22,036,300.00
3116210	AMGEN INC.	385,000.00	20,275,676.10
09062X10	BIOGEN IDEC INC.	356,605.00	18,900,065.00
67459910	OCCIDENTAL PETROLEUM CORP.	333,000.00	18,770,944.53
91301710	UNITED TECHNOLOGIES CORP.	250,000.00	18,241,694.22
71344810	PEPSICO, INC.	256,500.00	17,506,189.73
35671D85	FREEMPORT-MCMORAN COPPER-B	202,640.00	17,259,739.64

CWA
COMMUNICATIONS WORKERS OF AMERICA
LOCAL 1033

President
Rae C. Roeder

321 West State Street
Trenton, New Jersey 08618
A.F.L.-C.I.O.
(609) 394-7725
FAX (609) 393-7111

Treasurer
Dennis W. Reiter

Executive Vice President
Dianne Spence-Brown

Secretary
Anthony F. Miskowski

October 24, 2007

Orin Kramer, Chair
State Investment Council
PO Box 290
50 West State Street
Trenton, New Jersey 08625-0290

Dear Sir:

At the State Investment Council (SIC) Meeting on October 18, 2007 Director Clark responded to our concerns relevant to the investment of our retirement funds in **Oak Hill Capital Partners** (\$325 million) that currently retains 30% ownership of a global outsourcing company headquartered in India currently named **Genpact** and formerly named GE Capital International Services (**GE CIS**). GE Capital currently retains 40% ownership and another private equity company *General Atlantic* retains a 30% share. In correspondence dated October 4, 2007 we outlined our ideological concerns in investing money in a company dedicated to displacement of American workers and the dilution of the salary/wage base of highly skilled state workers. The "global economy rationale" presented by members of the SIC did not resonate well with our members and therefore we shall pursue legislative remedies to stem the pervasive practice known as **Off-shoring**.

At the October meeting, Director Clark also announced the major purchases in Common Pension Fund A of large cap bank equities in the amount of \$160 million¹. The banks enumerated included **Wachovia Bank** (NYSE: WB). *Exhibit 11 Common Pension Fund A* indicates that 810,000 shares of Wachovia were purchased (*Cusip* 92990310) for the amount of \$40,451,067.00. We respectfully request that the SIC rescind the sale since Wachovia signed a seven year outsourcing agreement with Genpact on November 30, 2005. We include the news release generated by Wachovia for your review.

Likewise, *Exhibit 17 Common Pension Fund B* indicates that in September 30,000,000 shares of General Electric Capital were purchased (*Cusip* 36962G3H) for the amount of \$29,898,900.00. As they own a 40% share in Genpact, investment of state worker pension money potentially poses a threat to our members' livelihood. Please divest ownership of GE Capital.

Respectfully,

Rae C. Roeder, President

Copy: William Clark

¹ See page 2 of Investment Reports submitted by William G. Clark, Director to State Investment Council, October 12, 2007.

lofo

**New Jersey
Office of the Governor**

***Codey Signs Bill to Protect New Jersey
Jobs from offshore Outsourcing***

May 05, 2005

Header

Comments

[Previous Screen](#)

Share your thoughts with the Governor

Email this press release

PO BOX 004
TRENTON, NJ 08625

Contact: Kelley Heck
609-777-2600

RELEASE: May 05, 2005

Codey Signs Bill to Protect New Jersey Jobs from Offshore Outsourcing

(TRENTON) – Acting Governor Richard J. Codey today signed Senate bill 494 to protect New Jersey jobs from being outsourced to foreign countries by requiring that all services under state contract or subcontract must be performed within the United States.

“Today New Jersey is taking an important step to protect our workers and keep jobs from going overseas,” Codey said. “With this bill, we are sending a clear message that if a company wants to take jobs from our hard working families and send them overseas, then it will not do business with the state.”

“It is shameful some companies have sought to profit off of shipping jobs across the Atlantic,” said Department of Labor and Workforce Development Commissioner Thomas D. Carver. “The practice of outsourcing deteriorates the very fabric of our workforce in New Jersey. I applaud Acting Governor Codey for doing what is right – protecting New Jersey jobs from going overseas.”

Senators Shirley K. Turner and Joseph Coniglio, along with Assembly members Reed Gusciora, Louis Manzo, Robert Gordon, Jeff Van Drew and Bonnie Watson Coleman are the prime sponsors of this bill.

“Every day, hundreds of thousands of New Jersey residents are desperately seeking employment in order to support their families,” said Turner (D-Mercer). “It is foolish for the state to send taxpayer dollars abroad to hire workers in India, China or Indonesia when these same jobs can be preformed by the unemployed here in the United States. Not only are we losing the benefits those jobs bring to the individual, but we also lose the tax and economic growth benefits those jobs bring to the state.”

The bill requires that only American citizens and persons authorized to work in the United States shall provide services under a state contract or subcontract. Only when it can be certified that a service cannot be performed within the United States will an exemption be made. This bill applies to the Executive Branch of state government, the Legislature, and any independent state authority, commission or agency authorized to enter into a contract on behalf of the state. It does not cover county, municipal or school district contracts.

The bill also requires the Treasurer to review all ongoing state contracts to determine

whether any existing state services are being performed outside the United States and report his findings within nine months.

As the state and the nation have grown reluctantly accustomed to the disappearance of manufacturing jobs, the new reality is that "knowledge jobs" are just as susceptible. The sectors being hit by outsourcing have been the main engine of job growth. With the growing trend of outsourcing becoming more commonplace, the largest occupational groups at risk include administrative support services, information technology, business and financial operations and healthcare.

New Jersey is the fifth state in the nation to enact legislation or executive action on outsourcing. As of March 2005, there were 112 bills introduced in 40 states to restrict outsourcing.

"New Jersey should not do business with companies that move quality jobs abroad, plain and simple," explained Congilio (D-Bergen). "Saving a few dollars is not worth the costs to New Jersey families when they see their highly skilled job move halfway around the globe for the benefit of corporate profits. For almost a half-million families, the threat of seeing their livelihood moved to Asia or South America is very real and they need to know that the state is doing everything possible to keep their jobs on U.S. soil."

Gusciora (D-Mercer), a primary sponsor in the Assembly, said, "Companies that receive multi-million-dollar state contracts should not have the option of outsourcing jobs at the expense of the economic viability of the hard-working people of New Jersey. The costs saved by businesses that outsource pale in comparison to the residual cost to the state in terms of job losses and economic deterioration."

"Outsourcing displaces hard-working New Jersey residents. New Jersey should not be in the business of putting our own residents out of work. What better way to support our local workforce than to make as many jobs as possible available to them," added Manzo (D-Hudson), a member of the Assembly Commerce and Economic Development Committee.

"New Jersey has long been a progressive leader on the labor front," stated Gordon (D-Bergen). "This bill would send the message that if you want to do business with the State of New Jersey, you must provide decent wages and health care coverage to your workforce."

Van Drew (D-Atlantic, Cape May, Cumberland), vice chair of the Assembly Labor Committee, said, "The state may not be able to solve the problems created by corporate outsourcing, but we can make sure that our tax dollars don't pay for it."

"Our hard-earned tax dollars must not be used to push Americans out of jobs," echoed Watson Coleman (D-Mercer).

Footer Bar

SENATE, No. 494

STATE OF NEW JERSEY

211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator JOSEPH CONIGLIO

District 38 (Bergen)

Co-Sponsored by:

Senators Palaia, Allen and Gill

SYNOPSIS

Provides that only citizens or persons authorized to work in the US pursuant to federal law may be employed in performing certain State contracts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 2/24/2004)

AN ACT concerning State contracts and supplementing chapter 34 of Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Director of the Division of Purchase and Property and the Director of the Division of Property Management and Construction in the Department of the Treasury shall include, in every State contract for the performance of services, provisions which specify that only citizens of the United States and persons authorized to work in the United States pursuant to federal law shall be employed in performance of services under the contract or any subcontract awarded under the contract.

2. This act shall take effect immediately.

STATEMENT

Recent published reports have indicated that telephone inquiries by welfare and food stamp clients under New Jersey's Families First Program were being handled by operators in Bombay, India, after the contractor moved its operations outside of the United States as a cost-cutting measure.

This bill directs the Director of the Division of Purchase and Property and the Director of the Division of Property Management and Construction in the Department of the Treasury to include in every State contract for the performance of services provisions which specify that only citizens of the United States and persons authorized to work in the United States pursuant to federal law may be employed in the performance of services under the contract or any subcontract awarded under the contract.

**ASSEMBLY RESOLUTION No.
184**

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED JUNE 3, 2004

Sponsored by:

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Assemblymen Eagler, Diegnan, Fisher and Scalera

SYNOPSIS

Creates commission to study the loss of New Jersey jobs through outsourcing and off-shoring.

Flow

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/8/2005)

AN ASSEMBLY RESOLUTION creating a commission to study the loss of New Jersey jobs through outsourcing and off-shoring.

WHEREAS, In recent years, a number of companies have replaced highly-skilled workers from New Jersey with lower-paid, foreign laborers, in a practice known as outsourcing or off-shoring; and

WHEREAS, These outsourcing trends coincide with the U.S. job market's longest slump since the 1930's; and

WHEREAS, Many white-collar occupations, including technology and computer specialists, financial analysts, accountants, office support, and call-center employees are among the most vulnerable to outsourcing; and

WHEREAS, The preservation of jobs in New Jersey is of critical importance to the economic well-being of the State; and

WHEREAS, The economic dislocation caused by a company outsourcing jobs threatens the health, safety, and welfare of the people in this State; and

WHEREAS, Forrester Research, Inc. predicts that 3.3 million U.S. jobs will be sent offshore by 2015, accounting for 2 percent of the entire workforce and \$136 billion in wages; now, therefore,

BE IT RESOLVED *by the General Assembly of the State of New Jersey:*

1. There is created an Assembly Study Commission known as the "Outsourcing and Off-shoring Commission." The commission shall consist of seven members, to be appointed by the Speaker of the General Assembly as follows: three members of the General Assembly, not more than two of whom shall be of the same political party; one member from the New Jersey Business and Industry Association; one member from the New Jersey State Chamber of Commerce; and two members from the New Jersey State AFL-CIO, one of whom shall be from a union representing public employees.

2. All appointments shall be made within 60 days after the effective date of this resolution. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members shall serve without compensation.

3. The commission shall organize within 30 days after the appointment of its members and shall select a chairperson and a vice- chairperson from among its members, and a secretary who need not be a member of the commission.

4. The commission shall conduct no less than three public hearings in furtherance of its general purpose, to be held in the Northern, Central and Southern regions of New Jersey, to elicit

the testimony of interested groups and the general public at such times as it shall designate.

5. It shall be the duty of the commission to study the issues associated with the practices of outsourcing and off-shoring including but not limited to:

a. reviewing the impact of outsourcing and off-shoring on private and public employers and employees in the State;

b. studying ways to reduce outsourcing and off-shoring in the State;

c. determining which employment sectors are most affected by outsourcing and off-shoring issues;

d. identifying outsourcing and off-shoring issues that can be controlled or addressed by State law or regulation; and

e. providing recommendations concerning steps that need to be taken to ensure that outsourcing and off-shoring practices do not have a detrimental impact on the employers and employees in the State of New Jersey.

6. The commission shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislation, to the Speaker and Minority Leader of the General Assembly no later than nine months following its organizational meeting.

7. This resolution shall take effect immediately and shall expire 30 days after the submission of the final report of the commission.

STATEMENT

In recent years, a number of companies have replaced highly-skilled workers from New Jersey with lower-paid, foreign laborers, in a practice known as outsourcing. These outsourcing trends coincide with the U.S. job market's longest slump since the 1930's. As a result, many white-collar occupations, including technology and computer specialists, financial analysts, accountants, office support and call-center employees are among the most vulnerable to outsourcing. As the preservation of jobs in New Jersey is of critical importance to the economic well-being of the State and the economic dislocation caused by a company outsourcing jobs threatens the health, safety, and welfare of the people in this State, the public interest will be best served by studying this issue as comprehensibly as possible. This resolution provides for a study to determine the problems faced as a result of outsourcing and off-shoring, and to explore possible solutions.

This resolution creates a commission to be known as the "Outsourcing and Off-shoring Commission." The commission shall consist of seven members appointed by the Speaker of the General Assembly as follows: three members of the General Assembly not more than two of whom shall be of the same political party; one member from the New Jersey Business and Industry Association; one member from the New Jersey State Chamber of Commerce; and two members from the New Jersey State AFL-CIO, one of whom shall be from a union representing public employees.



The commission will study ways to reduce outsourcing and off-shoring in the State; determine which employment sectors are most affected by outsourcing and off-shoring issues; identify outsourcing and off-shoring issues that can be controlled or addressed by State law or regulation and provide recommendations concerning steps that need to be taken to ensure that outsourcing and off-shoring practices do not have a detrimental impact on the employers and employees in the State of New Jersey.

The commission shall prepare and submit a final report containing its findings and recommendations, including recommendations for legislation, to the Speaker and Minority Leader of the General Assembly no later than nine months following its organizational meeting.



Monday, November 5, 2007

Bill Text - S04696

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Bill Summary](#)

S T A T E O F N E W Y O R K

4696

2007-2008 Regular Sessions

I N S E N A T E

April 20, 2007

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

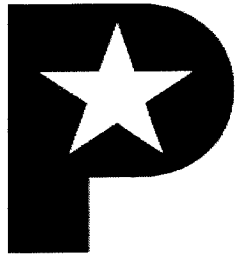
AN ACT to amend the retirement and social security law, in relation to enacting the "invest in America act" to prohibit investment of common retirement fund moneys or assets in certain institutions and companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. This act shall be known and may be cited as the "invest in
2 America act".
- 3 S 2. The retirement and social security law is amended by adding a new
4 section 423-c to read as follows:
- 5 S 423-C. INVESTMENTS IN COMPANIES WHICH OUTSOURCE JOBS. NOTWITHSTAND-
6 ING ANY OTHER PROVISION OF LAW, ON AND AFTER JANUARY FIRST, TWO THOUSAND
7 EIGHT, THE INVESTMENT OF ANY MONEYS OR ASSETS OF THE COMMON RETIREMENT
8 FUND IN THE STOCKS, SECURITIES OR OTHER OBLIGATIONS OF ANY INSTITUTION
9 OR COMPANY WHICH OUTSOURCES JOBS SHALL BE PROHIBITED AND ANY SUCH
10 INVESTMENT REMAINING IN SUCH INSTITUTION OR COMPANY ON SUCH DATE SHALL
11 BE TERMINATED BY THE COMPTROLLER IN A FISCALLY PRUDENT MANNER AND SHALL
12 BE REINVESTED IN ANY INVESTMENTS OR SECURITIES AUTHORIZED BY LAW. FOR
13 PURPOSES OF THIS SECTION, THE TERM "OUTSOURCE" SHALL MEAN TO SEEK
14 RESOURCES OUTSIDE OF THE UNITED STATES TO SAVE MORE AND/OR TO EXPLOIT
15 THE SKILLS OF ANOTHER ENTITY.
- 16 S 3. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD00947-01-7



PROGRESSIVE STATES Network

Offshoring and Outsourcing in the States

Testimony by Nathan Newman, Policy Director at the Progressive States Network

101 Avenue of the Americas, 3rd Floor
New York, NY 10013
(212) 680-3116
nnewman@progressivestates.org

Thank you, Chairman. I'm Nathan Newman, Policy Director at the Progressive States Network, an organization that supports state legislators and advocates across the country in promoting policies that support working families. Parts of my testimony today is based on a report about outsourcing and privatization by state governments that we will be publishing in the next few weeks.

I would like to address both the issues before this commission, offshoring and outsourcing, and what states have been doing and can do to encourage more responsible policies that help raise wage standards for all workers.

Offshoring of Jobs and State Debates on Trade Policy

On the issue of offshoring jobs overseas, states have begun taking a number of actions to stop the downgrading of job quality due to global competition. When back in 2004, Good Jobs First and other organizations highlighted that some government contracts were being offshored to overseas vendors, a number of states, including New Jersey, enacted laws to deny government contracts to companies using offshored labor. That was a useful first step and a number of states have taken action to demand that the federal government fix a broken international trade system:

- Governors from a number of states sent formal letters to federal negotiators condemning the procurement rules contained in the recent Central America Free Trade Agreement (CAFTA).
- Legislators from multiple states sent a joint letter in 2005 to federal negotiators expressing opposition to the investor provisions contained in the CAFTA agreement.

- A number of states, including Maine, Washington, New Hampshire, North Carolina and California, have created specific legislative oversight committees to review trade agreements and develop policy responses on behalf of those states' governments.
- Both chambers in Maine, Nevada and Utah—and one chamber in Alabama, Hawaii, Montana, Pennsylvania, Rhode Island, Tennessee, Vermont, and Wisconsin—have approved resolutions calling on Congress to renegotiate the “fast track” trade promotion authority which has traditionally prevented any amendments to trade deals negotiated by the President, allowing special interests to include corporate benefits without any real democratic accountability.

As Eric Richard discussed at the first hearing of this commission, state leaders across the country have recently introduced the Jobs, Trade and Democracy Act, a model bill that ensures that citizens and state legislators have access to information on the impact of trade policy, requires governors to have the consent of the state legislature to bind the state to international trade agreements, and creates oversight bodies to assess the legal and economic effects of trade agreements.

Outsourcing by Government

Yet offshoring jobs overseas is only the logical end-product of the broader trend of outsourcing, of larger companies and government itself seeking low-cost subcontractors to do work previously done by its own employees, whether that work is done abroad or here at home. It is hard for government to credibly criticize these outsourcing trends by private employers when it fails to establish strong standards in its own contracting practices.

Unfortunately, the same ideology driving outsourcing and offshoring in the private sector is all too common in government contracting. We hear too many government officials promoting what seems like a free lunch: hand-over control of government services or government assets to private industry and services will improve at a lower cost. Like most promises of a free lunch, outsourcing of government services has rarely delivered on its promises, with most studies showing little gain and often substantial losses for taxpayers, even aside from its effect on workers.

Some of these failures have been spectacular flameouts, such as the recent cancellation of a billion-dollar Texas deal with Accenture that was supposed to improve management of human services in that state but instead led to tens of thousands of children losing health coverage due to incompetent management.¹

But many other outsourcing failures are quieter and happen out of the public eye. There is little reliable data on the benefits or costs of outsourcing as most studies are anecdotal due to the overall lack of data on privatization. Reports tend to have a systematic bias since they focus on programs that for whatever political reasons have been privatized, while having little data on the comparable programs not privatized, so they usually lack a good baseline for accurate comparisons.

For governments and advocates monitoring public programs, it is a problem that state budgets do little overall tracking of their contracting programs, particularly of the percentage of state budgets going to outside contractors versus funding in-house work by government employees. Most state leaders therefore have little information on which to judge the success or failure of their contracting out programs. What is especially missing is data that allows those leaders and researchers to compare the degree of outsourcing in similar sectors among different states to assess best practices in providing public services. The limits of data available should encourage states to enact laws creating greater transparency over how much of their state budgets go to outside contractors and for which programs.

It is notable that in a number of sectors where there is some data comparing degrees of outsourcing in the states, including areas like school food service outsourcing, human services contracting, and use of for-profit hospitals compared to public hospitals, New Jersey ranks up there with Texas as one of the states disproportionately using outsourcing for public services.

Pitfalls of Outsourcing

A few recent high profile outsourcing stories highlight many of the problems of the contracting out process, from lost quality to potential corruption to undermining democratic accountability over public services to undercutting employment standards. While these particular examples illustrate some of the dangers of outsourcing to social equity and democratic accountability, the reality, as will be discussed further, is that most privatization efforts have been launched with little evidence that there are any real benefits to the public at all.

