APRIL 2013

President Obama released his proposed budget in April, outlining $3.8 trillion in spending – with a $744 billion deficit - for fiscal year 2014, which begins on Oct. 1. Obama's proposal is projected to reduce combined deficits over the next 10 years by $1.8 trillion below what would otherwise be expected, though it would still add $5.3 trillion to the national debt during that time. The plan contains both tax increases and spending reductions, including some revisions to Social Security and Medicare that have angered some Democrats but for which Speaker of the House John Boehner, R-Ohio, has expressed some support. The budget is one of three major proposals now circulating in Washington, D.C., with the House and Senate each having passed their own spending bills. Some lawmakers, meanwhile, are still hoping for a "grand bargain" that will simultaneously overhaul the tax code and get federal spending under control. This could be the only year in which such a deal might be possible for some time, given the mid-term elections in 2014, followed by the run-up to the 2016 presidential campaign.

ISSUES AND EVENTS

Public Sector Groups: 'Do No Harm' to Public Pensions When Reforming Tax Code

A coalition of public sector groups wrote to lawmakers on April 15 to urge them to "do no harm" to public pensions as they consider tax reform legislation.

Tax benefits for retirement plans total $136 billion a year, which could make them an attractive target for lawmakers who are trying to reduce the deficit.

In comments submitted to the House Ways and Means Committee's Pensions/ Retirement Tax Reform Working Group, the National Association of State Retirement Administrators (NASRA), the National Council on Teacher Retirement (NCTR) and seven other groups listed the benefits of public pension plans to retirees and communities; noted that plans "are designed to cope with market volatility and have done so repeatedly"; and stressed that public pension funds are "highly transparent entities."

"In summary, under the current tax treatment of employer-provided retirement plans, the public pension community offers a robust retirement savings and delivery process that is both cost-efficient in terms of providing a retirement benefit that cannot be outlived, as well as flexible enough to accommodate necessary modifications to ensure sustainability," the groups stated. "These systems are laboratories of change, constantly testing creative solutions to improve the retirement security needs of the public workforce while respecting the unique characteristics and demographics of each jurisdiction, and doing so without the need for any federal mandates. Furthermore, no state has requested federal government aid to fund its pension obligations."

Four days later, the American Society of Pension Professionals and Actuaries (ASPPA) released a report that found that 71 percent of tax benefits for defined contribution retirement plans goes to families with adjusted gross incomes (AGI) of less than $150,000, and 60 percent goes to families with AGI of less than $100,000.

"The employer-based retirement savings tax incentive is the efficient and effective way to help Main Street save for retirement," ASPPA Executive Director and CEO Brian Graff said. "Proposals that would discourage employers from continuing to sponsor these plans are misdirected. We urge Congress to be very cautious when considering tinkering with a system that is helping so many American workers save for their financial future."

Moody's Announces Changes to Public Pension Calculations

Moody's, one of the nation's three major credit rating agencies, announced major changes to its analyses of state and local pension plans on April 17.

Under the new approach, Moody's will:

- Base its calculations of a pension fund's actuarial liabilities on "a high-grade long-term taxable bond index discount rate";

- Replace asset smoothing with "reported market or fair value as of the actuarial reporting date"

- Amortize liabilities over 20 years; and

- Allocate liabilities of multi-employer cost-sharing plans "to specific government employers based on proportionate shares of total plan contributions.

"The purpose of the adjustments is to provide greater transparency and comparability of pension liability measures for use in our credit analysis of public sector entities," Moody's stated. "The adjustments create a balance sheet liability concept that is similar to that used in the private and not-for-profit sectors and comparable to measures of debt outstanding as of a specific point in time."

Since public pensions generally use a discount rate of around 8 percent - several points above what would be expected from the bond rate to be used by Moody's - and amortize liabilities over 30 years, rather than 20, Moody's calculations could make funds appear to be in worse financial condition, which could affect their credit ratings. As a result of the changes, in fact, Moody's placed the ratings of 29 local governments and school districts - none in California - under review.

In June 2012, Moody's released its proposed changes - which were revised somewhat in the final version - for public comment. Several public sector groups commented on the proposal, with the National Association of State Retirement Administrators (NASRA) stating in a Sept. 10, 2012, letter that the changes would "actually reduce transparency and consistency in the analysis of pension liabilities."

