# Job Number One

THE NEW JERSEY EDUCATION ASSOCIATION'S ROLE IN NEW JERSEY'S DISASTROUS PENSION AND BENEFITS CRISIS

**Part III of the Legal Corruption Series**

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# The Legal Corruption Series: Executive Summary

New Jersey is in a bad way. Our economy is weak and significantly underperforms other states. Our tax system is consistently ranked as the worst in the nation. Our public-sector pensions are in the worst condition of any state, and our unfunded liabilities are at least $202 billion—almost six times the size of the $35 billion annual budget.[1] We have the second-lowest bond rating of any state—save broke Illinois.[2] Businesses, taxpayers, and young adults are leaving our state in droves. Sadly, New Jersey's future looks even worse.

How did New Jersey get into this position?

It was not happenstance. New Jersey is in this position because its largest public-sector union, the New Jersey Education Association (NJEA), often working in concert with its public-sector union allies, has rigged the system for its own benefit. The consummate special interest, the NJEA has dominated the state's political system for decades. It structured a legislative regime that allowed it to siphon off hundreds of millions of taxpayer dollars to spend itself to unmatched political clout. Predictably, New Jersey's politicians—both Republicans and Democrats—have succumbed to this clout and largely given the NJEA what it wanted. Too often, New Jersey citizens and taxpayers have been left out of the discussion, and yet it is they who will foot the bill.

If New Jersey citizens and taxpayers knew what was really going on, they would be outraged. They would be outraged that a special interest was able to control state government to their detriment. They would be outraged that their highest-in-the-nation taxes are flowing directly into union coffers to be used against their own interests. They would be outraged that the future of the state—and that of their children and future generations of New Jerseyans—has been mortgaged for the benefit of the few over the many.

The purpose of this research is to inform New Jersey's citizens of what is really going on and how we got into this position. Using published research, contemporaneous media accounts, and the NJEA's own publications to ascertain the facts, this study details the deliberate exploitation of New Jersey's political system and the resulting consequences—to the benefit of the NJEA and the detriment of New Jerseyans.

There are five parts to the research:

- **Part I. Follow the Money: The Real Money Behind the New Jersey Education Association's Political Clout.** Funded by hundreds of millions of taxpayer dollars, the NJEA's severely underreported political war chest dwarfs the competition. The NJEA spends many times more on political action than is reported and is by far the most powerful special interest—and political force—in the state. Far too often, this results in taxpayer dollars being used against taxpayer interests.

- **Part II. "And You Will Pay": How a Special Interest Dominates New Jersey Politics.** The NJEA used its clout to influence politicians of both parties and structure the political system to perpetuate its power and benefit itself. This extraordinary special-interest influence has shaped the current status quo in the state and threatens the state's solvency.

- **Part III. Job Number One: The New Jersey Education Association's Role in New Jersey's Disastrous Pension and Benefits Crisis.** Again using its money and clout, the NJEA created the broken benefit system we have today. While the NJEA seeks to blame the state, the facts show that the NJEA structured the system to maximize benefits for its members and consistently fought reform efforts. It participated in pension-asset raids and financing schemes that greatly damaged the soundness of the system. It gained for its members premium-free, "Cadillac" health plans. Because it was politically convenient, it chose not to punish politicians for underfunding the state's retiree liabilities, thus contributing to $202 billion in underfunding that threatens the future of the state. And it recently tried to lock this bankrupt system into the state constitution.

- **Part IV. Talk Is Cheap, but Good Education Costs: The Truth About New Jersey's High Tax Burden.** Using its money and clout, the NJEA has consistently pushed for higher taxes. At the local level, the NJEA consistently pushed for higher education spending and higher property taxes. Once high property taxes became a political problem, it pushed for higher state education spending and higher state taxes. The NJEA was a major force behind the initiation of New Jersey's first sales and income taxes and continues to push for higher taxes to this day.

- **Part V. New Jersey Is Dying: A Special-Interest-Dominated Status Quo Is Hurting the State's Economy**. High taxes and cost of living have hurt the state's economy. The tax system renders the state inhospitable to businesses and uncompetitive with other states—particularly with neighboring New York and Pennsylvania. Consequently, economic and job growth are weak and significantly underperform both the nation and New York and Pennsylvania. Businesses, taxpayers, and most ominously, young adults are emigrating to more favorable states. Reform and economic growth are the only way out of this fiscal hole, but our special-interest-dominated political system allows for neither.

New Jersey citizens and taxpayers must wake up to what has happened in our state and why we are where we are. In the end, the best description of what has occurred is "legal corruption." Our political system has been thoroughly corrupted—so much so that the corruption itself has been made legal. Either we change the system and root out the legal corruption or it will bankrupt the state—along with the future of our children and the next generations of New Jerseyans.

# Job Number One

## THE NEW JERSEY EDUCATION ASSOCIATION'S ROLE IN NEW JERSEY'S DISASTROUS PENSION AND BENEFITS CRISIS

*Part III of the Legal Corruption Series*

**Mike Lilley**

> *"Protecting and enhancing members' pensions and benefits has been Job Number One for NJEA since 1896."*
>
> *—NJEA President Joyce Powell, 2006*[3]

The New Jersey Education Association (NJEA), the state's largest teachers union, has lived up to Powell's words—much to the detriment of New Jersey citizens.

### The Facts

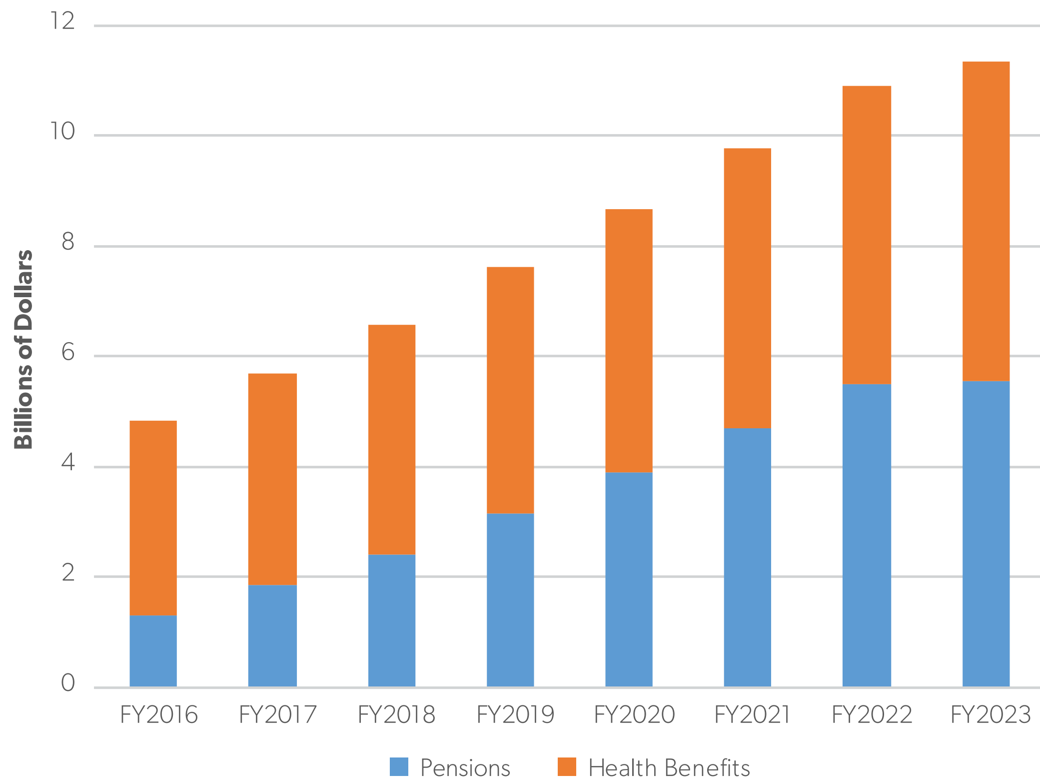
New Jersey's public pension and health benefit system is a looming disaster that threatens the state's future. Under new, more realistic accounting standards, the state government reports that the total amount of the state's unfunded public pension and health care liabilities is $202 billion.[4] The entire state budget is $35 billion. This is a major reason why the Mercatus Center ranks New Jersey dead last among states in fiscal condition and why New Jersey has the second-lowest bond rating of any state (above only broke Illinois).[5]

New Jersey's public pensions are in the worst condition of any state in the nation, with funding at less than 38 percent of what the state owes, resulting in unfunded liabilities of $135 billion.[6] The state's largest public pension fund—the Teachers Pension and Annuity Fund (TPAF)—is less than 29 percent funded and is expected to be fully depleted and unable to cover its payments by 2027.[7] Other public employee pension funds are in even worse shape.[8] Moreover, given the state's high investment return assumptions and the riskier portfolios required to meet them, New Jersey may well be one market downturn away from an even more perilous position.

