CalPERS' Federal Legislative and Policy Priorities for the 118th Congress

Investments

Millions of Americans, including CalPERS' members, rely on the financial markets for their retirement security. For CalPERS, 56 cents of every dollar we pay in benefits come from investment returns. With a $450 billion pension fund and liabilities for decades ahead, we need to generate a 6.8% rate of return per year. Therefore, the sustainability of portfolio companies and safety, soundness and efficiency of financial markets are of vital importance. Long-term value creation requires effective management of three forms of capital: financial, physical, and human. In furthering this goal, we will advocate that Congress and financial regulators focus on the following priorities:

- **Cybersecurity**
  We wrote to the Securities and Exchange Commission (SEC) in May 2022, supporting their Proposed Rule to require public companies to periodically disclose information on their cybersecurity risk management, strategy, and governance practices, and to report material cybersecurity incidents in a timely manner. We expect additional focus by policymakers on cybersecurity going forward because there is bipartisan support to address cybersecurity risk.

- **Climate Change**
  Climate change presents serious long-term risks and opportunities to our portfolio. This risk must be addressed in a number of ways, including advocating for a carbon pricing regime that actually reduces carbon emissions, and for disclosures focused on governance, strategy, risk management, and metrics and targets. We will work with the SEC to finalize its proposed climate rules, and with the International Sustainability Standards Board (ISSB) to finalize its initial climate rules.

- **Market Manipulation and Fraud**
  Recent trading in FTX shares highlight the need to closely monitor market fraud and related activities, and heighten scrutiny on investment activities, including disclosures, accounting, and due diligence. We will work with the SEC and the Public Company Accounting Oversight Board (PCAOB) to address accounting and fraud related issues.

- **Sustainable Equity Market Structure**
  We invest in global equity markets for their ability to provide exposure to economic growth and serve as a reliable source of liquidity. We will advocate for policy proposals that strike an appropriate balance between encouraging entrepreneurship and capitalism, with the need for strong antitrust policies and curbs on monopolistic competition by the Department of Justice (DOJ) and the Federal Trade Commission (FTC). We will also closely monitor SEC market structure rules that may impact our own liquidity.

- **Misaligned Incentives and Conflicted Order Routing Practices**
  Brokers are agents of investors and they have a duty of best execution, which should mean they get their customers the best prices for their trades. However, the SEC and the Financial Industry Regulatory Authority (FINRA) have permitted brokers (even when acting as agents) to accept incentives for order routing, which they can keep and not disclose to their customers. These payment arrangements are considered "payment for order flow" for retail traders, however, the same phenomenon happens with institutional traders like pension funds. In both cases, the customers often get worse prices, while their brokers make more money. In response to calls from numerous pension and mutual funds, the SEC adopted a transaction fee pilot program in 2018 that would have eliminated those payments for up to two years to study the impact, however, the program was halted by a Federal Court of Appeals. We supported the original fee pilot and will continue to advocate for reinstituting the program or another market-based response to the issue of payments for order flow.

- **Enhance Market Liquidity**
  The two major financial market shocks of 2008 and 2020 led the U.S. Treasury Department and Federal Reserve to develop several asset purchase and lending facilities that provided liquidity for companies and government entities authorized to participate. As major market participants, pension funds can also benefit from access to these types of emergency liquidity facilities during periods of major market stress. We will engage with policymakers and regulators to explore future opportunities for pension funds to participate in these types of programs designed to improve the effective flow of capital and support sustainable economic growth.

- **Housing**
  CalPERS is committed to investing in California. We seek competitive risk-adjusted returns while contributing to the well-being of the state, its localities, and residents by increasing or improving the supply of affordable and workforce housing. With substantial increases in mortgage interest rates, there is a heightened need to preserve the liquidity of the mortgage-backed securities market and protect taxpayers from uncompensated catastrophic housing risk exposure. We will advocate for housing finance reforms and national mortgage-serving standards that protect investors, honor the seniority of debt holders, and provide enhanced data access.