"Actuarial measures are complex and often not well understood," NASRA stated. "The introduction of yet another set of calculations will result in increased, widespread confusion and misunderstanding of the meaning and implication of public pension actuarial measures. This, in turn, will be exacerbated by selective use: drawing on the funding level figure that best fulfills the objective of the user."

NASRA also criticized the planned changes to the discount rate and amortization period (which was 17 years in the initial proposal).

"The public pension community is highly diverse: every plan is unique, with its own demographic composition, governance structure, investment policy, risk profile, asset allocation, and investment returns," NASRA stated. "The application of one-size-fits-all measures to public pension plans, particularly for their discount rate and amortization periods, belies the unique and diverse composition of these plans. ... Actuarial standards require the selection of actuarial assumptions to be consistent. Yet the replacement of plans' investment return assumption, without making a corresponding adjustment for inflation, could result in a distorted plan cost and funding level."

A more recent internal document from the National Council on Teacher Retirement (NCTR) similarly finds fault with the changes.

"Moody's new numbers will inevitably increase state and local government borrowing costs," the NCTR document stated. "A plan that currently is well-funded will look substantially less so, even though the underlying reality of the conditions of the plan and the funding of the plan will not have been altered. Increased borrowing costs takes funds from other needed uses, and as the recovery begins to take hold, this is not a time to be increasing fiscal pressures on state and local governments."

Proposed Cap on Retirement Savings Could Have Unintended Consequences, Critics Warn

President Obama has proposed limiting tax benefits for individuals with a lot of retirement savings, a measure that could raise questions and challenges for pension plans.

The provision in Obama's fiscal year 2014 budget would extend the $205,000 annual limit on defined benefit plan distributions to defined contribution plans. So, if the value of all of a retiree's accounts were enough to provide annuity benefits exceeding $205,000, his or her ability to contribute to tax-advantaged retirement accounts would cease. In order to be affected by the cap, a person would need to have about $3 million in retirement savings.

While the proposal, if enacted, would affect a small percentage of people, some critics warn that it could have unintended consequences. Jack VanDerhei of the Employee Benefit Research Institute, for example, noted that it would create new recording and paperwork demands, which would be especially challenging if an individual had accounts with multiple past and present employers.

"I think a lot of what people are missing about this is this is most likely going to be very, very difficult from an administrative complexity standpoint for employers to deal with this," VanDerhei said.

Brian Graff, CEO of the American Society of Pension Professionals & Actuaries, meanwhile, suggested that small business owners who have savings exceeding the threshold could lose their incentive to maintain the plan and shut it down, to the detriment of their employees.

"This means that small business employees will now lose out not only on the opportunity to save at work, but also on contributions the owner would have made on the employee's behalf to pass non-discrimination rules," Graff said.

And at a Senate Finance Committee hearing on April 17, Sen. Ben Cardin, D-Md., one of the chamber's experts on pension issues, expressed his own doubts about the measure.

"It seems to me you are going to make it more difficult for people to put money away for retirement," Cardin said.

Obama will likely have a difficult time getting the proposal through Congress.

IMF Finds U.S. Public Pensions Investing More in Riskier Assets

Public pension funds in the United States are using riskier investments to seek higher yields more often, the International Monetary Fund (IMF) concluded in a report.

The IMF found that public pensions, particularly those with the lowest funding ratios, "have responded to the low-interest-rate environment by increasing their risk exposures."

"At the weakest funds, asset allocations to alternative investments grew substantially to about 25 percent of assets in 2011 from virtually zero in 2001, translating into a larger asset-liability mismatch and exposing them to greater volatility and liquidity risks," the report stated.

The report noted a similar trend with other institutional investors, such as life insurance companies, which, after exhausting their options for "liability management operations," have "migrated into higher-risk, less-liquid assets."

The IMF recommended that pension funds, rather than continuing to boost investments in alternative asset classes, "need to engage in active liability management operations without delay, which can most likely be achieved by restructuring benefits, extending working years, and gradually increasing contributions to close funding gaps."

"Asset reallocations of institutional investors to alternative asset managers, excess cash holdings by those asset managers, the decline in underwriting standards, and the sharp rise in bond valuations are all intertwined," the report noted. "Constraining those potential excesses is a financial stability imperative."

SEC Settles with Advisor Accused of Lying to CalPERS

The Securities and Exchange Commission (SEC) on April 18 announced that it had reached a settlement with an investment advisor accused of lying to CalPERS and other clients about the amount of assets that his firm managed.