- **Lost Money and Degraded Services:** There is little doubt that the poster child for the failure of outsourcing was, as I mentioned, Texas' attempt to hand over management of its social services system to Accenture, the Bermuda-based consulting firm. The promise was that business expertise would put government bureaucrats to shame with their efficiency. Instead, computer systems failed, costs mounted, and 30,000 children ended up being dropped from the children's health insurance program (CHIP) because of private administrative bungling. Skilled government workers were slated to be laid off in favor of low-skilled call center workers who then bungled administration of state programs. The results were so bad that the Republican State Comptroller, Carole Keeton Strayhorn, investigated the deal and declared, "The Accenture contract appears to be the perfect storm of wasted tax dollars, reduced access to services for our most vulnerable Texans, and profiteering at the expense of our Texas taxpayers."² Faced with the evidence, the state Health and Human Services Commissioner Albert Hawkins had to return to older procedures and the state began using state workers who were slated to be laid off to clean up the mess.
- **Weak Oversight and Lost Expertise:** With mega-corporations often running these outsourcing deals, the question becomes how can the state even effectively monitor these private contractors? When ceiling panels came loose in a Boston tunnel that was part of the multi-billion dollar "Big Dig" construction project, it resulted in the death of motorist Milena Del Valle and brought to a head two decades of questions over the role and power of the Bechtel corporation, which oversaw much of the work done on the project.³ With so much expertise contracted out, the *Boston Globe* as far back as 1994 highlighted criticism that

supervision of the project by the state was lacking due to so much control having been handed over to a private entity.⁴

- **Lost Democratic Accountability:** One reason, it is argued, that privatized services can make money is that they do things that elected officials might not be able to get away with if decisions were subject to direct democratic accountability. Privatized roads can raise tolls with no political debate and private contractors can use marketing or employment practices that would be stopped in their tracks if done by the public sector. For example, one recent study of 500 city and county governments found that private sector contracting results in full-time employees being replaced by more part-time workers.⁵ When outsourcing involves prisons and private police units, many analysts worry that the profiteering comes at the expense of constitutional safeguards and democratic oversight.⁶ But that's the danger of privatization – out of sight, out of mind, except on the contractor's profit sheets.
- **Corruption of the Political Process:** A significant worry is that the “revolving door” between private contractors and the government offices where those contracts are awarded creates a nexus for corruption that a strong civil service ethic among government workers was originally created to prevent. The dance of the revolving door was evident in the Texas human services deal with Accenture,⁷ but similarly, when the Ohio political establishment melted down in corruption scandals in 2005 and 2006, the problems were linked to campaign contributors profiting from private contracts, including legal contracts with the attorneys general office and the notorious “Coingate” scandal where investment companies linked to the administration received investment contracts from the state.⁸ New Jersey has taken some steps to crack down on “pay to play” corruption, but the simplest way to avoid the danger is not to outsource government functions unless its benefits are proven and override these inherent dangers of corruption.
- **The Failure of Outsourcing to Save Taxpayers Money:** Given all these pitfalls, it's unsurprising that the major justification usually given for contracting out public services – saving the taxpayer money – is rarely attained. As at least one analysis of privatization of state and local services over the last 20 years found the majority of such projects failed because of deteriorating quality of service. And in more than half the cases, the projects did not save taxpayers dollars.⁹ Surveying other studies, analysts have seen little difference in savings between the private and public sectors.¹⁰ That doesn't mean the private companies aren't profiting from the deals; it's just that the savings aren't passed on to taxpayers. As Paul C. Light of New York University, who has long tracked the hidden contractor work force at the federal level, had argued, “We have no data to show that contractors are actually more efficient than the government.”¹¹

The Lack of Data on Outsourcing by the States

While some conservative scholars will cite their own studies showing the gains from outsourcing,¹² the most intellectually honest statement is that, especially in analysis of outsourcing at the state level, there is such a lack of broad-based data on the privatization process

that all studies have been narrow and nearly anecdotal due to the lack of good multi-state data to compare results.

Because researchers often select high-profile agencies going through the privatization process for their studies, some purported gains in efficiency are often seen as due to the “Hawthorne effect” – the well-documented social phenomena that efficiency improves in any workplace when greater attention is focused on it. Additionally outsourcing is most likely to involve particularly dysfunctional public agencies – the reason politics may have led to their privatization in the first place – so any gains in efficiency in a particular case may have little bearing on other agencies going through more routine contracting processes that do not start from the same baseline.¹³ As the respected Mathematica Policy Research, Inc. argued in a review of welfare outsourcing studies:

Research on the quality of privatized social services is very limited, but, like that on cost savings, it appears to be mixed... However, experts note that these analyses may be somewhat biased in favor of the private sector because privatization often occurs only when public services are particularly ineffective, providing a point of comparison that might not be typical of public-sector provision.¹⁴

States do not publicly report the data needed for broader, less inherently biased studies, and no research project has produced alternative data that gives any sort of comprehensive multi-state information on the degree of contracting out and its long-term effects at the granular level needed to make really useful cross-state analyses of the effectiveness of outsourcing. Cornell Professor Mildred Warner, a well-respected scholar on privatization, says flatly, “I am not aware of a consistent data set at the state level to make academically relevant statements on the level of contracting in the states.”¹⁵

And there is really no one, conservative or liberal, pro-privatization or opponent, who can honestly contest the fact that decisions about outsourcing in the states are being made without the data needed to make intelligent decisions about its benefits.

The Available Data on State Outsourcing: The best data available comes from two multi-year broad-based studies of outsourcing in the states: one conducted by the Council of State Governments, whose most recent surveys were conducted in 1997 and 2002, and the other by the American State Administrators Project, an academic consortia whose most recent surveys were conducted in 1998 and 2004. Each of those studies survey budget and agency heads in the fifty states, but admit that in no states are the rates of reporting complete enough to create an accurate granular analysis of privatization in any particular state. At best they give a sense of nationwide trends in particular sectors of government.

Echoing Mildred Warner’s analysis, the most recent report from the American State Administrators Project states, “Apart from selected surveys at the local (municipal) level, most public administrative experiences and research involving contracting are anecdotal, case-specific, or otherwise narrowly focused,”¹⁶ while the Council on State Governments report

states, "There appears to be no consensus as to the effectiveness of privatization in part due to the lack of empirical data as well as the complexity of the issue."¹⁷

While the two reports elicit some self-reporting by agencies on cost savings or lack thereof from contracting out, the answers usually are based on different internal methodologies for measuring results in each agency, making any self-reporting on efficiency gains unlikely to be comparable across different states. And many states admit they have no real measurement of whether they are saving money or not from contracting out, as the Council on State Government report finds:

[A] more interesting finding from the surveys is that many agency directors could not provide estimates of cost savings from privatization. Nonetheless, state officials have continued to privatize due to the perceived efficiency the private sector might have demonstrated."¹⁸

As noted above, contracting out often outsources much of the management expertise that could even conduct good analysis of whether service quality and efficiency standards are being maintained, creating what one analyst calls "hollow states" in some agencies where the tools to monitor a contractor's performance are largely nonexistent.¹⁹

On the other hand, while many agency heads report an increasing use of contracting out in these varied surveys, Mildred Warner observes that often unreported is that those same agencies are usually "contracting in" previously privatized services to now be performed by government workers when outsourcing fails. This quiet failure of earlier contracting out efforts, and the return of those functions back to public employees, makes the measurement of the *net* increase in outsourcing even harder to gauge at the state level. It's instructive, though, that with the better data available at the local government level, Warner found that just about as many services get contracted back in each year as contracted out.²⁰

The Need for Outsourcing Transparency Legislation

What is lacking is a publicly accessible accounting in each state of what percentage of each agency's budget is being spent through public employees and what percentage is going to contractors, and what those contractors pay their employees and other relevant comparative information. In the course of writing our report, we contacted state budget and procurement offices in states across the country. Of those who replied, none had comprehensive data on their overall state contracting. Virginia was one of the only states when contacted that could produce data that, with some massaging, would measure contracting out in various departments. Virginia collected this data because a commission on privatization established a few years earlier had encouraged this kind of assessment. But even Virginia does not make the data available in a clear manner for the public and almost no other states seem to even collect the information.

While there are a number of legislative reforms that would improve transparency in outsourcing decisions in our state governments, three key policies would make a tremendous difference in mitigating many of the dangers involved in present contracting policies.

- **Measuring the Costs of Outsourcing:** Over a decade ago, Massachusetts passed a law prohibiting private contracting of government services unless private companies prove they can perform those functions more efficiently than government workers – a reform that multiple studies have found has saved Massachusetts from the debacles suffered by other states privatizing public services under the pressure of corporate lobbying.
- **Budget Accounting for Outsourcing:** States operate under a number of budget disclosure rules; an important additional reform would be to require that every budget include a line item listing the percentage of each agency's budget that is going to private contractors.
- **Online Disclosure of Outsourcing Data:** Budget data on privatization should be disclosed in an accessible way on the Internet, alongside the barebones listing of the individual contracts currently available. Some states have been making strides in a number of areas to better disclose state budget data, and budget data on the degree of outsourcing in each area of government should be a core part of online disclosure.

Establishing Wage and Accountability Standards for Government Contracts

Where contracting out does happen, there are reforms that will assure that it does not undermine wage and benefit standards for the employees performing the work or allow private interests to trump democratic accountability

- **Prevailing and Living Wage Standards:** One of the oldest tools of government for raising wages is requiring that companies doing work on behalf of the public pay a wage that reinforces strong wage standards for that industry. With the outsourcing of many public services in recent decades, state and local governments now purchase over \$400 billion of goods and services from the private sector, so conditioning those purchases on contractors meeting decent wage standards can have powerful effects in strengthening wage standards throughout the economy. New Jersey does require that employees on public works projects and, more recently based on a 2006 law, those working for janitorial firms doing work for state government be paid the prevailing wage in the industry, but it should join Maryland, which became the first state this year to require that all government contractors pay a living wage to their employees.
- **Ending the Revolving Door:** While many states have made progress in restricting the revolving door between state officials and lobbying firms, there is far less scrutiny of corporate officials moving back-and-forth to government positions between former and future employers in the private sector. States need to implement tough rules to bar contractors with any financial relationship with public officials from bidding on public contracts and impose at least a two-year moratorium on awarding public contracts to any firm where a former government

official has been hired as a lobbyist or top executive--the only effective break on firms trying to buy insider influence.

- **Banning Pay to Play Contributions:** New Jersey has made tremendous progress in taking on campaign contributions by contractors, with West Virginia, South Carolina, and Illinois all passing laws banning “pay to play” contributions by companies bidding on contracts from making campaign contributions to government officials. But this is an area that always needs continuing scrutiny for loopholes and endruns around the rules.

Conclusion

Fundamentally, the problem of outsourcing is one of challenging an ideology that using low-wage subcontractors is a route to long-term social efficiency. The saddest part of the professed commitment by many political leaders to outsourcing and even offshoring is that the evidence for even the efficiency gains are unclear, while the devastating effects on employees as good jobs are replaced by bad ones is all too evident. The solution is strengthening accountability standards and greater transparency to assure that both the taxpayers and employees do not lose out from bad outsourcing decisions.

Endnotes

¹ Amy Smith, "Strayhorn to Investigate Accenture," *Austin Chronicle*, May 19, 2006, <http://www.austinchronicle.com/gyrobase/Issue/story?oid=oid%3A366360>.

² Ibid.

³ Christopher Rowland, "Probes may test Bechtel's clout: Responsibility on bolts at issue," *Boston Globe*, July 24, 2006, http://www.boston.com/news/traffic/bigdig/articles/2006/07/24/probes_may_test_bechtels_clout/.

⁴ Charles M. Sennott, "Project poses a test for privatization: Critics see conflict in Bechtel's overseeing its own artery/tunnel design work," *Boston Globe*, September 12, 1994, http://www.boston.com/news/traffic/bigdig/articles/1994/09/12/project_poses_a_test_for_privatization/.

⁵ "Study: Outsourcing in local governments leads to fewer full-time employees and more part-timers," Indian University, January 23, 2007, <http://newsinfo.iu.edu/news/page/normal/4720.html>.

⁶ Amy Goldstein, "The Private Arm of the Law: Some Question the Granting of Police Power to Security Firms," *Washington Post*, January 2, 2007; <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/01/AR2007010100665.html>.

⁷ R.G. Ratcliffe, "Human services deputy stood to gain from changes," *Houston Chronicle*, January 4, 2005, <http://web.archive.org/web/2006010323337/http://www.cleantexaspolitics.com/node/view/340>

⁸ Steve Eder and James Drew, "Lawyers who gave to GOP got state work: \$170M in legal fees went to contributors," *Toledo Blade*, March 26, 2006,

<http://toledoblade.com/apps/pbcs.dll/article?AID=/20060326/NEWS24/603260335>; Daniel Tokaji, "Ohio's 'Coingate' Scandal: How It Exposes the Flaws of Our Campaign Finance System," *Findlaw*, Jul. 07, 2005, http://writ.news.findlaw.com/commentary/20050707_tokaji.html.

⁹ Christine Vestal, "States stumble privatizing social services," *Stateline*, August 04, 2006, <http://www.stateline.org/live/ViewPage.action?siteNodeId=137&languageId=1&contentId=131960>. NEED TO TRACK DOWN WARNER STUDY ON THIS POINT.

¹⁰ Sergio Fernandez; Ross Fabricant, "Methodological Pitfalls in Privatization Research: Two Cases from Florida's Child Support Enforcement Program," *Public Performance & Management Review*, Vol. 24, No. 2. (Dec., 2000), pp. 133-144. Cites Graeme Hodge. *Privatization: An International Review of Performance*. Westview Press. 1999, which conducted a meta-analysis of multiple international studies of privatization to come to the conclusion that there were no significant gains for taxpayers from privatization.

¹¹ Scott Shane and Ron Nixon, "In Washington, Contractors Take On Biggest Role Ever," *The New York Times*, February 4, 2007, <http://www.nytimes.com/2007/02/04/washington/04contract.html?ei=5090&en=a8333bd1bc365aa5&ex=1328245200&adxnml=1&partner=rssuserland&emc=rss&pagewanted=all&adxnmlx=1190746538-bhvZukxBRFBp0WE/vY53DQ>.

¹² The Reason Foundation has done the most work in promoting privatization, including highlighting studies that argue for gains in cost efficiency and quality from privatization. See Geoffrey F. Segal and Adrian T. Moore, *Weighing the Watchmen: Evaluating the Costs and Benefits of Outsourcing Correctional Services- Part 2: Reviewing the Literature on Cost and Quality Comparisons*, Reason Foundation (2002); Francois Melese, *Privatizing Public Hospitals: A Win-Win for Taxpayers and the Poor*, Reason Foundation (Nov. 2005). Other related conservative policy outfits have produced similar pro-privatization analyses, including Paul Guppy, *Private Prisons and the Public Interest: Improving Quality and Reducing Cost through Competition*, Washington Policy Center (Feb 2003); Michael LaFaive, *A School Privatization Primer*, Mackinac Center for Public Policy (2007); a scholar often cited by pro-privatization advocates is E.J. Savas, whose *Privatization and Public-Private Partnerships* (1999) is a book length pro-privatization analysis, which matches Savas's broader corpus of work on the subject.

¹³ Fernandez and Fabricant, Ibid; also

¹⁴ Pamela Winston, Andrew Burwick, Sheena McConnell, and Richard Roper, *Privatization Welfare Services: A Review of the Literature*, Mathematica Policy Research, Inc. (May 2002)

¹⁵ Interview with Mildred Warner, June 22, 2007. According to Warner, there is better data at the municipal level because of standards of professionalism and data sharing stemming from the tradition of less political city managers in many local governments.

¹⁶ Chung-Lae Cho, Yoo-Sung Choi, Deil S. Wright, Jeffrey L. Brudney, Contracting for Service Delivery by American State Administrative Agencies: A Performance-Oriented Analysis of Third-Party Outsourcing for Public Services, 1998 and 2004, Paper prepared for presentation at the 17th Annual Conference of the Association for Budgeting and Financial Management (American Society for Public Administration), November 10-12, 2005, p. 4; <http://www.cviog.uga.edu/services/research/abfm/Cho,%20Choi,%20Wright,%20Brudney%20-%20Contracting.pdf>.

¹⁷ Keon S. Chi, Kelley A. Arnold and Heather M. Perkins, "Privatization in State Government: Trends and Issues" *Spectrum: the Journal of State Government*. Council on State Govts.. 2003, p. 12; <http://www.csg.org/pubs/Documents/spec_fa03Privatization.pdf

¹⁸ Chi et al., p. 20.

¹⁹ Trevor Brown, Matt Potoski, and David Van Slyke. 2005. "Managing the Tools of Government: Contracting and Contract Management in the New Millennium." Paper presented at the 8th Public Management Research Conference, University of Southern California, Los Angeles, CA; p. 10.

²⁰ Mildred E. Warner, Michael J. Ballard and Amir Hefetz, "Contracting Back In: When Privatization Fails," *Municipal YearBook 2003*, International City/County Management Association, 2003.

**Testimony of Mr. Tony Daley
Research Economist,
Communications Workers of America
Before the New Jersey Assembly
Outsourcing and Off-Shoring Commission**

Introduction

My name is Tony Daley. I am a Research Economist at the Communications Workers of America (CWA). I have been with CWA since 2001. Previously, I worked at the International Union of Electrical, Electronic, Salaried, Machine, and Furniture Workers (IUE) between 1999 and 2001 before IUE merged into CWA. Between 1987 and 1998, I taught at the university level – at Wesleyan University and Connecticut College. I received my Ph.D. from the University of California, Berkeley, in 1988. I have been asked to give testimony on issues of outsourcing/offshoring and data collection.

Employees in this country face a growing threat from trade-related employment changes. There is a burgeoning literature on the effects of globalization on employment and wages. [Bivens 2005; Blinder 2007; Mann 2003; McKinsey 2003] There appear to be significant downward pressures on wages as we accelerate trade in goods and services with low-wage countries. [Bivens 2007] There is more controversy considering actual changes in U.S. employment. Industry economists claim net employment increases from trade. [U.S. Chamber of Commerce 2004] At CWA we believe there has been a net job decrease as a result of trade with low-wage countries. The difference is that partisans of job increase make deductive arguments, reasoning from trade theory. Those who find job decreases try to count jobs gained and jobs lost. What is incontrovertible is that the mix of U.S. jobs has changed and will continue to change as globalization continues.

What is also clear is that more categories of jobs are now vulnerable to offshoring. In 2004, two economists at the University of California, Berkeley, estimated that 14 million U.S. jobs were at risk of offshoring. [Bardhan and Kroll 2003] The authors considered these jobs vulnerable to offshoring because they lacked face-to-face contact, had low setup costs, had high information content, and competed in a sector with low wages available internationally. One of those economists estimated that over 12% of New Jersey's workforce – over 490,000 jobs – was vulnerable to offshoring. [Bottino 2004]

The Bardhan and Kroll numbers may actually be considered now on the low side. Alan Blinder estimated that between 22 and 29 percent of all U.S. jobs – translating into 30 to 40 million jobs – are potentially offshorable. [Blinder 2007] Economists at the Economic Policy Institute recently estimated a slightly lower number of jobs – between 18 and 22 percent or 25 to 30 million jobs – that were potentially offshorable. [Bernstein et al., 2007] If these higher numbers are correct, then the New Jersey-specific number would presumably be higher.

As a labor union, CWA has a strong interest in globalization and its effects on the workforce. CWA has roughly 700,000 members and retirees. Roughly 47% of our members are in telecom – traditional landlines, wireless, and cable. Another 25% are in the public sector or health care related jobs. A further 12% are in manufacturing jobs. The remainder consists of flight attendants, journalists, printers, and other categories of workers.

CWA has roughly 130,000 members who work in customer service, an occupation that has been highly susceptible to both outsourcing and offshoring. CWA believes that higher skill translates into more responsibility given to customer service agents which means better customer service which translates into customer loyalty and long-term demand for skilled customer service agents. Both outsourcing and offshoring in customer service call centers tends to disrupt this virtuous circle by lowering wages, reducing agent responsibility, and degrading customer service.

Traditionally, it has been manufacturing that has been susceptible to trade-related changes in the labor market. American manufacturing has lost 3 million workers in the last decade. [AFL-CIO 2004] The loss of manufacturing jobs means a net subtraction from America's middle class, as replacement jobs do not equal those lost. [Kletzer 2001] The trade pressures on manufacturing have moderated wage gains as employers compete with lower-cost rivals.

For the last decade, service occupations have been threatened with trade-related labor-market changes. In CWA, we have seen DSL help desk jobs shipped abroad (and we negotiated to have them returned at AT&T). We have also seen call center work shipped abroad where those jobs have stayed. We have seen public sector jobs privatized and that privatized work sent outside of state and outside the United States. Newspaper workers have seen reporting work sent abroad and ad-selling work sent to low-wage customer service shops who could easily subcontract with companies in lower-wage countries.

The issue for CWA is not to hold on to each and every existing job held by our members. There is no expectation that a member has a job for life. There is an expectation of a corporate commitment to employees. Such a commitment means that companies train their employees so that when markets shift and technologies develop, and those employees can be moved to newer jobs adding more value for the employer. There is a realization that some jobs become obsolete and that we can let go of those jobs if our members can be transitioned into other areas to help the employer. In other words, our members have a loyalty to their employers and we expect reciprocity.

For CWA offshoring is a subset of outsourcing, which appears to be a dominant trend in contemporary business. Outsourcing is analytically distinct from offshoring: outsourcing means hiring a vendor to do the work previously done for the employer. Outsourcing is frequently justified as a way to capture efficiencies from companies specializing in particular work. In our experience, companies outsource both to gain such efficiencies and to take advantage of lower wages. At the very least, it is very rare for a subcontractor to pay wages and benefits in excess of the companies' wages and benefits. Once work is outsourced it can be moved to other parts of this country or abroad to capture differences in wages, real estate, and taxation.

Measuring outsourcing is like hitting a moving target: employers are constantly changing the mix of work performed inside and outside their walls. There are private studies, of course, as well as the experience of companies and unions. Anecdotal evidence suggests

that domestic outsourcing makes job functions routine so that the process can be learned by another group of employees. Routinization usually leads to lower wages for many job categories.

Because privatization is the process of contracting out work that had been performed by government entities, the privatization of public-sector jobs also facilitates the movement of work to other parts of the U.S. or abroad. The philosophy of privatization – that private is always better than public – has led many elected officials to give to contractors many of the jobs of government. In many respects, privatization has become not a means to an end but an end itself, as when the Bush administration set mandatory privatization quotas on federal agencies in 2003. Such thinking has encouraged some policy makers to outsource even oversight of government procurement. Very rarely has there been an investigation of the long-term consequences – employee morale, corruption, the quality of service delivery, the extent to which public needs were being met – of systematic outsourcing.

Job vulnerability now exists in both the service and manufacturing sectors as both are exposed to international competition. An increasingly wide range of occupations that were once considered bedrocks of the middle class are now open to outsourcing and offshoring. The fact that skill or educational level no longer buys job security or even occupational security is a disturbing change in the U.S. labor market which needs to be addressed by policy makers.

Likewise, there are few good new jobs on the horizon for which workers can prepare. In the trade debates of the 1990s, proponents of unfettered trade argued that displaced manufacturing workers could be trained for work in the new economy of high tech services. Now that a number of these high tech jobs – software engineers, programmers, and technical writers – also have been sent offshore, it is uncertain what and where the new jobs will be. According to the Bureau of Labor Statistics, most new jobs in the next decade will be low paying.