- **Infrastructure**
  The Inflation Reduction Act of 2022 (IRA) included provisions that will allow pension funds that are tax-exempt to receive funds from the federal government in an amount equal to the advantage that would have been received were it not tax-exempt. We will explore opportunities to make use of this development and engage with policymakers and regulators to explore future opportunities for public pension funds and other institutional investors to facilitate and make investments in essential infrastructure assets suitable to our specific risk-return objectives. To help promote the development

of renewable energy, we will advocate for legislation that will provide permitting reform to streamline the approval process for infrastructure projects.

- **Shareholder Charitable and Political Spending Transparency**
  We support proposals that require public companies to disclose information related to their expenditures on charitable and political activities at the local, state, and federal levels, including amounts donated to a third party to influence elections of candidates, ballot measures, or government actions.

- **Human Capital Management Disclosures**
  We will advocate for enhanced human capital management reporting requirements by the SEC and accounting modernization with the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB), including the addition of line-item disclosures regarding workforce demographics, total cost of the workforce, turnover, health and safety, workforce productivity and compensation, diversity, equity and inclusion (DEI), and human rights. We will work with the Human Capital Management Coalition (HCMC) and independently to respond to the pending SEC proposed rulemaking on human capital management disclosure. We will also work with the ISSB to build out its human capital management disclosure standards.

- **Reestablish PCAOB's Focus on Examinations, Enforcement, Standards and Auditor Independence**
  A robust and engaged PCAOB is vitally important to ensure investor confidence in the quality of corporate financial reporting. The work of the PCAOB should be reimagined to include monitoring compliance, providing guidance on climate risk reporting, and other issues important to investors, such as human capital management. The PCAOB should work with auditors to determine whether companies are properly considering climate and other risks relevant to sustainable investment. Additionally, the PCAOB should rescind its proposed rules amending the interim independence standards. These proposed rules will weaken auditor independence and will impede the ability of regulators to monitor and address auditor independence at the proper level, while also making it harder for investors and audit committees to fill the oversight gap left by the regulators.

- **Cryptocurrency**
  Non-bank financial intermediaries (NFBIs) have grown in number and assets since the major financial market shock of 2008. They offer investment opportunities that traditional banks do not, potentially making the financial system more efficient, but also more volatile. Specifically, the growth of cryptocurrency and decentralized finance has created a new class of NBFIs. While crypto companies promise innovative financial solutions and can be seen as emerging businesses, they are not appropriately regulated at this time. We support proposals that apply like-kind regulatory standards and enforcement mechanisms to financial products and services, regardless of the technology behind those products and services.

Health

With more than 1.5 million members, CalPERS is the largest purchaser of public employee health benefits in California and the second largest public purchaser in the nation after the federal government. In 2021, we spent over $10.2 billion to purchase health benefits for active and retired members and their families on behalf of the State of California (including the California State University) and nearly 1,200 public agencies and schools. Of this $10.2 billion spend, approximately $2.8 billion was for outpatient prescription drugs alone. CalPERS strongly supports legislative and regulatory changes that improve health care quality, access, and affordability for our members. Specific priorities during this Congress include:

- **Lowering Prescription Drug Prices**
  Rising prescription drug costs are driven largely by the growing number and increasing launch prices of specialty drugs and gene therapies, which represent a small fraction of drugs prescribed and administered, but account for a large portion of the overall CalPERS spend.
    - We support the federal government expanding its efforts to negotiate drug prices for Medicare, and working with the federal government as they decide which drugs to prioritize in their negotiations, extend this momentum to the commercial sector.
    - We support prohibiting anti-competitive arrangements used by manufacturers to block or delay the market entry of lower-cost generic drugs and biosimilars.
    - We support requiring prescription drug data transparency.
    - We support reforming practices of pharmaceutical benefit managers that increase costs without adding value.
    - We will work with Congress to include cost-benefit analysis in pricing, such as the Institute for Clinical and Economic Review (ICER) methodology, and outcomes-based pharmaceutical pricing.

- **Curbing Anti-Competitive Practices**
  Consolidation of health care providers has increased costs and reduced access for CalPERS members.
    - We support expanding federal and state oversight of mergers and acquisitions that increase the cost of care without improving value or the quality of care for patients.
    - We support prohibiting “anti-tiering” and “anti-steering” clauses in contracts between providers and health plans that restrict plans from directing patients to use specific providers and facilities with higher quality and lower prices.