The SEC charged that Umesh Tandon of Simran Capital Management in Chicago falsely certified that his firm met CalPERS' assets under management threshold when he sought to do business with the pension fund, claiming in 2008 that it managed at least $200 million, when the actual number was closer to $80 million. CalPERS, "induced by this deceit, and after eliminating other candidates for their failure to satisfy the minimum qualifications," selected Tandon to be an advisor, the SEC stated. Tandon was also accused of having misled other potential clients and to have fraudulently reported the amount of assets managed by Simran to the SEC.

"Tandon deliberately undermined the CalPERS screening process by grossly misrepresenting his firm's purported assets under management," said Merri Jo Gillette, director of the SEC's Chicago office. "To make matters worse, he then used his association with CalPERS to lure other public institutional investors under false pretenses."

Tandon, while admitting no wrongdoing, agreed to be barred from the securities industry and to pay disgorgement of $20,018, prejudgment interest of $1,680 and a penalty of $100,000.

House Panel Examines 'Too Big to Fail'

Congressional Republicans expressed frustration at regulators' progress on "too big to fail" issues at a hearing on April 17.

The 2010 Dodd-Frank Act states that one of its purposes is "to end too big to fail," that is, the notion that some financial firms are so large that the federal government must bail them out if they are approaching collapse, lest their failure destabilize the entire U.S. economy.

While Federal Reserve General Counsel Scott Alvarez said that the Fed "has made significant progress in the past few years toward the goals of making all firms, including large, systemically important firms, more resistant to failure and ensuring that no firm is too big to fail," he also acknowledged that "more work remains to be done."

GOP members of the House Financial Services Committee's Oversight and Investigations Subcommittee, which held the hearing, asked Alvarez how the Federal Reserve defined "a grave threat to the financial stability of the United States," the threshold set by Dodd-Frank for the Fed and other regulators to be able to break up a firm. Alvarez responded that there is no bright-line definition, and there probably will not be one.

"That would be a determination that would depend very much on the facts and circumstances of the case," Alvarez said. "It is very difficult to have a uniform rule."

Several Republican lawmakers were critical of his response.

"It's more or less a game-time decision to determine whether a grave threat exists?" Rep. Dennis Ross, R-Fla., asked. "You determine based on, I guess, discretion at the moment - that what may be considered a grave threat today may not be a grave threat tomorrow. ... It will be a situation of too late to save, because you're not going to be able to save these institutions if you have no standards in place by which they know how to correct what they don't even know is incorrect."

Subcommittee Chairman Patrick McHenry, R-N.C., similarly complained in a statement released after the hearing that regulators "haven't even defined the metric by which they will use that authority."

"It's a very frightening thing for us to see," McHenry said. "Your regulators here in Washington still haven't defined clearly how they'll use the authority given to them in law."

Two representatives of the Federal Deposit Insurance Corporation (FDIC) appeared at the hearing, Office of Complex Financial Transactions Director James Wigand and Acting General Counsel Richard Osterman.

Wigand and Osterman used much of their testimony to review the FDIC's work on the "living wills" that large financial firms must prepare under Dodd-Frank to outline the resolution process should they go bankrupt. The first group of 11 filers - those with at least $250 billion in non-bank assets - submitted their plans on July 1, 2012. The next group - those with assets of at least $100 billion but less than $250 billion - are to file by July 1, 2013, and the third and final group - those with assets of at least $50 billion but less than $100 billion - are to file by Dec. 31, 2013.

"Going forward, the FDIC and the Federal Reserve Board expect the revised plans to focus on key issues and obstacles to an orderly resolution in bankruptcy, including global cooperation and the risk of ring-fencing or other precipitous actions," Wigand and Osterman's prepared testimony stated. "To assess this potential risk, the firms will need to provide a jurisdiction-by-jurisdiction analysis of the actions each would need to take in a resolution, as well as the actions to be taken by host authorities, including supervisory and resolution authorities. Other key issues expected to be addressed in the plans include: the risk of multiple, competing insolvency proceedings; the continuity of critical operations - particularly maintaining access to shared services and payment and clearing systems; the potential systemic consequences of counterparty actions; and global liquidity and funding with an emphasis on providing a detailed understanding of the firm's funding operations and cash flows."

