BUDGET AND FINANCE COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

MINUTES

A meeting of the Budget and Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on Tuesday, October 2, 2012.

Members Present:
Legislator Lou D'Amaro - Chairman / District Office 17
Legislator Jay Schneiderman - Vice-Chair / District Office 2
Legislator Lynne Nowick - District Office 13
Legislator Tom Muratore - District Office 4
D.P.O. Wayne Horsley - District Office 14

Also In Attendance:
Legislator John Kennedy - 12th Legislative District
Legislator Tom Cilmi - 10th Legislative District
George Nolan - Counsel to the Legislature
Justin Littell - Aide to Legislator D'Amaro
Michael Pitcher - Aide to Presiding Officer Lindsay
Ben Zwirn - County Executive's Office
Tom Vaughn - County Executive's Office
Gail Vizzini - Director / Budget Review Office
Robert Lipp - Deputy Director / Budget Review Office
Craig Freas - Budget Review Office
Paul Perillie - Aide to Legislator Gregory
Kevin LaValle - Aide to Legislator Muratore
Greg Moran - Aide to Legislator Nowick
Ali Nazir - Aide to Legislator Kennedy
Maria Barbara - Aide to Legislator Tom Cilmi
Rick Brand - Newsday
All Other Interested Parties

Minutes Taken and Transcribed By:
Gabrielle Skolom - Court Stenographer

(*The meeting was called to order at 10:12 a.m.)

CHAIRMAN D'AMARO:
Okay, ladies and gentlemen. Good morning. Welcome to the Budget and Finance Committee. Please rise and join in the Pledge of Allegiance led by Legislator Nowick.

(*Pledge of Allegiance*)

Once again, good morning. Looking at the agenda, we have received, as a Committee, no correspondence this morning. We'll turn now to public comments. If anyone would like to address the Committee this morning, please fill out a yellow card. We have one. That would be Karen Ross. Ms. Ross, good morning. You'll have three minutes to address the Committee, so welcome, and please go ahead.

MS. ROSS:
Thank you very much. My name is Karen Ross. I'm the director of nonresidential services at The Retreat, a Suffolk County domestic violence agency located on the East End. For the last three years, our organization has been dealing with the consequences of the worst recession in modern times. I'm here today to report what we are seeing on the frontline. With people losing their jobs and being foreclosed from their homes, family violence has spiked to unprecedented levels, and The Retreat has seen a 96 percent increase in hotline calls over the past two years. Simultaneously, as demand for our services have been accelerating at record-breaking paces, organizationally, we have seen funding cuts from government and a substantial drop in private donations. The Retreat feels and acknowledges the impact of the nation's economic downturn and tough choices about resource allocation that are coming with it.

With funding cuts being proposed during a time of physically increased demand for domestic violence services, I'm concerned that organizations like The Retreat will not be able to meet this increase in demand for services. We can do better than that as a community. We can choose a more supportive path. We understand that Suffolk County has been hit hard by the economic crisis, but these domestic violence support services are vital to the welfare of our community and the safety of our families. These services need to be sustained. As you are aware, domestic violence is a matter of life and death for thousands of women and children in Suffolk County. Without agencies like The Retreat, these victims have no place to turn and no safety net. As October is domestic violence awareness month, I urge all of our community leaders to continue to demonstrate their support. Thank you so much for your time and for your consideration.

CHAIRMAN D'AMARO:
Okay. Thank you for your comments. Is there anyone else who would like to address the Committee this morning? For the record, there's no response.

Now, I'd like to turn to presentations, and this morning we are joined by Tom Nitido, Deputy Comptroller for the New York State and Local Retirement System. Mr. Nitido, good morning. If you would like to come up, you can have a seat right here at the table. First, I want to thank you for taking the time to respond to our request of this Committee and speak to us this morning about the State Retirement System, and I understand you will be making a brief presentation to us, and then we'll open it up for questions and comments. So once again, welcome, and please go ahead.

MR. NITIDO:
I have some copies of the presentation. I have also included a copy of the various benefits so people have them as sort of a reference guide.
They may or may not give you assistance.

CHAIRMAN D'AMARO:
Okay. Thank you. We just will ask when you're speaking, if you can speak into the microphone. It would be helpful. Thank you.

MR. NITIDO:
Good morning. My name is Tom Nitido. I'm the deputy comptroller for retirement services. Just so that you know, I work on -- the retirement system consists of the administrative side and then the funds side. So the administrative side administers the benefit, the new members pays the benefits, does the calculations, does the actuarial valuations, and the accounting for the system. The funds side is the investment side. So while I may be able to answer questions you have on the funds side, I will clearly be working out of title, so I might have to ask for help elsewhere on some of that. Very quickly, what I hope to do today is give you some of the mechanics of the retirement system, point out in some places where our system differs from some other systems, give you some of the recent trends in what's been happening, and then hopefully talk about the Suffolk County bill itself and then leave as much time as possible for questions.

As you know, it's a defined benefit plan separate from a defined contribution plan. It's administered according to the Retirement Social Security Law, which is a New York State law. This is important because people sometimes think that we can just make, you know, lateral decisions, but we are very much in administering the benefit and determining the funding constrained by the Retirement Social Security Law. It prescribes our actuarial method and a variety of other funding considerations that we need to do. Again, the benefit is legislatively enacted, and it's constitutionally guaranteed. The importance of that, of course, is in times when you might want to alter the benefit, any altering of the benefit is prospective for new employees only. So that obviously has implications for savings and trying to achieve a high level of funding. The comptroller of the State of New York is the trustee of the fund.

Just some system overview pieces. We have more than a million members, more than 3,000 participating employers, varying from extraordinarily small to extraordinarily large. We're the second largest system in the country in terms of membership and third largest in terms of asset value; two California systems, CalSTRS and CalPERS, being the two larger systems. Additionally, just so that we're clear on this, there are six other systems in the State; there are five New York City systems; and there is a teachers' retirement system, and while many educational staff are in our system, the teachers' staff is in the teacher system.

Again, I refer to the Retirement Social Security Law. That's our, sort of, governing statute. As a result, many systems have only a few plans. We have all the different variations, 346 plans; makes it a particularly complex system to administer, explain, and show in a rational way. Just some quick facts on the impact of the fund on the economy. We paid out $8.9 billion last year. The average ERS pension is $20,000, and the average police pension is 42. But if you fast forward to last year and people who retired last year, obviously, the average includes some people who retired a very long time ago. So the average of retirees in 2012 was about $28,000, and police, $64,000. These are systemwide averages. As you can imagine, they vary by region. They vary by locality. You know, this happens to be a high cost of living area, so your average would be different from this.

Just a quick idea on the pension cohorts for your review. I just wanted to show you the last line, the hundred and above. Most of the media attention tends be on people earning pensions in excess of $100,000, and while in some regions, there may be a lot of those, as a percentage of the system, it's only a little bit more than one-half of one percent. You know, there's been a lot written recently on retirement security. The Comptroller of the State of New York, Tom DiNapoli, is particular vocal on retirement security. Some of the benefits we've analyzed of our system, not excluding the New York City and Teacher System, we paid $7.2 billion on the State. Suffolk, over 800 million was paid in 2012. That's actually -- the largest payout of any County in the State is in Suffolk County. You know, there's a multiplier of the money that's spent here. In terms of benefits, the economy of retirement systems, more and more is being written. You know, whether we like it or not, we have

a largely consumer-driven economy, and if you're trying to pull out of a recession or prevent yourself from going into a recession, having people who have a guaranteed income or know they will have a guaranteed income in the future is very stabilizing on the economy. As the private sector sheds defined benefit plans, that is contributing to economic volatility.

I'm going to spend a little bit of time on this slide because it has a lot of implications for the way we administer the system and, frankly, for the cost of taxpayers for this system. This is just basically showing over a 20-year period of all the money paid out of the system, .84 on the dollar came from investment earnings and .13 cents from employer contributions, .03 from employee contributions. This .84 is very high in this State relative to other states, and I'll explain why. In most states, the average in other pension systems is in the
.60 - .67 range. The retirement fund has been an effective investor, but more importantly than anything else -- and I can't emphasize this enough -- in the State of New York, because of the constitution and because of the statutes, the required contribution that's being made by an employer every year is made every year. When a local government fails to make it, you know, the Comptroller has to compel payment of that. In many other states, you will find retirement systems will go to the legislature and say, We need $2 billion for the annual contribution this year, and the legislature will say, I'll give you one, or, I'll give you a half. So that habit of many states, of missing, skipping contributions, has contributed to their -- their employer contributions tend to fund more of the benefit over the long-term because of that. In essence, we have the corpus of investments by having that discipline, and required discipline, to drive a greater part of the benefit than in many areas of the country. Now, that's that good news. The bad news is because we have to be rigorous, we have to be conservative in our actuarial method. In difficult times, it's difficult to make that full contribution, as we all know.

