

## **THE SOCIAL SECURITY 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.

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 pay a 7 percent payroll contribution toward their CSRS retirement annuities. They do not pay a 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, in addition to their FERS retirement contributions, and therefore earn Social Security benefits based on their government work.

The WEP 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. It does not apply to those who paid Social Security payroll taxes in connection with their government employment, similar to FERS.

As of December of 2018, the WEP affects 1,863,084 beneficiaries, including 1,747,212 retired workers, 13,345 workers with disabilities, and 102,527 spouses and children.<sup>1</sup>

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 a primary insurance amount (PIA) – the basic monthly benefit. In 2019, the first \$926 of AIME is multiplied by 90 percent, then added to AIME over \$926 through \$5,583, multiplied by 32 percent, then added to AIME over \$5,583, multiplied by 15 percent.

Under the WEP, the 90 percent factor is reduced to as low as 40 percent. For 2019, this would result in a monthly benefit that is \$463 lower than under the regular benefit formula. This unfair reduction causes a disproportionate reduction in benefits for workers with lower AIMEs and monthly benefit amounts than those with higher benefit amounts.

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<sup>1</sup> See "Social Security: The Windfall Elimination Provision (WEP)," Congressional Research Service, p. 5, available at: <https://crsreports.congress.gov/product/pdf/RS/98-35>.

## Current Legislation

NARFE is a leader in the effort to repeal or reform the Social Security Windfall Elimination Provision and the Government Pension Offset. There are several bills in the 116th Congress that would achieve significant relief for those impacted by the WEP and GPO:

### ***H.R. 141 and S. 521, the Social Security Fairness Act of 2019***

The Social Security Fairness Act, H.R. 141 and S. 521, introduced by Rep. Rodney Davis, R-IL, and Sen. Sherrod Brown, D-OH, would fully eliminate both the WEP and GPO. NARFE fully supports the bills. NARFE will continue to work with our allies in the 116th Congress to advance WEP and GPO repeal legislation to provide meaningful reform to federal retirees affected by the unfair penalties.

### ***H.R. 3934, the Equal Treatment of Public Servants Act of 2019***

Under the Equal Treatment of Public Servants Act, the WEP would be replaced with a formula that equalizes benefits for certain individuals with non-covered employment. The Ranking Member of the Ways and Means Committee Kevin Brady, R-TX, introduced H.R. 3934. Though this legislation does not fully repeal the WEP, it would represent a significant improvement over the status quo for CSRS retirees unfairly penalized for their public service—and for this reason NARFE supports the bill.

- **For individuals who are first eligible for benefits before 2022 (ages 60 and older in 2019):** Under the bill, these individuals would receive a rebate of \$100 per month if they receive Social Security benefits based on their own work record. Meanwhile, individuals receiving a WEP-reduced Social Security benefit based on their spouse's employment would receive a rebate of \$50 each month.
- **For individuals who are first eligible for benefits from 2022 to 2060 (ages 21 to 59 in 2019):** These individuals' WEP penalty would be subject to either the new formula or the current formula, whichever is more beneficial.
- **For individuals who are eligible for benefits starting in 2061 (age 20 and under in 2019):** These individuals' WEP penalty would be subject to the new formula.