Separately, Mary Miller, the Treasury Department's undersecretary for domestic finance, said unequivocally on April 18 that the federal government will not bail out any more firms.

"A common use of the too-big-to-fail shorthand is the notion that the government will bail a company out if it is in danger of collapse because its failure would otherwise have too great a negative impact on the financial system or the broader economy," Miller said. "With respect to this understanding of too-big-to-fail, let me be very clear: it is wrong ... As a result of the comprehensive reforms passed by Congress and signed into law by President Obama, no financial institution, regardless of its size, will be bailed out by taxpayers again. Shareholders of failed companies will be wiped out; creditors will absorb losses; culpable management will not be retained and may have their compensation clawed back; and any remaining costs associated with liquidating the company must be recovered from disposition of the company's assets and, if necessary, from assessments on the financial sector, not taxpayers."

GOP Lawmakers Provide More Details on SGR Reform Plan; CMS Revises Approach on Medicare Advantage Payments

Republicans on a pair of House committees have released more details of their plan to reform Medicare's sustainable growth rate (SGR) formula.

The SGR, which was intended by Congress to automatically set Medicare's physician payment rates, annually threatens to slash the federal government's payments to doctors for services provided to Medicare patients. This year, were it not for a provision included in the "fiscal cliff" deal that passed in January, payments would have been cut by 26.5 percent. The cuts are blocked for only a year, though, and the SGR calls for the rates to be reduced by 24.4 percent in January 2014. Congress has overridden the SGR calculations every year since 2003 in order to avoid payment cuts that, it has been feared, would drive doctors out of the Medicare program. Another override is expected this year, but many parties are also hoping to enact a permanent fix.

In February, Republican leaders from the House Ways and Means Committee and the House Energy and Commerce Committee released a "framework" for SGR reform that also aims to promote improved quality of care and greater efficiency.

The committees on April 3 revealed details that were added to the framework following comments from stakeholders. The new document stresses that, "Fixing the flawed SGR physician payment system is a top priority for the Committees on Energy and Commerce and Ways and Means." The revised plan:

- Provides for several years of stable payment updates while quality and efficiency measures are developed as part of new alternative payment methods.

- Includes processes for determining quality and efficiency measures that are flexible and specialty-specific.

- Addresses the need for timely performance feedback to providers.

"Designing a system that is inclusive of all specialties and practice types presents a great challenge, and this draft makes a concerted effort to avoid a 'one size fits all' approach in favor of a versatile and inclusive process that provides for the maximum amount of individual choice," the document states.

The Congressional Budget Office (CBO) released a report in February that forecast that dropping the SGR formula and freezing physician payments at their current levels would cost $138 billion over the next 10 years, a more than 40 percent reduction from the $245 billion that had been projected. The price tag was reduced, according to CBO, primarily because of lower spending for physician services in recent years.

Also at the beginning of April, the federal government announced that it has reversed its plans to make SGR-related cuts to Medicare Advantage payments in 2014.

The Centers for Medicare and Medicaid Services (CMS) said on April 1 that it will increase payments to insurers providing coverage through Medicare Advantage by 3.3 percent. It had previously indicated that it would reduce payments by 2.3 percent. The change results from CMS deciding to yield to requests that it change its calculations to reflect expectations that the projected SGR cuts will not occur in 2014.

Even though the cuts have never actually taken effect, CMS annually assumes that they will when calculating projected Medicare spending for the following year. Those projections are then used to calculate payment rates for Medicare Advantage, which offers benefits through private insurers. Participating insurers complained of being short-changed as a result of unrealistically low projections of doctor payments, and they, along with many lawmakers from both parties and both the Senate and the House, urged CMS to take into account during their projections the near-certainty that the SGR cuts will not occur.

After initially maintaining that it was required to base its calculations on current law, CMS relented and assumed that Congress will act to prevent a cut in Medicare physician payments.

"We made this change to reflect the fact that Congress has annually changed the law every year since 2003 such that the projected SGR cut does not occur," CMS stated. "We believe it is more reasonable to base the estimate of projected growth in Medicare expenditures on the assumption that a fix will occur than it would be to base the estimate on current law."

The agency's actuary objected to the change, however, as CMS noted on the first page of its 195-page announcement.

