

January 18, 2024

Committee on Ways and Means
Subcommittee on Social Security
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Smith, Ranking Member Neal, and members of the House Committee on Ways and Means:

On behalf of the National Active and Retired Federal Employees Association (NARFE), I write to urge you to hold a committee markup of H.R. 82, the Social Security Fairness Act, to repeal the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO), and advance the bill to the House floor with a favorable recommendation.

There is overwhelming, bipartisan support to tackle these issues. There are now 303 House cosponsors for H.R. 82, the Social Security Fairness Act – the second most of any bill in Congress – and another 50 cosponsors in the Senate. President Biden supported elimination of these penalties on the 2020 campaign trail, and H.R. 82 has counted Speaker Johnson among its supporters as well. For a policy with such wide-ranging and broad support across the political spectrum to continually fail to be passed into law, or even to receive a House floor vote, undermines trust in the claims of our representatives, and faith that our democracy truly works.

Now is the time for this committee to find a solution to address these longstanding, unfair penalties impacting dedicated public servants across the country. WEP and GPO were arbitrary, unfair and punitive when they were enacted, and remain so today. That they have been permitted to remain on the books for decades only makes their impact worse. Year after year, the WEP and GPO penalize public workers, including federal employees, police officers, firefighters, teachers, and more, simply because these individuals earned a pension through their service to their nation and local communities.

NARFE is grateful for the November 20 hearing on the topic, which shed further light onto the issue. The hearing made clear the unfair, and often unexpected, impact these provisions are having on hardworking public servants. It is now time to hold a markup of H.R. 82 to take the next step in advancing a solution to the unfair impact of WEP and GPO.

Please see below for additional views on WEP and GPO, which I also outlined for the hearing record.

The Windfall Elimination Provision

The Windfall Elimination Provision, enacted in 1983, reduces the Social Security benefits of local, state and federal retirees whose employment was covered by Social Security (e.g., private-sector jobs) and who also receive a government annuity from their government employment not covered by Social Security. At the time of WEP's creation, Congress sought to shore up the financing of Social Security, doing so by labeling the earned Social Security benefits of those who also earned a noncovered pension as an unintended windfall and implementing a punishing one-size-fits-all formula to reduce their Social Security benefit, regardless of income.¹ Social Security was strengthened by penalizing public workers, particularly low-income workers, for earning income separate from Social Security while also paying into the system through covered work.

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%, 32% and 15% – at different levels of AIME, resulting in the basic monthly benefit. In 2023, the first \$1,115 of AIME is multiplied by 90 percent, then added to AIME over \$1,115 through \$6,721, multiplied by 32 percent, then added to AIME over \$6,721, multiplied by 15 percent. Under the WEP, the 90 percent factor is reduced to as low as 40 percent. As a result, the WEP can reduce the normal monthly benefit up to \$558 (in 2023). This crude and 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 enacted in 1977 prevents government retirees from collecting both a government annuity based on their own work not covered by Social Security and Social Security benefits based on their spouse's work record. The 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). Initially, the Social Security Amendments of 1977 placed a 100% offset, failing to recognize that a portion of a government pension mimics an employee's Social Security benefit. At the time, the House saw the potential harm such a drastic reduction could cause, with House lawmakers estimating that one-third of a pension equaled a normal Social Security benefit and therefore proposing a one-third reduction. Meanwhile the Senate maintained a 100% reduction. Later negotiations settled on an arbitrary two-thirds reduction, detached from meaningful estimations.¹

Put into practice, consider a spouse who receives a civil service annuity of \$900 per month based on his/her own earnings and applies for a Social Security widow(er)'s benefit of \$500 per month. 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.

¹ See "Social Security: The Windfall Elimination Provision and the Government Pension Offset (GPO)," Congressional Research Service, p.2. Available at <https://crsreports.congress.gov/product/pdf/IF/IF10203>.

Legislation to Repeal or Reform the WEP and GPO

It is clear the WEP and GPO were crude instruments enacted to shore up the finances of Social Security off the backs of public employees. Now is the time for Congress to rectify more than 40 years of inequity.

With 303 cosponsors for H.R. 82, the Social Security Fairness Act, it's clear that an overwhelming majority of lawmakers support repealing the WEP and GPO. The inability of the House Ways and Means Committee to meaningfully act on repeal or advance reform efforts like the Public Servants Protection and Fairness Act, H.R. 4260, or the Equal Treatment of Public Servants Act, H.R. 5342, both of which NARFE supports, fails to meet the moment or reflect majority will to address these unfair penalties. That's why NARFE is calling on this Congress and the Ways and Means Committee to finish the job.

It is our hope that the House Committee on Ways and Means will advance the repeal bill and support a vote on the House floor. Barring a vote on full repeal, we encourage the members of the Ways and Means Committee to come together and pass reform legislation that provides real relief to current retirees to at least make some incremental progress toward addressing these issues. Either path could be advanced via committee markup.

Thank you for your consideration of NARFE's views. If you have any questions or concerns, please contact NARFE Staff Vice President for Policy and Programs John Hatton at jhatton@narfe.org.

Sincerely,



William Shackelford
NARFE National President