

**TEACHERS UNION SCANDALS: CLOSING THE GAPS  
IN UNION MEMBER PROTECTION**

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**HEARING**

BEFORE THE

**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS  
UNITED STATES SENATE  
ONE HUNDRED EIGHTH CONGRESS**

FIRST SESSION

ON

EXAMINING TEACHER UNION SCANDALS, FOCUSING ON CLOSING THE  
GAPS IN UNION MEMBER PROTECTIONS, THE DEPARTMENT OF LA-  
BOR'S ADMINISTRATION AND ENFORCEMENT OF THE LABOR-MAN-  
AGEMENT REPORTING AND DISCLOSURE ACT (LANDRUM-GRIFFIN  
ACT), AND CERTAIN INVESTIGATIVE MATTERS INVOLVING THE WASH-  
INGTON TEACHERS UNION AND THE UNITED TEACHERS OF DADE

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JUNE 19, 2003

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## **TEACHERS UNION SCANDALS: CLOSING THE GAPS IN UNION MEMBER PROTECTION**

THURSDAY, JUNE 19, 2003

U.S. SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:15 a.m., in room SD-430, Dirksen Senate Office Building, Senator Gregg (chairman of the committee) presiding.

Present: Senators Gregg, Alexander, Bond, Kennedy, Dodd, and Clinton.

### OPENING STATEMENT OF SENATOR GREGG

The CHAIRMAN. I will open the hearing. I understand Senator Kennedy may be on his way, and when he gets here, of course, we will recognize him for an opening statement if he decides to proceed in that manner.

This hearing today is an investigation into two scandals that have called into question some of our Nation's basic worker protections. Money earned by thousands of hard-working public school teachers in Washington, DC and in Miami, FL was squandered and used to fund extravagant lifestyles for a few officials of the unions which were supposed to protect those workers. No one knew this until it was too late.

We first became aware of the problem when the story broke last fall that an enormous and unauthorized amount of money was being spent and withdrawn from the paychecks of Washington teachers, paid union dues, and further investigation showed that much of that money was being misallocated to benefit a few people who worked for the Washington union.

Further investigation by the FBI and the United States Department of Labor, with the full cooperation and hard effort of the American Federation of Teachers, uncovered upward of \$5 million in alleged embezzlement. And now, we have learned that the teachers in Miami may be victims of the same sort of corruption.

These stories of exploitation are inexcusable. We need to find out the answers and then what we need to do to make sure it does not happen again.

The witnesses appearing before us today are here to help us understand what happened. I am sorry to say that our pursuit of the truth is not being welcomed in all quarters. Unfortunately, one individual is not able to come forward today because of legitimate fears for his safety and the safety of his family.

Some of today's witnesses may come under unfair scrutiny or have their motives questioned, perhaps as a distraction from the real scandal before us today. All this is regrettable, but the American people need to know the answers, and I am committed to pursuing those answers.

Our hearing today is intended as a systematic and sober appraisal of these questions: How have public school teachers been affected by the alleged embezzlement of millions of dollars in dues money, and what do they have to say about it? Why did the United States Department of Labor not do more to uncover the fraud and stop it at a much earlier stage? What if any local and national union safeguards were in place? Did they work? If they did not work, why didn't they work? And what changes need to be implemented?

With all the media attention on transparency and accountability in this post-Enron period, how did these local unions avoid public scrutiny until it was too late?

Are the scandals in Washington and Miami aberrations, or could they potentially be the tip of a bigger problem?

And, most important, we here in Congress must ask how are we going to use the answers to these questions to ensure that such massive misappropriation of union money never happens again?

I just want to outline some of the things that have been alleged to have occurred here. In the Washington Teachers Union scandal, the president of the union is alleged to have spent over \$1 million on goods and services to benefit herself. For example, \$500,000 in custom-made clothing was purchased from a fancy clothier in Baltimore; \$150,000 from Neiman Marcus; \$57,000 for 288 pieces of Tiffany sterling silver; \$50,000 for Snazzy Limited in Orange Park, FL; \$50,000 at Nordstrom; \$40,000 at Saks—and the list goes on and on. That was with the president.

The treasurer of that union is alleged to have charged over \$100,000 on the credit card of the union for purchases which were suspect and primarily personal use.

The chauffeur of the president—which in and of itself seems strange—is also alleged to have been actively involved in the misappropriation of union funds, with a salary that is believed to be \$150,000 paid through the union but maybe not reported.

There are other union officials who were relatives—for example, the sister of the president, or assistants to the president—who also are accused of having misappropriated significant dollars to benefit themselves, dollars which were obviously supposed to be used to help the teachers who were represented by that union either with their health care or with their pensions or with their simple representation in making sure they were adequately protected as they pursued their jobs.

In the Miami situation, the head of the union, whose salary included \$42,000 a year, which was put into an account for which there appears to be absolutely no accountability, took a number of vacations which were highly suspect and charged them to the union. For example, \$50,000 was spent on a 3-week vacation, it appears, in California, Australia, and New Zealand, and \$20,000 was spent on a vacation in Biscayne Bay, and all of those charges were paid for by the Union, including innumerable others.

Clearly, there is a problem here. This hearing is about what that problem is, how it was identified, and what we need to do to make sure that we have in place safeguards so that this type of misappropriation of union dues does not occur in the future.

I will yield now to Senator Kennedy.

#### OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Thank you, Mr. Chairman.

All of us know the many, many contributions that unions have made to workers across the countries and the immense difference that they have made in the lives of working families. They have led the effort in every major improvement in workers' lives over the past century, for higher pay for overtime, for minimum wage, for safe workplaces, for good health plans and good pension plans. Janitors have health insurance for their families. Factory workers who never finished high school send their children to college.

The American Federation of Teachers was indispensable in promoting education reform long before it achieved the momentum it has today. The AFT has always put children's learning, high standards, and education reform first, as we know from their leadership on Head Start, No Child Left Behind and improving teacher education.

The landmark Federal statute that safeguards union members' rights was enacted by Congress in 1959 with union support. That act was meant to help unions fulfill their duties, not hobble them.

As the legislative history of the Senate bill clearly stated, a strong, independent labor movement is a vital part of American institutions. The Senate should be careful neither to undermine self-government within the labor movement nor to weaken unions in their role as the bargaining representatives of employees.

The vast majority of labor union offices and employees abide by these laws and use their high office to improve the lives and working conditions of all Americans. Incidents of wrongdoing are very rare. Twenty thousand labor organizations filed reports with the Department of Labor. Each of these unions has anywhere from a few to a few thousand offices and employees. Hundreds of thousands of employees have access to union funds, but financial crimes are extremely rare.

There is no question that what happened at the Washington Teachers Union and Union Teachers of Dade was reprehensible, particularly when it comes at the expense of the education of our children. The responsible officers betrayed their office and their trust, and by doing so, they harmed unions, their members, and the public trust.

The AFT has taken immediate and proactive steps to prevent abuses in the future, and it is tightening controls throughout their affiliate structure to ensure direct reporting to individual union members. But that is far from enough for this anti-union administration.

Last December, the Department of Labor proposed drastic changes in the financial reports that labor unions filed with the Federal Government, including the extensive itemization of all payments that meet a threshold amount which the Department proposes to set as low as \$2,000 and requires voluminous schedules

that could be hundreds of pages long, listing every possible last transaction.

Union members want and they deserve genuine transparency. They do not want a blizzard of information that would be a mockery of real reform. It is the same, old anti-union bias. Newt Gingrich called for similar changes in the first Bush Administration. He even went so far as to send a letter to Secretary of Labor Lynn Martin calling for these changes, as he put it, "to weaken our opponents and encourage our allies."

Now the administration wants detailed reports of union expenses for all political activities and for union organizing, too. They want detailed information about the number of union members in each category. It is absurd to pretend that these requests are supposed to benefit union members; the are intended to aid union-breakers. It fails to protect union members' money, but it still imposes millions of dollars in new administrative costs on unions. The goal is to force unions to wallow in red tape instead of providing valuable services for their members, such as seeking better wages, better benefits, and better working conditions. It has nothing to do with helping union members understand how their dues are being spent.

The Department of Labor wants to hold unions to a far higher and unreasonable standard than the administration's friends in the corporate world. In fact, only 10 percent of all corporations have any government financial disclosure reporting requirements at all, and these corporations are not being asked to open their corporate ledgers, to itemize each of their transactions—and this after all of the scandals that we have seen recently.

The Department is asking unions to reveal their key strategies, to report when and to whom each payment is made. We would never ask a corporation to reveal such trade secrets.

It is difficult to believe that even the most anti-worker, anti-labor, anti-union Congress or administration would seriously try to force such blatant change in the law. They would never dream of imposing such a request on corporations, and they should not try to impose it on unions, either.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kennedy.

We are joined as our first witness by Larry Yud, deputy director, Office of Labor-Management Standards, Employment Standards Administration, United States Department of Labor.

I notice that Mr. Yud has worked for the Department of Labor for 36 years. That is very impressive. That means, I think, six different Presidents, or maybe even seven that you have worked under. That sort of commitment to public service is extraordinary, and we appreciate it, and we look forward to hearing your thoughts on this issue.

**STATEMENT OF LARY F. YUD, DEPUTY DIRECTOR, OFFICE OF LABOR-MANAGEMENT STANDARDS, EMPLOYMENT STANDARDS ADMINISTRATION, U.S. DEPARTMENT OF LABOR, WASHINGTON, DC**

Mr. YUD. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am pleased to appear before the committee today to discuss the Department's ad-



ministration and enforcement of the Labor-Management Reporting and Disclosure Act, also known as the Landrum-Griffin Act or the LMRDA.

I understand that the committee is interested in particular in matters involving the Washington Teachers Union and the United Teachers of Dade. As the committee is aware, the Washington Teachers Union is the subject of an investigation under the auspices of the United States Attorney for the District of Columbia, and my agency, the Office of Labor-Management Standards, is actively involved in this investigation.

In view of the pending investigation, it would be inappropriate for me to discuss specific issues concerning that case. At this time, my agency is not involved in any investigation involving the United Teachers of Dade.

Although I cannot discuss the current case involving the Washington Teachers Union, I can provide a general overview of the LMRDA, which is centered on two fundamental goals—promoting union democracy and ensuring union financial integrity.

The rights of union members and important union responsibilities are set forth in five titles of the LMRDA. In my written statement, I summarize each of these five titles, but I will confine my remarks today to the two titles I think may be most relevant here.

Title II of the LMRDA requires reports from unions, union officers and employees, employers, labor relations consultants, and surety companies. The Department of Labor has authority to enforce these reporting requirements, and the LMRDA provides for the public disclosure of those reports.

Over the past year, the Department has taken a number of important steps to improve the administration of the LMRDA reporting requirements. In January of 2002, we began distributing to labor organizations a free CD-ROM containing a computer software program that they can use to electronically complete the financial reports they are required to file. Those reports can now be submitted over the Internet.

In June of 2002, we began making these annual financial reports, and more recently the reports of employers and labor relations consultants, available for public disclosure on the Internet. Since the activation of the Internet site in June of 2002, there have been half a million visits to the homepage of that site.

In December of 2002, the Department published a Notice of Proposed Rulemaking to substantially revise the Form LM-2, which is the annual reporting form used by the largest union, and to revise, although less significantly, Forms LM-3 and LM-4 which are used by smaller unions. Approximately 20 percent of all unions are required to file the LM-2 report.

The new forms will provide union members, Congress, and other interested parties with more information about the financial activities of unions, including information about trusts operated for the benefit of the members. These reporting improvements will give union members the information they need to engage in effective self-governance, and the enhanced detail and disclosure will also discourage financial mismanagement and embezzlement.

The Department is currently reviewing the comments received on its Notice of Proposed Rulemaking.

Under Title V of the LMRDA, financial safeguards are established for unions. Title V imposes financial responsibilities on labor union officials. A union officer or employee who embezzles or otherwise misappropriates union funds or assets commits a Federal crime that is punishable by fine or imprisonment.

Title V establishes bonding requirements for union officers and employees and prohibits persons convicted of certain crimes from holding union office or employment for up to 13 years after their conviction.

In the last 5 fiscal year, our agency has conducted 750 election investigations and supervised 173 union elections. We have invested 75 trusteeship cases and conducted nearly 2,000 criminal investigations primarily involving embezzlement of union assets and related reporting violations.

During this period, the Department's investigative efforts resulted in 72 criminal indictments and 639 convictions, or approximately 11 convictions per month.

In addition to these enforcement activities, OLMS carries out extensive programs of compliance assistance, beginning with offers of assistance to all officers of newly-formed unions. We publish a wide variety of compliance assistance materials, and every OLMS field office has an active program of compliance assistance seminars. Much of the focus of this compliance assistance is on the statutory reporting requirements.

Unfortunately, because of the significant decline in staff resources, the agency has had to significantly curtail its discretionary program to audit local and international unions, and instead, we have had to focus on mandatory activities such as election investigations and criminal referrals.

The agency implemented a compliance audit program in the early 1980's following a recommendation by the General Accounting Office that was critical of the agency for not conducting sufficient onsite reviews directed to enforcement of the LMRDA. However, between 1990 and 2002, the agency's staff resources have declined nearly 40 percent, leaving us with insufficient resources to manage an effective audit program.

Mr. Chairman, I can sum up in about a minute, if that is okay.

The CHAIRMAN. Take whatever time you need.

Mr. YUD. Thank you, sir.

I was commenting on the fact that we have not been able to do the number of audits that we have been able to do in the past. As an example, the Washington DC district office of our agency, which is responsible for nearly 1,500 reporting labor organizations in Maryland, Virginia, and the District of Columbia, is able to conduct only about three audits a year. The agency's program to audit international unions has suffered a similar fate. Over the last 5 years, we have been able to audit on average only one national or international union a year. The audit program is 20 years old, and we still have not audited 10 of the 25 largest unions.

When we are able to conduct an audit, our investigators and auditors perform a number of mandatory and optional steps designed to protect even well-disguised misappropriation of funds. In the case of one large international union, an OLMS audit uncov-

ered an embezzlement of over \$350,000 that for many years had gone undetected by the union's own external auditor.

On a bright note, the President and Congress have begun to rectify this lack of effective oversight. In the recently-enacted fiscal year 2003 budget, OLMS was authorized to increase its staff. That increase will enable us to begin to build back our audit program as well as to increase the compliance assistance activities that we carry out to help union officers, employees, and members understand the law and take steps to place themselves into compliance.

Thank you for giving me the opportunity to discuss this important program. I would be pleased to answer your questions subject only to the constraints by which the Department feels bound in light of the pending investigation.

[The prepared statement of Mr. Yud may be found in additional material.]

The CHAIRMAN. Thank you, Mr. Yud.

Picking up where you left off, you said your funding has declined 40 percent. Is that since 1992?

Mr. YUD. I think that is from 1990, sir.

The CHAIRMAN. And what would you need in order to adequately fund the agency, this function of the agency, over what you are presently getting?

Mr. YUD. We have in the President's fiscal year 2004 budget a request for 75 FTE, and I think that brings us up to a level where we can reasonably carry out a fairly effective audit program, oversight program.

The CHAIRMAN. So if you got this year's administration budget request, you think you could restore your auditing capability considerably?

Mr. YUD. Yes, sir. I do not think that any person involved in enforcement in the Federal Government feels they have enough resources to do the complete job they would like to do. But the President had asked for 75 more positions for us, and I think we believe that that would allow us to carry out a much more effective audit program—as well as other related programs.

