Public Hearing

before

SENATE STATE GOVERNMENT, WAGERING, TOURISM AND HISTORIC PRESERVATION COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 1

(Amends State Constitution to require annual contributions by the State to State-administered retirement system)

LOCATION: Committee Room 7
State House Annex
Trenton, New Jersey

DATE: March 1, 2010
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Jim Whelan, Chair
Senator Robert M. Gordon, Vice Chair
Senator Shirley K. Turner
Senator Anthony R. Bucco
Senator Thomas H. Kean Jr.

ALSO PRESENT:

Frank J. Parisi
Raysa J. Martinez Kruger
Office of Legislative Services
Committee Aides

Sonia Das
Senate Majority
Committee Aide

Victoria Brogan
Senate Republican
Committee Aide

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SENATOR JIM WHELAN (Chair): Now we will go to SCR-1, amending the State Constitution to require annual contributions by the State to State-administered retirement systems.

MR. PARISI (Committee Aide): The Senate State Government, Wagering, Tourism, and Historic Preservation Committee reported this bill favorably on February 18, 2010. The Concurrent Resolution proposes a constitutional amendment to require the State, and each political subdivision of the State, to pay, each year, the full amount of the contribution it is required to make to any defined benefit pension plan operated by the State for public employees. This requirement will commence July 1, 2011.

A political subdivision of the State includes a county, municipality, and board of education; and any agency, board, commission, and authority thereof. The amendment requires the contribution to include the normal contribution and the unfunded accrued liability contribution in an amount determined by actuaries for each plan, based on an annual report prepared by the actuaries pursuant to consistent and generally accepted actuarial standards that set forth the assets and liabilities of the plan.

This amendment requires the State, for the first seven years, to phase in this requirement for the payment it is required to make by paying at least one-seventh of the contribution in the first year, with payments increasing by at least an additional one-seventh in each year thereafter in order to permit the State to gradually adjust the annual appropriations act to accommodate these payments.

SENATOR WHELAN: Thank you.

Last week, when we -- I guess two weeks ago now -- when we heard bills that I would refer to as *companion* bills to this, we had a large number of speakers. We got the egg timer out, literally, and managed to get everyone in. We don't have anywhere near that number of speakers today, so we will hopefully be able to dispense with the egg timer. But we would-- There are still a fair number of speakers. So we would ask those who are speaking to try not to duplicate the points that may have already been made previously by other speakers and try to be as succinct as possible.

And in the order they were handed to me, Brian Volz of the NJEA. And Rae Roeder is on deck.

BRIAN S. VOLZ: Chairman, members of the Committee, thank you for the opportunity to testify today.

My name is Brian Volz. I'm with the New Jersey Education Association. I'm here to testify in opposition to SCR-1.

This would be a constitutional amendment to require employers to make a small payment to the pension system not this current fiscal year, but in the following fiscal year; and then make an additional increase to that payment and, in effect, underfund the retirement systems for another eight years. This will significantly result in higher costs in the future to the employers and to the taxpayers of the state, and it will undermined the financial integrity of the retirement system.

To exemplify this, all you have to do is look at the actuarial report for the Public Employees Retirement System, PERS. The State has not been making its annual contributions to the pension system. But local government employers, for the most part, have been making their contributions. Even though the retirement benefits in the system are identical for State workers as for local government employers, and the assets of the pension fund are combined and invested by the same body -- the State Investment Council, Division of Investment, State of New Jersey -- the local government component is funded at 71.2 percent of liabilities. The State government component, in comparison, is only funded at 56.4 percent of liabilities.

So what does this mean? It means the State has to contribute about 42.8 percent more to meet it's unfunded accrued liability payment each year. The cost to a local employer -- municipality, county, or board of ed -- for its workers in the Public Employees Retirement System is 4.42 percent of payroll. In comparison, the cost to the State for State workers with identical benefits is 6.31 percent of payroll, almost 50 percent higher.

SCR-1 will allow State and now local government employers to put off for tomorrow what they need to do today and what they should have been doing yesterday. It will constitutionally sanction the very practices that have put the pension system into the state that they are right now.

Thank you very much.

SENATOR WHELAN: Thank you.

Any questions from the members? (no response)

Thank you.

Rae Roeder.

We have some other CWA people.

Rae, you come up and go first.

Anthony Miskowski and Seth Hahn -- all CWA -- you guys will -- you can come up with Rae and just go right across your testimony; and then we'll hear from Steve Lonegan.

RAE ROEDER: First of all, I'd like to thank you for the opportunity that you've given us to speak, and to say good afternoon to all of you. I think it is that afternoon right now.

There are books on your desk. And the books that are on your desk are the 15 copies asked for and requested by the Chair. And they contain a copy, on the insert, of what I'm going to say, and they also contain the backup evidence that you will need in support of what I'm talking about.

First of all I want to say good afternoon.

I want to speak on SCR-1, which is a part of -- in my opinion and our opinion -- an overt conspiracy to kill the pension system. We believe the motive is greed and failure to meet its moral obligations and legal responsibilities under contract law. See Office of Legislative Services opinion on August 21, 2006, and the Office of the Attorney General's opinion on August 24, 2006. That would be Tabs 1 and 2.

Means: slow and tortuous starvation by not paying full annual contribution into the pension system. Furthermore, the State embarked on an intentional, conscious, and with malice of forethought to derail the pension system.

Suspects: to be named. Democratic and Republican governors, numerous Democratic and Republican legislators who compounded the crime by scamming the system for their own personal benefits while at the same time participated in the cover-up.

Now, I'd like to refer you to the Christie Transition Subcommittee for Law and Public Safety -- reported January 22, 2010 -- and to make one comment before I read it. I have never read such thorough reports in all the years that I've seen a new governor come in. And I feel the transition report revealed many things that had previously been hidden.

So I want to quote directly from that transition report done by the current Governor. "The Department of Law is currently engaged in settlement discussions with the Securities and Exchange Commission" -- that's the SEC -- "regarding disclosures made in connection with State bond offerings going back to 2002. One critical issue is whether a consent decree with the SEC will require inclusion of certain information in official statement disclosures concerning the State's pension liability, both prospectively and possibly for past bond issues. Attention must be focused on the impact of such disclosures."

Thus, it is suggested in the transition report that the State of New Jersey, in order to retain its favorable bond rating -- in my opinion, if you read the rest of the book -- cooked the books. If this is so, it constitutes a megalithic fraud imposed upon both the taxpayers as well as the shareholders and stakeholders of the pension fund, by not revealing the continued deficiencies of the pension fund and further mitigating the dire necessity for the State to make its full annual payment.

Now, in Tab No. 3, on April 4, 2007, the *New York Times* reporter Mary Williams Walsh -- front-page story -- *New Jersey Pension Fund Endangered by Deviated* (*sic*) *Billions*. The article reports, "In 2005, New Jersey put either $551 million, $56 million, or nothing into its pension fund for teachers." All three figures appeared in various State documents, though the State now says the actual amount was zero. The discrepancies raise questions about how much money is really in the New Jersey pension fund. Under its Constitution, New Jersey cannot reduce earned pension benefits. "The State recorded investment gains immediately when the markets were up, then delayed recording losses when the markets were down. It reported money to pay for healthcare costs as contributions to the pension." And it claimed that it had excess assets that allowed contributions for other uses, like financial assistance to poorer school districts.

The article continues and says, "If New Jersey violated Federal securities, tax, or other rules, it could be forced to make up that contribution. The IRS has specific rules against mixing pension money with money for other uses like health care. Federal securities law also requires that bond insurers (*sic*) provide complete and accurate financial information."

