

**WRITTEN TESTIMONY OF W. DAVID SHALLCROSS IN BEHALF OF
THE ADVOCATES FOR COLA RESTORATION AND PENSION REFORM
April 22, 2025**

In support of H6238, H5198, and 5318

Mr. Chairman and members of the Finance Committee, I am here today in support of three bills before the Committee. I urge you to support all three bills in your report to the entire House of Representatives. I thank you in advance for your time, courtesy, and attention.

To minimize the time of my oral presentation to the Committee, this written testimony will enhance what I would like to share with you without infringing on any more time than what is absolutely necessary. But it is important for you to know there is much to consider beyond what I am asking you to consider besides what I relate to you in oral testimony.

By introduction, I am one of the original members of the Advocates for COLA Restoration and Pension Reform. We started out with approximately a dozen or so members and a Face Book page to reach out to state retirees, municipal retirees, and public school retiree educators all part of the ERSRI Pension Fund. Currently our membership exceeds 5,000 members including family, friends, and supporters who believe in our issues and feel we have been treated unfairly with respect to federal and state law and the RI courts. We are organized as a non-profit R.I. corporation and also maintain a website for all our members and particularly the several hundred who reject joining Face Book for truly personal reasons.

It is significant to know we are not a bargaining agent, frequently referred to as a union. There are no unions/bargaining agents for retirees in this state. The redundancy should be obvious. There are no salaries, working conditions, etc. for retirees to bargain for. All of our members are volunteers and no one is paid nor do we collect dues. There are no 'agency shop' provisions as is common in this state with bargaining unions. It is impossible for retirees, as a group, to enter into contractual agreements, except that a pension is contractual in itself according to the RI Supreme Court. However, the state, in granting a pension to state, municipal, and public school educators enters into an individual contract with each retiree and current employees are mandated by law to contribute during their entire time of service toward that portion of the future retiree contract.

Recall that in 2011 the rallying call was "saving the pension fund" as if it were in dire states and about to collapse. That frightened the General Assembly to pass legislation that, as it turned out, was not nearly as

comprehensive as it was portrayed to be. And, to go a step further, violated sections of the RI State Constitution. Specifically, Sections 5, 6, 12, and 15.

Article 12 in its entirety states, *"No ex post facto law, or law impairing the obligation of contracts, shall be passed."* The then treasurer of the state termed the dire condition of the pension system to be an "emergency" to side-step Article 12, and relying on the use of "police powers" which allows limited adaption of Article 6 for specific situations. It would seem to be ridiculous that today, in 2025, the same emergency would continue to exist as far back as 2011, 14 years ago and extending into 2026 without being addressed by the General Assembly. In an interview with Katherine Gregg, Projo reported former Chief Justice Williams that the state expected to save \$406 million dollars each year as a result of the legislation. An October 12, 2010 document, "Recent Pension Reforms", with a state seal on it reported that savings of \$84.2 million had been achieved by the state and \$80.6 million had been saved by municipalities. The legislation preceding 2011 was just the start of an overall intent, not to 'save the pension' but to change the state and government contributions to it. And the victims of this injustice were retirees, and that injustice continues to this very day.

And, let's be very clear about this. COLA is an acronym for Cost of Living Adjustment which is typically based on the Consumer Price Index determined each year (actually monthly) to reflect the rate of inflation in the country. It reflects the percentage increase of Social Security benefits as the economy changes. Representatives and Senators in the R.I. General Assembly get a COLA each year based on the CPI, I'm sure you a familiar with the details. In this state, Rhode Island, only those retirees who do not receive Social Security benefits do not receive a COLA increase annually. In Rhode Island, 2/3 of the school districts do not participate in Social Security. A COLA is not a raise; it is a keep even with the change in the economy. Since 2012, the teachers in 2/3 of the states' school districts are still getting the same pension as they received in 2012. And I qualify that fact slightly. On a 4-year cycle, a \$500 stipend (\$125/year), approximately \$12/month before taxes, and the state deceptively misnames it a COLA. The Cost of Living since 2012 has increased by 40%. Without a COLA, these people are approaching poverty (40% loss to inflation) and the current legislation limits their pension to a 'cap' that starts at \$25,000 and increases slightly based on the CPI. The 'cap' right now is slightly above \$31,000. Keep that in mind when you read what I am providing further along in this written testimony.

Currently ERSRI members are 'banking' 11% of salary every paycheck over their entire career with the treasury and that is before taxes. It is a mandatory contribution taken from their paycheck before they even receive

it, along with the state and federal taxes and other deductions for a variety of reasons, health care being just one.

Rhode Island is having major problems attracting qualified state workers, municipal workers, and educators, especially in areas that require additional training and education. From a salary point of view they can probably make more in the private sector where skill and knowledge produce profits for owners and investors. Job security is not always a certainty so a 'make it while you can attitude' exists and job hopping is expected. Social Security is transferable and some IRA's are too. Location here is not a factor; anyone can get to Massachusetts or Connecticut in less than an hour, many much faster than that. If you work in a job in RI where Social Security isn't available, and it isn't in 2/3 of the school districts, why would anyone choose RI over one of the neighboring states? Just last month we all read that the Governor intended to raise his advisors' salaries by \$10,000, some more-some less, to stay competitive with these states, yet he ignores teachers and their students the same advantages he reserves for himself.