The CHAIRMAN. You said that there were only three audits done in the greater Washington area out of those firms which, as I understand it, means the chance of being audited is about once every 500 years, which means we would have to go back to Charlemagne before we got a complete audit; is that correct?

Mr. YUD. I think that is the way those numbers work out, yes, sir.

The CHAIRMAN. And since the initiation of your program, you have only been able to audit 10 of the 25 largest unions; is that correct?

Mr. YUD. No, sir. What I meant to say if I did not was that if you rank unions by size, 10 of the 25 largest have never been audited by our agency even though the law has been around for over 40 years, and our audit program has been around for 20 years.

The CHAIRMAN. Is that a function of resources?

Mr. YUD. Yes, sir.

The CHAIRMAN. Also, I am wondering—of course, most of your teachers' locals are not private unions—they are public sector

unions—so they are not subject to your reporting requirements, are they?

Mr. YUD. That is correct. Teacher unions would only report to us if they had some private sector members or were somehow covered Federally.

The CHAIRMAN. So as a practical matter, you would not have been logically stepping into the Miami teachers union for an audit even if you had the resources, because they would not be subject to your jurisdiction?

Mr. YUD. That is correct. I would add one thing. It is a question of resources and demands. For example, when we get an election complaint, the statute requires us to investigate it within a specific time period. So it is a question of do you have the resources and discretion to use them on a program like an audit program, or are you required with the resources you have to commit them to mandatory work.

The CHAIRMAN. Now, there has been some representation by some commentators that the better approach here rather than setting up your reporting requirements system that you have put in place is to have unions subject to independent financial audits. What are your thoughts on that—full reporting versus independent audits or as a complementary exercise to independent audits?

Mr. YUD. Mr. Chairman, I guess I would respond to that by saying first that a major objective of the LMRDA is transparency, is to give union members the information they need to understand how their union is being operated and to evaluate how their dues are being spent.

Audits are a fine thing, but an audit basically tells somebody that maybe the checkbook is balanced correctly and the amounts reported in assets and liabilities and so on are properly reported. It really does not tell you much of anything about how that organization is being operated, particularly when you have very large aggregate amounts, in the millions. It may not tell you that \$100,000 is being spent at this restaurant or really how the money is being used.

So I do not think that an audit in and of itself accomplishes the goals of—it certainly does not accomplish the goals of disclosure, and it really does not necessarily provide the transparency that I think the statute calls for.

The CHAIRMAN. You are sort of the SEC of the—what the SEC does to stockholders and shareholders and investors, you do for labor union members; right?

Mr. YUD. I think that is apt.

The CHAIRMAN. What would be your recommendation—obviously, there are a lot of recommendations out there in the post-Enron climate as to what we should be doing with investors and shareholders—what would you your recommendation that we should do in light of these instances that we have seen with these two specific locals having had their funds mismanaged? Do you have specific recommendations that are either legislative or regulatory—besides more resources, which is obvious.

Mr. YUD. Well, I think we are actively involved in two efforts right now. One is our Notice of Proposed Rulemaking, which is to change the reporting forms to have them provide more information,

more detailed information, information which I think is more valuable and useful by union members so they can engage in more effective self-governance so it is much more difficult to misappropriate or misuse funds if you have to account more specifically for how you spend that money. I mean, if you are going to be spending money at Neiman Marcus or Snazzy Limited or places like that, and that has to be disclosed somehow, then it is very likely that more people will ask questions, rather than if that amount is in an account which says \$5 million was spent on office expenses or something like that.

So I think it is time to change and improve the reporting forms so they are more useful for self-governance by the union members themselves. Obviously, the Department of Labor is responsible for engaging in oversight. I think that that calls for a certain number of audits, with the possibility that an audit will be conducted at some point in time, and I think that is a very important program. So I would respond in that fashion. As far as other legislative changes, I did not come here today prepared to talk about those legislative changes.

The CHAIRMAN. Thank you.

Senator Kennedy?

Senator KENNEDY. Thank you, Mr. Chairman.

Obviously, none of us holds a brief for the kind of corruption that has been identified in these instances that we have talked about this morning or in terms of the corporations of this country as well. And of course, we are all mindful of the fact that at least in the one case, this matter was all brought up by the members of the union itself—not in the second case, but certainly in the one case. And as I mentioned at the opening, it is even more horrific when you think that they are diverting funds from training teachers or from trying to improve the quality of education in this country.

I am interested in your views about the reporting standards. You mentioned that you can do about one out of 140 audits. I guess that is about the same that you have in terms of inspections on OSHA for health and safety as well. It may be slightly different, but not greatly different.

So certainly, whatever we are going to do here, we want to make sure that we are trying to do what needs to be done in terms of both the problems of the accountability and reporting as well as, it seems to me, the protection of workers.

But let me ask you on the question of the reporting—first of all, I want to pay tribute to you, Mr. Yud. You have had a remarkable career, and we want to thank you so much for your service.

Mr. YUD. Thank you.

Senator KENNEDY. We really appreciate it. I think all of us are mindful of your long and distinguished career.

The CHAIRMAN. You are catching up with Senator Kennedy.

Senator KENNEDY. You cannot resist, can you? [Laughter.] Now, getting past that—and I have just used up half my time—you testified that the Department of Labor is substantially revising the LM Form, but in the previous years before a House Committee, you said that “The LM-2 report sets forth in proper detail a reflection of the financial status of the union.” In fact, you said that three times in response to direct questioning by Congressman Hoekstra,

that you believed that the form set forth a clear picture of the financial conditions of labor unions. And you stated before a congressional committee that "The existing reporting form provides an actual reflection of a union's financial status," yet today you have a different view.

Can you tell us what changed your mind?

Mr. YUD. Thank you, Senator, and thank you for your kind comment.

I think that the form itself is an aggregate statement. Principally, what the form has on it now are aggregate statements about totals—total assets, total liabilities, and so on. And insofar as that is more or less like a balance statement, I think the form probably adequately does that.

What the form does not do is give people the detail that they really need to get behind those figures, to understand, all right, if this many million was spent in a particular area, some detail about how that money was used.

Senator KENNEDY. You are talking about millions, but of course, in the recommendation of the regulations, it is down to \$2,000, and there has been the observation that you may very well find out that there is such a massive amount of incidental information that it is not going to provide the kind of transparency, and that what you really need, as I imagine and as we have seen with the Sarbanes bill, is appropriate accountability—for corporations, in terms of how they are dealing with the trust that they have, as well as for unions and the trust that they have.

Wouldn't you agree that that is not an unreasonable position? Are you bothered at all by the kind of minutiae and detail as I understand that these current regulatory proposals provide? What you have just outlined here seems to me to make some sense, but in just a preliminary review of those rules and regulations, they seem to be quite a bit different.

Mr. YUD. Well, we are in the middle of Notice of Proposed Rule-making. We did receive nearly 36,000 comments. We are reviewing those. A lot of them go to issues of burden and relative burden on smaller organizations as opposed to large organizations, and we are very actively reviewing those comments, and we have to make some critical decisions in those areas.

I do think there has been a little bit—maybe a lot—of exaggeration about what the impact of some of these requirements really is. It is possible that the smaller unions in the LM-2 category—which I think you are referring to—if you have \$200,000 a year in disbursements, and you only itemize over \$2,000 or \$5,000, which is the range we have been looking at, the likelihood is that there will be very few items that will have to be itemized in that detail; especially if you pull out a couple of salaries that are \$50,000 or so, you are just not going to be left with that many items.

Senator KENNEDY. What I am hearing from you is that there ought to be an effective auditing process that makes available information to members so that there can be an effort toward self-policing as well as the protection of the funds in a reasonable way for the union members. As I understand it, that is different from what has been proposed in these other kinds of forms.

Finally, in response to Congressman Hoekstra, I believe 2 years ago, when you were asked about the various forms, you said, "Well, you are partially correct, yes. The Department at the time does not have any proposed changes to make. We think that those reports set forth in proper detail a reflection of the financial status of the union."

That is why I was asking the question. You said that "these report set forth in proper detail a reflection of the financial status of the union," and today, you are talking about a rather dramatic alteration—or maybe it is not so dramatic. I am just trying to understand exactly why this had "in proper detail a reflection of the financial status," and you now think that so much more information is necessary.

Mr. YUD. Well, again, as I said, I think when you talk about the status—which is generally are you in the black or are you in the red, what is the size of your assets—those forms can do that. Whether that is enough to tell you how the union is really being operated and where the moneys are really going, I do not think the current forms do that.

Senator KENNEDY. Finally, the Department's proposed regulations may require unions to itemize expenses that may be as low as \$2,000 across a broad range of categories, including core tasks that unions perform for their members such as organizing, lobbying, and political activities.

Publicly-traded corporations are not required to list every expense over \$2,000. They are not required to itemize expenses that reveal the workings of their core operations. I say what is sauce for the goose is sauce for the gander. Shouldn't we be asking the corporations to do the same thing?

Mr. YUD. Senator Kennedy, we are dealing with different laws here. We are dealing in one case with union members, with their dues going to the union, and in the other case, we are dealing with corporations and stockholder investments and what-have-you.

Senator KENNEDY. Retirement accounts, life savings.

Mr. YUD. Yes, sir. But I think they are subject to somewhat different considerations and certainly different laws. From my point of view, corporations—and I am not an expert; I do not understand the SEC—but I believe that corporations have very extensive reporting responsibilities. They have to report not only annually—many have to report quarterly; they have to provide not only quantitative material information, but they have to provide qualitative information. And it seems to me that most corporations would require a staff of attorneys and financial consultants and CPAs and what-have-you to prepare those reports.

I think what we are looking at on the union side is a little different approach, and I think most of the reports that we are talking about under the LMRDA can be prepared by a bookkeeper or an accountant.

Senator KENNEDY. The only point, as I said, is that even with those reporting, we have our Enrons and Worldcoms and the kind of damage that has been done to the lifetime savings of workers. We have reports and reports. What I hear you testifying to is what can be effective in trying to reveal if there is going to be any degree of corruption, something that can be transparent in terms of the

members, and I imagine toward the stockholders, so we are able to blow the whistle on both. I think that certainly ought to be our objective.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Alexander?

Senator ALEXANDER. I will give most of my time back so I can hear the other testimony, but from listening to Senator Kennedy—do you know, Mr. Yud, whether in the District of Columbia, you are required to join the teachers union in order to teach?

Mr. YUD. I am sorry to say that I do not know that.

Senator ALEXANDER. I believe in many parts of the country, at least where there is not a right-to-work law in order to teach, that it is necessary to join the union and pay the dues. I was thinking about the comparison between corporations and unions, and I was trying to think of a corporation that anyone was required to join or required to invest in, and I could not.

Can you think of a corporation in which anyone is required to invest their money in?

Mr. YUD. No, sir, I cannot.

Senator ALEXANDER. I cannot, either, and it would seem to me, therefore, that particularly in those states or jurisdictions where, in order to teach, one might have to pay dues that were \$500, \$600, \$700, or \$800 a year, it might be important to have more stringent requirements about disclosure so that people who are compelled to pay their dollars would know how the dollars are spent. And while I do agree that teaching and unions are distinct and unique, if we are reaching for analogies, maybe a more comparable analogy would be campaign contributions. We do have in our country a system where no one is required to give a contribution to Senator Gregg or to me or to Senator Kennedy or to Senator Dodd, but if one does, then there are some very extensive requirements that we have imposed upon ourselves and our whole process about who gave the money and how it is spent, in some significant more detail than the proposal for the reporting on union requirements, and the whole rationale for that is that people would then know who gave the money and how it was spent, and they could come to their own judgments about whether it was properly done or properly spent.

So I am not so sure that the analogy between corporations and unions in this case is a good one. I think a better one might be campaign contributions, and probably the best one would be let us just look at these circumstances in the teachers union.

I look forward to the other testimony, and I appreciate yours.

Mr. YUD. Thank you.

The CHAIRMAN. Senator Clinton?

Senator CLINTON. Thank you, Mr. Chairman.

I just wanted to make two preliminary remarks. First, I thank you for holding this hearing. I think it is our first hearing on education and labor matters this year, and I hope we will have more hearings on issues like no child left behind and special ed and Head Start and some of the other concerns that certainly my constituents are talking to me about on a regular basis.

Second, I think that our hearing today is certainly premised on an agreed-upon assumption that I know is shared by all of us, in-



cluding the representatives of the unions who are here, and that is that we need a system that does provide transparency, and we need a system that provides accurate information.

What we seem to be discussing is whether there are adequate safeguards, and if not, what reasonably could be done to improve those safeguards without looking to both undermine and burden members of unions and union leadership. And I appreciate Senator Kennedy's line of questioning very much, because it does strike me that with regard to the enforcement of all of our labor laws, in my view, the administration has been less than enthusiastic when it comes to organizing, collective bargaining, enforcement of work conditions and safety standards. So I understand there is a political agenda at work, and I recognize that, but I also hope that in the process of trying to come to some resolution of this issue, we do so in a way that is fair and recognizing the limits that are appropriate for the Government to be setting forth.

I am troubled by what seems to me to be the evolution of this concern over the last months. The original reporting requirements as I understand them had legitimate questions but have now been transformed into much more stringent expectations that would be very difficult for a number of smaller unions to comply with; certainly those that are not electronically up-to-speed would have tremendous difficulties.

So I think there is some common ground here that we can attempt to claim if we put aside the political agenda and look to the leadership and membership of unions that I think agree that we need some hard look at what the standards are and that changes that are appropriate and fair should be made.

I am particularly concerned about this idea of accounting for one's time. That is very difficult for me to understand. There is no comparable requirement either when it comes to corporations, nor is there a comparable requirement when it comes to campaign contributions. It would be very difficult for candidates and volunteers and staff to account for their time. In-kind contributions, financial contributions, and in the corporate world—which I think is still a far better and closer analogy because we are looking at an institution, not at a biannual creation of an institution that comes and goes; I do not think that is analogous whatsoever—but with respect to this accounting for time, which I do not see in the law anywhere else, how would you expect that to be complied with? It would open up so many doors that would be impossible to answer the questions that would be forthcoming. What is your understanding of that kind of requirement?

Mr. YUD. Senator Clinton, I would first note that the reforms in their current State really have not been changed much since the law was passed, so I think there is a time to look at these and wonder whether they are as effective today as they were 40 years ago. And again, our Notice of Proposed Rulemaking applies only to 20 percent of the unions, so 80 percent of the unions are not required to file the LM-2 report. We also expect to provide compliance assistance to them and provide software to them to help them do these reports.

As far as union officer time, when you look at a union as an institution, a very key component of union expenditures is the time.

In many cases, the salaries of the officers and employees make up the majority of the expenses of the union. I think it is reasonable to say that the members are entitled to have some idea of what those salaries go for—in other words, where those folks are spending their time in representing their members' interests.

We have made a proposal which allows this to be rounded to the nearest 10 percent and just made on some reasonable basis. There are unions actually that, like lawyers, keep time records. We are not asking them to go to that degree of specificity, but in our proposal—and we are looking at the comments that we have received, and we are assessing the burdens of these things—we have made a proposal that there be some allocation of what activities they spend their time on.

Senator CLINTON. And why wouldn't there be an analogy based on that argument with corporations? We have seen so many examples of what the press sometimes call "crony capitalism." I may be an investor in a corporation, and I have no idea whether the CEO or the CFO is spending half his time on the golf course. I have no idea whether he is spending his time feathering his own nest, wining and dining the members of the compensation committee so that he can get some kind of golden parachute. As a stockholder, I deserve to know that if you are making the same argument analogously with a member of a union.