Once again, in the Christie Transition Team report: "In addition, the legal costs associated with this matter are material and require review. It is worth noting that, to date, a New York law firm of Fried Frank" -- and that evidence is also in the tabs -- "has been paid $3.8 million in legal fees for 2008 and 2009. Another $1.9 million is expected to be paid this January 2010. Additionally, that firm has submitted bills in the amount of $2.2 million for payment in the early part of 2010. Thus, the total amount of fees incurred to date on this matter will approximate $8 million. Management of this matter should be reviewed." And CWA Local 1033 (indiscernible) agrees with the transition report and finds evidence to substantiate what they said.

Our research has disclosed that the case is being handled for the State of New Jersey by Carmen Lawrence, an attorney -- and that's also in here -- with Fried Frank. Lawrence is paid $495 per hour, and associates will bill $180 per hour. Lawrence is the co-head of the securities regulations and enforcement practices in the New York office, and a former regional director of the SEC's Northeast Regional Office. Talk about run-of-the-mill conflict of interest.

And I'm just about finished.

To add insult to injury, the money to defend the State's malfeasance may have come from the pension fund. We demand that this matter be reviewed by this Committee to determine the nature of these backroom negotiations between the State of New Jersey and the Securities and Exchange Commission. We demand full disclosure and transparency regarding this matter, since we believe it may very well relate to the adoption and the passage of SCR-1 to present the appearance to the SEC that the State of New Jersey is working in good faith to secure taxpayer approval and to continue the underfunding of the pension system.

Before this body, or any body, places SCR-1 for consideration, this Local asks the following: that the Senate follow the recommendations made by all four pension entities -- that is the Police and Fire, the PERS fund, and the State Police fund -- that sent letters this past Thursday, and resolved that before consideration, the pension bills be stayed until and unless figures substantiate a cost savings; that the SEC perform a forensic audit of the pension funds to determine the actual net assets and liabilities.

And if you have any questions, we have a lot more information. We actually have the transition report with us and anything else you might desire.

SENATOR WHELAN: Thank you.

SENATOR TURNER: I have a question.

SENATOR WHELAN: Senator Turner.

SENATOR TURNER: You made some rather startling statements, one of which was you felt that we, as legislators and governors, are out to more or less destroy the pension system. Is that correct?

MS. ROEDER: Yes, because I believe--

SENATOR TURNER: Why do you say that? I'm a member of that system, and I certainly wouldn't do anything that's going to jeopardize not just my pension, but the pensions of every other State employee and retiree in the state.

MS. ROEDER: Because when you hide a report-- I mean, when the Governor's Office hides the SEC investigation, you have no knowledge of what that is, and you don't know how much investigation has progressed or what the issues are surrounding it.

I think that some people may have voted on issues regarding the pension without the direct knowledge of the information. I believe that you did not receive the correct reports on the asset allocations of the pension, nor has anyone here ever received any reports to say -- in the case of the SEC investigation -- what was happening, when it was happening, what is the agreement that has been negotiated, and what -- what is the relationship of this constitutional amendment to that agreement of settlement? And I think that those--

And I've come to you and talked to you many times. I know that, because you've always been receptive to both Tony and myself. And we've had many questions on the State Investment Council and their practices, practices that involve Goldman Sachs, practices involving Lehman Brothers, all kinds of other issues that would go to really what are the real assets of that pension system. And we've brought you lots of material about that. And what we're saying is that the transition report -- whether you like their recommendations or not -- I believe that, in my opinion -- and I've read about nine different Governor's, that's how old I am -- transition -- and I believe these were the best sets of reports I had ever written (*sic*). And it's not because there are Republicans sitting in front -- because it revealed everything. It opened the door. I have been asking, in writing over and over, "Give me the SEC report. Tell me what's going on with the investigation."

SENATOR TURNER: What is our current underfunded liability?

MS. ROEDER: Tony can tell you.

ANTHONY F. MISKOWSKI: It is now-- Recent reports by the actuaries say that the underfunded liabilities have increased from $34 billion to $46 billion.

SENATOR TURNER: Is that just--

SENATOR WHELAN: Senator, excuse me.

Anthony, can you identify yourself for the record?

MR. MISKOWSKI: Yes, I'm sorry.

Anthony F. Miskowski, and I'm a State worker of 37 years, and elected Secretary of CWA Local 1033.

SENATOR WHELAN: Push your microphone, please. You know the drill. (laughter)

MR. MISKOWSKI: Thank you, sir.

I'm the elected Secretary of Local 1033.

SENATOR TURNER: Now, does that include the health benefits?

MR. MISKOWSKI: No, that's apart from the--

SENATOR GORDON: Just the pension.

SENATOR TURNER: That's just the pension. What is it? Do you happen to know what the underfunded liability is for health benefits?

MR. MISKOWSKI: That number is really, really enormous. And I think that then goes over almost $100 billion.

SENATOR GORDON: It's over that.

SENATOR TURNER: And we're not doing anything to address that with this piece of legislation.

MR. MISKOWSKI: Right.

SENATOR TURNER: Why would you oppose this piece of legislation if we're going to make some kind of, I guess, good-faith effort in paying into an underfunded pension?

MS. ROEDER: Well, first of all--

MR. MISKOWSKI: That brings me to my testimony.

MS. ROEDER: Yes. And I want to say, previous to that, is that the law has always required payment. The annual, actuarial reports of each of the pension funds say, "This is how much you have to pay in order for it to survive." And every time, in the last 12 to 15 years, it's been ignored.

Now, why do we think that this question on the ballot would be harmful and not in a positive direction? Because you don't have the information. And we think that what this question is about is what Mr. Miskowski is going to speak to. I don't want to take much of your time. I want to have him go ahead and speak. And the reason I say Mr. Miskowski -- because he and about 60 of us go every month to the State Investment Council. We have never missed a meeting in the last five years. And we intend-- We go there, we examine all the statistics and reports, and that's why we have this information.

Go ahead.

SENATOR TURNER: Well, are we, as a State, legally required? Are we mandated to fund the pension each and every year?

MS. ROEDER: The actuarial reports that were given last Thursday say, "This is how much you're required to pay on an annual basis." Choosing not to pay that amount causes the exact mess we're in.

MR. MISKOWSKI: It's about $2.1 billion a year that should come from the State. State workers--

SENATOR TURNER: Hasn't that increased because we haven't paid into that fund for about 11 years now?

MR. MISKOWSKI: Right. It should increase. And as the baby boomers retire, that number will increase by about $200 million per year more. So State workers have been putting about $1.5 billion a year in. The State should be putting in about $2.1 billion. With the investments on interest -- of course that was down because of a recession. But that should make up the difference. But pension salaries amount to about $400 million per month, or about $4.8 billion per year. So in other words, because the

State has not been putting in its fair share, and the markets have been down, and the only contributions have been coming from employee contributions, we're talking about the fact that the pension salaries are now being drawn down on the principal of the pension fund rather than the interest that would be accrued through the investments. And that simply will not last. You also have a situation here where 30 percent of the employees have five years or less into the system. You have another 30 percent who are 50 years of age or older. That center just will not sustain that as more and more people retire.

SENATOR WHELAN: Mr. Miskowski, why don't we go right into your testimony, and then we'll have some additional questions if there are any?

MR. MISKOWSKI: Okay.

Good afternoon, distinguished members of Senate Government Committee.

To paraphrase a song by Billy Joel: We didn't start the fire. It was always burning since the State's been turning. We didn't start the fire. No, we didn't light it, but we tried to fight it.

Ladies and gentlemen of the Legislature, the hard-working, dedicated members of my union didn't start that fire; you did. And now you're engaged in that vast conspiracy to cover up the immoral, unethical, and illegal assault on the pension security of almost 800,000 current and future beneficiaries. That's 9 percent of the population of the New Jersey.

SCR-1, sponsored by Senate President Sweeney, represents a Trojan Horse bill. It is not what it appears to be. It is designed to deliver the last death blow to a pension system that refuses to die in spite of the best efforts to flatline the pension fund. The pension system lives on. Long live that pension fund.