Advocates for COLA Restoration and Pension Reform are really approaching the issues from a few different directions. The retirees are obviously hurting the most at this point of their lives. They entered professions which never promised riches but which provided a decent retirement package at the end of their years, when age, health, and unforeseen factors make job hopping less likely. If married, many were in 2-income families, until a spouse died or a marriage fell apart. But circumstances change and while young and middle age workers have options, those nearing their 60's or 70's don't have that same opportunity. Getting hired when you reach the age where many are retiring, is not easy and if you lose half your income unexpectedly, well what options do you have? I am submitting an attached document copied from data supplied by the state treasurer's office, in a publication called the Compass, listing numerical data from which certain facts can be derived on an average basis. Clearly averages are middle grounds with highs and lows but averages tell a pretty convincing story. My comments there will be my oral testimony. Let me try to briefly review what was, what is, and what needs to be.

Prior to 2009, fundamentally a person's base pension was based on the highest 3-year average salary with a maximum pension of 80% after 35 years, with no age stipulation, and a minimum of 28 years. The 80% was reduced based on the service time below 35 years and the pension board had the authority over special circumstances.

In 2008, the House sought the advice of a local attorney, Daniel K. Kinder, who on May 28, 2008 submitted a six page report. Briefly, he advised 'leave

those already retired alone'. Don't mess with that contract already in force. Be very careful in altering anyone's pension rights who was already vested in the pension system, and it's possible to make careful alterations to the system for those new and not yet vested. In 2009 and 2010 changes were made, saving millions of dollars. But it didn't help very much because all that happened was the state and municipalities contributed less. The pension fund didn't prosper despite the savings that were realized. That was a GA mistake. The numbers were provided earlier in this testimony.

In 2011, the treasurer at the time made many changes, almost all of which are still in effect. She provided a report, "Truth in Numbers" that has been exposed as far more erroneous than truthful, but at the time, in her so-called emergency, got GA support and legislation. 205 law suits resulted in Superior Court. There was never a trial. In 2015 a secret backroom deal with union leaders led to an agreement. The court submitted that agreement to the GA for legislation. Note earlier I offered that retirees are not represented by bargaining agents but the court appointed someone as a retiree representative. Note also, only 5% of the ERSRI membership was recorded as having voted. Although it was a class action, 95% of the members never had the opportunity to vote. Testimony to that data is in the court records.

Clearly the 2011 legislation has saved the state and municipalities a lot of money by reducing their share of contributions. The most recent estimate is at least \$4 Billion for the state alone. Employees contributions have increased to 11% of salary. As the years go by and salaries increase, the pension fund grows by approximately \$1 billion over costs each year, some from investments and the some from increased contributions. As of March 2025, the assets of the ERSRI fund were valued at \$11.7 Billion dollars.

H 6238 if approved will reinstate the COLA to all eligible retirees using the CPI, eliminate the "cap" and return to the 3-year average as a base. It will not require additional revenue. The intent is to pay for all pensions using the assets already in the pension fund. Fundamentally, why have a pension fund if not to pay pensions with it. And, if adjustments are needed in the future, there is plenty of time to conduct the necessary assessments and get actuarial estimates based on those needs. Right now, the most serious problem is not having the money, it's not releasing what is already there to meet current needs of retirees.

H5198 if approved will reduce the combined age/service requirement, currently at 95 to 90. This does not bring the plan back to the pre-2012 immediately but it is a step in the right direction. It provides time for further assessment in subsequent years.

H 5318 if approved with correct the gap for those retirees who were left out from the change after last year's legislation.