"Although the Office of the Actuary agrees that Congress is very likely to override the physician fee reduction, the assumption conflicts with the Office's professional judgment that, as in all past years, the determination should be based on current law, not an assumed alternative," the agency noted.

The Congressional Research Service concluded in a March 26 memo that, "If the Secretary [of Health and Human Services, whose department includes CMS] articulates a reasoned basis for changing her interpretation of her authority under the Medicare statute to include the assumption that Congress will take a specific legislative action by a certain date, and if such an assumption were found to be both within her authority under the Medicare Advantage statute, and reasonable, not arbitrary or capricious, then it is possible the courts would defer to such a revised interpretation of the statute."

CMS also announced that the deductible for the Medicare Part D prescription drug plan will decrease in 2014 to $310 (from $325) and that the limit on out-of-pocket spending for the standard benefit will drop to $4,550 (from $4,750).

NCHC, 4 Other Groups Recommend Health Care Reforms

The National Coalition on Health Care (NCHC) and four other groups on April 11 released a set of recommendations for improving health care quality and reducing costs.

NCHC, America's Health Insurance Plans, Ascension Health, Families USA, and the Pacific Business Group on Health, working together over the past year as the Partnership for Sustainable Health Care, developed five key approaches to health care reform that it identified in its report:

- Move to a payment system that is based on value rather than volume: "These value-based payment approaches include a range of models that include incentives for patient safety, bundled payments, accountable care organizations, and global payments."

- Pay for treatments that have been proven to be effective: "The failure of the current system to make such differential payments results in the overuse of ineffective, costly services and the underuse of services that provide proven clinical benefits and high value."

- Encourage consumers to choose high-quality care: "When designing consumers' cost-sharing, differentiation to encourage the use of high-value services and providers should be used - without creating barriers to the appropriate utilization of services for any populations, paying special attention to the needs of low-income and other vulnerable populations."

- Improve the nation's health care infrastructure: "We need to strengthen and simplify the foundational infrastructure of America's health care system so that the cost- and quality-related innovations described above can work."

- Provide incentives for states to improve care: "States could use different combinations of strategies that fit their specific cultures and political environments, ranging from working with private and public payers to collaboratively implement major payment reforms, to modifying scope of practice restrictions, to providing incentives for improvements in care coordination to promote quality and patient safety."

"These five ideas are game-changers that can place our health system on a sustainable path," NCHC President and CEO John Rother said. "Together, they can provide significant long-term relief for families and businesses facing rising costs and uneven quality. By encouraging new forms of health care delivery and spending our health care dollars more wisely, they can produce the real health-cost reform that our elected leaders in Washington have been searching for."

CalPERS is a member of NCHC, and CalPERS Board Vice President George Diehr is a member of the NCHC Board.

RELATED NATIONAL AND INDUSTRY NEWS

GAO Finds Possible Bias in 401(k) Rollover Advice

Workers may not be getting impartial advice about what to do with their 401(k)s when they change jobs, the Government Accountability Office (GAO) concluded in a report.

Most participants in employer-sponsored 401(k) plans who leave a job roll the money into an Individual Retirement Account (IRA), but the GAO noted that such rollovers "may or may not be in the best interest of participants depending on their individual circumstances."

"Many experts told us that much of the information and assistance participants receive is through the marketing efforts of service providers touting the benefits of IRA rollovers and is not always objective," the report stated. "As we have reported in the past, the opportunity for service providers to sell participants their own retail investment products and services, such as IRAs, may create an incentive for service providers to steer participants toward the purchase of such products and services even when they may not serve the participants' best interests. ... Because of a lack of understanding of the distinction between investment education and investment advice or of the standards plan providers must adhere to when giving information or assistance, participants may believe that providers are giving them investment advice and that it is being provided in their best interest."

The GAO also noted that comparing distribution options - which also include leaving the money in the current plan, rolling it into a new qualified employer plan or taking a lump sum distribution - and fee structures can be complicated, and that waiting periods and verification processes may delay - and discourage - rollovers from one 401(k) to another.

"One plan sponsor told us that only 10 to 15 percent of participants who separate from the plan move their savings to a new employer's plan because of barriers in the process, including many paper forms and the involvement of both plan administrators," the report stated. "Furthermore, experts we interviewed said that these barriers in the process make plan-to-plan rollovers more difficult for participants. That difficulty may discourage participants from keeping their savings in the plan environment, which generally has lower fees, better comparative information, and ERISA plan fiduciaries required to select and monitor reasonable investment options."

