



# Federal Legislative & Regulatory Wrap-up

**Jeannine Markoe Raymond, NASRA**  
**Leigh Snell, NCTR**

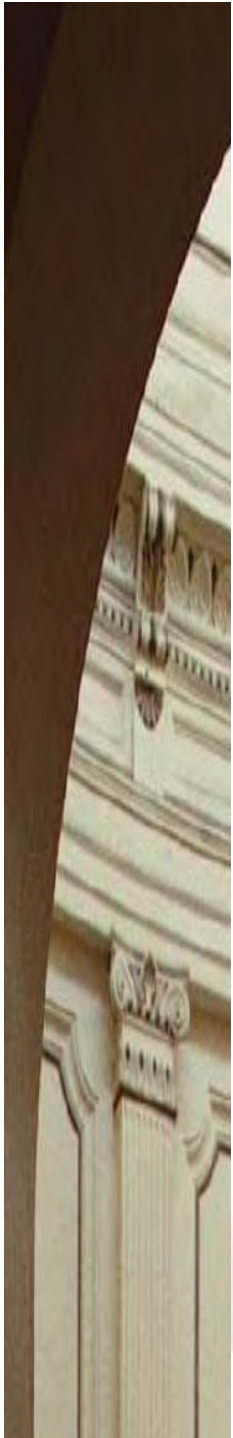
Joint Legislative & Regulatory Conference

February 27, 2017

Liaison Capitol Hill Hotel

Washington, DC

# New Congress/ Administration





# Leading Issues

- Tax Reform
- Dodd-Frank Repeal
- Regulatory Freeze
- “Two for One” Rule
- State-Run Plans for Private Employees



# Tax Reform

- U.S. House Ways and Means Committee taking lead
- Working off Republican Blueprint, which pledges to:
  - continue the current tax incentives for savings
  - consolidate and reform the multiple different retirement savings provisions in the current tax code to provide effective and efficient incentives for savings and investment
- Working groups formed to reach consensus on technical aspects, and Retirement Security is one of them
  - Reps. Buchanan (FL), Reichert (WA), Tiberi (OH), Roskam (IL) and Kelly (PA)
- Pensions historically eyed as revenue raiser in tax reform



# Dodd-Frank Repeal

- Executive Order to revisit
- U.S. House Financial Services Committee Chair Jeb Hensarling (R-TX) is lead sponsor of Financial Choice Act, which would repeal much of Dodd-Frank, including the current funding mechanism for GASB.
- Hensarling recently authored a WSJ opinion piece and suggested federal agencies should:
  - Penalize government bond issuers that fail to disclose unfunded pension liabilities
  - Put an end to government accounting and solvency standards



# Regulatory Freeze/ “Two for One” Rule

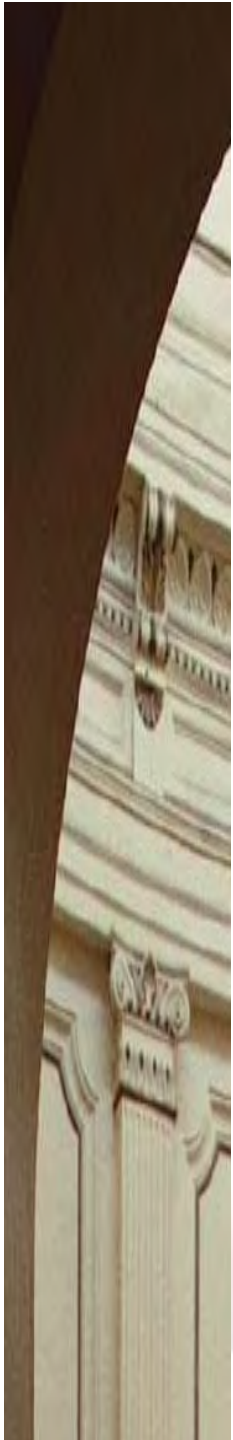
- A number of pending regulations:
  - Proposed Normal Retirement Age regulations for governmental plans
  - ANPRM (advanced notice of proposed rulemaking) for definition of governmental plan
  - Guidance regarding OMB pension cost principles for federal grants and awards

