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Chrysler challenge stirs storm

Governor says Mourdock did 'his duty'

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INDIANAPOLIS — Gov. Mitch Daniels came out swinging Wednesday in defense of embattled state Treasurer Richard Mourdock and his unsuccessful effort to protect Indiana pension funds by challenging the sale of Chrysler Corp. to Italian automaker Fiat.

That effort died Tuesday when the Supreme Court declined to hear the Indiana pension funds' challenge.

Critics have accused the treasurer of political grandstanding and said he was jeopardizing the auto industry jobs the sale could preserve.

But Daniels said Mourdock "was doing his duty, and he did it bravely.

"I think it was one of the most principled and gutsy things I've seen an elected official do in a long time," the governor said.

Rebuffed by the courts and battered by political opponents, Mourdock still said Wednesday he'd do it again in a heartbeat.

The former Vanderburgh County commissioner who now is charged with investing the state's money said the basis for his ac-

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tions was the oath he swore upon taking office.

A copy of that oath, to uphold the state and national constitutions, hangs on the wall of his Statehouse office.

Every once in a while, Mourdock says, he rereads that oath. It's a reminder of his duty to protect the Hoosiers who elected him, he said.

"I would never ask any other elected officeholder, Democrat or Republican, to ignore the law," Mourdock said. "And just the same, I take my oath of office very seriously."

The conclusion of the Indiana funds' challenge, and the resulting sale of Chrysler, have unleashed a maelstrom of political activity, shining a bright spotlight on an official who ordinarily manages to shy away from much attention.

Indiana Democrats are turning their attention to the $2 million in legal fees resulting from Mourdock's challenge. They have called for "a full accounting of how much money was spent trying to shut down the revitalization of Chrysler."

Mourdock said the legal fees were necessary because the state received notice it could object to the bankruptcy proceedings less than two days before the paperwork was due to be turned in at a federal court in New York.

The state funds' only option, he said, was to hire a law firm that already had been working on the case.

The three funds — two of which pay the pensions of retired state police and teachers, and the state's Major Moves construction fund — stand to lose about $5 million from Chrysler's bankruptcy.

The criticism has been harsh because some worried that Mourdock's challenge could scuttle Chrysler's pending sale and restructuring, and therefore cause pain much greater than the dip in retirement funds.

"It's so hard to sort this out – what's fact, what's emotion, what's politics," said Tim Mahoney, an economics professor at the University of Southern Indiana. "I think he is raising a legitimate issue that most people don't want to look at because it's not an immediate bread-and-butter issue for them. They want to save a company."

Daniels was more direct. He said that while there was the practical argument of the federal government's "gift" to Chrysler not being made, "I don't know how anyone could disagree with the principle of what he was doing."

"It was wrong for the federal government in a political payoff to take money from retired teachers and cops," Daniels said.

Democratic critics, he said, "should be more concerned about the millions of money stolen from our retirees."

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Mourdock and the Indiana funds' New York-based lawyers raised two points in their challenge.

First, they said secured debtholders such as themselves, who in ordinary bankruptcy proceedings must be the first paid off, unfairly were getting a worse deal than unsecured creditors such as the United Auto Workers union.

More broadly, they argued the White House lacked the authority to use Troubled Assets Relief Program money earmarked for "financial institutions" to give Chrysler billions of dollars in loans — an argument with ramifications in the much-larger General Motors bankruptcy as well.

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PRICE OF INVESTING

The Indiana funds bought $42.5 million in Chrysler bonds last year at the distressed price of about $17 million. They now will receive $12.2 million from the $2 billion set aside for secured debtholders.

$6.9 billion in Chrysler's secured debt now will receive $2 billion to divide up.

Therefore, the Indiana funds are receiving 29 cents on the dollar for the $42.5 million in bonds they bought. Chrysler uses a different barometer it calls more accurate, saying the Indiana funds are getting 72 cents on the dollar since the state bought its bonds at the lower price. Overall, the Indiana funds will get back $12.2 million of the $17 million invested.

"You cannot have a fair valuation of assets when one party is sitting on both sides of the table," Mourdock said.

The state funds' losses raise the question: Was investing in Chrysler last year wise in the first place?

Mahoney says the move made sense. Chrysler was struggling, but "at that point very few people thought it would go downhill as fast as it did," he said. Meanwhile, centuries of law established that secured debtors such as the Indiana funds would indeed be the first to receive value.

Mourdock acknowledges there was an element of risk to the investments, but said they were made with the understanding that the Indiana funds would be first in line in a bankruptcy.

"Well, duh," Mourdock said. "What kind of idiot would ever buy an investment if they knew the company was going into bankruptcy. At the time these investments were purchased, Chrysler was starting to rebound."

Daniels called the investments "very conservative."

"Here's the irony," Daniels said. "These three Indiana funds did what seemed prudent and also patriotic. They loaned money to a desperately struggling company. But they had security. They had collateral for it.

"This appeared about the safest, most prudent investment they could make."