The agency recommended that the IRS and the Department of Labor review policies concerning 401(k)s of departing employees and that Labor improve the quality of the information that is provided to plan participants who are changing jobs.

GAO IDs Possible Reforms for Multi-Employer Pension Plans

Congressional action is needed to avoid the possibility of "a substantial, and in some cases catastrophic, loss of income in old age" for hundreds of thousands of participants in multi-employer pension plans, the Government Accountability Office concluded in a report.

The report reiterated remarks made by GAO Director for Education, Workforce, and Income Security Issues Charles Jeszeck at a March 5 House Education and the Workforce Committee hearing, noting that, while the number of multi-employer plans considered to have a "critical" or "endangered" financial status has declined, about 40 percent still fall into one of those two categories. And of the 107 plans still in "critical" status, 28 are just trying to stave off insolvency for as long as possible.

When a fund becomes insolvent, the Pension Benefit Guaranty Corporation (PBGC) pays benefits to the fund's retirees, though typically at a much lower level than a healthy pension plan would have provided. The PBGC's multi-employer insurance fund, itself, is being heavily stressed and, according to projections, will be exhausted within 10 to 15 years, or much less if a large plan defaults.

"Given the serious challenges facing PBGC's multiemployer insurance fund and critically underfunded multiemployer plans, and to prevent the significant adverse effects of PBGC insolvency on workers and retirees, Congress should consider comprehensive and balanced structural reforms to reinforce and stabilize the multiemployer system," the report stated.

GAO identified two policy options that have been suggested by experts and stakeholders, though it did not endorse either one. First, trustees of multi-employer pension funds that are heading toward insolvency could be allowed to reduce accrued benefits for both workers and retirees. GAO noted, though, that this "could impose significant hardships on some retirees."

"Such an option would also significantly compromise one of the key founding principles of ERISA - that accrued benefits cannot be reduced - essentially rupturing a promise to workers and retirees who have labored for many years, often in dangerous occupations, and in some of the nation's most vital industries," the report stated.

GAO said that the modification could be combined with federal assistance for retirees who are affected, though this could be challenging given federal budgetary problems.

Second, experts and stakeholders suggested that Congress "give PBGC the authority and resources to assist the most severely underfunded plans," though this also presents fiscal problems.

"Unless timely action is taken to provide additional tools for the multiemployer plan trustees to stabilize the financial conditions of their plans, more costly and intrusive measures may later be necessary," the report stated. "Nevertheless, this situation can also be viewed as an opportunity both to protect the benefits of hundreds of thousands of older Americans and stabilize a pension system that has worked fairly well for decades. Without a comprehensive approach, efforts to improve the long-term financial condition of the multiemployer system may not be effective."

CALIFORNIA CONGRESSIONAL DELEGATION NEWS

California Congressman Introduces Public Pension Transparency Bill

A California Republican on April 18 introduced legislation that would impose new accounting and disclosure requirements on public pensions.

The “Public Employee Pension Transparency Act” from Rep. Devin Nunes, R-Calif., would require state and local pension plans to disclose to the Treasury Department their liabilities based on two calculations, one using current accounting methods - which typically project annual investment returns of around 8 percent - and one using "uniform guidelines" that, according to information released by Nunes's office, "will include more realistic discount rates, as well as controls to assure assets are counted using a reasonable estimate of fair market value." States and localities that do not comply with the disclosure requirements would lose the ability to sell tax-exempt bonds. The legislation would also prohibit bailouts of state and local governments "that have recklessly promised unaffordable benefits to their workers."

The bill is co-sponsored by House Oversight and Government Reform Committee Chairman Darrell Issa, R-Calif., and House Budget Committee Chairman - and 2012 GOP vice presidential nominee - Paul Ryan of Wisconsin.

"The key to addressing this problem is shining a light on the financial health of pension systems and making clear that federal taxpayers will not pick up the bill for reckless mismanagement," Issa said.

The National Association of State Retirement Administrators (NASRA), the National Council on Teacher Retirement (NCTR) and eight other public sector groups wrote n April 3, in anticipation of the bill's introduction, to Speaker of the House John Boehner, R-Ohio, "to express our strong opposition to the *Public Employee Pension Transparency Act* and respectfully urge you not to become a cosponsor of this legislation."