Actuaries of four separate pension funds issued the mantra: The principal cause of the underfunding of the pension system is due to the State's failure to put in its full annual contribution for the last 13 years. And now the actuaries say that the unfunded liability has increased from $34 billion to $46 billion. And all entities are saying the same thing.

The Codey Benefits Tax Force (*sic*), chaired by Phillip Murphy, stated emphatically its six core values on December 2005 as follows: One, State and local governments have a moral obligation to their employees to make the payments they promised to make. State and local governments also have a moral obligation to always act with fiscal integrity, openness, and honesty. Three, the pension system was meant for career employees. Abuses by the politically well-connected are more than inappropriate, they erode the integrity of the system. Four, the pension system structure must be able to attract and retain a high-quality workforce. Five, the collective bargaining process must be respected, and input from public employees is essential as future changes are considered. And last, healthcare benefits are directly related to wages. Healthcare costs can and must be controlled through the collective bargaining process.

Adopting SCR-1, which has a qualifying clause to allow a seven-year phase-in to full contribution, will traumatically exacerbate the underfunding of the pension fund and, by my projection -- to answer your question, Senator Turner -- this would amount to an additional $18 billion, due to the continued failure to make full contributions and the lost interest accrual and compounding.

I ask this distinguished Committee to order an impact study to determine if a seven-year phase-in is appropriate and sustainable, or if the clause is detrimental to the structural integrity of the fund beyond repair.

Andrew Biggs, visiting scholar at the American Enterprise Institute in Washington, wrote recently in a *Star-Ledger* guest editorial: "New Jersey's pensions, like plans across the country, require significant reforms." And we all agree on this. "But to understand the need for reforms such as higher employee contribution rates, one-time and in-full contributions from the government, higher retirement ages, and more modest benefits, we must first know the scale of the problem." We don't know the scale of the problem. "Current accounting methods could let pensions paper together a reform that would not stand muster under private-sector standards. Both State workers and residents deserve better than that."

Thank you very much for your time.

SENATOR WHELAN: Thank you.

Go ahead, Senator Kean.

SENATOR KEAN: If Senator Turner is through with her questioning.

SENATOR TURNER: I'll wait until you finish, Senator.

SENATOR KEAN: Thank you.

Thank you, Mr. Chairman.

And through you, as you know, one of the first actions of the Christie administration was executive orders that not only will say more transparency going forward, both in regards to the revenue side of the equation on a quarterly basis, but also the obligations, including pension and otherwise. So they've been very aggressive early on, on more transparency in making sure that the costs and benefits of State government are more transparent, more readily available, more able to have that conversation for the public as well as other people who are looking into this process.

But I guess what my confusion, through you, Mr. Chairman, is: In the past, this Legislature has used the budget to override the law. And that happens on many other issues over the objection of some or the objection of many. What I don't understand is that if this constitutional amendment is not passed, the current status quo will allow for future governors, for future legislators to ignore that law through budget language which then could lead to further unsustainability within the pension obligations and the healthcare benefits of the State.

But instead, we are coming up here today with a bipartisan solution that, with the will of the people, say, over the course of the next seven years, not only would the locals need to make full pension contributions -- and I know that people have testified in favor of locals not making full pension contributions in the past, who may be testifying here today -- but also the State needs to make its full constitutional obligations. And what this constitutional amendment does is set a floor to say not that the Legislature can't go higher than that one-seventh payment, but for that ramp up over time -- is a constitutional, with the will of the people, floor to the pension contribution. So if we're focusing on long-term sustainability-- And, of course, there are three bills that have passed the State Senate, that have been introduced in the State Assembly, tied in, that will change the long-term actuarial components of the State -- of the accounting system --

tied in with the constitutional amendment saying, "Let's make sure, over time -- if not on an annual basis already -- but at least over time it's a floor, constitutionally dedicated, that we will fully fund the pension obligations, that the Legislature has given its word to do." Isn't that better than the current status quo which has been, "Ignore the law for 11 of the last 15 years?"

Thank you, Mr. Chairman.

MR. MISKOWSKI: I think what we object to is the fact that there is the phase-in clause. Because if the minimum is put in and phased in over the seven-year period, the question needs to be asked: What is the tipping point of the pension fund at this particular point in time? If we continue to just make annual payments of one-seventh -- which would be approximately $300 million, and I understand one-seventh the next year, which is an additional $300 million -- over a period of time, you are continuing to increase the underfunding of the pension fund. We're very skeptical about the phase-in. Instead of a constitutional amendment that would then say the State, unequivocally -- that the State needs to pay its full contribution, annually -- not a phase-in, but annually. We need to start to do that now. And you need to do an actuarial study to determine as to the true nature of the assets and liabilities of the fund.

It seems to me that when -- if you go back to 2005 with the Codey Task Force-- At that particular time, Phillip Murphy was talking about an unfunded liability of $24 billion. And then a year-and-a-half later, you go to this joint task force on property reform and all of a sudden it's up to an unfunded liability of $34 billion. And now, a year-and-a-half later, they're talking about-- The actuaries -- four actuaries say that we're now up to $46 billion unfunded liability. This phase-in will only increase the underfunded liability of the pension fund.

SENATOR KEAN: With all due respect, many of us have argued against the underfunding, over the past several years, of the pension liabilities of the State of New Jersey and the decisions that were made over the course of the last period of time.

But it seems to me that this package reform does a couple of things. Number one, it focuses on some of the long-term cost structures, at least in the original three bills that passed the Senate by 36 to 0. But this constitutional amendment, I would say-- Instead of saying that's the ceiling, it says, "For the first time, there is a floor to funding. And the State and localities--" and as you know, localities, over the course of the last couple of years, were advocated to spend -- only fund half of their pension obligations. This, for the first time, says, "There will be a constitutional" -- with the will of the people -- "floor to the funding of these obligations." And I would think that if you're looking at -- whether a citizen, a beneficiary, an actuary, Moodys, investors from Wall Street saying, "They are turning the corner and saying--" whether it be this first year of this full funding, or certainly over a period of time -- "there will be full funding." That's a fundamental change in course that would not only have benefits to those people who have paid into the pension system, making sure that it's there for them when they retire, but also anybody who is looking at the State of New Jersey and saying, "Over time, what is going to happen to this pension obligation?" And as you said before, it's gone up from $24 billion, to $34 billion, to $46 billion. But it seems to me, if we're going to start to turn that corner, this is an important first step.

And I'm just confused. Instead of coming around, arguing against this-- Because if this constitutional amendment does not pass, then the status quo will be in place, and legislatures and governors alike, long after we have left the Chamber and the Dome, may or may not fund the obligations through which governors and legislators have committed the State.

But instead, we've started to turn the corner and say, "We're making change." And I would think your members and other members who rely on these pensions, or come to count on these benefits, would be out advocating to their neighbors across the state to say this is an important obligation to fund going forward, and it's an important step to say, "For the first time, the Legislature, the Governor, and the people of the state are coming together and saying, 'It's time to meet the obligations.'" I'm just confused that that's not the direction of the argument.

MS. ROEDER: First of all, if you look at what is supposed to be paid on an annual basis, you're not talking about what you said at the very beginning, paying the annual fee plus one-seventh of what is owed. You are talking about paying one-seventh. And if you read the actual -- in the bill -- the amendment that goes -- or the question that goes on the ballot, it says, "The amendment requires the amount of the contribution to be determined by actuaries--" you already heard what the actuaries -- because they gave the report -- "for each plan based on the annual report prepared by actuaries that calculates the assets and liabilities." Then it says, "The amendment permits the State to comply with this requirement by making a payment of at least one-seventh." Nobody is talking about paying the other six-sevenths. That just adds to the liability -- "each the first year, and increasing it's payment by an additional one-seventh." All of those lack of payments-- This is not about full funding. It's about giving the Legislature the option not to pay and continuing to increase the liability of the pension.

Tony.

