



Promises, Promises: 112th U.S. Congress Up and Running

Every two years, a new session of Congress convenes. Freshmen members arrive in Washington, D.C., briefcase in hand, full of optimism and energy. Returning veterans, on the other hand, proffer more cynical smiles. Whichever party is in power basks in the media limelight, making grandiose statements about what they will accomplish and how efficiently they will manage in the days ahead.

It's a ritual as familiar as the outline of the Capitol dome itself, and it was in full swing this month as the 112th session of Congress got underway. Republicans officially took control of the House of Representatives, setting the clock ticking to make good on their promises to voters to spark the listless economy, generate jobs, and lower the bloated federal deficit before the next election in 2012.

Leading the charge for the Republican agenda in the House is Speaker John Boehner (R-OH). In his remarks to the opening session of the House on January 5, he made it clear that he has big plans for change, not only in terms of policy priorities but also in terms of how the House itself operates. "Our aim will be to give government back to the people. In seeking this goal, we will part with

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some of the rituals that have come to characterize this institution under majorities Republican and Democratic alike,” he stated. “We will dispense with the conventional wisdom that bigger bills are always better; that fast legislating is good legislating; that allowing additional amendments and open debate makes the legislative process ‘less efficient’ than our forefathers intended. These misconceptions have been the basis for the rituals of modern Washington. The American people have not been well served by them.”

Ambitious goals are not anything out of the ordinary for this seemingly ordinary legislator who has had his share of congressional successes and failures. He was first elected to the House in 1990 and, after two terms, gained sufficient prominence to be elected to the number four post in the Republican leadership as GOP conference chairman. A scant four years later, Boehner tumbled from power, ousted from the party leadership by fellow members following the loss of five Republican congressional seats in the 1998 elections.

A consummate strategist and not one to give up without a fight, Boehner bided his time and in 2001 took on the chairmanship of the House Committee on Education and the Workforce. His timing was perfect, coinciding with the Bush administration’s push for passage of a landmark education bill.

The end result was the No Child Left Behind Act – and the reigniting of Boehner’s political climb. In 2006, he beat out Tom DeLay of Texas for the House Majority Leader position, and this time, when Republicans took a hit in the 2008 elections, his colleagues stuck with him.

Boehner’s leadership will be a key factor in determining the success or failure of the Republican agenda over the next two years. While his opening speech seemed to stress a desire to work cooperatively with fellow Democrats, some of the items on the Republican to-do list would indicate otherwise. Examples include the House vote to repeal President Obama’s healthcare reform legislation, as well as Republicans’ very publicly stated intention to zealously exercise their oversight authority through investigations and hearings into the administration’s programs and policies.

The chief Republican investigator is Rep. Darrell Issa (R-CA), who has been especially critical of the administration’s “wasteful” economic stimulus spending. Issa reportedly wants to give subpoena power to nonpolitical government watchdogs (i.e., inspectors general), strengthening their role in ferreting out the proverbial fraud, waste, and abuse. Their findings would then provide the basis for investigations by his committee.

And Issa is not alone in gunning for Democratic targets. Rep. Harold Rogers (R-KY), new chair of the

House Appropriations Committee, has stated that he wants top officials from all the major government agencies to appear before his committee and justify their spending. Then there is Rep. Fred Upton (R-MI), chair of the House Committee on Energy and Commerce, who has his eye on scaling back government regulations, starting with those in the pipeline at the Environmental Protection Agency.

But the real gorilla in the room is getting both parties to agree on how the government will be funded for the remainder of the current fiscal year, which ends in September 2011, as well as for the longer term. The Republicans’ “Pledge to America” commits to bringing nondefense discretionary spending down to 2008 levels, and Appropriations Chairman Rogers has reportedly met with every incoming House committee chair to hammer the point home. However, it is not clear whether all Republicans are on board and whether they fully understand all the implications of this level of cuts. Republicans themselves admit they will not meet the first-year target in the pledge of \$100 billion in cuts, given that only seven months remain in the current fiscal year. What is clear is that the first salvos must come before March 4, the expiration of the stop-gap funding measure that was passed last year to keep the government operating. The issue provides Speaker Boehner with an early opportunity to show how effectively he can orchestrate divisive issues and whether or not he has “metal” in his mettle.

Another fact of life for Republicans in the 112th Congress is that what the House proposes, the Senate disposes. With Senate Democrats maintaining the majority, albeit a significantly slimmer one than before the elections, they will be in a position to subvert, if not outright block, Republican initiatives. One reason for optimism that the Senate may rise above party politics and do more than “just say no” is that it boasts more experienced freshman legislators than the House. Hopefully they will put this experience to good use in building alliances that bridge the gap between Democrats and Republicans.