# State/Local Secure Choice Plans

- CRA resolution to repeal safe harbor for state/local secure choice plans
- Business groups support repeal, citing concerns with "mismanagement of state pension funds" and "politically motivated investment and divestment schemes"
- State elected officials sharply oppose "unwarranted preemption of state innovation"
- AARP issues "Facts and Fallacies," clarifying private sector will manage funds and will not be used to bailout public plans or for political investments



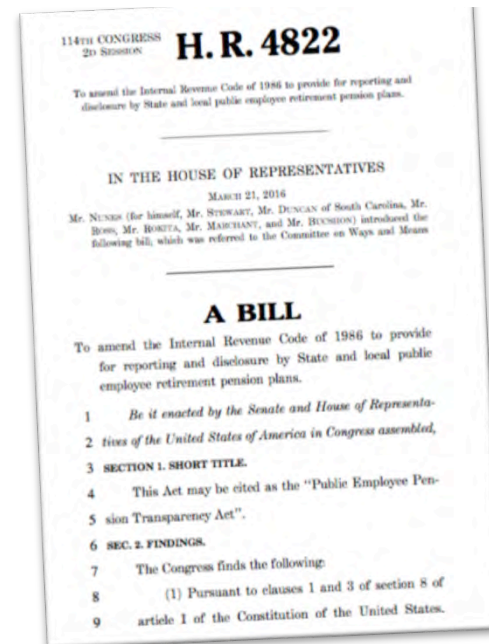
# Issues that May Carry Over from Last Congress







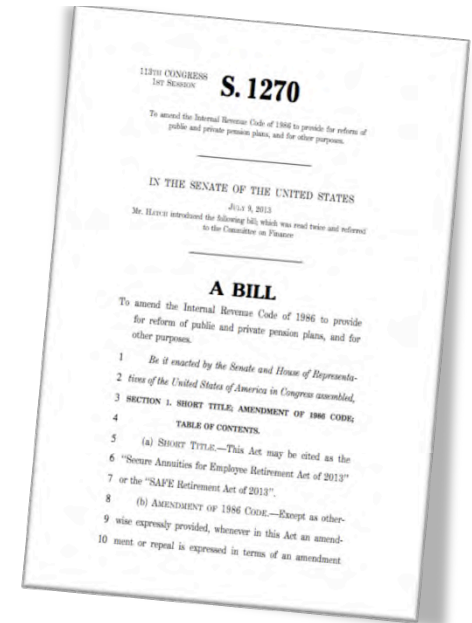
# Public Employee Pension Transparency Act (PEPTA)



- Would require costly/conflicting federal reporting requirements
- Plan sponsors that fail to follow correctly lose tax-exempt bond authority

# Secure Annuities for Employee Retirement (SAFE) Act

- Introduced by Senate Finance Committee Chairman Hatch (R-UT)
- Annuity accumulation “DB alternative” plan for state and local governments
  - Does not address existing unfunded liabilities
  - Does not include survivor/disability
  - Does not address workforce management issues





# Persistent calls to tie public pension mandates to other legislation

*"The fact that public pension debt helped spur the Puerto Rican debt crisis should serve as a warning of the devastating effects that can result from underfunded pension systems" – Rep. Nunes*

*"It would be beyond irresponsible to offer aid to Puerto Rico without taking at least some action to improve public pension reporting and transparency." – Sen. Hatch*

*"Any Puerto Rico rescue legislation passed by Congress must include provisions for better disclosures of pension liabilities by state and local governments." – Andrew Biggs, AEI*



## SFC Chairman Hatch's Opening Statement Hearing on Multiemployer Pension Plans

Today we will hear testimony about how the design and funding of multiemployer plans led us to this point. Not surprisingly, I suspect we'll hear that it is easier to promise pensions than to fund them. We will hear that because of lax rules in the current system, there is a great temptation for plan managers to make unrealistic actuarial assumptions and take on excessive investment risk. And we will learn about disturbing parallels between multiemployer pensions and the defined benefit pension plans run by many state and local governments.



