



# **NCTR 87<sup>th</sup> ANNUAL CONVENTION**

## **FEDERAL LEGISLATIVE UPDATE**



**NATIONAL COUNCIL ON TEACHER RETIREMENT**



## **Federal Report:**

- The Last 12 months
- Update on Current Issues
- A Look Ahead



## The Last Twelve Months

- \$700 Billion TARP Legislation
- \$750 Billion Economic Stimulus Bill
  - \$250 Economic Recovery Payments to Retirees
  - “Making Work Pay” Tax Credit and Under-withholding
  - Extension of 3% Non-Wage Withholding for One Year



## The Last Twelve Months (Cont'd)

- Grassley Request for GAO Study of Investments
  - Investment strategies; asset allocations; governance
  
- Pensions and Teacher Quality
  - NCTQ Yearbook
  - Vanderbilt Conference on Teacher Retirement Systems
  
- IRS Compliance Initiative Pilot Survey
  - 15 National Public Sector Organizations file Joint Comments
  - Expanded Survey of 200-250 plans to follow; written report



## The Last Twelve Months (Cont'd)

- Divestment Legislation
  - Iran Divestment Bill (H.R. 1327) Clears House Committee
  - GAO Study of Sudan Divestment Bill Implementation
  
- HELPS II (H.R. 1413)
  - Extends \$3,000 Health Benefit to All Public Retirees
  - Removes Pension Plans From Admin. Role
  - Credit, Not Exclusion; Indexed; Retirement Date, Not Age
  
- GPO/WEP Repeal – H.R. 235; S. 484



## The Last Twelve Months (Cont'd)

### ■ SEC Proxy Access Rule

- Shareowners holding (for at least one year) 1 percent of the shares of companies with market values exceeding \$700 million would be able to have their nominees included on such a company's proxy ballot. The smaller the company, the more shares that would have to be owned before such access would be provided.
- "Election exclusion" rule would no longer allow a company to exclude from its proxy a shareowner proposal to amend the company's bylaws dealing with director nominations



## The Last Twelve Months (Cont'd)

- GASB ITC on Disclosure and Accounting Rules
  - Over 100 comments received, including joint letter from 61 retirements systems; several individual plan comments; letter from 27 State treasurers; joint letter from NCTR, 21 national organizations, including AARP
  - Two days of public hearings
  - More than just MVL discount rate issue at stake
  - Next step expected in mid-2010



## The Last Twelve Months (Cont'd)

### ■ SEC Pay-to-Play Rule Proposal

- Prohibit investment adviser from providing services to a government entity for 2 years after the adviser makes a political contribution to a public official that is in a position to influence the award of advisory business
- Ban the use of third party marketers to solicit government entities for advisory business on behalf of an investment adviser
- NCTR, eight other national organizations file comments



## The Last Twelve Months (Cont'd)

- **FBAR Reports**
  - NCTR, NASRA, NCPERS file letter urging filing requirement be dropped
  
- **Medicare Part B Premium Increase**
  - House fixes problem for some public employees, but Senate balks; could mean monthly premiums jump from \$96 to as much as \$119 in 2010 instead of \$103
  
- **Say-on-Pay Legislation (H.R. 3269)**



## Update on Current Issues

- IRS/Treasury
  - Compliance Initiative
  - Definition of Governmental Plan
  - Normal Retirement Age Regulations
- SEC
  - Informal Inquiry of Public Plans; New Enforcement Division Unit Focused on Plan Funding
- Financial Markets Reform
- Healthcare Reform



## IRS/Treasury

### ■ Compliance Initiative

- Recent meeting with Mark Iwry; work to defer larger survey; shift focus to compliance manual

### ■ Definition of Governmental Plan

- Notice of proposed rulemaking expected soon, followed by a series of town hall meetings, proposed regs, and final regs
- Concerns expressed regarding participation of association, union, non-governmental employees, organizations lacking “full faith and credit” authority



## IRS/Treasury (cont'd)

### ■ Normal Retirement Age

- Final regulations: No normal retirement before age 55; cannot be conditioned on years of service
- 2-Year Extension in 2008
- NCTR Proposal: public plans would not be required to define NRA; for those that do define a normal retirement age or date, may be based on age, service, or a combo of both; whether or not NRA or date is specifically defined, in-service distributions would be permitted when made on or after earlier of age 62 or the date when participant is permitted to receive unreduced benefits under the plan.