- **Improving Behavioral Health Treatment**
  The burden of untreated and undertreated behavioral health conditions is both a major population health problem and a delivery system challenge. While statewide and national efforts, including parity legislation, stigma-reduction efforts, and large-scale federal waivers have made some important improvements in care delivery, our behavioral health systems have limited workforce capacity exacerbated by the COVID-19 pandemic and inadequate infrastructure to track and improve outcomes at the patient and population levels.
  - We support proposals that prioritize access to integrated behavioral health and early intervention and treatment to improve health outcomes, save money, and reduce stigma.
  - We support proposals that ensure meaningful and equitable access to behavioral health and physical health through innovative digital health approaches and modalities.
  - We support bolstering the country's behavioral health resources and workforce at all levels of care.
  - We support delivery system reforms that use data and patient-reported outcomes to drive change at the patient, practice, and population levels.
  - We support improved accuracy of health care provider directories and stronger enforcement standards to protect those seeking mental health care and substance use treatment.

- **Promoting Healthcare System Improvement**
  CalPERS believes that innovative and tested delivery system reforms can result in better quality, health equity and lower costs through collaborative efforts across purchasers and providers. CalPERS is currently collaborating with both federal purchasers, major state purchasers and California health care entities on a range of initiatives. These include promoting advanced primary care, aligning measures and incentives to foster improvement in care and equity, innovative digital health strategies, and working with the Centers for Medicare and Medicaid Services (CMS) Innovation Center to accelerate the shift from a fee for service, volume-based healthcare system to a value-based healthcare system.
  - We support alignment across health care purchasers to use a focused set of epidemiologically-relevant clinical quality measures to drive large-scale improvements in health outcomes and that measure, address, and eliminate health inequities.
  - We support adoption of health equity strategies that align with CMS' Framework for Health Equity and provide an integrated approach to close gaps in health and health care access, quality and outcomes and to invest in solutions that address health disparities.

- We support proposals that ensure digital health technologies do not increase the total cost of care and are accessible, equitable, and optimize physical and behavioral health outcomes.
- We support continued testing of various payment and service delivery models that promote advanced primary care, achieve better care for patients, and promote smarter spending.
- We support proposals to strengthen the Medicare program to ensure access to high-quality equitable care and affordable coverage for our members.

- **Prohibitions Against Surprise Billing**
  CalPERS supports the federal ban on the practice of surprise balance medical billing. We will engage in the rulemaking process as necessary to implement this important new legislation to ensure it is as protective of health care consumers as possible.

Retirement Security

CalPERS is the nation's largest public pension system, with approximately 2 million members from California's state, school, and public agency employers. CalPERS also administers a supplemental income plans program with over forty thousand participants. Keeping our promise of a secure pension remains a cornerstone of our mission and we will continue to focus our efforts to ensure the long-term sustainability of pension funds. We will work to inform Congress, the Administration, and other national opinion leaders about defined benefit plans and the value they provide, not only to public sector employees, but to the general economy. Specific priorities in this Congress include:

- **Advance Retirement Savings and Security for All Employees**
  In our leadership role, CalPERS advocates for retirement security for America's workers and for the value of defined benefit plans, retirement savings accounts, and Social Security. We support proposals that improve retirement savings options, reduce the negative impacts of Social Security's Windfall Elimination Provision (WEP) and Government Pension Offset (GPO), as well as proposals that maintain state and local government options to elect participation in Social Security.

- **Protect Defined Benefit Plans**
  We oppose proposals that provide federal incentives or options to replace defined benefit pension plans, or proposals that place federal restrictions on state and local pension plan design flexibility.

- **Appropriate Plan Funding and Accountability**
  We support proposals for transparent financial reporting using industry-recognized accounting and actuarial standards that reflect the unique and varying legal and financial constructs of governmental plans, as well as efforts to minimize misunderstanding and misuse of retirement systems' financial and actuarial reporting.