The state pays for New Jersey's active employee and retiree health care liabilities on a "pay as you go" basis, meaning the funds come directly from annual budget appropriations. No money is set aside and invested to help meet these obligations. As the number of retirees and their life spans grow and the cost of health care increases, these liabilities grow. The state reports that this liability currently stands at $67 billion.[9]

New Jersey's unpaid pension and benefit debts are threatening the state's fiscal solvency. Shifting to a "negative" outlook for New Jersey's already second-lowest state bond rating, Standard & Poor's cited "declining pension funding levels and growing

**Figure 1. Annual State Pension and Health Benefit Costs**




Source: New Jersey Pension and Health Benefit Study Commission.

retirement liabilities."[10] These twin problems are placing an unbearable burden on future generations.

As the situation stands, New Jersey has no way out of this massive problem. The recent New Jersey Pension and Health Benefit Study Commission (the "Study Commission") concluded that fully funding all the benefits promised is "no longer within the State's means."[11] As seen in Figures 1 and 2, the total cost of these benefits to the state currently stands at $4.8 billion, or just under 15 percent of the state budget. These costs are projected to rise to $11.3 billion, or more than 27 percent of the state budget, by 2023.[12]

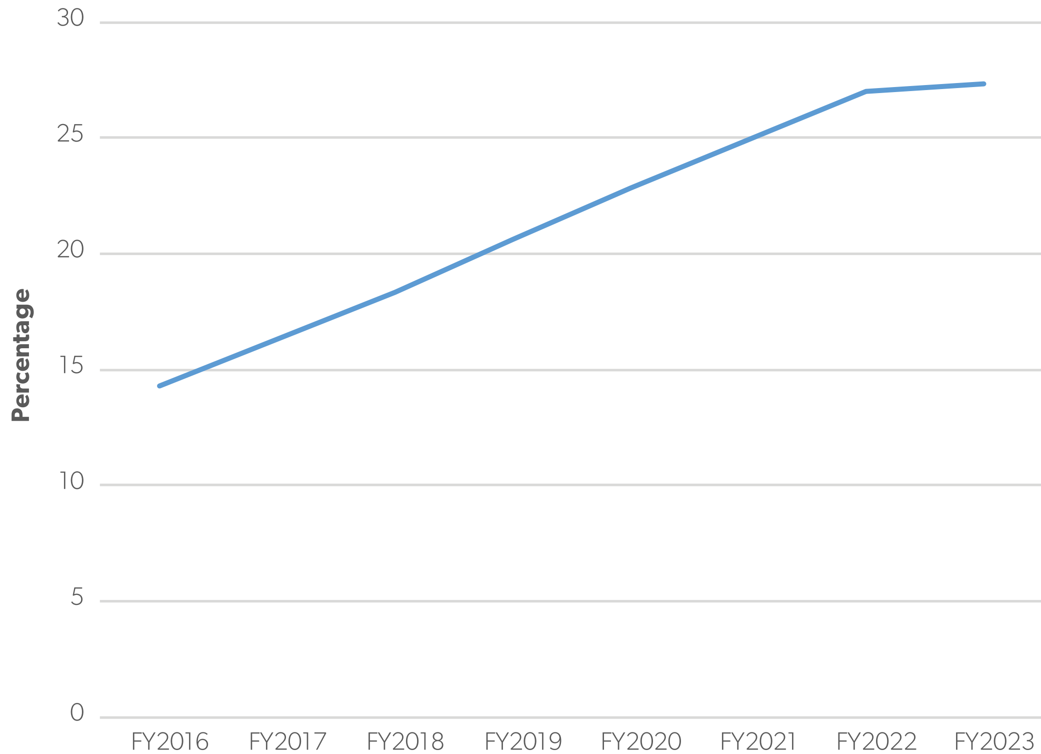
But locked-in funding requirements mean that New Jersey's budgets are tight and in persistent structural deficit, so increased funding for pensions and benefits portend an untenable situation. The Study Commission determined that 87 percent of state revenues are committed to federal mandates, bonded obligations, and other required funding demands. The remaining 13 percent funds essential services such as law enforcement, public safety, and state government.[13] Accordingly, the Study Commission made clear that if total benefit costs exceed 15 percent of the state budget, the state will be in "financial jeopardy."[14]

The Study Commission concluded that, without reform, meeting these projected costs would require either massive tax increases or drastic cuts in services, or both.[15]

## How Did New Jersey Get into This Position?

Unsurprisingly, the NJEA blames it all on the state: "The state's failure to fund its share of pension costs is the only reason for [the] pension crisis faced by the state."[16] This self-serving answer conveniently ignores the NJEA's own role in this looming disaster.

**Figure 2. Annual State Pension and Health Benefit Costs as a Percentage of the State Budget**




Source: New Jersey Pension and Health Benefit Study Commission.

The NJEA's role—along with that of its public employee union allies—was summarized well by University of Georgia Professor Jeffrey Dorfman, who described how Illinois became the state with the lowest bond rating:

> The basic process by which states get in such severe financial trouble is well established. Unions get protection from any future diminishing of pension obligations enshrined into state law or, ideally, the state constitution. Then public sector unions give state politicians big campaign contributions in exchange for large, irresponsible future pension benefits. The state legislature then underfunds those pensions, keeping the taxpayers from realizing the full cost of the promised pensions and eliminating any near term pain from the pension promises. Unions don't object to the underfunding because they know the law protects their pensions no matter how bad the situation gets.[17]

This describes precisely what occurred in New Jersey.

Public pension and health benefits are political creations. All their features are determined by political decisions. The NJEA recognizes this. During a 2015–16 push for a constitutional amendment guaranteeing pension funding, NJEA President Wendell Steinhauer told his members: "Election organizing is pension organizing."[18] In 1998, NJEA President Michael Johnson was more explicit: "Most of the 'benefits' our members enjoy are directly linked to and provided because of politics."[19] The NJEA knows that if it wants to affect benefits, it has to exert political power.

As shown in Parts I and II, no political power in the state comes close to the NJEA. The NJEA dominates the political playing field from Trenton all the way down to the smallest school district.

### The NJEA Structured the System It Wanted

True to President Powell's words, for decades the NJEA has used its enormous and unmatched political clout to construct the pension and retiree health system that exists today. Until recently, it helped elect and keep in office politicians who made overly generous promises but did not fund them. It participated in pension raids and bond schemes that worsened the condition of the pension system. It insisted on and protected exceedingly generous employee and retiree health benefits. It forcefully and consistently fought reforms that might have altered New Jersey's path to penury. And to top it all off, it tried to lock this disastrous system into the state constitution—just as Dorfman described.

**Defined benefit pension plans are inherently volatile: The liabilities climb every year, while assets go up and down with the markets and contribution rates.**

**Pensions Maximized.** The vast majority of public pensions in New Jersey are defined benefit plans, whereby the state guarantees a pension at levels set by law. If there is a shortfall in funding these pensions, the state, and therefore taxpayers, are on the hook for the promised amounts. Because of their high cost, defined benefit plans are extremely rare in the private sector.

