



**Texas Retired Teachers Association (TRTA) &
Association of Texas Professional Educators (ATPE)**

**Testimony to the House Ways and Means Committee
Subcommittee on Social Security Hearing on the
Windfall Elimination Provision (WEP) and Government Pension Offset (GPO)**

April 16, 2024

The Texas Retired Teachers Association (TRTA) is the largest retired educator organization in the United States, with more than 70 years of advocacy on behalf of our dedicated public-school personnel. The Association of Texas Professional Educators (ATPE) represents the largest community of active educators in Texas and is one of the largest independent educator associations in the United States. Together, we speak on behalf of more than a million active and retired public educators in Texas who are potentially affected by the Windfall Elimination Provision (WEP) or Government Pension Offset (GPO).

For decades, we and other stakeholders have been working on federal legislation to repeal these two provisions in Social Security law, which arbitrarily and unfairly reduce the Social Security benefits of millions of retired teachers, firefighters, and police officers based on the pensions they have earned as public servants.

We appreciate the opportunity to provide the Committee with our input as you consider legislation that has been introduced or reintroduced in the 118th Congress to repeal and in some cases reform the WEP and the GPO. As organizations representing active and retired Texas public educators—a population disproportionately impacted by these offsets—and coming from the state with the highest number of retirees impacted by the WEP and GPO, we believe we bring a unique perspective to the discussion. The Teacher Retirement System of Texas (TRS) covers all public education employees in Texas—not only teachers and administrators but also bus drivers, cafeteria workers, and paraprofessionals. Ninety-five percent of Texas public school employees do not pay into Social Security through their work with Texas schools. Often, these school employees work multiple jobs to make ends meet, accepting positions in the private sector during school breaks and summers where they pay into the federal program. These individuals are hit hard by the WEP.

There is a common misconception that the WEP is designed to make Social Security more fair. However, we would argue differently because the Social Security PIA formula that applies to all annuitants already compensates for years without earnings or years in which earnings were not taxed, and it pays out the same rate at each tier regardless of total earnings. Whether an annuitant has adjusted monthly earnings of \$1,500 or \$15,000, the PIA of an individual who first becomes eligible for benefits in 2024 will be the sum of:

- (a) 90% of the first \$1,174 of the individual's average indexed monthly taxed earnings, plus
- (b) 32% of the individual's average indexed monthly taxed earnings over \$1,174 and through \$7,078, plus

(c) 15% of the individual's average indexed monthly taxed earnings over \$7,078.

In calculating average indexed monthly earnings (AIME), the Social Security Administration uses the top 35 years of taxed earnings—meaning earnings over the tax cap are not included and years without taxed earnings are recorded as a zero. High-income annuitants, low-income annuitants, and annuitants with less than 35 years in which they earned income are all treated the same under the formula. Only public servants such as police officers, firefighters, and educators are treated differently. Despite only having their AIME calculated based on their taxed wages, like everyone else, and having those earnings subject to the same tiered percentages as everyone else for more than 40 years we have inexplicably and unfairly reduced their annuity. The following example illustrates this:

Annuitant A worked in the private sector for more than 35 years, and her average indexed annual salary is \$70,000, making her AIME \$5,834. Based on this, at full retirement age her Social Security in 2024 would be \$2,547, or 43.6% of her AIME (90% of the first \$1,174 and 32% of the remaining \$4,660).

Annuitant B worked in the private sector for 10 years and then in the public sector for 30 years in a position that did not pay into Social Security. For the 10 years she worked in the private sector, her indexed salary also averaged out to \$70,000 per year, making her AIME \$1,167. Her top 25 years in the public sector—if indexed—would also average out to \$70,000 per year. However, these years are counted as zero-income years in her AIME calculation, as they should be, because neither she nor her employer paid Social Security tax on that income. Aside from the WEP, she would be eligible for \$1,050 in Social Security if she were full retirement age in 2024. In terms of her percentage, you can accurately describe it in one of two ways: Either you could say she is receiving 90% of her AIME (which is the same percentage annuitant A received for the first \$1,167 of her AIME), or you can say that she is receiving 18% of the highest indexed average annual salary over 35 years. Recall that Annuitant A is receiving 43.6% of hers.