So it seems to me that what we are doing here is taking the time of union leaders and saying that that has to be specified, quantified, and held accountable. And as far as I know, we do not do that in any other area of Government accountability, and I think you can understand why it raises questions about a political agenda as opposed to the legitimate questions that teachers, other union members, union leaders with the kind of record that somebody like Sandy Feldman has of standing up for education reform, of standing up for sometimes moving teachers beyond where their comfort zone is to do the things she thinks are right for education.

So I do not understand how we can expect to accept these changes on face value when it is clear that there is no only a political agenda behind them, and it is, as far as I can tell, the only area where the administration is interested in enforcing labor laws, but also that there is not any comparable expectation or standard imposed on any other person who does have a public trust. After all, corporations are creations of the public. They are chartered. They have obligations to the public—although they are sometimes forgotten, and we talk only about stockholders, bottom lines, etc.

So it is very difficult to understand the effort here, especially on this time issue, which leaps out at me as being particularly burdensome.

Thank you.

The CHAIRMAN. Maybe we are reaching a consensus that we should make unions subject to the SEC rules.

Senator Dodd?

Senator DODD. Thank you, Mr. Chairman.

Mr. Yud, let me join others in thanking you for your service over the years.

Senator DODD. Let me just say in terms of full disclosure here that George Springer, who has taken on this responsibility in

Washington, is someone whom I have known for 30 years. I have enjoyed our working relationship with this remarkably fine individual who has taken on a very difficult task and done so with great good judgment and tremendous hard work. I just want to thank you, George, publicly at this hearing for the tremendous job that you have done. We are very proud of you in Connecticut, having worked with you for more than three decades on public policy issues.

This is a thorny matter. Let me underscore the point that has been made by everyone here. None of us here wants to be associated with anything that involves fraud and criminal behavior. That should be a given. So we are not here to debate and discuss that at all. Obviously, hard work needs to be done.

I think it is important for people to have some sense of what we are talking about here. There are some 3,000 local unions under the AFT. Unlike most unions, it is decentralized; is that not true, Mr. Yud?

Mr. YUD. I am not an expert on how the AFT is organized.

Senator DODD. More than 2,700 of these locals have fewer than 1,000 members. Most of them are rather small unions, locals. I think it is important to keep that in mind as we look at this. I will State as a matter of fact that it is probably the most or one of the most decentralized of the national unions in the sense that a lot of autonomy is given at a local level.

So while we are talking about two very egregious cases here, and certainly ones that deserve tremendous attention, and the AFT has done just that—and President Bush to his credit has commended the AFT for the steps they have taken, and I thank President Bush for doing that, because there is too often the temptation to indict and malign an entire group of people who have dedicated their lives to teaching young Americans in our wonderful education system. So we thank him for that.

Because Senator Kennedy made some reference to it, Mr. Chairman, I am going to ask unanimous consent that a letter that was sent in February of 1992 to Lynn Martin and Clayton Yeuter from Newt Gingrich be included in the record, and I will just read part of it—a letter being circulated in the House, calling for two specific actions on the Beck decision. “These two steps are long overdue”—I quote the letter. “It will weaken our opponents and encourage our allies if we take these two steps.” One, he talks about ordering the Department to require posting of workplace notices. “No. 2, order the Office of Labor-Management Standards to institute changes in LM-2 union reporting and disclosure forms to provide people with essential information on dues expenditures, so weaken our opponents and strengthen our allies.”

That was 11 years ago, but nonetheless I think it is worth noting that there have been certain political motivations beyond the obvious problem that we need to deal with in terms of these two particular cases.

Now, if I can, let me raise a specific question. I would like to get some sense of budget if I can here. I note the President has asked for a small increase, about \$5.3 million, in the budget to conduct these audits. There have been reductions, actually, in the budgets of your office over the last number years. Is that not correct?

Mr. YUD. That is correct.

Senator DODD. So just as a practical matter in terms of the point you make in your statement about the amount of work that has to get done to conduct these audits, clearly, there is going to be an increased amount of work as a result of these rules taking place that will demand even more attention.

Are you satisfied that the budget increases you are going to be receiving are going to make it possible for you to not only handle this increase in the amount of workload but also the backlog that has accumulated as a result of the decline in budget authority to support the very office you are involved in?

Mr. YUD. Yes, Senator Dodd. One thing about the new forms, of course, is that we were going to an electronic version, and that should considerably help with the processing of that.

Another big advantage of that is that, as I say in my written statement, we will have an electronic audit program which is very efficient and requires very little hands-on, so that when these reports come in, they will be subjected to certain electronic audits, and we can ensure that they meet certain minimum standards of acceptability.

So I think we can apply those efficiencies, and yes, sir, I—

Senator DODD. And handle the backlog as well?

Mr. YUD. Yes, sir.

Senator DODD. I wonder if you might share with us what the process was on the Notice of Proposed Rulemaking. Let me ask a series of specific questions and ask you to comment on them if you would.

I would like to know whether you worked with the AFT either before proposing the rules or during the comment period, number one. Were public hearings held, and did they hold comprehensive stakeholder meetings; how many public comments were received; and is there any final time line for the decision?

Mr. YUD. Public hearings were not held prior to the Notice of Proposed Rulemaking—

Senator DODD. Why not?

Mr. YUD. Stakeholder meetings were held.

Senator DODD. But why not public hearings?

The CHAIRMAN. Why don't you let him answer the question?

Senator DODD. Go ahead.

Mr. YUD. I think the approach was that international union officers were invited to participate in meetings, and I think as many as 40 or more did participate in those meetings, and the approach was taken to meet directly with I think an affected universe here, which is primarily represented by the national union.

So two or three of those meetings were held. I think over 40 unions participated in those meetings, sent a representative to those meeting. And—I am sorry—your other question—I honestly do not know if the AFT participated in that or not.

The CHAIRMAN. The AFT is not subject—most of their unions are not subject to these rules.

Mr. YUD. Right. The national union reports, and some of their affiliates do, but again, of those representatives that were there, I do not know whether the AFT had a representative.

Once the Notice of Proposed Rulemaking went out, we received nearly 36,000 comments, and we have not held individual meetings with any unions concerning the rulemaking, and I do not think it would be appropriate necessarily during this period of time. We have received the comments, the period for commenting is closed, and we are now analyzing those comments.

Senator DODD. Are you aware of any software available for unions or others to handle the additional reporting requirements? Some 2,700 of the 3,000 locals—some of them are rather small in terms of their ability to be able to do this inexpensively.

Mr. YUD. Well, of course, we already have an electronic Form LM-2 which many unions already use to complete their report, and we will be providing unions with compliance assistance and information on alternative ways that they can set up their records to facilitate completion of the reports.

A smaller union may simply fill out the report afresh, so to speak, just make the entries right onto the form, or they might cut-and-paste entries from their bookkeeping records onto the form.

We will provide unions with a software that will take their records and put them on the form. So there will be a variety of approaches, but I think some of the smaller unions may just fill it out afresh, so to speak, and make the entries directly onto the form.

The CHAIRMAN. I think we need to move on to Senator Bond, if you do not mind.

Senator DODD. Let me just thank you, Mr. Chairman, and let me also join in thanking Sandy Feldman as well, whom I have worked with over a number of years, and comment her and her leadership on this issue both here in Washington and in Dade-Miami. You are to be commended for the efforts being made to deal with this, and we thank you for your leadership.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Bond?

Senator BOND. Thank you, Mr. Chairman.

I do not want to prolong this because we need to get to the next panel, but the 11 convictions per month over the last 5 years of criminal activities is of great concern. Are the rules that you are proposing designed to prevent or eliminate criminal activities—I mean, criminal prosecutions deal with those who have stepped over the line, but is it your hope that by providing greater information to members and others, it will somehow lessen the frequency of such criminal activity? How does this rule relate to the heavy workload that you have had on the criminal side?

Mr. YUD. Senator Bond, as I said earlier, I think a primary purpose is to give union members the information they need to engage in effective self-governance. I think as an additional result of that, members who have more information will be able to exercise better oversight and control on their own. So to the extent that somebody has to provide a little more detail about exactly what kinds of expenditures are being made, it becomes more difficult, I think, to cover that up or to disguise it, and so I would expect that it would have a deterrent effect, yes.

Senator BOND. Thank you, Mr. Yud.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Reed, did you have any questions?

Senator REED. No, Mr. Chairman. I am ready to go forward.

The CHAIRMAN. Thank you very much.

Thank you, Mr. Yud, and we thank you again for your service over 36 years. We appreciate it.

Mr. YUD. Thank you.

The CHAIRMAN. We are now joined by our second panel, if you folks would come forward to the witness table.

While they are taking their seats, let me begin by introducing our panel. We are joined, as has already been reflected by a number of members, by Sandra Feldman, who is the president of the American Federation of Teachers. This union played a critical role in uncovering some of the very egregious activity of the Washington Teachers Union. We congratulate them for their aggressive investigative activity and for bringing this to light and their attempts to remedy the situation, and we look forward to hearing from Ms. Feldman.

We are also joined by Thomas Donahue, who of course is a very well-known national individual. He has led the AFL-CIO as president and as secretary-treasurer. We appreciate his taking the time to be here. He presently serves as chair of the Advisory Committee on Labor, which is a committee that assists the State Department.

We are also joined by Roland Ashby-Rier. Mr. Rier is a teacher, and he is here in Washington—he has not yet joined us, but I think he is going to join us—we had better wait to introduce him until he makes it. I apologize.

Our next witness is Damaris Daugherty, who is involved in the Miami issue. She helped found a group called the Teachers' Rights Advocacy Coalition, TRAC, back in 2001. For a considerable period of time, Ms. Daugherty has been raising the red flag about concerns relative to the way the Miami union was being operated, especially about its management and its leadership, and therefore, she brings to the table a very important element of the review of that union's leadership and their failure to properly protect their membership.

We will begin with you, Ms. Feldman, if you do not mind.

**STATEMENTS OF SANDRA FELDMAN, PRESIDENT, AMERICAN FEDERATION OF TEACHERS, WASHINGTON, DC; THOMAS DONAHUE, SENIOR FELLOW, WORK IN AMERICA INSTITUTE, AND FORMER SECRETARY-TREASURER, AFL-CIO, WASHINGTON, DC; AND DAMARIS DAUGHERTY, FOUNDER, TEACHERS' RIGHTS ADVOCACY COALITION, MIAMI, FL**

Ms. FELDMAN. Thank you very much, Chairman Gregg and members of the committee. We are very grateful for the opportunity to testify about the apparent and appalling misuse of funds and abuse of trust that we have experienced in our union.

I am sickened and infuriated by the betrayal of the members' trust and even more so, if that is possible, because of what public education and teacher unionism mean to me. It was public education from kindergarten through college that made a successful life possible for me, and it was through teacher unionism that I could fight to improve the education of kids who great up as poor as I did, while also striving to improve the working lives of the men and women teaching them.

For me, teacher unionism has been about idealism. Corruption has never been part of our past, and I can assure you I will continue to do everything in my power to see to it that it will not be part of our future. To that end, we have just taken a series of important steps to increase fiscal oversight of locals, and I will describe them in a minute.

But I also want you to understand that at the heart of our history is an intense commitment to the independence of our local union. The AFT, as has been pointed out, has a tradition of strong local unions with complete autonomy, from electing officers to setting policies to setting their own local dues, making their own budget, bargaining, ratifying, and enforcing collective bargaining agreements with their own local boards of education.

This closely tracks the strong tradition of local control in the public school systems, and it is why the AFT constitution has provided for relatively little fiscal oversight of local unions in the past.

Over the years, we have built a strong national union, but it does not run locals. It exists for mutual self-help, to address national concerns and to conduct research on and advocate for educational improvements, high standards, and other issues of importance to our members and the people they serve.

For example, President Bush and Secretary Paige have recognized the AFT's leadership on how to best teach reading, and the Department of Education is working with us, as did the previous administration, to help provide the Nation's teachers with solid research-based approaches to the teaching of reading.

So how did things go so terribly wrong in two of our locals? How can we set things right and prevent this from ever happening again? It is a question that I have been constantly asking myself—could we have seen the warning signs sooner, and even if we had, with hindsight, which of course we know is always 20/20, could we have done more?

As I have said, the AFT consists of fiercely autonomous local unions just under 3,000, ranging in size from two members in an island community to 115,000 in New York City. Some 2,748 locals out of that almost 3,000 have fewer than 1,000 members each, and our Constitution, procedures and practices reflect our tradition of local autonomy.

So while our Constitution requires that local unions undergo audits or financial reviews at least every 2 years, make them available to their members and submit a copy to the national office, we have had no enforcement provisions because neither our history nor our experience indicated that more was needed, and instead, we have relied on the power of persuasion, not the persuasion of power.

With regard to the Washington Teachers Union, we have repeatedly sought copies of audits from the president of the WTU and the payment of back dues. But we first discovered that something was seriously wrong last summer, when teachers alerted the AFT national office about an overcharge in the automatic dues deduction.

We sent in the AFT's financial services department, which soon found several serious irregular transactions, including checks and credit card purchases, without proper authorization.

We then notified the U.S. Attorney's Office, which began investigating the WTU with the full cooperation of the AFT. The local executive board asked for the resignations of the officers allegedly involved, and the AFT hired a forensic auditor who ultimately reported the misappropriation of some \$5 million.

All the excruciatingly painful details that you have read about came directly from our forensic audit, which we promptly provided to all the AFT members and made public.

In January, the AFT executive council voted unanimously to appoint an administrator to run the day-to-day operations of the WTU. The case in Miami first came to our attention in a different manner. There, we had no knowledge of any alleged wrong-doing by the local's president until the FBI raided the union's headquarters on April 29. Nor did we learn that the local was having serious financial problems until representatives of the UTD came to us last January requesting that we guarantee a large loan. We never gave that guarantee because they failed to provide satisfactory answers to our questions about their financial situation.

Over the years, the UTD's audits, conducted by a reputable national accounting firm, had never indicated that there were difficulties until a problem appeared on the very last audit conducted by a local accounting firm and submitted in March of this year. And as in the Washington situation, once we became aware of potential financial mismanagement, the AFT executive council appointed an administrator for the Miami-Dade local. Both in Washington and in Miami-Dade, the administrations are now getting those locals back on the right financial track.

Meanwhile, on the national level, we have created stronger procedures to help prevent or detect possible corruption in any local union, and let me briefly describe them.

First, under our new rules, if a required audit or financial review is not submitted to us within 6 months of the close of the local's fiscal year, the national AFT president is authorized to employ an auditor to review the local's finances, inform the local's members immediately, and report the results to the members and to the AFT executive council.

In addition, because one sign that a local might be having financial difficulties for any reasons is if it falls significantly and unaccountably behind on its dues payments to the AFT, our executive council strengthened the procedure for dealing with late payments.

Now the AFT, after notifying a local that becomes 2 months behind in its payments and does not correct it in a timely manner will directly notify the local's executive board and State affiliate. If the payments are still not made, we will communicate directly with the members of that local, and the AFT president is authorized to send in an auditor to examine the books. So for the first time as a national union, we can now directly inform a local's members of a potential problem, and we have a streamlined mechanism to employ our own auditor. We believe very strongly that the knowledge and involvement of members is the strongest tool that we have.

What has happened in these two locals is a tragedy, but it is also what educators call "a teachable moment." Our newspapers and website have kept our members and leadership throughout the country informed about these situations. The website is carrying



the WTU's full forensic audit, with all its ugly details, along with our own AFT financial statement which is audited by an independent firm. A similar forensic audit will be completed and posted for Miami.