As the Study Commission pointed out, defined benefit pension plans are inherently volatile: The liabilities climb every year, while assets go up and down with the markets and contribution rates. In flush years, pension surpluses may be temporary, so these surplus assets must be retained against the bad years. This was not done in New Jersey.

The NJEA was mostly a willing participant in numerous schemes to create surplus pension assets that were then substituted for regular pension contributions and used to enhance benefits. This meant that no new money was coming into the pension system, leaving it vulnerable to the market downturns that inevitably occurred. Increased benefits, less-than-expected returns, and insufficient funding are the main culprits for New Jersey's enormous unfunded pension liabilities.

But this does not capture the full role the NJEA played. New Jersey's pension system was deliberately structured to maximize what is owed to retirees. First, due to persistent and powerful political influence from the NJEA in collaboration with allies, teacher pensions are the obligation of the state, while the teacher salaries on which those pensions are based are the obligation of local school districts. As the Study Commission found, this disconnect meant that local teachers unions could "collectively bargain for salaries with local school districts freed from the need to consider the impact of the resulting salaries on pension costs."[20] By design, local taxpayers, whose property taxes fund local education budgets, did not have to foot the full cost of employing teachers in local schools, removing an important check on excessive compensation. The actual and intended result: Teachers could maximize both salaries and pensions. The Study Commission concluded that this disconnected structure is "a major source of the State's budget crisis."[21]

In their study of New Jersey, Eileen Norcross and Frédéric Sautet of the Mercatus Center noted how this separation of responsibility reduced accountability for spending at the local school district level: "By fracturing the relationship between those who benefit (e.g. local school districts) and those who pay (e.g. state income taxpayers), the incentive to control costs, and accountability for spending has been systematically weakened through fiscal illusion."[22] This deliberately fractured system thus gave the NJEA a freer hand to push for higher local education spending.

With the cost of salaries separated from the resulting cost of pensions, local teachers unions, with the NJEA's assistance and guidance, were free to set up salary- and pension-maximizing salary structures. Thanks to the NJEA's lobbying, state law permits collective bargaining for multiyear contracts with career salary schedules.[23] The NJEA directs local associations to use "step and lane" salary guides, which are now universal in New Jersey.

Under these guides, employees get automatic raises from year to year ("steps") with multiple columns providing higher pay for graduate degrees such as masters and doctorates ("lanes"). Combined with NJEA-backed laws that privilege teacher seniority, these factors inevitably result in higher compensation costs as teachers move along in their careers. The NJEA has consistently pushed to increase the salary levels in these guides.[24]

Regarding local budgets and taxes, what these salary guides do is take the decision to give raises out of the hands of local school boards. The NJEA states this clearly: "If there is not a salary guide, employees would only receive a negotiated raise. There would be no built-in annual increases . . . and no way to progress to the highest salary."[25]

To exploit the salary guide structure during contract negotiations, the NJEA provides professional UniServ negotiators and "best practices" to maximize salaries as quickly as possible. The NJEA sums up its philosophy well: "The quicker a member reaches maximum, the more years he or she will be paid at maximum, increasing career earnings as well as pension earnings."[26] In addition to structuring salary guides to maximize teacher pay, local associations, again aided by negotiating professionals from UniServ and explicit NJEA guidance, use higher-paying salary guides from nearby or comparable districts to push local school boards to match or exceed them.[27]

On the pension side, thanks to NJEA lobbying, pensions are by law based on the highest salary levels—usually the three years at the end of a teacher's career. This practice differs from Social Security, in which career average salary is used as the basis for pensions. So in New Jersey's system, the teacher's contributions over the course of a career will not be sufficient because they are based on all the years of employment—including the earlier years when the teacher was earning less—whereas the pensions are based on only the highest salary years at the end of a career. As the 2006 report of the special session of the legislature (the "Special Session") found: "The insufficient contributions result in an underfunding of the pension system."[28] In other words, the pensions were systematically underfunded.

**Each dollar awarded in final average salary results in a $9.66 increase in the state's pension obligations.**

This conclusion is backed by research. Georgetown University's Edunomics Lab researched New Jersey's pension system and found that it is indeed a pension-maximizing system: Each dollar awarded in final average salary results in a $9.66 increase in the state's pension obligations.[29] As shown above, teacher salary raises are fixed in "step and lane" salary guides that are usually given as a percentage of salary. Because these salaries inexorably climb, by the end of a career, a teacher has reached the highest salary years, which then determine the pension payout. Thus, the cumulative value of the pension payout is highly sensitive to even modest changes in late-career salaries: "Give a raise in the final years of teaching, and the teacher gets a raise for life."[30]

Moreover, because in New Jersey school districts are responsible for salaries and the state is responsible for pensions, school districts do not bear the pension consequences of salary increases and thus are more generous with raises. Again, the structure of New Jersey's pension system virtually guarantees underfunding.

Another harmful characteristic of the pension system is the consistent use of high investment return assumptions, which means that current employee and employer contributions are based on a lower overall contribution requirement. New Jersey public pension plans use the investment return assumption for plan assets as the discount rate for plan liabilities: the higher the discount rate for the future liability, the lower the required current contribution. New Jersey has consistently used very high return assumptions—currently 7.65 percent but for almost 20 years as high as 8.75 percent—thus minimizing the required employer (state and local governments) and employee contributions. If the pension investments come up short of the investment return assumption, more funding from employees and employers is not required, so the entire shortfall (including the loss of any future investment returns on those assets) is borne by taxpayers.

In sum, the pension system was deliberately structured in a way that allowed it to be gamed and permitted maximizing both salaries and pensions while minimizing contributions. No wonder, then, that NJEA President Michael Johnson said in 1998: "Our excellent pension system . . . [is] the result of hard-fought legislation and politics."[31]

**"Cadillac" Active Employee Health Benefits.** Like teacher salaries, employee health benefits are negotiated on a multiyear basis and provide inexorable upward pressure on local school district budgets. All active education employees are provided exceptionally generous and exceedingly costly health coverage. The Study Commission found that these employees get coverage "at platinum-plus levels rarely found in the private sector."[32] New Jersey's public-sector health plans cover an average of 96 percent of the total cost (meaning out-of-pocket costs for the employee are a mere 4 percent) compared with an average of 90 percent for Affordable Care Act Platinum Plans and 80 percent for Gold Plans.[33]

Yet these employees must pay only a relatively small portion of the plans' actual costs. Even after the employee contribution increases mandated by the 2011 reform law (now expired), active employees had to pay a relatively low 17.7 percent of their premiums compared with the nationwide private-sector average of 25 percent.[34] Before the 2011 law, employees paid far less than 17.7 percent, and most paid nothing at all.[35] When looking at the overall cost to employees, the Study Commission found that the total cost for family health benefits coverage averaged $30,322, of which the employee paid $6,365 in premiums and out-of-pocket expenses, with New Jersey taxpayers picking up the remaining $23,957.[36]

By way of comparison, the Study Commission found New Jersey's health plans cost 50–60 percent more than the national averages for both public and private plans[37] and concluded that a large part of the state health programs' high and increasing cost is "due to the extensive benefits and relatively low cost to employees."[38] According to a Pew study, only two states have higher average state employee health care costs than New Jersey.[39]

As with salaries, New Jersey's "Cadillac of health plans"[40] is the product of a concerted NJEA effort. The NJEA provides specific guidance to local associations that when negotiating for health benefits, local associations are to push for maximum coverage at minimum cost to employees, regardless of the cost to school boards or taxpayers.[41] Likewise, the NJEA pushes local associations to use nearby or comparable districts' health plans to increase benefits.[42]

Incredibly, for decades, the NJEA's goal was premium-free health coverage. As NJEA Executive Director Richard Bonazzi said in 2004: "Full-paid health benefits are the standard for public school employees in New Jersey. . . . So of course we're angry when a board of education wants you to pay for your health benefits package."[43]

Because of the NJEA's and the local associations' efforts, until recently, the vast majority of NJEA members got "Cadillac" health benefits for themselves and their dependents completely premium free.[44] Before the 2011 reform law, 87 percent of school districts did not require any contribution from employees.[45]