MR. MISKOWSKI: That's exactly right. And you say about turning the corner-- Are we turning the corner fast enough, or are we now at the point of no return -- that we have reached the tipping point of this pension fund? And until we do some more in-depth, actuarial studies to see how this impacts on that -- if you were to pay the minimum amount of that one-seventh per year -- what not only the short-term but long-term affect that would have on the pension system. It doesn't do that.

SENATOR KEAN: With all due respect, and through the Chairman, number one, if this constitutional amendment doesn't pass, budget language this year or 20 years from now can say, "Number one, the obligation will not be met." Is that accurate? It's a simple question. Can the budget language override the pension obligation owed by the State of New Jersey to this fund?

MS. ROEDER: Well, they seem to have been--

SENATOR WHELAN: Let me give you a hint. We have, I think, 11 times in the last 15 years.

MS. ROEDER: Yes, we have -- you have. And we've objected to that many times. In fact, we're one of the few locals that objected to the borrowing that Christie Whitman did, and demonstrated against that.

What I want to say to you is, why not fix it the right way and take the time to look at the actuarial numbers that show how much more increasing the unfunded liability is going to happen by just going to one-seventh of the payment?

SENATOR KEAN: This--

MS. ROEDER: I'm sorry, I didn't mean to interrupt you.

SENATOR KEAN: No, I'm sorry. I interrupted you on that one. Go ahead.

MS. ROEDER: We want you to do it right. And the question is: If I put your name on the ballot, and a salary, and asked the public to vote for that, that's automatic defeat. The point is, this is an obligation, made by contract, with a group of people to do the work. I'm not talking about the high-paid people. We don't represent those individuals. You're talking about individuals who worked a lifetime in State government. You have an obligation to them. They do your work for you every day. And they expect that payment. Do it right.

SENATOR WHELAN: Senator Kean, and then we're going to go to Senator Gordon.

SENATOR KEAN: Okay. I'm sorry.

Just in closing--

And thank you, Mr. Chairman.

What it seems to me -- and, number one, if this constitutional amendment doesn't pass, we're in status quo after. There is nothing, fundamentally, that changes from the current situation if this SCR does not pass from what currently exists, number one.

It seems to me that what should happen is-- And with all due respect, I fundamentally disagree with the assertion that this is about making the floor being one -- or making the ceiling one-seventh every year.

This is about saying that, over time, we have the obligation, both moral and otherwise, to fully fund obligations to which the State has entered into in the form of a contract.

What this amendment does is say, the first time, with the support of the people of the State of New Jersey -- to make more than those minimum payments over time. So it's a constitutional amendment that will be-- You cannot ignore that. And as we've seen with the actuarial tables that came out just this past Thursday, where the number was -- at one point it was $4 million of estimated cost. It's now -- $700 million, I believe, is the one-seventh payment. So it seems to me that over time -- if not immediately with the full funding of this obligation -- that this is one of those solutions by which there should be bipartisan agreement to get to the point at which, if not immediately -- that there's a certain floor. So the first time, instead of what has happened in 11 of the last 15 years, we will prevent those types of underfunding or nonfunding from occurring.

SENATOR WHELAN: Senator Gordon.

SENATOR KEAN: Thank you, Mr. Chairman.

Thank you, Rae.

SENATOR WHELAN: Thank you.

SENATOR GORDON: Thank you, Mr. Chairman.

I have to say, I share Senator Kean's confusion about this. I'm not aware of any conspiracy. But what I do know is that we are in a hole at least $46 billion big. And actually, if you include the retirement, health, and our health insurance obligations, it could be $140 billion. And it just seems to me that the time has come for us to start throwing some soil, and rock, and some boulders back into that hole. And I think we do it with this legislation.

What I'm actually concerned about, about this seven-year phase-in, is not that we're not putting enough in. Because as Senator Kean said, this is a floor. We could always contribute more than that. What I'm concerned about, given our debt-financing obligations and other contractual obligations, is that we may be diverting so much money into this mandated payment into the pension system that we're not going to have resources to do all the things that your members and the hardworking State employees do. And we may well have to lay off an awful lot of people because there just isn't going to be any money for corrections, or health care, or education, or all the important things that the State of New Jersey is supposed to do.

But I do think that it's time for us to take a new course and to try to reverse many years of financial malfeasance, and start putting some money back into the system so that our employees have the pensions that they were promised.

Thank you, Mr. Chairman.

SENATOR WHELAN: Senator Turner.

SENATOR TURNER: Thank you, Mr. Chairman.

I, too, am concerned about the one-seventh. In fact, I have a bill in that would require 100 percent contribution by the State each and every year. And, in fact, I've had that bill in since 2006. Now, if we had passed that bill, we'd be in a lot better shape than we are right now. We wouldn't be in such a great underfunded liability position.

But the State has demonstrated, time and time again -- 11 times, in fact -- that we don't have the morals and we don't have the political will to fund this system. Now, if we were a corporation or a small business, we would be violating the law. So I don't think we can afford to rely on morality or political will any longer.

I'm just questioning now: How did we come up with one-seventh? How do we know that one-seventh is going to prevent the collapse of our pension fund, because we don't have any idea of how the market is going to be performing over the next few years? And we don't know how many more people are going to be retiring. That means fewer people contributing into the system and more people collecting from the system. How did we come up with one-seventh as the magic bullet?

SENATOR KEAN: I guess that's a question, through the Chair, to me.

SENATOR TURNER: Yes. I think you're co-prime sponsor.

SENATOR KEAN: Yes, I'm one of the prime sponsors of this bill.

The conversation that was had was: What's a fundamentally logical way to ensure that we actually ensure full funding, both on the-- As you know, one of the recent amendments to the Constitution was to include the locals being -- pay. As you know, there are a lot of locals that were told last year, and almost obligated in many ways, not to fully fund their pension obligations.

SENATOR TURNER: I voted against that bill.

SENATOR KEAN: As did I.

SENATOR TURNER: Okay. We're the same on that.

SENATOR KEAN: It was fundamentally the wrong way to go. And there were individuals who were advocating in support of that. I didn't understand that at that time.

The way we focused on one-seventh was: It was a realistic (indiscernible) path to say, "Given the current economic structures (indiscernible), understanding that 11 of the last 15 years the system has been fundamentally underfunded, what is a way that we can guarantee, over time, that at least a constitutionally minimum funding is being paid that you can ramp up on a way that makes sense, going forward?

It is our hope-- And as you know, the Governor's budget address is two weeks away. It is our hope and our expectation that the funding will be a lot higher than this going forward. In fact, we need to work towards, not actually guarantee, full funding. This is a way to say, "What's a realistic path to say -- make sure that we fundamentally, over the course of the next seven years, build up a way to guarantee minimum funding?" So a seventh was a conversation that was had to say, "Make sure, over the course of the next seven years, that we have a way to fully fund that, over time." It can hopefully be a lot more than that on an annual basis.

SENATOR TURNER: But wasn't that one-seventh determined before we learned that we're now at $46 billion in terms--

SENATOR WHELAN: Senator Turner, pardon me for interrupting.

SENATOR TURNER: Yes.

SENATOR WHELAN: We have just a few more people to testify. Why don't we allow them to testify, and then we can have our discussion among ourselves, if that's agreeable to the members?

SENATOR TURNER: Okay, fine.

SENATOR KEAN: Thank you. We will continue this conversation after the future testimony.

SENATOR WHELAN: Yes, exactly.

Seth Hahn, from CWA, is to testify; and then Steve Lonegan will be next.

S E T H H A H N: Mr. Chairman, members of the Committee, good afternoon.

My name is Seth Hahn, and I'm the New Jersey Legislative and Political Coordinator for CWA. CWA represents over 40,000 State workers and another 15,000 municipal and county workers employed by several public authorities. We have over 55,000 members in the PERS system and several hundred in TPAF.