We are developing additional training programs for local union presidents, treasurers, and other officers in financial management, recordkeeping and reporting.

I am determined, out of outrage and belief, to guard our historic mission—to nurture the open, honest, democratic union that the AFT has always been, which gives voice to teachers' aspirations to improve education for all of America's children, for the good of our communities and for our country.

Thank you for listening, and I am prepared to answer any questions you have.

The CHAIRMAN. Thank you, Ms. Feldman.

[The prepared statement of Ms. Feldman may be found in additional material.]

The CHAIRMAN. Mr. Donahue, we would be happy to hear any statement you wish to make.

Mr. DONAHUE. Thank you, sir.

Mr. Chairman, committee members, Senator Bond, I thank you for being patient. I have submitted a written statement for the record, but I would like to make a few comments. The statement that is filed includes a lengthy statement of my background, but for your purposes, I think it is sufficient for me to say that I have spent 41 years in the trade union movement working at the local union, the national, and at the federation level, including 16 of those years as secretary-treasurer of the AFL-CIO and a short term as president of the AFL-CIO.

I think I bring to this hearing the unique perspective of a trade unionist who has also served as assistant secretary of labor for labor-management relations. Indeed, Mr. Yud was one of my staff when I was in the Department of Labor. That was back when he had blond hair, and I had a full head. [Laughter.]

Let me say at the outset that I have enormous respect for the American Federation of Teachers and for all of its officers. I hold it in such high regard because I sincerely believe that it is a primary reason why today's teachers have greater professional development opportunities, why all of our States have academic standards in place.

My purpose in being here is to provide a little background of union structure so that you will understand where the AFT fits in that framework to enable you to see the current problems in two locals of that union in their appropriate context. I would also like to comment on the proposed LM-2 reporting requirements that the Department has proposed and which have been discussed here by Mr. Yud.

Those were not motivated by the WTU since they predate the discovery of that misconduct and would not in my opinion have prevented it. Unions are democratic structures in which members elect their officials at the local, State and national levels, in free and fair elections, meeting elaborate standards prescribed by the Department of Labor. They seek the fullest involvement of their members in union affairs, but each of my unions is a product of its

own history and orientation, and to some extent, that of the industry or government in which their members work.

The AFT is by design and tradition decentralized—highly decentralized—with teachers employed by thousands of school districts across the country. It makes sense that the union is a federation, a structure which affords local independence and responsiveness to local issues and minimizes the degree of control and supervision the national office exercises. Since its founding 80 years ago, that approach worked superbly well for the national union, for its locals, and most importantly, for all of its members.

You are here today talking about the exceptions—the shocking exceptions—but it is important to remember the overwhelming majority of AFT locals operate democratically, under leaders who possess integrity, expertise, and a commitment to member service.

Let me suggest that the way to judge a national union is not by the despicable actions of a few individuals; rather, judge the character of the AFT and its officers and board by their response to those actions, and the AFT has responded well.

Ms. Feldman has described at length the steps the AFT has taken to handle the current problem and to prevent any sort of repetition of it. I think the AFT is clearly on track in addressing the problem. They are dealing with it at the local level, at the national level, encouraging further member involvement in these issues, and increasing the supervisory role of the national union.

The supervision and intervention of the AFT will now be able to be exercised when the first warning signs appear of difficulties in local unions. I think they are vigorously addressing the problem.

As people here who are concerned about those aberrations, though, you should know that the proposed changes in the union disclosure forms that are being considered here, described by Mr. Yud, are not aimed at this occasional crook or at the trade unionist who betrays the members' trust, nor will they reduce the incidence of this type of crime. What they will do is cause unions to spend many more millions of dollars than have ever been stolen in an incredible maze of recordkeeping and filing. They represent an enormous intrusion into the details of a union's operations never envisioned by the framers of the Labor-Management Reporting and Disclosure Act. They would force unions to disclose to employers, to the employer consultants who infest the labor relations scene, details of union operations which might well telegraph a union's organizing or bargaining strategy and deeply injure its members.

Unions currently disclose their spending willingly and gladly so members know where their money is going, what it is being used for—and most unions did that before any law required it. Every union I know of presents to its conventions or annual/biennial meetings a full accounting for all moneys received and expended. Members get an opportunity to review financial statements which are often posted on union websites and are published in union publications, and they obviously can and do ask questions of their leaders at any meeting they choose.

The current version of the LM-2 form requires unions to disclose staff salaries, to include detailed categorical spending, which means rigorous and detailed recordkeeping by unions. That is a

burden they have accepted because they believe it serves a useful purpose.

Looking at the proposed regulations, the Airline Pilots' Association did a detailed study of what these new regulations might mean to their organization. They concluded that the new rules would result in 15,863 pages of data from that union alone that would not help the members in any way to understand ALPA's financial picture any better than they do now.

The AFL-CIO study of the proposed changes concluded that the average cost to a national union to apply would be over \$1.2 million, and the average cost to each local would be \$218,000. In aggregate, the AFL-CIO estimates a total cost to comply for all reporting unions of \$1.2 billion, which would translate, incidently, into a charge of about \$96 per member in a reporting union. That is a very heavy tax to lay on union members.

There is such an enormous disparity between the figures I offer you and the figures which the Department of Labor offers that it seems to me, if I may suggest, Mr. Chairman, that somebody needs to ask the Department of Labor to try to reconcile these figures or to rebut the AFL-CIO figures. You know the way the regulatory process works, that is not happening, and yet you have this enormous disparity in the estimates of the cost of compliance.

The truth is that the profusion of information, the enormous detail that would be included, would not increase the accountability of officers to members. It would instead tie them up in enormous recordkeeping and time measurement chores. No union member pouring over all that detail would be able to detect mis-spending, and I question whether the Government would be able to do so.

Mr. Yud testified today that because of budget stringency, the Department of Labor has abandoned the program of systematic field audits that it had conducted for many years. That being the case, it is difficult to see how the Department could deal with the welter of detailed information the new report forms would engender. The proposed changes are simply not the answer to increased accountability. Whether the proposed changes come from the best intentions or the worst, their effect would be the same—more money from workers would be spent to cover administrative and accounting functions; less money could be spent to improve working conditions, to raise the quality of the institutions in which they work, and to help workers better serve the Nation.

Thank you, Senator.

The CHAIRMAN. Thank you, Mr. Donahue.

[The prepared statement of Mr. Donahue may be found in additional material.]

The CHAIRMAN. Ms. Daugherty?

Ms. DAUGHERTY. Thank you, Mr. Chairman.

Good morning. I am Damaris Perez Daugherty. I am the wife of a public school teachers and mother of two children who are in the public school system in Miami-Dade. I am also the daughter of two Cuban immigrants who are an American success story, and I am very proud to tell you today that my father was the founder of one of the first labor unions in Cuba before coming to the United States.

I am executive director of the Teacher Rights Advocacy Coalition, or TRAC. TRAC is a professional organization dedicated to empowering educators and elevating their status. We are fighting to expose corruption in our school district and bring about accountability. Unlike the local teacher union, the United Teachers of Dade, we are an open and democratic organization where each member has a voice and a vote.

I would ask you today to consider one question: Would you feel comfortable having a fox guarding a hen house?

While unions have undoubtedly achieved important goals and helped to make America a more just and equitable society, in recent times, some unions have lost their focus and have allowed their executives to enrich themselves at the expense of their membership. A few collective bargaining agreements go so far as to erode constitutional rights such as the right of free speech, freedom of association, and the right to counsel. Those organizations that have stepped over the line need to refocus and must be made to answer to the people they represent.

A well-publicized example of a union run amok is UTD. For years, widespread rumors of corruption within UTD have abounded in our school district. Numerous entities should have exposed the corruption, but they chose to look the other way. The union boss, Pat Tornillo, had his tentacles throughout the State, and many fear or owe him.

While the stench of corruption and graft has been burning in the noses of the citizens, the various powers have been handing out snuff.

Teachers in Miami pay the highest dues in the Nation—\$843. Why? So that Pat Tornillo can take vacations around the world, enjoy spa treatments for himself and his wife, buy liquor, and pay for his maid with teachers' dues moneys.

Tornillo enjoyed these illicit perks over and above his quarter-million-dollar salary, \$42,000 unverified expense account, and a very generous benefits package. These illicit expenses went unchallenged by the executive board of UTD—the same board that remains in power today at UTD.

As Tornillo was misappropriating the teachers' dues moneys, UTD was telling the teachers of Miami-Dade to apply for Medicare health coverage for their children because the union was powerful to negotiate an affordable health care package.

Why didn't anyone intervene on behalf of these workers? The local State attorney's office has heard of the corruption for years, but did not take one step toward investigating. AFT has told us today, several times, that they are powerless by their own charter to do anything.

Furthermore, AFT knew since 1999 about UTD's financial troubles and did not intervene. Ms. Feldman referred to UTD's audited financial statements by a reputable national accounting firm, and I just happen to have some of those financial statements in front of me, and I will read from the financial statement dated September 30, 2001 and 2002.

"In December 1999, the Union, UTD, obtained an unsecured loan for \$1.3 million from a bank to pay for back dues to the American

Federation of Teachers, an affiliated organization. This loan is guaranteed by AFT.”

So at least as far back as 1999, UTD was in arrears to AFT, and AFT did not intervene to safeguard the teachers of Miami-Dade County. So telling us that we can count on the AFT to clean up the mess in Miami is the same as telling us that we should feel comfortable sending in Fidel Castro to watch Saddam Hussein on human rights issues.

The Florida legislature has proven itself powerless against the unions. During the 2002 and 2003 session, bills were introduced by different members both in the House and Senate, calling for greater accountability on the part of the unions. Both times, the union lobbyists defeated those measures.

Our school district cannot be trusted to protect the workers. They have colluded with the local union to deny workers their constitutional right to counsel. In addition, UTD has systematically denied representation to teachers who are being brought up on charges by the district. This has led to countless abuses in our school district.

The Florida Public Employee Relations Commission is the body charged with ensuring union compliance with statutory reporting requirements. PERC has not been granted powers to investigate or impose sanctions.

The story of Judy Herrell exemplifies what happens when the fox is guarding the hen house. Judy has been a teacher in our school district for 30 years. She was a UTD shop steward for 12 years. She had an amazing membership at her school because she was so supportive of the union and its ideals. But slowly over time, she became very suspicious of UTD’s accounting practices. Eventually, through her persistence, she discovered two dead people on the payroll. When she questioned the union boss about it, she was told to butt out. She was then put on trial by the union, and her stewardship was terminated for questioning the finances.

Workers who see value in belonging to a union should be able to do so. However, they should not be at the mercy of union executives who believe themselves to be above the law. Unions exist for the people; they are by the people, for the people. The people should know what is being done with their own money.

Can educators in Miami-Dade count on the State attorney, AFT, FEA, the State affiliate, the legislature, the school district, or PERC to protect them? The answer is a resounding no.

We need Federal legislation that will wrest from UTD and similarly corrupt unions the power they have inappropriately usurped from the workers of this country, and we need to return those unions to their once lofty goals. Without your intervention, certain union executives will continue to manage union funds as if they were their personal expense account.

In closing, the newest justice of the Florida U.S. Supreme Court—and a Cuban American, I might add—Raoul Cantero, has been quoted as saying: “The true measure of a person is how he treats those over whom he has power.” Measured by that standard, some unions fall criminally short.

Thank you.

[The prepared statement of Ms. Daugherty may be found in additional material.]

The CHAIRMAN. Thank you very much, Ms. Daugherty, and I thank all the witnesses for their testimony.

Ms. Feldman, I think one of the issues here which is fairly clear is there some process or some system that can be put in place to assure that we adequately audit and have information that is transparent for union membership to look at from unions and your affiliated unions—all unions—I am not talking about the AFT.

Let me begin by saying that I congratulate the AFT for the effort in Washington. I think it was a very, very strong effort and well-done. But I guess the question is this. As I understand it, essentially, if a union is current on its dues or, as Ms. Daugherty has represented if she is correct, has even borrowed to pay its dues, your national union is basically not going to be in a position to pursue any sort of audit oversight or transparency activity; is that correct?

Ms. FELDMAN. No, not currently. That was true before we adopted these new procedures which I just described to you, which as I said was what we considered “a teachable moment.” And we are going further than that in constitutional changes which we will bring to our next convention.

But first, let me say a couple things about what you have raised and some other issues. Most local unions in school districts do not collect dues over the summer. So there is a certain amount of arrearage built in because they simply do not get the dues over the summertime from the board of education. So we have a period, sort of a grace period now, of 2 months.

If we find that local unions are in arrearage more than that, we now will be able to take a series of steps which we were not able to take before. We will go the local’s executive board, tell them that the local has not paid its dues—obviously, if the members of that executive board did not know it, they would know it now, and they would now have some information on which to raise questions. If something was not done about it that way, we would actually go to the full membership of the local, which we never could have or would have done before.

The CHAIRMAN. Not to interrupt, but actually to interrupt, my point is that it appears that the enforcement mechanisms, what energizes an audit, what energizes an oversight review by the national in at least your organization, is tied to whether or not dues are current.

Ms. FELDMAN. No. That is one of the things, because very often, that is a sign that there is something wrong. The other thing is that if we do not get an audit or financial review from them, then we will also now have the power to go in, do our own audit, go to the members, tell them that we think there is a problem there, that we have not received an audit.

For example, we also have this administratorship going in the Miami local and in the Washington, DC local. We have reduced the dues in Miami. The local executive board is not currently in authority. So we have taken these steps—we have reduced the dues, we have taken over the local. The local executive board does not have authority over the local.

And I just wanted to straighten out one thing. You know, Florida is a right-to-work State. No one can be compelled to join the union

in Florida. In fact, there is no place in the United States of America where a teacher cannot get a teaching job unless they join the union. That was a statement that was made by Senator Alexander, and I was hoping he would be back so I could correct the record while he was here. That just is not a true statement. Teachers are hired by local boards of education. If a union is in place, they can join the union, and they may not want to join the union. They do not have to join the union in any situation. There are some in which they do pay a fee, just a fee that is calculated as a result of what it costs the union to represent them in collective bargaining, and that would only be in collective bargaining situations.

In Miami, which is part of a right-to-work State, the State of Florida, there is absolutely no compulsion to join the union. I just wanted to get that on the record.

The CHAIRMAN. I appreciate your wanting to clarify that, and I am going to put that clarification on Senator Alexander's time, who was not here.

Ms. FELDMAN. OK, that is fine with me.

The CHAIRMAN. The issue, though, is how do we put in place a process which creates transparency and gives the information that is necessary so that when an incident like Washington or Miami occurs, there is a reaction from some oversight organization that has the capacity to go in and correct it.

Ms. Daugherty's point is that a lot of people who should have been on top of this failed. Whether she is correct or not, I do not know, but obviously, somebody failed because this went on for quite a while. In the Washington situation, it was clear that there was a failure. And I guess my question is it does not seem to me that maybe it is even your national's responsibility to go this far, which brings us to the second question, which is what is the proper role of the Department of Labor in this area. Most of your unions are public and therefore are not subject to Department of Labor filing requirements, so I guess I would ask the question of Mr. Donahue—how do you think we can put in place a system that is going to adequately address the issue of getting transparency to the workers and making sure that, whether it is the local attorney general, district attorney, or whether it is the Department of Labor or the national union, has the capacity to step in and knows enough information to see that there is a red flag there, the way it should be.