**State Retiree Health Benefits for Free.** Thanks to 1987 and 1992 laws that the NJEA lobbied long and hard for, the state provides retirement health benefits to all education employees. The Study Commission noted that the roots of the current benefits crisis could be traced to 1987, when free retiree health benefits were first provided to teachers based on what was then perceived to be a surplus in the TPAF.[46]

Before the 2010 reforms, no education retirees made premium contributions to their retirement health care. Existing retirees and active employees with more than 25 years of service in 2010 were grandfathered and thus currently make no premium contribution to their retirement health coverage. The Study Commission determined that 103,000 retired educators are in this category.[47]

Retirees fall into two categories: early retirees who retire before age 65 and Medicare-eligible retirees who retire at age 65 and older. The Study Commission called early retirees "the perfect storm" for health benefits funding.[48] There are 20,000 retired educators in this category,[49] which the Study Commission noted showed how early retirement had expanded beyond its origins in the unique career demands of police and firefighters.[50] These retirees are the costliest segment on a per capita basis, comprising 11 percent of subscribers but 21 percent of the cost and averaging $29,748 per year. Such retirees get the same platinum-plus health coverage as active employees until they reach 65 but are more expensive to insure due to their age and health status. Grandfathered in by the 2010 law, they make no premium contribution, whereas, nationally, the average early retiree pays 40 percent of the cost of coverage.[51]

There are 83,000 Medicare-eligible education retirees at an average cost of $9,970 because most of their expenses are covered by Medicare.[52] The state offers a supplemental plan that covers virtually all other medical costs not covered by Medicare—amounting to about 20 percent of total retiree health costs—at no premium cost to them. By way of comparison, only 25 percent of large employers offer such supplemental care. Of those that do, only 8 percent are fully funded by the employer (like New Jersey), and 48 percent require that the retiree pay the entire premium. Across all employers, 91 percent require premium contributions from Medicare-eligible retirees.[53] New Jersey is clearly an outlier in the generous supplemental health benefits it provides to retirees.

Either way, the great majority of retired educators receive exceptionally generous health coverage for free. These benefits are well in excess of what is available in the private sector, where most taxpayers work. Over the decades, the NJEA worked continuously—and largely successfully—to expand health benefits and fight any efforts to reduce them. Modest reform came about only in 2010 after the election of Gov. Chris Christie.

So New Jersey's dire fiscal condition is not a matter of happenstance. It was caused by deliberate policies and actions that were at root part of a political process. As the most powerful political actor in the state, the NJEA had a strong hand in bringing about these policies and actions.

## The NJEA's Political Clout at Work: A Brief History

New Jersey provided its first pension for teachers in 1896. Presaging the current crisis, that pension plan collapsed due to inadequate funding, which led to the TPAF's creation in 1919. The NJEA is well aware of this historical fact and would be expected to have learned from it that adequate funding is crucial to a pension plan's viability. This should be remembered when assessing the NJEA's later posture toward pension underfunding.

The 1919 version of the TPAF serves as a benchmark for a more prudent commitment of taxpayer dollars. Teachers were expected to contribute 50 percent of their expected retirement benefit with the state supplying the other half. The 1919 law's pension formula used a more conservative years-of-service multiplier[54] and based a teacher's pensionable salary on the last five years of earnings. From 1919 on, the NJEA worked ceaselessly to loosen the original formulation and enhance pension benefits.

In 1955, the legislature passed a law "at the request of NJEA"[55] that increased the multiplier by 17 percent[56]—a "big improvement" in teacher pensions, according to the NJEA president at the time.[57] The teacher's retirement age and contribution rates were reduced, and provisions for early retirement were established. In 1971, the calculation of pensionable earnings was changed to be based on the average of a teacher's highest three years of earnings, which Gov. William Cahill claimed would increase retirement benefits by 10 to 20 percent.[58] The provisions for early retirement were also loosened so that the benefits reduction for early retirement was reduced by 50 percent.

## The NJEA has largely been successful at blocking or weakening pension reform efforts.

While the NJEA openly and successfully pushed for the state's first income tax in 1976, it also managed to block changes to a key pillar of New Jersey's pension structure. The new tax revenues helped relieve the budgetary pressure caused by the New Jersey Supreme Court's school funding decision and helped block an attempt to shift pension funding to local school districts. The NJEA proclaimed that it had "once again fought off a dangerous . . . proposal that the employer's share be paid by each local district . . . and payments will come once again from the State Treasury."[59]

The NJEA has largely been successful at blocking or weakening pension reform efforts. In 1984, Gov. Tom Kean created the Pension Study Commission to control rising pension costs. Among other reforms, this commission recommended increasing the retirement age and putting new employees into a less expensive system. NJEA President Edithe Fulton called the recommendations "the most outrageous assault ever attempted on the state pension system" and vowed to "protect our benefits with every resource we have."[60] The NJEA went so far as to call for a boycott of businesses of people who served on the commission.[61] The recommendations were never implemented.

The NJEA scored a huge political success in 1987 when it gained fully paid health benefits for retired teachers, which was "achieved through years of NJEA lobbying."[62] Once again, the NJEA helped shift what had been a local school district responsibility to the state, relieving pressure on local school budgets and therefore teacher salaries. This long-sought goal was the NJEA's "greatest legislative achievement of 1987."[63] Retiree health benefits and cost-of-living adjustments (COLAs) become a liability of the TPAF and were both pre-funded on a reserve basis. Foreshadowing another future legislative success, the NJEA promised to "vigorously pursue" the same health benefits for retired support staff, which became a perennial NJEA lobbying priority until it succeeded in 1992.

Meanwhile, the NJEA continued to push for further pension enhancements, stating that it "has initiated legislation to provide significant improvement in pension benefits."[64] These benefits included increasing the pensionable earnings multiplier another 20 percent,[65] calculating pensionable earnings based on the single-highest salary year rather than the average of the top three years, and removing the 10-year service requirement to allow for automatic vesting.[66] These enhancements were consistently part of the NJEA's lobbying agenda until the major pension increase in 2001.

Once again thwarting reform attempts, the NJEA and its public-sector allies "worked hard" to defeat the creation of a Pension and Health Benefits Review Commission that would look at pension and health benefit legislation and evaluate its financial impact on the state before the legislature could act on it. The NJEA realized that such a commission would provide information to legislators that would have "made passage of pension and health benefit legislation more difficult" and had a "negative effect on our efforts to make improvements in the area of pension and health benefits legislation."[67]

**The NJEA Flips the Legislature.** In one of the more remarkable feats of political power in modern New Jersey history, the NJEA showed its enormous political clout when newly elected Gov. James Florio revived the idea of shifting responsibility for teacher pensions to school districts. After a New Jersey Supreme Court ruling mandated increased state aid to poor districts, Florio sought to raise taxes and devise a new school funding formula while relieving the state of the teacher pension burden as part of the 1990 Quality Education Act. NJEA President Betty Kraemer highlighted why the NJEA feared such a shift: "In a few scant years, increasing pension costs will eat into the dollars available for programs in schools. Local property taxes will have to rise to support programs."[68]

When Florio and other Democrats enacted the pension shift and subsequently cut state education aid, the NJEA endorsed 46 Republicans and three Democrats and put its full muscle behind flipping the legislature in the ensuing 1991 legislative election. The result: The NJEA was credited (and credited itself) with turning a Republican minority into a veto-proof Republican majority.[69] The pension shift was postponed and ultimately repealed.

Decades later, former Gov. Florio observed that the 1991 flip of the legislature and his subsequent reelection loss in 1993 "taught future governors two extraordinarily dangerous lessons about New Jersey politics: Don't mess with the teachers, and if you raise taxes you'll get the boot."[70] Neither Democrats nor Republicans forgot the lessons.