## SEC

- Informal “Voluntary” Inquiry of 12 state systems, perhaps more
- Linked to municipal securities disclosures, SEC desire to have greater control over muni bond market
- Detailed questions related to plan funding levels
- New Enforcement Division Unit to focus on unfunded and underfunded liabilities
- SEC experience with San Diego, private sector plans colors view of public plans
- Backdoor control over governmental plan accounting?



## Financial Markets Reform

### ■ Corporate Governance

- Little governance agenda in latest bills moving in the House
- Proxy Reform Authority – the bottom line?

### ■ Other Issues

- Legislation to ban “speculative” commodities investments, public funds investments in hedge funds/private equity in 2008; new concerns with “speculators” in 2009
- Credit rating agency reforms; do they go far enough?
- Effect of GAO report on public pension plan investments
- Restoring SEC authority to regulate hedge funds and require them to register



## Financial Markets Reform (cont'd)

### ■ Market Regulation Principles Endorsed by Public Plans:

- Increased disclosure and transparency
- True regulatory independence
- A greater shareowner voice in the capital markets
- Earlier identification by regulators of issues posing risks to global markets
- Preserving institutional investors' freedom to invest in a full range of opportunities



## Healthcare Reform

- House bill (H.R. 3200) cleared in July by three Committees: Ways and Means; Energy and Commerce; Education and Labor
- Senate now has two bills cleared by Finance Committee and Health, Education, Labor and Pensions (HELP) Committee
- House will merge its bills into one, as will Senate
- Floor action in November, Conference in December
- Obama gets it by Christmas Eve?



## Healthcare Reform (Cont'd)

- Details could adversely impact public sector
  - Senate Finance Bill would impose 40% excise tax on “Cadillac” health plans that cost above a certain threshold; would include all medical payments, including dental, vision, and contributions to health FSAs and HRAs
  - threshold of \$8,000 for single coverage and \$21,000 for family (higher for “high risk” professions, including police, fire); indexed to the CPI-U, plus 1%
  - tax paid by the insurer; if a self-insured plan, then the tax is paid by the “plan administrator.” Where an employer acts as such, then the tax would be paid by the employer.



## A Look Ahead

### ■ Retirement Security -- Obama proposals

- Expand Automatic Enrollment in 401(k)'s by streamlining IRS approval process; providing an automatic employee contribution increase feature for 401(k) plans; and allowing automatic enrollment in SIMPLE-IRAs
- Provide ability to use tax refunds to purchase U.S. savings bonds simply by checking a box on the tax return
- Allow Unused Leave to Be Converted to 401(k) Savings
- Provide new “plain-english” guidance on rollovers for plans to give departing employees that clearly explains how to roll over plan balances, the key decisions, and the tax consequences



## **Analysis of Tax Expenditures for Benefits/Retirement**

- Is the system working?
- Can 401(k)'s be “fixed?”
- Is it worth the Federal tax expenditure?
  - Healthcare
  - Pensions
- A “grand bargain on fiscal policy” combining fiscal stimulus as well as a commitment to take on entitlements such as Social Security?



- Difficult Regulatory Environment (SEC, IRS, Treasury)
- Support for DBs Undermined if Everyone Else Only Has Social Security and the Main Focus of Federal Efforts is Expanding Coverage through Auto-Enrollment IRAs
- Must Educate Federal Policymakers on the Value of Public Plans
  - Biggest constituent (with largest payroll) in their districts
  - Economic stimulus to every city and town
  - Prudent, long-term investor—positioned to continue paying benefits for the foreseeable future; have the time to rebuild reserves with a patient and proactive approach
  - Most reliable and economical way to provide retirement security; model for other sectors where benefit coverage, adequacy and security have seriously deteriorated.