

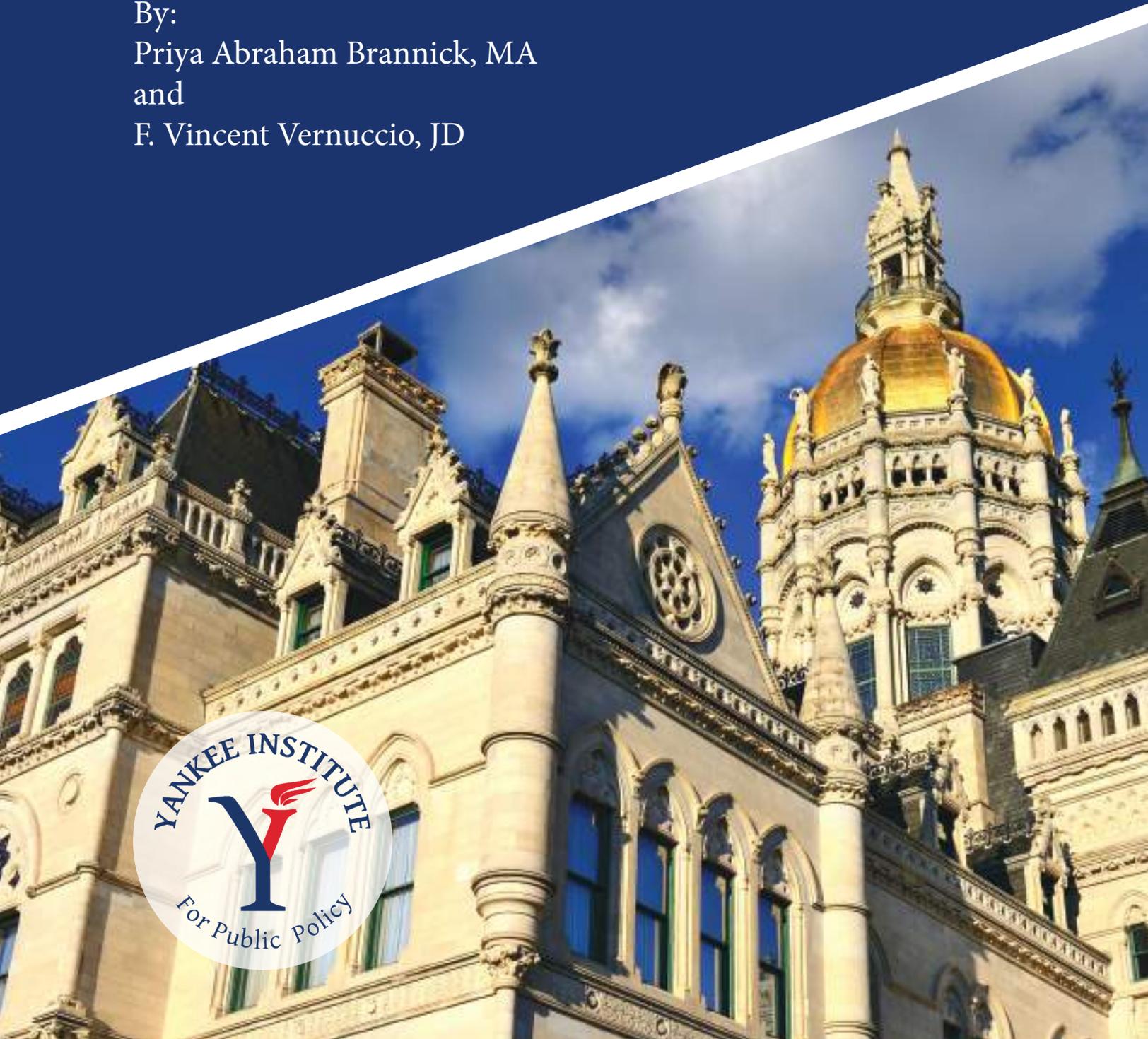
ABOVE THE LAW:

How Government Unions' Extralegal Privileges Are Harming Public Employees, Taxpayers and the State

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Yankee Letter

Connecticut has so many advantages — including an educated population, a prime location midway between Manhattan and Boston, and a quality of life that’s hard to beat. Why, then, is the Constitution State mired in debt, and shedding both residents and jobs? The primary reason: Outsized power wielded by government unions.

Government unions’ dominance in Hartford has led to a two-tiered system of laws — one that unfairly advantages government unions at the expense of ordinary citizens, and erodes the legitimate power of elected lawmakers.

As a result, Connecticut suffers from a litany of ills including high taxes; high debt; the worst pension liabilities in the nation; the highest differential between private and public sector pay; and the slowest job growth in the nation.

This report details the laws and practices that have created this disparity between government unions and the rest of us. It also compares Connecticut to our neighboring states - and the comparison is not a flattering one. Even in a union-friendly region, Connecticut is an outlier in how much power it cedes to its government unions.

We hope this paper illustrates the types of changes that Connecticut needs to make to get back on track. Common sense reforms can help Connecticut realize its potential once again, with thriving residents and a flourishing state economy.



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The Sinking State of Connecticut

After a combative legislative season in 2017, Connecticut took two steps forward and one step back in the area of public sector labor law. In a victory for taxpayers, legislators repealed a unique provision that had allowed new government worker contracts to go into effect without legislative action—the “deemed approved” provision. However, at the same time, the General Assembly changed elements of binding arbitration — the procedure used to overcome negotiation impasses on contracts — to favor already-privileged government unions.

Although it is encouraging to see the state address long-standing, costly issues in labor law, much work remains to be done. Connecticut is still falling behind due to numerous laws that advantage state and local government unions at the expense of ordinary citizens. This reality is reflected in the high fixed costs in the state’s budget. In 2006, fixed costs constituted only 37 percent of the state’s budget; by 2018, that amount was 53 percent.¹ Most of these fixed costs – including payroll, state employee and teacher pensions, and retiree health care costs – pertain to employee compensation. The high cost of government in Connecticut has spawned a poor business climate, high taxes, and the outmigration of residents. Below is a glimpse of the state’s ebbing fortunes.

Borgeson Universal Steering Components is a small business that manufactures parts for the automotive, aerospace, military and other industries. A pillar of its community, Borgeson has employed 43 full-time workers. But in 2015,

its owner Gerald Zordan decided he had no choice but to uproot the century-old business in the modest city of Torrington—population 35,000—and relocate to South Carolina.²

A small business leaving a small town barely registers as news, except for local residents. But then a year later, in 2016, General Electric relocated to Boston.³ And in 2017, Alexion Pharmaceuticals—which had been offered \$26 million in state aid—also decided to move its headquarters to Boston.⁴ Connecticut is bleeding tax-paying, job-creating businesses; the main reason is the state’s business and economic climate, according to GE, Alexion, and Borgeson Universal. Zordan, who once served as Torrington’s interim mayor, said: “Taxes up here are getting outrageous and it’s not just Torrington, it’s the whole state.”

Indeed, during Governor Dannel P. Malloy’s first term, taxes increased in 2011 by a record \$2.5 billion, which included a 20 percent surcharge on corporate profits.⁵ In 2015, another \$1.3

1 Connecticut Office of Fiscal Analysis. Fiscal Accountability Presentation. November 30, 2016, https://www.cga.ct.gov/ofa/Documents/year/FF/2017FF-20161130_Fiscal%20Accountability%20Presentation%20FY%2017%20-%20FY%2020.pdf.

2 *The Register-Citizen*, “Borgeson Universal Leaving Torrington for South Carolina,” August 27, 2015, <http://www.registercitizen.com/news/article/Borgeson-Universal-leaving-Torrington-for-South-11993741.php>.

3 Patrick Gleason, “General Electric Shipping Up to Boston, and Connecticut Only Has Itself to Blame,” *Forbes*, January 17, 2016, <https://www.forbes.com/sites/patrickgleason/2016/01/17/ge-departure/#5a06d3c450a1>.

4 Stephen Singer, “Alexion Exits New Haven For Boston, Agrees To Repay Millions In State Aid,” *Hartford Courant*, September 12, 2017, <http://www.courant.com/news/connecticut/hc-alexion-moving-new-haven-boston-20170911-story.html>.

5 Tami Luhby, “Tax Hikes on the Way for Connecticut Residents,” *CNN Money*, May 6, 2011, http://money.cnn.com/2011/05/04/news/economy/connecticut_raises_taxes/index.htm.

billion hike followed.⁶ Connecticut's taxes are so onerous that the Tax Foundation ranks it a dismal 44th in the nation for tax burden, and the second-worst—49th—for property taxes.⁷ Astronomical taxes feed into high living costs, and drive people from the state. According to the Census Bureau, Connecticut was one of only eight states in 2016 to lose population, and that out-migration is increasing in pace. Between July 2015 and July 2016, nearly 30,000 people left—more than double the figure just five years earlier.⁸

Population loss, exorbitant taxes, and other factors are now impeding the state's ability to raise funding for government programs. A joint analysis by the Office of Policy and Management and the Office of Fiscal Analysis showed a combined downward revision of \$1.6 billion in projected tax revenues for fiscal years 2018 and 2019, compared to estimates provided just five months earlier.⁹

By mid-October 2017, the repeating crisis of how to fund Connecticut's unaffordable government costs culminated in a state budget impasse that spanned well over 100 days. At least one school district was forced to postpone opening day; another started laying off teachers and staff. Others have been delaying hiring and deferring repairs. Lawmakers were tasked with closing a \$5.1 billion deficit for the 2018

and 2019 fiscal years.¹⁰ Just since a budget was passed in late October 2017, a \$200 million gap has already opened up for fiscal year 2018. And a \$4.6 billion deficit is projected for the FY 2020 and 2021 budget.¹¹ In short, after two record-breaking tax increases, there is not enough public money for the state to operate its schools, fire and police departments, and to provide other basic services. A telling reminder of the state's dwindling resources came in Gov. Malloy's fourth budget proposal calling for a cut of \$132 million in state education funds, which would have likely forced local authorities to raise property taxes to make up the shortfall.¹²

Connecticut's capital may be a harbinger of what is in store for the state. Hartford barely avoided a bankruptcy filing this fall after receiving a bailout from the state.¹³ The city - like the state - is plagued by high per-employee labor costs and high debt, leading to high taxes.¹⁴ A September 7, 2017 letter from the city's mayor and fellow officials to the Governor and others, warning of bankruptcy, noted that city officials "cannot tax our way out of this crisis. Our property taxes on commercial property are the highest in the State and may be the highest in the nation. With a mill rate of 74.29, our long-term growth and sustainability depends on reducing, not raising, the property tax."¹⁵ The letter cites a Moody's Investors Service FAQ report, which warned

6 Keith Phaneuf, "Legislators Vote to Roll Back a Share of CT Business Tax Hikes," *CTMirror*, June 29, 2015, <https://ctmirror.org/2015/06/29/ct-lawmakers-begin-final-process-of-rolling-back-business-tax-hikes/>.