# Multiemployer Plan Legislation

- Continued conflation of state/local plans and multiemployer plans (particularly Central States pension Fund)
- First cuts approved under Multiemployer Pension Reform Act (MPRA)
- MPRA modifies ERISA and is not applicable to state/local plans

# Opposition to Federal Intervention

June 16, 2014

Daniel M. Gallagher  
Commissioner  
U.S. Securities and Exchange Commission  
100 F Street, NW  
Washington, DC 20549

VIA FACSIMILE  
Dear Commissioner Gallagher:

On behalf of the national associations and appointed officials and public retirement officials before the Municipal Regulator Summit and to share salient financial reporting. In addition, we are as well as the state and local government sustainability of governmental retirement

We understand the SEC's interest in obligations. However, your common systemic, rather than individualized professionally managed and investment payout of these funds, assuming no

Attached for your review is an [annual 2014 facts](#) regarding state and municipal which better discloses the common decisions made by the Government rejected alternative standards as

You may not be aware of the municipal retirement plans. Nearly every state their pension reserves and to emerge recession. These changes have increased risk-sharing and other lower cost-of-living adjustments employees, retirees, or both. The reforms and has determined the financial crisis on the state-local budgets will eventually state-local full annual report

National Governors Association  
National Conference of State Legislatures  
The Council of State Governments  
National Association of Counties  
National League of Cities

The U.S.  
International City/County  
National Association of  
Government  
National Association

National Association of Counties (NACo)  
International Association of Fire Fighters  
U.S. Conference of Mayors (USCM)  
National Education Association (NEA)  
National League of Cities (NLC)  
National Association of Police Organizations (NAPO)  
National Association of State Auditors and Comptrollers  
International City/County Management Association  
American Federation of State, County and Municipal Government Employees (AFSCME)  
National Association of State Auditors and Comptrollers  
Service Employees International Union (SEIU)  
Government Finance Officers Association (GFOA)  
International Public Management Association (IPMA)  
National Public Employer Labor Relations Council (NPELRC)  
National Council on Teacher Education (NCTE)  
National Conference of State Social Security Administrators (NCSA)  
National Association of Government Defined Contribution Plans (NAGDCP)  
National Conference on Public Employee Retirement (NCPER)

April 15, 2015

The Honorable Mike Crapo  
Co-Chair, Committee on Finance Tax  
Reform Working Group on  
Savings & Investment  
United States Senate  
Washington, DC 20510

VIA ELECTRONIC MAIL: [Savings@finance.senate.gov](mailto:Savings@finance.senate.gov)

Dear Co-Chairs Crapo and Brown:

On behalf of the national organizations, elected and appointed officials, public retirement officials, employees and retirement in response to the request for public important policy work before the Saving & Investment. Our organization Working Group to ensure that our investment continue to support public invest, finance, and manage their public

December 11, 2015

VIA FACSIMILE: (202) 224-2499

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

Dear Majority Leader McConnell:

On behalf of the national organizations, elected officials, employees and retirement opposition to public pension requirements (S. 2381). These provisions are not limited mandate on all state and local government States and localities, and are conflicting.