Mr. DONAHUE. I think, Senator, we have such a system, and it is called free and fair elections. These unions are required—local unions are required—to hold an election every 3 years. If the members are unhappy with the reporting that they receive, if they think that their business agent is not producing for them, that their officers, president, or executive board members are not producing for them, they can vote them out of office.

I think that that is a self-policing mechanism, and it is the same mechanism that you subjected yourself to. The representatives of the workers have to satisfy the workers. They do not have to satisfy Sandy Feldman. The president in Miami does have to satisfy Ms. Daugherty if she is a member of the union, because he is seeking reelection. I think that system will take care of it, and I believe

that it does. I mean, you are looking at an infinitesimally small number of cases here.

Ms. FELDMAN. May I respond also to that question?

The CHAIRMAN. Yes, and then, Ms. Daugherty, if you would also give us your thoughts because you said you wanted Federal legislation, and I want to get specifics there.

But go ahead, Ms. Feldman.

Ms. FELDMAN. From our perspective—and for a moment, I will put on my hat as a local president; I was president of the local union in New York City for 12 years—we published our audits in our union newspaper; we made a budget in an executive board of over 100 people, so that every, single line was looked at. We also had a union—have a union—there which is very lively, full of membership involvement, lots of activity both at the building level and at the local union level across the city. I was in those schools two to four times a week, talking with members. Members had forums in which to raise their questions, raise the issues.

So that from our perspective, we do the reporting—by the way, you know, the Washington Teachers Union had reported on the LM-2 falsely, not discovered by the Labor Department; the audits had been in place in UTD Dade, and no one had really raised a question until we started raising questions because we were asked for a loan, which we ultimately did not give because of those growing concerns—so really, we believe that rather than bureaucratic government paperwork being increased, what we need to do is further the democratic involvement of the members, and that is what we as a national union—we will go in and do audits, we will provide an administratorship and take over a local if we see the kind of terrible misdeeds that we have seen in these two locals, which again I think needs to be emphasized really is a very small number when you consider the unions out there. But the best insurance against the kind of terrible things that were done in these two locals is for the members to be active and involved and to make sure that they look at the financial statements, that they ask the questions. And I do not accept that a member can be intimidated from asking those questions, because if there are democratic procedures in place, as Mr. Donahue said, you can vote somebody out of office, or you can inform others. I was never informed by members of the local in Miami of potential problems, and the members of that local have the right and the obligation to make sure that their local is being run properly and that their money is being spent properly.

The CHAIRMAN. Ms. Daugherty?

Ms. DAUGHERTY. Yes, sir. Pat Tornillo has been in power in Miami-Dade for over 40 years. In that time, there have been no real elections. These are not my words. I have a very good relationship with quite a number of the union stewards, who in fact have contacted me on more than one occasion to thank me for my efforts because for years, they had been trying internally to clean up UTD, and they were met with resistance, and at council meetings where the stewards met, if they dared to oppose him, they were ridiculed publicly.

I have been told personally by a gentleman who has been a steward for 20 years that he did not dare run against Pat Tornillo be-



cause he would be put in "UTD purgatory." And this is a union man, his father was a union man; in fact, his father worked for the teamsters.

The CHAIRMAN. You said you wanted specific Federal legislation. Can you give us a general overview, if you have thought it through, what that would be that would address the problems that you saw in Miami?

Ms. DAUGHERTY. Well, sir, the rules that are being proposed are fine. Unfortunately, we do not think they go far enough, because number one, they would not affect a local like the local in Miami, so members would still find it impossible to have financial data at their fingertips to see what the union is doing with their money. And also, the audited financial statements that we have discussed before are insufficient because, reading again from one of them, under "Expenses," it says, "Program Services, Education and Legislative Program, \$4.2 million." No one knows what that is.

We would like to see the law expanded so that all unions would have to report to either the State or the Federal Government and provide full disclosure as to what they are doing with the members' money. And I realize that it may be a burden. It is part of the cost of doing business. I believe Senator Clinton said before that there are no such requirements in the law that you have to account for your time, but if you will look at the law concerning not-for-profits, and you talk to the Internal Revenue Services, there are requirements on people accounting for their time for different activities, because once again, these are organizations that are receiving money that is not theirs; they owe a fiduciary trust to the people who are giving them the money, so they would need to account for that money.

So we would like to see the rules go further and the legislation go further into detail, because I have seen the new form, and still, the categories are rather large and vague.

The CHAIRMAN. Senator Bond?

Senator BOND. Thank you very much, Mr. Chairman.

Mr. Donahue, you talked about the fact that there were not audits by the Department of Labor. Are you here supporting additional resources so that there are more auditors? Will this help assure fidelity and transparency in union matters?

Mr. DONAHUE. I think, Senator, that is a question that you all answer in your judgment—

Senator BOND. No, no. I want you to tell us how we clean it up.

Mr. DONAHUE. I would suggest to you that you are in a continual struggle with priorities. I would put more money into OSHA investigations than into LM-2 investigations—

Senator BOND. So you do not think—

Mr. DONAHUE [continuing]. And I assure you that the audit program covers, even in the weakened condition that Mr. Yud describes, a higher percentage of unions than the OSHA inspections cover as a percentage of workplaces.

So I would put much more money into OSHA investigations.

Senator BOND. In other words, you are not concerned about 11 criminal convictions a month. This is not something that we need deal with. So let me turn—

Mr. DONAHUE. If I may respond, Senator, I think you have to take a look at what are the 11 convictions. I have no idea what they are. Is it somebody who misspent \$1,000 over a 5-year period, or is it somebody who is guilty of real thievery?

Senator BOND. I can assure you that the courts are not interested in the former.

Let me go to Ms. Feldman. You talked about the importance of union elections. In the written testimony submitted by Dr. Ashby-Rier, he noted that in the AFT convention in July of last year in Nevada, there was no secret ballot. The ballots were handed to him and taken back by the union president. His written testimony indicates that the governance would be improved, and there would be much more pressure to clean up unions if there were truly a secret ballot. Is his statement correct, and is that the kind of election that is conducted at the local level, or are they true secret ballots?

Ms. FELDMAN. Senator, thanks so much for asking that question, because I think he is just confused. In our union, delegates are elected to a convention at the local level. They represent the local. They are elected in a secret ballot election by the membership. They come to a convention much in the same way as you are elected in your State, by a secret ballot of the voters in your State. You come to the congress, and you vote openly in the congress. In our convention, we vote openly. These are delegates who are elected by secret ballot in their local unions.

Senator BOND. There are secret ballots?

Ms. FELDMAN. Yes. They are elected by secret ballot—I believe that is a requirement of the law—in their local unions. They come to a congress, and in that congress when they vote on certain issues—for example, when they elect the officers of the national union—they vote in a roll call vote so the members who elected them know how they vote, very much the same way as the people of your State know how you vote on every issue since they sent you here.

Senator BOND. Ms. Daugherty, is that the way it works in Miami?

Ms. DAUGHERTY. No, sir. In Miami, there are no secret ballots, and there has not been a real election since Pat Tornillo took power, and the only person who dared to challenge president-for-life Pat Tornillo 20 years ago was a lady named Keanu Barriman, who disappeared after challenging Mr. Tornillo.

The CHAIRMAN. How are the delegates chosen to the national convention?

Ms. DAUGHERTY. That, I do not know, sir. I am speaking locally, at the local level, to elect the president and the officers of the local.

Ms. FELDMAN. If there were a violation of that, then someone could have done something about it, since the Labor Department has rules about that.

The CHAIRMAN. I do not believe the Labor Department has jurisdiction in that specific area, because it is a public union, isn't it?

Ms. FELDMAN. Well, it could be that in Miami it did not have jurisdiction. In Washington Teachers Union, it would have, depending on whether the local union has private members or not. But we expect our locals to have a membership election for delegates.

The CHAIRMAN. If you would yield to me for just a second, do you audit whether or not the local election of the local delegates is done by secret ballot?

Ms. FELDMAN. No.

Senator BOND. Let me just ask one more question. I have a commitment and will have to leave.

There are two things that would trigger some action by the AFT. No. 1, you do not get the dues, and number two, you do not get the audit. What do you do with the audits and with the financial statements? Do you have exercise any supervisory authority? Do you have any way of sampling, doing testing to assure that these audits have been properly handled and disseminated?

Ms. FELDMAN. Well, going forward, we intend to do that, Senator. We are developing a computerized program which will enable us to look at these audits in a disaggregated way, make some assumptions which would tell us something about the way that the local is operating, for example, depending on the size of the local, the percentage of dues spent on staff salaries versus travel or conferences. We are developing a program which will enable us to do that at a glance.

We also are having further discussion on our executive council, and some of the things we intend to do will require convention action because they require constitutional amendment, so for example, one of the suggestions that has been made at our council is giving us the right to do roving audits so that there would be an expectation that there might be an audit coming from the national organization. But we have right now the right to go in and do an audit where we see something that looks wrong to us when the audit comes in.

Senator BOND. Our staff research indicates that only six of the 278 locals listed on your website filed Federal forms. Would you support a requirement that local public sector unions submit financial disclosure information to the U.S. Department of Labor?

Ms. FELDMAN. Well, I think they do submit forms to the IRS, and many of them submit to their State government. They are required to submit their financial statements and information similar to what is required on an LM-2 to their States.

Senator BOND. Is that a "no"?

Ms. FELDMAN. I would say that it is something that we would consider, but we have not taken a position on it one way or another. But again, we think that there are sufficient reporting requirements, and the real problem here is making sure that the members take up their right and responsibility in a democratic manner to make sure that their local union is being governed appropriately.

Senator BOND. Thank you, Ms. Feldman.

I thank the witnesses and I thank the chair.

The CHAIRMAN. Senator Reed?

Senator REED. Thank you very much, Mr. Chairman, and I thank the witnesses for their testimony.

First, no one can condone criminal activity, and certainly this criminal activity has to be criticized strenuously.

The question before us, though, is whether there are systematic problems that we have to address and also, I think related to that

is whether the interested parties have taken steps to try to preclude the recurrence of these events. And I think the chairman said that the national AFT has taken steps. The question is are they sufficient, or are there more steps that need to be taken.

One issue that you just alluded to is the question I was going to raise—all of your unions do file with the IRS; is that correct?

Ms. FELDMAN. Yes.

Senator REED. And those filings are always subject to Internal Revenue audits and Internal Revenue laws, etc.

Ms. FELDMAN. Yes, they are.

Senator REED. So that is another check on the fiduciary responsibilities of these people.

How many unions do you have, Ms. Feldman?

Ms. FELDMAN. We have close to 3,000 local unions.

Senator REED. And to your knowledge, is there any other incidence like this in the last several years other than Washington and Miami of this scale?

Ms. FELDMAN. We have never had anything like this before in our history. The scale—it is mind-boggling what has happened in these two locals, and we are doing everything we can first of all to correct it because we are disgusted by it, and second of all to do everything we can to try to ensure that it never happens anywhere else.

Senator REED. You mentioned before that you were a local union leader in New York City, and you suggested some of the things that you were doing. Is it your intention to make those practices common throughout the AFT?

Ms. FELDMAN. Yes. We developed what we call a local union profile, which is a description and in some ways an ability to check off the kinds of things that a local, given whatever particular size it is, ought to be doing to involve its members, to serve its members, and we have a task force at work on that to make sure that every local is doing that.

Senator REED. Are you systematically looking at the governance capability, the ability of elected leaders? It goes back to the point that both you and Mr. Donahue made, that these are elected leaders. They stand for election, they get elected, and just like some of our constituents, people shake their heads afterward. But anyway, the point is that you, I think, should be engaged in trying to ensure that they have the support, both institutionally and otherwise. Are you doing that?

Ms. FELDMAN. Yes, we are. We are developing—I alluded to it briefly in my testimony—we have always done training of local leaders, but we are really beefing that up so that they understand what their fiduciary responsibilities are, especially in the financial area, but also what their responsibilities are in terms of making sure that there is democracy and democratic involvement of the members.

I have to say that I listened to Ms. Daugherty, and I know that Pat Tornillo was elected over and over again over a period of many years, but there were elections held in that local, and there was the possibility of opposition organizing itself and electing someone else.

By the way, we have tremendous turnover in many of our local unions because of elections, so it is really not all that unusual to

have an opposition candidate topple even a longstanding elected leader. We know right here in the Congress of the United States that incumbents generally have an edge, but if they are satisfactorily representing their constituents, they usually get reelected. If not, if opposition grows, they can lose an election, and it is the same way in a union.

Senator REED. One of the issues that occurs because of the nature of teachers' unions is that we divide responsibilities between the Federal Government and the State government with respect to responsibility and enforcement. And I am not the expert, but if a union has exclusively public employees, and generally, they are governed by State rules, State regulations, and the States have very zealously guarded that prerogative, which raises the issue which, Ms. Daugherty, your testimony and your commitment to these issues is commendable. You talked about the PERC, the Florida Public Employee Relations Commission. I assume that is the agency that really has the front line responsibility to police the operations of these public unions in Florida. Is that correct, legally?

Ms. DAUGHERTY. Well, sir, they are responsible for collecting the forms on a yearly basis, but I have a letter which I could provide to the Senator from their general counsel stating that their responsibility is ministerial, they have no investigative powers, and they cannot impose sanctions.

Senator REED. Now, that is a decision that the State of Florida has made.

Ms. DAUGHERTY. Yes, sir, it is.

Senator REED. Who appoints these commissioners, Ms. Daugherty?

Ms. DAUGHERTY. I believe they are appointed by the Governor of the State.

Senator REED. So Governor Bush appoints these commissioners?

Ms. DAUGHERTY. Some of them have been his appointees; some were prior.

Senator REED. But he will have the opportunity certainly in the next several months, at least.

And a remedy of this situation would require the Florida legislature to enhance the powers of the PERC?

Ms. DAUGHERTY. Yes, sir, I believe so.

Senator REED. And I presume you are also working along those lines?

Ms. DAUGHERTY. Yes, sir.

Senator REED. Good. Well, again, this is a situation that no one wanted to see develop because no one wants to see the abuse of trust that is implicit in these criminal activities. The responsibility is to make sure it doesn't happen again, to do it systematically, and to do it, I think, in a way that when it comes to the teachers unions, the roads lead not just to Washington, but in your case to Tallahassee and other places. And I would say the way we have organized our response to public employees is that we have given the States the lead, and I would hope that the State of Florida would step up just as vigorously as others might. And I think the steps that you are taking are not only commendable, but they are essential, and I thank you for that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

I know our witnesses will have to head out, but I think Senator Reed has touched on one of the issues here, which is that clearly the national unions have a major role in oversight, and you attempt to do it, but there is also a public role in oversight which the Department of Labor has or the State departments of labor have, and as I understand it, only 12 States presently have laws governing the issues of public labor unions and whether they are audited and whether they are disclosed. So you have a majority of the States basically not in the field of addressing the public unions, and I can understand the resistance of public unions to having a Federal role, because obviously, nobody wants to get another regulatory agency involved.

But I would be interested, Mr. Donahue, because of your great expertise and your background as to why the dichotomy between the private and the public unions being governed by the Department of Labor? Why shouldn't all unions be under the Department of Labor for reporting requirements? Why should public unions be exempted? Is there a logic to that that is historical?

Mr. DONAHUE. Well, it is more than historical; I suspect it is constitutional, Mr. Chairman. The essential interest of the Federal Government in regulating trade unions in 1935 was if they were engaged in interstate commerce, so the National Labor Relations Act will only apply in those circumstances and does not apply in intrastate commerce.