These are national macro-economic and macro-social trends. What is clear is that the economy is changing rapidly and the impetus for changes comes from low-wage countries – either through multinational companies (MNC's) transferring work or by indigenous companies newly competing in U.S. markets. Public policy would be enhanced by a healthy debate over our future in the global economy. Policy-making would be enhanced by better data.

Measuring Outsourcing and Offshoring

Unfortunately, we debate and make policy using incomplete data. There is much we do not know because we do not gather the data in questionnaires or through interviews with employers.

Federal level data collection. Much of the problem has to do with data gathering by either the Department of Labor (via the Bureau of Labor Statistics or BLS) or the Department of Commerce (both the Bureau of Economic Analysis or BEA and the U.S. Census

Bureau). Frequently, the data collected by these two agencies can be sub-divided by state, so it can serve the needs of state-level policy-makers. The following are problems in national-level data collection:

- The BEA now collects data on only 17 different service categories. (In contrast, import-export data exists for 16,000 manufactured goods.) This is a relic of an era when the sale of services was much less important to the U.S. economy. Data collection needs to be more nuanced and the U.S. government needs to focus on additional categories of service jobs.¹
- The Census Bureau should collect more data on the trade of domestic services. For instance, we know very little about how businesses buy and sell services.
- The Department of Labor should collect better data on wages (broken down by job category, industry, educational level, and skill class) paid to workers in our trading partners.
- The BLS should publish consistent long-term data connecting services to occupations. Then this data should be broken down by industry, state, and metropolitan areas.
- BEA should collect data on more occupational categories in its surveys of U.S.-based multinational companies.
- More data should be extracted from areas of federal policy that already collects data for WARN Act notices, Trade Adjustment Assistance, etc. Interestingly,

¹ One key example of this data deficiency involves telephone-based customer-service workers or call center workers. There is no recognized statistic for either group of employees in the United States. Instead, they are found interspersed under different industry classifications. Consequently, there is debate among analysts about actual numbers.

according to the GAO, there have been problems with BEA getting micro-level data from Census. [GAO 2005]

- The Commerce Department should publish projections on the number of jobs created overseas by U.S.-based companies for the purposes of selling in the U.S. market. [Hira and Hira 2005]
- Likewise, the Labor Department should publish the numbers and types of jobs created in the U.S. by foreign-owned firms.
- There are no public data that could allow us to easily measure outsourcing over time. In other words, what percentage of work once performed in a company is still performed in a company? This could be measured in a variety of ways and broken down by standard classifications. Combining data from BLS and the IRS might give a useful understanding of the percentage of costs firms expend on labor versus consultancy contracts. Measuring this over time would give us a clue about the direction and scale of outsourcing.
- Likewise, we do not know the number of employers that employees have over time. This number would help us understand outsourcing. It would also help policy-makers designing programs for retirement security.

These federal-level data-collection issues are laid out here because – in the absence of federal action – the states can collect some of this data. At the very least, it is a compendium of what we do not know and whose attainment would facilitate policy-making at both the federal and state levels.

State-level data collection. Policy makers should decide what data is important for policy making, whether that data is accessible at the federal level, and what it can realistically collect at the state level. Data collection will be important not just for understanding the commercial effects of outsourcing and offshoring and their labor-market consequences but designing state-level programs in health care delivery and education.

In an optimal world, much of the necessary data should be collected at the federal level and should be broken down by state and by other relevant categories. Yet, there is also state-specific data that could be collected. There are two broad areas that can be addressed at the state type: state-contracted work and private sector work not connected with the state.

Contract work for the state should be easily measurable. Procurement offices already know the number and value of public contracts. Unfortunately, states and the federal government do not appear to analyze these counts very effectively nor do they readily make such data available. Good Jobs First – a Washington, D.C.-based think tank – found in 2004 that most states do not have a realistic understanding of the nationality status of the vendors for state contracts or the place of performance. [Mattera 2004] Therefore, we do not really know which contracts are executed in the next state or offshore.

The New Jersey Department of Treasury, Division of Purchase and Property collects data on government contracts, and it makes the data available to the public

(<http://www.nj.gov/treasury/purchase/contracts.htm>). Unfortunately, nationality of the vendor and place of performance are not tracked.

Private sector work not connected to state contracts is more difficult to accumulate, but it is potentially even more important for policy-making because it constitutes a larger part of the economy. As at the federal level, state governments could be collecting data on the nationality of employers as well as the nationality of vendors. Likewise, state governments could combine tax and labor-market data to understand better the process of outsourcing.

Since the impact of outsourcing and offshoring transcends the immediate impact on employees and firms, it is important for federal and state governments to think through the data requirements related to outsourcing and offshoring and then to connect industry and labor-market effects with education policies, health-care delivery, and retirement security.

The following areas could be addressed by states regardless of changes in federal data collection:

- All state contracts should require the nationality of each vendor and the place of performance for the work itself. The state should then collect the data and make it available to the general public, allowing users to sort by agency, size of contract, region of the state. This rule should apply to both the prime contractor and any subcontractors.

Other data should be collected at the state level in anticipation of the unlikelihood of federal data collections:

- State-level data currently is inadequate to measure the scale and scope of outsourcing in a given state. Regardless of whether federal authorities combine BLS and IRS data, state authorities could combine tax and labor market data to find corresponding state data on the percentage of work performed by employees versus that performed by vendors.
- Using tax and labor-market data, states should estimate the number of employers that tax payers have had and estimate how many they are likely to have. This data should be broken down by age.
- The New Jersey Department of Labor and Workforce Development should use available data at the federal and state levels and develop employment projections for students with different types of secondary school and post-secondary studies.

Conclusion

The focus of this testimony has been data collection, not legislation or regulation. The recommendations of this testimony do not address particular policies. Rather, they are intended to lead to more informed decision-making. Too much of current policy-making at all levels is based on incomplete data. The recommendations here are intended to bolster decision-making by increasing our understanding of outsourcing and offshoring.

None of the recommendations for either federal or state data collection appears to be overly burdensome on employers. There is already a program of data collection – via surveys and targeted interviews – and the recommendations above can be added to what already exists.

It is our hope that states will be more proactive in tracking their own contracting process. Likewise, we need a better understanding of what firms are sourcing and the effects on the workforce.

It is also our hope that policy-makers in states like New Jersey will address at least some of the data deficiencies left by the federal government in understanding processes so vital to their futures. While state agencies do not have the existing resources of the Departments of Labor and Commerce in the federal government, they can supplement some of the gaps by innovative attempts at data collection.

Understanding the process of outsourcing and offshoring gives policy-makers more tools to design policies for businesses, labor markets, health-care delivery, retirement security, and education.

The collection of data is the first step toward successful policy-making.

References

- AFL-CIO. 2004. *Revitalizing American Manufacturing: A State and Local Agenda*. November.
[http://www.aflcio.org/issues/jobseconomy/manufacturing/iuc/upload/manuf_state_agenda.pdf]
- Bardhan, Ashok Deo and Cynthia A. Kroll. 2003 "The New Wave of Outsourcing," University of California-Berkeley, Fisher Center for Real Estate and Urban Economics, Fall.
[http://www.haas.berkeley.edu/news/Research_Report_Fall_2003.pdf]
- Bernstein, Jared, James Lin, and Lawrence Mishel. 2007. "The Characteristics of Offshorable Jobs." November 14.
[http://www.epi.org/datazone/characteristics_of_offshorable_jobs.pdf]
- Bivens, Josh L. 2007. "Globalization and American Wages: Today and Tomorrow," Economic Policy Institute Briefing Paper #196, October 10.
[<http://www.epi.org/content.cfm/bp196>]
- Bivens, Josh L. 2005. "Truth and Consequences of Offshoring: Recent Studies Overstate the Benefits and Ignore the Costs to American Workers." Economic Policy Institute Briefing Paper #155, August 5.
[<http://www.epinet.org/content.cfm/bp155>]
- Blinder, Alan S. 2007. "How Many U.S. Jobs Might be Offshorable?" CEPS Working Paper #142, March.
[<http://www.princeton.edu/~ceps/workingpapers/142blinder.pdf>]
- Blinder, Alan S. 2006. "Offshoring: The New Industrial Revolution?" *Foreign Affairs*, March-April. [<http://www.foreignaffairs.org/20060301faessay85209/alan-s-blinder/offshoring-the-next-industrial-revolution.html>]
- Bottino, Susan J. 2004 "Perspective on Offshoring and New Jersey." New Jersey Policy Perspective, August.
[http://www.njpp.org/rpt_offshoring.html]
- Economic Policy Institute. "EPI Issue Guide: Offshoring. 2006." Washington, DC: EPI, May. [URL: http://www.epinet.org/content.cfm/issueguide_offshoring]
- General Accountability Office 2005. "International Trade: U.S. and India Data on Offshoring Show Significant Differences," October.
[<http://www.gao.gov/new.items/d06116.pdf>]
- Hira, Ron and Anil Hira. 2005. *Outsourcing America: What's Behind Our National*

Crisis and How We Can Reclaim American Jobs. New York: American Management Association.

[http://books.google.com/books?id=S3yrj1WqE34C&pg=PA176&lpg=PA176&q=ron+hira+and+anil+hira&source=web&ots=UYh97Ysfpu&sig=1-HdLpw_wVvYTz06c53ar9u9Vgw#PPA178.M1]

Kletzer, Lori G. 2001. *Job Loss from Imports: Measuring the Costs*. Institute for International Economics.

Mann, Catherine L. 2003. "Globalization of IT Services and White Collar Jobs: The Next Wage of Productivity Growth," Institute for International Economics," Institute for International Economics, Policy Brief 3-11, December.
[URL: <http://www.iie.com/publications/pb/pb03-11.pdf>]

Mattera, Philip. 2004. "Your Tax Dollars at Work ... Offshore: How Foreign Outsourcing Firms are Capturing State Government Contraction," Corporate Research Project of Good Jobs First, Prepared for the Washington Alliance of Technology Workers, CWA Local 37083, July.
[http://www.washtech.org/reports/TaxDollarsAtWork/offshoring_execsum_finalpdf.pdf]

McKinsey Global Institute. "Offshoring: Is It a Win-Win Game?" San Francisco, CA. August 2003.
[http://hei.unige.ch/~baldwin/ComparativeAdvantageMyths/IsOffshoringWinWin_McKinsey.pdf]

Norwood, Janet, Carol Carson, Manuel Dees, Norman L. Johnson, Franklin S. Reeder, John E. Rolph, and Susan Schwab. 2006a. "Off-Shoring: An Elusive Phenomenon," National Academy of Public Administration, January.
[<http://www.bea.gov/papers/pdf/NAPAOff-ShoringJan06.pdf>]

Norwood, Janet, Carol Carson, Manuel Dees, Norman L. Johnson, Franklin S. Reeder, and John E. Rolph. 2006b. "Off-Shoring: How Big Is IT?" National Academy of Public Administration, October.
[http://www.napawash.org/pc_management_studies/offshoring/SecondOff-ShoringReport10-31-06.pdf]

Sturgeon, Timothy J., Frank Levy, Claire Brown, J. Bradford Jenson, and David Weil. 2006. Offshoring Working Group Final Report, Massachusetts Institute of Technology, September 10.
[http://web.mit.edu/ipc/publications/pdf/IPC_Offshoring_Report.pdf]

U.S. Chamber of Commerce. 2004. "Jobs, Trade, Sourcing, and the Future of the American Workforce," April. [URL: <http://www.uschamber.com/media/pdfs/outsourcing.pdf>]

Forum

on democracy & trade

Elected and administrative officials are taking various steps to safeguard their governing authority, ask questions of U.S. trade negotiators, and shape global trade rules for local economic advantage.

> State Governments

Individual states are pursuing oversight on international trade:

Legislative Oversight Committees:

California

Washington

North Carolina

Maine

Vermont

Utah

New Hampshire

Other Oversight Committees on Trade

State Legislative Hearings

Governors

Attorneys General

> State Associations

National associations with representation in Washington communicate their concerns to Congress and the Executive Branch:

National Conference of State Legislators

(NCSL)

Council on State Governments

National Association of Attorneys General

(NAAG)

Council of Great Lakes Governors

Western Governors Association

Others...

> Public Service Professionals

Administrative professionals tasked with providing economic and social services are asking questions about how trade and investment rules can affect their regulatory authority:

Utility Regulation

Agricultural Commissions

Coastal Commissions

Environmental

Education

Gaming Commissions

Healthcare Professionals

Export Promotion
Tax Commissions
Workforce Development

> **Cities/Local Governments**

Cities and counties respond to concerns raised at the local level:

- National League of Cities
- National Association of Towns and Townships
- Oversight by City-Elected Officials
- Municipal Lawyers/IMLA
- National Association of Counties
- City and County Administration
- Other Local Governments...

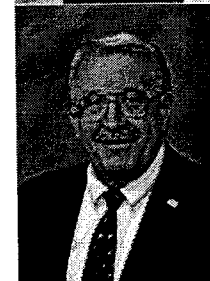
> **Featured Leaders**

Public officials who are national leaders in state/local oversight on international trade:

Liz Figueroa — Immediate Past Chair of the California Senate Subcommittee on International Trade Policy and State Legislation



Rep. George Eskridge (Idaho) chairs the Working Group on Energy & Trade Policy.



> **Working Groups**

The Forum partners to create multi-state working groups led by public officials and focused on particular sectors or areas of on-going dispute:

- Services (domestic Regulation) Working Group
- Electricity/Energy Services Working Group
- Investment Working Group
- Prescription Drugs Working Group



**Consulting with Congress:
A New International Trade and Investment Policy
That Protects Local Democracy**

By
*William Waren*¹

1. *Why do global trade and investment agreements threaten to undercut local democratic institutions?*
 - a. *The new agreements regulate government.* Prior to 1994, state and local governments had little reason to closely monitor the course of trade negotiations and the text of proposed agreements because they focused on tariffs, quotas, and other forms of discrimination against international commerce "at the border," almost always issues within the jurisdiction of the federal government. The post-1994 agreements deal not only with "at the border" issues, but also impose strict rules related to government regulation, taxation, purchasing, and economic development policies that are regarded as non-tariff barriers to trade by the authors of the agreements. That is how it happens that a large number of measures within the traditional policy jurisdiction of U.S. state and local governments are now regulated as a matter of international law.
 - b. *International tribunal decisions can be effectively enforced.* Post-1994 agreements may be enforced by federal government lawsuits to preempt local or state measures (though private suits are barred), or simply by the political pressure resulting from uncapped money damages assessed against the United States under NAFTA's investment chapter or by retaliatory trade sanctions, such as higher tariffs, authorized by the WTO.

¹ Policy Director, Forum on Democracy & Trade, (202)662-4236, wtw2@law.georgetown.edu.

2. ***What should state officials do to educate Congress on the need to protect local democracy and the U.S. system of federalism?*** It is essential that the U.S. Congress grasp the political and moral importance of shaping international trade and investment law in a way that better accommodates American constitutional federalism.

State officials may want to offer a positive agenda for reform related to such key trade and federalism issues as:

- Consultation and similar procedural reforms; and
- Substantive reform of international trade law in such areas of special concern to states as:
 - Procurement;
 - Services; and
 - Investment.

Such reforms could be pursued by a variety of legislative vehicles available to Congress, including:

- Trade Promotion Authority (TPA) legislation;
- A freestanding bill; or
- A rider to an appropriations bill.

3. ***What are the options for totally new TPA legislation that mandates consultation with states and related procedural reforms?*** The U.S. Trade Representative does not completely comprehend the role that states and localities play in crafting laws, regulations, and policies directly affected by international trade and investment agreements. USTR and Congress should consult with states prior to the outset of trade negotiations in order to ensure that both the negotiators and states are aware of any state laws, regulations, or policies that may be impacted by a negotiated agreement.

As Congress considers writing a totally new and reformed legislative framework for trade promotion authority for a new President in 2008, many options are available for reforming the state/federal trade policy consultation process,

including:

- a. ***State/Local Oversight Group (SLOG):*** Establish a State and Local Government Oversight Group on the model of the Congressional Oversight Group in current TPA legislation. SLOG would be created by Congress and would consist of elected officials representing state/local national associations.
 - Members of SLOG would serve as accredited advisors to trade negotiation delegations.
 - Consultation with SLOG would be required prior to entering into negotiations. This would include special consultations on procurement, services, and investment issues.
 - Provide SLOG with trade/investment agreement details at least 90 days before entering into an agreement. Require SLOG to present a report to Congress on the impact of the agreement on state and local governments and the U.S. federal system no later than 90 days after the President enters into an agreement.

- b. ***Committee Referral:*** In addition to referral of trade agreements and implementing legislation to the committees of primary jurisdiction (i.e. House Ways & Means and Senate Finance), require referral to judiciary committees for review of any potential conflict with principles of constitutional federalism and with respect to investment agreements for review of whether foreign investors are provided greater rights than those enjoyed by U.S. citizens under the Constitution. (In the alternative, provide review by homeland security (government affairs) committees of practical problems for state and local governments.)

- c. ***Mock markups:*** In the course of “mock markup” of trade agreement implementing legislation in the Senate Finance Committee and the House Ways and Means Committee, provide for consultations and an opportunity to testify at hearings for states and localities. In this way state and local governments could formally present ideas for amendments to implementing legislation to Congress and the President.

- d. ***Prior informed consent:*** With respect to international investment, services, and procurement agreements, limit coverage over state and local measures to those which the legislature and governor have agreed should be covered.

4. *What are the options for totally new TPA legislation that mandates the Office of the United States Trade Representative (USTR) to utilize the “positive list” approach for making services, procurement, and investment commitments in trade agreements?* States should know precisely the areas of state authority regulated by a trade agreement. The United States should therefore discontinue or severely limit the “negative list” approach that commits the United States to implement trade disciplines on all covered sectors unless areas or state laws are specifically exempted in the annexes of the agreement. U.S. states also must have the capacity make adjustments to commitments regarding state laws and policies.
5. *What are the options for federal legislation for ending or restricting international investor-to-state dispute resolution?* Investor-to-state dispute resolution, as provided for in NAFTA chapter 11 and subsequent agreements, is controversial because it goes to core issues of state sovereignty and the independence of domestic courts. State and local governments are concerned about investor-to-state provisions that give foreign companies new substantive and procedural rights, beyond what is provided in the U.S. Constitution, to challenge laws that have been passed in a democratic way.

Investor-to-state dispute resolution allows foreign investors to circumvent domestic courts, and allows foreign investors to file claims against national governments seeking money damages in compensation for economic regulation.

- International agreements, providing for investor-to-state dispute resolution, grant foreign corporations the right to challenge government policy, at the national, state or local level. Multinational corporations and other investors are placed on an equal footing with nation-states.
- Investors no longer have to work through trade ministries to pursue a claim. As a result, the volume of cases increases. Lacking a diplomatic screen, the claims may be brought without the restraint that nation-states exercise when dealing with issues of international relations.
- International investment tribunals can effectively enforce their decisions by ordering the national government to pay money damages to the foreign investor.

- Arbitrators are typically international commercial lawyers who may alternately serve as arbitrators in one case and plaintiff's counsel in the next, thus raising questions of conflict of interest. Arbitrators may have little or no familiarity with the constitution of the defendant country. In any case, arbitrators do not ordinarily apply domestic constitutional principles in rendering an opinion. Arbitrators make their decisions based on the text of an international investment agreement and customary international law, both of which are to be interpreted in light of the purpose of the agreement: to promote international investment.

As Congress considers writing a totally new and reformed legislative framework for trade promotion authority for a new President in 2008 or if Congress should proceed with a freestanding bill or an amendment to substantive trade legislation, many options are available for reforming the investor-to-state arbitration process even if the option of ending it outright is not considered politically possible. Among those options are mandating that new agreements and official interpretations of existing agreements include provisions that:

- Ensure that foreign investors enjoy no greater substantive or procedural rights against the United States than those that citizens of the United States enjoy under the U.S. Constitution.
- Establish general exceptions and/or define measures covered by the investment provision, investment agreement, or investment treaty to protect key areas of domestic policy from international investment litigation.
- Limit provisions on "expropriation" and "minimum treatment under international law" so as to clarify that the adoption or application of any bona fide and non-discriminatory law or regulation intended to serve a public purpose shall not constitute a violation of an investment agreement or treaty.
- Provide for diplomatic review of all claims prior to the onset of international litigation and for domestic court review of any tribunal award to ensure that the investor claim is not contrary to the public policy or constitution of the United States.

6. *What are the options for federal legislation that would appropriately protect state procurement policy from inappropriate international litigation?* State procurement policy and practices often are set in state law and are sometimes

designed to serve social or economic purposes beyond the mere provision of goods and services for state government use. Unfortunately, the World Trade Organization Agreement on Government Procurement and the procurement chapters in several bi-lateral and multilateral Free Trade Agreements signed by the United States could prohibit state and local governments from passing new laws favoring local suppliers in government contracts for goods and services and bar governments from imposing technical specifications in its public contracts if those specifications pose an “unnecessary” barrier to trade. The agreements’ national treatment rule will prohibit governments from favoring local suppliers, even when there are good social and economic development reasons to do so.

Among the options for protecting progressive state procurement policies are mandates in federal law that new agreements and official interpretations of existing agreements include provisions that:

- Ensure that states can retain the ability to use procurement policy to promote social, environmental, affirmative action, human rights, and local economic development policy goals.
- Ensure that USTR will only be able to bind a state to an international procurement agreement following formal consent from the state legislature. .