7 Jared Walczak *et al.*, "2018 State Business Tax Climate Index," *Tax Foundation*, October 17, 2017, https://files.taxfoundation.org/20171016171625/SBT-CI_2018.pdf, p. 3.

8 Mara Lee, "Census Bureau Says State Population Decline is Accelerating," *Hartford Courant*, December 25, 2016, <http://www.courant.com/news/connecticut/hc-connecticut-population-fallingrecovered-wed-dec-21-105241-2016-20161220-story.html>.

9 Author calculations comparing the January 17, 2017 Office of Policy and Management and Office of Fiscal Analysis joint report, "Total Taxes Less Refunds" line in Fiscal Years 2018 and 2019, http://www.ct.gov/opm/lib/opm/budget/consensusrevenue/fy2017/final_consensus_jan17_2017.pdf, to the updated report released May 1, 2017, http://www.ct.gov/opm/lib/opm/budget/consensusrevenue/fy2017/final_consensus_may1_2017.pdf.

10 Christine Stuart, "Connecticut Would Run A \$94M Deficit Without a Budget In Place," *CTNewsJunkie.com*, http://www.ctnewsjunkie.com/archives/entry/connecticut_would_run_a_94m_deficit_without_a_budget_in_place/

11 Keith Phaneuf, "Big deficits two years from now could undercut tax cut promises," *CTMirror*, <https://ctmirror.org/2017/11/02/big-deficits-two-years-from-now-could-undercut-tax-cut-promises/>.

12 Marc E. Fitch, "Gov. Malloy Unveils Fourth Budget Proposal Amid Multiple Lawsuit Threats," *Yankee Institute*, October 16, 2017, <http://www.yankeeinstitute.org/2017/10/governor-malloy-unveils-4th-budget-proposal-amid-multiple-lawsuit-threats/>.

13 Jenna Carlesso, "Moody's: Threat of Bankruptcy Removed But Hartford Remains 'High Risk,'" November 1, 2017, *Hartford Courant*, <http://www.courant.com/community/hartford/hc-news-hartford-moodys-bankruptcy-20171101-story.html>

14 Eide, Stephen, "Connecticut's Broken Cities," January 2017, *Yankee Institute*, <http://www.yankeeinstitute.org/policy-papers/connecticuts-broken-cities-laying-the-conditions-for-growth-in-poor-urban-communities/>.

15 <http://www.hartford.gov/images/mayors/news/Sept2017/2017.09.07%20City%20of%20Hartford%20Letter.pdf>

that Hartford has “very little room for further cuts,” and has already reduced services. The report went on to caution that if budgets were cut further, “Hartford would likely be eliminating, rather than reducing, core services.”¹⁶

The warnings about Connecticut’s financial health are coming from multiple sources. According to J.P. Morgan, Connecticut would have to devote 35 percent of its tax revenues over 30 years to pay for retiree pensions, health care, and debt servicing.¹⁷ Citing the revenue problems and growing economic weakness of the state, all three credit-rating agencies downgraded Connecticut’s rating in May 2017 to single-A.¹⁸ This gives the state one of the lowest ratings in the country, similar to Illinois and New Jersey. Truth in Accounting, which assesses states using their financial and actuarial reports, ranked Connecticut 48th, and estimated that \$63.6 billion in mostly pension and retiree health care liabilities amounts to an eye-watering \$49,500 in debt per taxpayer.¹⁹

In fact, Connecticut’s pension liabilities for state and municipal government workers places it near the bottom nationally for the health of its public pension systems. According to the state’s latest available numbers, Connecticut has over \$21.1 billion in unfunded pension liabilities for state employees, with the system just 36 percent funded as of 2017.²⁰

Additionally, Connecticut’s four major poor cities—Hartford, New Haven, Bridgeport and Waterbury—are burdened with about \$1.5 billion in unfunded retirement liabilities. Add to that another \$500 million in pension bonds that Bridgeport and Waterbury issued in a misguided attempt to meet those obligations, and the gap grows to \$2 billion for the four cities. Those pension obligations are growing faster than tax revenues.²¹

16 Hartford Mayor Bronin, L. A., Treasurer Cloud, A. M., & President, Court of Common Council Clark, T. J., II. “City of Hartford’s Finances” [Letter written September 7, 2017 to Honorable Dannel P. Malloy and Legislative Leaders]. Retrieved from <http://www.hartford.gov/images/mayors/news/Sept2017/2017.09.07%20City%20of%20Hartford%20Letter.pdf>

17 Michael Cembalest, “The ARC and the Covenants, 2.0: An Update on the Long-Term Credit Risk of US States,” *J.P. Morgan*, May 19, 2016. <https://www.jpmorgan.com/jpmpdf/1320702681156.pdf>, p. 1.

18 Hillary Russ, “With S&P Downgrade, Connecticut Now Cut By All Three Rating Firms,” *Reuters*, May 17, 2017, <http://www.reuters.com/article/us-connecticut-downgrade/with-sp-downgrade-connecticut-now-cut-by-all-three-rating-firms-idUSKCN18D2N6>.

19 Truth in Accounting, “Financial State of the States 2016,” September 2017. <http://www.truthinaccounting.org/library/doclib/FSOS-BOOKLET.pdf>, p. 124.

20 Connecticut Office of Fiscal Analysis, “OFA Fact Sheet: State Employees Retirement System,” August 2017, [https://www.cga.ct.gov/ofa/Documents/year/SMF/2017SMF-20170817_State%20Employees%20Retirement%20System%20\(August%202017\).pdf](https://www.cga.ct.gov/ofa/Documents/year/SMF/2017SMF-20170817_State%20Employees%20Retirement%20System%20(August%202017).pdf).

21 Stephen D. Eide, “Connecticut’s Broken Cities: Laying the Conditions for Growth in Poor Urban Communities,” *Yankee Institute*, January 2017, <http://www.yankeeinstitute.org/wp-content/uploads/2017/01/Broken-Cities-FINAL-for-WEB.pdf>, p. 5.



Connecticut's Pension Liabilities

CONNECTICUT'S PENSION LIABILITIES ²²

	2014 (\$)	2015 (\$)	2016 (\$)	2017 (\$)	Percent funded 2017 (%)	Discount Rate (%)
SERF	16	16.5	23	21.1	36.25	6.9
TRF	10.8	10.8	13.1	13.1	56	8
JRF	0.16	0.18	0.24	0.24	46.91	6.9
OPEB	19.5	19.5	18.9	18.9	1.2	5.7*
Total	46.71	47.19	55.53	53.64		

* OPEB discount rate is blended based on 8.25% expected rate of return on assets and 4.5% return for cash holdings.

So how did things get so catastrophic in Connecticut? Follow the threads of distressed cities, underfunded public pension systems, teacher layoffs, and overstretched government budgets, and one soon arrives at a common culprit: powerful government unions whose legal privileges permit them enormous clout over how Connecticut spends its tax dollars.

Pension, health care, and similar worker costs — along with a host of other government union privileges — are driving the deficits; it's necessary to examine how those benefits get awarded in the first place—that is, through labor contract negotiations with several state, public safety, and other government unions. Examine the collective bargaining framework under which these unions operate in Connecticut, and it becomes quickly apparent that the government unions are not only a primary instigator of state and municipal fiscal woes, but a special interest grouping that works against the best interests of the public—and often, of public employees themselves.

22 All dollar figures in billions. Sources: State Employees' Retirement Fund (SERF): <http://www.osc.ct.gov/rbsd/reports/CT%20SERS%20GASB%2067%202017%20Report.FINAL.pdf>; Teachers' Retirement Fund (TRF): http://www.ct.gov/trb/lib/trb/formsandpubs/actuarial_valuation_rep_2016.pdf; Judges' Retirement Fund (JRF): <http://www.osc.ct.gov/rbsd/reports/11-14-17%20CT%20JFSMC-CRS%20GASB%2067%20Report%20-%202017%20FINAL.PDF>; Other Post Employment Benefits/Retiree Health Care (OPEB): <http://www.osc.ct.gov/empret/OPEBActuarialReports/OPEBReport2016.pdf>.

A Common Culprit: Government Unions

Like its New England neighbors, New York, and much of the northeast, Connecticut is a forced-union state. Even government workers who choose not to join must nonetheless pay “agency fees” to their workplace union, which the government takes directly out of their paychecks and gives in one lump sum to the union.

That means Connecticut has more government workers who are “represented” and pay a union than are actually members—69.4 percent of all public employees are represented by a government union with 67.1 percent as dues paying members, second only to New York state in the country.²³ Connecticut is also similar to other states regionally in that government entities are required by law to collectively bargain with the officially recognized union in their workplace over wages, hours and other work conditions.