The provisions are not germane to the costs or improve retirement system funding Congress as stand-alone bills nor receive many hearings pertaining to Puerto Rico

National Conference of State Legislatures (NCSL)  
International Association of Fire Fighters (IAFF)  
United States Conference of Mayors (USCM)  
Fraternal Order of Police (FOP)  
National Association of Police Organizations (NAPO)  
National Education Association (NEA)  
National League of Cities (NLC)  
International City/County Management Association (ICMA)  
National Association of State Auditors and Comptrollers (NASACT)  
American Federation of State, County and Municipal Government Employees (AFSCME)  
Government Finance Officers Association (GFOA)  
International Public Management Association (IPMA)  
National Public Employer Labor Relations Council (NPELRC)  
National Conference of State Social Security Administrators (NCSA)  
National Council on Teacher Education (NCTE)  
National Association of State Retirement Administrators (NASRA)

March 14, 2016

The Honorable Paul Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C., 20515

Dear Mr. Speaker:

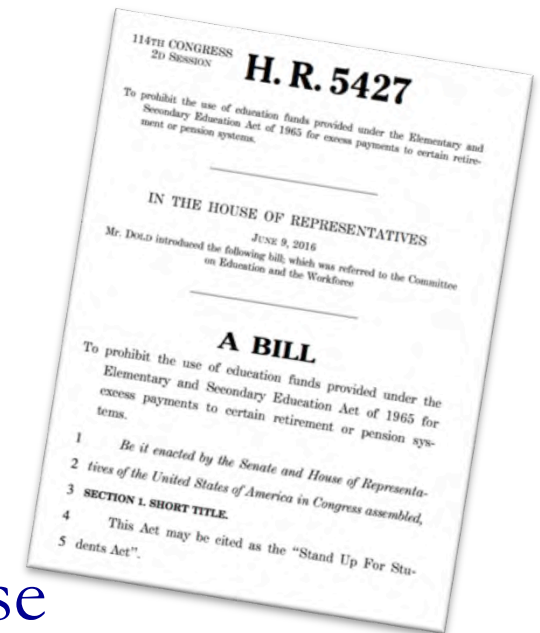
On behalf of the national organizations listed above, representing state and local governments, elected officials, public finance professionals, public employees and retirement systems, we are writing to express our strong opposition to the Public Employee Pension Transparency Act (PEPTA, not yet reintroduced). This legislation creates a dangerous precedent with regard to federal taxation and regulation of state and local governments and we strongly urge you to oppose these provisions, not become a cosponsor of the legislation, and ensure its exclusion from any legislation under consideration.


The proposal does not protect benefits, save taxpayer dollars or improve retirement system funding. To the contrary, it imposes federal unfunded mandates in areas that are the fiscal responsibility of sovereign States and localities, and is conflicting, administratively burdensome and costly. Further, it threatens to eliminate the tax-exempt bonding authority of state and local governments.

The legislation not only violates the principles of federalism, but represents a fundamental lack of understanding regarding state and local government operations and financing, including governmental accounting rules and strict legal constraints already in place that require open financial reporting and processes. It also ignores the fact that every state and countless localities have recently made modifications to pension financing, benefits structures, or both. For the latest information on the financial condition of state and local governments and their retirement plans, please see the following document: [State and Local Fiscal Facts: 2016](#).

# Stand Up for Students Act

- Stand-alone bill introduced by Rep. Dold (R-IL) to limit the use of Federal Title 1 funds for teacher pension costs
- Similar to provision almost passed as part of Every Student Succeeds Act (ESSA)
- Dold not reelected, but someone else could pick up where he left off





## Federal OMB regulations already restrict what can be charged to a federal grant or award

- Salaries and pension costs are specifically referenced
- Cannot charge federally-funded position more than and non-federal position
- Cost assigned to a given fiscal year must be funded in a timely manner
- Actuarial cost methods are allowable, but must be recognized by GAAP
- Proposed guidance expected from OMB, but likely subject to regulatory freeze





# Tax Treatment of Public Employee DB Contributions

- 414(h)(2) listed by JCT as a potential tax loophole that could raise revenue
- RR 2006-43 questions individual options/elections that change employee contributions
- 8/7/15 PLR found individual member elections into differing benefit tiers with varying contribution levels an impermissible CODA (201532036)
- H.R. 205 (113<sup>th</sup> Congress)