7. *What are the options for federal legislation that would appropriately protect state services and regulation of services from inappropriate international litigation?* Services constitute an important and growing segment of the American and the global economies. However, international competition in service industries should not compromise state constitutional or traditional authority or in any way impinge upon states’ ability to protect the public interest.

Among the options for protecting appropriate state regulation and provision of services are mandates in federal law that new agreements and official interpretations of existing agreements include provisions that:

- Require prior, during, and after service sector-related negotiations that USTR undertake consultations with states and state legislatures in particular, especially where policies about government-provided services, regulation of monopolies, provision of essential services (such as energy, water, health,

education, transportation, or public safety), or privatization are set.

- Exclude state regulation and provision of higher education and essential services from WTO jurisdiction.



LATINO LEADERSHIP ALLIANCE OF NEW JERSEY

402 Livingston Avenue New Brunswick New Jersey 08901 Phone: 732.249.0400 Fax: 732.249.0206

*Testimony of
Felix Flores Jr.
Chairman, Labor Committee
Latino Leadership Alliance of New Jersey
To*

The New Jersey State Assembly Outsourcing and Off-Shoring Committee

Members of the Committee:

Good morning. I am Felix Flores, Chairman, of the Labor Committee of the Latino Leadership Alliance of New Jersey (LLANJ). LLANJ is a statewide Latino Advocacy organization that was founded in 1999. Since then, we have grown to include hundreds of members and dozens of statewide, regional and local organizations. The principal goals of LLANJ are to mobilize and empower the Latino community across New Jersey to obtain political, economic and social equality.

I want to thank you for conducting this hearing addressing the growing concerns about outsourcing and off-shoring. This topic is of great concern to LLANJ because many Latinos are workers that have and will continue to experience the job loss that is occurring in New Jersey as a result off outsourcing and off shoring. The Latino Community has also experienced service quality erosion resulting from outsourcing and off shoring activities. We concur with the testimony provided by Noel J. Christmas, President of Utility Workers Union of America, Local 601, and are also increasingly concerned about the safety and security risks that outsourcing and off-shoring creates for our citizens and workers.

According to "Perspective on Off shoring and New Jersey" an article written by Susan J. Bottino in August, 2004 and published in New Jersey Policy Perspective's, "The full impact of job loss on an economy goes deeper than simply subtracting the salaries of workers laid off or figuring out how much less they might be making at their new jobs. Beyond the immediate negative impact on the unemployed and their families, dislocations can cause a significant ripple effect. This effect decreases sales and makes vulnerable many kinds of businesses, weakens the local, county and state

tax base as sales and income produce less revenue, fray's social infrastructure and contributes to higher crime rates.”

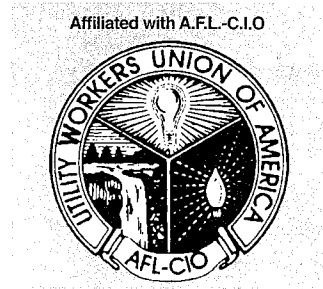
The article estimates that if the targets for jobs vulnerable to off shoring were reached, the total gross wage loss in New Jersey would be approximately \$23.3 billion. This estimate is almost 12 percent of New Jersey's 2002 taxable income. I am not an economist, but common horse sense tells me that these revenue losses can have an extremely negative affect on state revenues, and can further exacerbate the budget deficit that the Governor and state legislators are presently trying to resolve.

In addition to our concerns of the negative impact that off-shoring can have on our state budget and economy, LLANJ supports the position of the Utility Workers Union of America. We want to reiterate that without legislation in the utility industry that prevents the outsourcing and off-shoring of utility customer services, the service quality and value that a local workforce can offer will be lost and our concerns about increased security risks and major catastrophes, and future budget deficits will be realized. LLANJ strongly urges that the legislature pass a bill to prevent outsourcing and off-shoring and have these regulations enforced at the Board of Public Utilities.

Respectfully submitted,

Felix Flores Jr.
Chairman - Union Committee
State Board of Delegates
Latino Leadership Alliance of New Jersey

LOCAL #601
UTILITY CO-WORKERS ASSOCIATION



55 WASHINGTON STREET
SUITE 200
BLOOMFIELD, NJ 07003
(973) 748-0233
(973) 748-7881 FAX



November 16, 2007

Testimony of Noel J. Christmas
President
Utility Workers Union of America, Local 601

New Jersey State Assembly Outsourcing and Off-Shoring Committee

Members of the Committee:

Good morning. I am Noel J. Christmas. I am pleased to be speaking on behalf of the New Jersey State Council of the Utility Workers Union of America. We represent approximately 2,400 dedicated and highly capable members from all areas of the New Jersey utility industry, including Public Service Electric and Gas, United Water, New Jersey American Water, and Elizabethtown Gas.

Thank you for conducting this hearing addressing the growing concerns about outsourcing and off-shoring. This topic is of great concern to the utility industry. We have and will continue to experience job loss and have witnessed service quality erosion resulting from such activity. We are also increasingly concerned about the safety and security risks that outsourcing and off-shoring create for our citizens and workers.

NUI (formerly Elizabethtown Gas) outsourced its call center to Florida, and when the state allowed NUI to be purchased by Atlanta Gas and Light (AGL), the call center was off-shored to India. Imagine this center sitting across the globe handling New Jersey citizens' private information: from social security numbers to bank account numbers to payment information. The off-shored service was so inadequate that NUI publicly apologized for its poor customer service in a full-page advertisement (attached).

Now imagine operators outside the service area handling electric, gas, and water emergency calls, such as gas leaks, gas line mark outs, water main breaks, storm emergencies, and downed power lines. The potential results could be catastrophic.

In the early 1990s, Public Service Electric and Gas Company (PSE&G) piloted an outsourced call center. The pilot was short lived. PSE&G realized that the best customer service they could provide had to be staffed by a workforce residing in the very same communities as their customers. Today PSE&G maintains two call centers, two billing

departments, one collection center, sixteen walk-in customer service centers, one payment center, and in-house field collection and meter reading – all staffed by an in-house union workforce working in PSE&G's New Jersey territory. PSE&G is a profitable utility that is highly respected by the community.

Over time, the Utility Workers Union of America has worked with PSE&G to address business, economic, and technological conditions that have changed the utility industry and workforce in customer services as stated above.

Without legislation in the utility industry that prevents the outsourcing and off-shoring of utility customer services, the service quality and value that a local workforce can offer will be lost and our concerns about increased security risks and major catastrophes will be realized.

The Utility Workers Union of America strongly urges that the legislature pass a bill to prevent outsourcing and off-shoring and have these regulations enforced at the Board of Public Utilities.

On behalf of the Utility Workers Union of America, I would like to thank the committee for giving me the opportunity to bring our concerns before you today.



Elizabethtown Gas

An AGL Resources Company

May 2007

Recently, many of you have not received the service you expect and deserve from Elizabethtown Gas. You may have had problems with your bill or concerns about your account number changing, while others may have experienced long wait times or difficulty getting questions answered when calling our customer care center. We understand how frustrating that can be and we sincerely apologize.

All of us at Elizabethtown Gas appreciate your patience as we work to address these issues. The fact is most of the problems occurred while we implemented system upgrades to better serve you. Our new processes will ultimately lead to better work scheduling, accurate and timely billing, and much shorter wait times when you call.

We are working hard to bring more benefits to our customers. These improvements will include:

- Very accurate meter reads, with few estimated bills
- Shorter appointment windows
- Eighty percent of customer calls answered within 30 seconds
- Online self-service options, including account history and bill review

Finally, we will invest even more in our pipelines and other facilities – more than \$58 million since 2005 – to ensure we continue to provide natural gas service that is both safe and reliable. If you have any questions, comments or concerns, please email us directly at feedback@elizabethtowngas.com. Once again, thank you for your patience and please “Pardon our Mess” while we build a better gas company to serve you.

Sincerely,

ADDITIONAL APPENDIX MATERIALS
submitted to the

ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION
for the
November 16, 2007 MEETING

Submitted by Rae C. Roeder, President, and **Anthony F. Miskowski**, Secretary, Local 1003, Communications Workers of America:

“Global Outsourcing Leader Launches New Identity: Gecis Global in now Genpact,” *FAO Today News*, September 27, 2005.

International Association of Outsourcing Professionals, “The 2007 Global Outsourcing 100,” *FORTUNE*® Spotlight, 2007.

“Wachovia Signs BPO Deal with Genpact,” *Bank Systems & Technology*, January 31, 2006 (www.banktech.com).

Dean Foust, “Online Extra: Wachovia’s Change of Heart,” *BusinessWeek*, January 30, 2006, ©2000-2007, The McGraw-Hill Companies, Inc. (www.businessweek.com).

Anand Giridharadas, “Outsourcing Works, So India Is Exporting Jobs,” *The New York Times*, September 25, 2007 (www.nytimes.com).

Genpact, “Services,” © Genpact 2007 (www.genpact.com).

EXL Service, “Industry Recognitions,” © 2006 ExlService Holdings, Inc. (www.exlservice.com).

“EXL Recognized Among Global Insurance BPO Leaders,” ExlService Holdings, Inc., September 2006.

“EXL Exercises Its Purchase Option for State of the Art Infrastructure In Its Pune Facility,” ExlService Holdings, Inc., January 17, 2007.

Vertex, “About Vertex,” © Vertex Data Science 2007 (www.vertex.co.uk).

TelecityGroup, “Welcome/Services,” © TelecityGroup 2007 (www.telecitygroup.com).

Submitted by Jim Leonard, Commission Member:

“Outsourcing the Picket Line: Carpenters Union Hires Homeless to Stage Protests,” washingtonpost.com, July 24, 2007.

TABLE OF CONTENTS

	<u>Page</u>
Rae C. Roeder President Local 1033 Communications Workers of America	3
Anthony F. Miskowski Secretary Local 1033 Communications Workers of America	7
Nathan Newman Policy Director Progressive States Network	24
Tony Daley, Ph.D. Research Economist Communications Workers of America	45
William Warren Policy Director Forum on Democracy and Trade	59
Felix Flores Chairman Labor Committee and Director Middlesex County Chapter Latino Leadership Alliance of New Jersey	72
Noel J. Christmas President Local 601 Utility Workers Union of America	72
APPENDIX:	
Testimony submitted by Rae C. Roeder and Anthony F. Miskowski	1x-a

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Testimony submitted by Nathan Newman	84x
Testimony submitted by Tony Daley, Ph.D.	94x
Outline plus report submitted by William Warren	108x
Testimony submitted by Felix Flores	117x
Testimony submitted by Noel J. Christmas	119x
“Outsourcing the Picket Line” submitted by Jim Leonard	122x
rs: 1-80	

ASSEMBLYMAN JEFF VAN DREW (Chair): I'd like to call the Assembly Outsourcing and Off-Shoring Commission meeting to order.

Please rise for the flag salute.

(Participants recite Pledge of Allegiance)

Mr. Williams, may I have a roll call, please?

MR. WILLIAMS (Commission Secretary): Certainly.

James Marketti.

MR. MARKETTI: Present.

MR. WILLIAMS: Jim Leonard.

MR. LEONARD: Here.

MR. WILLIAMS: And Chairman Van Drew.

ASSEMBLYMAN VAN DREW: I am here.

I want to thank you all for being here.

As you know, the purpose of these meetings has been to determine, within the State of New Jersey -- which is symptomatic, obviously, of what's happening in the United States of America -- how outsourcing is affecting our state: what the loss of jobs means. Has there also been a gain of jobs? Is there a plus and minus to this? And, ultimately, are there any recommendations, is there anything that we can do as a Legislature and as a State to try to stem the flow of the loss of jobs?

What has been particularly good about this particular Commission is that we have had broad support, both from labor and, of course, from the business community as well -- that we're pretty much on the same page, at least to this point, in trying to determine what it is exactly we need to do within the State of New Jersey.

With that, I would ask if any of the members have any comments you'd like to make before we begin today.

Mr. Leonard.

MR. LEONARD: Thank you, Mr. Chairman.

Again, I do appreciate the opportunity to be here.

As you did say in your opening statement, the business community needs to work together with labor and everyone else in order to move this state forward, creating jobs, growing our economy. We are united in that regard.

I also wanted to congratulate you on the election results last week.

Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

Mr. Marketti.

MR. MARKETTI: No.

ASSEMBLYMAN VAN DREW: Good.

Okay.

With that, we'll start with some testimony. And we're going to start with Rae Roeder, the President of the Communication Workers of America, and Tony Miskowski.

While they're getting ready, I actually believe that this is going to be one of the greatest challenges that we're all going to face, again, both in the business community and in labor. As we compete with nations that don't have the same standards that we do, that don't have the same employment practices, that don't have the same environmental conditions or environmental standards, or way of life, I think it's going to be, I guess at

the least, interesting, at the most, problematic and very difficult for this country to maintain the standard of life that we want to maintain.

R A E C. R O E D E R: When you said you wanted 15 copies, we wanted to make sure you had 15 copies. (laughter)

ASSEMBLYMAN VAN DREW: You weren't kidding.

MS. ROEDER: First of all, I'd like to thank the committee for allowing us to speak today.

And I'd like to introduce myself. My name is Rae Roeder, and I'm the President of CWA Local 1033.

And this is Tony Miskowski. He's our executive Secretary of the Local; and he's also the Assistant Curator of the State Museum, and the person who does huge amounts of research on the issue of outsourcing for our Local.

First of all, I should say, Chairman -- or Senator-elect -- Van Drew and distinguished members of the Assembly Outsourcing and Off-Shoring Commission, CWA 1033 represents more than 7,000 members in State government, primarily in the city of Trenton, including workers at -- all workers at the Banking and Insurance Department; Department of Education; Katzenbach School for the Deaf; Military and Veterans Affairs; and in Treasury, all the departments -- the divisions: Taxation, Revenue, Lottery, the State Distribution Center, Pensions, and the Division of Investments itself; Motor Vehicle Commission; and in Law and Public Safety, the Division of Law, Civil Rights, the Alcohol and Beverage Control, Consumer Affairs, Highway Safety, and all the civilian -- 98 percent of the civilian workers in the State Police, including the forensic scientists in Hamilton; also the Secretary of State's Office, which includes the State

Museum, the Office of the Public Advocate, the Public Defender, the State Library, and the Library for the Blind and Handicapped.

We would like to thank you today for the opportunity to present testimony concerning the serious matter of the wholesale exportation of millions of American jobs to labor pools overseas in the practice known as outsourcing and off-shoring.

We commend the efforts of the New Jersey Legislature to focus on the insidious practice of off-shoring, by virtue of enabling legislation that created this Commission. We are aware that New Jersey has been on the forefront of this issue. Senator Shirley Turner, in Senate Bill S-494 signed by Acting Governor Codey on May 5, 2005, protects jobs from outsourcing to foreign countries by requiring all services under State contract or subcontract to be performed within the United States. At the time of introduction, Senator Turner's bill truly represented a voice in the wilderness. New Jersey was only the fifth state in the nation that -- at that time to enact legislation, or executive action, on outsourcing analysis.

Since enactment of S-494, states all around the nation have sponsored hundreds of legislative bills to stem the practice that is not only displacing our workers, but also diluting the salary/wage base of highly skilled, professional American workers. However, the members of your committee need to realistically assess if it's a case of too little too late, or whether the entities of government and labor can still work together to stem the snowballing momentous trend, encouraged by corporate America, that views outsourcing and off-shoring as a means to trim costs and thereby increase the bottom-line profits and shareholder dividends.

Furthermore, the practice is vigorously promoted by an active foreign lobby, such -- primarily the Asian market -- that seeks to evaluate (*sic*) their national domestic product of their country through utilization of an enormous labor pool. The business processing outsourcing centers -- or industry -- what we call the *BPO* -- is expected to generate \$13.8 billion in the year 2007, according to a recent article. The economic clock is ticking.

And in the past decade, we have witnessed the unabated expansion of a practice that had appeared to be relegated primarily to telemarketing and phone center functions -- to much more specialized areas like data processing, data entry, computer programming; to professional services provided by accountants, auditors, and yes, even lawyers.

To paraphrase the Reverend Martin Nielmoller -- and realizing it's only a paraphrase: "First, they came for the phone center workers. And since I purchased my cell phone in Denmark (*sic*), I didn't speak up. Then there came the data processing and the tech workers. Having just purchased a laptop manufactured in Japan, I didn't speak up. And then came -- they came for the clerks who process the property tax relief applications and sent their work to India. Having just received my property tax assessment, I didn't speak up. And then came -- they came for the accountants. Having just been audited by the IRS, I didn't speak up. And then they came for the lawyers."

The outsourcing and privatization of American jobs overseas has become an increasing concern across the American labor landscape. A recent *New York Times* article -- and all of this information is backed up in the tabs of information you have in your book -- there was an article of

September 25, 2007, that was entitled “Outsourcing Works So Well, India is Sending Jobs Abroad” -- underscores the extent of the situation.

Since your Commission appears to focus on key issues, we shall not dwell on preaching to the choir. Needless to say, apparently no segment of labor is immune to the contagiousness -- or contagion of outsourcing overseas that includes many job functions performed by State workers or public workers.

A foreign business based organization, called *business processing outsourcing centers* -- have become so lucrative that they are engaged in outsourcing on yet another level by sending the workers that they trained at their training and processing centers to other countries, and establishing these BPO subsidiaries in countries other than their own.

What message are we sending our kids in college -- our college-age youth -- who have been fed the promise-- I too, and most of you sitting up there, have been fed the same promise: “If you go to a trade school, a community college, or a private/public university and train for years, learning your discipline-- If you do this and do enter the labor market for years, and if you pay every escalating cost of your education, you will be rewarded by acquiring a professional skill that will feed you and your family for the rest of your lives.”

However, the training conducted at these foreign training centers doesn't take years, it takes six months or less. And their certifications are measured in days. You mark our words -- that the certificates, and the licenses, and the degrees, and the diplomas offered at American educational institutes will not be worth the paper they're printed on at, very possibly, outsourced printing facilities.

And people say, "Teach a man or woman to fish, and you will feed him or her for the rest of her life." But in America, we've been teaching our youth to fish, but then granting the fishing rights to off-shore waters and telling them, in effect, that there are no fish to be caught.

However germane our testimony here -- is to inform the Commission of the State of New Jersey, that is -- is actively investing in outsourcing, then our legislative bills or Commission recommendation--

I apologize. Let me try that again.

However germane to our philosophy here -- is to inform the Commission that if the State of New Jersey is actively investing in outsourcing, then any legislative bill or Commission recommendation that ideologically opposes off-shoring merely represents ineffective lip service. We repeat, in case you missed what I just said: The State of New Jersey is, right now, investing in off-shoring and doing so by using State workers' public pension funds to do that.

I'm going to turn over the next part to Tony Miskowski, who will explain that to you, which is explained in the booklet in front of you.

ANTHONY F. MISKOWSKI: Okay.

CWA Local 1033 has been actively opposing the alternative investment program of the State Investment Council now for the better part of five years -- actually since its inception. The reasons are really too complex to outline today. But for the most part, we believe that the outsourcing of the investment functions to consultants and external managers on Wall Street is not in the best interest of the workers that we represent at the Division of Investment.

Furthermore, the outsourcing of the investment is not in the best interest of the active and retired participants of the pension fund, who we consider the stakeholders and the shareholders of the pension fund. And certainly it is not in the best interest of the taxpayer, both on the State and national level. Furthermore, CWA will contest this in a court of law -- on the legality of the use of external managers.

But that type of outsourcing is a side issue here today. Because our fight continues. And we attend the monthly meetings of the State Investment Council held at Rutgers University. And the past three months, we have sent a busload of our members to see, firsthand, the so-called *transparent decision-making process*.

As you may know, the SIC has established an investment policy that, thus far, has committed \$12.8 billion of the State workers' \$82 billion fund. And by the way, good news to report. We were there yesterday.

MS. ROEDER: We have \$84 billion--

MR. MISKOWSKI: --\$84 billion--

MS. ROEDER: --in funds.

MR. MISKOWSKI: So that's the good news.

But they've also been investing \$12.8 billion of that money in these alternative funds -- a whole truckload of 50 private equity funds, 40 real estate funds, 35 hedge funds. Many of these funds are partnerships and therefore hold an IRS tax advantage. Also, many of the private equity companies have established reinsurance companies registered in Bermuda, for instance, that enable them to legally invest hundreds of millions of dollars tax free, once again, thanks to legal tax loopholes. Needless to say, such off-shoring practice diverts billions of dollars from the national and

state economies, and deprives our country of hundreds of millions of dollars in tax revenues.

Therefore, we request that the Outsourcing and Off-Shoring Commission vigorously oppose the allocation of pension funds of public workers in the private equity firms that invest in outsourcing/off-shoring enterprises, or have direct ownership in companies that actively engage in the practice. We provide, in our notebooks, one such example for your review and your consideration. And I will just briefly tell you about it.

By far, the lowest blow of all is illustrated by the case of Oak Hill Capital Partners, a private equity company that owns 40 companies, including two reinsurance companies registered in Bermuda, and five other companies that are actively engaged in the practice of outsourcing and off-shoring. Our members were, at the least, incensed and insulted to find out that their pension funds were utilized to invest in companies that some day could potentially displace them with lesser-educated, lesser-trained foreign workers.

The New Jersey Investment Council committed a \$75 million allocation to Oak Hill Partners II in July of '05, plus an additional \$250 million to Oak Hill Capital III in September of '07. That's close to one-third of a billion dollars -- it's \$325 million -- as part of their alternative investment strategy in private equities.