Similarly, when the Labor-Management Reporting and Disclosure Act was formed, and when the WPPDA, the Welfare Pension Plan Disclosure Act was developed in the late fifties, they focused on private sector unions which were in a sense operating with some degree of government sanction, approval, whatever.

I think it is terribly important to note that unions are independent creatures. They are not creatures of the State, and the State needs to be very careful—the "State" meaning the Federal Government in that sense—needs to be very careful as to how far it wants to encroach on the operation of an independent citizen organization. We do not regulate lots of other organizations. We do not regulate the VFW and the Moose and the Eagles and so forth. We regulate trade unions because of the connection to the job and the connection to the Federal supervision of the establishment of collective bargaining rights, and I think that is the basis for the exclusion of the public employee unions, and I think it is an appropriate one.

Second, as Senator Reed was pointing out, the States have an interest which they very jealously guard in the relationships with the unions within the State, the unions which represent State employees or school employees or whatever. And that may be the place where supervision should be exercised if it is not, but that is beyond the authority of the Congress, I would think.

The CHAIRMAN. This has been a good hearing, and I appreciate all the testimony.

I would say there are few things that did come out of this that I am interested in pursuing. I am obviously specifically interested in pursuing whether there is a systematized approach that is going to work to disclosure and transparency and how we can tighten that up and make it more logical and more effective.

Along those lines, I was interested to note your concerns about the cost that this new compliance is going to put on unions—\$1 billion of new cost is your estimate; the Labor Department's is significantly less. Clearly, \$1 billion is a ridiculous number, and \$96 per union employee seems rather high, too.

So I would be interested in getting to the bottom of that question, quite honestly, and we will try to get some answers to that, although I do think we ought to give the Department time to digest the 36,000 items of comment that they have received, and hopefully, that will cause them to adjust where they see those comments to be appropriate.

But I thank you all for your testimony and for taking the time to come here. It has not only been very valuable; it has been good to get a public airing of some of these issues, because the integrity of the union process is critical. It is a very important element of our society, and the maintenance of a free society is to have transparency in a lot of areas, but especially in areas where you have fiduciary responsibility, like unions.

So thank you very much, and we will keep the record open for comments.

We are adjourned.

[Additional material follows.]

## ADDITIONAL MATERIAL

PREPARED STATEMENT OF LARY F. YUD

Mr. Chairman and Members of the Committee: I am pleased to appear before the Committee today to discuss the Department of Labor's administration and enforcement of the Labor Management Reporting and Disclosure Act (LMRDA), also known as the Landrum-Griffin Act.

I understand that the Committee is interested in particular in matters involving the Washington Teachers Union (WTU) and the United Teachers of Dade (UTD). As the Committee is aware, the Washington Teachers Union is the subject of an investigation under the auspices of the United States Attorney for the District of Columbia and the Office of Labor-Management Standards is actively involved in this investigation. In view of this pending investigation, it would be inappropriate for me to discuss specific issues concerning that case. At this time our agency is not involved in any investigation involving the United Teachers of Dade.

We all share the public's interest in the effective enforcement of the LMRDA, both as a general matter and in connection with the WTU case. I can assure you that the Department of Labor will assist the U.S. Attorney's Office in every possible way to see that all appropriate action is successfully undertaken.

Although I cannot discuss the current case involving the Washington Teachers Union, I can provide a general overview of the LMRDA, which is centered on two fundamental goals—promoting union democracy and ensuring; union financial integrity.

The Office of Labor-Management Standards (OLMS) administers and enforces the provisions of the LMRDA that are within the jurisdiction of the Department of Labor. These include civil and criminal provisions that provide standards for union democracy and protect the financial integrity of labor organizations that represent private sector employees. OLMS also administers and enforces provisions of the Civil Service Reform Act of 1978 and the Foreign Service Act of 1980, which apply similar standards to federal sector unions.

The rights of union members and important union responsibilities are set forth in five Titles of the LMRDA.

Title I of the LMRDA creates a "bill of rights" for union members. Every union member has an equal right to nominate candidates for union office, to vote in union elections, and to attend and participate in union meetings. Title I provides that unions may impose assessments and raise dues only by democratic procedures, and contains safeguards against improper disciplinary action by unions. Title I also requires that every labor Organization inform its members about the provisions of the LMRDA and establishes the right of members and employees to copies of collective bargaining agreements.

Title II of the LMRDA requires reports from unions, union officers and employees, employers, labor relations consultants, and surety companies. The Department of Labor has authority to enforce these reporting requirements and the LMRDA provides for the public disclosure of the reports. In addition, members leave the right to examine union financial records, but only by demonstrating just cause. While the statute gives a union member the right to sue in federal court to enforce that right, neither records nor attorneys fees are available if the court does not agree that just cause has been demonstrated.

Over the past year the Department has taken a number of important steps to improve administration of the LMRDA reporting requirements. In January 2002, OLMS began distributing to labor organizations a free CD-ROM containing a computer software program that they can use to electronically complete the annual financial reports they are required to file. Those reports can now be submitted over the Internet.

In June 2002, OLMS began making these annual financial reports, and more recently the reports of employers and labor relations consultants, available for public disclosure on the Internet. All of these reports for the year 2000 and later can now be examined from any computer with access to the Internet and printed free of charge. Copies of earlier reports and of union constitutions and bylaws can be ordered from OLMS over the Internet. Since the activation of the Internet Disclosure site in June 2002, there have been a half million visits to the home page of the site.

In December 2002, the Department published a Notice of Proposed Rulemaking to substantially revise the Form LM-2, the annual reporting form used by the largest unions, and to revise, although less significantly, the Forms, LM-3, and LM-4, which are used by smaller unions. Approximately 20 percent of all unions are required to file LM-2 reports. The new forms will provide union members, Congress, and other interested parties with more information about the financial activities of



unions, including information about trusts operated for the benefit of the members. These reporting improvements will give union members information they need to engage in effective self-governance and the enhanced detail and disclosure will also discourage financial mismanagement and embezzlement. The Department is currently reviewing the comments received on its Notice of Proposed Rule Making.

Finally, with respect to LMRDA reports, OLMS is in the process of implementing an electronic report auditing program. This program will electronically audit every labor organization annual financial report to ensure that certain minimum reporting standards are met. The program will highlight possible reporting deficiencies that the agency can deal with through a variety of means such as providing the filing union with an advisory letter, seeking an amended report, or taking other appropriate action.

Title III of the LMRDA governs trusteeships imposed by a parent union over a subordinate body. Under Title III, a parent union may impose a trusteeship only for certain, legitimate purposes, for example, to correct financial malpractice or to assure the performance of a collective bargaining agreement. Title III is enforceable by the Department of Labor, on the written complaint of a union member.

Title IV of the LMRDA governs the election of union officers. It requires that elections be held periodically—at least every three years for local unions, at least every four years for intermediate bodies and at least every five years for national and international unions. It also creates election-related rights and safeguards. For example, all members in good standing have the right to vote and be candidates, subject only to reasonable rules uniformly imposed. Further, subject to certain time limits and a requirement to pursue internal remedies first, union members may file complaints with the Department protesting violations of any provision of Title IV. The Department must investigate such complaints, and take action to remedy material violations, within 60 days.

Finally, Title V of the LMRDA establishes financial safeguards for unions. It imposes fiduciary responsibilities on labor union officials. A union officer or employee who embezzles or otherwise misappropriates union funds or assets commits a federal crime that is punishable by fine or imprisonment. Title V establishes bonding requirements for union officers and employees, and prohibits persons convicted of certain crimes from holding union office or employment for up to 13 years after conviction or the end of imprisonment.

In the last five fiscal years (FY 1998 to FY 2002), OLMS has: conducted 752 election investigations and supervised 173 elections; completed 75 trusteeship cases; and conducted 1,994 criminal investigations, primarily involving the embezzlement of union assets and related reporting violations. During this period, the Department's investigative efforts resulted in 726 criminal indictments and 639 convictions, or approximately 11 convictions per month.

In addition to these enforcement activities, OLMS carries out an extensive program of compliance assistance, beginning with offers of assistance in understanding and complying with the law to all officers of newly formed unions. OLMS publishes a wide variety of compliance assistance materials, and every OLMS field office has an active program of compliance assistance seminars. Much of the focus of this assistance is on the statutory reporting requirements.

Unfortunately, because of a significant decline in staff resources, the agency has had to significantly curtail its discretionary program to audit local and national unions and focus on mandatory activities such as election investigations and criminal referrals. The agency implemented its Compliance Audit Program in the early 1980's following a recommendation by the General Accounting Office that was critical of the agency for not conducting sufficient onsite reviews directed to enforcement of the LMRDA. In response to the GAO's recommendation, OLMS designed a streamlined investigative audit program designed to detect civil and criminal violation. The audits have the additional advantage of providing direct hands-on compliance assistance to union officials and employees.

However, between FY 1990 and FY 2002, the agency's staff resources declined nearly 40 percent, leaving it with insufficient resources to manage an effective audit program. Thus, for example, over the past five years, the OLMS Washington District Office, which is responsible for nearly 1,500 reporting unions in Maryland, the District of Columbia, and Virginia, has been able to conduct only an average of three audits a year. The agency's program to audit international unions has buffered a similar fate. The agency has been able to conduct on average only one audit a year of a national or international union over the past five years. Although the program is nearly 20 years old, ten of the twenty-five largest unions have never been audited by OLMS.

Both audits and investigations are often resource intensive. An audit of a large national union can require the equivalent of three to four staff years. Similarly, a

large embezzlement case may require a number of investigators be devoted full-time to the case for many months. At its FY 2002 authorized staffing level, OLMS had only 138 investigators located in 20 District Offices and 18 other sub offices (usually one or two person stations) spread throughout the country. After completing mandatory election casework and the most pressing embezzlement cases, these investigators have very little time to devote to audits designed to detect and deter other violations.

When OLMS is able to conduct an audit, our investigators and auditors perform a number of mandatory and optional steps designed to detect even well disguised misappropriations of funds. Records of banks and other financial institutions are obtained and other third-party checks are conducted to verify entries on union records. In the case of one large international union, an OLMS audit uncovered an embezzlement of over \$350,000 that for many years had gone undetected by the union's own external auditor.

On a bright note, the President and Congress have begun to rectify this lack of effective oversight. In the recently enacted FY 2003 budget, OLMS was authorized to increase its staff. That increase will enable the agency to begin to build back its audit program, as well as to increase its compliance assistance activities designed to help union officers, employees, and members understand the law and take steps to place themselves into compliance.

Thank you for giving me the opportunity to discuss this important program. I would be pleased to answer your questions, subject only to the constraints by which the Department feels bound in light of the pending investigation.

#### PREPARED STATEMENT OF SANDRA FELDMAN

Thank you, Chairman Gregg and the members of this committee, for the opportunity to testify about the apparent—and appalling misuse of funds and abuse of trust we have experienced in our union.

I want to talk, as clearly and concisely as I can, about the steps the American Federation of Teachers has taken to correct this problem, and to do our very best to ensure that nothing like what happened ever happens again.

I am sickened and infuriated by this apparent massive misuse of union funds, of the betrayal of members' trust; even more so, if that's possible, because of what public education and teacher unionism mean to me.

I grew up in a Coney Island slum and then in a public housing project in Brooklyn, NY.

It was public education—from kindergarten through college—that made a successful life possible for me.

After becoming the first in my family to earn a college degree, I became a public school teacher. I worked in a school on Manhattan's Lower East Side where the students came from a housing project, and had problems similar to what I and the kids I grew up with had experienced.

While in college, I had been active in the civil rights movement and worked with leaders like A. Philip Randolph and Bayard Rustin, who took the time to mentor me and so many other young idealists.

When I started teaching, I joined the union for the same reasons, to fight for the things the children needed—from smaller class sizes to better curricula, and for what I needed as a teacher: professional voice, better training, a decent wage.

That's how our union was founded in New York City. First by the hundreds and then by the thousands, teachers joined the union to win the resources and respect they needed to do their best work.

Mine was Local 2 of the AFT. Local 1 was founded in Chicago at the turn of the last century, long before anyone thought seriously about collective bargaining for teachers.

It was organized under the leadership of Margaret Haley, a sixth-grade teacher who started fighting for women's rights long before women had ever won the right to vote. Her organization of teachers into a labor union was a logical extension of that fight.

The classroom teachers—the great majority of whom were (and still are) women who fervently believed in their mission as educators and fought as fiercely for the children as for themselves. They were joined by teachers from New York, Philadelphia, Detroit—yes, Washington, D.C.—and other major cities, and the AFT began to grow.

I've taken the time to talk about our history because it has been about idealism. Corruption has never been part of our past; and I can assure you I will continue to do everything in my power to see to it that it won't be part of our future.

To that end, we have just taken a series of important steps to increase fiscal oversight of locals. I'll describe them shortly.

But I also want you to understand that at the heart of our history and our heritage is an intense commitment to the independence of our local unions.

The fiercely independent women (and men) who founded our local unions were determined to run their own affairs. They didn't want to be dominated or dictated to by school administrators or even by the American Federation of Labor.

That is why, when they affiliated, city by city, and local by local, with a national union, it was the American Federation of Teachers, with the accent on the word "Federation."

In the AFT, to this very day, we have a tradition of strong local unions, with complete autonomy—from electing officers, to setting policies, to setting their own local dues and making their own budget, and bargaining, ratifying and enforcing collective bargaining agreements.

This also closely tracks the strong tradition of local control in our public school systems. Just as local school districts are fiercely proud and protective of their local cultures, so are our local unions. That's one of the things, by the way, that makes the No Child Left Behind Act so daring—and so difficult to implement. (A few states have threatened to turn back federal funds rather than have local school districts forced to do certain things.)

It's also important to understand that unlike some unions, the AFT doesn't deal with national employers. It's our local unions that negotiate and administer the union contracts with the local boards of education.

Over the years, we've built a strong national union, but it doesn't run locals. It exists for mutual self-help, to address national concerns, and to conduct research on and advocate for education improvements and other issues of importance to our members and the people they serve. We provide our local and state affiliates with a great deal of professional support. We worked with both the Washington, D.C., and Miami-Dade locals, for example, on turning around low-performing schools, providing professional development in the teaching of reading, and more.

My legendary predecessor Albert Shanker was known nationally as a leader for standards and accountability in our schools. But even he was criticized for not bringing all our local unions along, all the time. When it came to convincing local unions, even Al Shanker had to use the power of persuasion, not the persuasion of power.

But persuasion can work. For example, almost all of our local unions are now on the same page regarding many education improvements, such as how best to teach reading, an area in which the AFT has taken a leadership role.

In fact, President Bush and Secretary Paige have recognized the AFT's leadership on this issue, and the Department of Education is working with us, as did the previous administration, to help provide the nation's teachers with solid, research-based approaches to teaching reading. And we have worked with many of you in carrying out our belief that teacher unionism can be—and must be—a force for improvement for our students, our schools and our educators. In the AFT, we have prided ourselves on being a union of professionals.

So how did things go so terribly wrong in two of our locals? How can we set things right and prevent them from ever happening again?

I am constantly asking myself: Could we have seen the warning signs sooner? Even if we had, with hindsight—always 20/20—could we have done more?

As I've said, the AFT consists of fiercely autonomous local unions—almost 3,000, ranging in size from two or three in an island community to 115,000 in New York City. 2,748 locals have fewer than 1,000 members each. Our Constitution—and our procedures and practices—reflect our tradition of local autonomy.