One way to assess Connecticut’s cost of government on a national scale is to look at its state and local tax burden. The Tax Foundation ranks states on that measure every year, and the latest report, from early 2016, deals with Fiscal Year 2012 numbers. While the U.S. average state and local tax burden is 9.9 percent of income, Connecticut’s is 12.7 percent of state income – the nation’s second-highest burden. New York has the dubious distinction of being number 1, and indeed, union-friendly states such as California, Illinois, and Maryland all have similarly high tax burdens.²⁴

According to U.S. Census data from 2015, Connecticut had about 150,000 local employees and 78,000 state employees. The monthly cost

per state citizen to support these workers is \$313 when counting state and local government, or \$198 when looking at local government only. That places Connecticut fifth in the nation in government employee costs and second among the seven states comprising New England and New York. Even considering that federal worker costs factor into those figures, the finding is significant: there are relatively few federal workers in Connecticut. Of the 190,948 full-time equivalent government employees²⁵ in the state, there were only 7,942 full-time, permanent federal employees among them.²⁶

Not only are Connecticut’s government employee costs a weighty taxpayer burden, they also exceed those of other states. A 2014 study from the American Enterprise Institute found that Connecticut’s state workers’ total compensation was 42 percent higher than that of similar private-sector workers—the highest differential in the country. New York’s was 34 percent higher, while Rhode Island was at 24 percent. Maine’s was 20 percent higher, and Massachusetts’ 19 percent higher. New Hampshire and Vermont were 10 percent and 2 percent higher respectively.²⁷

A follow-up study examining Connecticut’s state worker compensation determined that

23 Barry Hirsch and David Macpherson, “Union Membership, Coverage, Density, and Employment by State and Sector, 2016,” unionstats.com.

24 Tax Foundation, “State-Local Tax Burden Rankings: FY 2012,” 2016, https://files.taxfoundation.org/legacy/docs/State-Local_Tax_Burden_FY2012.pdf, p. 1.

25 U.S. Census Bureau, “State & Local Government and Employment Data,” 2015, <https://www.census.gov/data/tables/2015/econ/apes/annual-apes.html>.

26 United States Office of Personnel Management, “Common Characteristics of the Government, Fiscal Year 2015,” June 2016. <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/common-characteristics-of-the-government/ccog2015.pdf>, p. 10.

27 Andrew Biggs and Jason Richwine, “Overpaid or Underpaid? A State-by-State Ranking of Public Employee Compensation,” *American Enterprise Institute*, April 2014, http://www.aei.org/wp-content/uploads/2014/04/-biggs-overpaid-or-underpaid-a-statebystate-ranking-of-public-employee-compensation_112536583046.pdf, p. 67.

retirement, health and other benefits constituted the bulk of the costs—comparable private-sector salaries were, in fact, slightly lower for government workers. For example, the average state government worker receives \$70,970 in salary and between \$54,561 and \$75,641 in retirement benefits, totaling between \$125,531 and \$146,611 in compensation. By contrast, a similarly educated and experienced private sector employee receives, on average, \$71,112 in salary and only \$29,371 in benefits each year, totaling \$100,483 in compensation.²⁸

But the advantages enjoyed by government unions aren't just financial — they also enjoy significant political dominance. Even in a region that is considered labor-friendly, Connecticut is consistently an outlier in how much authority it gives to government unions to achieve beneficial outcomes for themselves. The result is a state that is barely hanging on: Connecticut, once one of the nation's most economically vibrant and prosperous states, is now routinely beset by eroding tax receipts, declining population, and job losses.

Government Unions In Connecticut Are Above the Law

For decades, Connecticut's pro-government-union lawmakers have built a superstructure of state laws and regulations that provide government unions with special privileges that other states do not offer (and that taxpayers certainly do not enjoy).

Four main provisions place Connecticut government unions above the law:

- **the ability to negotiate over pensions and other benefits;**
- **a wider scope of binding arbitration allowing unelected arbitrators to write contracts that have the force of law;**
- **new municipal contracts can be passively enacted without legislative approval, which also existed at the state level until fall 2017; and**
- **contract provisions that supersede state or local law.**

Thanks to changes in the budget in late 2017, state union contracts can no longer be “deemed approved” without a vote. Unfortunately, however, in many cases the legislature still will not have the final say. Unelected arbitrators now have the power to impose contracts singlehandedly — even those rejected by Connecticut's representatives — and those contracts could still have the force of law.

²⁸ Andrew Biggs, “Unequal Pay: Public Vs. Private Sector Compensation in Connecticut,” *Yankee Institute*, September 2015, <http://www.yankeeinstitute.org/policy-papers/unequal-pay/>.

Five Major Privileges Government Unions Enjoy That Harm Taxpayers and Public Employees

1 | BROADER COLLECTIVE BARGAINING.

Although state legislatures in New England are generally union-friendly compared to other regions in the US, Connecticut is unique in New England in permitting unions to negotiate the level of pension, health and other benefits they receive. Every other state in the region sets the level of retirement benefits in state statute, or otherwise limits unions' ability to bargain over them (see chart in Appendix A).

Pension benefits are particularly vulnerable to political manipulation because the bill does not come due for years or decades: officials promise benefits that are unsustainably high in the future, and then add insult to injury by underfunding pension systems year after year.

Indeed, only 16 states in 2015 had pension systems that were at least 80 percent funded, resulting in an expected shortfall of about \$1.3 trillion across the nation.²⁹ Connecticut's latest available funding ratio of 37 percent, or \$20.4 billion in unfunded liabilities as of June 2016,³⁰ puts it in the bottom five of states nationally.

Benefit costs can become so unpredictable and onerous that states have begun experimenting with limiting the collective bargaining privileges that secure them. In 2011, for example, Massachusetts even restricted how much municipal employees could bargain over healthcare, in the face of spiraling benefit costs. As a result, by 2014, the cost savings of nearly \$250 million for some 250 municipalities had exceeded projections.³¹

29 The Pew Charitable Trusts, "The State Pension Funding Gap: 2015," April 20, 2017, <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/04/the-state-pension-funding-gap-2015>.

30 Connecticut Office of Fiscal Analysis, "OFA FACT SHEET: STATE EMPLOYEES RETIREMENT SYSTEM," August 2017, [https://www.cga.ct.gov/ofa/Documents/year/SMF/2017SMF-20170817_State%20Employees%20Retirement%20System%20\(August%202017\).pdf](https://www.cga.ct.gov/ofa/Documents/year/SMF/2017SMF-20170817_State%20Employees%20Retirement%20System%20(August%202017).pdf)

31 Massachusetts Municipal Association, "Municipal Health Insurance Reform Yields \$247M in Savings," June 10, 2014, <https://www.mma.org/labor-and-personnel/13397-municipal-health-insurance-reform-yields-247m-in-savings>.



2 | WIDER BINDING ARBITRATION RULES.

When unions and government entities reach an ongoing impasse in negotiations in Connecticut, state law requires the sides to go to binding arbitration. Until new legislation was signed into law on October 31, 2017, state employee unions and/or the state could elect to go to binding arbitration, but if the award were rejected by a two-thirds majority of the General Assembly on grounds of insufficient funds, the matter returned to negotiations.³²

The new changes actually worsen the law from a democratic perspective; now, the General Assembly may reject an initial agreement and send it to arbitration. If the legislature rejects the subsequent arbitration decision, it returns to arbitration yet again. But this time the second arbitrator's award is "deemed approved" by the General Assembly without a vote — and without even the two-thirds safeguard that existed in the previous "deemed approved" language. **So even against the wishes of Connecticut's elected representatives, the provisions in a single arbitrator's award can carry the full force of law.**³³

The revisions to the law governing state workers means it more closely resembles statutes that cover other types of local and municipal public employees. At the municipal level, it is arbitrator(s) —not elected officials or taxpayers—who ultimately decide what labor agreement terms go into effect.

In one curious quirk that seems intended to offer local legislative bodies the illusion of authority, in the case of laws for municipal workers and teachers³⁴ (who comprise about 146,000, or nearly two-thirds, of the state's public employees),³⁵ the local legislative body does initially decide whether or not to approve an arbitrator's decision. But if the arbitrator's decision is rejected, the rejected issues then return to arbitration, where the unelected and unaccountable arbitrator makes the final, binding decision on the controversial provisions.

On the bright side, some positive adaptations to the binding arbitration process for municipal workers were also included in the 2017 budget bill. First, arbitrators must assume that 15 percent of a municipal employer's savings is unavailable to pay for cost items in any ensuing arbitration award. Second, the state has created a new 11-member Municipal Accountability Review Board to help oversee fiscal planning in distressed cities. In its purview is the same authority that local legislative bodies have to reject twice any arbitration award, a measure that may allow for more protection against unaffordable arbitration decisions.

Consistent with its other laws governing the public sector, Connecticut's binding arbitration laws are also more labor-friendly than similar laws in other states — binding arbitration is automatically triggered for municipal employees in the state if both parties cannot agree on a contract for an existing unit within 30 days or if there is no contract with a newly formed union in 180 days.³⁶ States that also

32 Collective Bargaining for State Employees, Conn. Gen. Stat. §§ 5-276a and 5-278, https://www.cga.ct.gov/current/pub/chap_068.htm.

33 June 2017 Special session Public Act 17-1 p.246 <https://www.cga.ct.gov/2017/ACT/pa/pdf/2017PA-00001-R00HB-07501SS1-PA.pdf>

34 Teacher Negotiation Act, Conn. Gen. Stat. §10-153f(c)7, <http://www.ctdol.state.ct.us/csblr/stat10-153a.pdf>; Municipal Employees Relations Act, Conn. Gen. Stat. §§ 7-473c(12)-(15), <http://www.ctdol.state.ct.us/csblr/stat7-467.pdf>.