The other thing about that is when investment returns are higher or lower than the expected rate of return, that .84, when that's less - when that's driving less of the benefit, the only place to make it up is in the employer contribution, and because that's so large, it has a tendency to have a disproportionate impact on the .13. Let me just give you a quick sense of the CRF performance over the past few years. You can see in 2009, that was the single largest loss. It was driven by the near-market collapse in 2008 and 2009, single largest loss in the fund's history. Now, you look and you say -- a lot of people say to us, Well, look, the next two years, you pretty much made that back. There's a couple of things wrong with that, and I just want to point that out for your -- just for your own information. You know, if you look at these rates of return in any of these given years, the system in most of those years had an assumed rate of return of eight percent. That's the long-term rate that the system assumes for its funding purposes. So, first of all, you have to net that eight percent off of the returns here. In the case of the 26.4 percent, we were assuming 8 percent return in that year, so you have to add that to the loss.

The other part of it is obviously simple mathematics. If we have $100, and we lose 50 percent, we have $50, and the next year, if we gain 50 percent, we're only at $75. You need 100 percent return to get back, so the system is still contending with those losses. If the employer or taxpayer contribution in any given year were just based on that year's rate of return, the swings would be monumental. So what retirement systems virtually all do is they smooth the acknowledgement of the rates of return over a period of time. We use a five-year period of smoothing, so, essentially, in any given year, the employer's bill is recognizing only one fifth of the gain or loss from the previous year, the rest of the year's prior to that. What that means for our purposes is the 2014 estimated bill, which most counties, like entities like Suffolk County, tend to pay that's the fourth year of acknowledge that 26.4 percent loss. What that means for our purposes is the 2014 estimated bill, which most entities, like Suffolk County, tend to pay in December of '13 -- we've just announced that -- that's the fourth year of acknowledging that 26.4 percent loss. And so what that means is there's one more year after that. While rates have gone up significantly, if we look at the curve of the increases, the increases have slowed, and so as that 26.4 percent fully gets folded into the rates, rates will head in the other direction. Again, most of the time that the -- the expected rate of return was eight percent. In 2011, it was decreased to 7.5 percent. The actuary reviews -- all of

the assumptions every year, including earnings, inflation, how long people will live, how long people will work, and on five-year increments, makes significant adjustments to those. So we're at seven and a half.

Two years from now is the time that he would ordinarily make a judgment as to whether to go down further from the seven and a half. You look at the size of the fund; it seems to have rebounded to almost the pre-loss levels. It's a little deceiving, because, as you can imagine, over that period from 2008 to 2012, the system's liabilities have increased as salaries have increased and earnings. You know, I won't spend long with how rates are calculated, but, you know, the one thing that the public has a tendency to misunderstand, unlike, say, healthcare for retirees, where we tend to just pay claims, pension benefits are paid during your working life, so every year, the employer contribution sort of represents the cost of current employees' future earnings. So by the time people retire, their retirement system, if the system is fully funded, should be fully paid. I think taxpayers have a tendency to think current year appropriations are paying retiree benefits.

This slide is a little bit cluttered. I just want to point out two different things on it. You know, in response to the significant volatility and significant loss and increased rates, you know, we had basically Tier IV a 20-year period with no new tier. There were some adjustments to Tier IV, but largely it was a 20-year period. In response to the increased cost of pensions nationally, and in New York State in particular, we did two new tiers in a couple of years. I will tell you in some places where they are not adhering to their actuarial methods and not being scrupulous in their funding, they have less pressure to change the benefit because they are not experiencing the cost of the swings. You know, like California, for instance, has instead of -- I'll get to that in a minute, but they sort of smooth their gains and losses over 20 years instead of five years in order to sort of -- I don't want to say mask, but it has a tendency to mask what the increases are. But if you look in the ERS, in the first gray column, under Tiers III and IV where it says "11.6 percent," I don't know that I really need to do this, but so that's the tier -- that's the long-term expected rate for Tier IV, which is more than 90 percent of the people in our system are in that.

If you look at Tier VI, that's 6.4 percent is the long-term expected rate. That's a very significant -- I think that's about a 46 percent drop in the long-term expected rate. In the short-term, rates are still high as we're experiencing -- still recognizing the losses from'08, '09, but in the long-term, the cost of the system will go down substantially. Tier II is in the next gray column, where it says 18.8 percent. Tier II is where most of our police and firefighters are in, various programs related to Tier II. Again, 18.8 percent and the new Tier VI is 10.8 percent, and that reflects a variety of benefit changes that were enacted in the last year. Again, those things have a tendency to take a long time to accrue. So the benefits of that tend to accrue -- tends to be back-loaded as you, sort of, change out employees. Again, that was just sort of trying to represent the five-year smoothing and how the performance is -- the current valuation reflects five years of investment returns.

I just wanted to give you a quick overview. It's a little cluttered of the average contribution rate, and I have to emphasize this is average -- average contribution rates. As you can see, in 2013 and 2014, we're at a relatively high rate, very significant relative to historic averages. We're nearing the rates that we had in the early and late 1970s. What makes the rates particularly difficult now -- these are rates, very high by historical standards, but not the highest, of course. What makes it very difficult is these 2001, 2002, and 2003 years, we are following the dot com build-up. We were paying almost nothing, and I think, as employers, we sort of got used to that. We forgot what the benefit actually cost and people started thinking that the party will go on forever, and so that makes it very difficult. In the interest of full disclosure, I spent eight years as the comptroller of the City of Albany. So when we got into these years here, I was pretty indignant about the way rates were going, so I sympathize with what you're going through.

That's just a graphic representation of rates over the term. It's the previous table plotted. Again, I won't spend too much time on this, but this top line is the long-term expected rate. The actual rates is this line. You can see in a very significant period of time, rates were well below the long-term

expected rate, and even when they were down here and people were paying nothing -- you know, the actuary knows based on the benefit package that this is what it's going to cost. This was an enhancement that was done in late 1990s. But now, as you can see, we're well past the long-term expected rate. That's the same representation for police and fire.

There are other factors other than the rates, obviously, that impact individual bills. The rates that I'm giving you are average rates, election of various special plans, salary base, spiking of salary in final years of service, and amortization decisions all have impacts on bills beyond what the average rate would be.

I said before that many programs -- many states, when they get into difficulty, skip payments or short payments, and I mentioned California sort of giving a long-term smoothing rate in response to the extraordinary losses and subsequent increase in rates, the State enacted a program in 2010 to try and stabilize the increase in rates. And essentially the stabilization program enables employers to amortize a portion in the increase in rates over time. In exchange for entering into that program, when rates go down and they have a tendency to go down very quickly, in the way that they go up, rates will come down more slowly. Well, let me get to the next piece.

The mitigated rate basically changes by about one percent a year. It will change more because you will be laying amortizations from previous years, but it allows your increase in rates to go up by one percentage point of payroll, not one percent, one percentage point of payroll a year. In exchange for doing that, when rates are on the way down, they will have a tendency to go down quickly, they will only go down by one percent. So if the actual rate were going down by four percent, your rate would only go down by one percent plus amortization. The difference is used to accelerate the payoff of those amortizations, so it's a conservative program. And then beyond that, once those are paid off, those monies are set aside to mitigate future -- you basically have a side account so that when future rate increases happen, your rate increases will be less; they will be mitigated. And this is a function that not only the extraordinary losses were incurred as part of the market meltdown. It's also in recognition of newfound volatility in markets. It's been a volatile few years. I don't know a lot of people who think that volatility is gone, and I think this helps -- this is a further smoothing method beyond the five-year smoothing method to mitigate rate increases in any given year. It helps to give some predictability to what rates will be.

Again, those are the normal rates. Those are systemwide averages. Yours may vary from that. And then the stabilized rates are shown next to that. This is just a quick overview of Suffolk County's salary base upon which rates were based. We have to project salary bases and project increases, and then we reconcile in future years, but you can see how that's changed over time. I distilled your 2013 and 2014 bills. I actually have copies of the bills if anyone wants them, but because of the different -- the different -- the different plan elections and different tiers, the bill gets very complicated very quickly.

So this is just to walk you through quickly. The estimated contribution for ERS and then their adjustments and reconciliations from prior years, prior amortization, so in the case of the ERS bill, in 2011 and 2012, you elected to amortize, so those are payments for those prior years. Incentive payment, when we did the retirement incentive, you elected to participate, so that's paid over five years. That's the $3.8 million. And then we get the billed amount, the maximum amortization, and then the amount due with amortization. So the employer gets to elect whether to pay this or this. In any given year, you get to elect. I will tell you in the first year of the program, the interest rate was 5 percent with amortization. Last year, it was 3.75, and this year, it's 3 percent. Again, this is the same thing with the 2014 bill. In the case of police and fire, I believe you're amortized in 2012, not 2011, and, then, these are just some retirement resources that we, you know, if you need to call upon us for presentations or information. We're doing a lot of our reporting of bills and getting the projected bills on our website earlier so that you can have some help in planning for budgets. You know, when the great recession hit and the fund lost significant amounts, at the time very shortly after, we basically went to NYSAC and the different employer groups and said, We are bracing for

five years of increases. The increases have been significant. There's no way around it.