What you cannot accurately say is that were it not for the WEP, Annuitant B would receive a higher percentage of her salary than Annuitant A. That is simply mathematically false, yet that is exactly what some of the testifiers during the hearing, and many others before them, have attempted to convey. Of course, the reality is that without the WEP, Annuitant A and Annuitant B would be treated exactly the same under the law. Because of the WEP, however, Annuitant B actually receives a far lesser percentage of those same first dollars than does Annuitant A. To add insult to injury, had Annuitant B simply left the workforce altogether, she would not have been penalized and would have instead continued to be treated in the same way as Annuitant A, while providing the exact same level of tax benefit to the Social Security trust fund as she did in the scenario above.

This is the exact situation in which more than 200,000 Texas retired public educators and more than 2 million public servants nationwide find themselves: being negatively impacted by the unfair, arbitrary WEP. The WEP and GPO are especially harmful to Texas education retirees. Because of the combination of these policies, TRS is often the only, or only substantial, source of retirement income for annuitants in Texas, where the average monthly annuity is only \$2,100. More than 130,000 TRS retirees earn \$1,000 or less per month.

Unlike Social Security, TRS pensions do not provide any type of automatic inflation adjustment but instead rely on ad hoc benefit enhancements or supplemental payments requiring approval by the Texas Legislature.

Due to the lack of ongoing increases tied to inflation, Social Security becomes an even more important income component for retirees or future retirees who qualify for a benefit by working in the private sector. Typically, educators plan their retirement based on their Social Security statements, which project a number generated by the formula and the assumption of a full career (35 years' worth) of earnings. These retirees, often after they have retired, are shocked when they learn how the WEP reduction will impact their retirement security.

Similarly, the GPO takes a bite out of the incomes of retirees whose monthly pensions are enough to qualify for a widow's/survivor's benefit once the reduction to their deceased spouse's Social Security occurs.

Even when a retired teacher, firefighter or police officer receives a COLA, those impacted by the GPO do not effectively receive the increase. Under the GPO, when a retired public servant receives a pension COLA, their Social Security is reduced by two-thirds of that increase. There is simply no analogous scenario within the private sector.

For example, the fixed income pension of a TRS retiree who retired in 2004 had by 2022 lost more than 50% of its value due to inflation. If the retiree received a 4% increase in 2024 as approved by the Texas Legislature, their spousal Social Security benefit would decrease. What was meant to be a 4% increase in income is reduced to 1.3% by the GPO. This is disheartening for a retiree who already has a very low income.

In Texas, our schools and students are also negatively impacted by these laws. We are experiencing a challenging, widespread teacher shortage based on multiple factors, including a lack of respect for teachers, modest pay, and concerns about retirement security. Knowledge of the negative effects of the WEP has grown. Public education draws many second-career professionals who want to give back to their communities. When they discover that working in Texas schools may prevent them from receiving their full Social Security or spousal benefits, it often causes them not to enter the field.

There is strong bipartisan agreement in Congress that the WEP and GPO are unfairly penalizing some of America's hardest-working and least-appreciated public employees when they retire and making it harder to recruit and retain people into these critical professions. For over 20 years, bipartisan legislation has been introduced in each Congress to eliminate the WEP and GPO, often co-sponsored by half or more of the members of the U.S. House of Representatives. In the 118th Congress, H.R. 82, the Social Security Fairness Act of 2023, by Rep. Graves (R-LA) and Rep. Spanberger (D-VA), which would repeal both provisions, has attracted 315 of the 435 members of the House as co-sponsors, while S. 597, by Sen. Brown (D-OH) and Sen. Collins (R-ME), the Senate companion bill, currently has 53 co-sponsors, a majority of the Senate.

Total repeal of both the WEP and GPO could cost over \$182 billion over ten years according to the Congressional Budget Office score. Outside of a much needed but politically difficult comprehensive overhaul of the Social Security system, repeal would jeopardize the long-term solvency of the trust fund. This is why the congressional leadership, regardless of which party has

the majority, has for decades blocked legislation to repeal both offsets from making to the floor of either chamber. While our organizations support H.R. 82 and full repeal of both offsets, we recognize the fiscal and political challenges that bill faces. The Ways and Means Committee mark-up of H.R. 82 in the last Congress was a positive opportunity to showcase congressional support for a fix, but it also served as a reality check that support of the congressional leadership to move the bill to the floor is lacking.