35 U.S. Census Bureau, "Local Government: Employment and Payroll Data By State and By Function," March 2015, <https://www.census.gov/data/tables/2015/econ/apes/annual-apes.html>.

36 Municipal Employees Relations Act 7-473c (b)1

have automatically-triggered binding arbitration limit it to narrower classes of employees: in Rhode Island, it is for public safety employees only such as police,³⁷ 911 dispatchers,³⁸ and firefighters;³⁹ Vermont provides the option of including it in contracts for judiciary employees.⁴⁰ New York,⁴¹ Maine,⁴² and Massachusetts⁴³ provide for binding arbitration when one or both sides request it; in New York's case, it can also be initiated by the state's Public Employment Relations Board for public safety and certain metropolitan transit workers.⁴⁴

Even where there is binding arbitration, its scope is limited in other New England states: In Maine, it excludes salaries, pensions and insurance—basically any major monetary issue;⁴⁵ similarly, in Rhode Island, state and municipal employees have arbitration that is binding only on non-pecuniary matters.⁴⁶ New Hampshire does not even require any form of binding arbitration.⁴⁷ In short, Connecticut's binding arbitration rules are far more expansive than in other states in the region.

3 | “DEEMED APPROVED.”

Another collective bargaining provision unique to Connecticut limits the exercise of legislative (and therefore citizen) power. For municipal workers and teachers, the relevant legislative body is required by state laws to approve new contracts with government workers and appropriate the funds necessary to execute those labor agreements. But language in the same statutes creates a

37 Municipal Police Arbitration Act, 28 R.I. Gen. Laws § 28-9.2-7, <http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-9.2/28-9.2-7.HTM>.

38 911 Employees' Arbitration Act, 28 R.I. Gen. Laws § 28-9.6-7, <http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-9.6/28-9.6-7.HTM>.

39 Firefighters' Arbitration Act, 28 R.I. Gen. Laws § 28-9.1-7, <http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-9.1/28-9.1-7.HTM>.

40 Judiciary Employees Labor Relations Act, Vt. Stat. Ann. tit. 3, § 1017(b), <http://legislature.vermont.gov/statutes/section/03/028/01017>.

41 Public Employees Fair Employment Act (Taylor Law), N.Y. Civil Service Law §§ 209 (4)(c) and (5)(a), <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>.

42 Municipal Public Employees Labor Relations Law, Me. Stat. tit. 26, § 965(4), <https://legislature.maine.gov/legis/statutes/26/title26sec965.html>; State Employees Labor Relations Act, Me. Stat. tit. 26, § 979-D(4), <https://legislature.maine.gov/legis/statutes/26/title26sec979-D.html>; University of Maine System Labor Relations Act, Me. Stat. tit. 26, § 1026(4), <http://legislature.maine.gov/legis/statutes/26/title26sec1026.html>; Judicial Employees Labor Relations Act, Me. Stat. tit. 26, § 1285(4), <http://legislature.maine.gov/legis/statutes/26/title26sec1285.html>.

43 Labor Relations: Public Employees, Mass. Gen. Laws ch. 150E § 9, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter150E/Section9>.

44 See New York citation above.

45 See Maine citations above.

46 Organization of State Employees, 36 R.I. Gen. Laws § 36-11-9(c), <http://webserver.rilin.state.ri.us/Statutes/TITLE36/36-11/36-11-9.HTM>; Municipal Employees' Arbitration Act, 28 R.I. Gen. Laws, § 28-9.4-13(a), <http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-9.4/28-9.4-13.HTM>.

47 Public Employee Labor Relations, N.H. Rev. Stat. Ann. § 273-A:12, <http://www.gencourt.state.nh.us/rsa/html/XXIII/273-A/273-A-12.htm>.



significant loophole: if the local school district or municipal entity fails to act either way on new contracts, those agreements are “deemed approved” — they automatically go into effect.⁴⁸

Promisingly, during budget negotiations in late 2017, lawmakers repealed the “deemed approved” provision for state workers, who are governed under their own statute. Now, if the General Assembly fails to vote on a new contract or arbitration award, it is “deemed rejected” instead of approved.⁴⁹ But as noted above, another troubling change threatens that reform: a collective bargaining agreement with the force of law can be imposed by an arbitrator if the legislature rejects it twice — and this second arbitration award is considered “deemed approved” by the General Assembly without even a vote. On the plus side, the General Assembly must now approve all new contracts, and future SEBAC agreements cannot exceed four years.⁵⁰ The automatic “deemed rejected” provision is a welcome and long-overdue reform for taxpayers. The General Assembly’s Office of Legislative

Research found that between 2002 and 2017, 124 of 189 collective bargaining agreements, arbitration awards, and contract revisions had passed through the “deemed approved” process. The Senate approved a further 10 agreements on which the House took no action.⁵¹

No other New England state has done so much to permit government unions to bypass the political and democratic process in order to appropriate scarce tax dollars. For Maine,⁵² Massachusetts,⁵³ New Hampshire,⁵⁴ New York⁵⁵ and Vermont,⁵⁶ after the legislature rejects items requiring funding in a collective bargaining agreement, the measures or the contract itself must be renegotiated. Only Rhode Island gives authority to an unelected government agency that has the power to enact a collective bargaining agreement outside the legislative process.⁵⁷— effectively what Connecticut has done in a more convoluted manner.

48 Teacher Negotiation Act, Conn. Gen. Stat. § 10-153d(b), <http://www.ctdol.state.ct.us/csblr/stat10-153a.pdf>; Municipal Employees Relations Act, Conn. Gen. Stat. § 7-474(b), <http://www.ctdol.state.ct.us/csblr/stat7-467.pdf>.

49 Collective Bargaining for State Employees, Conn. Gen. Stat. § 5-278(b)(3), https://www.cga.ct.gov/current/pub/chap_068.htm#sec_5-278.

50 Public Act 17-2, Connecticut General Assembly, Session Year 2017. https://www.cga.ct.gov/asp/CGABillStatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB1502

51 Office of Legislative Research, “Collective Bargaining Agreements Presented to the General Assembly 2002-2017,” May 23, 2017, <https://www.cga.ct.gov/2017/rpt/pdf/2017-R-0111.pdf>.

52 State Employees Labor Relations Act, Me. Stat. tit. 26, § 979-D (1)(E)(3), <https://legislature.maine.gov/legis/statutes/26/title26sec979-D.html>; University of Maine System Labor Relations Act, Me. Stat. tit. 26, § 1026 (1-A), <http://legislature.maine.gov/legis/statutes/26/title26sec1026.html>; Judicial Employees Labor Relations Act, Me. Stat. tit. 26, § 1285 (1)(E), <http://legislature.maine.gov/legis/statutes/26/title26sec1285.html>.

53 Labor Relations: Public Employees, Mass. Gen. Laws ch. 150E, § 7 (b) and (c), <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter150E/Section7>.

54 Public Employee Labor Relations, N.H. Rev. Stat. Ann. § 273-A:3 (II) (b) and (c); <http://www.gencourt.state.nh.us/rsa/html/XXIII/273-A/273-A-3.htm>.

55 Public Employees Fair Employment Act (Taylor Law), N.Y. Civil Service Law § 204-a, <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>

56 State Employees Labor Relations Act, Vt. Stat. Ann. tit. 3, § 982 (c) and (d), <http://legislature.vermont.gov/statutes/section/03/027/00982>; Judiciary Employees Labor Relations Act, Vt. Stat. Ann. tit. 3, § 1036 (c), <http://legislature.vermont.gov/statutes/section/03/028/01036>; Independent Direct Support Providers, Vt. Stat. Ann. tit. 21, § 1639 (a), <http://legislature.vermont.gov/statutes/section/21/020/01639>; Early Care And Education Providers Labor Relations Act, Vt. Stat. Ann. tit. 33, § 3610 (a), <http://legislature.vermont.gov/statutes/section/33/036/03610>.

57 No legislative process is prescribed for approving contracts in Rhode Island’s eight collective bargaining statutes.

4 | SUPERSEDEANCE.

Connecticut's government unions enjoy one final, significant special privilege: wherever a conflict exists between a statute and a collective bargaining agreement, the collective bargaining agreement prevails.⁵⁸ Essentially, the collective bargaining agreement carries the force of a duly-enacted law, even though the General Assembly has never voted on it or has outright rejected it. Only Massachusetts' government unions enjoy a similar special deal.⁵⁹ Maine, New Hampshire, Rhode Island, and New York do not address the issue explicitly in their collective bargaining laws. In Vermont, when state law conflicts with a labor contract involving municipal employees, the law prevails. If the contract conflicts with local code or regulation, the local legislative body can simply vote to approve the agreement, thereby superseding the law.⁶⁰ In this last case, however, elected representatives must intervene—as is appropriate—to allow such supersedence.

Ideally, state statute should determine the terms of a labor agreement, not vice versa. **Where, as in Connecticut, a collective bargaining agreement always takes precedence over a statute, it allows an interest group (in the form of a government union) to circumvent the lawmaking process and win monetary or other privileges unavailable to other citizens.** In other words, a special interest is essentially rewriting laws to its liking — in a deliberate subversion of the legislative (and democratic) process.

⁵⁸ Collective Bargaining for State Employees, Conn. Gen. Stat. § 5-278(e), https://www.cga.ct.gov/current/pub/chap_068.htm#sec_5-278; Teacher Negotiation Act, Conn. Gen. Stat. § 10-153d(b), <http://www.ctdol.state.ct.us/csblr/stat10-153a.pdf>; Municipal Employees Relations Act, Conn. Gen. Stat. § 7-474(f), <http://www.ctdol.state.ct.us/csblr/stat7-467.pdf>.