On the other hand, our system, because it's acted so fiscally responsibly -- you know, the amortization program is a voluntary program that people can opt into. You have a payable for it; we have a receivable. The system is being made whole. For the sustainability of the fund in the long-term, we just think that we are poised to rebound in a way that a lot of other systems are not. A lot of systems went into the big market loss, 40, 50, 60 percent funded. The barriers to clawing back from that are very substantial, and so while we have -- these have been difficult times for the State and our local governments, I think we are in a much better position than most retirement systems throughout the country.

This is just our contact information. Hopefully I didn't belabor the point too much.

CHAIRMAN D'AMARO:
Okay. Thank you very much, Deputy Comptroller Nitido. I appreciate that overview. Just so I understand it, though, we have what you call a defined benefit program here in the State of New York, which is pretty much guaranteeing a benefit across time, but it's funded by something that's certainly not guaranteed or defined at all. It's funded really by investment, which can fluctuate, which is what you saw during the recession periods. And as a result of that, you need to make that up over time, and you talked about the smoothing of basically presenting the bill for that drop that no one could have predicted. But can you explain the different between the defined benefit as opposed to the defined contribution, and how would that impact retirees, and how would that impact counties like Suffolk that need to foot the bill when things don't go so well?

(Legislator Nowick exited the meeting at 10:39 a.m.)

MR. NITIDO:
So, obviously, a defined contribution plan, the contribution from the employer and, in most cases, employee, are defined, so it's a fixed percentage of salary. So if the salary base increases, the contribution increases. The employee has, in most cases, depending on the way the system is structured, has an investment account that is subject to investment gains and losses, so essentially, the employee is bearing the risk of market volatility rather than the systems' participating employers and taxpayers. I will tell you, while this has been a difficult time, for any given level of benefit that you decide you want, a defined benefit plan is a much more efficient way to achieve that benefit. Yes, there's volatility, but the amount that you will pay over time for any given level of benefit will be less in a defined benefit plan than a defined contribution plan, and there are a variety of reasons for that. There's investment expertise and the investment HEPH that the fund has. Institutional investors are much more effective investors than individuals.

As individuals, when we're investing, we can be speculative when we're young. As we get older, we have to be very conservative in our investments, and when we're retired, we have to be extraordinarily conservative to preserve principal. Funds can go long forever because they know how many people are retiring; they know how many people are coming in. They can afford to be structured based on market conditions rather than the age of particular retirees, and then as individuals we need to save an amount of money so that we know if we live into our 90s, we will still have that money, for that money to be there. The system knows the average age that people pass away, so the longevity risk that the system has is substantial. We know that our members live to about 80 years old. That's different than saving -- than having an amount of investment needed to get somebody to 95. It's a substantial efficiency. There are a variety of other things, but I have gone on too long.

CHAIRMAN D'AMARO:
I appreciate that. Now, and I understand also that when you start to compare to other systems throughout the country where perhaps legislatures, or whoever is in charge or has authority to make decisions for the pension fund, have been forgoing or lessening the bill or the payments required

into the system, but -- and I understand your view that that's less healthy for the system in the long run than it would be if you just continued to smooth it over five years and recoup it 100 percent. But has the system, the State Retirement System or the State itself, given consideration to somewhat lessening that bill other than amortization, which just spreads it out over time. I mean, you went through that quickly, and as the former comptroller of Albany, I think you can appreciate where I'm coming from because we're footing the bill here in Suffolk County, and I just would like reassurance to know that -- that it was considered or it wasn't considered or why we can't do that, even to some extent, lessen the impact to state -- to local municipalities throughout the State of New York.

MR. NITIDO:
Sure. There's a couple of things. One is the actuarial method is prescribed in statute. It is among the most conservative actuarial methods, and it served us well. So neither the Comptroller nor the Actuary are at liberty to just say, We're going to hold back a little this year. I think it served the State well to do this. I will tell you that some states in attempting to mitigate, California, for instance, has done sort of what you said. They've recognized rates are increased -- are increasing, and then sort of in a way that's largely behind the scenes, they've changed their methods in order to mitigate the impact. Well, in a sense, we, through the amortization program, have done the same thing. We've done it in a way that's open and honest. We've said to employers, The system needs this much money based on these current employees for when they retire. In order not to have intergenerational inequity and push costs into future generations, we can allow you to do this, but the system has to be made whole. So this was the best program that we could come up with that was fiscally conservative and legislatively -- you know, constitutionally appropriate that still preserves the actuary's responsibilities and the fiduciary responsibilities of the comptroller.

CHAIRMAN D'AMARO:
And I appreciate that, and I understand that the way this is administered is really set by State law. You say it's a very conservative means of administering the plan and in good economic times, that seems to make a lot of sense to me, and even in bad economic times. However, I'm just wondering if the basic premise -- you talk about keeping the system whole. What I'm saying is at a policymaking level, has anyone looked at this pension system and the amount that would be needed and said, We know the formulas that are in place now. They work and they serve us well; however, given the economic cycle that we're in right now, would something less work and not put the system itself and the payouts at risk. I mean, has that been considered?

MR. NITIDO:
I think we -- well, the actuary, the comptroller, and the system as a whole spent a lot of time trying to address the, you know, admittedly very steep increases in rates, and I think, though we tried, the amortization program was the one thing that we came up with that was legally and fiscally justifiable. You know, the Legislature also enacted new tiers, as you know, but we also know that those take a long time to have a discernible impact on rates.

CHAIRMAN D'AMARO:
Yea, and I'm not saying perhaps -- and I don't know enough about this to really say but just from a layperson's perspective that you necessarily need to get away from being a defined benefit program. But we've often heard talk here in the County about the fact that the pension system in the State that we contribute towards -- we, the County -- is a hundred percent funded as opposed to actuarially you can do something less than a hundred percent but still meet your obligations on a going-forward basis. Is that accurate? I'm throwing out at you the stuff that I hear, so just correct me if I'm wrong.

MR. NITIDO:
It's somewhat accurate. The system, because we're recognizing any year's investment gains and losses over five years, following the significant loss, it's taken five years to recognize those losses, the significant loss. So we are at a point now where we're not a hundred percent funded. We're in

the 90 percent-funded range. We're still among the best funded in the country, but we are not fully funded. And, really, the -- people, I think, spend too much looking at what the funding number is. The important thing is that you have a means of getting to near 100 percent. So if you go over in good times, you need to go back to 100 in bad times when you've lost, you need to get back to a hundred. I explained earlier by having that corpus of investments, you are able to minimize the employer contributions, but that's of little consequence in a time when contributions are very high.

CHAIRMAN D'AMARO:
Right. Let me ask you a question. "A hundred percent funded," what exactly does that mean? Does that mean that that's the level at which you will be paying benefits and receiving contributions at the same time and there's no net gain or loss? What is a hundred percent funded?

MR. NITIDO:
A hundred percent means the actuarial value of your fund is sufficient to pay the future benefits of your current employees. So the actuary does a number of very complex calculations. You know, he has -- and his group has assumptions for how long people will work, what their wage increases will be, what inflation will be, and a variety of other variables including rate of return. He has to take the cost -- the value of future benefits and future contributions from employers and bring them back to a present value in order -- that need to be a point of time so he needs to evaluate, based on the investment gains and losses in any given year, where we are, so a hundred percent funding really relates to the actuarial value of assets relative to the liabilities that you have.

CHAIRMAN D'AMARO:
So that's the target.

MR. NITIDO:
Well, the actuarial method isn't really a target. It's a system for getting you in and around full funding. And again, because we smooth over multi-years, it doesn't happen -- you don't tend to ever be at 100 percent. You sort of sway back and forth in and around those. You know, while we are still recognizing the losses from the significant drop, you know, that funding ratio has a tendency to go down. But as you noticed, we've had several years of decent gains, some better than others so that we should be soon getting back towards getting there near to 100 again.

CHAIRMAN D'AMARO:
Okay. I understand that. And my last question, and then I'll turn it over to my colleagues if there are any other questions, is what can Suffolk County do -- is there anything we can do to lessen our liability with respect to making a pension payment other than amortizing?

MR. NITIDO:
Yeah, the amortizing, which you've done, and you'll have to elect to amortize this year, if you choose to, and then in 2013, '14, if you choose to. And then the other piece is, you know, the special plans that you've elected, individuals who are in those plans are entitled to be in them. It will take a while for Tier V and Tier VI to really have any discernible impact. The salary base and increases in salaries, particularly in the final years of service are really the places where employers can control costs, whether it's overtime, salary increases; no accident rates are set as a percentage of salary. So that's really the area where the employer -- this is a little bit off target, but when you look at the State of New York and our debt burden, the rating agencies have five different measures of debt burden, and in all of those areas, New York is from one to three in all of those areas, and then the rating agencies recently combines unfunded pension liabilities with debt as though a pension liability were a debt. And I have some concerns about that, it looks at your long-term liabilities and payouts. When you do that, New York jumps from first to third in highest debt burden in the 27 to 37 percent range, so that's just an indication of how well we are relative to other people. We are having a very difficult time, and I will not try and sugarcoat that, and we're still clawing back. But compared to some other entities, I think, because we went into the recession so well-funded, it has served us well.