Thank you for the opportunity to speak on their behalf about the proposed constitutional amendment to fund the pension.

Before I start talking about the resolution, I would like to take a few seconds to speak to a number of facts about the current state of the pension fund. The majority of the workers CWA represents fall under the State worker Public Employee Retirement Fund and the local government worker Public Employee Retirement Fund. The employees in these two funds pay a higher cost of their pension than workers in any of the other public employee retirement funds in New Jersey, at 53 percent and 62 percent respectively. They're the only ones who pay more than half of the pension costs for their pension.

These are not people who are getting rich from their pensions. The overall average benefit for an employee in the State worker PERS is less than $25,000 a year. Our members average -- and this is State and local government -- our members average about $2,000 a month under both plans. It was these workers who were hardest hit by the pension reform bills that passed through this Committee less than two weeks ago.

So how did we get here? Some in New Jersey have suggested that the State cannot afford the benefit levels for public workers and that these benefits are outlandish. This is simply not true. New Jersey public employee retirement benefits are below the national average for public workers, and they're lower than other large states in our region, like New York and states that do not have a similar funding problem.

A recent Pew Institute study shows that the answer is much simpler than actuarial tables, pension multipliers, and long-term asset liability ratios. It turns out states that have put the money into the pension are in good shape, and states that have not put the money into the pension are not. New Jersey has not funded the pension. And while workers have continued to make 100 percent of their payments into the pension fund, the last year the State of New Jersey even met 10 percent of its obligation was 1997. In 2009, public employees put $678 million into the pension fund, while the State managed $23 million. Unfortunately, this imbalance has been the rule rather than the exception for the past 15 years.

So now we're in this situation, and we're in it together. We need to start looking at ways to fix the funding levels in both the short-term and the long-term. Unfortunately, none of the reforms yet to come before the Committee do anything to address the biggest fundamental problem, which is funding the pension in the near future.

And the proposed amendment before you is no different. As written, this amendment would codify an approach that will compound the problem by ensuring that it is a full eight years before the State returns to making the suggested contributions. If the problem is large today, consider how an actuary would respond if you told him or her the Legislature's stated plan was to wait eight years and continue to underfund the pension plan.

Put simply, we cannot wait eight years for the Legislature to fund the plan. The reason the other states do not have the pension funding problem that New Jersey has is that they do not think their legal obligation to fund the plan is optional or one that needs a constitutional amendment to make real.

As I said earlier, we are in this situation, and we are in it together. Members of the State Senate have-- Some members of the State Senate have recently said they do not like unilateral changes to policy, that collaboration in government is the best way to approach problems, and that interested parties need to come together to propose solutions to the problems facing New Jersey. We couldn't agree with them more.

I again implore you to have a real conversation with us. Our goal in this process is that we find a solution to this issue that is fair to workers and taxpayers, while addressing the short-term funding problems and the long-term benefit structure in a manner that provides for a secure, middle-class retirement for the State workers. If your goals are the same, I assure you, you do not need to fear a conversation with us. Looking at the current situation, it seems reasonable to conclude that no one has had a monopoly on good ideas when it comes to the pension system in the past 15 years. And I encourage you to take a look at various other voices in this debate.

If you cannot, however, do that, I would ask something that may be an easier lift. The people CWA represents go to work each day to protect the public interest, and they do it in remarkably difficult circumstances, with a large number of public officials, editorial boards, and other citizens calling them things that do not need mentioning here.

I spoke to a woman last week who has a college degree and chose to become a social worker. She protects children who are abused and neglected. She's been a State employee for nearly five years, and she doesn't make $30,000 a year. She asked me why she is being called greedy, a burden to taxpayers, and the root of all financial problems in the state. I count my blessings that people like her get up every morning and do the job that she does. Others use her as a political tool to grab a few headlines and release some anger.

If we in this room are serious about New Jersey coming together to face the challenges we face -- and I hope we are -- then we must first come together. Hyperbole, rants in newspapers, pointing fingers at low-wage public servants, and using nonexistent examples or examples of severe abuse of the system and passing it off as ordinary will not bring us together, and that type of rhetoric will ensure that the constitutional amendment will face a hostile electorate.

Moving forward, we need to speak factually, rationally, and with respect for all of the people who work hard every day to make New Jersey a great place to live. You have CWA's commitment to do exactly that. I hope we can count on yours.

Thank you for your time.

SENATOR WHELAN: Any questions? (no response)

Thank you.

MR. HAHN: Thank you.

SENATOR WHELAN: Steve Lonegan.

And while Mr. Lonegan comes to the microphone, we have Barbara Horl, New Jersey School Boards Association, who is in favor, no need to testify. We thank her for both of those. Debra Bradley, New Jersey Principals and Supervisors Association is opposed, no need to testify. She's submitted a written statement. And Chrishna Genovese, Chamber of Commerce of Southern New Jersey is in favor, no need to testify.

And now we will hear from Mr. Lonegan.

S T E V E L O N E G A N: Thank you, Senators.

Thank you very much for the opportunity to be here today. I find myself in agreement with the CWA in opposition to SCR-1, while for a different set of circumstances.

I want to talk about what those circumstances are and what the SCR will truly mean to taxpayers. Because I do believe, at the end of the day, this constitutional amendment could end up exploding the pension system when it becomes so unaffordable.

The constitutional amendment calls for a payment of the full contribution and unfunded annual liability, as we know, over one-seventh a year, and then fully funded in the year 2017. What does that mean: the full contribution and unfunded annual liability? Well, you can learn about that by going to the State pension reports. That number, in the year 2005-- I went back five years to find out what this figure is, based on their actuarial projections. I couldn't go back further than that, although I believe this would carry back two more years as well.

In the year 2005, that figure was $1.751 billion just for the teachers and PERS system, not the other three lesser pension systems, alone. That figure increased -- that constitutionally committed figure that the constitutional amendment would commit us to pay -- increased, from 2005, 85 percent to $3.243 billion in the year 2009. That's an average growth rate of 21 percent a year over the five-year look-back.

Now, when the actuaries do their analysis of what the unfunded future liability will see, they use a number of factors that could vary significantly: the number of employees; the number of new employees, which we've seen more of over the past eight years; market performance; etc. The market performance that your actuaries in the New Jersey pension system used was 8.25 percent projected return on investment, which is very optimistic. Coincidently, when I got up this morning -- there's a *Wall Street Journal* article, which I attached to my testimony, about the California Public Employee Retirement System -- who projects 7.75 percent return on investment. That's the largest retirement system in the country. Blackstone Finances told them last week that they'd be lucky to see 6 percent, that 7.75 percent is overly optimistic; 8.25 percent, I believe, is absurdly optimistic. Those same factors in the marketplace certainly pertain to the New Jersey pension system. So their actuarial projections are based on some rather optimistic positions. And you can bring your actuaries in to discuss this.

But if you take the past five-year look-back, and that historic 21 percent growth rate in that full and unfunded liability figure, you can project that will be pretty much close to what we can expect over the next seven years. That would be the prudent way to do it, to be prudent in your projection. That means that by the year 2017, the constitutional amendment would commit New Jersey taxpayers to a payment of $12.3 billion, which begs a simple question: Where does the money come from? That's more than the entire revenue of your income tax. That would be devastating to the State's budget, and the necessary tax increase which would be required would be even more devastating.

Now, some will argue that, "But as you begin to make these first payments in the first years of one-seventh, and then another two-seventh--" is that you're reducing that full unfunded liability. That's really not the case. You don't begin to tip the balance in favor of reducing that until you get to year four, when you're committing four-sevenths. You're not beginning to reduce that liability.

We've just received a report that the State's full unfunded liability, which was believed to be $36 billion only two weeks ago, is now closer to $47 billion which, right off the bat, tells you that your full unfunded liability payment this year will be somewhere in the neighborhood of $4.4 billion. The figures that I'm giving you are directly from your own State pension system actuary reports. The way that they project these requirements, these -- is based on -- they smooth things out over a five-year period. They don't take a loss all in one year. So if in the year 2008 the State took a big hit on its investments in the market place -- which we know they did -- they smooth that out over the next five years. So you can expect a growth rate close to 21 percent. I think that's very reasonable.

