

THE SOCIAL SECURITY OFFSETS – WEP AND GPO

The Windfall Elimination Provision

The Windfall Elimination Provision (WEP) reduces the Social Security benefits of local, state and federal retirees who worked in Social Security-covered employment (e.g., private-sector jobs) and who also receive a government annuity from their non-Social Security covered government employment.

Specifically, the WEP applies to federal retirees who began their federal employment prior to 1983 and are covered by the Civil Service Retirement System (CSRS). Under CSRS, federal employees do not pay the 6.2 percent payroll tax toward Social Security, and therefore, do not earn any Social Security benefits based on their federal work. The WEP does not apply to federal employees covered by the Federal Employees Retirement System (FERS), as these federal employees pay the 6.2 percent payroll tax and therefore earn Social Security benefits based on their government work. The WEP also applies to state and local government retirees who likewise did not pay Social Security payroll taxes in connection with their government employment, similar to CSRS.

Normally, Social Security benefits are calculated using a progressive formula in which an individual's Average Indexed Monthly Earnings (AIME) are multiplied by three progressive factors – 90 percent, 32 percent and 15 percent – at different levels of AIME, resulting in the basic monthly benefit. In 2021, the first \$996 of AIME is multiplied by 90 percent, then added to AIME over \$996 through \$6,002, multiplied by 32 percent, then added to AIME over \$6,002, multiplied by 15 percent. Under the WEP, the 90 percent factor is reduced to as low as 40 percent.

As of December 2020, the WEP affects 1,948,427 beneficiaries, including 1,836,538 retired workers, 12,520 workers with disabilities, and 99,369 spouses and children.¹ In 2021, the WEP can result in a monthly benefit that is \$498 lower than under the regular benefit formula. This unfair reduction causes a disproportionate reduction in benefits for workers with lower monthly benefit amounts than those with higher benefit amounts.

The Government Pension Offset

Legislation was enacted in 1977 to prevent government retirees from collecting both a government annuity based on their own work in non-Social Security covered employment *and* Social Security benefits based on their spouse's work record. The new law became effective with government employees who were first eligible to retire in December 1982. The law – known as the Social Security Government Pension Offset (GPO) – provides that two-thirds of the government annuity offsets whatever Social Security benefits would be payable to the retired government worker as a spouse (wife, husband, widow, widower). Take the example of a spouse who receives a civil service annuity of \$900 per month based on his/her own earnings, and applies for a Social

¹ See "Social Security: The Windfall Elimination Provision (WEP)," Congressional Research Service, p. 8, available at: <https://crsreports.congress.gov/product/pdf/RS/98-35>

Security widow(er)'s benefit of \$500. Two-thirds of his/her annuity, or \$600, totally offsets the Social Security widow(er)'s benefit. Therefore, he/she receives no widow(er)'s benefit from Social Security.

As of December 2020, the GPO affects 716,662 beneficiaries. Of those affected by the GPO, 47 percent are widows or widowers, and 83 percent are women.² In addition to Civil Service Retirement System (CSRS) annuitants, the GPO affects thousands of state and municipal retirees, as well as teachers and police officers whose work is not covered by Social Security.

Current Legislation

NARFE is a leader in the effort to repeal or reform the WEP and GPO, and legislation introduced in the 117th Congress would achieve significant relief for those impacted by the provisions.

H.R. 82 and S. 1302, the Social Security Fairness Act

The Social Security Fairness Act, H.R. 82 and S. 1302, introduced by Rep. Rodney Davis, R-IL, and Sen. Sherrod Brown, D-OH, would fully repeal the WEP as well as the Government Pension Offset (GPO). NARFE supports the legislation, and we will continue to work with our allies in the 117th Congress to advance this legislation to provide meaningful relief to federal retirees affected by the unfair penalties.

H.R. 2337, the Public Servants Protection and Fairness Act

The Public Servants Protection and Fairness Act, H.R. 2337, introduced by the Chairman of the Ways and Means Committee, Richard Neal, D-MA, would provide some relief from the WEP for both current and future retirees. While the legislation does not fully repeal the WEP, it represents a significant improvement over the status quo for CSRS retirees unfairly penalized for their public service—and for this reason NARFE supports the bill. Specifically, the bill would do the following:

- **Individuals turning age 62 before 2023:** Under the bill, individuals receiving WEP-reduced Social Security benefits based on their own work record would receive a rebate of \$150 per month.
- **Individuals turning age 62 in 2023 or later:** These individuals' WEP penalty would be subject to either a new formula or the current formula, whichever provides a lower penalty. The new formula would calculate benefits based on the proportion of a worker's career earnings in Social Security-covered jobs to total earnings in covered and non-covered jobs.