CHAIRMAN D'AMARO:
I did have one more quick question. The investment losses, the dip that we all experienced, including the pension system, there are causes for that meltdown in the economy, for lack of a better phrase. Is the pension system pursuing legally any recourse in any way, shape, or form to recoup some of the losses to the pension system or the pension fund?

(*Presiding Officer Lindsay entered the meeting at 10:51 a.m.*)

MR. NITIDO:
Okay. Now I'm working out of title, but yes, the system did pursue -- is pursuing a variety of entities. I wouldn't talk about litigation that's pending. The one that did settle was Countrywide, where the system did receive some money -- was the lead litigant in that. But there are a variety of other venues that the fund is pursuing.

CHAIRMAN D'AMARO:
Okay. That's very reassuring. Are there any other questions? You want to ask questions, Bill?

P.O. LINDSAY:
I did, but let me sit for a while.

CHAIRMAN D'AMARO:
I'm going to first defer to Committee members, Legislator Cilmi, if that's okay. Deputy Presiding Officer, please go ahead.

D.P.O. HORSLEY:
Now that I see that the Presiding Officer is here, he's probably -- I don't want to -- I know where he would probably be going on this issue. Over the years, as those increases were put in place, the Presiding Officer was leading the charge on full funding, the hundred percent funding issues, and I heard your explanation to that but one of the things that the Presiding Officer always was commenting on was that the Federal Government was saying that 100 percent funding doesn't necessarily mean a hundred percent funding. A well-funded retirement system could be in the range -- and I don't remember the number, but it was like 70 percent or something like that, certainly a lot lower than what the State of New York has been mandating its municipalities. Do you disagree with the federal government's assessment; is that's just a New York State assessment versus the federal government's assessment?

MR. NITIDO:
I think there are entities who have said over time that 80 percent funded is considered well-funded.

D.P.O. HORSLEY:
80, is that what the number is?

MR. NITIDO:
You can argue that 80 percent is well-funded, but that takes into account there are going to be swings in your funding based on market performance. So following this very significant loss, there are many systems that were at say, 80 -- 90 percent have gone down to 80 percent, so people like the folks at PU (ph) and Boston College would say that they are still well-funded systems. But it still remains that your actuarial method has to be adhered to and the basis of that system is to move you towards 100 percent funding. If you get to 80 percent and say, Well, we'll just stick at 80 percent, when you get a market loss you're going to go down to 40 or 50 percent, and the barriers to getting back to full funding will be insurmountable.

D.P.O. HORSLEY:
So I guess the bottom line is you disagree with the federal government’s assessment of what a

well-balanced --

MR. NITIDO:
I don't think anyone in the Federal Government ever said that you should try and fund your system at 80 percent. It is true that in the course of events if you follow your actuarial method and run your system scrupulously, there may be times you go as low as 80 percent, but that's different than shooting for 80 percent. If you shoot for 100, if your actuarial method is followed, you should be above and below 100 percent.

D.P.O. HORSLEY:
I understand that. You know, see, what we have to deal with on the local level is just trying to make our budgets balanced without having to destroy the taxpayer so we're -- you know, that's what we have to balance out. You know, we like the idea of 100 percent. It might be the good thing to do, but maybe 80 percent one year might be helpful. Let me ask you something. Is there anything that we should be considering as a state and as a pension fund, as in a pensioner, and all that kind of stuff, that during those good times -- when I saw that chart, you had it down to 1.5 percent, whatever those good years were when we had to pay very little, we got cocky and et cetera, is there any way to run the pension fund with, like, a fund balance to, like, to stabilize or stabilization fund that would go over the maximum of 100 during those good years and then kind of bring down to kind of even off these huge swings that occur, and, frankly, right now, we're in awful shape, and trying to just make ends meet and to hit these highs as far as our pension costs, there might be something better, a better system out there that during the bad times, we're paying more, and during the good times -- during the bad times, we were paying less, and during the good times, we're paying more; that thinking.

MR. NITIDO:
That's a good question. You know, in the -- following the September 11 atrocities and the recession that started slightly before then, rates started to increase, and there was a several year amortization program. Part of that amortization program set the floor for everyone, whether they amortized or not, at four and a half percent so that we would never return to the one or half percent. You know, four and a half is not going to -- we're not going to be at four and a half any time soon, but that would have the effect that you've just described of stashing -- - saving money for future hard times. Additionally, folks who enter into the amortization program, like you folks, will have a built-in side account once rates go lower that you will contribute into that will serve exactly the way you have just described, to mitigate future --

D.P.O. HORSLEY:
So we could have to keep that fund's balance?

MR. NITIDO:
No. You actually keep that with us. We give you interest on it. We pay you interest. In the same way on your amortization that -- we're charging you interest, when we set up -- when we establish your side account when rates go down and your amortizations are paid off, we will pay you interest on that account, and you will use that when rate increases come to smooth the impact.

D.P.O. HORSLEY:
You're saying that's in place now.

MR. NITIDO:
Yes, sir.

D.P.O HORSLEY:
We just haven't seen it because we haven't had good times.

MR. NITIDO:
We have not been fortunate enough to have low rates recently, yes.

D.P.O HORSLEY:
Okay. Interesting. Okay. Thanks.

CHAIRMAN D'AMARO:
Presiding Officer.

P.O. LINDSAY:
Let Legislator Cilmi go.

CHAIRMAN D'AMARO:
Okay. Thank you. Legislator Cilmi, please go ahead.

LEG. CILMI:
Thanks, Mr. Chairman, and thank you, Tom, for joining us again today. Really appreciate it. This is a very, very complex issue. I have many questions that could probably take hours to really answer. Forgive me if my questions to you in this forum seem a little disjointed. You've probably answered these questions in one form or another already. You said that the retirement system is in a much better position today than most other retirement systems as a result of your conservative methods in terms of funding the system. I wonder, though -- I mean to a great extent, your security in that statement has to do with local governments or your -- your -- what did you call them? You said you had 300 and however many.

MR. NITIDO:
More than 3,000 participating employers.

LEG. CILMI:
More than 3,000. Right. So the security of that position is dependent upon those employers' ability to keep up with the demand that, you know, that you have on us, and at this point, as a couple of my colleagues have already sort of alluded to, we're -- it's almost impossible at this point to keep up, so we're forced with going through this amortization process, so I guess my question in that respect to you is what happens if one of those employers is simply unable to pay.

MR. NITIDO:
I will tell you that the amount of uncollected contributions from employers is minuscule. The recourse --

LEG. CILMI:
We're all very frightened of you --

(LAUGHTER)

MR. NITIDO:
The recourse of the retirement system is -- the collection gets, after a period of attempting to collect, and, of course, interest accrues during that period, that bill is turned over to the Attorney General for collection.

P.O. LINDSAY:
What happens?

MR. NITIDO:
We collect.

LEG. CILMI:
All right. So I imagine, then, I mean, at some point, if things just become totally unsustainable from the County's point of view and we're close to that point now, I think, the employer has to pursue our own methods of dealing with those -- with that inability to pay, and I'm not sure legally what those methods may be. Obviously, we see what's happening in Nassau County.

MR. NITIDO:
Sure.

LEG. CILMI:
Which I suppose brings me to another question. Has the situation in Nassau County affected their pension fund contributions and how they deal with you in terms of that? The fact that a control board has been appointed, does that give them certain remedies under the law that otherwise they wouldn't have?

MR. NITIDO:
I don't believe so. I think they pay the way other employers pay.

LEG. CILMI:
Okay. You talked about this one percent reduction and creation of a side account if the returns are greater than expected. Why would it be that the Comptroller's office would seek, and under what authority, I suppose, would you seek to hold our money for us as opposed to letting us keep our money at that point and utilize it to run our government.

MR. NITIDO:
The State legislature enacted a bill in 2010 that established that stabilization program, and the bill stipulates that when the normal rate is less than the amortized rate by more than one percent, the difference is used to pay off your amortizations or accelerate the 10-year payoff, because amortizations are for a 10-year period. You can prepay them anytime you'd like, but when rates go down, the bill stipulates that people who participate in those programs, that those decreases in costs are used to accelerate the payoff of any amortizations and then, beyond that, establish a side account for future increases. I will tell you, in 2002, when the Legislature enacted the short-term amortization program, that included the four and a half percent floor, they also authorized local governments to establish, sort of, side accounts. Almost no local governments did that. This is sort of an internally-held account that we would have, but it's specified by the statute.