⁵⁹ Labor Relations: Public Employees, Mass. Gen. Laws ch. 150E, § 7 (d), <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter150E/Section7>.

⁶⁰ Vermont Municipal Labor Relations Act, Vt. Stat. Ann. tit. 21, § 1725 (c), <http://legislature.vermont.gov/statutes/section/21/022/01725>.



5 | INDIVIDUAL WORKER RIGHTS AND UNION TRANSPARENCY.

No state in New England or New York does much to protect individual workers' First Amendment freedom of association rights. Although it is not explicitly set out in each state's law, each of the seven states permit unions to negotiate a resignation window into labor contracts. That means that once employees become union members, they cannot resign until a designated time period—often set at the end of a multi-year contract.⁶¹

Such a provision is also easy for unions to enforce because of another privilege all states in the region provide at the bargaining table: the automatic payroll deduction of union dues. No other private organization that may use its main source of funding (in this case, union dues) for political activities enjoys such a privilege;⁶² in a very real sense, the state has become the bill collector for a single special interest.

In addition, every state except New Hampshire allows or mandates unions to organize a workplace by “card check,”⁶³ a process by which employees sign cards designating a particular union as their exclusive workplace representative. The process is not anonymous, which makes employees vulnerable to union intimidation. Generally, to decertify, or remove

a union as workplace representative, at least 30 percent of employees must petition the state labor relations board for an election.⁶⁴

Instead, employees should be protected in both instances: there should be an initial secret ballot election to select a particular union organization as representative, and then periodic elections to re-certify the same union. Another state changed the law in this respect by requiring annual elections wherein a majority of public employees in a bargaining unit—not just a majority of ballots—is required for a union to maintain its privilege of representing workers.⁶⁵

Such a measure ensures that workers are able to select a union fairly, and remove that union promptly if it fails to address worker needs appropriately. America's elected representatives stand for reelection every two to six years; union organizations representing tens of thousands of publicly-funded workers should be held to the same standard.

Should the public want to attend contract negotiation sessions — perhaps to understand what terms officials are placing into collective bargaining agreements — they're often out of luck. In Connecticut⁶⁶ and New Hampshire,⁶⁷

61 Author examination of several local- and state-level collective bargaining agreements by state that represent thousands of workers.

62 Collective bargaining laws for Connecticut and New York authorize government agency deduction of union dues. For Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, the author examined several local- and state-level collective bargaining agreements by state.

63 Conn. Agencies Regs. §7-471-8 to 7-471-18, <http://www.ctdol.state.ct.us/csblr/Regs-MERA.pdf>; Bargaining Unit Composition and Representation Matters, 12 180 Me. Code R. 11 § 1-82, http://www.state.me.us/mlrb/mlrb_rules/chapter11.htm; Questions of Representation, 456 Mass. Code Regs. 14.01 to 14.21, <http://www.mass.gov/lwd/labor-relations/regulations/456-cmr-table-of-contents.html>; Bargaining Unit Certification, N.H. Code Admin. R. Lab. 301.01 to 301.04, <https://www.nh.gov/pelrb/rules/301.htm>; Rules of Procedure, N.Y. Comp. Codes R. & Regs. tit. 4, § 201-202, <http://www.perb.ny.gov/PERBRules.asp#rep>; Rhode Island State Labor Relations Board, “General Rules and Regulations,” January 1, 2016, <http://www.rislr.ri.gov/pdfs/rulesregs2016final.pdf>; Labor Relations for Teachers and Administrators, Vt. Stat. Ann. tit. 16, § 1992 (a), <http://legislature.vermont.gov/statutes/chapter/16/057>; State Employees Labor Relations Act, Vt. Stat. Ann. tit. 3, § 941, <http://legislature.vermont.gov/statutes/chapter/03/027>; Judiciary Employees Labor Relations Act, Vt. Stat. Ann. tit. 3, § 1021, <http://legislature.vermont.gov/statutes/chapter/03/028>; Vermont Municipal Labor Relations Act, Vt. Stat. Ann. tit. 21, § 1724, <http://legislature.vermont.gov/statutes/chapter/21/022>; Independent Direct Support Providers, Vt. Stat. Ann. tit. 21, § 1635, <http://legislature.vermont.gov/statutes/chapter/21/020>; Early Care and Education Providers Labor Relations Act, Vt. Stat. Ann. tit. 33, § 3607, <http://legislature.vermont.gov/statutes/chapter/33/036>.

64 *Ibid.*

65 Wis. Stat. § 111.70(4)(d)3.b, <https://docs.legis.wisconsin.gov/statutes/statutes/111/IV/70/4/d/3/b>.

66 Freedom of Information Act, Conn. Gen. Stat. §§ 1-200 (C)(2) and 1-210 (b) (9), https://www.cga.ct.gov/current/pub/chap_014.htm.

67 Meetings Open to the Public, N.H. Rev. Stat. Ann. § 91-A:2 (I)(a), <http://www.gencourt.state.nh.us/rsa/html/VI/91-A/91-A-2.htm>.

such sessions are exempt from open meeting laws. Maine,⁶⁸ Massachusetts,⁶⁹ New York,⁷⁰ and Rhode Island⁷¹ are only slightly better; they allow unions and government officials to close the meetings, but do not mandate it.

Transparency in collective bargaining should be an essential piece of sunshine laws and open records acts. Labor contracts commit taxpayers for several years to spend millions on worker compensation. In Connecticut's case, that time period turns into decades because unions may also bargain over retirement benefits.

While state law does require that government unions file annual financial reports with the Labor Commissioner, they may choose to file reports that comply either with provisions in the federal Labor-Management Reporting and Disclosure Act or with the Internal Revenue Code. The reports are unavailable to the public. Even union members may view them only at the union hall.

The current standard in Connecticut requires reform for several reasons. First, government union employees should have the same rights as their private sector counterparts. Private sector unions file LM-2 forms for larger unions and LM-3s and 4s for smaller unions as required by the federal Labor Management Reporting and Disclosure Act (LMRDA). Government unions should be held to the same standard and should not have the option to follow any other regime.

What's more, like private sector forms, these documents should be easily accessible to union members and the public alike. Finally, the forms should be stored for the foreseeable future. Currently the law permits the state labor commissioner to destroy the forms after two years.⁷²

One final reform should be considered in conjunction with the issue of transparency: the length of labor contracts for government workers at the local level. Agreements may typically run for two to five years, but government unions may also negotiate "evergreen" clauses. These allow contracts to renew automatically if negotiations for a new contract do not occur.⁷³

For example, the Hartford area employs about 75,000 government workers.⁷⁴ The seven active union contracts listed for the City of Hartford, including those for police and firefighters, all include such clauses.⁷⁵ It should be noted, however, that while agreements remain in effect, at least the annual increments (raises) that are in the expired contract are excluded.⁷⁶

68 Public Records and Proceedings, Me. Stat. tit. 1, § 405(6)(D), <http://legislature.maine.gov/legis/statutes/1/title1sec405.html>.

69 Meeting of Public Body in Executive Session, Mass. Gen. Laws ch. 30A, § 21 (a)(3), <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30A/Section21>, Meeting of Public Body in Executive Session.

70 Open Meetings Law, N.Y. Public Officers Law § 105 (1)(e), <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>

71 Open Meetings, 42 R.I. Gen. Laws § 42-46-5 (a)(2), <http://webserver.rilin.state.ri.us/Statutes/TITLE42/42-46/42-46-5.HTM>.

72 559 CT. Sec. 31-77. Annual reports https://www.cga.ct.gov/current/pub/chap_559.htm#sec_31-77

73 68 CT. Sec. 5-278a https://www.cga.ct.gov/current/pub/chap_068.htm#sec_5-278a

74 U.S. Bureau of Labor Statistics, "Hartford, CT, Area Economic Summary," September 27, 2017, https://www.bls.gov/regions/new-england/summary/bls-summary_hartford.pdf.

75 City of Hartford Department of Human Resources, "Labor Contracts," accessed Nov. 1, 2017, <http://www.hartford.gov/humanresources/labor-contracts>.

76 68 CT. Sec. 5-278a

Connecticut Union Leaders: Comfortable With a Cozy Status Quo

Armed with the array of legal privileges described above, Connecticut's union leaders have wasted no time seeking and defending spending decisions that wreak havoc on state and local budgets. **Lori Pelletier, head of the Connecticut AFL-CIO, admitted in 2016 legislative testimony that government unions had repeatedly agreed to underfund pensions, even though it was “not a good idea.”**⁷⁷

Modest pension reform proposals in 2017 — such as putting employees on 401(k)-style defined contribution plans like those in the private sector or preventing the use of overtime pay to calculate retirement benefits — triggered union protests that legislators were “attacking blue-collar workers” and “turning back the clock” in Connecticut. According to Dan Livingston, the government union's lawyer who negotiates state employee contracts, “previously unthinkable ideas are being treated seriously.”⁷⁸

Meanwhile, Connecticut's fiscal position deteriorates: health care costs for retired state employees alone were set to balloon from \$645 million in 2016 to \$731 million in 2017— dwarfing health care costs for current workers.⁷⁹ In addition, over 1,000 retired state workers are drawing annual pensions worth more than

\$100,000 each, with more retirees joining the club as cost-of-living increases accrue. In fact, 11 state retirees now receive more than \$215,000 a year,⁸⁰ which violates Internal Revenue Service regulations on defined benefit plans.⁸¹ In some cases, fringe benefits can reach over 80 percent of payroll.⁸²

Much-touted recent concessions from the 15-union coalition of state workers, SEBAC, will improve Connecticut's fiscal situation, but only at the margins. Employees will be required to contribute something more toward their own healthcare premiums and pay two percent more of salary toward their own retirement plans; a new “Tier IV” hybrid plan will have both a 401(k)-style defined contribution plan along with a traditional defined-benefit pension.⁸³ The estimated savings are projected at \$1.5 billion over two years.⁸⁴

77 Marc E. Fitch, “Union Leaders Approved Underfunding of Connecticut Pensions,” *Yankee Institute*, October 4, 2016, <http://www.yankeeinstitute.org/2016/10/union-leaders-approved-underfunding-connecticut-pensions/>.