In 1992, the NJEA-friendly legislature granted the NJEA its "top legislative priority"[71]: the long-sought expansion of fully paid retiree health care to education support personnel, which passed by an overwhelming majority. To fund this expansion, lawmakers started the lamentable and ultimately destructive practice of using pension asset surpluses to offset required pension contributions. The law revalued pension assets to market value rather than book value, generating a $5 billion increase in assets. This windfall was used to fund a reserve for the new health benefits, refund prior employer pension payments, and lower present contributions. The law also raised the investment return assumption to 8.75 percent from 7 percent. This higher rate was used to discount the liabilities, thus lowering required contribution rates. In total, there was a $1.5 billion reduction in state and local pension contributions over two years.[72]

**More of the Same Under a Republican Governor.** In 1993, Republican Christine Whitman was elected governor, giving the Republicans full control of state government. To fund the income tax cuts she had campaigned on, Whitman changed the accounting method for determining the amount of required pension contributions. The new method essentially back-loaded required contributions into the future, thereby reducing present contribution levels.[73] This saved the state money upfront.

Whitman also ended the pre-funding of health benefits and COLAs established in the 1987 and 1992 benefit expansions. Henceforth, these benefits would be funded by annual appropriation (known as "pay as you go"). Overall, another $1.5 billion in state and local contributions were reduced over two years.[74] Unable to overcome the tax-cut movement in the legislature, the NJEA sued the Whitman administration for underfunding pensions.

**The stock market boom of the late 1990s allowed for serious manipulation and erosion of the state's pension funding.**

With the constant budgetary pressures created by her tax-cut pledges, Whitman sought to revive the idea of shifting pensions from the state to local school districts. Once again, the NJEA was able to fend off the proposal.[75]

The stock market boom of the late 1990s allowed for serious manipulation and erosion of the state's pension funding. Enticed by the lure of high equity-market returns, in 1997, Whitman proposed to borrow $2.8 billion of pension obligation bonds (POBs) to plug the unfunded liability gap. The theory was that investment returns on the proceeds from the bond sale would exceed the interest paid on the bonds. Unfortunately, New Jersey will ultimately spend more than $10 billion in servicing this expensive debt.[76] The legislature has since enacted a moratorium on POBs.

The NJEA supported this scheme and actively pressured lawmakers to pass the bill. NJEA President Dennis Testa was willing to make a deal because the NJEA would gain for its members the nonforfeitable right to promised pensions (after only five years of service) and the proceeds from the bond sale would reduce pressure to shift pension to local districts.[77] "After three years of intense lobbying,"[78] the NJEA "lobbied for and won"[79] the nonforfeitable right, which passed by an overwhelming majority. In return, the NJEA dropped the underfunding lawsuit against the Whitman administration. The nonforfeitable right meant that future pension reform efforts could target only new employees. Thus the Study Commission found that, even when pension reform laws were finally passed in 2010 and 2011, 89 percent of teachers were protected from any reduction in their pensions.[80]

The 1997 law, ironically dubbed the "Pension Security Plan," also changed state law by officially sanctioning the use of surplus assets to reduce the normal contributions (which is what the NJEA sued over in the first place). The Special Session report found that "this change in funding policy resulted in either full or partial reductions in the state's and local government employers' otherwise required normal contributions to the retirement plan for fiscal year 1997 through fiscal year 2003."[81] The change also reduced employee contributions from 5 percent to 4.5 percent of salary. Overall, the NJEA called the POB deal a "success" and "victory."[82] The 2006 Special Session report determined that in the aftermath of the 1997 law—from 1997 to 2006—state and local employers avoided approximately $8 billion in pension contributions.[83]

Notably, the NJEA did not oppose Gov. Whitman's reelection but was "neutral" despite Whitman's "years of . . . lower contributions from the state."[84] The state's underfunding of pensions was supposedly a big issue for the NJEA, yet the NJEA chose not to make it a campaign issue and did not work to defeat Whitman or make an example out of her.

**The Pension Raid.** The NJEA had been lobbying for years for pension enhancements, and the dot-com boom of the late 1990s gave the NJEA and its allies the nominal surplus assets to pay for them. Police and firefighters got pension enhancements in 1999, and the NJEA was "moving quietly behind the scenes to improve retirement benefits for teachers and to muster the legislative support to make them a reality." Republican President of the Senate Donald DiFrancesco made his plans clear: "We're talking to the teachers union. . . . The way I look at it, if the pension system is healthy, if we can give them some benefit resulting from a good economy, I say give it to them."[85]

But Gov. Whitman remained an impediment. In 2000, the NJEA-friendly Republican legislature sent a substantial pension enhancement bill to Whitman's desk, which she promptly vetoed. The NJEA soon got a second chance when DiFrancesco became acting governor after Whitman left office to join the George W. Bush administration.

Faced with legislative elections in 2001, lawmakers fell over themselves to please the NJEA, granting both existing and prospective retirees a 9 percent pension increase.[86] Further, the law was passed in conjunction with statutory provisions excusing non-funding of both the newly enhanced and preexisting benefits for several years. As a final sop to the NJEA, the law temporarily reduced employee contributions from 4.5 percent to 2.5 percent. In a particularly underhanded move aimed at creating "surplus" assets to fund the enhancement, the legislature reached back to June 30, 1999, to value pension assets when they were $5.3 billion higher than under the then-current valuation method—even though by 2001 the dot-com bust had in reality reduced the value of those pension assets by billions of dollars.

Legislators were fully aware that this bill was depleting pension assets. In evaluating the bill, the Office of Legislative Services stated clearly that the bill "does reduce the available assets in the pension funds" and noted that valuing the assets at 1999 levels "does not reflect losses due to current market conditions."[87] Yet, the bill was passed quickly with little debate and only one dissenting vote. This time, NJEA-friendly Acting Governor DiFrancesco signed the bill.

To help secure passage of the pension enhancement in 2001, the NJEA engaged in "a major grassroots effort." The NJEA reasoned that the pension funds "contain surplus assets that can and should be used to finance an improved pension formula."[88] This is a curious argument from an organization that had protested and even filed a lawsuit against the state's underfunding of pensions. Increasing the liabilities of a system that is already underfunded worsens the situation and adds the necessity of even greater funding in the future, which the NJEA knew would be problematic for the financially stressed state. Doing so by artificially inflating asset values to "pay" for the pension increase is even worse. Yet the NJEA crowed that it was "one of the most significant legislative accomplishments in NJEA history."[89]

This raid on pension assets was so egregious that subsequent legislatures enacted a moratorium on pension enhancements. The Study Commission underscored how this raid hurt the condition of the pension plans: "The burden of this instant retroactive increase in the state's pension obligations, combined with an extended pension-funding holiday, has been a key contributing factor to the current crisis."[90] The 2005 Benefits Review Task Force appointed by Acting Governor Richard Codey (the "Codey Task Force") similarly called the raid a "poster child for why the current system is a failure. . . . The process by which it was undertaken and the manner in which it was justified and implemented was indefensible."[91] Yet the NJEA was 100 percent behind it.

Returning the favor, the NJEA endorsed DiFrancesco in the Republican primary—the first time the NJEA had endorsed a candidate in a gubernatorial primary.[92]

**Under the Democrats, More of the Same.** The pension-funding legerdemain continued under new Democratic Gov. Jim McGreevey, elected in 2001, who confronted a budget squeeze in 2002. When Gov. Whitman stopped pre-funding retiree health benefits in 1994, the legislation required the state to put 0.5 percent of employee salaries into a health care reserve fund. Under a new 2002 law, the state used the $327 million built up in this reserve fund to reduce the state's normal pension contribution.

In 2003, faced with another budget squeeze at all levels of government, McGreevey proposed to phase in employer pension payments over five years. The law allowed local employers to phase in their total contributions in increments of 20 percent to reach full funding for the TPAF by 2008. Echoing 2002, the state reduced its own contributions by using the Benefit Enhancement Fund (effectively surplus assets) from the 2001 law, which was supposed to be used to pre-fund its pension enhancements. For three years up to 2007, the legislature took money out of the Benefit Enhancement Fund to make the state's pension contribution. This, too, was a pension raid, as assets were depleted and no new money was injected into the pension system.[93]

## The non-funding status quo apparently suited the NJEA just fine.

Once again, the NJEA chose not to punish lawmakers for underfunding pensions. During the 2003 legislative elections, 82 percent of all incumbents received NJEA endorsements, and 93 percent of NJEA-endorsed candidates won.[94] The non-funding status quo apparently suited the NJEA just fine.