But even if you don't-- Let's just say you become extremely optimistic, and you say, "We're going to only grow that number at 8 percent a year, suddenly the market is going to perform beautifully, and we're going to become the best pension managers in the world." At 8 percent, that's still a $5.5 billion payment due in January of 2017. Again, that's almost you're entire revenue from your Sales Tax.

So this begs one very simple question: Where is this money going to come from? Is there going to be a major, major reduction in State services or massive tax hikes that could be crippling to this economy, especially in this environment?

I am an economist, folks. I have a strong financial background. I do not anticipate a big growth in the economy in the years to come. I think we're going to see a long, drawn-out recession. And we're going to have to adapt to that very, very quickly. That is why I'm here in opposition to SCR-1.

And, Senator Whelan and others, I hope we would have the opportunity in the future to have more dialogue. We have employed, at Americans for Prosperity, some of the best pension experts in the country to analyze the State's current condition and future liabilities in a methodical, mathematical, and logical way. Too much to bring to you today, but certainly valuable information worth reviewing.

And I would ask that you consider, in the weeks to come, bringing in your own State actuaries and pension managers. I believe they will corroborate everything I'm telling you.

So rather than sit here and talk about what's wrong with the current -- SCR-1 -- I'd like to say I think SCR (*sic*) 2, 3, and 4 are good steps in the right direction. I congratulate you. But they're not going to go far enough. There are other options, and the other option would be to begin immediately -- as quickly as possible -- moving new employees into 401(k)s. You can sustain the current pension system for a lot of years without any contribution, keep all benefits in place, by some simple steps: by cash-flowing out that system, by providing positive cash flow into the current pension system by a 401(k) system in which we ladder up our contribution to employees, starting at 3 percent over the years up to, say, 5 percent, which would provide positive cash flow into the State pension system.

I could spend a lot of time talking about this, and it's really not the place to get into the details of that situation. I just urge that you corroborate what I am telling you. I think you'll find these numbers to be correct.

And at the end of the day, while I am on the same side of opposing this with my friends in the union for different reasons, they're not incorrect when they say this could blow up the pension system. Because you'll never be able to make that payment seven years from now. And that could bring the economic collapse of the State.

That's my testimony. I thank you for that.

If there are any questions--

SENATOR WHELAN: Thank you.

Senator Kean.

MR. LONEGAN: Everybody else got questions. (laughter)

SENATOR KEAN: Well, I'm happy to oblige.

Thank you, Mr. Chairman.

Steve, thank you for your testimony. I think there are many issues in this, in regard not only to the first three bills, of which this is a component part-- Part of the reason that I think SCR-1 works, going forward, is because it's tie barred, in essence, with the success and support of S-2, S-3, S-4 as a focus of -- there is a turning of the corner on State obligations and focus going forward with both not only new employees, but on current employees with their health care; and teachers with their healthcare benefits payments. So part of what makes the SCR work is the passage of the other three amendments which passed the State Senate by 36 to 0.

What I am saying is, the important part of this bill is that this simply says the State meet its obligations as stated in contracts. It's not saying that we-- You know, I think the focus of the bill is not that this is a floor-- Excuse me, as I said before, not that this bill is a floor-- Let me start that one more time -- not that this bill is a ceiling, but that it's an absolute floor to meeting our obligations going forward. And I would think that in conjunction with some of the changes that have passed not only 36 to 0 in the State Senate, but in conjunction with some of the other conversations that have been ongoing, this is a way to ensure that the success of S-2, 3, and 4 are conjoined with the success of SCR-1. And I would think, going forward, that the State meeting its obligations, and understanding the cost of those obligations going forward, would be one that we would be able to agree is important to the future interest of the State.

MR. LONEGAN: I would like-- You know, SCR-2, 3, and 4 are fine steps, but have little or no impact on the pension system's returns and actuarial assumptions. S-3, the healthcare bill -- the 1.5 percent. That's all well and good, but your healthcare benefits are in your State budget last year as a separate line item at $550 million -- does not impact the management of the pension system. The capping of sick days, while may be appreciated down the road -- which is a great thing -- although, as Mayor of Bogota, I never had those types of sick days, I will say -- that I'm sure people will appreciate that then. And these other changes--

And by the way, I want to-- I mean, you did address at least, I think, 20 or 22 of the recommendations in the 2006 task force -- joint task force on benefit reform, and that's a good thing. But it's nowhere near enough to offset the actuarial projections that you're using in SCR-1. In fact, I would submit that it does not affect them in any way at all.

So it brings me back to the original question: How will you meet that payment obligation in 2017? I don't think we can. And I think you create a crisis down the road bigger than you realize. And I just ask you, once again, to bring your own actuaries in, your own pension managers in to review and corroborate everything I'm saying.

Senator, thank you.

SENATOR WHELAN: Senator Turner.

SENATOR TURNER: Thank you, Mr. Chairman.

Through you, I'd like to ask Mr. Lonegan a couple of questions.

I agree with you in terms of the previous bills that we passed. That's why I did not support them, because I did not think it would have any real impact on securing the pension fund in the short run. My concern was more about the underfunding that exists currently and growing.

But based upon what you said, you seem to believe that the pension can go on without funding and not collapse. Is that--

MR. LONEGAN: Not forever.

SENATOR TURNER: Not forever. How long do you think? I mean, do you believe that there is no need to fully fund the pension?

MR. LONEGAN: Well, you're going to have to provide additional funding of some source over the next-- And it could be, Senator, as long as a decade from now. But that would rely on some certain mathematical assumptions, and projections, and benefit costs, and returns on investment, which are deeply concerning at this time.

You know, Senator, I'd like to point out that as early as 2001, the pension system was considered fully funded. In fact, in 2002, when you were at over 80 percent of liability, you were considered fully funded. And we've heard about how the State hasn't met its commitments. But I will tell you, there is plenty blame to go around. Because back in 2001, when the union leadership and many recipients thought the pension was so well funded, they swarmed the State House for a 9 percent increase in benefits. And now the chickens are coming home to roost on that. And that's typical, by the way. When the state pension systems hit 80-plus percent funding levels anywhere in the country, this is what always happens. There's a call for better benefits. So we're paying for that now.

But right now, the pension system has -- oh gosh -- $65 billion or so in assets. That's a substantial amount of money. And you still have money coming into the system from current employees versus benefits going out. So if you adopted a system of moving new employees into 401(k)s and cash-flowing money from that (indiscernible) expense into this pension system, it could be -- in our last projections -- 15 years from now before the State would have to put money into the pension system to sustain their obligations. And that would be done, by then, if the dollar is worth about $0.48 of what it's worth today.

Now, if in that 15-year period you achieve economic growth through the financial stability of the State government, better jobs and job growth, it's going to seem a minor effort to meet those obligations as opposed to, say, today, even following your suggestion -- which, on its surface, is the most prudent one to fully fund the contribution. This year it would be $4.8 billion -- or $4.6 billion. Again, where does that money come from? That's the question I'm simply asking. Where is it going to come from?

SENATOR TURNER: We also heard the CWA testify that -- what was it -- I believe according to the SEC, we're not operating the pension on dividends or interest. We're utilizing our principal. We're drawing down principal to pay benefits. Is that--

MR. LONEGAN: You are. You've been drawing down principal since about 2005, 2006.

SENATOR TURNER: That should not be a good thing.

MR. LONEGAN: That should not be, no. You want to be in a position--

SENATOR TURNER: No. So why aren't we concerned then?

SENATOR GORDON: We are.

SENATOR TURNER: You said we don't need to be concerned for another--

MR. LONEGAN: Oh, no, I'm sorry. We do need to be concerned.