78 Marc E. Fitch, “Pension Reform Gets a Public Hearing, Union Leaders Fear Connecticut Will Become Arkansas,” *Yankee Institute*, March 27, 2017, <http://www.yankeeinstitute.org/2017/03/pension-reform-gets-a-public-hearing-union-leaders-fear-connecticut-will-become-arkansas/>.

79 Marc E. Fitch, “State Retiree Healthcare Costs Now Exceed Healthcare Costs for Current Employees,” *Yankee Institute*, April 5, 2017, <http://www.yankeeinstitute.org/2017/04/state-retiree-healthcare-costs-now-exceed-healthcare-costs-for-current-employees/>.

80 Marc E. Fitch, “1,030 State Retirees Have Pensions Over \$100,000,” *Yankee Institute*, April 7, 2017, <http://www.yankeeinstitute.org/2017/04/1030-state-retirees-have-pensions-over-100000/>.

81 Internal Revenue Service, “Retirement Topics—Defined Benefit Plan Benefit Limits,” <https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-defined-benefit-plan-benefit-limits>, accessed October 10, 2017.

82 <http://www.osc.ct.gov/2017memos/numbered/201710r.htm>; see also <http://www.yankeeinstitute.org/2017/08/fringe-benefits-for-state-employees-cost-up-to-86-percent-of-payroll/>

83 SEBAC 2017 Agreement Between State of Connecticut and State Employees Bargaining Agent Coalition (SEBAC), July 2017, <http://ctsensaterepublicans.com/wp-content/uploads/2017/07/SEBAC-Agreement-7.18.17.pdf>.

84 Christopher Keating, “House Narrowly Approves State Worker Labor Concessions,” *Hartford Courant*, July 24, 2017, <http://www.courant.com/politics/hc-house-sebac-and-housing-20170724-story.html>.

Although Gov. Dannel Malloy avoided having to lay off as many as 4,200 employees,⁸⁵ almost half of the savings in the concessions come from unrealized pay increases, significantly diminishing their value.⁸⁶ And these ballyhooed savings gloss over the fact that the SEBAC agreement will have spanned 30 years without being fully re-negotiated when it expires in 2027.

Even though Connecticut ended fiscal year 2017 with a \$22.7 million general fund deficit⁸⁷ and the state retirement system is desperately underfunded, state worker unions have continued to thrive — especially compared to their counterparts in several surrounding states. For example, the current 1.5-6.5 percent retirement contribution Connecticut state workers make is much lower than the 5-9 percent that state workers contribute in Massachusetts,⁸⁸ the 6.65 percent in Vermont (with about 8.5 percent for police),⁸⁹ the 7.56 percent in Maine,⁹⁰ or the 7 percent in New Hampshire (where police also chip in more than 11 percent of pay towards their pensions).⁹¹

Ironically, even people on government assistance may be subject to harassment and intimidation from the government unions that purport to represent them. For example, Connecticut allows the unions to “skim” dues from the most vulnerable. In 2014, the Service

Employees International Union succeeded in “unionizing” Connecticut’s personal care assistants — who are paid through government assistance programs, and many of whom are actually caring for sick friends and relatives.⁹² In 2014, the Supreme Court in *Harris v. Quinn*⁹³ ruled that unions could not force these care assistances to pay union dues — yet in 2016, the Department of Social Services was investigating workers’ claims that union dues were still being deducted without their permission.⁹⁴

Pauline, a 20-year personal care attendant, told Yankee Institute that, because she refused to sign a union membership card at a training session, government union organizers began phoning her regularly—at the home of her sickly 89-year-old client. “They started calling two, three times a day...They’re calling at 10 o’clock at night. That is not the way you approach people.”⁹⁵

In the meantime, SEIU Healthcare 1199NE, the union that represents Pauline and other home care assistants, has seen its membership—and coffers—grow substantially, in no small part because of coercive unionization tactics like those in Connecticut. In 2014, the union said it had 18,000 members in its mandatory annual financial report to the U.S. Department of Labor. By 2017, that number had grown to 25,654, while total assets climbed by \$262,000 to \$15.3 million.

85 Max Reiss, “4,200 State Layoffs Possible if No Union Concessions: Governor,” *NBC Connecticut*, April 20, 2017, <http://www.nbcconnecticut.com/news/local/4200-State-Layoffs-Possible-if-No-Union-Concessions-Governor-419987053.html>.

86 The Pew Charitable Trusts, “Overview and Analysis of the Pension and Retiree Healthcare Provisions of the Tentative 2017 SEBAC Agreement,” <https://www.documentcloud.org/documents/3900216-Pew-SEBAC-Analysis.html>.

87 State of Connecticut Comptroller, “FY Letter to the Governor,” September 29, 2017, <http://www.osc.ct.gov/reports/monthly/2017/Sept30LtrFY17.htm>.

88 Massachusetts State Retirement Board, “Benefit Guide for the Massachusetts State Employees’ Retirement System,” <http://www.mass.gov/treasury/docs/retirement/retguide2015.pdf>, p. 3.

89 Vermont Office of the State Treasurer, “Vermont State Employees’ Retirement System (VSERS),” <http://www.vermonttreasurer.gov/content/retirement/state>, accessed October 11, 2017.

90 Maine Bureau of Human Resources, “11.2A RETIREMENT—MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM,” *Human Resources Policy and Practices Manual*, http://www.maine.gov/bhr/rules_policies/policy_manual/11_2a.htm, accessed October 11, 2017.

91 New Hampshire Retirement System, “NHRS 2017 Fact Sheet,” December 2016, https://www.nhrs.org/docs/default-source/brochures/nhrs_2017_brochure_12_16-final.pdf?sfvrsn=10, accessed October 11, 2017.

92 Keith Phaneuf and Arielle Levin Becker, “CT Legislative Panel OKs Contract with Personal Care Attendants,” *The CT Mirror*, April 15, 2014, <https://ct-mirror.org/2014/04/15/ct-legislative-panel-oks-contract-with-personal-care-attendants/>.

93 *Harris v. Quinn*, 573 U.S. ____ (2014)

94 Marc E. Fitch, “Personal Care Assistants Claim Union Dues Are Deducted Without Authorization,” *Yankee Institute*, October 4, 2016, <http://www.yankeeinstitute.org/2016/10/personal-care-assistants-claim-union-dues-are-deducted-without-authorization/>.

95 Marc E. Fitch, “Unions Exert Pressure at State-Mandated PCA Orientation,” *Yankee Institute*, October 22, 2016, <http://www.yankeeinstitute.org/2016/10/unions-exert-pressure-at-state-mandated-pca-orientation/>.

A large portion of that increase appears to have gone into beefing up the government union's "political activities and lobbying." Over the course of one year ending in June 2017, the union poured \$177,353 of members' union dues into the parent organization's Washington, DC-based political action committee, SEIU COPE,⁹⁶ which in the 2015-16 election cycle made \$49 million in contributions to U.S. presidential hopefuls and congressional candidates across the country.⁹⁷

Within Connecticut state and local races, government unions also spend lavishly. From 2012 to 2016, SEIU Healthcare 1199NE donated more than \$162,000, while AFSCME Council 4 provided nearly \$127,000. The Connecticut Education Association and the Connecticut Federation of Teachers gave about \$42,000 and \$55,000 respectively.⁹⁸ Such financial support buys plenty of political clout for unions when legislators vote on state-level collective bargaining issues, or locally when new labor agreements must be negotiated.

In addition, Connecticut unions are the largest donor to the state's Working Families Party, and all the party's national board members from Connecticut are union officials.⁹⁹ The party — along with a state representative it helped to elect — has threatened to run extreme candidates against incumbents in local primaries in 2018.¹⁰⁰

Nothing illustrates the government unions' unrivalled insider status better than when now-Speaker of the House Joe Aresimowicz was caught on tape during a 2014 speech, assuring his friends at the Connecticut Employees Union that, "Yes, I do have a position as House majority Leader as a state rep from Berlin and Southington. I have a great job. I'm able to help people in my district on a daily basis and help people statewide, but **more importantly I'm a 23-year member and dues-paying member of AFSCME....That's the most important aspect of my career.** I would give up the political side of it in a minute and keep working to protect union workers' rights on a daily basis in Connecticut." He further promised, "**I will never allow an anti-collective bargaining bill to be called to the House floor. I'm the majority leader, I can make that guarantee. If I'm the minority leader, not so much.**"¹⁰¹

Aresimowicz is one of five Connecticut state lawmakers who work full-time for unions outside the legislature. Four of the five are employed by government unions, while one works for a private sector union. Despite the inherent conflicts of interest, union employees have never recused themselves when voting on union contracts or state laws governing union behavior. What's more, several other current lawmakers worked for unions before being elected, and former lawmakers have left public service and been hired by government unions, creating an unseemly revolving door.¹⁰²

96 U.S. Department of Labor, File 513-846, 2014 and 2017, <https://olms.dol-esa.gov/query/getOrgQry.do>.

97 Federal Election Commission, SEIU COPE 2015-2016 election cycle report, <https://www.fec.gov/data/committee/C00004036/?tab=spending&cycle=2016>, accessed October 11, 2017.