LEG. CILMI:
Well, we do have a reserve fund of our own which is diminishing by the minute, but I'm curious as to whether or not there's been any.
Legislation that would amend the existing legislation, such that once that -- once the account is even, once the amortization has been completely paid, you know, the government -- the employer doesn't have to give up extra money in a sense as an insurance policy, basically, for future -- it should be up to -- the employer's suffering the consequences of a lower level of contribution to the fund in better years. Why couldn't we, then, take advantage of the better rate of return in the better years and, you know, worry about ourselves in terms of making sure that we're preparing for the future.

MR. NITIDO:
I mean, that's the way the statute is constructed.

LEG. CILMI:
Okay.

MR. NITIDO:
It's intended to be a permanent smoothing bolt in good times and in bad.

LEG. CILMI:
Right. Okay. If you look at page seven of your presentation, and specifically the chart, the graph that depicts the increase -- the historic and projected increase in employer contribution rates. There's a -- you know, there's that period of time over several years that the rate was very, very low, and then we see it climbing quite steeply beginning in 2008, 2009, and we see it continuing to climb at roughly that rate in 2013. Clearly, that will bring up that -- the smooth level a little as you go, but I'm concerned about 2014, 2015. Would you expect that graph to continue on a similar path for those out years?

MR. NITIDO:
Actually not, and shame on me for not having updated the slide. We have the 2014 projected rates, and so the rate increase from '13 to '14 is much less than from '12 to '13, so that is cresting, essentially.

LEG. CILMI:
Okay. Let's talk a little bit about -- its on our page four. It's the "How Pensions Are Funded" slide with the dollar bill. I think you said that New York is one of the highest -- or in terms of the percentage of funding, that relies on investments, that New York is one of the highest percentages, and that's a result of New York's -- you know, the ability of the Comptroller to generate return.

MR. NITIDO:
Yeah. I wouldn't necessarily say "relies" on it, but historically, the money paid out, a high percentage relative to other systems, has come from investment returns. It's partially that the fund has done well as an investor, but it's also the discipline of the system of making the annually required contribution has contributed very significantly to that. In systems where in good or bad times, you short your annual contribution, the investment returns, because you are going to have less of a corpus of investments, is going to generate less of a benefit than in our system.

LEG. CILMI:
Okay. As you said, it's between 60 and 67 percent in other states, which means that the other two pieces of that pie would be higher in other states. Do you know -- can you give us sort of a thumbnail sketch of where they're higher? Is it higher in terms of employer contributions or higher in terms of employee contributions?

MR. NITIDO:
I don't know state-by-state. I'll get to the exact number on the national average, but I would say in many states the employee contribution is higher than it's historically been here because in Tier IV in our system was a three percent employee contribution, but Tier II for police, at the same time, was no contribution. Many states had a higher contribution level. The Tier IV enhancements took away that contribution after 10 years of service, so that's a lower rate than many states. The data gets a little fuzzy. Many states don't participate in Social Security. Their pension benefit is probably more lucrative than ours, but employee/employer contributions sort of reflect that they're not paying Social Security, so I don't want to characterize each and every other state, but it varies very significantly.

LEG. CILMI:
Wouldn't you say that, although the, you know, the Comptroller's office, I guess, historically should be commended for the high rate of return, I mean that obviously, though, relying on that lends to a tremendous volatility, as we've seen.

MR. NITIDO:
Right. I wouldn't say that we set -- it's not that the system is set up so that it generates 84 percent

of the benefit. This is just -- we went back and looked at a 20-year average and the returns associated with that.

LEG. CILMI:
I see.

MR. NITIDO:
So I don't want to give the impression that the fund is chasing a particular level of return. The fund is structured based on market conditions.

LEG. CILMI:
Okay. You mentioned that there are -- that the 3,000 participating employee/employers, I think you said there are 30 -- 346 or so different plans.

MR. NITIDO:
Yes.

LEG. CILMI:
What does that mean exactly?

MR. NITIDO:
Well, when you look at the six different Tiers and the variety of optional plans that local governments can and have opted for, the different variations of tiers and optional plans totals that number. So if I give you a copy of Suffolk County's bill, the ERS bill is longer than a page long because of the different optional plans that are out there.

LEG. CILMI:
Would the system itself be easier and more effectively managed -- and when I say effectively managed, I don't mean in terms of it looking at this microscopically from the Comptroller's point of view but from the overall, you know, looking at it from the employer's point of view, the employee's point of view, et cetera -- would it be more effectively managed if there were much fewer plans, if there were a handful of, say, 5 or 10 different plans; plans that you could maybe allow employees to choose in terms of, as you said during your presentation, if you have a younger employee, that employee might want to be more aggressive with their investments. If you have an older employee, they might want to be more conservative. So if there are fewer plans but that allow the employee to choose how aggressive or conservative they want to be, would that be better?

MR. NITIDO:
You know, the essence of a defined benefit plan is that the fund is invested as one --

LEG. CILMI:
Right.

MR. NITIDO:
And it is not subject to the individual investment decisions of its members.

LEG. CILMI:
Okay. So let's strike that part of my question, then. And just let's just talk to the number of plans.

MR. NITIDO:
Clearly, on the administration side, the system would be more easily understood. Employers would have an easier time reporting and understanding their bill if there were fewer variations. Having said that, you know, I started out the discussion saying it was a constitutionally-guaranteed benefit. To the extent you are reducing options for future employees, it does not affect the current members of those different plans so.

LEG. CILMI:
Okay. The 3,000 or so employers have all been offered this amortization program.

MR. NITIDO:
Yes.

LEG. CILMI:
Can you give us an idea over the past couple of years how many as a percentage, roughly -- I wouldn't hold you to it -- how many of those employers have taken advantage of that system?

MR. NITIDO:
It gets a little difficult because some employers opt for one set of employees but not others, so they might opt for police and fire, not ERS.

LEG. CILMI:
That's an option that we have as a county?

MR. NITIDO:
Yes. And I think in the first year, you opted to only amortize ERS and not police; that was the 2011 year. I'll get back to you with an exact number. I believe about seven percent of employers, but in terms of the number of employees covered -- because, you know, you don't want to correct for smaller versus larger -- I think it's when you include the State of New York, I want to check these numbers, why don't I -- I'll take the State of New York out of the equation. I actually have the data, and it's just not with me right now. I think it's probably in the range of 19 or 20 percent of employees are employed by employers who have amortized but only about probably five to seven percent of the actual invoices were amortized. So it reflects some of the larger employees of employers have availed themselves of this.

LEG. CILMI:
Has the number of employers amortizing diminished in the past year or do you expect that it will diminish next year?

MR. NITIDO:
I'm not sure I want to conjecture. The 2011 year was the first that employers were eligible to amortize. By the time the program was enacted, most employers had already passed their budgets, so participation was relatively low in that year. 2012, that's where we saw an increase. That was not surprising. The 2013 bill is paid this December or in February depending on the employer, so those people haven't elected yet, so we're not really sure where that's going.

LEG. CILMI:
Okay. If we return to page three, your pension cohorts chart, you made note of the last row in the chart, which is the $100,000-or-above pension, and you talked about half a percentage point of -- and this is the question, really: Is that half a percentage point in terms of the pensioners? Which it looks like it is --

MR. NITIDO:
Yes.

LEG. CILMI:
What is it -- what is it as a percentage of dollar value?

MR. NITIDO:
I don't know the answer to that. I'll get that for you. I have the actuarial tabulation with me, but I don't have it in front of me.

LEG. CILMI:
Okay. That would be a really interesting number to look at. If we see, for example, that, you know, those receiving a pension of $100,000 or more account for less than a percentage -- less than one percent of the number of pensioners but yet the -- yet the annual payout is -- or benefit exceeds, like, let's say, 25 percent or 50 percent, I mean, that would be remarkable, I think.

MR. NITIDO:
Yeah. I will assure you it's not in that range.

LEG. CILMI:
Okay.

MR. NITIDO:
I don't know the exact number. I will get that to you today.

LEG. CILMI:
In a similar vein, if we just go and look at the -- and I think my questions are winding up, Mr. Chairman. I appreciate your deference.

MR. NITIDO:
Be the way, just as a mathematical exercise, if you look at the number of employees who are making more than a hundred, the 2,076, and you multiply it times even a 150,000, which would be extraordinarily generous, if you realize we paid out over $8 billion last year, you can see that it's a relatively small percentage of the payout.

LEG. CILMI:
You know, I'd be interested in seeing the numbers specific to Suffolk County.

MR. NITIDO:
I would be happy to do that.

LEG. CILMI:
And that brings me to, I think, my last set of questions which relates to the comparison between, for Suffolk County specifically, between ERS and the PFRS. I'm looking for it in my -- okay. In 2000 -- let's use 2013 as an example -- and this is estimated -- the ERS pension contribution is $112 million; the PFRS is $92 million. Do you know -- and if you don't, our Budget Review Office may -- the number of employees that those two dollar amounts relate to?

MR. NITIDO:
I don't have that information with me, but I can certainly get it for you.