**Blocking Reforms.** The NJEA not only used its political clout to lobby for enhanced benefits but also wielded that power to block reform efforts. By not allowing reform of the system when its problems were less severe, the NJEA helped ensure that those problems would become more severe in the future.

Faced with the manifest and perennial problem of state funding for retiree benefits, Acting Governor Codey created the Codey Task Force to look into public employee pensions and benefits and recommend changes that would control costs. The NJEA geared up to fight any ensuing legislative proposals. It reported that it had "two major task forces comprised of over 75 leaders and staff working on every aspect of this issue, including lobbying, organizing, and advertising."[95]

The Codey Task Force's 2005 report recommended raising the retirement age, reverting back to using the highest five years for pensionable salaries, and requiring that all active and retired employees contribute to their health care, among other changes.[96] Based on this report, legislation was introduced to enact several of the recommendations. The NJEA mobilized to defeat the bill, and Vice President Barbara Keshishian celebrated the victory: "Thanks to the swift action of NJEA members . . . a bill that would have sharply reduced pensions and benefits was withdrawn."[97]

In 2006, newly elected Democratic Gov. Jon Corzine confronted the perennial problem of New Jersey's highest-in-the-nation property taxes and ordered the legislature into a Special Session to reign in the costs driving up property taxes by reducing public employee benefits. The legislature created four committees, which came up with 41 recommendations.[98]

The NJEA political operation kicked into high gear: "The entire organization organized around the special session."[99] President Joyce Powell pledged "the full resources of the organization . . . working non-stop" to oppose any adverse proposals.[100] As part of its campaign, the NJEA intensively lobbied the legislature, monitored all 41 committee hearings and testified before many of them, sent 24,000 emails, and "conducted the biggest employee rally in more than a decade."[101]

At the rally, 10,000 teachers and other public employees gathered outside the State House protesting proposed changes to pensions and retiree health care. They wanted their retiree health benefits to be negotiated in local collective bargaining agreements rather than set by legislation. Testifying during the Special Session, NJEA President Joyce Powell made clear the NJEA's position: "Ms. Powell stated the NJEA's position that pension and medical benefits should not be tiered or reduced."[102] ("Tiered" benefits separate out part-time employees.) Further, Powell stated that any pension cuts would be met with "severe opposition from NJEA members across the state."[103]

Corzine got the message. He backed off and got the Democratic legislature to follow suit. Acceding to union wishes, he promised to deal with health benefits as part of collective bargaining with state employees—with the aim that this would in turn affect the collectively bargained agreements at the local school district level that covered educators. In the end, Corzine ignored most of the Special Session's recommendations.

Clearly pleased with its success, the NJEA took credit for being "able to hold off harmful pensions and benefits bills that emerged from the special session"[104]—including an attempt to reverse the irresponsible 2001 pension increase. The laws coming out of the Special Session ultimately produced only minor changes to the pension system, which suited the NJEA but has been a disaster for New Jersey.

In the decade leading up to the Special Session, the combination of underfunding and increased benefits severely damaged the pension system. All told, benefit enhancements enacted from 1999 to 2007 cost state and local government employers more than $6.8 billion,[105] while, as mentioned above, from 1997 to 2006, state and local employers avoided more than $8 billion in required contributions. Both the beneficiaries and the sitting politicians benefited but not New Jersey taxpayers, who will ultimately be responsible for the pension liabilities. As the sponsor's statement to one of the Special Session laws noted, "Far too often, the taxpayers' interests are absent from this debate."[106]

As for health care, the NJEA was able to shape the bills resulting from the Special Session to its liking. As openly stated in the official statement made by the bill's legislative sponsor, "reflecting discussions with the New Jersey Education Association,"[107] the legislation guaranteed premium-free retirement health benefits and created a new educator-only School Employees Health Benefit Plan in which the NJEA had "greater representation and more control over what happens to members' benefits than under the old SHBP [State Health Benefits Plan]."[108]

The year 2008 brought another attempt to reform retiree benefits. Two powerful Democratic senators, Senate Majority Leader Steve Sweeney and Budget Chair Barbara Buono, proposed bills based on the Special Session's recommendations to rein in retiree benefit costs. The NJEA once again kicked into high campaign gear.

NJEA President Powell made the message clear: "Legislators need to know that when it comes to pensions and benefits, we don't play games—other than hardball."[109] Its brand of hardball included 80,000 emails, thousands of postcards, lobby days, radio and newspaper ads, and a five-day TV ad campaign.[110] The NJEA also mobilized 12,000 members for demonstrations at the district offices of 30 senators and a large demonstration in Trenton vowing to "Remember in November."[111]

The NJEA got its desired result: "For two weeks, no legislator could escape hearing about NJEA's opposition to pension reduction."[112] The NJEA killed three Sweeney/Buono bills and watered down others. Powell proclaimed, "This outcome represents a clear victory over Sens. Sweeney and Buono."[113]

In the end, the NJEA helped thwart three major attempts to address New Jersey's burgeoning retiree liabilities by reforming the system. All the while, the unreformed pension and health care plans continued to accrue liabilities in the same reckless, underfunded manner, guaranteeing that New Jersey's fiscal condition would continue to deteriorate. It took the election of Republican Chris Christie to the governor's office to bring about much-needed reforms.

**Modest but Real Reforms Under Christie.** The Great Recession and the election of Republican Chris Christie—a rare New Jersey politician of either party willing to stand up to the NJEA—in 2009 finally brought about some needed, albeit modest, reforms. But because of the nonforfeitable right to promised pensions granted by the 1997 law, any pension reforms could apply only to newly hired educators, leaving almost 90 percent of teachers unaffected. The NJEA's reaction to the hard times caused by the recession was particularly revealing. President Powell made clear what the NJEA's posture would be: "While we are concerned about the impact of the current economic crisis . . . the security of our members' pensions remains paramount."[114]

In 2010, Christie teamed up with Democratic Senate President Steve Sweeney to enact a number of the proposals from the 2006 Special Session that had been successfully blocked. Applying only to new hires, these reforms required that employees work full time to earn pension benefits, reversed out the 2001 pension increase, repealed the nonforfeitable right to pensions, and set a maximum pensionable salary. On the health care side, the bill mandated that all employees had to pay 1.5 percent of their salaries for their "Cadillac" health plans. In return, the state committed to reaching full pension funding incrementally over seven years.

Subsequent 2011 reform legislation raised employee pension contributions to 6.5 percent from 5.5 percent, plus another 1 percent phased in over seven years. For new employees, the law tightened early retirement provisions, increased the retirement age to 65, and rescinded COLAs until they are reactivated. The law also gave employees a contractual right to state pension funding, which the New Jersey Supreme Court later ruled unconstitutional. On health care, all employees were required to contribute at least 1.5 percent of their salaries, with the actual rate varying according to salary level and the provisions expiring after four years.

As in the past, the NJEA vigorously fought these reform efforts, engaging in a record-breaking campaign against them.[115] The NJEA launched a multimillion-dollar media assault, organized massive protests in Trenton and across the state, and lobbied legislators directly.[116] No legislator who voted for the reforms was endorsed in the 2011 legislative elections.[117]

**The Constitutional Amendment Fight with Sen. Sweeney.** The 2011 pension reform law granted educators a contractual right to pension funding, but the New Jersey Supreme Court ruled that unconstitutional. The court recognized that educators had a nonforfeitable contractual right to their promised pension benefits—as granted by the 1997 law—but they did not have a right to the funding of those pensions.

Consequently, the NJEA developed an audacious new plan to secure pension funding by amending the state constitution. To do so, the legislature had to approve putting the amendment on a ballot by votes in two consecutive sessions. The NJEA succeeded in getting the 2015 legislature to pass the amendment and pushed for the 2016 legislature to do the same in time to secure a position on the November 2016 election ballot.