The groups noted that 44 states have enacted pension reforms since 2009 and asserted that, "It makes no sense to impose disruptive and costly federal requirements that only serve to interfere with state and local government economic recovery and pension reform efforts."

"This legislation creates a dangerous precedent with regard to federal taxation and regulation of state and local governments," the groups wrote. "It also represents a fundamental lack of understanding regarding the operations and funding of public pensions and the strong accounting rules and strict legal constraints already in place, which require open and transparent governmental financial reporting and processes."

Nunes and other Republicans have frequently criticized public pensions for using what they consider to be overly optimistic discount rates that under-represent their long-term liabilities. NASRA, however, recently released a fact sheet that stated that, over the past 25 years, public pension investment returns have averaged 8.8 percent annually, nearly a point higher than the 8 percent projection that is commonly used by funds.

The legislation has been endorsed by, among other groups, Americans for Tax Reform, the American Conservative Union, Citizens Against Government Waste, the National Taxpayers Union, the U.S. Chamber of Commerce and the National Federation of Independent Business.

Nunes introduced a similar bill during the previous session of Congress, but it never made it out of committee, nor did a companion bill in the Senate sponsored by Sen. Richard Burr, R-N.C.

California Congresswoman Vows to Consider Only 'Technical' Changes to Dodd-Frank; Panel Reviews Possible Revisions

A California Democrat said in April that she is only willing to consider technical changes to the Dodd-Frank Act.

Congressional Republicans have introduced various proposals to drastically change - or even repeal portions of - Dodd-Frank, which became law in 2010. House Financial Services Committee Ranking Democrat Maxine Waters of California has opposed those efforts, and she said in an April 10 speech before the U.S. Chamber of Commerce that she will continue to do so.

"As a member of the conference committee which negotiated the final text of the law, I have a responsibility to protect and help implement Dodd-Frank," Waters said. "I am certainly not open to wholesale revisions to the act, or receptive to packages of bills which, taken as a whole, essentially repeal its key provisions or dismantle it piece by piece. But I want you to know that where specific provisions of the act are shown to be detrimental to our goal of creating transparent and stable markets, I am open to discussing truly technical areas that require clarification."

She cited exempting end-users from the margin requirements of Dodd-Frank's derivatives rules as an example of a change that she supports.

Waters took a subtle jab at the Chamber for participating in lawsuits challenging portions of Dodd-Frank, especially one that blocked a proxy access rule from taking effect on the grounds that the Securities and Exchange Commission (SEC) did not conduct an adequate cost-benefit analysis of the proposal.

"I am not seeking to impugn the motives of those who honestly believe that the cost-benefit analysis conducted was truly insufficient," she said. "I can't help but wonder, however, if the true motive here was to stop implementation of this particular tool for shareholder protection. Moreover, I am concerned that strategy will be used more broadly as a way to attempt to dismantle provisions in Dodd-Frank."

Waters also said that, while there is "a lot of talk" from both Republicans and Democrats about trying to "break up the very largest financial institutions," no bill has been proposed that would do that.

"I've not seen a draft of any kind," she said. "I've not seen any real description of what it means to break up the large financial institutions."

The day after Waters' speech, the Financial Services Committee's Capital Markets and Government Sponsored Enterprises Subcommittee held a hearing to review the "Business Risk Mitigation and Price Stabilization Act" (H.R. 634), which would exempt end-users from Dodd-Frank's margin requirements for derivatives, as well as six other proposals that would tweak Dodd-Frank and generally have bipartisan support.

"End-users comprise less than 10 percent of the total over-the-counter derivatives market and do not significantly contribute to systemic risk," said Thomas Deas, vice president and treasurer of FMC Corporation and chairman of the National Association of Corporate Treasurers, two organizations that are part of the Coalition for Derivatives End-Users. "We believe there is broad agreement with the concept that end-users should not be subject to regulations designed to reduce the risk of swap dealers and others who maintain open or systemically significant derivatives positions and engage in market-making activities. ... Since end-users are balanced, with derivatives exactly offsetting underlying business risks, forcing them into the swap dealers' margin rules adds the considerable risk for end-users of having to fund frequent cash margin payments. This will introduce an imbalance and new risks onto transactions that are matched and will settle with offsetting cash payments at maturity."