Now, according to our research -- and the information is documented in this notebook -- Oak Hill boasts a 30 percent ownership in Genpact, formerly known as GE Capital International Services, or GECIS. Genpact claims to be the leading global outsourcing company, and it's headquartered in Gurgaon, India.

CWA Local 1033 brought our objections, in writing, to the SIC at their October meeting. We were told by Director Clark and Chairman Orin Kramer that the nature of the global economy was such that if you excluded investment in Oak Hill, you would also have to exclude investment in GE Capital. And GE Capital was producing interest of 15 percent annually. GE Capital owns a 40 percent stake, along with Oak Hill, in Genpact. We do not agree with the current investment policy and insist that they do more intensive due diligence to prevent our money from investing in an unconscionable anti-worker practice.

Subsequently, our review of the SIC investment report for October 2007 revealed that substantial investments were made to acquire \$30 million worth of shares in GE. Further research also revealed that Wachovia bank signed a seven-year contract with Genpact by establishing a Wachovia subsidiary business processing outsourcing center in India. What we're talking about here, now, is an investment web. And sure enough, the October SIC report indicated that substantial funds in Wachovia stock were purchased to the tune of 810,000 shares, or \$40 million.

Again, in correspondence to the SIC, dated October 24 -- copies of all of the correspondence are included in this binder -- CWA Local 1033 submitted our objections, in writing, to the SIC.

We respectfully include in these binders all of the documentation that outlines the scope of our concerns today. We know that you will find it informative, we know that you will find it useful. We, ourselves, are just scratching the surface of the problem as related to our testimony that we provided here today. We will, however, provide the Commission with other information and data so that we can contribute to

the understanding and the extent of outsourcing; and in terms of the investment side of the equation.

We especially would like the Commission to focus on the New York state senate bill -- also included in this binder, under Tab 13 -- which is sponsored by Senator Lavalle, that prohibits the investment of New York public pension funds in corporate entities engaged in outsourcing and off-shoring enterprises. This Commission should recommend that the New Jersey Legislature likewise sponsor such a measure.

MS. ROEDER: And we thank you--

MR. MISKOWSKI: Thank you for your time and consideration.

MS. ROEDER: --for your time.

And we'd like to add a footnote, because we read your last -- your first Off-Shoring committee's report. And the footnote is that President Marketti, who is President of Local 1032, presented an impressive list of questions at the beginning of your last public hearing. And, as usual, Jim focused on the complex issues and questions that require intensive research.

Many of our members-- And we were especially struck by question number 35: Does the State of New Jersey offer or grant any sorts of public subsidies to companies that outsource or off-shore jobs? Part of that answer appears to be, absolutely, yes. And that is in the form of the investments from our State Employees Pension Fund that will be utilized to perpetuate even more off-shoring. In a sense, ladies and gentlemen, the off-shoring juggernaut has become institutionalized in the State of New Jersey.

ASSEMBLYMAN VAN DREW: Thank you very much. Very good testimony.

A few questions and-- I'm on your side. I agree with you.

With that being said, a couple of questions: Is there anywhere where it has actually been enacted into law -- that New York state assembly bill, something -- senate bill, rather -- something similar to that, where actually the law of the state is that you are not allowed to invest public pension dollars in companies that off-shore or outsource?

MR. MISKOWSKI: It has not been enacted. In April of 2007, it went to the -- their pension committee. I don't know where it stands at this particular point.

ASSEMBLYMAN VAN DREW: This bill did -- the New York bill did.

MR. MISKOWSKI: Yes.

ASSEMBLYMAN VAN DREW: Okay. And that's the-- Is that the only example that you have that you know of?

MR. MISKOWSKI: Yes.

ASSEMBLYMAN VAN DREW: Secondly, with that being said, did you do research in other states? While there may not be legislation preventing it, in other states, is it as common a practice as it is becoming in New Jersey? Do you know?

MR. MISKOWSKI: I am very sure it is. In reviewing different states' pension plans, there is quite a bit of money that is being invested in all different types of companies, through external managers, into many of these private equity companies that are investing. I do not know of any pension fund that specifically prohibits it.

MS. ROEDER: In New Jersey-- New Jersey has the pride that all -- presently, all of the investment people that work in the Division of Investment were State workers, up until about two years ago -- or three years ago -- when the State of New Jersey made the decision to outsource some of the investment capabilities of the Division in external managers. Those external managers are handling hedge funds, private equities, and alternative funds.

But the problems, sir, exist from the fact that we can't get a hold of these contracts. So the reason we want to see the contracts with the external managers is because we want to know what are the costs to the pension fund for whether they invest successfully or don't invest. Because you still have to pay them.

And one example would be in the state of Pennsylvania. In Pennsylvania, the external managers handle all the pension funds. It costs approximately -- this was research done two years ago, so I'm sure it's higher now -- about \$250 million to pay external managers; where, to invest the same amount of money in the State of New Jersey, it costs \$6 million.

MR. MISKOWSKI: No, actually-- I don't want to correct the President.

MS. ROEDER: No, go ahead.

MR. MISKOWSKI: But we're paying \$200 million to \$250 million--

MS. ROEDER: Now.

MR. MISKOWSKI: --to invest \$12.8 billion of our money, versus \$6 million to invest the balance of it.

MS. ROEDER: And what's very interesting-- The 2006 financial report has just come out this past -- was it July?

MR. MISKOWSKI: Yes.

MS. ROEDER: And the 2006 report shows that the investments that were accomplished by the State workers-- We received about 21-point-- Was it--

MR. MISKOWSKI: Twenty-one point eight-three percent.

MS. ROEDER: Return on our investment, whereas the external managers who were dealing with alternative funds made--

MR. MISKOWSKI: Thirteen percent.

MS. ROEDER: So that's a big difference in return.

ASSEMBLYMAN VAN DREW: So what you're telling me, objectively -- comparing apples to apples -- that they have not had a higher return on their investment?

MS. ROEDER: No, they have not.

MR. MISKOWSKI: Right, they have not.

MS. ROEDER: And, in fact--

MR. MISKOWSKI: So if that 8 percent--

ASSEMBLYMAN VAN DREW: And when you ask them that question -- which I know that you have -- you must have -- what do they say is the reason for that, too short a period of time to evaluate?

MR. MISKOWSKI: What they say is -- especially in terms of the hedge funds -- that they're not producing the interest rates. They're producing the interest rates that they expect, in terms of what the economy is doing now. But once the economy starts to dip down, and go down, the hedge fund investments will kick in, and those will do very well.

MS. ROEDER: But the issue is: How much of our State pension money is being paid to these external managers, whether or not they got 13 percent, 8 percent, or lost it all? There is still a cost. And we have been unable to secure copies of the contracts, understanding -- at least minimally -- how much is -- how much State pension money is being paid to these external managers. We know how much it costs the State workers to do the job, because it's not on the budget line, it's out of the pension money. And it's at \$6 million. And now we're talking about a great deal more money that's coming out of our pension fund to pay external managers.

ASSEMBLYMAN VAN DREW: Is that not open public record?

MS. ROEDER: Well, we'd like to encourage you to ask for it, sir, and see exactly what they tell you, to see whether or not -- as an up-and-coming New Jersey Senator -- why you can't have that. Because they won't give it to us.

ASSEMBLYMAN VAN DREW: We will. But out of curiosity, what did they tell you?

MS. ROEDER: They told us that we were not allowed to have it. In fact, our national CWA has filed to get copies of this.

MR. MISKOWSKI: Under OPRA.

MS. ROEDER: And we have filed OPRA requests, and they've been denied. And I believe, at the present time, we've been in Superior Court over this particular matter. So we're looking to get these contracts, because I believe that, certainly as legislators looking into a budget, and certainly being highly concerned about the pension system, those are issues

that you need to find out, and that we are struggling very diligently to find out.

ASSEMBLYMAN VAN DREW: I'm curious about that. You would think that would be open public record.

MS. ROEDER: Yes, any contract.

ASSEMBLYMAN VAN DREW: Questions?

MR. MARKETTI: I just want to comment that what they will tell you -- what Orin Kramer will tell you, at the State Investment Council -- is that they're investing in these alternative investments to spread the risk out across different asset classes. But the problem is, some of these asset classes that they're going into are inherently dangerous and complicated by their lack of transparency.

They say that they will not give us what the contractual arrangements are, because these companies have a proprietary interest in those contractual arrangements. That's what they've said in court in their court pleadings. But more importantly, they won't tell us what the investment strategies are of these hedge funds. So nobody really knows what they're using the money for and where they're investing.

For example, we'd like to know how much the hedge funds that we're invested in have sunk into the subprime mortgage problem. They won't tell us. They say that's just the way hedge funds are, which is a good reason why we shouldn't invest in them.

Be that as it may, the comment-- Can we-- I know we accept volunteers who come here to give testimony. Can we ask people to come and give testimony?

ASSEMBLYMAN VAN DREW: We can. We don't have subpoena powers, but we certainly can request that they do.

MR. MARKETTI: Well, I'd like to request that we ask Orin Kramer to come here and give us testimony as to why they're investing in companies that have outsourcing and off-shoring as one of their business strategies, and how much of the employees' pension money is being used to cut our own throats.

MR. MISKOWSKI: Thank you.

MS. ROEDER: Thank you, Jim.

ASSEMBLYMAN VAN DREW: Last question I have, and then I'll -- members from the committee.

Any sense of where they describe -- and we should be asking, obviously, Orin this -- but of the supposed safety net? By safety net, I mean, as investments go up and down, and some of those--

MS. ROEDER: Well, pension funds are dedicated funds. These are not discretionary funds that you can spend. And they are about-- They speak to people's livelihood, and their ability to retire, and their ability to have something at the end of the road. In the last 10 years, the majority of the pension funds have come out of the State workers' pockets themselves. How much money, at the present time -- in the last years -- have State workers paid? About 10--

MR. MISKOWSKI: Oh, about \$10 billion, \$11 billion.

MS. ROEDER: --\$10 billion, \$11 billion of the money. That's actually coming out of our paychecks. And the last two years, we have had money committed by the Legislature, but not to the level that needs to be

committed, to pay the debt that was borrowed under the Whitman years against the pension.

ASSEMBLYMAN VAN DREW: But more than many, many years before.

MS. ROEDER: Yes.

Thank you.

And what the issue-- If you look at pension funds throughout the country, how many pension funds are invested in alternative funds? There are numbers of them. But New Jersey used to be nonexistent in that. And now we've moved up to number two or three. We've gone, in two--

MR. MISKOWSKI: We were at last place to--

MS. ROEDER: We were at last place. We're way up in the front now.

MR. MISKOWSKI: --certainly the top quarter.

ASSEMBLYMAN VAN DREW: And you probably can't answer this. And this will be my last question. When we were in last place, any objective sense of how we were performing, in relation to those that -- I'm just curious -- to those that were--

MR. MARKETTI: We were one of the top eight or nine performers.

MS. ROEDER: He knows.

ASSEMBLYMAN VAN DREW: Even with--

MS. ROEDER: Without alternative funds.

And at having \$84 billion, you can imagine how proud we are -- because both of us are State workers, just like the people who work in the

Division of Investment -- they're very proud of the fact that they can say, now, that they have \$84 billion in the pension fund.

ASSEMBLYMAN VAN DREW: So what you're telling me is that, your sense is that the argument to invest in these types of companies and these types of funds -- that's based upon getting a greater rate of return -- is erroneous.

MS. ROEDER: That's correct.

MR. MARKETTI: Well, it's not proven, certainly not proven to the extent that they should have such a large percentage of the fund.

We actually, when they first proposed this, didn't out-right object to alternative investments. But we said, "Go slow. Use a small percentage of it, and let's see how it does." Instead, they plunged right in.

MS. ROEDER: And their--

ASSEMBLYMAN VAN DREW: Mr. Leonard.

MR. LEONARD: I just wanted to, first, thank you both for this testimony. This type of information, as succinct as it is -- as presented, it's fantastic. And this is the kind of information that I would hope that, through this Commission, through you, Mr. Chairman, the general public would have access to.

A couple of questions with regard to your members: Because this information is relatively hard to get -- it seems like it took an awful lot of your time and effort in order to get this information -- what steps are you taking, or what steps can others take, to get this information out? For example, if you're interested in investing in socially responsible stocks, there is a Web site you can go to, there are packets of information you can get. Do you provide to your members information on how to invest their own

private money in, let's say, investments that don't do off-shoring or outsourcing?

MS. ROEDER: Well, let me explain about our members. The majority of our members-- Of the 7,000 members, ours is the local that has between 50 and 60 percent of our members who have more than one job, because they can't survive on what they're being paid in State government. So, right now, I can tell you that on the last survey, close to 40 percent have more than one job. And now we have about 15 to 20 percent that have three jobs.

MR. MARKETTI: So they don't have portfolios.

MS. ROEDER: They don't have portfolios. And if I could--

MR. LEONARD: Well, Mr. Chairman, through you, I wasn't insinuating that they had a portfolio.

MS. ROEDER: No, no, sir, I didn't take it that way.

MR. LEONARD: I'm simply saying an IRA. Could you-- How can we help people?

MS. ROEDER: Well, one of the things is, we don't get a say-so in what they invest. When we get our paycheck at the end of every other week, out of that paycheck comes 5.5 percent of our salary that goes into the pension fund. And that's the same with the legislators and everybody else that's in this fund. And the question -- thank goodness for the last Legislature, where we had -- the legislative season -- where-- I know there was a lot of discussion, and a lot of hype, and whatever, but there were some good things that came out of that. And one of the good things is that there were reports from the Office of Legislative Services and from the Attorney General's Office that clearly showed that we were more than just --

that we're really stakeholders in the process -- almost like stockholders. But we have very little to say about this.

Now, if you go to the Investment Council meeting, which -- it took us long to discover where it was, but we've been leading a lot of people to these meetings. And you will find that the majority of individuals who sit on there come from very large companies.

Now, if I could just give you one example: Recently, you read in the paper that a hundred million dollars was invested in New Jersey -- invest in New Jersey. Now, to the public, it sounds great. "Invest money in New Jersey." But the question is, what money? The money came directly from our pension fund, without approval of any of the members of the pension fund. And in addition to that, the State was -- and Orin Kramer -- was quick to say, "We've partnered with Lehman Brothers." It sounds great. They had the pictures on the TV and what--

But what you didn't know was at that same meeting, two members who are directors of Lehman Brothers were placed on the State Investment Council to determine-- And they are sitting there right now, on the Investment Council, determining how *invest in New Jersey first* is going to work. And you, or I, or anyone else-- And I agree with you. We should have a say in how our money is invested. We should be asked those questions, but we are not.

MR. LEONARD: Mr. Chairman, I apologize for not being clear enough in my comment.

MS. ROEDER: No, don't you-- It's all right.

MR. LEONARD: So let me say again, if any of your members have an IRA, or they happen to have some stock that was given to them by

a parent or a relative, do you provide educational opportunities for your members so that they know-- I mean, you mentioned some banks in your testimony, for example. And you talked about the outsourcing and offshoring activities of that particular institution. Do you tell your members about that--

MS. ROEDER: Oh, yes.

MR. MISKOWSKI: Yes.

MR. LEONARD: --so that they know to take steps? Because government tends to work slower than I think most would like. It takes a little bit of time to get things done.

MR. MISKOWSKI: Yes. CWA--

MR. LEONARD: You can take your own steps, and that's all I'm asking, if you are, and how can others learn about that.

MR. MISKOWSKI: And the answer to the question is, we do extensive training with our members. We do workshops with them. For instance, before we took the busload--

MS. ROEDER: Yesterday.

MR. MISKOWSKI: --of our members to the Investment Council, we had training with them. We viewed a videotape called "Trillion Dollar Bet" that was done by NOVA about hedge funds. And although we don't specifically recommend how they invest their money, they are becoming more knowledgeable in what kinds of investments are out there, what kinds of investments are more risky than others, and so forth. And by doing so, I'm sure that it's getting through to them that there are all kinds of different ways to invest money with different levels of risk.

The other thing that we did, in terms of that -- because it's done all the time -- the science of finance, if you want to call it that, as well as gambling -- they always make analogies to gambling, and there's a reason for that. Because the mathematics -- the stem of mathematics that we call *probability* actually resulted from people trying to control chance. And it led to a statistical basis and computer models of -- mathematical models of financing.

So we're giving them a flavor of all different types of investments: hedge funds, what is a private equity company, and how they own -- they buy many different companies. And the other thing that we have been doing, in terms of our training, has been on the pension fund itself.

MS. ROEDER: And there was a magazine done recently--

MR. MISKOWSKI: *Alpha*.

MS. ROEDER: --the *Alpha* magazine. And I only say this because I want you to understand that your question is very relevant.

When we ask these questions at the Investment Council, and when we write letters, or whatever-- There was an *Alpha* magazine. And on the front of -- the picture -- of the *Alpha* magazine was Orin Kramer, who is the head of the Investment Council. And when he described-- He was described as a warrior--

MR. MISKOWSKI: Garden State warrior.

MS. ROEDER: --and a Garden State warrior. And we were in the article. I think Mr. Marketti was in the article, and others. And what his attitude -- and he said very clearly -- that he perceives State workers to be financially illiterate troglodytes. So we laughed, and we put signs on

when we went to the next Council meeting -- as troglodytes -- to show them how lacking he is in understanding that we will take the time and the effort. We brought with us-- We have a group of about 50 people we take with us each time -- from banking investigators, to taxation investigators, to people who are public defenders, and to the people who collect the taxes at Revenue -- so that we have a broad spectrum of people -- from Motor Vehicles -- so that-- Because investments -- I agree with you -- should not be a mystery. But when you open -- when you peel back the layers of the onion, and then begin to see the complexity of what it is, they begin to become very, very nervous about what is going on in the State of New Jersey in relation to their pension funds.

So we thank you for the opportunity.

ASSEMBLYMAN VAN DREW: Thank you.

MS. ROEDER: And we will continue to supply you with information if you're interested in it. And we would, more than gladly, put together other information for you.

ASSEMBLYMAN VAN DREW: Thank you very much.

MS. ROEDER: Thank you.

ASSEMBLYMAN VAN DREW: Very good testimony. Thank you.

MR. MISKOWSKI: Thank you.

MS. ROEDER: Thank you.

ASSEMBLYMAN VAN DREW: We'll ask Mr. Nathan Newman, Policy Director for Progressive States Network.

NATHAN NEWMAN: Thank you, Mr. Chairman and other members of the Commission.

I'm Nathan Newman, Policy Director at the Progressive States Network, an organization that supports state legislators and advocates across the country in promoting policies that support working families.

Parts of my testimony today are based on a report we'll be releasing in the next few weeks about outsourcing and privatization by state governments. And I wanted to address both the issues before this Commission: off-shoring and outsourcing, and the differences, since part of it is what goes overseas, and parts of it is just what we do here in the U.S. with outsourcing. And we can sometimes blame what happens overseas without always going much harder about what we can control very clearly within this country, as far as wage rates -- and looking at what states have been doing and can do to encourage more responsible policies that help raise wage standards for all workers.

On the issue of off-shoring jobs overseas, states have begun taking a number of actions to stop the downgrading of job quality due to competition. When, back in 2004, as people know, Good Jobs First and other organizations really raised the alarm that jobs are being off-shored with taxpayer dollars, states like New Jersey did take action to deny government contracts to companies using off-shore labor. That was a useful first step, and a number of states have taken action to demand that the Federal government fix a broken international trade system.

Governors from a number of states have sent formal letters to Federal negotiators, condemning the procurement rules contained in the recent Central America Free Trade Agreement, CAFTA, which would actually do a lot of things that would restrain and force international competition into government contracts, whatever state law says. So there

are some very dangerous things being negotiated, internationally, which could override much of what this Commission might want to enact.

Legislators also, from multiple states, sent a joint letter, in 2005, to Federal negotiators expressing opposition to investor provisions contained in the CAFTA agreement -- and that are being, again, looked at in other trade agreements -- that would give companies the right to sue states if various investment opportunities are restricted.

A number of states, including Maine, Washington, New Hampshire, North Carolina, and California have created specific and permanent legislative oversight committees to review trade agreements and develop policy responses on behalf of state governments, to make sure they're not blindsided when some of these trade agreements are negotiated.

And this year, with a few last year, both chambers in Maine, Nevada, and Utah; and one chamber in Alabama, Hawaii, Montana, Pennsylvania, Rhode Island, Tennessee, Vermont, and Wisconsin approved resolutions calling on Congress to renegotiate the fast-track trade promotion authority, which has traditionally been used to force a sort of up-down vote on whatever trade agreement was negotiated with the President, without Congress being able to say, "What's happening to jobs?" and being able to do amendments; and also, often, without the representatives of states being able to say, "How is this going to affect state regulations?" since, as we all know, trade agreements have increasingly become, sort of, international regulatory agreements, often restricting what states can regulate.

As was discussed in the first hearing of this Commission, state leaders across the country have recently been introducing parallel -- what's often called -- Jobs, Trade, and Democracy Acts, model bills that can ensure

that citizens and state legislators have access to the information on the impact of trade policy, require governors to have the consent of the state legislature before they sort of bind the states to international trade agreements, and create oversight bodies to assess these legal and economic effects of trade agreements.

So there's this broad scope, and there's obviously many other things the commissioner talked about. But in this area of off-shoring trade agreements, there's a lot of action happening in different states. And I applaud the fact that this Commission is really looking into it.

But off-shoring jobs overseas is actually only the logical end-product of the broader trend of outsourcing, of large companies and government itself seeking low-wage subcontractors to do the work that they were previously doing themselves with their own employees. And whether that work is done abroad or at home, there are serious challenges to wage standards in many communities -- people facing, like, stagnant wages, often having to work two jobs. And it is hard for government to really sort of rally, go after private-sector employers and criticize outsourcing and off-shoring trends, when it doesn't establish clear, strong standards on its own contracting policies.