Once again, the NJEA kicked into full campaign mode, declaring: "We will devote the resources necessary to succeed."[118] True to its words, early in 2016, the NJEA started polling and holding focus groups to shape messaging, hired experts on voter turnout, and trained a specialized cadre of political organizers to spearhead the effort.

**No legislator who voted for the reforms was endorsed in the 2011 legislative elections.**

Thanks to NJEA efforts, the assembly passed the bill. Moving to the senate, the NJEA resorted to its time-tested intimidation tactics to pressure Senate President Sweeney. The NJEA called the state's Democratic Party county chairmen and threatened to not make any campaign contributions to Democrats until the senate voted on the amendment.[119]

NJEA President Steinhauer challenged Sweeney directly: "We need a leader who will keep the promise. We will not accept anything less than the amendment he [Sweeney] promised this year."[120] NJEA Vice President Marie Blistan led a rally with hundreds of NJEA members outside of Sen. Sweeney's home district office. Press accounts noted the political stakes for Sweeney: "Delaying the pension proposal could damage Sweeney politically, since he is likely to run for governor in an anticipated primary next year where union support will be crucial."[121]

When Sweeney stood up to the NJEA and did not allow a vote, the amendment died. The NJEA vowed revenge. President Steinhauer threatened: "We're going to be involved at every level. We're going to take the energy that we were putting into this amendment and turn it right over and channel it into finding better leaders for the next year and a half."[122] NJEA protesters at an anti-Sweeney rally chanted, "Bye, bye, Sweeney."[123]

True to Steinhauer's threats, the NJEA PAC Operating Committee unanimously voted to become involved in the 2017 gubernatorial primaries. Traditionally, the NJEA had rarely been involved in primaries, but the committee's vote was "precipitated by Senate President Steve Sweeney's failure to hold the constitutional amendment pension vote." The NJEA was unequivocal: "If we don't like the decisions that are being made, we have an obligation to change the decision-makers."[124]

Shortly thereafter, the NJEA endorsed gubernatorial candidate Phil Murphy in the Democratic primary, and Sweeney soon indicated he would not run. Its taste for revenge not sated, the NJEA has since set up an anti-Sweeney website and spent $317,800 in anti-Sweeney attack ads in the 2017 legislative primaries.[125] In an echo of 1991, it endorsed Sweeney's Republican opponent (a Trump supporter) in the 2017 legislative elections. The NJEA is also threatening to challenge Sweeney for leadership of the state senate.[126] The fight continues to this day.

## Choices Have Consequences

Up until the Great Recession and the advent of Gov. Christie, the NJEA was able to construct the retiree benefit system it wanted and fought every attempt at reform. In addition to placing retiree health care with the state, the NJEA fought hard to keep teacher salaries negotiated at the local level while the resulting pensions remained with the state. Districts—and local property taxpayers—were thus freed from the full consequences of their pension-maximizing salary structures. At the state level, the NJEA worked to enhance and protect pensions and structure them so that they were systematically underfunded.

The result was exceptionally generous retirement benefits. Gov. Christie maintains that the average teacher puts in $195,000 over a 30-year career and gets back $2.6 million in benefits.[127] The 2005 Codey Task Force reached a similar conclusion.[128] This is quite a contrast with the original TPAF in which teachers were expected to fund half their retirement benefits.

The only thing the NJEA did not achieve was full funding. Politicians, keenly focused on self-preservation and presented with the choice of pleasing the NJEA or keeping state taxes down, did both—they gave the NJEA what it wanted on retiree benefits but did not spend the money to fund them. Sure, the NJEA made a lot of noise at rallies and in the press and filed a few lawsuits, but until 2015, it never directly punished lawmakers for underfunding the way it punished them for trying to shift pensions to local districts, cutting state education aid, or reducing benefits. Instead, during the time that pensions were being shortchanged, both incumbents and NJEA-endorsed candidates were elected at extremely high rates.

In the end, the NJEA wanted a system in which it could negotiate ever-increasing teacher salaries at the local level free from the competing demand of funding the pensions that were based on them. Of course, had teacher pensions been the local school districts' responsibility, increasing pension costs would have crowded out education spending (and teacher salary hikes) or required higher property taxes. That is a situation the NJEA did not want and fought vigorously to prevent.

But this choice has consequences. Local districts must balance their budgets without the fiscal shenanigans available at the state level, so they have been more diligent about funding their pension obligations to police and firefighters. These pensions are therefore in better condition than teacher pensions.[129] But the NJEA chose for the state to handle teacher pensions, and for many years, state lawmakers gave the NJEA what it wanted without paying for it.

As a result, the state is headed toward a fiscal train wreck. As Figures 1 and 2 show, retiree benefit payments are predicted to climb to an unsustainable $11.3 billion and 27 percent of the budget by 2023. As the Study Commission concluded—and even the NJEA has acknowledged—the state simply does not have the money to pay for these benefits without either severe cuts in services or massive tax increases—and most likely both.[130] Yet that is what the NJEA wanted to lock into the constitution—without any reform and regardless of the consequences to the state.

## The NJEA's Role

The facts reveal that the NJEA—the most powerful political force in the state—had a direct and substantial role in creating New Jersey's pension and benefits crisis. They show that the NJEA consistently pushed for enhanced benefits while depleting the assets that supported them. And they show that the NJEA was well aware of the importance of funding pensions and yet participated in schemes that persistently underfunded them. Now the NJEA wants to deflect the blame onto the state and stick New Jersey citizens with the ruinous bill.

## About the Author

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# Notes

1. In accordance with Government Accounting Standards Board statements 67 and 68. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of $161 billion, which when added to retiree health care liabilities of $67 billion, equals $227 billion. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at $186 billion, or with health benefits, $253 billion. This does not include unfunded liabilities of $41 billion at the local government level. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, March 10, 2017, 66 and 69.

2. The Pew Charitable Trusts, *Rainy Day Funds and State Credit Ratings*, May 2017, 10–12, http://www.pewtrusts.org/~/media/assets/2017/05/statesfiscalhealth_creditratingsreport.pdf.

3. New Jersey Education Association, "Members Prepare for 'PenBen' Campaign," *NJEA Reporter* 49, no. 11 (June 2006): 1.

4. This figure is in accordance with Governmental Accounting Standards Board statements. Financial Accounting Foundation, Governmental Accounting Standards Board, "Statement No. 67 of the Governmental Accounting Standards Board: Financial Reporting for Pension Plans," June 2012, http://www.gasb.org/jsp/GASB/Document_C/DocumentPage?cid=1176160220594&acceptedDisclaimer=true; and Financial Accounting Foundation, Governmental Accounting Standards Board, "State No. 68 of the Governmental Accounting Standards Board: Accounting and Financial Reporting for Pensions," June 2012, http://www.gasb.org/resources/ccurl/988/315/GASBS%2068.pdf. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of $161 billion, which when added to retiree health care liabilities of $67 billion, equals $227 billion. Joshua D. Rauh, "Hidden Debt, Hidden Deficits: 2017 Edition," Hoover Institution, May 2017, 13. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at $186 billion, or with health benefits, $253 billion. Stanford Institute for Economic Policy Research, US Pension Tracker, http://us.pensiontracker.org/stateSummary.php?id=NJ&selYear=2015&varName=field21&summary=1. This does not include unfunded liabilities of $41 billion at the local government level. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, 66 and 69.

5. Eileen Norcross, *Ranking the States by Fiscal Condition*, Mercatus Center at George Mason University, July 2015, 29, https://www.mercatus.org/sites/default/files/Norcross-StateFiscal-Condition.pdf.

6. Martin Z. Braun, "New Jersey Tops Illinois as State with Worst-Off Pension System," Bloomberg, November 2, 2016, https://www.bloomberg.com/news/articles/2016-11-02/new-jersey-tops-illinois-as-state-with-worst-off-pension-system.

7. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, 66.