SENATOR TURNER: But you were saying we could run on empty for another 15 years or so.

MR. LONEGAN: You could run on empty. You could draw this down to almost zero over the next 15 to 20 years, depending on certain projections of return on investment. Yes, that is the case. And at that point, you would have to put money into the system to meet those required benefits. Now, your benefits annually, right now, are about $6 billion that are paid out. As you play down or phase out the defined benefits system over the next 15 to 20 years, you will have less retirees coming on board, and you'll begin to reduce that down over the next two decades.

But there is no easy solution to this. We certainly have painted ourselves into an extremely costly corner. The question is how best to spread out those costs that is most productive for our State's recovering economy.

SENATOR TURNER: Well, I agree with you. I don't think this-- I don't think we see the light at the end of the tunnel, the economic tunnel, right now. I think it's going to be a long, drawn-out recovery. So I think it's incumbent upon us to, as I say, pay now rather than later. Because you'll pay a lot more later on down the road.

MR. LONEGAN: Well, I don't agree with you on that. If you're paying down the road, you're paying on discounted dollars, you're paying on certain actuarial predictions. And I think it's safe to say that if you continue to fund the current system, it's liabilities will continue to grow. It is an archaic type of pension system. You've all heard about how it no longer exists in the private sector. Well, it does in some areas, but for the most part it's phasing out. I think it's inevitable that government phase out a defined benefits system and move toward a defined contribution plan, by necessity perhaps.

SENATOR TURNER: Well, you do not support this legislation, although you said for different reasons than CWA. But if the government does not have the intestinal fortitude or the political will to make its annual payments, would this not be a good way to require State government to meet its responsibilities if they're not willing to do it otherwise?

MR. LONEGAN: No.

SENATOR TURNER: Why?

MR. LONEGAN: Because it's going to put such enormous pressure on the State's resources that the detrimental impact to our economic growth will be magnified by the cost of whatever benefits you could assume to get from paying these. These pensions will be being paid. No one is advocating taking away existing employees pensions or eliminating them. That does not have to happen. This can be cash-flowed out over a 15- to 25-year period with future contributions significantly down the road. And those contributions will vary based on the performance of the pension system, which should perform much better. The young lady who testified earlier talked about the mismanagement of the system. We know about that. There's no doubt about it that New Jersey's pension system has underperformed, very much, the rest of the country, which begs, again-- Why are they projecting an 8.25 percent return when other states don't even think about getting numbers like that in this economy? These numbers aren't even realistic and (indiscernible) projected returns.

So I'd like to put together a model which phases out a failing system; replaces it with a good, sound, fair system; preserves the assets of the current system and the benefits of the current employees; and promotes economic growth and fiscal stability. That should be the goal. SCR-1 does not do that. SCR-1 is like putting a gun to the head of taxpayers. And if you don't know what it's going to cost seven years from now, we're really playing with fire, Senator.

SENATOR WHELAN: Senator Kean.

SENATOR KEAN: Thank you.

Through you, Mr. Chairman.

Steve, there are a variety of things upon which we've agreed over the course of the last several years. I think fundamentally I disagree with you on that last assertion.

I believe that the funding of these obligations, number one, are issues to which the State has committed itself. But I don't see any conflict between future conversations going forward -- about what the actual cost to both taxpayers, to public employees, to the government of this state and of the municipalities -- and this constitutional amendment. This constitutional amendment simply says, number one, let's fund our obligations. And number two: Isn't it better to have a real-time knowledge of what those obligations are and making sure that we have -- number one, that we have the floor to the funding -- number one?

But going forward, it seems to me that as we're having these conversations-- And I think some of your assumptions based into your testimony today say that, number one -- I don't think give full benefit to the value of S-2, 3, and 4. But also it doesn't have, tied into it, potential changes that may occur over the upcoming years except in the legislatively mandated increasing of benefits. I think the conversations going forward, that are the beneficiaries of this SCR, are having a real-time understanding and also an over-time understanding of the cost obligations to the State -- I think would accrue to a dynamic conversation as to what solutions compound, and bring together, and aggregate the benefits of economic growth, of fiscal responsibility; and finally to meeting the obligations that we have set forth to those individuals who have, in their contract, relied upon a pension system. So I would argue that this is an issue that actually ties those together and has real, real-time conversations that go on, on an annual and more frequently than annual basis than what has happened over the course of the last couple of decades, where that conversation has been ignored.

MR. LONEGAN: I'm not sure what you mean when you say *real-time measures*. I mean, we knew in real-time in 2001 that the State was fully funded and increased benefits. We knew in 2005 that they had a shortfall of $1.75 billion and continued not to fund the system.

But, you know, there's another consideration here. Maybe I'm wrong, but I've been searching hard. I have not found another state in the country that has constitutionally institutionalized a system like this and what its legal ramifications are to the voters of New Jersey. I mean, a court order in the year 2017 by our Supreme Court to fully fund our constitutional obligation could result in a lot of things -- like the implementation of a new tax, like a statewide property tax, or the doubling of the State's income tax to meet our now constitutional obligation.

I've done the best I could. I haven't found that state yet. Maybe it exists. But I will tell you, of the better-run states in the country, they don't. They're moving toward 401(b)s, state defined contribution plans.

SENATOR KEAN: And nothing in this legislation precludes the State from going down any of the paths that you've outlined.

MR. LONEGAN: I understand that. You're right. You could still pursue that. However, there's a psychological impact. This takes sort of all the oxygen out of the room when you talk about true pension reform. We can now say, "Look at the wonderful pension reforms we just passed." And we've now postponed the inevitable until, hopefully, that gun isn't put to your head in 2017. And by then, it's too late to bring those sweeping changes. That obligation will still exist in the manner that would be (indiscernible) in this constitutional amendment.

SENATOR KEAN: I believe -- and I'm a bit more of an optimist--

MR. LONEGAN: Well, but when you're projecting--

SENATOR KEAN: --than you in this regard.

MR. LONEGAN: When you're projecting financial investments and the management of peoples' money, you need to be a conservative, and you can't be optimistic. You have to be very pessimistic.

And pessimism tells us that we have to do actuarially pessimistic progressions. And that's what they should be doing.

SENATOR KEAN: You and I agree on that common definition. What I'm saying is, I think the individuals within this Legislature, as well as the Governor, understand the implications and the situation in which we find ourselves. And I think we have a good first start. And I think that your testimony has just outlined that nothing in this bill -- in this constitutional amendment precludes further conversations by this Legislature or by this executive branch on some of the changes going forth.

MR. LONEGAN: Thank you.

SENATOR KEAN: Thank you.

MR. LONEGAN: Thank you very much.

SENATOR WHELAN: Thank you.

We have one more to testify.

Franceline Ehret, IFPTE, Local 194.

F R A N C E L I N E E H R E T: Good afternoon, Mr. Chairman, members of the Committee.

Can you hear me?

MR. PARISI: Red is on. (referring to PA microphone)

MS. EHRET: Red is on.

When I first came here, I wasn't sure whether I was going to testify. But after hearing some of the different testimony that has gone on here today, I thought it was important that I come up.

I represent the workers on the New Jersey Turnpike, but I'm also here for IFPTE. I represent a lot of State workers around the Department of Transportation and so forth.

We have a lot of concerns about SCR-1. In particular, we believe it is an obligation of the State to fund our pensions absent a constitutional amendment. And we would say to you that some of the testimony that Mr. Lonegan presented puts us on a very slippery slope when you talk about moving to a 401(k). We're going in a direction that is going to put our country-- We're going to go back to a two-class system. We're going to have the haves and the have-nots. The regular folks like the people we represent aren't going to have any retirement security. They're never going to be able to retire because we're taking away all the retirement security.