Now, partly, the same ideology that's driving outsourcing and off-shoring is too common in government contracting. We hear too many government officials promoting what seems like a free lunch. You hand over control of government services or government assets to private industry, and services will end up cheaper. I mean, it sounds good. But like a lot of promises of a free lunch, outsourcing of government services rarely delivers on its high promises. And most studies show little gain, and often

substantial loss, for taxpayers, even aside from its effects on workers. I mean, part of what the study we're going to be releasing in a few weeks looks at is, it's not so much to definitively say, "You never get anything out of these outsourcings." It's that there's actually relatively little data, and most states aren't doing their job of actually measuring. I'll go through a few examples of some of these failures.

One of the most spectacular flameouts, which many people might have heard about in the news, was the cancellation of a billion-dollar Texas deal with Accenture. This was, in some ways, the prototype of how not to do it. Even though it was sold by some of the smartest people, Accenture -- one of the top sort of spin-offs of the big five accounting firms -- which, of course, had their own problems with Enron and various scandals. But they were once considered, sort of, the blue-chip company for doing much of this work. They were supposed to improve the measurement of human services in the state, but instead lead to tens of thousands of children losing health coverage due to incompetent management in this private sector.

But most of the outsourcing failures are quieter, happen out of the public eye, you don't hear about them. There's very little reliable data on the benefits or costs of outsourcing, as most studies are anecdotal; and very little data on this privatization. Reports -- when you see somebody saying, "Hey, this privatization was successful," it usually has a systematic bias, because usually the companies being privatized are, frankly, the ones that were a debacle to begin with. They're not often typical of the companies that-- People then say, "Oh, let's go to this other area that never

had a problem.” But they say, “Oh, we’ve gotten success in other places. It must work somewhere else.”

And one of the biggest problems -- I’ll go into that in a little bit more detail soon -- is, state budgets do very little tracking of their contracting programs. They say which contracts are being put up, but they don’t say the percentage of state budgets that are often going to contracting versus staying with public employees. They don’t track the wages of the contractors. There’s very few benchmarks of what’s happening in contracting to really make intelligent statements. I wish I could come in here and say, “We’re analyzing New Jersey. This is what’s happening.” I’m not sure anybody can, unless you do it in little microparts of it, with a lot of work going after it.

And the limits of the data available should encourage states to enact laws creating greater transparency over their state budgets of what is happening with their contracting programs. And I will say, we did, with the best data available -- looking at, sort of, the areas where you could compare privatization. And it’s interesting. It’s not a simple pattern, blue states versus red states, and this kind of ideology. Frankly, when you look at, at least, some areas -- food service outsourcing, human services contracting, use of for-profit hospitals versus public hospitals -- New Jersey actually ranks up there with Texas as one of the states with actually quite a bit of outsourcing. And it’s-- I don’t think there’s simple patterns on there. I think it’s been much more a case-by-case. But there isn’t actually good data to sort of say, “Is the mix in New Jersey, versus Connecticut, versus Oklahoma, the best mix in those states?” just because the data has often not been there.

Now, I do want to go quickly-- I won't go into all the detail in the testimony. You can read it. But there are some very basic pitfalls of outsourcing that apply, whether it's in the U.S. or off-shore. And this goes for, actually, private companies often as much as public.

But there is one thing. I mean, lost money and degraded services. What happened in Texas was a situation where they said they could replace high-skilled people who were doing case management with call centers. It sounds good. They could have been-- There were call centers in Texas -- could have been overseas. By the time they finished the pilot project, 30,000 children had been kicked off of their state health-care program, because they didn't have the skills to process it.

The State Comptroller, Carole Keeton Strayhorn, said, "The Accenture contract appears to be the perfect storm of wasted tax dollars, reduced access for our most vulnerable Texans, and profiteering at the expense of Texas taxpayers." They had to actually backtrack, bring back the state workers, and figure it out. That's a dramatic one, but you see microversions of this in many states.

You also have weak oversight and lost expertise. And you'll hear people talking about this in the private sector. When you outsource some of your core functions, often the skills to do that over the long-term and the skills to do oversight disappear along with it. You actually become totally dependent on the people you're outsourcing to. And if you want to be more creative, you often don't have that expertise to do that.

There's the problems like the *Big Dig* up in Boston, which was another recent, notorious -- where they had accidents, even somebody died. And the bottom line was-- People were like, "How do we actually even

know what Bechtel is doing wrong anymore? We don't have the people on staff to do that oversight."

I think you also do have lost democratic accountability. This is very much true for government contracting out. When you talk about moving it outwards, you're sort of subcontracting out many of the decisions. The most obvious one this Commission is talking about is, how do you treat workers? The kinds of decisions that you couldn't do if they were public employees, in many cases, are just done routinely; you also do -- and this is obviously a hot issue, right now, in New Jersey -- with the privatized roads. There is a certain part of this, which is sometimes -- you privatize out the asset or the service, and things can happen, whether it's higher toll roads or whatever, without the public debate.

But on the issue of workers, one recent study that looked at 500 city and county governments found that private-sector contracting resulted in full-time employees systematically being replaced with part-time workers, exactly the problem of lower wages, more jobs, less good jobs out there.

Again, with prisons, private police units, you do worry about the constitutional safeguards of privatizing that out there, as well.

And you do have this corruption of the political process. And I think it was mentioned before. When you have certain of the people who are getting the contracts having influence with government, you do lose what was once there, with a strong civil service ethic amongst government workers -- which is, there's a separation between politics and how the job is being done. Once you have outsourcing, there's a financial incentive for

how to do that work that starts to create an iron triangle that's very dangerous.

That existed with the Texas deal I mentioned. I know New Jersey has had its experience. When there was the Coingate scandal out in Ohio in 2005-2006, which cleared out much of the political leadership in that state, there was a lot of that problem of pay-to-play corruption because of outsourcing. So New Jersey has taken some very admirable steps to cut down on pay-to-play corruption, becoming, in some ways, models for some other states. But there are definite areas where you can always improve and tighten them.

And then -- and this is the one where -- honestly, I'm not going to claim you don't save money. Because I think it's very hard for anybody to say this definitively. But it isn't clear, with all the studies out there, that the main justification for outsourcing -- saving the taxpayer money -- has been justified. You know, at least one analysis of privatization of state and local services over the last 20 years -- very comprehensive study -- found that the majority of such projects failed because of deteriorating quality of service. And in more than half the cases, the projects didn't even save the taxpayers dollars. Other studies: people see very little difference. You can go down them.

And it doesn't mean, though, that the private companies aren't profiting from the deals. It's often they're just getting the deals, and the taxpayers aren't seeing the profit. Paul C. Light, of New York University, who has long tracked the hidden contractor workforce at the Federal level, where contracting is far more extensive than in the states -- so they have-- And we've seen some of the debacles, whether it's Halliburton, or

Blackwater, etc. But they have no data to show that contractors are more efficient than the government workers. They're just paying more.

But this is, I think, the heart of the issue that I think this Commission should be looking at: the lack of data on outsourcing. While there are-- You can go see studies back and forth. And I don't want to do the conservative scholar, saying, "This study shows it." I've talked with people. When you actually push anybody -- and you can push me, and you can push a conservative scholar -- they'll say there isn't actually enough data. There really-- When people look at it-- As I mentioned, there's often anecdotal studies. You can actually say that, "This place was a problem. We privatized it. It improved a little bit." But then again, the minute you start a big process, you're paying more attention to it, and things can improve. There's something called the *Hawthorne effect*, which says, you pay attention to anything, and it usually improves.

The problem is: People then, having done that, say, "All the things we're not going to pay attention to in any particular way, we'll privatize, and they'll have the same effect," and it doesn't.

The respected Mathematica Policy Research, Inc. argued, in a review of welfare outsourcing studies, "Research on the quality of privatized social services is very limited, but, like on cost savings, it appears to be mixed. However, experts note that these analyses may be somewhat biased in favor of the private sector, because privatization occurs only when public services are particularly ineffective, providing a point of comparison that may not be typical of public-sector provision."

And here's the bottom line of what I'm going to argue -- is, states don't publicly report the data needed for broader, less inherently

biased studies. You don't have the bottom line for the routine agencies of how much is being contracted out and how much is in-state. Cornell Professor Mildred Warner, a well-respected scholar on privatization, says flatly, "I'm not aware of a consistent data set at the state level to make academically relevant statements on the level of contracting in the states." That's an academic way of saying she doesn't study it because there's just no way that she can say anything that is useful as a scholar, which is a pretty damning statement -- that she is-- She studies the local level, because local governments actually have better standards than most states for trying to track that.

Now, I'll mention -- reference it. There are a couple of studies that have tried to compare all 50 states on contracting. One is the Council of State Governments. Their most recent surveys were conducted in '97 and 2002. And the other is the American State Administrators Project, an academic consortia whose most recent surveys were in '98 and 2004.

Each of them sent out surveys, very extensively, with follow-up to state agencies, state budget heads, state procurement heads. And they-- When I talked with them, I talked with their core researchers. They're like-- They were like, "Don't try to say anything about an individual state off of what we've surveyed, because we don't have -- and no state really seems to have -- granular data to really say what percentage is being privatized." At best, they can get out of-- Essentially, they're doing a poll, and they treat it as a poll, not as something that has economically -- data. They can sort of say, "There are some nationwide trends happening in contracting."

The American State Administrators Project report said, “Apart from selected surveys at the local/municipal level, most public administration experience and research involving contracting is anecdotal, case-specific, or otherwise narrowly focused.” The Council on State Governments: “There appears to be no consensus as to the effectiveness of privatization in part due to the lack of empirical data, as well as the complexity of the issue.” Those are the two best studies on outsourcing out there. Both of them basically say, “We can give you some general trends. There’s just no good data.” And that’s partly because the states aren’t reporting it.

We actually-- This is an important thing by the Council on State Governments: “A more interesting finding from the surveys is that many agency directors could not provide estimates of cost savings from privatization. Nonetheless, state officials have continued to privatize, due to the perceived efficiency the private sector might have demonstrated.” I just want to repeat that. They said, “We don’t know whether this is being successful.” That’s what most of the people they interviewed said. But they’re privatizing anyway, because, “We think it works.”

So that’s actually-- And that was-- This is from the Council on State Governments, not with a particular ideological axe to grind. They’re just saying this is what they’re self-reporting. People don’t seem to feel, out there in state governments, that they know themselves.

As I said, one of the problems is you end up with these states not having the expertise of what they’re privatizing to actually evaluate it. If you privatize much of your expertise, and you’re depending on the

contractors, you then lose the ability to even measure: are you being successful, is the quality you're getting the best that's out there?

But there is one other part of this story. You get a lot of these -- and I gave one -- is like these horror stories out of Texas, etc. The other story that happens, which is a smaller story, is what Mildred Warner talks about -- contracting in. Quietly, you actually have a lot of failures, and states actually quietly bring them back in, local governments bring them back in; which is one reason why, despite lots of contracting-out experiments, there actually hasn't been as massive an increase of contracting out as some people might have expected with all the, "This has been so successful, this has been so successful," except, they try something new and then move on to something else. The sort of failures from the past get sort of pulled back in.

So the last point -- and I'm going to just sort of say it -- I think one of the things this Commission could look into is outsourcing transparency legislation. What is lacking is accounting in each state of what percentage of each agency's budget is being spent through public employees, and what percentage is going out to contractors, and what those contractors pay their employees, and other relevant competitive information.

In the course of writing our report, we contacted state budget and procurement offices in states across the country. Of those that replied, really none had comprehensive data on their overall state contracting. Virginia was one of the only states, when contacted, that could actually produce data that, with some massaging, could measure contracting out in various departments, in a sort of useful budgetary way. And they collected

that data because a commission on privatization had encouraged this a couple of years ago. But even Virginia doesn't make that data available in a manner that the public can look at in, like, sort of an easy way. And most states don't collect that information.

So there are a number of legislative reforms that you might look into. Measuring the costs of outsourcing: One of the strongest laws was passed in Massachusetts a decade ago, to say that before you can contract out, you actually have to do a study to say this will save money. It's actually something the private sector -- at least best practices does. Many states don't -- skip that step and, sort of as I said, have a perceived sense that it will be more effective. But those kinds of studies have been seen to save Massachusetts, and states that at least do that partly, quite a bit of money.

Budget accounting for outsourcing: An important additional reform, too, would be to require every budget include a line item listing the percentage of each agency's budget that is going to private contractors.

Also, online disclosure of outsourcing data to make sure that people don't-- Like, sometimes you have the data buried somewhere, if you actually push into the agency. It should be on the Web sites of state governments. That should be information that any citizen should be able to access, make it available. States have been making strides in other areas. New Jersey-- There is actually a report that came out yesterday by Good Jobs First. And New Jersey actually ranked relatively decently on online disclosure. This should be one of the things that is there in the State.

The last part is, once you have that data, the accountability. And this gets to the core, I think, discussion of this Commission. Once you

have some of the data, it's a lot easier to start saying, "Is this contracting out, whether it's here at home or going overseas? What's being paid, what are the wages?" There's a long tradition in government of prevailing wages for public works; and now in New Jersey, recently, to make sure janitorial workers are covered. But across the country, there is \$400 billion in goods and services purchased from the private sector. And Maryland, this year, became the first state to apply a living wage to all government contracts, to actually evaluate and say -- making sure that anybody working with government money gets paid a decent wage. That's a very good model.

The last few, mentioned in the testimony, are these issues of accountability. Issues like the revolving door between these governments doing the contracting and, then, the companies getting the contracts. That's been a chronic problem, and keeping those separate is very important.

And, again, a place where New Jersey has taken leadership: on banning pay-to-play contributions -- to make sure pay to play isn't influencing the contracting decisions.

In conclusion, fundamentally, the problem of outsourcing is one of challenging an ideology that using low-wage subcontractors is a route to long-term social efficiency. The saddest part of many -- much of the professed commitment by some political leaders to outsourcing, and even off-shoring, is that the evidence for even the efficiency gains are unclear; while the devastating effects on employees, as good jobs are replaced by bad ones, is all too evident. The solution is strengthening accountability standards, greater transparency, to assure that both the taxpayers and employees do not lose out from outsourcing decisions.

ASSEMBLYMAN VAN DREW: Very good.

We were just speaking up here a little bit. And we'll get some comments from the committee. But I think one of the recommendations of this committee might be that we look into -- regardless of how you feel about this issue -- that we might look into what you would classify as transparency. In other words, if it is more efficient, show me. I mean, what we are looking for in government -- and most especially in New Jersey with the budgetary problems that we have -- is efficiency, ways to save dollars. But really, if privatizing or outsourcing is more efficient, let's have some good, clean, clear, transparent statistical information that shows that to be so.

Secondly: To determine during that process exactly how much really is being outsourced would be, obviously, something -- as you so correctly pointed out -- would be of value, as well.

And thirdly, which is different, in the investment strategies that we have -- to have some kind of clear, concise, transparent, objective barometer, as well. Are we really doing the job well? I mean, I would think everybody would agree with that, whether you were in the private sector, whether you were a proponent of it, or whether you were opposed to it. I can't understand anybody being opposed to transparency, and having a full, and clean, clear evaluation of where we really are with this.

So, to be honest with you, I'm surprised more states don't. It is sort of an amazing process. And I guess because, to some degree, relatively it's new -- relatively. And maybe this is something that will be discussed more. But when you consider that the argument for it -- the only good argument for it is more efficiency, is to save money. If that, indeed, is not

true, then there is no argument for it at all. So both on the investment side, and also just on the number of jobs that are lost, as well, within state government -- I think that that has value and that is something that this committee should look at.

Mr. Leonard.

MR. LEONARD: Mr. Chairman, did I have a look like I wanted to say something? (laughter)

ASSEMBLYMAN VAN DREW: You did, actually.

MR. LEONARD: You read minds very well.

ASSEMBLYMAN VAN DREW: Was I wrong?

MR. LEONARD: No, you're absolutely right.

Mr. Newman, thank you for your testimony.

And, again, this is the second witness that we've had that has provided concrete information that I think is very valuable to me.

A couple of things: First, you talk about the survey that you're going to come out -- or study, I assume. What's the date, specifically, or the time range?

MR. NEWMAN: It's going-- We're still working on it. It's the first couple weeks-- And, I mean, I do want to make clear, this is-- Actually, what I presented, at least in a summary, is a core of it. Because we ended up wanting to do actually more in depth on what was happening between various states; and came up against this data issue, and decided that that actually was the focus of what we were going to recommend -- this issue of greater transparency between the states. Because so many people we talked to were quite frank.

And to take the Chairman's point, I think if you had the Reason Foundation -- one of the greatest proponents of privatization out there -- they actually agree -- we talked to them -- they agree there's not very good data out there. And you're right, they'd probably like to see better data; and they'd use it to try to prove their point, which is all to the good.

ASSEMBLYMAN VAN DREW: Everybody wants data. Business people want data. That's how they judge--

MR. NEWMAN: Sure.

ASSEMBLYMAN VAN DREW: --they make their decisions.

MR. LEONARD: But the time frame?

MR. NEWMAN: Probably the second week in February.

MR. LEONARD: So, unfortunately--

MR. NEWMAN: I mean the second week in -- sorry -- December.

MR. LEONARD: Second week in December.

MR. NEWMAN: Yes.

MR. LEONARD: Through you, Mr. Chairman, I believe that this Commission will be closing its activities around the end of the year. The Assemblyman will now be headed to the -- as some call it -- the upper chamber, the Upper House. And so I believe that this Commission will be ending its informational gathering activities. So hopefully the sooner you get that to the Chairman, the better, in order for us to utilize that information.

I also noticed in your testimony -- and you bring up a couple of scenarios that are worst-case, or perhaps indicate some of the problems

associated with the outsourcing activities. Did you come across any that proved that there is value?

MR. NEWMAN: I mean, let's be honest. Nobody advocates that the State of New Jersey go into producing paperclips. You know, there are obvious things that the State buys -- outsources. And nobody, I think, will argue against it.

The question, I think-- And there are obvious places where people have saved some money. I mentioned there were dysfunctional services. But one thing, actually, that often happens -- and this goes into this outsourcing -- or sourcing back in. Sometimes there's a problem in some sector in a state, or in a local community. They outsource it out, it gets cleaned up, they source it back in. That's actually been a pattern out there.

MR. LEONARD: So there are activities that have proven to be effective in the outsourcing arena?

MR. NEWMAN: Yes, although the interesting thing is, most of the time it usually has been because of a temporary problem, and then they've outsourced it back in and have had greater efficiencies in, partly because they then get the gains of both the expertise that has been generated, but also the savings of not actually having to pay the profit margin.

I mean, the ominous part of any issue of outsourcing is, you're trying to figure out: Is there somebody out there who can do it better, but not just as well, frankly -- but as well, plus a profit margin? So they actually have to be doing it significantly better to justify the profit margin. And, over time, that's unlikely to be true in areas where-- The paperclip example

is sort of the one where there are such economies of scale, and what the government is doing is such a tiny part of it. But almost any area where the government is the major player, it's unlikely to be a place where a private player, by basically standing in for like thousands of government employees, is likely to be able to do it better. There are not that many definitive examples of that.

As I said, if there was more data, I could probably give you a better answer on it.

MR. LEONARD: Right.

One last question, Mr. Chairman, please.

ASSEMBLYMAN VAN DREW: Sure.

MR. LEONARD: You mention in your testimony a case in Texas, which I think stands for what shouldn't happen in this regard.

MR. NEWMAN: Right.

MR. LEONARD: Are you familiar with the technology infrastructure activities of the state of Texas, and particularly their outsourcing activities that just happened?

MR. NEWMAN: I mean -- what, their just general IT work? Because this was part of their technology. As I said, it had a call center aspect. It was done by Accenture. So I'm curious which part you're referring to.

MR. LEONARD: The one dealing with the 13 mainframes, Unisys activities, IBM, that kept all of the state employees whole, offered them jobs at the same salary--

MR. NEWMAN: Oh.

MR. LEONARD: --saved the state of Texas \$159 million over seven years, including \$25 million that has already been accounted for in the first two years of activity.

I bring this up because I'd like to know more about the good, as well as the bad.

MR. NEWMAN: Right.

MR. LEONARD: And I believe that this Commission would like to, as well.

MR. NEWMAN: Yes.

ASSEMBLYMAN VAN DREW: We would, and that's the point of this -- to have a really objective, good look at it.

That's good.

So if-- Actually, if you have any other information on that, or if anybody does, that would be valuable, as well.

MR. LEONARD: I'll provide it to you, Mr. Chairman.

ASSEMBLYMAN VAN DREW: Thank you, Jim.

Mr. Marketti.

MR. MARKETTI: I have no questions.

I would like to comment that our local union has sponsored a cost analysis bill in every session of the Legislature for the past 12 years. And if you think there is no good reason why people don't want objective data, you are incorrect. They come out of the woodwork insisting that this data not be collected.

MR. NEWMAN: That does go to the issue of the people who benefit from inside deals on this stuff, which has always been a chronic problem. I mean, if there is objective data, it means that any outsourcing

that is effective is going, because it's going to an open field rather than people who can work the system. So I think it's absolutely true that, in some ways, what I might call the *ideologs* on both sides are probably more into the honest data than many of the people who are in the practical parts of it. (laughter)

ASSEMBLYMAN VAN DREW: Nicely said.

It's a practical world at times.

Anybody -- any other members have any comments? (no response)

Thank you very much.