8. The Public Employee Retirement System, the primary fund covering state employees, is projected to be fully depleted by 2024 and the judicial pension fund by 2021. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution: Report of the New Jersey Pension and Health Benefit Study*, State of New Jersey Department of the Treasury, February 24, 2015, 4, http://www.state.nj.us/treasury/pdf/FinalFebruaryCommissionReport.pdf.

9. The National Association of State Retirement Administrators calculated that New Jersey's unfunded retiree health care liabilities are more than $81 billion, which is the highest absolute amount of any state, and that these liabilities come to 5.2 percent of total state expenditures, the highest percentage in the country. Alex Brown, "Spotlight on Retiree Health Care Benefits for State Employees in Fiscal Year 2015," National Association of State Retirement Administrators, Center for State & Local Government Excellence, May 2017, http://slge.org/wp-content/uploads/2017/05/RHC-Brief-Final.pdf.

10. Samantha Marcus, "Citing Pension Woes, S&P Just Cut N.J.'s Outlook to Negative," NJ Advance Media, March 23, 2016, http://www.nj.com/politics/index.ssf/2016/03/sp_just_cut_nj.html.

11. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, State of New Jersey Department of the Treasury, February 11, 2016, ii, http://www.state.nj.us/treasury/pdf/NJPensionCommission-Supplemental-Report-on-Health-Benefits.pdf.

12. Ibid., ii. These projected costs reflect the phased-in contributions mandated by the 2011 pension reform law up to 2018 and a

further phase-in up to 2023. These amounts do not reflect the cost of fully funding these benefits. See New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 29. The full funding amount—rather than the phased-in amounts—required to meet the state's total obligation for 2016 is $8.05 billion, or 23 percent of the state budget. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 5.

13. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 8.

14. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, i.

15. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 3.

16. New Jersey Education Association, "NJEA Statement on Lottery Proposal," May 12, 2017, https://www.njea.org/njea-statement-lottery-proposal/.

17. Jeffrey Dorfman, "Illinois Credit Downgrade Proves Public Pensions Should Be Outlawed," *Forbes*, June 5, 2017, https://www.forbes.com/sites/jeffreydorfman/2017/06/05/illinois-credit-downgrade-proves-public-pensions-should-be-outlawed/.

18. Wendell Steinhauer, "President's Message," *NJEA Review* 88, no. 4 (December 2015): 7.

19. Michael Johnson, "President's Message," *NJEA Review* 72, no. 6 (February 1998): 6.

20. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 22.

21. Ibid.

22. Eileen Norcross and Frédéric Sautet, "Institutions Matter: Can New Jersey Reverse Course?" (working paper, Mercatus Center at George Mason University, Arlington, VA, July 2009), 65, https://ppe.mercatus.org/system/files/WP0930_Can-New-Jersey-Reverse-Course.pdf.

23. In 1954, the NJEA "secured passage of the first complete minimum State salary schedule." New Jersey Education Association, "Public Schools—Cornerstone of Liberty," *NJEA Review* 49, no. 6 (February 1976): 17.

24. New Jersey Education Association, *NJEA Collective Bargaining Manual*, 49, http://www.eiaonline.com/NJEA-Collective-Bargaining-Manual.pdf.

25. Ibid., 46.

26. Ibid., 48–49. The NEA uses these tactics as well. See Dave Winans, "Field-Tested Salary Campaign Tactics," August 2007, www.nea.org/home/16253.htm.

27. New Jersey Education Association, *NJEA Collective Bargaining Manual*, 45.

28. Special Session Joint Legislative Committee, *Public Employee Benefits Reform Final Report*, December 1, 2006, 86, http://www.njleg.state.nj.us/PropertyTaxSession/OPI/jcpe_final_report.pdf.

29. Marguerite Roza and Jessica Jonovski, "How Late Career Raises Drive Teacher-Pension Debt," Edunomics Lab, Georgetown University, December 2014, 5, http://edunomicslab.org/wp-content/uploads/2014/12/RR-Pension-paper-FINAL-4.16.15.pdf.

30. Michael Podgursky and Marguerite Roza, "Teachers' Pensions and the Overgrazed Commons," Governing, March 26, 2015, http://www.governing.com/gov-institute/voices/col-teacher-pensions-raises-nearing-retirement.html.

31. Johnson, "President's Message," 6.

32. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 10.

33. Ibid.

34. Public Law 2011, Chapter 78, requires that employees pay a portion of their health insurance premiums, ranging from 3 percent to 35 percent and averaging 17.7 percent, depending on the employee's salary. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 10.

35. A 2007 reform law required that state employees pay a minimum of 1.5 percent of their salaries for their health benefits, but school district employees' contributions were left to local collective bargaining agreements. Before 2011, the New Jersey School Boards Association determined that only 13 percent of school districts required any contribution. See New Jersey Education Association, *NJEA Collective Bargaining Manual*, 76.

36. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 6.

37. New Jersey Pension and Health Benefit Study Commission, *Truth & Consequence: Status Report of the New Jersey Pension and Health Benefit Study Commission*, State of New Jersey Department of the Treasury, September 25, 2014, 8, http://www.state.nj.us/

treasury/pdf/NJPHBSC.pdf.

38. New Jersey Pension and Health Benefit Study Commission, *Truth & Consequence*, 24.

39. Ibid.

40. This phrase was used by Fred Beaver, director of New Jersey's Division of Benefits and Pensions, to a legislative committee in 2006. Adam L. Cataldo, "The 'Cadillac of Health Plans' Is a Heavy Load to Deal with," Bond Buyer, March 30, 2006, https://www.bondbuyer.com/news/the-cadillac-of-health-plans-is-a-heavy-load-to-deal-with.

41. New Jersey Education Association, *NJEA Collective Bargaining Manual*, 76.

42. Ibid., 76.

43. New Jersey Education Association, "Holding the Line Against Premium-Sharing," *NJEA Reporter* 48, no. 1 (September 2004): 16.

44. Monsy Alvarado, "Workers' Health Care Causing Pain," *Bergen Record*, July 18, 2006, https://plainfieldstuff.blogspot.com/2006/07/state-budget-bergen-record-3-of-6.html.

45. Diane D'Amico, "Law's Expiration May Renew Battle over Benefits," Press of Atlantic City, January 31, 2016, http://www.thedailyjournal.com/story/news/local/2016/01/31/laws-expiration-may-renew-battle-benefits/79612412/.

46. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 40.

47. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 32.

48. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 16.

49. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 9.

50. Ibid., 13.

51. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 17.

52. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 13.

53. Ibid., 15.

54. To derive what proportion of a teacher's earnings will constitute a retired teacher's annual pension benefit, the number of years of service is divided by a fixed denominator. Under the 1919 law, the denominator was set at 70, so the formula was n/70, with *n* being the number of service years. Then n/70 is multiplied against a teacher's pensionable salary, which under the 1919 law was based on the average of the teacher's five highest-paid years.

55. New Jersey Education Association, "Better Retirement for New Jersey Teachers," *NJEA Review* 29, no. 1 (September 1955): 25.

56. The law increased the multiplier by reducing the denominator from n/70 to n/60.

57. New Jersey Education Association, "Busy, Right Away," *NJEA Review* 29, no. 1 (September 1955): 8.

58. Office of Governor William T. Cahill, "From the Office of the Governor," press release, April 5, 1971.

59. New Jersey Education Association, "Educational Disaster Averted," *NJEA Review* 50, no. 1 (September 1976): 16.

60. Joseph F. Sullivan, "Teachers Gird to Fight Change in Pension Plan," *New York Times*, February 19, 1984, http://www.nytimes.com/1984/02/19/nyregion/teachers-gird-to-fight-change-in-pension-plan.html.

61. Associated Press, "Teachers' Union Calls a Boycott," *New York Times*, April 23, 1984, http://www.nytimes.com/1984/04/23/nyregion/the-region-teachers-union-calls-a-boycott.html.

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63. New Jersey Education Association, "Insurance," *NJEA Review* 61, no. 6 (February 1988): 32.

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