Among the other bills are measures that would direct the Commodity Futures Trading Commission (CFTC) and the SEC to adopt joint rules regarding cross-border swaps transactions, and that would require the CFTC to perform cost-benefit analyses of proposed rules and "adopt a regulation only on a reasoned determination that the benefits of the intended regulation justify the costs."

Ken Bentsen, acting president and CEO of the Securities Industry and Financial Markets Association backed the cost-benefit analysis bill, saying, "it is critical that regulators carefully balance the benefits of swap-related regulation with the potential decreases in liquidity and increased costs to customers wishing to hedge their activities."

John Parsons, senior lecturer at the Massachusetts Institute of Technology, though, said he believes that the legislation could be "a step backwards," since it could lead to the production of "shoddy" analyses that have been "custom-tailored by well-paid lobbyists to fit the terms" of the mandate.

"Ultimately, it is the democratic process that assures that the good analysis wins out more often than not," Parsons said. "That democratic process cannot be short-cutted by mandates like the ones embodied in this legislation, but it can be damaged by them. I have personally witnessed strategy sessions in which players cynically worked to exploit existing cost-benefit mandates in order to frustrate the rulemaking process, and not to shed more light on the critical issues. That, too, is a part of the democratic process, for good or for ill. We should not be naïve as we attempt to improve the quality of information in the regulatory process."

The Financial Services Committee has not yet voted on the bills. The House Agriculture Committee approved them in March, all but one by voice vote.

California Democrat Wants Brief on Position Limits Rule Considered by Appeals Court

A California Democrat is still working to defend the CFTC's position limits rule.

The Commodity Futures Trading Commission (CFTC) adopted the measure in 2011 to cap the number of derivatives contracts a trader could hold on 28 commodities as a way to discourage speculative trading - which some say drives up prices of certain items - but it was struck down on Sept. 28 by a federal judge who determined that the agency "fundamentally misunderstood and failed to recognize the ambiguities in the statute." The case turned on whether Congress, in the 2010 Dodd-Frank Act, directed the commission to implement the rule or instructed the agency to do so only if it determined that such action was needed. The CFTC is appealing the ruling.

House Financial Services Committee Ranking Democrat Maxine Waters of California and the 16 other Democrats who had served on the conference committee that wrote the final draft of Dodd-Frank filed an amicus brief in the case a year ago arguing that the CFTC had acted appropriately and was not required to conduct any fact-finding before implementing the rule. Waters and House Agriculture Committee Ranking Democrat Collin Peterson of Minnesota recently filed a motion with the appeals court that is now reviewing the case to ask if it will consider the 2012 brief in its ruling.

"As a member of the Dodd-Frank Conference Committee, I know full well that Congress intended for CFTC to act to end speculation in key commodities markets," Waters said. "I will continue to work to make sure that happens."

California Congressman Again Asks for Climate Change Hearing

A California lawmaker, for the 25th time in less than two years, requested in April that a House chairman schedule a hearing on climate change.

House Energy and Commerce Committee Ranking Democrat Henry Waxman of California and Rep. Bobby Rush of Illinois, the ranking Democrat on that panel's Energy and Power Subcommittee, wrote to committee Chairman Fred Upton, R-Mich., and subcommittee Chairman Ed Whitfield, R-Ky., on April 9 to respond to a March 14 letter sent by Upton and Whitfield. In the letter, Upton and Whitfield rejected the previous hearing requests by stating that, "in the 112th Congress the Committee frequently addressed climate change issues" and asserting that the panel had "heard from more than thirty witnesses, including climate scientists, who testified concerning climate change related matters."

Waxman and Rush replied that the hearings and witnesses referenced by the GOP lawmakers did not provide an accurate examination of the science of climate change.

"To the contrary, these hearings provided a forum for science-deniers and industry representatives who oppose any action to address climate change," Waxman and Rush wrote. "The witnesses included seven witnesses from the electric utility sector, four witnesses testifying on behalf of the coal industry, two witnesses representing petroleum refiners, a witness for a chemicals manufacturer, and others opposed to EPA's efforts to cut carbon pollution, including Senator James Inhofe, who has called climate change a hoax."

They stated that the committee's only recent hearing dedicated to an objective examination of climate change science occurred only because Democrats forced it onto the schedule by using a procedural mechanism. At that hearing, they added, "the Committee heard undisputed testimony that climate change is unequivocal and primarily human-induced and that climate-related impacts are already occurring and are expected to worsen."