LEG. CILMI:
Okay. I think that's all of the questions I jotted down as we spoke. The number seem -- your presentation of the numbers, for some reason, seem lower to me than what we budgeted for in the past couple of years. I seem to recall being told that we were paying something like a hundred -- and maybe, Presiding Officer, you can confirm this -- something like $187 million this year was our required pension fund contribution exclusive of the amortization piece.

P.O. LINDSAY:
I don't recall.

LEG. CILMI:
You don't recall.

P.O. LINDSAY:
I'd like Budget Review to be in the room for this whole presentation. I don't know where they went because I don't have those numbers at my fingertips.

LEG. CILMI:
Okay. I seem to recall that $187 million number for this year. Robert, is -- our pension fund contribution for this year, was it roughly $187 million.

MR. LIPP:
We're going to call up the file, and we'll be back in a second. We don't want to get it wrong.

LEG. CILMI:
Okay. And the reason -- I don't know if you heard my -- the foundation of my question.

MR. LIPP:
I didn't.

LEG. CILMI:
Okay. As I recall, we talked about next year's contribution being something in the neighborhood of $220 million, which is -- well, actually, if you add -- if you combine ERS and PFRS, those numbers, then, make sense. Just if you could confirm that for me, I'd appreciate it.

MR. LIPP:
Will do.

LEG. CILMI:
While they are looking, Tom, so the way you have this chart laid out, it looks to me as if -- and I don't know that -- does our community college participate in ERS, or is that the Teachers' Retirement System?

MR. NITIDO:
They participate in ERS, although their instructional staff are probably in Teachers'.

LEG. CILMI:
Okay. So we would have -- in determining our total contribution, I suppose we would have to add those teachers; is that correct?

MR. NITIDO:
They should be in this invoice.

LEG. CILMI:
They should. Okay. So if we add, then, the 112.2 and the $92 million, theoretically without deducting anything for amortization, that would be our required contribution for next year, correct?

MR. NITIDO:
Well, you need -- I mean, there are some reconciliations from prior years because, you know, the bill is based on projected salaries. Sometimes salaries come in below, sometimes there are incentive payments.

LEG. CILMI:
Okay. So the billed amount is the one I should really be looking at, then.

MR. NITIDO:
I think so, yeah, 'cause it's not like -- the prior amortizations, you have to pay, so it's not an optional payment.

LEG. CILMI:
So it's roughly $211 million for next year.

MR. NITIDO:
Unless you amortize, yes.

LEG. CILMI:
Unless we amortize.

MR. LIPP:
Okay. Bear with me. So we paid this year 135 and change, and we amortized 45.7, and for 2013 --

LEG. CILMI:
So that's about 180?

MR. LIPP:
Yeah, 181-3, and then for 2013, we will pay 145 and change, and the amortized portion, according to what I have here, is 60.7 million.

LEG. CILMI:
67, did you say?

MR. LIPP:
60.7, so the total is 206-1.

LEG. CILMI:
206.1, which is roughly $5 million, I guess, difference from what the billed amount is.

MR. LIPP:
Right. And also 2011, the bill was 132 of which 19 was amortized. So the amortized portion is going up from 19 in 2011, 45.7 in 2012, 60.7 next year, and the preliminary bill we have is close to $83 million for the amortized portion in 2014. That's a preliminary estimate by the State.

LEG. SCHNEIDERMAN:
Do you have the interest in '11, '12, and '13?

MR. LIPP:
I'm sorry. I didn't hear you.

LEG. SCHNEIDERMAN:
Do you have the interest in '11, '12, and '13?

LEG. CILMI:
Just jump right in, Jay.

MR. LIPP:
As was accurately stated, I believe, the interest rates were 5 percent for '11, 3.75 for '12, 3 percent for '13.

LEG. SCHNEIDERMAN:
Got it. Thanks.

LEG. CILMI:
So recognizing a roughly $5 million difference between what I'm looking at on the bill and what you just said, Robert, the bill being the higher of the two, it seems that we have to find another $5

million or so in the budget. Is that accurate? Unless the amortization amounts differ by that same amount.

MR. LIPP:
I'm not sure. I guess I would have to reconcile what we have to the recommended budget to what is being stated here.

LEG. CILMI:
Tom, in thinking about the growth of the amortization portion of our yearly budget, I guess we're going to see that start to -- while it's increased tremendously over the past couple of years, I guess we're going to start to see that level off to some extent, is that right, and decrease?

MR. NITIDO:
I believe that's right, yes.

LEG. CILMI:
Based on what we've already contributed over the past couple of years and based on, hopefully, what will be a continued improvement in market conditions and return on your investment.

MR. NITIDO:
Yes. I mean I can't accurately predict markets, but based on the three years of returns we have so far and what we've seen.

LEG. CILMI:
That's all -- my head is spinning as it is. That's all I can think of at the moment. Mr. Chairman, thank you very much, and, Tom, thanks again for coming down.

CHAIRMAN D'AMARO:
Excellent. Thank you very much, Legislator Cilmi. I do have the Presiding Officer next and some other legislators. Mr. Lindsay, what's your preference?

P.O. LINDSAY:
Let them go.

CHAIRMAN D'AMARO:
Okay. Very good. Legislator Kennedy and then Schneiderman.

LEG. KENNEDY:
Thank you, Mr. Chair. You've given us a tremendous amount of information. Much of what I wanted to ask has been covered by my colleagues, although I do want to go to one other area. First of all, maybe you gave it to us but I looked in the spreadsheet here, or the layout. How much money in principal is in the pension funds at this point?

MR. NITIDO:
You're asking what the size of the fund is presently?

LEG. KENNEDY:
Yes.

MR. NITIDO:
I gave you the end of the last fiscal year's audit results, which is 153.4 billion.

LEG. KENNEDY:
That's fine. I'm not trying to look at, you know, is there a difference here today or there. I was looking at what you gave us as far as payouts. I saw 8.2 billion. There's 153 billion in principal, so

basically we're talking about if you were just going to do the percentages compared, we pay out roughly five percent in benefit compared to what the total principal of the fund is. Is that about thumbnail or back of the napkin?

MR. NITIDO:
(Affirmative response.)

LEG. KENNEDY:
Okay. And our fund --

MR. NITIDO:
Mind you, those payouts will increase over time to reflect the higher salaries of current employees relative to the people who we're paying out for right now.

LEG. KENNEDY:
Well, you and I could talk a little bit about that. We could also talk about that fact that we have retirees that are going out. We have police officers that may be coming in or lower start rates. I mean, that is a fluid type of an up-and-down projection that one looks at on a constant basis. And I'll also agree with you that you're charged with trying to estimate where that's going to go, but the actual size of salary is up to us, not you. We set what the salary rates are for our 10,000 employees, not you; so quite frankly, if payout is a function of salary, then in some respects, we're kind of like wedded here as far as where things go. That being said, our recollection is that the Comptroller is the sole trustee of 153 billion in funds; is that correct?

MR. NITIDO:
That is correct.

LEG. KENNEDY:
How many other states' pension funds have that arrangement, where there's one individual that in end controls the investment policy for that much of our pension funds?

MR. NITIDO:
Again, I don't work on the funds side. There are several other states, I believe: North Carolina, Connecticut, and I'm not sure which others have a sole trustee structure.

LEG. KENNEDY:
Okay. Let's talk a little bit about the Comptroller's investment plan if you will, then, or his philosophy. Quite frankly, I'm thrilled that you're going after Countrywide, but Countrywide was always junk. They were bottom feeders with shaky mortgages to begin with, and they filled up a lot of the wheats (ph) that today we're still looking at making houses on. What did the pension system invest in? I hope it's not wheats. Tell me it wasn't wheats.

MR. NITIDO:
I'm not prepared, really, to talk about the investment portfolio. I don't work on the funds side of the operation. It wouldn't be responsible for me to talk about investment strategy and individual investments.

LEG. KENNEDY:
But nevertheless, as we're all kind of linked in this partnership, if you will, that's something that's somewhat critical because I could elect to put a dollar in Tebow or I could elect to put a dollar with Mr. Madoff, and the returns are quite different. Our dollars go to the Comptroller who basically, ultimately adopts what the pension strategy will be, if you will. Is there anybody besides Mr. DiNapoli?

MR. NITIDO:
As you can well imagine, there are numerous members of the investment staff and various asset classes. The comptroller also has an advisory council; he has an investment advisory group; and he has a real estate advisory group; so he's served by a variety of experts in the various areas that the pension invests in.

LEG. KENNEDY:
Okay. Well, I see my good friend Mike Fitzpatrick's here. He and I are going to have to have a little bit more conversation about that, but thank you for making the trip down there to talk to us.

CHAIRMAN D'AMARO:
Thank you, Legislator Kennedy. Legislator Schneiderman.