MR. NEWMAN: Okay. Thank you.

ASSEMBLYMAN VAN DREW: I will ask Mr. Tony Daley to come forth, who is a Research Economist with the CWA.

Thank you for being here, Mr. Daley. I know you had a little bit of a trip.

T O N Y D A L E Y, Ph.D. I also go lost on my way into this building, actually. I ended up in Pennsylvania for a few minutes. (laughter) So I apologize for being a little bit late.

My name is Tony Daley. I'm a Research Economist at the Communications Workers of America. I've been with the CWA since 2001. Previously, I worked with the International Union of Electrical, Electronic, Salaried, Machine, and Furniture Workers, IUE, between 1999 and 2001, before IUE merged into CWA. Between 1987 and 1998, I taught at the university level at Wesleyan University and Connecticut College. I received my Ph.D. from the University of California, Berkeley, in 1988.

President Marketti has asked me to give testimony on issues of outsourcing, off-shoring, and data collection, specifically. And to that point, I think you'll probably find there's not much politics in my testimony. I'm going to be focused exclusively on the types of data we need to analyze a problem. And so I'm not going to be looking so much at policy -- although I have my views about what should or should not be done -- nor will I look at regulation.

I prefer not to speak -- to read my testimony, as such. The first part of this testimony looks at the problem of outsourcing and off-shoring at a national level. And it's pretty serious. At one time we thought that there were maybe 14 million jobs at risk of off-shoring. Well, Alan Blinder and others have found that perhaps the number is twice that, if not more.

This is particularly important, I think, for CWA. CWA is a union of 700,000 members. We represent 66,000 here in the State of New Jersey. We represent 43,000 State workers. Many of our workers have been touched by off-shoring and outsourcing. And you can look at any segment of our union, whether it's telephone -- and you can think of call center workers; newspaper reporters -- well, Reuters has off-shored some of the work in New York to India. Government workers-- The interesting example-- The previous gentlemen spoke about the state of Texas. Those were CWA employees and the state workers whose jobs were outsourced to Accenture. Those jobs stayed in the state of Texas, but other jobs are off-shored out of the country. So at every sector of our union we have faced this problem for the last five, 10, 15 years.

And I should say that we start analyzing this problem, as the previous gentleman did, from the perspective of outsourcing. As soon as --

which is neither good nor bad. We don't consider it either good nor bad. You need to look at it on a case-specific basis. But once you remove work from an employer -- and that employer could be state government, or a large company, or even a small company -- then you detach accountability in some way, shape, or form, and you make it much more difficult to follow accountability.

There was a case in Pittsburgh of a-- We do a lot of work at -- we're trying to organize, frankly, Comcast Corporation. And they contracted construction services. And one of their contractors blew up a house because they tapped into a gas main. And Comcast -- "We're not responsible." So the whole issue of accountability is pretty serious, in our opinion.

In order to -- for public policy to address the issue of both off-shoring and outsourcing, in our opinion, we need to have appropriate data. And if you follow along in the testimony, I start looking at data on Page 6. We have neither the data at the Federal level or the State level in order to make -- to have reasoned debates and effective public policy about outsourcing and off-shoring.

I'm going to talk a little bit about Federal data problems, not because I expect people in Trenton to be able to affect Federal data problems, but some of those problems have an impact on what we do in state governments. And then I'll talk about some State-specific initiatives which I think would be useful in order to collect data in order to understand the problem.

And by the way, I agree -- and I'll just preface this -- wholeheartedly with the previous gentleman, who talked about the need for

data collection at the state level on private contracting. It is-- We've looked at this at headquarters at various states. And it's in shambles. And you compare that with the Federal government. And I could walk you through the Federal Procurement Data Service and show you how they track contracts very clearly. And you know exactly where they are, and you can get copies of the contracts between vendors -- any vendor over -- doing a service or producing a good over \$2,500. You can get a copy of that. And so it's very transparent. It's not in most states.

But anyway, let me talk very quickly about some of the problems at the Federal level. Most of the data that is collected on this issue of outsourcing and off-shoring is done through either the Department of Labor -- and that's the Bureau of Labor Statistics, the BLS -- or the Department of Commerce. And that's done through the Bureau of Economic Analysis, BEA; or the U.S. census. Usually, the data collected by these agencies can be subdivided by state, which is why they're very useful for state purposes, and by other categories, as well: gender, race, income category, etc. But it can serve the needs of state-level policy makers.

The following are problems in national data collection. The whole issue of off-shoring became a national news story, I would say, five years ago. It was always-- We always had-- We've had manufacturing trade deficits, etc. But the issue of jobs lost had to do with the service sector. Why? Because the service sector is 80 percent of our economy. And when service jobs, which seem so attached to localities, suddenly were going overseas, then we were shocked. Whether it was computer programmers, whether it was Web developers, whether it was radiologists, whether it was accountants, whatever it was, we were shocked.

Well, it turns out BEA now collects only 17 categories -- data on 17 service categories, compared to 16,000 manufactured goods that folks who look at import/export data collect. This is a relic of an era when services were much less important.

The census data needs to collect more data on the trade of domestic services. We know very little, for instance, about how businesses buy and sell services.

The Department of Labor needs to collect better data on wages -- broken down by job category, industry, educational level, and skill class -- paid to workers and our trading partners. I mean, much of the data comes from anecdotal studies, an occasional academic study about what the wages are in Mexico, India, whatever. But, in fact, the Department of Labor has a department that looks specifically at our trading partners. And more work should be done there.

BLS should publish consistent, long-term data connecting services to occupations. This data can be broken down by industry, state, and metropolitan area.

The Bureau of Economic Analysis, in the Department of Commerce, should collect data on more occupational categories in its surveys of U.S.-based, multinational corporations. We don't know very much about the kind of work that multinationals do, whether it's in the State of New Jersey, or whether it's in any other state.

More data should be extracted from areas of Federal policy that already collect data for WARN Act notices, Trade Adjustment Assistance, etc. In other words, agencies don't talk to each other at the Federal level.

And that data, therefore, does not disseminate to the state level. There was a GAO report that I site which spoke specifically of that problem.

The Commerce Department should publish projections on the jobs -- number of jobs created overseas by U.S.-based companies for the purposes of selling in the U.S. market. The Labor Department should publish the number and types of jobs created in the U.S. by foreign firms, insourcing.

So we need to-- We don't know this data. And we are tremendously in the fog. I mean, you're grappling with this problem here in Trenton, and they're grappling with it in every state capital in this country. But it's a national problem.

And as I say at the end, because it's a national problem doesn't mean we don't have a responsibility in the individual states. We can't necessarily wait for the feds to do something, because we may wait a long time for that to happen. There is no public data that allows us to easily measure outsourcing over time.

And here I'm interested in how changes in the macroeconomy filter into other public areas. Let me explain this a little bit. This transcends simple state contracting -- simple -- it's a big sector of our economy, but nonetheless it's still a minority of our economy. We don't know very much about why and how companies outsource services. What percentage of work once performed in a company is still performed in that company?

This is important, I think, for other areas that we might not even consider related. Retirement security: How many employers does an average employee have now compared to 20 years ago? I'm guessing it's

much higher. And if you do demographic projections -- excuse me, actuarial projections by age group-- You take a 20-year-old, who is in the labor force now, and she will probably have many more employers than I, as a 52-year-old, have and are projected to have until my retirement. That tells me about a critical piece of data that's important not simply for industrial policy or labor market policy, but retirement security policy and health-care policy for that matter -- health-care portability.

So what I'm actually suggesting is that -- and this is -- and you don't hear very much about this, because there are issues of privacy -- is that the Bureau of Labor Statistics at the Federal level, and departments of labor at the state level, work with tax authorities -- the IRS at the Federal level, and tax authorities, departments of treasuries at the state level -- to think through the percentage of work done by wages and the percentage of work done through 1099s. That is a simple data point -- simple data set -- that could help us understand this phenomenon of what academics call *network capitalism* -- the dispersal of accountability in the production of goods and services -- which is-- Again, I'm not saying it's good or bad. It may be necessary for some reasons; it may be unnecessary for other reasons. But we don't know much about it, and therefore we can't make public policy around it either.

I'm laying out these Federal-level data-collection issues because, in the absence of Federal action -- and I don't think there will be Federal action on all of these issues -- the states can collect some of this data themselves. It's a compendium of what we know and whose attainment would facilitate policy making at both levels.

Now, at the state level, policy makers should decide what data is important for policy making, whether that data is accessible at the Federal level, and what it can realistically collect at the state level. Data collection will be important not just for understanding the commercial effects of outsourcing and off-shoring, and their labor market consequences, but designing state-level programs in health-care delivery, education, and retirement security.

In an optimal world, much of the necessary data, as I mentioned earlier, should be collected at the Federal level and broken down. It's an economy-of-scale issue. If you do it at the Federal level, then 50 states don't have to reinvent the wheel.

Contract work for the state should be easily measurable. Procurement offices already know the number and value of public contracts. Unfortunately, states and the Federal government do not analyze these counts very effectively, nor do they make contracts readily available. The previous gentleman talked about the Good Jobs First report. Good Jobs First also -- and this is what they did on subsidies in the last month. They did a report in 2004, and they found that most states -- or actually, we outsourced work to them. This is a good example of outsourcing actually -- is that CWA went to Good Jobs First -- one of our locals did -- out in Seattle, Washington, and said, "Could you tell me what states are doing, in terms of following contracts?" And Good Jobs First wrote a report that received some national press -- for our purposes -- because they had the expertise to track what state governments do, in terms of following work. And they found that most states do not have a realistic understanding of

the nationality status of vendors for state contracts, or the place of performance. We don't know where state contracts are executed.

The New Jersey Department of the Treasury, Division of Purchase and Property, collects data on government contracts, and it makes the data available on public Web sites. But it too does not give people the opportunity to look at nationality and place of performance for tracking purposes.

Private sector work not connected to state contracts is more difficult to accumulate by definition. But it is potentially more important because it's a larger segment of the economy. At the Federal level, as I said before -- as at the Federal level, excuse me, state governments could be collecting data on the nationality of employers, as well as the nationality of vendors. Likewise, state governments could combine tax and labor market data to better understand the process of outsourcing.

Since the impact of outsourcing and off-shoring transcends the immediate impact on employees and firms, it is important for Federal and state governments to think through the data requirements related to outsourcing and off-shoring, and then to connect industry and labor market effects with education policies, health-care delivery, and retirement security.

The following areas could be addressed regardless of changes in Federal data collection: All state contracts should require the nationality of each vendor and the place of performance for the work itself. The state should then collect the data and make it available to the general public, allowing users to sort by agency, size of contract, region of the state. This rule should apply to both the prime contractor and any subcontractor.

Other data should be collected at the state level in anticipation of the unlikelihood of Federal data collections. State-level data currently is inadequate to measure the scale and scope of outsourcing in a given state. Regardless of whether Federal authorities combine BLS and IRS data, state authorities should combine tax and labor market data to find corresponding state data on the percentage of work performed by employees versus that performed by vendors.

Using tax and labor market data, states should estimate the number of employers, as I mentioned earlier, that taxpayers have had and estimate how many they are likely to have in the future. And this data should be broken down by age.

The New Jersey Department of Labor, Workforce Development, should use available data at the Federal level and State level and develop employment projections for students with different types of secondary school and post-secondary studies. In other words, students currently at all levels -- secondary schools, trade schools, community colleges, four-year colleges -- do not have a good understanding of why they should be going into particular fields. And much has been written on IT work and computer programming work, but there are a number of other fields in which -- it's not realistic anymore for students to be tracked in those areas.

The focus here is on data collection, not on legislation or regulation. I'm not trying to address particular policies. It's my feeling that we need better data in order to produce better policies. It is our hope that states will be proactive in tracking their own contracting processes. We

need a better understanding of what firms are outsourcing and the effects on the workforce.

It is also our hope that policy makers in states like New Jersey will address at least some of the data deficiencies left by the Federal government in understanding processes so vital to their futures. While state agencies do not have the resources of the Federal departments of Labor and Commerce, they can supplement some of the gaps by innovative attempts at data collection.

Understanding the process of outsourcing and off-shoring gives policy makers more tools to design policies for businesses, labor markets, health care-delivery, retirement security, and education. The collection of data is the first step towards successful policy making.

ASSEMBLYMAN VAN DREW: Very good.

Thank you, Mr. Daly.

I think we're onto something here. I mean, we knew it already, and we know there have been attempts in the past. But it doesn't mean that they shouldn't be renewed, as, again, the idea that transparency, and good data, and good information, and understanding of what we're doing is smart. I mean, nobody could argue with that.

Any questions from the committee?

MR. LEONARD: Just one, Mr. Chairman.

Thank you, Mr. Daley. Great testimony. I appreciate it.

In here, you talk about -- your last line. You say data collection is key to good policy and good regulations. In your testimony you list a number of things you believe states collectively should collect. Do you have a concise and comprehensive list that, through the Chairman, we could get

in order to make sure that we're collecting-- In other words, I would hate to see this group make some recommendations on data collection only to find that we missed four or five things that you, based on your expertise, think we should have collected.

DR. DALEY: I don't have that with me. I could develop that list for you. I'd be happy to do that.

MR. LEONARD: Secondly, you mentioned that your organization had outsourced with a group in Washington to do some activities. Perhaps now is the time for me to introduce a piece of information to the committee. This is an item from the *Washington Post* from July, and its title is "Outsourcing the Picket Line." And it shows that even unions are outsourcing their activities on the picket line. So I will pass this to the members of mine on the committee. And perhaps you will find it interesting reading.

ASSEMBLYMAN VAN DREW: Very briefly, can you encapsulate that? They're hiring people to walk the picket?

MR. LEONARD: Yes.

DR. DALEY: Those are the building trades, I believe.

MR. LEONARD: The particular group was the Regional Council of Carpenters. They were hiring other people to sit on the picket line -- walk the picket line for them.

DR. DALEY: If I could just make a comment, Mr. Chairman.

ASSEMBLYMAN VAN DREW: Yes, of course.

DR. DALEY: I don't think anybody that will testify before you is going to say that outsourcing is, by definition, bad. I mean, I think that we do outsourcing for a variety of reasons, and I think we need to recognize

those reasons. But I also think we have to ask hard questions, just like a business does. A business will say to itself, "Does it make sense to do this in-house, or does it make sense to do this out of the house?" And I think state government needs to make -- to ask the same questions.

ASSEMBLYMAN VAN DREW: And I think you're right, Mr. Daley. And I think that's really a good point here. And that's why everybody -- and I hope we still have that consensus on this committee -- who is here-- When is it sound, when does it make sense, how is it affecting us, and when doesn't it make sense? And what I'm hearing is, we don't have the empirical data, over and over. And, again, we've known this. This has been for years -- this argument has been had. But I mean, I think it really does have value to try to get that information.

I would guess -- I would bet that there are times, obviously, when it does -- it actually does pay off. And that's not the only parameter -- the only barometer that should be used. Because there are social issues, as well. But purely from the business sense, I think there probably are times. I think, interestingly enough, there are times when it does not. And I think that's what's very important to really ascertain, as well. And, most especially, when investing -- and I'm going back to what they were speaking about before -- state dollars, pension dollars. Because that's a serious business, both for the people who receive the pension, and to the people -- the taxpayers who invest in the pension; and, of course, the people that invest in the pension themselves -- the employees. So we want to see, as well, where that is going.

So, again, I'm repeating myself a lot. But I don't know how it can be wrong to have, as you so well presented, good, empirical, clear,

concise data that helps us to determine if we're going in the right direction, are we doing this right.

DR. DALEY: And it's also-- I wanted to add a footnote -- and I mentioned this a little bit in the--

ASSEMBLYMAN VAN DREW: Government screws up, and so does business. That's the point.

DR. DALEY: And I think labor unions screw up too. It's the--

MR. MARKETTI: Not often. (laughter)

ASSEMBLYMAN VAN DREW: That might be a little subjective.

DR. DALEY: I'm fallible.

But I did want to make one point that was in the testimony that I didn't articulate. And that is that, for the most part, the issue of additional data collection is not a costly issue. It may be a transparency issue. And people may or may not like transparency, but it's not a cost issue; because the vehicles exist, both at the Federal level, in terms of surveys, in terms of questionnaires, in terms of conversations with employers collecting existing data. And there will be additional costs to develop Web sites, to develop databases to explore this. But it's not a tremendous new cost, either to state government or to private sector employers.

ASSEMBLYMAN VAN DREW: Very good. Thank you very much.

Mr. Warren.

Bill Warren is the Policy Director from the Forum on Democracy & Trade.

WILLIAM WARREN: Good afternoon.

Mr. Chairman, members of the committee, it's an honor to have this opportunity to testify about this important issue.

Just a word about who I am: I'm the Policy Director for the Forum on Democracy & Trade. The Forum is a network of state and local elected officials, a lot of them state legislators from both parties, various regions of the country, who have very serious concerns about the effect of international trade and investment agreements -- the WTO, World Trade Organization agreement; the NAFTA; all the agreements that have been adopted since NAFTA -- and the effect of these agreements on local democracy; indeed, about the authority of state legislatures to legislate, and the authority of state regulators to regulate, and the authority of state attorneys general to enforce the law generally.

I should also add that this work with the Forum grew out of work that we did at the Harrison Institute of Public Law at Georgetown University Law Center. I wear two hats. I work and teach at Georgetown, but really most of my attention now is focused on these questions of the impact at the state and local level of international trade and investment agreements.

Now, what I will do here is just, in broad outline, talk about why these new agreements are quite different from what we had seen before and have some rather startling implications. And then I'm going to focus in specifically on the off-shoring issue and the government procurement issue that I know is your main focus.

And I guess also before I go forward, I would commend you for having a Commission -- a special study of these issues. It's happening in a

lot of states. You're focused very much on the off-shoring issue. But at this point, we're working with state legislative commissions that have been set up on a permanent basis to look at these globalization issues in California, Washington state, New Hampshire, Utah, North Carolina, Maine, and Vermont. And so you have a fair number of states that set up permanent-- Well, I guess the North Carolina commission is not permanent. But all these states have set up a permanent body to monitor the effect of globalization on the states in terms of its economic impact, but also its effect on democratic institutions. And it's really quite remarkable.

And the reason that they've been focusing on this is that these new trade and investment agreements don't really, in any direct way, regulate trade or regulate the economy. They regulate governments. Renato Ruggiero, who was the Director General of the World Trade Organization, in a moment of candor and perhaps hubris that he probably regrets now, famously said about his work at the World Trade Organization in Geneva, is that, "We are writing a constitution for a single-world economy." And he actually put his finger on it. Because if you look at the legal detail -- and that's what we do, we're international lawyers, and we look at the legal detail in the World Trade Organization, the NAFTA, and the other agreements -- it really serves a constitutional function. Because what a constitution does is assign responsibilities and also limits on what government can do. And these new agreements regulate how governments, including the State of New Jersey, deal with the private sector in a globalized economy.

Before 1994, there would be no reason for these seven states to have permanent study commissions looking at trade agreements and their

effect on local democracy, because most of the issues pre-1994 -- that were negotiated and litigated at the international level -- were so-called *at-the-border* issues. They dealt with tariffs and quotas. And they focused mainly on trade and goods, as opposed to services. And it was very much a diplomatic -- the old GATT that preceded the WTO, General Agreement on Tariffs and Trade -- it was very much a diplomatic exercise as opposed to a binding legal exercise.

What happened in 1994 -- with the creation of the World Trade Organization, the passage of NAFTA -- is that you had a shift. These agreements dealt broadly with services, as well as goods, in international commerce, thus the connection to off-shoring. And their focus was on nontariff barriers to trade, as opposed to formal barriers to international commerce. And what is a nontariff barrier to trade? It's regulation of business, the taxation of business, it's economic development programs, and it's government purchasing. And those have been the areas of focus in these agreements. And if you ask what does the State of New Jersey do as it intersects with the private sector: it regulates it, it taxes it, it provides incentive for economic development, particularly in distressed areas; otherwise seeks to grow the local economy. And you're a major purchaser of goods and services.

And, again, these new agreements are enforceable. They're through international litigation. They don't bind you automatically, as a matter of U.S. law. But if you're found to be in violation of the WTO agreement, the penalty is retaliatory trade sanctions, which is a kind of hostage taking. For example, when the Bush Administration took some action to protect our steel industry from dumping by our competitors, that

was found to be in violation of a WTO agreement. And retaliatory sanctions were authorized for the aggrieved foreign steel-making nations. And those sanctions were not applied to American steel, but they were applied to other American products and services to cause the maximum economic and political pain. In this case, we're talking about Harley Davidson Motorcycles in Wisconsin; we're talking about citrus in Florida. This was approaching a presidential year.

And so even though these agreements can't be enforced by a Federal suit in Federal district court, they can be enforced from Geneva, Switzerland, by authorizing retaliatory trade sanctions. Because that really gets people's attention in a hurry when plants close and workers lose their jobs as a result of that kind of retaliation.

In the case of investment agreements, there are unlimited money damages that can be assessed against the treasury for violation of these agreements.

So now we have a lot of states that are looking at these new agreements.

ASSEMBLYMAN VAN DREW: Excuse me one second. When you say retaliatory action-- Explain that just in slightly more detail. For example, at Harley Davidson, explain exactly what happened there.