98 Author calculations from Connecticut state and local data at FollowtheMoney.org.

99 <http://workingfamilies.org/national-advisory-board/>

100 Mark Pazniokas, "A liberal grades his colleagues: 'I'm not here to make friends,' *CTMirror*, December 29, 2017. <https://ctmirror.org/2017/12/29/a-liberal-grades-his-colleagues-im-not-here-to-make-friends/>

101 https://www.facebook.com/groups/1814361382126010?view=permalink&id=2051290541766425&ref=content_filter

102 Jacqueline Rabe Thomas, "Former House Speaker Lands Job At Teachers' Union," December 15, 2014, *CTMirror*, <https://ctmirror.org/2014/12/15/former-house-speaker-lands-job-at-teachers-union/>.

Perks and Privileges Government Unions Enjoy in Connecticut

As noted above, government unions wield an effective veto over legislation through arbitration awards, even after the General Assembly has rejected the terms of a labor contract; unelected arbitrators can likewise override elected representatives at the municipal level. The results of this one-sided system are apparent in extravagant collective bargaining agreements. Total compensation for Connecticut's public-sector workers significantly exceeds that of their private-sector counterparts, even as promised pension benefits cripple the state's budget.

But the imbalance of power and influence isn't limited just to dollars and cents. Within Connecticut law and in negotiated collective bargaining agreements, government unions enjoy special perks at the expense both of Connecticut taxpayers and, ironically, of the very public employees they claim to represent.

Beyond exercising their special legal privileges to the fullest, union leaders are taking advantage of the taxpayers' generosity through a practice called "release time." This practice requires taxpayers to pay for public employees doing union work during work hours, while collecting their government salary. In some cases, these public employees may be working full-time on union business while receiving their taxpayer funded salaries.¹⁰³ A 2015 Yankee Institute study showed that "in FY 2015, this subsidy cost the state more than 121,000 work hours and \$4.12 million, according to information provided by the state."¹⁰⁴

Because Connecticut is not a right-to-work state, unions can have employees fired for not paying them. Public employees are required to pay a union even if they are not members. Rather than dues, these payments are called "agency fees,"¹⁰⁵ and they are meant to cover the cost of union representation, but not direct political spending. In one case, a state trooper actually had to sue to stop the deduction of union dues, and also to learn how those dues were being spent. The union claimed in that case that only 14 percent of his dues were assigned to political activity meaning the trooper still had to pay the unwanted union 86 percent of the dues in agency fees.¹⁰⁶

Further, as previously noted, the government itself can be conscripted to serve as the bill collector for those forced dues and fees. Connecticut allows "dues check-off," which means the state or municipality automatically deducts dues and fees from public employees' paychecks and sends them to the union.

¹⁰³ <http://www.yankeeinstitute.org/policy-papers/union-time-on-the-taxpayer-dime/>; see also, State Police[NP-1] Bargaining Unit Contract Between State of Connecticut and Connecticut State Policy Union, Article 7 Section Seven http://www.ct.gov/opm/lib/opm/olr/contracts/np-1_cba_2015-2018_contract.pdf
¹⁰⁴ Trey Kovacs, "Union Time on the Taxpayer Dime," March 2016, *Yankee Institute*, <http://www.yankeeinstitute.org/wp-content/uploads/2016/03/Union-Time-on-the-Taxpayer-Dime-web.pdf>, p. 4.

¹⁰⁵ Maintenance and Service Unit (NP-2) Contract Between State of Connecticut and Connecticut Employees Union Independent Affiliated Local 511 Service Employees International Union AFL-CIO, CLC Article 6 Union Security Section Four <http://ceui.org/files/2017/06/np2-contract-tentative-agree-06232017.pdf>

¹⁰⁶ Connecticut State Police Union v Marc Lamberty before the state Department of Labor, Connecticut State Board of Labor Relations, Decision No. 4696, April 4, 2014, <https://www.ctdol.state.ct.us/csblr/decisions-pdf/2014/4696CORRECTED.pdf>



What's more, new public employees are at a significant disadvantage in Connecticut. No matter how hard-working, talented, or competent a new public employee is, he or she will lose out to more senior workers.¹⁰⁷ Connecticut allows “last-in, first-out,” in which layoffs are executed — not on the basis of productivity or retaining the best workers — but primarily on the length of a public employee’s service. Therefore, in a system designed to serve long-time government workers rather than the best interests of the state and recent employees, a newer employee will be let go and a more senior employee will get to keep his job, even if he or she is not as productive.¹⁰⁸

One collective bargaining agreement gives a caveat where an employee with an “unsatisfactory” performance ranking will lose one year of seniority. However, even under that framework, an unsatisfactory employee with seven years of service will squeeze out satisfactory employees with only five years.¹⁰⁹ Even in the event of a tie in seniority, there is still no weight given to merit. The layoff in that case depends on names being drawn out of a hat.¹¹⁰

Another contract does give a little more weight to employee competence and affirmative action but still with strict restrictions: “If layoffs according to seniority have an adverse impact on affirmative action goals or if the most senior employees do not have the requisite skills and ability to perform the work remaining, then the State and the Union shall meet to discuss the issue. If no agreement is reached within the time limits of Section Four (a), the State shall lay off employees in the manner it deems appropriate, and the Union has the right to submit the issue to expedited arbitration.”¹¹¹

Several state-level union contracts forego questions of competence and merit altogether, guaranteeing “superseniority” for union officers. One provides that “For the purpose of layoff selection, up to two hundred and fifty (250) Union stewards shall have the highest seniority in their classification series.”¹¹²

107 The recent SEBAC agreement provided that permanent employees hired prior to July 1, 2017 would not lose their employment between July 1, 2017 and June 30, 2021.

108 State Police, Article 13

109 State Police, Article 13 Section 1(c);

110 State Police, Article 13 Section 1(d);

111 Maintenance and Service Unit, Article 13 Section 9

112 American Federation of State County and Municipal Employees, Article 8 Section 3

How to Restore Democracy to the Constitution State and Secure Fairness for Taxpayers

First and foremost, Connecticut’s elected representatives must regain full control over agreements affecting the public workforce. This requires reform of Connecticut’s default approach — which has enabled anti-democratic measures like “deemed approved” and supersedence. Necessary incremental changes have begun, with future SEBAC agreements limited to four years, and the General Assembly required to approve each one (unless, of course, lawmakers reject the agreement twice; then, an unelected arbitrator’s opinion will have the force of law).

In short, power must be restored to the people’s elected representatives. As noted above, unelected, unaccountable arbitrators should not be able to dictate the terms of contracts that will bind taxpayers for years to come, and essentially write the law. Unfortunately, the 2017 budget agreement took a step back in this case, granting more powers over state employee contracts to unelected arbitrators.

Moving forward, Connecticut must be freed from the procedural stranglehold that results when collective bargaining impasses at the state and local level must be resolved through binding arbitration. Contracts between unions and state or local governments are public policy, replete with consequential spending decisions that are the essence of the legislative function, even more so because they can actually supersede Connecticut law. Elected leaders across the state should have the final say on public policy, not arbitrators who are not accountable on election day for their decisions.

There are additional ways that Connecticut can institute comprehensive collective bargaining reforms:

- **End supersedence of labor contracts over state law:** If the legislature wants to change a law concerning government employees, it should do so by normal legislative means, wherein a bill passes both chambers and is signed into law by the governor. Enacting changes or privileges through collective bargaining agreements erodes the legitimate power of Connecticut legislators and undermines the people’s right to self-government.
- **Prohibit unelected arbitrators from writing law.** Because of the supersedence of labor contracts, as noted above, arbitrators have the power to write legislation. These contracts - with the force of law - can be imposed by arbitrators even after the General Assembly twice rejects them. Agreements of such scope, expense, and consequence should not be implemented without the explicit approval of the people’s elected representatives.

- **Enact a law requiring unions to undergo regular recertification elections by workers.** Not only is it just and sound public policy, it is a reform supported by voters in Connecticut: 86 percent favor allowing “public employees to regularly vote on whether a union should continue to represent them in the workplace.”¹¹³
- **Enact legislation for government union financial transparency.** Unions nationwide with any private sector members must submit detailed annual financial reports to the U.S. Department of Labor, called the LM-2, LM-3, or LM-4, pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959. At the state level, Connecticut has annual financial disclosure rules (although they may be much less detailed) for unions not required to file reports under the federal law. But these unions' reports are off-limits to the public—they may be examined only by union members. Furthermore, the state Labor Commissioner may destroy any such report that has been on file for two years.

According to the Connecticut law requiring these annual reports, “each labor organization functioning in the state and having twenty-five or more members in any calendar or fiscal year shall, annually...file with the Labor Commissioner and make available to its membership a written report either in the form required by (the LMRDA) or the Internal Revenue Code.”¹¹⁴ At the very least, Connecticut should amend the law to make such government union reports public records and preserve them.

Further, the state should mandate the same transparency from government unions as that required of their private

sector counterparts. This can be done by eliminating the option for unions to file reports that conform to the less specific IRS code, and instead require forms similar to the more detailed LMRDA's LM-2, LM-3, or LM-4.

The measure is both to allow workers to keep their unions accountable, and for citizens to have a sense of how well government unions—which are subsidized by millions of dollars in taxpayer spending—are being run. Again, voters support such measures: 85 percent in a Public Opinion Strategies poll would like to make “government union spending, specifically their spending on union contracts, union negotiations and political campaigns, more transparent.”¹¹⁵

Fully 63 percent of Connecticut voters want to “reform the law so that taxpayers no longer pay the salaries of government employees who take leave from their jobs in government to work directly for the unions.”

- **Limit collective bargaining to wages only,** so that government employers can more easily fund worker compensation without deficits or rampant pension underfunding.
- **Prohibit government employee layoffs based solely on level of seniority** — the so-called “last in, first out” policy. Instead, employee performance should also be considered.
- **Allow all government workers to opt into union membership every year,** rather than forcing existing members who want to leave to comply with a limited resignation window.