LEG. SCHNEIDERMAN:
Thank you. Tom, thank you as well for coming out this morning. I think your presentation has been very educational. Certainly 100 percent funding makes good fiscal sense from the State's perspective. You know, here on the frontline, we've had to make some real Draconian cuts to deal with the impacts of that policy, from selling County assets to laying off employees to reducing funding for contract agencies. I sat through a meeting just before this, a public hearing on the budget. We had one agency that does rape crisis counseling; another, drug addiction; another, domestic violence, all just hoping to get back to last year's levels of funding. I haven't talked to Robert in terms of what that amount is. It's probably somewhere in the neighborhood of 6, $700,000 of additional cuts there, and as you talk about the amortization, and certainly that helps. The first year -- this is why I jumped in when Legislator Cilmi was asking questions, because I wanted to get this information before it got to me. So the first year, we borrowed 19.5 million at -- it was at, I think, five percent, and then the second year, we borrowed 45 million -- 45.7 million at 3.75 percent. And, you know, I just did some quick calculations. If we could consolidate and restructure those two borrowings at what you're offering now at three percent, that would be enough yearly savings to restore those contract agencies to last year's levels, so roughly $700,000 in interest savings. So do you think we can pitch this to the State? Can we talk about getting to that three percent and consolidating the amortizations we're doing? Because, you know, they're kind of compounding on each other, and those early amortizations at those high interest rates, a little relief there would go a long way to a lot of these agencies that are doing good work. I'll let you answer.

MR. NITIDO:
I can really only speak to the statute that basically says for any year the amortization percentage is fixed for the 10-year period. Now, of course, when it comes time -- when you're paying off those amortizations, you could obviously pay off the higher interest ones first, but there's nothing in statute that provides for consolidating them at the lower rate. And you can appreciate it's an at-will-call sort of piece. You can prepay without penalty at any time, but the law does not provide for anything --

LEG. SCHNEIDERMAN:
We can't go out to general borrowing to pay them. We can only do it through the State on the interest rate that you allow us to, even though on another bond, we might come in at one percent or two percent, we've got to pay your 5 percent or 3.75 or, in this case, 3 percent, so if we could pay out those other ones and add that to the new borrowing at three percent, but you're saying that has to be done legislatively. And I know Mike is in the room. But it doesn't seem like, from the State's perspective, that would be a bad thing. That would be a helpful thing. That would let us save at least $700,000 a year for the next 8 to 10 years. That's significant.

MR. NITIDO:
You know, the notion of borrowing to pay off a retirement bill isn't provided for by the State's local finance law. If it were provided for, and you were able to sort of go to market and do it, you just

have to keep in mind that that would be taxable rate bonds. You could not issue for operating a tax-free bond, but, yes, that would be the purview of the State Legislature.

LEG. SCHNEIDERMAN:
So either of those options, either going to the general market or restructuring that amortization plan so we could consolidate at the lower rate, either one would be acceptable because there would be significant savings.

MR. NITIDO:
Remember, from the fund's point of view, the responsibility of the fund is to its members. So in allowing employers to amortize, the fund has to make a rate of return that it would make on a like investment. So at the time you amortized in 2011, five percent was sort of the going rate for a triple A corporate bond, so the fund basically allowed you to amortize, earned a rate of return comparable to the way it would have earned a rate of return had it invested in those securities.

LEG. SCHNEIDERMAN:
I understand that, but most lending institutions will let you refinance, renegotiate those terms if the times change. And here we are dealing with the State pension fund, which we would think of as a friendly not-for-profit entity here. It just seems to be prudent, makes good fiscal sense to say, Okay, the markets have stabilized. Five percent is too high of a rate now. Dropping that down to three percent would be helpful to us, and it would be responsible for the State. I know you can't make that decision. All we can do is go to our assembly and senate delegations and say, Legislatively, could you fix this so that we could restructure this amortization to meet today's rates. I'm just saying that would save the County $700,000 a year for the next eight years; that's significant. That's $7 million -- well, it will cost us $6 million or so over that period. That's a lot.

MR. NITIDO:
I hope you won't think I'm quarrelsome, but had you issued actual bonds for that payment in the market at that time, that 10-year bond would not have had a call feature on it, so you really wouldn't have been at liberty to refinance that. I know the mortgage example you're using, but if, you know, your alternative -- if the Legislature provided for bonding for it, you really would not be able to consolidate.

LEG. SCHNEIDERMAN:
I understand that, and I appreciate that, and sometimes there are penalties for early payments, et cetera, but we're not dealing with a private lender here. We're dealing with a municipal corporation that is, I would hope, our friend in this situation with the State.

CHAIRMAN D'AMARO:
Okay. Is that it, Jay? Yeah. All right. Legislator Schneiderman, thank you for your questions. The last Legislator on my list here this morning, and we do need to go ahead with our agenda, is the Presiding Officer Legislator Lindsay. Please go ahead.

P.O. LINDSAY:
Thank you, Mr. Chairman. I'll try and make it as brief as I can, although I have been waiting for someone from the Comptroller's Office to come and talk to us for some time, and I appreciate you being here today, Tom. How did you come to be here today? Did someone invite you?

MR. NITIDO:
I don't remember the route of the invite, but yes, I was asked. I received an invitation from the Budget and Finance Committee of the County Legislature.

P.O. LINDSAY:
I just was kind of unprepared for you to be here today, because this has been an issue I have been a bit passionate about, and I would have been more prepared if you were here today. I see

Assemblyman Fitzpatrick in the back. Mike, did you have anything to do with him being here today? I was going to thank you if you did.

LEG. CILMI:
If I may, Mr. Chair.

CHAIRMAN D'AMARO:
Go ahead.

LEG. CILMI:
Mr. Presiding Officer, I had asked our Chair at our last meeting if it was okay if I invited Mr. Nitido to come today and speak to us. I mean not him specifically but somebody from the office to talk to us.

P.O. LINDSAY:
I thank you, Legislator Cilmi, because I asked the Comptroller himself last New Year's Day if he would send some, which he agreed to, and I've gotten no response so far, so I'm glad that you got some response out of him. I missed some of your presentation, so if I ask redundant questions, please forgive me. So last year's return was three percent?

MR. NITIDO:
6 percent. 5.96 percent.

P.O. LINDSAY:
How does that compare to the year before?

MR. NITIDO:
The year before was, I believe, 14 percent -- the year before was 14.6 percent.

P.O. LINDSAY:
And why that precipitous drop from '10 to '11 to '12?

MR. NITIDO:
I'm not sure of the reference to 10 to 11 to 12. Oh, from 2010, '11, '12. Market conditions. As you can imagine, after the great recession, there was some significant rebound in markets; an April fiscal year, so we're different than a lot of folks who are on a calendar year; and then last year's markets, as you may recall, with the European debt crisis and some other things, there were some challenging markets, but we still managed to achieve 6 percent.

P.O. LINDSAY:
Did we have a lot of money invested in your --

MR. NITIDO:
I'm working outside of my realm. We have, certainly, international equities that include Europe, Asia, and other places. I don't know the exact configuration because I work on the administrative side of the system. But as you may recall, the European debt crisis influenced domestic returns as well as European returns.

P.O. LINDSAY:
I did -- I do but overall, I still see the market hovering around 13 percent, the Dow, anyway.

MR. NITIDO:
13 percent for the year?

P.O. LINDSAY:
No, 1300. I'm sorry. So what is the funding level as we sit here today?

MR. NITIDO:
I believe the last valuation had the funding at about 90 percent, but I don't have the exact number on that.

P.O. LINDSAY:
So we lost like 10 percent. Went from fully funded to 90 percent.

MR. NITIDO:
Right. Prior to the recession of 2009 -- 2008, 2009, we were slightly over 100 percent, and we're currently at about 90 percent. And as I mentioned before -- I don't remember if you were here or not -- the actuarial funding method is designed to get you in and around 100 when there are significant losses. You tend to go down, and when returns are in excess of what's anticipated for an extended period, you tend to be over 100 percent.

P.O. LINDSAY:
Your comments about the -- expect our bill to go up because of increases in salary. Unfortunately, I expect the bill to go down, because we've been laying people off as a result of the pension bill. We can't afford to pay our pension costs, so the only choice we have is to lay off people. And, unfortunately, we've laid off -- what is it, Robert, over 400 people this year? So I would expect that would reflect in the pension cost as well.

MR. NITIDO:
Sure. Your projected bill is based on a system average, and the projection for the 2014 year is projected to increase -- our estimates project your salary structure or payroll to increase by about one percent. Your actuals may be less than that or more than that, and then we adjust accordingly. When I was saying that the liability has gone up, what I was really referring to is the current batch of retirees, which include some folks that are in excess of 100 years old, their salary structure is less than the structure of the people who are retiring now, and that's why I indicated that there's a higher liability than for the current configuration.

P.O. LINDSAY:
If they are 100 years old, though, then we're not going to have to pay them long?

MR. NITIDO:
We have 67 members who are in excess of 101 years old.

P.O. LINDSAY:
Oh, really? How much longer are we going to have to pay that bill? Not long.

CHAIRMAN D'AMARO:
Hypothetically speaking.

D.P.O. HORSLEY:
Though we wish them well.

LEG. SCHNEIDERMAN:
Actuarially speaking.