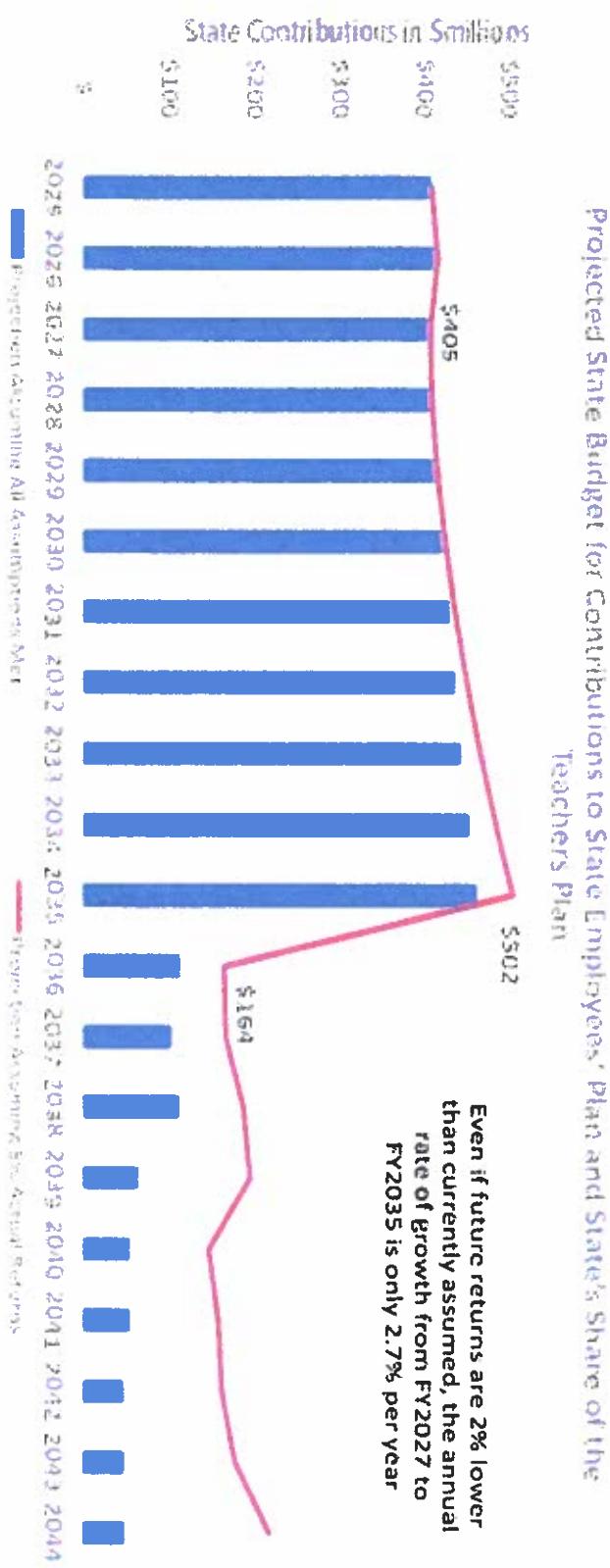
Approval of these three bills will fix the immediate problems for years, perhaps decades, to come and provide the data needed to make accurate assessments for budgeting in subsequent years. It will stop much of the erosion of new workers at the state, municipal, and teacher levels and with almost 12 billion dollars in the ERSRI fund, it won't impact this year's budget at all beyond the usual ARC. The longer we put off fixing the problem, the more it will cost in future years.

Members of the Finance Committee, I urge you to do what hasn't been done in 14 years. Send all three of these bills to the floor of the House, debate them, substantiate the needs for change, and commit to fixing the immediate issues. We urge you address the needs of current and future retirees and begin the process of future pension reform. We have talked with Treasurer Diossa about this potential.

Since I last testified before this committee, we have built a mutual support alliance of sorts between our Advocates for COLA Restoration and Pension Reform group and at least 21 House members who have confirmed their support, in writing, for our goals. Although the bills I have mentioned here in this testimony have up to 10 sponsors, please be advised that, if allowed, double that number of sponsors could have been added. And we promise to remember who our supportive friends are and encourage you to add your name to our list of friends. So any viewer of this testimony will know, we are a non-partisan group, a near perfect combination of democrats, independents, and republicans (note alphabetical order) and likely others working in support of each other. Now that is something to be proud of.

The Holmenkollen Graph

The funding plan continues to be expected to perform well under stressed scenarios. The scenario below assumes 5% actual annual market returns. As shown, the total budget outlay for the State to State Employees and Teachers only grows at 2.7% per year in this scenario, and the contributions still drop significantly in FY2036.



NO ONE WOULD EVER BELIEVE IT

By

W. David Shallcross

No one would ever believe it that the COLA FRAUD could have ever happened. The Supreme Court in RI confirmed that a COLA is just a normal part of a pension. The US Government includes a COLA in Social Security distributions every year.

The lawyer hired by the House of Representatives wrote and advised that the state should not alter the terms of a long standing contractual benefit that retirees were already receiving and even cautioned the state to move carefully in changing the contract with current employees.

The RI Constitution prohibits the laws that impair the obligations of contracts.

The state auditor testified there was a less drastic way to address the pension funding problem.

Then Representative Dickinson attempted to introduce a more moderate bill but was gavelled down by then Speaker Fox.

An 'unfunded liability' doesn't mean the fund is almost broke; it means the fund doesn't have enough money to pay everyone if all the members retired at the same time.

The judge determined that retired workers, called retirees, already receiving a pension should be in the very same class as employees who are not even eligible to become retirees.

The same judge didn't just sanction a class action law suit, she ordered it.

Further, she ordered the unions and the state to negotiate a new law instead of dealing with the laws that already existed. The judge ordered secret, private, negotiations that led to an agreement, that she approved while excluding retirees which under the law have no collective bargaining power, instead of deciding 205 lawsuits challenging the Constitutional validity of the new law.

And, unfortunately, most RI citizens see this as business as usual. **ONLY IN RHODE ISLAND!**

And people wonder why this state is seen as one of the most corrupt states in the nation.

For once in my lifetime I'd like to see RI Government function as a law-abiding example of what a democracy should be. No one would ever believe it based on what they have seen as 'normal' in this state.

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