Bills to repeal and replace the WEP with a proportional formula have been introduced in each of the last several Congresses but have not passed either chamber. As the leaders of the Ways and Means Committee that has jurisdiction over Social Security, Rep. Neal (D-MA) and former Rep. Brady (R-TX) worked together on an alternative approach that would have replaced the WEP with a proportional formula and resulted in a rebate of up to \$150 per month for many retired public servants. Brady and Neal's legislation used a formula based on benefits earned by the beneficiary's years spent working in Social Security-covered positions.

Rep. Arrington (R-TX) has introduced a new version of the Brady bill and pledged to continue negotiations toward a bipartisan WEP fix and to work with ranking member Rep. Neal (D-MA). Despite the work we and other stakeholders—including Mass Retirees from Neal's home state—have done to support these negotiations, they seem to have stalled on how to “hold harmless” the very small number of beneficiaries who fare better under the WEP than they would under a proportional formula. While Rep. Arrington's bill would hold harmless everyone aged 18 and older, giving them the better benefit under the WEP or the current formula, Neal's approach is to hold harmless ALL beneficiaries into perpetuity, even those not yet born by the bill's effective date.

There are multiple natural compromises between the Arrington and Neal approaches where the “hold harmless” line could be established; however, we fear outside interest groups that advocate for total repeal of both offsets or nothing at all are letting “perfect” be the enemy of “good,” and that those groups would rather use the discord as a membership issue than support bipartisan incremental improvement to the status quo. We implore Rep. Neal and Rep. Arrington to continue working toward a bipartisan WEP fix that can be signed into law this year. If so, they will be heroes to the millions of active and retired teachers, firefighters, and police officers who will begin earning the full Social Security benefits to which they are entitled and will prove that the reports of the demise of bipartisanship in Congress are not accurate.

As pointed out by two witnesses at this hearing, a similar proportional formula could also be established to replace the GPO and calculate an imputed Social Security benefit for those with government pensions equal to the benefit that would have been earned in covered positions and then used to calculate spousal benefits. As with WEP legislative proposals, a reasonable transitional “hold harmless” period would need to be established to give retirees the higher benefit amount under the existing GPO or the new formula.

TRTA and ATPE believe solutions are needed to help the people who are suffering at the hands of the WEP and GPO, sooner rather than later. We hope this committee can work toward a path where fairness can be implemented as we fix the WEP and GPO.

TRTA and ATPE support reform and elimination of both the WEP and GPO and with that a full restoration of benefits for hundreds of thousands of Texas retired public school employees.

TRTA and ATPE members ask you for your help to continue building bipartisan momentum to improve Texas educators' and all public servants' retirement security.

We urge you to co-sponsor and support the following efforts to reform these egregious Social Security offsets during this Congress.

H.R. 82 - Graves (R-LA), Social Security Fairness Act of 2023

H.R. 82 completely repeals both the WEP and GPO. This legislation was subject to a successful discharge petition in the last Congress but ultimately did not go to the floor for a vote. TRTA and ATPE hope to build on that momentum and move this legislation to a vote on the floor during this Congress.

H.R. 5342 - Arrington (R-TX), Equal Treatment of Public Servants Act

H.R. 5342 reforms the WEP with a new, more equitable formula and provides immediate relief for those retirees currently suffering the negative effects of the WEP by providing an additional \$100 per month for retirees and \$50 for spouses. If passed, H.R. 5342 will ensure that teachers, firefighters, and police officers will receive a Social Security benefit that reflects their actual work history, providing them with critical financial relief.

H.R. 4260 - Neal (D-MA), Public Servants Protection Act

H.R. 4260, like H.R. 5342, provides a new, more equitable formula for the WEP and relief for current retirees under the WEP. The bills differ in that retirees would receive \$150 more per month (with no spousal amount) under H.R. 4260 and provides a permanent "hold harmless" provision that gives retirees the higher benefit of the new WEP formula or the current formula.

TRTA and ATPE implore this committee to act during this Congress to repeal or reform these laws. We are in full support of repeal and elimination of the WEP and GPO either now or in the future. If full repeal is not possible this Congress, we ask you to please consider passing the reform proposals contained the WEP bills enumerated above and provide relief now to the millions of Americans who are harmed by these laws. Public workers deserve to have this issue resolved so that current and future retirees are no longer impacted negatively by this unfair provision.