¹¹³ Public Opinion Strategies poll of 500 registered Connecticut voters, conducted by phone October 28-30, 2017. The poll has a margin of error of +/-4.38%.

¹¹⁴ Labor Organizations—Annual Reports, Conn. Gen. Stat. § 31-77, https://www.cga.ct.gov/current/pub/chap_559.htm#sec_31-77.

¹¹⁵ *Ibid.*

- **Enact Worker’s Choice**, which would allow workers to refuse union membership altogether in favor of representing themselves, and would also remove the requirement that unions represent all workers in a bargaining unit, including agency fee payers.¹¹⁶ The Public Opinion Strategies poll found that fully 67 percent of Connecticut voters support allowing “public employees to opt out fully from their union and represent themselves and negotiate their own contracts with their employer.”
- **Enact Right-to-Work for private-sector employees.** There are now 28 states that are right-to-work, meaning that they do not require workers to pay into a workplace union through agency fees as a precondition to starting or keeping a job. Indeed, from 2005 to 2015, right-to-work states have outperformed forced-union states in creating both more jobs and more personal disposable income. The cost-of-living-adjusted, per-capita income in right-to-work states is \$42,814, compared to \$40,377 in forced-union states.¹¹⁷
- **Eliminate card check as a way of authorizing unions to represent state and municipal workers.**¹¹⁸ Instead, make secret ballot elections the only method by which workers may first select or vote out a union.
- **Implement meaningful and long-term public pension reform.** Pension reform that reduces the future pension liabilities that are choking Connecticut should include either putting new hires on a defined contribution plan, or else creating an overall hybrid defined-benefit/defined-contribution system that places a greater emphasis on the defined-contribution portion. Employee contributions must rise, and the assumed rate of return on pension investments should be a realistic 5 percent. Pension calculations should exclude overtime pay and include a cap on how much compensation can be used to determine retirement payments.

Such measures would save the state billions of dollars¹¹⁹ — and, what’s more, they would create a freer, fairer, more prosperous state, where public- and private-sector workers could thrive, side by side.

116 Supreme Court of the United States Blog, “Janus v. American Federation of State, County, and Municipal Employees, Council 31,” <http://www.scotusblog.com/case-files/cases/janus-v-american-federation-state-county-municipal-employees-council-31/> accessed November 20, 2017.

117 National Institute for Labor Relations, “Right to Work States Benefit from Faster Growth, Higher Real Purchasing Power,” Fall 2017, <http://www.nilrr.org/wp-content/uploads/facts/2017-nilrr-benefits-update-web.pdf>.

118 Conn. Agencies Regs. §7-471-8 to 7-471-18, <http://www.ctdol.state.ct.us/csblr/Regs-MERA.pdf>; Conn. Agencies Regs. §5-273-9 to 5-273-21, <http://www.ctdol.state.ct.us/csblr/Regs-StateEmployee.pdf>.

119 Anthony Randazzo, Daniel Takash, and Adam Rich, “Securing Our Future: A Menu of Solutions to Connecticut’s Pension Crisis,” *Yankee Institute*, February 2017, <http://www.yankeeinstitute.org/wp-content/uploads/2017/02/Securing-Our-Future.pdf>, p. 3.

Addendum 1: New England Collective Bargaining State Comparison

Scope of Collective Bargaining	
Connecticut	Wages, pensions, fringe benefits, hours and other employment conditions. Educators' unions may not negotiate over the establishment or provisions of retirement incentive plans contained within the teachers' retirement system.
Maine	Wages, hours, fringe benefits, contract grievance arbitration and working conditions.
Massachusetts	Wages, hours, fringe benefits, standards, productivity/performance and other terms and conditions of employment. In 2011, Massachusetts limited the scope of bargaining over health care for municipal workers. State employees are already barred from bargaining over health care.
New Hampshire	Wages, hours, fringe benefits, and other employment conditions.
Rhode Island	Wages, hours, some benefits, working conditions, and terms and conditions of employment. Retirement benefits are excluded for state and school employees; health care for school district employee must comply with separate statutory benefit requirements to be included in collective bargaining agreements.
Vermont	Generally, salaries, fringe benefits, hours and other working conditions. Mandatory subjects of bargaining for family child care providers are limited to reimbursement rates for care, union dues/agency fee collection, grievances and professional development.
New York	Wage, hours, fringe benefits, and other terms and conditions of employment. Retirement benefits are explicitly excluded.

Legislative Process for Approving Contracts	
Connecticut	Until Fall 2017 amendments reversed the law for state employees, the CT general assembly had to approve or reject a new contract within 30 days of its filing. If the legislature failed to act either way, the contract was automatically "deemed approved." Now if the General Assembly fails to act, a contract or arbitration award is "deemed rejected." However, a rejected collective bargaining agreement goes to arbitration instead of fresh negotiations, and the General Assembly must vote to accept or reject the resulting arbitrated contract. If they reject the contract a second time, the contract returns to arbitration—but this time, the arbitrator's decision, not the legislature's—is final. For teachers, no active approval is required either, but to reject a new contract, the legislative body of a local or regional school district must convene a meeting within 30 days of the contract filing and officially reject it by majority vote. For a labor contract with a municipal body, funding for the new agreement, along with any provisions that conflict with local rules or general law, must be submitted for approval or rejection within 14 days. Rejected contracts return to negotiations. However, if no action is taken within 30 days after that period, the contract is deemed approved. However, new changes to the municipal law through the 2017 budget bill offer taxpayers more say. Arbitrators must assume that 15 percent of a municipal employer's budget is unavailable to pay for cost items in any ensuing arbitration award. Second, the state has created a new 11-member Municipal Accountability Review Board to help oversee fiscal planning in distressed cities. In its purview is the same authority as local legislative bodies to reject twice any arbitration award, a measure that may allow for more protection against unaffordable arbitration decisions
Maine	For state, judicial, and community college employees, any "cost items" or funding appropriations required in a new contract must be approved by the state legislature; if any are rejected, all cost items return to the bargaining table
Massachusetts	Cost items must be approved by the relevant state or local legislature, and if rejected, return to negotiations. For several state entities, such as the lottery commission, University of Massachusetts, and for bargaining with family child care providers, the legislature must approve incremental cost items for each fiscal year. If the governor fails to refer such items for approval within 45 days, they return to negotiations. Teacher contracts do not need funding approval, as they are simply subject to what is available through general public education appropriations (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section34).
New Hampshire	Cost items in a collective bargaining agreement at state or local level must be approved by the relevant legislature. If any are rejected, either agency or union reopen negotiations on the whole agreement.
Rhode Island	None; contracts go into effect once signed by parties.
Vermont	For state and judiciary employees, and home care and early care and education providers, new contracts are effective only if the state legislature appropriates the full funding necessary to implement the agreement. If the amount differs, the affected items must be renegotiated to fit with the actual appropriation.
New York	An agreement goes into effect only if any provisions requiring a change of law or appropriation of funds is approved by the relevant legislative body.

Supercedence	
Connecticut	For both state and municipal employees (which include teachers), the terms of a collective bargaining agreement prevail over law or regulations where there is a conflict.
Maine	Not addressed in law.
Massachussets	For items within the scope of collective bargaining that conflict with law, the contract supersedes the law.
New Hampshire	Not addressed in law.
Rhode Island	Not addressed in law
Vermont	For municipal employees, where a contract conflicts with state law, the law prevails. If the contract conflicts with local ordinances, a vote approving the agreement by the relevant legislative body allows the contract to supersede law.
New York	Not addressed in law.

Binding Arbitration	
Connecticut	Binding arbitration is automatically triggered and mandatory for municipal employees, teachers, family child care providers and personal care attendants. For municipal employees and teachers, the arbitrators' decision is first subject to approval by the local legislative body. If not approved, the matter goes to arbitration for a second time, and the arbitrator makes a final, binding decision with regards to each rejected issue. For family child care providers and personal care attendants, the arbitrator is limited to selecting the complete proposal of either union or the state on any unresolved issue, and the award is subject to final approval by CT legislature. State employee unions and/or the state may elect to go to binding arbitration, but if the award is rejected by a two-thirds majority of the General Assembly on grounds of insufficient funds, the matter, as of law changes in Fall 2017, go to arbitration. Now, if the General Assembly rejects an arbitration decision, instead of returning to negotiations, the matter goes back to arbitration. Any subsequent award is then "deemed approved."
Maine	Either employer or union in an impasse may request arbitration, which is final and binding on issues other than salaries, pensions and insurance.
Massachussets	The union and employer may mutually request arbitration. Once the arbitration process is authorized by the relevant legislative body or school committee, arbitration decisions are binding and final.
New Hampshire	None
Rhode Island	Yes, required for firefighters, municipal police, state police, 911 employees, and state correctional officers. Binding arbitration for state and municipal workers exists only for non-monetary matters. Once both sides in teacher bargaining agree to arbitration, it is binding on all issues in question.
Vermont	For certain classes of employees. Mandatory for judiciary employees when there is an unresolved impasse. Exists for teachers and municipal employees if both sides submit to it.
New York	Final and binding arbitration exists for essential and public safety workers including firefighters, local and state police, and corrections officers at the request of either the union or government agency, or if initiated by the state's Public Employment Relations Board. Binding arbitration also exists for New York City Transit Authority and certain Metropolitan Transportation Authority workers upon joint request of union/agency or if the Board finds a voluntary resolution cannot be reached.

Sources
Collective bargaining statutes for each state. Summaries for scope of collective bargaining and binding arbitration are taken from state profiles available at https://www.commonwealthfoundation.org/state%5Flabor%5Flaws/ .

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