The Public Pension Transparency Act

Late in the recently completed 111th Congress, Rep. Devin Nunes (R-CA) introduced H.R. 6484, the Public Employee Pension Transparency Act (PEPTA). This legislation, with its harmless title, is anything but harmless.

It would, for the first time, impose a federal reporting requirement on the funding status of state and local pension plans. The reporting requirement would be the responsibility of the plan sponsor, that is, the state or municipal government. Failure to comply with the reporting requirement would result in the loss of the plan sponsor’s ability to issue bonds that are exempt from federal tax.

If enacted, the bill would require that reports be filed annually with the U.S. Secretary of the Treasury, effective for plan years beginning on or after January 1, 2011. Two distinct reporting methods would be required. First, pension liabilities would be reported based on the economic assumptions and rates of return that each plan currently uses as its expected (long-term) return. Second, all plans would be required to report their pension liabilities on a rate of return based on a U.S. Treasury obligation yield curve. The Treasury yield curve method would predictably produce dramatic increases in the calculation of unfunded liabilities of plans.

Proponents of PEPTA believe that greater transparency on the extent of unfunded liabilities will result in reforms at the state and local levels, including shifts to less generous defined benefit plans or to defined contribution plans. In addition, a nonbinding House Resolution just introduced by Rep. Jason Chaffetz (R-UT) states, “...it is the sense of the House of Representatives that (1) the federal government should not bailout state and local government employee pension plans and other post-employment benefit plans; and (2) state and local governments should immediately institute reforms to their employee pensions plans, including replacing defined benefit plans with defined contribution plans.” (Emphasis added).

NCPERS strongly opposes PEPTA on the following grounds:

- It is a bad precedent for federal intervention into areas that are the financial responsibility of and have been historically regulated by states and localities.
- Reporting based on the Treasury yield curve will conflict with current governmental accounting standards, increase costs on state and local governments, and undermine investor confidence in the municipal bond market.
- States and localities are already moving aggressively to modify their pension obligations to improve and enhance pension sustainability over the long term. In fact, more states have enacted significant pension reform legislation in 2010 than in any other year in recent history.
- The legislation is unwarranted. State and local governments are not seeking a federal bailout. Instead, they are making modifications to their pension plan to ensure viability for the long term.
- State and local pension systems collectively have prefunded nearly four-fifths of their future pension liabilities – even when accounting for the steep losses in 2008 and earlier this decade. State and local governments also have a much

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Executive Director's Corner

Hank H. Kim, Esq.
Executive Director
& Counsel

It's the start of a new year, a time for making resolutions to improve our personal and business lives. It's also a time for looking ahead and mapping out where we want to go, what we want to achieve, and how to accomplish it.

For the public pension community, I'll state it plainly: We have a tough year ahead. From a strategic standpoint, our industry will be playing a lot of defense – in Congress, in the regulatory arena, and in the media. The good news is that we're prepared to meet these challenges head-on. As part of NCPERS's critical role as an early warning system, we began laying the groundwork last year to be in a strong position to respond proactively to threats to our industry. As the saying goes, "The best defense is a strong offense."

One of the biggest – and most immediate – challenges is the Public Employee Pension Transparency Act. This bill was introduced in the House of Representatives in the waning days of the 111th Congress, but there was insufficient time for its consideration. Be sure to read the article on it in this issue of *The Monitor* to learn about the latest action taken on Capitol Hill.

If enacted, this bill would be extremely onerous for plan sponsors, creating extensive new annual reporting requirements along with penalties for failure to comply.

There is also the possibility that House Republicans will include government pension plans in their aggressive oversight agenda. While not likely to result in any serious federal legislative proposals, public plans could be the subject of hearings, drawing more unwanted, negative media attention and coverage.

To address these issues, NCPERS has a strong legislative strategy in place, with clear-cut priorities. The timing of our Legislative Conference at the end of this month couldn't be better, and we'll be among the first groups to lobby the new Congress.

On the public relations front, we continue to work as part of a coordinated industry coalition in Washington to develop a multipronged public relations campaign to tackle the media misinformation head-on.

I also want to take this opportunity to call on all NCPERS members to actively support these efforts, particularly at the grassroots level. For instance, when you see a negative or inaccurate news story about public plans in your local media, share that information with NCPERS headquarters. When possible and appropriate, we also urge you to respond to these inaccurate stories by setting the record straight. We're happy to help you frame your response if needed.

Finally, you can play a critical role in strengthening industry efforts by building and growing your relationship with your state and local officials. This includes arranging to meet with your senators and representatives when they are home in the district. Under new rules set in the House, members will have a guaranteed five-day constituent workweek at least once a month, providing a perfect opportunity for NCPERS members to meet with them one-on-one to discuss public pension plan issues and our concerns.