P.O. LINDSAY:
I don't know. I'm not prepared to go forward with any other questions today, Tom, because I don't have all the information in front of me, but I do appreciate you being here and giving us some idea of why our costs are going through the roof here, because the net result is we can't operate government. We can't operate government at these costs, and our only way to correct that is to cut down the size of government, which, unfortunately, it means laying off County employees and cutting back on services to the public, and that's unfortunate. That's all I have. Thank you,

Mr. Chair.

CHAIRMAN D'AMARO:
Thank you, Mr. Presiding Officer. The -- I mean I agree with you, but I also think, as Mr. Nitido has explained today, a lot of what you administer in the State pension plan is governed by State law, so we would also have to look to our Legislature and our Governor as well. And I also want to point out that you were kind enough to pass out this Tier VI benefit information card, which is extremely informative, comparing the Tiers, the various Tiers to one another, and then the most recents, IV and VI, and it appears, looking at Tier VI, that there is an attempt here to limit the amount of wages, et cetera, that would be included in making the calculations to try and bring this a little bit more under control. So I appreciate you giving us this information. Legislator Cilmi had one more question. We are running well over time, so if you could just make it very, very quick.

(Legislator Nowick entered the meeting at 11:32 a.m.)

LEG. CILMI:
We can be quick. Thank you, Mr. Chair. It's really a policy-related question. I don't know; does the Comptroller's Office get involved in looking at policy as far as -- you talked about, initially, the difference between defined benefit, defined contribution. I've been reading a lot about hybrid plans that combine a base- a guaranteed base level of benefit but that have some of the benefits of defined contribution plans. Would your office look into that and sort of recommend the Legislature? Would the Legislature have to dictate and you just administer? How does that --

(Leg. Kennedy left the meeting at 11:32 a.m.)

MR. NITIDO:
Traditionally, the Legislature's established these things, and we've commented on it as they were constructing them. Having said that, Comptroller DiNapoli has been pretty active in the debate over defined benefit -- over defined contribution plans. You are correct. Some states have a defined benefit plan that's only up to a certain level of benefit, and anything beyond that is a defined contribution. As you know, when they enacted Tier VI, there was also a provision for non-unionized -- new non-unionized employees who make more than $70,000 were eligible to be in a DB plan -- or DC plan, defined contribution plan. In addition, SUNY's instructional staff has long had the option of a defined contribution plan, but I wouldn't say we've been active in trying to design hybrid plans or anything like that, but we've certainly spent a lot of time looking at various plans.

LEG. CILMI:
Did you say that Tier VI has an option for employees that earn over -- non-union employees that earn over $70,000 a year to opt for a defined contribution plan?

MR. NITIDO:
Yes. Anyone hired after July 1, 2003 -- no, 2004. I'm sorry. Anyone hired after July 1, 2013, a new employee making more than $75,000 -- I misspoke -- is eligible to be in a defined contribution plan. And it's basically a tag-on to the SUNY optional plan that they have for their instructional staff.

LEG. CILMI:
So would the employer have to opt in to that in order for that to happen, or is it exclusively up to the employee?

MR. NITIDO:
It's the exclusive purview of the employee.

LEG. CILMI:
So as a body, we wouldn't have to do anything to authorize that option?

MR. NITIDO:
That's correct.

LEG. CILMI:
Interesting. Thank you very much.

CHAIRMAN D'AMARO:
All right. Thank you. And as a few of my colleagues had mentioned, we are joined this morning by Assemblyman Mike Fitzpatrick. I just wanted to extend a welcome, belated, but welcome ,nevertheless, and thank you for attending this morning. The Committee very much appreciates your presence here. And, Deputy Comptroller Nitido, I know we kept you well longer than you probably anticipated. I think, speaking on behalf of the Committee members, we appreciate your patience. It's extremely informative. It is giving us necessary information we need as we go into our budget process, and on behalf of all of us, I thank you very much for being here today.

MR. NITIDO:
It's a pleasure to be here, and please feel free to call on us if you need further information.

CHAIRMAN D'AMARO:
Very good. Thank you again.

I'd like to turn now to the agenda.

First resolution is **1073-2012. Amending the 2012 Operating Budget to transfer funds from the Assessment Stabilization Reserve Fund (Fund 404) and amending the 2012 Capital Budget and appropriating funds for the Village of Northport for Wastewater Treatment Collection System Improvements (CP 8193). (Spencer).**

D.P.O. HORSLEY:
Motion to table.

CHAIRMAN D'AMARO:
Motion to table by Legislator Horsley. I'll second. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0)**

CHAIRMAN D'AMARO:
Resolution **1394-2012, Amending the 2012 Operating Budget to support the Fishers Island Senior Hotline (AHT1). (Romaine).** I'll offer a motion to table for public hearing. It's still open. Second by Legislator Horsley.

D.P.O. HORSLEY:
No. No public hearing.

CHAIRMAN D'AMARO:
Oh. I'm sorry. My apologies. Motion to table.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0)**

1443 -2012, Amending the 2012 Operating Budget to support the Islip Arts Council. (Barraga) I'll offer a motion to approve.

LEG. MURATORE:
Second by Legislator Muratore.

P.O. LINDSAY:
On the motion.

CHAIRMAN D'AMARO:
Yes, on the motion.

P.O. LINDSAY:
Where -- this is -- where's Budget Review again? I'm going to have to tie a rope on them. Could Budget Review come back to the auditorium, please? Could we just skip over that, Mr. Chairman?

CHAIRMAN D'AMARO:
Of course. We're going to skip 1443.

Next resolution is **1611-2012, Amending the 2012 Operating Budget to purchase Emergency Integrated Lifesaving Lanyard (EMILY) units.** I'll offer a motion to table.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0)**

Let's go back to 1443-2012, Amending the 2012 Operating Budget to support the Islip Arts Council. (Barraga). Budget Review is back in the room. Presiding Officer Lindsay, please go ahead.

P.O. LINDSAY:
How much money is this, and where does it come from?

CHAIRMAN D'AMARO:
Madam Clerk, please list me as cosponsor to this while Budget Review is looking it up.

MR. LIPP:
It's $4750 transferred from Saint Patrick Hospitality Center to Islip Arts Council.

P.O. LINDSAY:
And it's just to transfer funding within the budget.

CHAIRMAN D'AMARO:
Correct.

MR. LIPP:
The issue is there's supposed to be a $5,000 cutoff, so that's the problematic part of it.

CHAIRMAN D'AMARO:
All right. Okay. There is a motion pending to approve that has received a second, I believe. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 5-0-0-0)**

Next resolution is 1703-2012, Adopting Local Law No -- I'm sorry. **Adopting A Charter Law to adopt tax policy prior to Election Day ("Taxpayer Awareness Act Part 1"). (Cilmi)** I'll offer a motion to table for public hearing.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **Tabled/Public Hearing (VOTE: 5-0-0-0)**

No 1704 -2012, Adopting Local Law No. -2012, A Charter Law to require open deliberations in budget amendment process ("Taxpayer Awareness Act Part 2"). (Cilmi)
I'll offer a motion to table for public hearing.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **Tabled/Public Hearing (VOTE: 5-0-0-0)**

1705-2012, Adopting Local Law No. -2012, A Charter Law to improve transparency and participation in setting spending priorities ("Taxpayer Awareness Act Part 3"). (Cilmi)

Also requires public hearing. I'll offer a motion to table.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-0-0-0)**

Resolution 1898-2012, To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 903-2012). (Co. Exec.)

I'll offer a motion to approve and place on consent calendar.

LEG. MURATORE:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Muratore. All in favor? Opposed? Abstentions? Motion carries. **Approved/Consent Calendar (VOTE: 5-0-0-0)**

Resolution 1900-2012, Amending the 2012 Operating Budget to transfer funds to the March of Dimes Perinatal Program at SUNY Stony Brook. (Nowick).

LEG. NOWICK:
Motion.

CHAIRMAN D'AMARO:
Motion by Legislator Nowick to approve. I'll second.

LEG. SCHNEIDERMAN:
Hold on. What is the offset on this?

CHAIRMAN D'AMARO:
All right. Legislator Nowick, go ahead, please.

LEG. NOWICK:
It's no offset. It just went into the wrong March of Dimes program, and they just want to move it to the prenatal program.

LEG. SCHNEIDERMAN:
Technical.

CHAIRMAN D'AMARO:
Right. It's a transfer from one fund to another for the same organization. Is there a motion pending to approve that has received a second, I believe. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 5-0-0-0)**

Resolution 1921-2012, Amending the 2012 Operating Budget to provide funding for the Medford Chamber of Commerce. (Calarco).

I'll offer a motion to approve. This is another budget line for $4,750.

LEG. MURATORE:
Second.

CHAIRMAN D'AMARO:
By Legislator Muratore. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 5-0-0-0)**

That concludes the agenda. I'll entertain a motion to adjourn.

D.P.O. HORSLEY:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Horsley. We are adjourned.

(Meeting adjourned at 11:53 a.m.)