Yes, our Constitution requires that local unions prepare audits at least every two years, make them available to their members, and submit a copy to the national office. But, we have had no enforcement provisions because neither our history nor our experience indicated that they were needed. Instead, we've had to rely on persuasion. In fact, unlike many unions, for almost all of our history we prided ourselves on not having a constitutional provision for administratorships—relying on our locals to involve the members democratically and conduct themselves with integrity. And through the years, we never had a problem like the one we're now facing.

Only in the year 2000, after going through an extensive strategic planning process to prepare for the future, did we amend our Constitution to allow for administratorships should extreme circumstances arise, such as those that later did occur in Washington and Miami—and I'm certainly glad we did.

You will recall that the situation here in Washington came to light because the AFT discovered it, and brought it to the attention of the appropriate authorities. We

never covered it up. In fact, we reported on it extensively in our national union newspaper and on our Web site.

Although our office repeatedly had sought copies of audits from the president of the WTU and the payment of back dues, we first discovered that something was seriously wrong last summer when teachers alerted the AFT national office about an overcharge in the automatic dues deduction. With the cooperation of the WTU executive board, we sent in the AFT's financial services department, which soon found several serious irregular transactions, including checks and credit card purchases without proper authorization.

Again, with the involvement and support of the local's executive board, we notified the U.S. Attorney's Office, which began investigating the WTU, with the full cooperation of the AFT. The local executive board asked for the resignations of the officers allegedly involved, and the AFT hired a forensic auditor who ultimately reported the misappropriation of some \$5 million. All the excruciatingly painful details you have read about came directly from our forensic audit, which we promptly provided to all the AFT members and made public.

In January, the AFT executive council voted unanimously to appoint an administrator to run the day-to-day operations of the WTU. We appointed George Springer, an experienced educator and unionist who once headed the AFT state federation in Connecticut.

The case in Miami first came to our attention in a different manner. There, we had no knowledge of any alleged wrongdoing by the local's president until the FBI raided the union's headquarters on April 29.

Nor did we learn that the local was having serious financial problems—primarily due to the combination of cost overruns in the construction of a new building and a decline in membership—until representatives of UTD came to us last January, requesting that we guarantee a large loan. That guarantee was never given because they failed to provide satisfactory answers to our questions about their fiscal situation.

Over the years, the Miami local's audits—conducted by a reputable national accounting firm—had never indicated that there were financial problems, until a problem appeared on the very last audit, conducted by a local accounting firm and submitted in March of this year.

As in Washington, once aware of potential financial mismanagement, we moved into that local immediately, appointing Mark Richard—a nationally known labor lawyer and Miami law professor—as the AFT's administrator.

Both Mr. Springer in Washington and Mr. Richard in Miami-Dade are meeting regularly with their teachers, getting their local's finances in order, and doing everything it takes to turn these unions around, rebuild their democratic processes and return the locals to the members.

Meanwhile, on the national level, as I previously noted, we have created much stronger procedures to help prevent or detect possible corruption in a union with almost 3,000 separate and autonomous local unions within an education system where local control is paramount. Let me briefly describe them.

First, under our new rules, if a required audit or financial review isn't submitted to us within six months of the close of the local's fiscal year, the national AFT president is authorized to employ an auditor to review the local's finances, inform the local's members immediately, and report the results to the members and to the AFT executive council.

In addition, because one sign that a local might be having financial difficulties for any reason is if it falls significantly and unaccountably behind on its dues payments to the AFT, our executive council strengthened the procedure for dealing with late payments.

Under our new rules, any local that becomes two months behind in its payments will receive notification in writing. If the situation isn't corrected within 30 days, the AFT will directly notify the local's executive board and state affiliate. If the payments are not made within 30 days from that point, we will communicate directly with the members of that local. And when a local is in bad standing because of late dues payments, the president is authorized to send in an auditor to examine the books. So for the first time, we can now directly inform a local's members of a potential problem, and we have a streamlined mechanism to employ our own auditor. Members' knowledge and involvement are, perhaps, the strongest weapons we have.

What has happened in these two locals is a tragedy, but it is also what educators call "a teachable moment." As I mentioned, our newspapers and Web site have kept our members and leadership throughout the country informed about these situations. The Web site is carrying WTU's full forensic audit, along with our own AFT financial statement audited by an independent firm. A similar forensic audit will be completed and posted for Miami within months.

We are developing additional training programs for local union presidents, treasurers and other officers in financial management, recordkeeping and reporting.

I am determined—out of outrage and belief—to guard our historic mission: to nurture the open, honest, democratic union that the AFT has always been, which gives voice to teachers' aspirations to improve education for all of America's children, for the good of our communities and our country.

Thank you for listening. And now I would be glad to answer your questions.

#### PREPARED STATEMENT OF TOM DONAHUE

Chairman Gregg, Senator Kennedy, and committee members, thank you for inviting me to speak with you today.

Let me start by telling you briefly about my background and my experiences with labor unions. I am a senior fellow of the Work in America Institute, a nonprofit organization dedicated to improving U.S. productivity and the quality of working life. I also serve as chairman of the Special Advisory Committee to the President and the Secretary of State on Labor Diplomacy.

I served in government—as an assistant secretary for labor-management relations at the U.S. Department of Labor from 1967 to 1969. I served as chairman of the U.S. Special Trade Representative's Labor Advisory Committee during Republican and Democratic administrations.

From 1979 to 1995, I was the secretary-treasurer of the AFL-CIO, and I was elected president in August 1995 to complete an unexpired term.

I believe these experiences give me a unique perspective.

I have tremendous respect for the American Federation of Teachers and for its current president, Sandra Feldman. I hold the AFT in highest regard because it is a primary reason why today's teachers have greater professional development opportunities and why all 50 states have academic standards in place. The AFT is working hard to do what it can to raise academic achievement for all children and to give its members the tools and support they need to achieve that goal.

As assistant secretary of labor and an officer of the AFL-CIO, I worked with unions of all kinds. Union members, like American voters, elect their officials at the local, state and national levels in fair and free elections. In this way, unions are exemplary democratic institutions.

The national unions, which may have hundreds or thousands of local affiliates across the country, while also democratic, do not all have the same form of democracy. Some, such as the United Auto Workers and the United Steelworkers of America, are highly centralized, with a great deal of authority and responsibility in the hands of national officers and staff. That makes sense in industries that have so many workers concentrated in a few main industrial centers, such as Detroit or Pittsburgh.

Other national unions, like the AFT, encompass democracy in a different form. The AFT is, by design and tradition, decentralized. Teachers are employed by school districts across the country, and it makes sense that teachers would be in a federation, which affords local independence and responsiveness to local issues. The national union has limited oversight and is cautious about interfering in the affairs of its local unions, which have a great deal of autonomy. Since the AFT's founding more than 80 years ago, that approach has worked superbly for the AFT national union, for its locals, and, most important, for its members. We are here today to talk about the exceptions, but it's important to remember that the overwhelming majority of AFT locals operate democratically, under leaders who possess integrity, expertise and a commitment to member service.

It was the national AFT's audit that uncovered the misappropriated funds at the Washington Teachers Union. Let me suggest that the way to judge a national union—and I have a lifetime of experience with unions—is not by the despicable actions of a few individuals at one or two of its locals. Rather, we should judge the character of the AFT and its president by their response to these actions, and the AFT has responded well.

Ms. Feldman and her staff moved quickly to bring in federal authorities, protect Washington's teachers and their organization from financial disaster, and put in place George Springer as administrator. He has been a schoolteacher, a local teacher union president, president of the AFT's Connecticut affiliate, and northeast regional director of the AFT.

I am confident Mr. Springer will put the WTU back on its feet. I know that he already has taken steps in that direction. It will take some time to undo the damage that has been done, but the AFT's goal is to make this local an exemplary union, regain the confidence of the members and the school community, and, ultimately,

rebuild the WTU so that it can be a well-run, member-driven, democratic organization.

The AFT is also taking aggressive actions in Florida to straighten out the problems at its Dade County local. AFT installed Mark Richard as administrator of that local, and his team is working to turn around that union. He is a labor lawyer, president of the higher education local at an AFT affiliate in south Florida, and, perhaps most important, a person with strong family ties to Miami's public schools.

AFT has selected highly qualified, knowledgeable administrators in both cases. What's more, its executive council has approved several measures to strengthen accountability, particularly for affiliates that fall behind in their dues to the national union. The union's president can now order, an external has fallen behind in its dues or failed to submit a biennial audit of its finances. And' the AFT has established new procedures for notifying affiliates that show signs of financial trouble.

That is the way to solve these problems, and Ms. Feldman spoke at some length about the steps the AFT is taking to prevent this kind of fraud—unprecedented in AFT's 80-plus years—from occurring again.

There are people, including some officials at the U.S. Department of Labor and others who have spoken here today, who believe that what is needed is not the direct, decisive types of action taken by the AFT, but more reporting from unions. I disagree with that approach.

The proposed changes to union disclosure forms under the LRMDA would not lead to greater transparency or help avoid the rare instances of financial impropriety. If these proposed changes would achieve that end, I can tell you that right now I would be sitting here saying, "Sign me up." And I know that Sandra Feldman and other union leaders also would welcome that change, even if it required additional effort from union staff.

But sadly, there is absolutely nothing in these changes that will offer additional transparency to assist union members. Indeed, the current version of the LM-2s requires unions to disclose staff salaries and detailed categorical spending—more disclosure than is required of other nonprofit organizations and corporations. This requires rigorous and detailed recordkeeping by unions—a task they perform and have performed for many years.

And these proposed changes do not give members the right under the LMRDA to obtain financial information from the unions: Unions and the law already give members that right. They can get the financial information simply by asking for it. Many unions go even a step further by making their audits public. Union audits are often published on Web sites. They are discussed at meetings that the membership is free to attend. Members can attend meetings where the union's budget is voted on.

In contrast, the proposed reporting changes will not increase transparency; they will not prevent the rare instances of financial impropriety; and they will not give union members rights they don't already possess. They will, however, as a detailed study by the Air Line Pilots Association estimates, result in 15,863 pages of data that will not help workers learn about their unions' spending. What this arbitrary requirement will mean is that more union dues will be used for accountants and support staff, and more time will be spent filling out meaningless paperwork instead of serving members. If the goal is to help members understand their unions' finances, then this data dump of thousands of pages is not the answer.

The new rules would require unions to itemize each and every payment that crosses a low threshold (proposed in the range of \$2,000 to \$5,000) and to allocate the costs to one of eight "functional" categories. These rules apply even if several small payments—added together—would cross the low threshold. For example, unions would have to track and report five payments of \$1,000 each to a printer for organizing leaflets. If the monthly bill to the printer is \$10,000—half for organizing materials and half for grievance handling—the union would have to allocate and itemize these payments in separate categories.

Unions would have to include a description of the payment as well as its purpose. This would reveal a host of sensitive decisions that could easily jeopardize the union's bargaining and organizing strategies.

And if an employee receives at least \$10,000 per year, the union must analyze the employees' hours and estimate to the nearest 10 percent which category the hours belong in. Unions also would have to itemize—by days past due—accounts payable and receivable over \$1,000. I have a feeling we would need a ninth category—to cover the hours that union employees would spend trying to comply with the new regulations.

The list of new regulations goes on and on and never gets us any closer to the kind of information that members need. The AFL-CIO has estimated that the average cost to each national or international union would be more than \$1.2 million, and the average cost to each local would be \$218,000. The Department's own fea-

sibility study shows that the largest union would have to report at least 150,000 disbursements; it would take 25,000 pages to report on the appropriate schedules.

Tracking the day-to-day activities and small expenditures would be a time-consuming, mind-numbing, pointless task. The only worse task I can imagine would be poring over the forms and trying to monitor the accuracy of the information for workers at more than 30,000 unions. Workers at the U.S. Department of Labor would not have time to even skim these disclosure forms.

If these measures would eliminate, or greatly reduce, the possibility of fraud or embezzlement, again I think I could speak for all labor leaders in saying we would find a way to make them work. But the proposed changes wouldn't accomplish that. No union member is going to slog through 15,000 pages of financial statements, and, even more important, the changes won't do anything to stop misappropriations if the people filling out the forms are intent on defrauding the union.

I know that there are well-intentioned people who believe that the proposed changes to the LM-2 are improvements. But when I look at these so-called reforms—through the eye of someone who has been an official both at the Labor Department and at a labor union—I see the new LM-2s are simply not the answer. Real reform is a positive concept that unions welcome; these changes are a negative force that will harm workers' rights.

It's not clear to me that positive reform was on the minds of some of the people behind the proposed changes. I don't believe these changes would help teachers and other working men and women get better representation through unions. In fact, the revised LM-2s would bury unions in a pile of paperwork and weaken their ability to serve their members.

Whether the proposed changes come from the best intentions or the worst, their effect would be the same—more money to cover administrative and accounting functions; less money spent for what workers really need.

The AFL-CIO has proposed a much more promising idea to make sure members have all the information they need about their unions' operations: annual independent audits to supplement the current LM-2 forms. Union members don't want to be overwhelmed by the minutiae; they want to know their money is being spent to improve the lives of members, their families, and the people they serve. With audits that conform to generally accepted accounting practices, unions can achieve greater transparency. Audits can also be tailored to take an in-depth look at particular types of transactions.

There would still be issues to work out—for example, whether the threshold for LM-2 reporting would need to be raised to protect small LM-2 filers from the financial burdens of conducting an audit, and whether small LM-2 filers should be subject to a review of their financial statements by an independent auditor in lieu of having the auditor conduct a full-fledged audit.

But for large organizations, an annual audit requirement is the best method of achieving financial transparency and deterring fraud. Congress, federal government agencies, corporate watchdogs and scholars within the financial accounting world have long recognized that audits provide the best way to monitor an entity's financial health.

America's workers have rights under current law to make sure their union dues are well spent. The AFT and the AFL-CIO are taking steps to expand those rights, improve communications with members, and help members evaluate their union's financial health. That's what workers need.

And make no mistake: Americans need unions that aren't hogtied by bizarre accounting regulations. This country needs unions that are allowed to focus on what they do best and what their members pay them to do: negotiate better working conditions, improve the institutions in which their members work, and raise the living standards of American workers and American families.

Thank you.

#### PREPARED STATEMENT OF DAMARIS DAUGHERTY

I am Damaris Perez Daugherty, wife of a public school teacher and mother of two Miami public school children. I am also Executive Director of the Teacher Rights Advocacy Coalition (TRAC) of Miami-Dade County, Florida. TRAC is a professional organization dedicated to empowering educators and elevating their status. We are fighting to expose unbridled corruption in our school district and bring about accountability. Unlike the local teacher union—the United Teachers of Dade (UTD), we are an open and democratic organization where each member has a voice and a vote.

I respectfully ask you to consider one question: “Would you feel comfortable having a fox guarding a hen house?”

While unions have undoubtedly achieved important goals and helped make America a more just and equitable society, in recent times, some unions have lost their focus and have allowed their executives to enrich themselves at the expense of the individuals they represent. Some unions seem determined to push their own political agenda, which sometimes collide with the true interests of their members. Some unions have eroded workers' Right of Free Speech, Freedom of Association and the Right to Counsel. Those unions have stepped over the line and now it is time to make them answer to the workers.