While the good times are nice, it's times like these that bring home the true value of our association. Working together, we strengthen all our voices – and turn challenges into opportunities.

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greater time period to recover than do other retirement plans.

- Inaccurate and inflammatory descriptions of the state of public pension plans only serve to confuse the public and unduly alarm state and local retirees.
- Finally, reporting based on the Treasury yield curve will result in projected economic returns that are unrealistic when compared with the diverse investments contained in pension

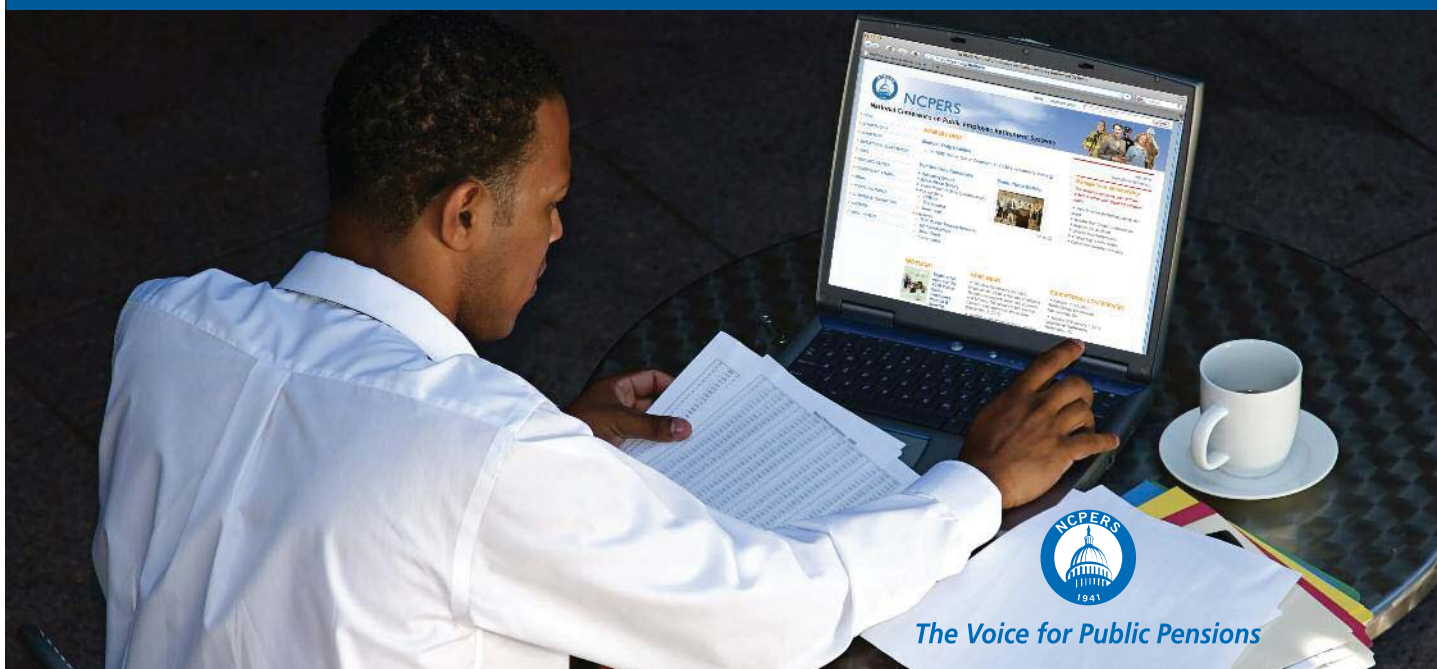
plan portfolios. A pension plan would have to be invested 100 percent in Treasury bonds for the yield curve calculation to have any real-world significance.

PEPTA has been co-sponsored by House Budget Committee Chairman Paul Ryan (R-WI) and Oversight and Government Reform Chairman Darrell Issa (R-CA). The bill's author, Rep. Nunes, is a leading member of the House Ways and Means Committee, which has jurisdiction over the legislation. The bill is expected to have support among

conservatives in Congress and is considered to have a strong chance of passing the Republican-controlled House of Representatives. Prospects for passage in the Democratic-controlled Senate are not as great.

A great deal of work will need to be done in the next few months to educate members of Congress and the Obama administration on the shortcomings of PEPTA. NCPERS will need the help of all of its members on this major project. Keep visiting www.NCPERS.org for the latest developments on this important issue. ■

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Website: www.NCPERS.org • E-mail: legislative@NCPERS.org

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