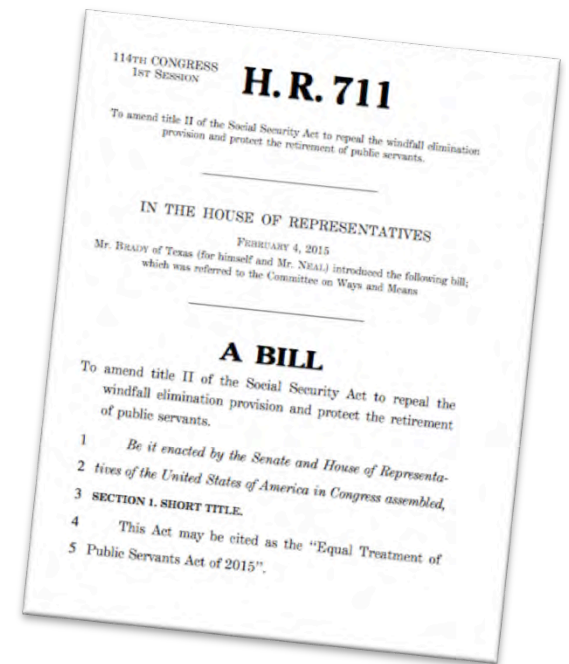
# Mandatory Social Security

- Debt reduction commissions recommend for newly-hired employees after 2020
  - “Future bailout risk,” simplification of benefit coordination cited
- Included in 2014 and 2016 CBO “Options” Report
- Included in BRT Roundtable proposal on SS and Medicare



# GPO / WEP

- Last year's sponsors: Brady (R-TX), Neal (D-MA)
  - Replace WEP with new formula
  - Pulled from mark-up



# Continued Interest by Market Regulators

- Securities and Exchange Commission
- Municipal Securities Rulemaking Board expanded jurisdiction under Dodd-Frank Act
- Financial Stability Oversight Council (FSOC) monitoring of markets and state/local economies
- Treasury Office of State and Local Finance
- U.S. Census Bureau







# Definition of Governmental Plan

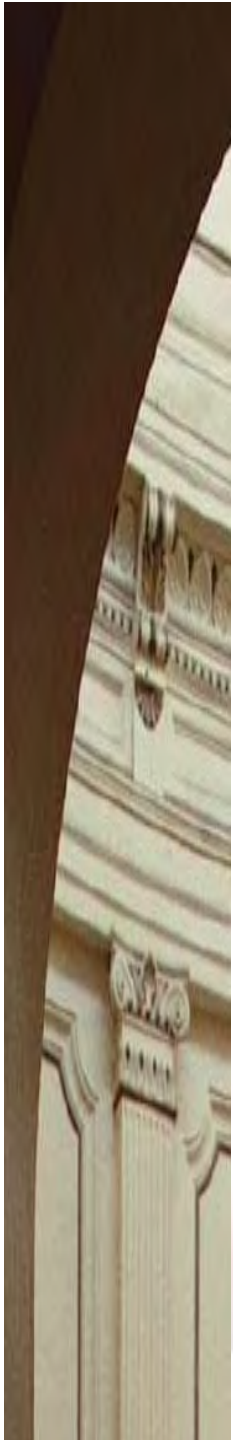
- ANPRM released on 11/8/2011
- Town hall meetings, phone forums, public comment period and IRS hearing
- Notice on 2015-07 regarding inclusion of charter schools in governmental plans
- Proposed rules expected



# Educating Federal Officials

- Considerable public pension beneficiaries and benefit distributions in each congressional district
- Public plan issues are not systemic; differing fiscal and legal frameworks defy a one-size-fits-all solution
- Every state has recently adopted tailored modifications to pension financing and/or benefits
- GASB recently completed a multi-year process of reviewing and revising pension accounting standards appropriate for state and local governments
- Public pension disclosures are public; online database already exists
- Proposed Federal mandates do NOT lower costs, protect benefits or improve pension financing; strongly opposed by stakeholders





**QUESTIONS?**