A well-publicized example of a union run amuck is our own UTD. LTD was formed 40+ years ago. Since its inception, President-for-Life, Pat Tornillo assumed power and there has never been a bona fide election to fill the slate of UTD officers. The collective bargaining unit represented by UTD consists of approximately 36,000 teachers, substitutes, office workers, social workers, counselors, occupational therapists, physical therapists and security monitors. In September of 2001, UTD represented close to 48% of the members in the bargaining unit or 17,000 employees. Today, based on their latest filing with the Florida Public Employees Relations Commission and data received from the Miami-Dade County Public School District, TRAC calculates UTD represents approximately 31% of the members in the bargaining unit or just shy of 11,000. (It is close to impossible to provide numbers with 100% accuracy since UTD will not reveal them even to its own members.) Since the FBI raid on April 29, 2003, when evidence of corruption was made public, UTD has seen its membership drop by 500 members.

For many years, there have been widespread rumors concerning corruption within UTD. Those rumors, while-credible, had not been proven—until now. TRAC has documented and made public complete fiscal irresponsibility and questionable practices within UTD for over two years. Yet, no one took action until the FBI intervened. There are numerous local entities that could have exposed the corruption much sooner or could have called for an investigation but everyone chose to look the other way. Tornillo has his powerful tentacles everywhere throughout the State of Florida and many justifiably fear or owe him. While the stench of corruption, graft, nepotism and embezzlement was burning the noses and throats of our citizens, the appropriate powers were handing out snuff.

Teachers in Miami-Dade pay the highest dues in the nation—\$843 a year. For the past 10 years, our teachers have seen their dues rise every single year, while pay has been stagnate and benefits have taken a nose dive. During this same time, Tornillo and other UTD officers were living the high life. As a result of the FBI raid and subsequent investigations by local media sources, we now have confirmed Tornillo took vacations halfway around the world, enjoyed spa treatments, bought liquor, paid for his personal maid and bought his personal groceries using teachers' dues monies. Tornillo enjoyed all these "little" perks on top of his quarter of a million dollar salary, \$42,000 unverified expense account and generous benefits package. This he did unchallenged by any member of the UTD executive board, the same board that remains in power today. Why would UTD board members challenge him, when they too were enjoying similar "benefits" such as Golden Parachute Packages? The UTD Executive Board was turning a blind eye to the misappropriation of funds at the same time UTD was telling teachers in Miami-Dade to apply for Medicare to insure their children because UTD could not negotiate healthcare coverage that was affordable on a teacher's salary. As members of the bargaining unit looked for alternatives to insure their families, UTD and UTD's state affiliate, the Florida Educators Association (FEA) paid 100% of the healthcare premiums for staff and dependents using dues monies. FEA staff was not putting their children on Medicare, rather their families enjoyed a \$20,300 a year healthcare and dental insurance benefit, all at teachers' expense.

To add insult to injury, during this same period, UTD was engaged in conduct contrary to the interests of teachers and to the American spirit. On page 159 of UTD's contract with the district, they waived the right to counsel for every member of the bargaining unit. Why would an organization that is well compensated to fight for worker's rights, waive a Constitutional right? Is the waiver of such a fundamental right even valid? As if this were not enough and to ensure his continued reign, on September 5, 2002, Tornillo spent approximately \$14,000 mailing letters to every member of the bargaining unit. On the second page of that letter, the last bullet point tells educators that the best way to win an election is never to hold one... so much for the American way. As a further insult, UTD also sought to enrich itself at the expense of the people it represents by getting into the charter school movement. UTD created a conflict of interest by pressing the Miami-Dade School Board to give it a discount on the administrative fee other charters have to pay. The administrative fee ensures that the cost to the district to manage charters, that are turning a profit, does not deplete the public education coffers. While other charter



schools in Miami pay a 5% fee, UTD negotiated a 1% fee for itself based on its connections within the district. It cared nothing about the negative impact this would have on the district's funds from which its members are compensated. UTD is not looking out for members; UTD is looking out for UTD.

In some unions, financial data is so guarded it is next to impossible for members to uncover fiscal irresponsibility and malfeasance. Current mandated reporting requirements do not remedy this problem. At the state level, reporting laws are outdated, forms are vague and enforcement is non-existent. The national level is just as bad. For example, law mandates that statewide unions submit an LM-2 Annual Labor Union Report to the U.S. Department of Labor (DOL) within 90 days of the close of its fiscal year. The FEA's most recent fiscal year ended on August 31, 2002. Its LM-2 Report for that year was due to the DOL on or about November 1, 2002. Numerous attempts to obtain a copy of the report after the deadline went unfulfilled because the report had not yet been filed. The report arrived in late December. To our knowledge, no action was taken against FEA for failing to report on time. It is our understanding that there are no penalties in the law that could be levied.

In May 2002, a few UTD members attempted to exercise their statutory right to financial disclosure and sent a letter to UTD's Chief Financial Officer, James Angleton, Jr., requesting an appointment to review UTD's financial records at UTD headquarters. Their request was cleverly side-stepped. Instead of advising them as to a date and time they could review all records, UTD sent "audited" financial statements. That we know of, no dues paying member of UTD has ever been allowed to exert their statutory right and review UTD's financial records.

With this state of affairs in Miami, why didn't anyone intervene on behalf of the educators?

The local State Attorney's office has been hearing the allegations of corruption within UTD for years but chose not to investigate.

Counting on the American Federation of Teachers or AFT to clean-up UTD's mess is like sending in Castro to monitor Saddam Hussein on human rights issues. AFT and FEA knew or should have known about gross fiscal mismanagement as far back as 1999 but did nothing to protect the membership. The audited financial records UTD sent to the members, show UTD was \$1.3 million in arrears in its per capita payments, at least as far back as 1999. Furthermore, news stories on the local ABC affiliate, exposed questionable practices at UTD as far back as 2001.

In internal memos exchanged between UTD and FEA during 2003 which TRAC has obtained, it is documented that UTD was so far in arrears in its per capita payments to both FEA and AFT that it was no longer considered a member in good standing. UTD was to be denied a seat at AFT's 2002 convention, until FEA intervened and paid UTD's outstanding bill. When questioned in a written correspondence by a UTD member, FEA misrepresented UTD's status stating UTD was current in its per capita payments. For at least 4 years AFT and FEA knew about the problems; who's guarding the hen house?

As AFT "corrects" the situation in Miami, AFT's conduct raises more questions than it answers: Why was Tornillo allowed to continue to draw a salary after the raid? Has he repaid that salary as of this date? If, as AFT claims, it cut UTD's staff in half last week, why are dues only dropping 10%?

AFT has said it will give UTD \$1.7 million to stop the massive defection by UTD members. Have the members of other locals been advised and have they consented to their monies being used to bail out a corrupt and fiscally irresponsible organization such as UTD? UTD Stewards and dues paying members are demanding to see UTD's financial records. AFT claims it cannot produce any records because they are in FBI custody. Yet according to the FBI, it took records pertaining only to Tornillo.

The spending spree documented by the media only tracks Tornillo's expenditures since returning to the local Miami-bade presidency in May of 2000. No one has, as of yet, reviewed his financial habits in the nearly 30 years in which he was president of FEA. It is doubtful that his big-time lavish spending habits began in May of 2000. Union staffers knew of Tornillo's indulgences when he was heading the FEA. In the mid 1990's Tornillo and Al Shanker, the now-deceased president of AFT, took a whirlwind trip to Africa. In the summer of 2001, Tornillo and newly-elected president Maureen Dinnen were scheduled to go to Asia on another junket. No information has been revealed concerning these trips, such as the purpose of the trips, costs and who paid for them. This begs the question, "What do teacher union presidents have to do in Africa and Asia that benefits teachers back in Florida? How does a trip to Africa and Asia enhance the job of teachers in the inner city schools in Miami, Florida or for that matter, a rural school in Palatka, Florida?"

It is of great significance that both Tornillo and the President of the D.C. teachers union, Barbara Bullock, were AFT Executive Officers during the same period of

time they are being investigated for embezzling funds from their locals. Who is to say they were not also dipping into the national till?

FEA staff compensation provides another example of information not readily available to workers that could affect membership and generate an outcry. FEA has approximately 71 staff members. One-fourth of them were paid in excess of \$100,000 in the 2001-2002 school year. More than one-third of them were paid in excess of \$90,000 and more than half were paid in excess of \$80,000. Only 6 staff members, or less than 10 percent of the staff, were paid less than \$40,000 a year. Compared to the \$40,000 average teacher salary in the State of Florida, these salaries are scandalous.

Through conversations with educators, TRAC has learned that most UTD members are unaware that a significant portion of their dues leave Miami and are sent to the state and national affiliates. The average dues for teacher locals in Florida are \$450 per year. (UTD dues are \$843.20). After the national unions (AFT and AFL/CIO) take their per capita share of \$149.50 and FEA takes its cut of \$183.50, only about \$117 remains at the local level.

The Florida legislature has proven itself powerless against the force of the unions in our state. During the 2002 legislative session, Representative Annie Betancourt introduced a bill granting more power to the state regulatory body and greater financial disclosure from the unions. In the 2003 session, Senator Mike Fasano introduced legislation that would have required unions to disclose the application of dues monies. In both instances, the unions sent in their lobbyists and the bills were defeated.

Our school district cannot be counted on to protect employees. The district and UTD have colluded to violate worker's Constitutional rights by including a blanket denial of the right to counsel in their contract. UTD, an organization paid handsomely to fight for worker's rights, asked to have the right to counsel waived. In addition, UTD has the option to refuse representation to any member of the bargaining unit, an option it exercises repeatedly. Workers are left with no representation and no attorney. This has led to countless abuses in the system. Many fine teachers have left the system due to the abuses. Former UTD members, who are now TRAC members, have shared their horror stories with us. Some have told us, that UTD, during the time they were supposed to be defending them, went so far as to say to these educators under investigation, "Just admit you are guilty and let's get it over with."

The Florida Public Employees Relations Commission or PERC is the state organization charged with ensuring union compliance with statutory standards and reporting requirements. The form used by PERC to collect union financial data is outdated and so vague as to render the information worthless. Furthermore, PERC is powerless to investigate or impose sanctions. For the reporting year ending September 30, 2001, UTD had to file four times to provide PERC with the correct information. Many of these refilings can be attributed to my persistence of UTD's compliance with statutory requirements. Information regarding interest free loans to staff, using dues monies, was improperly reported. PERC had not even reviewed the report in detail. Why have regulatory bodies whose powers are limited to rubber stamping financial forms? Why have reporting at all, when unions can file these reports late, as UTD usually does because there are no fines imposed for late filing? Why go through the motion of collecting paper when PERC does not bother to compare the current year filing to the prior year's to make sure that thousands of dollars in interest-free loans UTD has made to its staff, haven't mysteriously disappeared off of the books?

A case in point about what happens when the fox is guarding the hen house is the story of Judy Herrell, a teacher of 30 years with our school district. Ms. Herrell was a LTD steward for over 12 years and her school had the highest union penetration of any school in the district, with union membership hovering at about 85%. Being a person that cares about the people she represents, Ms. Herrell became suspicious of the way LTD was handling dues monies. Ms. Herrell tried repeatedly to obtain financial information, but her inquiries were met with stiff resistance from union executives. After much insistence, Ms. Herrell discovered there were two dead people on the payroll at UTD. When she questioned Tornillo about those payroll items, she was told to mind her own business. The problems continued and Ms. Herrell became very outspoken about the mismanagement within UTD including speaking to the press. Within a short period of time, Ms. Herrell was put on trial by UTD and removed as a steward, though she was allowed the privilege of continuing to pay dues with the condition that she never again speak to the press. Ms. Herrell quit LTD and became one of TRAC's founding members.

The State of Florida is a Right to Work State. Workers, who see value in belonging to a union and wish to belong, should be able to do so. However, that does not

mean workers should be at the mercy of a corrupt union and that union executives should be above the law. Unions must be accountable to the people they represent. Unions must provide those people with access to all financial data as required by statutes. UTD, instead of providing access to financial records, provides audited financial reports which we have come to learn omitted much vital information. Under penalty of law, unions should be required to file annual financial reports that provide complete disclosure of the application of dues monies, including all perks and monies going to PACs and other political purposes. Members' dues monies should not be used to support political agenda not in line with the members' own views, without the member's knowledge. State regulatory agencies, such as PERC, should be charged with the authority, no the duty, to investigate and impose sanctions. The onus should not be on workers to have to hire legal counsel and file an unfair labor practice action to enforce compliance with state statutes.

Can teachers in Miami-Dade count on the state attorney, the AFT, the FEA, legislature, the school district or PERC to protect them? The answer is a resounding NO!

We need Federal Legislation that will wrest from UTD and similar corrupt unions the power they have inappropriately usurped from the workers. We need you to come to the aid of workers in this country so that workers can reclaim their organizations and return them to their lofty goals. Without Federal intervention, corrupt union executives will continue to manage dues monies as their personal expense accounts. Unions should be by the people and for the people.

In closing the newest Justice of the Florida Supreme Court, Raoul Cantero has been quoted as saying: "To me, the true measure of a person is how he treats those over whom he has power." Measured by that standard, there are unions that fall criminally short.

#### WRITTEN TESTIMONY OF ROLAND ASHBY-RIER AND ALFRED HUBBARD

Good Morning to Senator Judd Gregg, Chairman of the Committee on Health, Education, Labor, and Pensions, and Ranking member Senator Kennedy and other members of the committee. I am Dr. Roland Ashby-Rier, a member of the Washington Teachers' Union, along with Mr. Alfred Hubbard of W.T.U.

I am very much aware of the five minutes to present. Dr. Rier and Mr. Hubbard will submit a two and an half minutes presentation(s). The two presentations will be the following:

#### WHY THE AMERICAN FEDERATION OF TEACHERS MUST HAVE A SECRET BALLOT— ROLAND ASHBY-RIER

As of July 2002, the American Federation of Teachers' didn't have a Secret Ballot—at its most recent convention in Las Vegas, Nevada. The following procedure(s) are used to vote at the American Federation of Teachers' Convention:

1. Your ballot is given to you by the president of your local, or the ranking delegate.
2. You mark your ballot and return the ballot to the president or the ranking delegate. (A secret ballot box is not used in this procedure)

Without a secret ballot, the AFT is able to control the elections of the officers, and the Executive Board. It is my opinion; this election should be held like any public election. If AFT had a secret ballot the following would be possible:

The leadership would change  
A new leadership would challenge and change the methods and procedures used by AFT

Members would not be influenced on how to vote  
The voting power would be with the membership, and not with the leadership of the union.

The Washington Teachers' Union and the Miami-bade union in Florida would not have been allowed to rake off funds from union members.

In conclusion, when I and others vote at the AFT Convention, it would be better if the union would have a secret ballot . . . In addition, severe penalties should be used to enforce a secret ballot for all unions.

#### CHANGES TO THE LANDRUM-GRIFFIN ACT—ALFRED HUBBARD

Thank you Senator Gregg, Ranking member Senator Kennedy and other members of this committee. I appreciate the opportunity to offer this statement on a matter of paramount importance to me personally. It is also a matter that has great impact upon me and my fellow professionals in the teaching profession.

As a Social Science teacher in the Nation's Capitol, I have long been a forceful advocate for organized labor and the founding principals upon which union organi-

zations have coalesced. Recently however, events within our labor union, The Washington Teachers' Union, local #6 of the American Federation of Teachers, has left many of us fraught with disillusionment and disappointment.

I will not rehash the history of events that has cast aspersions upon our local and stained this most notable occupation with disrepute. I will, in my oral testimony, offer more specific characterizations of what I believe transpired—if that be the desire of your committee. For now I will simply assert that certain sections of Title 29 need to be revised and strengthened if we are to move forward in a fashion that has the capacity to restore membership trust and support in our labor union.

[Whereupon, at 12:17 p.m., the committee was adjourned.]

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