I don't think anybody really believes that this constitutional amendment is going to pass. I'm just curious if the people in this room, who are on this Committee, who are going to pass this out of Committee-- Are you committed to going out and campaigning in favor of this resolution so that it passes? It's not going to be easy when you have somebody like the representatives from Americans for Prosperity who are going to go out there and campaign against it. So I'm just curious how many people in the Legislature-- Are all the people who voted for the bills the other day -- are they going to go out and campaign for it? Because in my opinion, this should be tied to those bills. If this doesn't pass, they shouldn't pass -- because they mean nothing if the money is not there. We've been putting our money in paycheck, after paycheck, after paycheck. We've been doing what we're supposed to do. The State isn't doing what they're supposed to do. We're doing the right thing. You should do the right thing. And that's all we're asking. We're asking for some fairness.

And I think the CWA testified earlier that an impact study should be done, because we don't even know if what's going on here in the Legislature this month is actually going to have any kind of real impact on what's happening, whether it's really going to help the pension system or not. There's been no proof of that. And I think that that really needs to be done. And until it's done, you haven't proved anything to me.

I'm just curious. Is anybody going to go out there and campaign for this?

SENATOR KEAN: Through you, Mr. Chairman, yes.

But also it would be easier, through you, Mr. Chairman, if you had more allies in the field. And when the people that this is seeking to protect -- on the number one side, the taxpayers; and on the second side, the people who have the most to benefit from State obligations being met -- are advocating against its passage, that seems to me to be a significant disconnect with the voters of this state.

It seems to me, as you were saying, that the conjoining of-- The importance of passage, on a legislative basis, and signing into law by S-2, S-3, S-4; and then constitutional amendment with the support of the people-- I think the two of them -- excuse me, the four of those come together in a very powerful way. And my hope and expectation is that the citizens of the state will support passage of this SCR, and I certainly will be supporting its passage as well.

MS. EHRET: Thank you.

SENATOR WHELAN: Any other questions for this witness? (no response)

Thank you.

That concludes the testimony for today. This is not a measure-- This is a public hearing. We heard this bill previously as a Committee -- part of the package of the four bills that have been alluded to here today. We had the vote at that time, so we're not going to conduct a vote of this Committee on this bill. That was done, as I said, at the last hearing.

But if there is some discussion by any of the members, or comments they want to make-- I will only echo some of the comments that have been made by the sponsors, Senator Kean and Senator Gordon.

I'm a little perplexed, because certainly the intent of this is to offer protection to the employees -- that down the line their pensions will be fully funded. I think everyone would acknowledge that it's unrealistic to fix this problem in one fell swoop. But with the approach of an ever-escalating floor -- if I can describe it that way -- hopefully we can get there and get this fully funded. And, again, other pension reforms should not be taken off the table.

Senator Bucco.

SENATOR BUCCO: Thank you, Mr. Chairman.

And I have to echo what you said and what my other colleagues on this Committee have said.

I think we all have concerns -- all Senators and all elected officials, Assembly people -- have concerns about our pension system. If we do nothing -- or as Senator Kean said, if this referendum does not pass -- we are giving the opportunity to this administration, and for future administrations, to do exactly what's been done in the past by not putting in the necessary funds. I think this gives the administrations in the future the obligation that they have to -- must put in one-seventh, if not more. It says the floor is one-seventh. They could put in more if need be. And I think to save the pension system for the people, who so much count on a pension, working for us for 20, 30 years -- I think we have to do something to save it. And I think this is a step in the right direction. Is it the last thing we're going to do? I don't think so. I think you're going to see more and more changes as we progress through the years. And I'm not talking about necessarily this year, but I think even future administrations will be looking at other options that they will have.

So I thank you, Mr. Chairman.

SENATOR WHELAN: Thank you, Senator.

Senator Turner.

SENATOR TURNER: Thank you, Mr. Chairman.

This bill is not going to be the panacea, as I view it. However, I see it as a tool, a way for us to require the State to live up to its responsibility that employers in the private sector have no discretion in terms of doing. We will have to do just as every other employer has to do for their employees, and that is to keep the faith and to live up to our obligations to fund their pensions.

As was stated earlier, the State employees pay religiously, each and every year, their required funding to the plan. They don't have a choice. It's taken right off the top. But if the State does not have, as I said before, the moral obligation nor the political will, then I think we need to pass this bill. However, I don't believe one-seventh is nearly enough in terms of eliminating the underfunding liability. But it's something, something more than we have now. I don't know what the Governor's budget is going to be when he announces his budget in his budget address on the 16th. I don't know if he is going to have anything in that budget. However, I'm hopeful that he's going to have something to put into the pension fund. I know that he removed $100 million that was in there for this current year.

But we've got to start meeting our obligations, because we're falling further and further behind in terms of liability. And this is just the pension. We haven't even addressed, as we indicated earlier, the benefits side of the ledger. So I am concerned, too, as was said earlier, if it goes down. What do we do if this bill fails? I guess we just go back to business as usual.

But I guess I'm a little concerned when you put anything on the ballot these days. Because the public is very frustrated, they're very bitter, and they're very angry, and they have a right to be. I don't think they trust us. Not only do the voters not trust us, but our employees don't trust us. That's why I think we're seeing, now, a run on the pension fund. So many people in State government are deciding to retire now rather than to stay around to see what else, what more harm we can do to them, so to speak. So I'm supportive of it. But I think that we should be stepping up with a larger payment.

Thank you.

SENATOR WHELAN: Thank you.

Senator Gordon.

SENATOR GORDON: Yes, just very briefly.

I share a number of the concerns expressed by some of the witnesses today, particularly our ability to fund a constitutionally mandated pension payment. But I do think, based on our history, that we lack the self-discipline to make the kinds of contributions that are required, and so I think we need some artificial mechanism like this to, in effect, force our hands. So for that reason I supported this, and I hope that this and the other three bills represent just the first steps in getting our fiscal house in order and our pension system on firm ground.

Thank you.

SENATOR WHELAN: Thank you.

We'll go to the sponsor and the distinguished Minority Leader, Senator Kean, for the last word.

SENATOR KEAN: Thank you, Mr. Chairman.

I'd like to first praise you for how you have conducted the hearings on the first three -- actually the first four measures as they passed the Committee with unanimous support, and your conducting of this hearing today. Thank you for your leadership and how you've managed this process. So congratulations and thank you for that.

I'd like to thank the members of the Committee for their support of these measures.

And I'd like to thank Senate President Sweeney for his true ability to work across the aisle and find solutions on this and a number of other issues.

As you know, we already have one constitutional amendment that is going to be on the ballot this year. And it's because past legislatures, on a bipartisan basis, have raided what I call the *workers' funds*. And they have -- whether it be the Temporary Disability Insurance Fund, whether it be the UI Fund, or what could have been the Family Leave Fund -- which wasn't created yet so it couldn't be raided -- but they've been raided to the tune of billions of dollars over the course of 20 years. And part of the situation we find ourselves in is because of those raids over the last 20 years. So we already have one constitutional amendment going forward.

I, like some of the other speakers here today, say that this is a good, I think, companion effort to say, simply put, the Legislature and the Governor should, going forward, keep their word that they have given in the past and that they will be giving, going forward.

So I'd like to thank the members of the Legislature for their hard work.

I appreciate the testimony of the witnesses; the written support and the verbal opposition that came here today to talk about these important issues to the future of the State. I think we can come together on a bipartisan basis and say, "We can learn from the history, and we can start finding the solutions, and find them in a bipartisan way." And I think some of these efforts and conversations on SCR-60, as well as on SCR-1, as well as the other pension bills, are an important step and important part of that conversation.

So I want to thank you, Mr. Chairman and the other members of the Committee, for the conversations today, as well as for the public who have testified here before us.

Thank you, Mr. Chairman.

SENATOR WHELAN: Thank you for sitting in today for Senator O'Toole.

We are adjourned.

Thank you, members.

(HEARING CONCLUDED)