MR. WARREN: You have a case in the World Trade Organization. Let's say, hypothetically, the European union and Japan bring the case alleging that U.S. anti-dumping laws -- an application of U.S. anti-dumping laws related to steel, or the application of foreign sales corporation tax incentives, are a violation of the WTO agreement. And they go through a litigation process. It's sort of an equivalent of trial court

and appeals court. They have three international lawyers who review the case, and litigation kind of drags on sometimes for a year or two. And then there's an opportunity to appeal it to the appellate body of the WTO. And then once you have a final decision, then they will seek to enforce that decision by authorizing the plaintiffs, if you will -- the plaintiff countries to retaliate against the United States by either barring the United States imports into that country, or by breaching certain international rights that the United States would otherwise have.

For example, the United States just lost a big case on our cotton agriculture program -- providing subsidies for cotton farmers. And Brazil won that case. And the question is whether or not Brazil will seek then to do -- engage in activities that otherwise would be prohibited by the intellectual property sections of the WTO agreements, so that, in effect, they could start manufacturing generic drugs, or copying videos, or writing software, regardless of U.S. copyright and patent protection.

So there are a variety of ways that they can retaliate. I assure you that when you start talking about actions that are going to result in job losses in certain locations, it's very coercive. It's a little bit complicated too. But it's very effective.

And what's interesting is, a lot of the litigation has focused on state measures. And again, it's because the focus on these agreements is about services. State governments provide services, and state governments regulate services. And a lot of the cases have come out of the state level. The big WTO case on gambling, which the United States lost, very much involved the states. Actually, we were down here -- not me, but my colleague, Bob Stoneberg -- addressing this Legislature and your

Commission on the terms of the implications for New Jersey -- U.S. losing the gambling case. The WTO appellate body found that the United States, inadvertently, had committed to opening up the U.S. market for gambling services when it committed to provide -- to open up our market for recreational services -- a potential disaster. The United States is now withdrawing that commitment, and so forth.

But the major concern of Antigua, who brought the case -- and by the U.K. and other gambling multinationals that were really pushing the Antigua litigation -- was that there was so much regulation and taxation of gambling -- or outright prohibition of gambling in certain cases at the state level -- that they wanted to crack that, and they wanted a free market in gambling services.

In the same way, a lot of land-use litigations come up in the context of NAFTA's Chapter 11 on investment. The current case, right now, is called *Glamis Gold versus the United States*. Glamis Gold is a gold-mining multinational. They operate all over the western hemisphere, and I think in Indonesia too, and some other places. But they bought some mineral rights in the Imperial Valley of California, which is just east of San Diego. And it's an environmentally sensitive area. It's also sacred land to Indian tribes.

And what Glamis Gold intended to do was to have what they call an *open pit cyanide leach* gold mine, which is a huge, earth-moving operation, where they dig up a very large area of the desert. And then they process all this material by leaching it -- using water that had been infused with cyanide to bleach the gold out of the rubble. And there are implications for the groundwater and so forth.

But because of the environmentally sensitive nature of the area, and because it's sacred land to the Indians, the California legislature and the California land-use officials took action to require Glamis Gold, if they were going to proceed with this mining operation -- they would have to refill and reclaim their open pit mine. And Glamis Gold then brought action, under NAFTA's Chapter 11, seeking tens of millions of dollars in money damages for the loss of their future expected profits. So in some ways, it looks like a routine not-in-my-backyard land-use dispute that might go through the U.S. courts as a takings claim, and so forth. But it's not the kind of takings claim that would be colorable under U.S. law, because you don't get compensated for future expected profits for an enterprise that hasn't gotten under way, and you don't have a property right in your business plan, in that sense. And there's a lot of NAFTA Chapter 11 litigation. And a lot of it focuses on state activity.

But let me cut right to the chase here, because I mentioned the areas where state government activities are covered by the new agreements. One is regulations, one is taxation, another is economic development policy. But the fourth one is government purchasing. And this effects your capacity to regulate in the area of off-shoring. The World Trade Organization's agreement on government procurement isn't simply a requirement that you not discriminate against foreign firms, but it actually sets the criteria by which you were going to make government procurement decisions. And it's a little bit complicated. But essentially, your decision making is pretty much limited to price and performance. So any kind of social or other criteria that you might want to apply to your government procurement -- whether it be to deal with the off-shoring issue, or to

purchase environmentally friendly products and services, or to take into account whether or not the firm you're doing business with has a relationship with Castro's Cuba, or the Burmese dictatorship, or in the past the South African apartheid regime -- all those kinds of criteria are-- You have to do a lot of explaining to show how you would meet a social goal, while still meeting the economic tests that are in the WTO agreement and that are in most of the agreements, including the Central American agreement alluded to earlier, that have followed along since that time.

And I'll just give you one example. Again, this comes out of state legislative activity. A number of years ago, a friend of mine -- a state legislator in Massachusetts, named Byron Rushing, was very concerned about the slave labor practices and the genocide against tribal groups in Burma. And there wasn't a lot of attention being given to the Burma situation at that time. Aung San Suu Kyi, the head of the democratic opposition -- later won the Nobel Prize, and so forth-- But Byron, who had worked in the antiapartheid movement, decided some attention needed to be drawn to Burma, so he took the old South Africa Sanctions Law that they had, and he scratched -- wherever it said South Africa -- he had that scratched out and had Burma inserted. And the Commonwealth of Massachusetts passed their Burma law. And immediately it got attention. This is exactly the same kind of law that effectively forced the hands of the big lending institutions and forced the apartheid regime to sue for peace.

And what happened was, immediately the European Union and the Japanese brought cases before the WTO. And this was a no-brainer. This was a-- I think it was a 10 or 15 percent preference for government purchasing firms that did not do business with Burma, or a 10 or 15 percent

penalty for firms that did. And it was immediately apparent that Japan and the European Union were going to win this case before the WTO. It then proceeded to go to U.S. Federal court -- not directly, but indirectly -- because the National Foreign Trade Council, which represents a lot of the multinational corporations, then went to Federal district court and argued that because the Massachusetts sanctions were more comprehensive than U.S. sanctions against Burma, and because the United States and the Federal government had signed these agreements placing restrictions on government procurement, the Federal government's plenary power over foreign policy had been invaded by the state action.

And the National Foreign Trade Council won in district court, won in -- I think it's the first circuit up in New England, isn't it? I forget. And then, ultimately, the Massachusetts-Burma law was found to be preempted by the U.S. Supreme Court, in a vague and somewhat evasive decision. But what you see there is the bootstrapping of international law onto U.S. constitutional law. And you saw an excellent example of why, if you do get to the point where you want to regulate -- you want to establish criteria for New Jersey's government procurement, based on whether they're outsourcing or off-shoring -- I would ask that you get in touch with us at the Harrison Institute, or others who study these cases, so that it's drafted in a way that is not going to result in the kind of challenge that knocked out the Massachusetts-Burma law. And there are ways you can draft around some of these problems.

And in the meantime, though, a lot of these various state commissions, and others -- state and local government groups -- are engaging very actively with their congressional delegations. And that's what

these commissions are doing in places like Maine, and Vermont, and California -- is they're bringing in their senators and their representatives to talk about the federalism issues in trade investment agreements. One of the primary concerns they've had are these World Trade Organization and other procurement agreements which could limit your policy-making authority.

And they do something else that's rather odd too, because while most of these agreements apply to state laws across the board -- and there are certain opportunities to create a so-called *negative list* to exempt a few state laws from coverage under the international agreements-- The way the procurement agreement works -- it's a so-called "positive" list approach, where the states actually get asked about whether they want to be covered by the procurement agreement. The problem is, the only person that the USTR asks is the governor. And all you have to do is have one governor, at one time, write a letter, and you'll find thereafter your state will be bound by these agreements, which severely limit, again, your authority to use social or other criteria in your government purchasing decisions.

Right now, a lot of the other commissions are looking at this procurement issue. And they're looking at the opportunity, when we have the new President, and when we are undoubtedly going to have a new trade promotion authority bill moving through the Congress -- hopefully a completely redesigned TPA bill -- that will set negotiating objectives and define the appropriate consultation between the executive branch, USTR, and Congress, and with state and local governments -- that there would be a chance to move on this procurement bill -- procurement issue, as well as some other important federalism issues.

And one of the things that people are talking about is to be very explicit in our negotiating objectives and in our reinterpretation of existing agreements -- that state legislatures, as they're making procurement policy, can use social and environmental criteria, human rights issues, affirmative action issues, economic development criteria in making these decisions; that government procurement is not just about price and quality. Government procurement is about jump-starting the local economy, it's about giving people a chance to bid on business who might not be able to break into business otherwise, it's about setting an example in terms of green purchasing. And it's about applying moral criteria to your purchasing decisions. It just seems outrageous to me that today, as a matter of international law, the state legislative South African Sanctions Movement -- which was so successful -- would be illegal internationally. And I think that's something that's going to change.

The other thing that could be put in the TPA bill is a requirement that when they're doing -- when they're committing states to these international procurement agreements, that there is consultation and approval of the legislature, as well as the governor.

So, again, this is maybe a little bit at a tangent from your major focus on the practical impacts of off-shoring and outsourcing here in New Jersey. But if you get beyond the data collection phase and decide that you want to regulate in this area, be very aware of the possibility of international litigation. And please be in touch with us at Georgetown, or be in touch with other sympathetic people who study these agreements and this litigation so they can get around any drafting problems you might have.

And make sure that you're not doing something that will be a set up for an immediate lawsuit from the National Foreign Trade Council.

ASSEMBLYMAN VAN DREW: Well, we don't want to do that. And we thank you for your information. It was very good and very helpful.

Any questions?

Mr. Marketti.

MR. MARKETTI: Exactly who -- that is, the President and which Congress -- was around when we ceded our sovereignty to the WTO?

MR. WARREN: Bill Clinton. Well, it was actually George H.W. Bush, and it was effective -- that deal was cut, and then Bill Clinton was a big fan of the first President Bush's policy.

ASSEMBLYMAN VAN DREW: It was a combination. Do you see that? Republicans and Democrats working together. (laughter)

MR. MARKETTI: And how do we take back our sovereignty, short of a revolution?

MR. WARREN: Well, international agreements are a little bit like contracts, they're made to be renegotiated.

MR. MARKETTI: So it does expire?

MR. WARREN: No, it doesn't expire, but there are ongoing-- There's an equivalent -- almost like an administrative agency rule-making process that goes on. And Geneva is -- they fill in a lot of the detail to explain what these vague agreements mean. So there are opportunities there to reinterpret.

In the case of NAFTA--

ASSEMBLYMAN VAN DREW: There's been some pretty significant congressional push for that, hasn't there?

MR. WARREN: Yes. But the thing is that the Finance Committee, and House Ways and Means Committee members sometimes take a different view from -- at least in the Democratic party -- the majority of the caucus. So it's a divisive issue, with a majority of the Democrats on Ways and Means, and Finance being of the Bill Clinton frame of mind, with respect to these agreements, even though -- especially in the House. At least in the House, a majority of the caucus is very concerned. I think a lot of the new freshmen Democrats in the House of Representatives ran, not on a protectionist platform, but one which raised questions about: did we really know how deeply we were getting into it with these new agreements? And they've formed a group called the Trade Working Group. It's chaired by Congressman Mike Michaud, of Maine, and so forth. And there's been a lot of head butting.

ASSEMBLYMAN VAN DREW: Okay.

I'm sorry, Mr. Marketti, did you--

Continue.

MR. MARKETTI: No, that's fine. He answered the question.

ASSEMBLYMAN VAN DREW: Mr. Leonard.

MR. LEONARD: No, sir.

ASSEMBLYMAN VAN DREW: Thank you very much for being here.

MR. WARREN: Okay. Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

Next, we have Noel Christmas, from the Utilities Workers Union of America.

And, Mr. Flores, would you like to speak at the same time?

FELIX FLORES: (speaking from audience) He'll speak first, and then I'll speak.

ASSEMBLYMAN VAN DREW: Okay. All right.

I have to love your name.

NOEL J. CHRISTMAS: Yes, it's unique, right? (laughter)

ASSEMBLYMAN VAN DREW: It's a good thing.

MR. FLORES: What about my name? (laughter)

He's happy (indiscernible), believe it or not.

MR. CHRISTMAS: I'd be rich if they paid me for all the jokes I heard with this name. (laughter)

ASSEMBLYMAN VAN DREW: It's some combination. You can't go wrong with Christmas, you know.

MR. CHRISTMAS: Not at all.

ASSEMBLYMAN VAN DREW: Yes.

MR. CHRISTMAS: Well, first, I'd like to congratulate you on your recent election to the Senate.

ASSEMBLYMAN VAN DREW: Thank you.

MR. CHRISTMAS: My testimony has good morning, but it is the afternoon.

As you know, my name is Noel Christmas, and I am pleased to be speaking on behalf of the New Jersey State Council of the Utility Workers Union of America. We represent approximately 2,400 dedicated and highly capable members from all members of the New Jersey utility

industry, including Public Service Electric and Gas, United Water, New Jersey American Water, and Elizabethtown Gas.

Thank you for conducting this hearing addressing the growing concerns about outsourcing and off-shoring. This topic is of great concern to the workers in the utility industry. We have and will continue to experience job loss, and have witnessed service quality erosion resulting from such activity. We are also increasingly concerned about the safety and security risks that outsourcing and off-shoring create for our citizens and workers.

NUI, formerly Elizabethtown Gas, outsourced its call center to Florida. And when the State allowed NUI to be purchased by Atlanta Gas and Light, the call center was off-shored to India. Imagine this center sitting across the globe handling New Jersey citizens' private information from Social Security numbers, to bank account numbers, to payment information. The off-shored service was so inadequate that NUI apologized for its poor customer service in a full-page advertisement, which you have attached to the back of my testimony.

Now, imagine operators outside the service area handling electric, gas, and water emergency calls, such as gas leaks, gas line mark outs, water main breaks, storm emergencies, and downed power lines. The potential results could be catastrophic.

In the early 1990s, Public Service Electric and Gas piloted an outsourced call center. The pilot was short-lived. PSE&G realized that the best customer service they could provide had to be staffed by a workforce residing in the very same communities as their customers. Today, PSE&G maintains two call centers, two billing departments, one collection center,

16 walk-in customer service centers, one payment center, and an in-house field collection and meter reading, all staffed by an in-house union workforce, working in PSE&G's New Jersey territory. As we all know, PSE&G is a profitable utility that is highly respected by the community.

Over time, the Utility Workers Union of America has worked with PSE&G to address business, economic, and technological conditions that have changed the utility industry and workforce in customer services as stated above.

Without legislation in the utility industry that prevents the outsourcing and off-shoring of utility customer services, the service quality and value that a local workforce can offer will be lost, and our concerns about increased security risks and major catastrophes will be realized. The Utility Workers Union of America strongly urges that the Legislature pass a bill to prevent outsourcing and off-shoring, and have these regulations enforced at the Board of Public Utilities.

On behalf of the Utility Workers Union of America, I would like to thank the committee for giving me this opportunity to bring our concerns before you today.

ASSEMBLYMAN VAN DREW: Thank you, Mr. Christmas.

Any questions?

MR. LEONARD: Mr. Chairman, through you.

ASSEMBLYMAN VAN DREW: Sure.

MR. LEONARD: Not so much a question, but just an observation.

I note in your testimony, Mr. Christmas, that you say that you are proud of the work you have done with Public Service, to address the

business, economic, and technical conditions. That wasn't done with legislation, though, correct? You did it on your own as a union that is interested in working together to grow both the company and your union. Is that correct?

MR. CHRISTMAS: We do have a decent relationship with the company. And that is correct in some instances, but not in all instances. If you remember, recently Exelon was purchasing PSE&G. And we were completely on opposite sides of the table when that came about. There's also the technological change that can come about, that we're on opposite sides of the table also -- is in the Governor's Energy master plan -- which all the utilities and other organizations are putting forth proposals in order to achieve that plan. And in that proposal -- one of the proposals that PSE&G has is AMI, which is automated metering infrastructure. And we're totally against any kind of automation of meter reading because of the job losses and the security risks that it can pose. So in some instances, yes, we have achieved it with working with the company -- in achieving those things, and coming to a common-ground solution. In some instances, we haven't -- it's come through the Legislature.

MR. LEONARD: So you've been successful in some instances. But you believe that in order to be fully successful, legislation needs to be passed to prevent outsourcing and off-shoring.

MR. CHRISTMAS: Yes.

MR. LEONARD: Okay. Thank you.

ASSEMBLYMAN VAN DREW: Thank you, Mr. Leonard.

Mr. Marketti.

MR. MARKETTI: Some years ago, the New Jersey Department of Transportation outsourced its accident records to a group that was using prisoners at the Avenel center for sexual deviates. They were processing the information. We used to, not so seriously, joke that they were letting the inmates get to pick their next victims. They had all of the private information for people who were involved in accidents in New Jersey, including gender, height, weight, so on, and so forth. And it seems to me--

I happened, that year, to sit on Governor Whitman's transition committee for the Department of Transportation, and brought that to their attention. And even someone so committed to outsourcing and privatization as Governor Whitman saw the lack of wisdom of that kind of approach, where you had sensitive data going to people who had no business having that and could not be held accountable. And she brought that to an end.

I have to say that this incident that you bring to our attention -- private information about Social Security numbers, bank accounts, payment information of local people going across the globe -- raises the potential for a great deal of mischief. And if you can't get Elizabethtown, or whoever, to stop it, we ought to ask the Legislature to consider legislation.

MR. CHRISTMAS: Yes. Thank you.

MR. LEONARD: Mr. Chairman, just one comment on that.

I absolutely agree, handling sensitive information is very important. Let's just not forget that whether the information is in India, or South Jersey, or in Indiana, sensitive information can be used in the wrong way. And so let's not think for a moment that any legislation that might

come out would prohibit or end that practice. Unfortunately, it happens from time to time.

ASSEMBLYMAN VAN DREW: In actuality, we've been trying to address, through legislation, some of those issues with particularly sensitive information -- access to Social Security numbers and other such vital statistics. So I understand what you're saying.

Mr. Flores.

MR. FLORES: I also want to congratulate you on your election to the Senate.

ASSEMBLYMAN VAN DREW: Thank you.

MR. FLORES: I know you're going to do a great job with that.

In reference to my testimony, I just want to add afternoon, because I was in the same situation, too. I thought I was going to testify in the morning. Also, I want to add, I'm not just the Chairman of the Labor Committee, I'm also the Director of the Middlesex County Chapter of the Latino Leadership Alliance of New Jersey.

Good afternoon.

I am Felix Flores, Chairman of the Labor Committee of the Latino Leadership Alliance of New Jersey. In short, we call it LLANJ. LLANJ is a statewide Latino advocacy organization that was founded in 1999. Since then, we have grown to include hundreds of members and dozens of statewide, regional, and local organizations. The principal goals of LLANJ are to mobilize and empower Latino communities across New Jersey to obtain political, economic, and social equality.

I also want to thank you for conducting this hearing addressing the growing concerns about outsourcing and off-shoring. This topic is of

great concern to LLANJ, because many Latinos are workers that have and will continue to experience the job loss that is occurring in New Jersey as a result of outsourcing and off-shoring. The Latino community has also experienced service quality erosion resulting from outsourcing and off-shoring activities. We concur with the testimony provided by Noel Christmas, President of the Utility Workers Union of America, Local 601, and are also increasingly concerned about the safety and security risks that outsourcing and off-shoring creates for our citizens and workers.

According to “Perspective on Off-shoring and New Jersey,” an article written by Susan J. Bottino in August of 2004, and published by New Jersey Policy Perspective, “The full impact of job loss on an economy goes deeper than simply subtracting the salaries of workers laid off or figuring out how much less they might be making at their new jobs. Beyond the immediate negative impact on the unemployed and their families, dislocations can cause a significant ripple effect. This effect decreases sales and makes vulnerable many kinds of businesses; weakens the local, county, and State tax base, as the sales and income produce less revenue; fray’s social infrastructure; and contributes to higher crime rates.”

This article estimates that if the targets for jobs vulnerable to off-shoring were reached, the total gross wage loss in New Jersey would be approximately \$23.3 billion. This estimate is almost 12 percent of New Jersey’s 2002 taxable income. I am not an economist, but common horse sense says and tells me that these revenue losses can have an extremely negative effect on State revenues, and can further exacerbate the budget deficit that the Governor and the State legislators are presently trying to resolve.

In addition to our concerns of the negative impact that off-shoring can have on our State budget and economy, LLANJ supports the position of the Utility Workers Union of America. We want to reiterate that without legislation in the utility industry that prevents the outsourcing and the off-shoring of utility customer services, the service quality and value that a local workforce can offer will be lost, and our concerns about increased security risks, and major catastrophes, and future budget deficits will be realized.

LLANJ strongly urges that the Legislature pass a bill to prevent outsourcing and off-shoring, and have these regulations enforced at the Board of Public Utilities.

Thank you.

ASSEMBLYMAN VAN DREW: Thank you for your testimony.

One very quick question, because I know we do have to wrap it up. Any numbers, at all, how much cheaper it is for the utility?

MR. FLORES: We're currently looking into that right now. I'm not the guy that's basically crunching the numbers, to be honest with you. But we're very concerned about the job loss, in reference to the--

ASSEMBLYMAN VAN DREW: Which you should be. And I know that's part of the issue, as well. There's no question about it, that it's serious. I'm just curious, on my own, how much of a savings they achieve. So if you ever have those numbers, we'd be interested in them.

MR. FLORES: We can get that to you if you want.

ASSEMBLYMAN VAN DREW: Thank you very much.

MR. FLORES: You're welcome.

ASSEMBLYMAN VAN DREW: Thank you for being here.

Any other comments from the committee? (no response)

Otherwise, we are adjourned for today. And we look forward to our next meeting. The testimony was excellent.

Thank you for being here.

Meeting is adjourned.

(HEARING CONCLUDED)