² See "Social Security: The Government Pension Offset (GPO)," Congressional Research Service, p. 10, available at: <https://crsreports.congress.gov/product/pdf/RL/RL32453>

H.R. 5834, the Equal Treatment of Public Servants Act

The Equal Treatment of Public Servants Act, H.R. 5834, introduced by the Ranking Member of the Ways and Means Committee, Kevan Brady, R-TX, would provide relief from WEP from both current and future retirees. While this legislation does not fully repeal the WEP, it represents a significant improvement over the status quo for CSRS retirees unfairly penalized for their public service—and for this reason NARFE supports the bill. Specifically, the bills would do the following:

- **For individuals who are first eligible for Social Security benefits before 2023 (turning age 62 before 2023):** Under the bill, individuals receiving WEP-reduced Social Security benefits based on their own work record would receive a payment of \$100 per month. Meanwhile, spousal and child beneficiaries receiving a WEP-reduced Social Security benefit would receive a payment of \$50 each month.
- **For individuals who are first eligible for benefits between 2023 and 2060 (turning age 62 in 2023 through 2061):** These individuals' WEP penalty would be subject to either a new formula created by the bill or the current formula, whichever is more beneficial. The new formula would calculate benefits based on the proportion of a worker's career earnings in Social Security-covered jobs to total earnings in covered and non-covered jobs.
- **For individuals who are eligible for benefits starting in 2062 (age 21 and under in 2021):** These individuals' WEP penalty would be calculated with the new formula only.

Comparing H.R. 5834 & H.R. 2337

H.R. 5834 and H.R. 2337 apply similar constructs. Each provides a rebate for those currently eligible for Social Security benefits, and the same, new formula for those becoming eligible in the future.

However, there are a few, notable differences. First, H.R. 2337 provides a slightly larger rebate than H.R. 5834 (\$150 vs. \$100 per month) for the primary worker, but does not provide any rebate for spousal and child beneficiaries (\$0 vs. \$50 per month). Second, H.R. 2337 always provides the greater of the new formula or the current one, whereas H.R. 5834 eventually only uses the new formula (for workers turning age 62 in 2062 or later).

As a result of the differences, H.R. 5834/H.R. 2337 does not increase costs for the Social Security Trust Fund over a 75-year window, whereas H.R. 2337 does.

NARFE supports both pieces of legislation, as they would both provide much-needed relief to individuals unfairly penalized by WEP. Recognizing the differences, we urge both sides of the political aisle to work together on a compromise that improves fairness, provides real relief for current retirees, and, importantly, passes into law.

H.R. 4788, the Wellbeing for Every Public Servant Act

The Wellbeing for Every Public Servant Act, H.R. 4788, introduced by Representative Julia Letlow, R-LA, would fully repeal the WEP for individuals whose combined monthly income from their non-Social Security covered government annuity and Social Security benefits is \$5,500 or lower. For those with combined monthly benefits above \$5,500, the repeal is gradually phased out until the full penalty is applied after a combined monthly income of \$6,333 or more. As it would repeal WEP for many, NARFE supports the bill.

H.R. 5723, Social Security 2100: A Sacred Trust

The Social Security 2100: A Sacred Trust, H.R. 5723, introduced by House Ways and Means Social Security Subcommittee Chairman John Larson, D-CT, would fortify the Social Security program and expand benefits. Most notably, the bill would fully repeal the WEP and GPO. In addition, the bill would extend the Social Security trust fund's depletion date to 2038, increase the average Social Security benefit by about 2 percent for all beneficiaries, set the new minimum Social Security benefit at 25 percent above the poverty line and would index it to wage levels to ensure that benefits do not degrade in value over time, and more. As it would repeal WEP and GPO, extend the solvency of the Social Security trust fund, and improve Social Security benefits in other ways, NARFE supports the bill.