OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Education and Cultural Affairs
From: Hillary Risler, Esq., Legislative Analyst
Date: February 24, 2021
Subj: **LD 84, "An Act To Increase the State Share of the Cost of Health Insurance for Retired Teachers (Faulkingham)**
LD 293, "An Act To Increase the State's Share of the Cost of Health Insurance for Retired Teachers" (Collings)

SUMMARY

This bill requires the State to pay 55% of a retired teacher's share of the premium for group accident and sickness or health insurance after June 30, 2021. It also removes some outdated language.

TESTIMONY

- **Proponents**
  - Historically the Legislature made promises regarding funding retired teachers' health insurance but that did not happen after the recession
  - This bill specifically focuses on closing the gap in the State share between the recession and now
  - Health insurance costs are consuming the cost of pensions
  - Because MEA Benefits Trust transitioned their retiree health care program to a Medicare Advantage program there was a significant savings for the State and the State can move to 55% state funding without imposing a significant burden
  - This bill would help address a concern that the current percentage discourages teachers from retiring even though they may be ready; but there are concerns about the current teacher shortage worse
- **Opponents:** None

- **Neither For Nor Against**
    - Concern about increasing a benefit for school staff when people in the community are working reduced hours or are out of work because of COVID

BACKGROUND INFORMATION

- 129th Legislature:
    - First Regular Session: LD 178, An Act to Increase the State Share of the Cost of Health Insurance for Retired Teachers, proposed to increase the State share by 5% each year until it reaches 90% after June 30, 2027; Bill carried over to the Second Regular Session because additional information about a possible transition of the MEA Benefits Trust plan
    - Second Regular session: Committee voted OTP-AM/ONTP (9-1); bill was placed on the Special Appropriations Table and died upon the conclusion of the 129th Legislature
    - Fiscal Note of the LD 178, as amended, is attached

COMMITTEE REQUESTS FOR ADDITIONAL INFORMATION:

- Definitions of "WEP" and "GPO" and background information on Medicare eligibility
    - https://www.mainepers.org/before-you-join/windfall-elimination-provisions-and-government-pension-offset/
    - https://maineea.org/ready-to-retire-what-you-need-to-know/

PRELIMINARY FISCAL IMPACT STATEMENT:

- Not yet determined

Approved: 02/24/20 mac

129th MAINE LEGISLATURE

LD 178 **LR 575(02)**

An Act To Increase the State Share of the Cost of Health Insurance for Retired Teachers

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Education and Cultural Affairs
Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	$0	$0	$3,533,224	$3,661,833
Appropriations/Allocations				
General Fund	$0	$0	$3,533,224	$3,661,833

Fiscal Detail and Notes

This bill increases the State's contribution for retired teachers health insurance premiums from 45% to 55% beginning in fiscal year 2020-21. At the same time and unrelated to this bill, the Maine Education Association Benefit Trust (MEABT) is transitioning from a Medicare companion plan to a Medicare Advantage Group plan effective July 1, 2020, significantly reducing the premiums for the over 8,300 people on this plan. The fiscal impact of this bill and the MEABT plan change for the 2020-2021 and 2022-2023 biennia is provided in the table below. The estimated savings to the State from the MEABT plan change is shown in column (b). The total cost associated with the increase in the State's contribution from 45% to 55% beginning in fiscal year 2020-21 is shown in column (f). The net cost of this bill and the plan change together are shown in column (g).

Fiscal Year	Estimated annual cost to State without legislative changes (a)	Estimated savings from MEABT change to Medicare Advantage Group Plan (b)	Estimated annual cost to State with MEABT change to Medicare Advantage Plan (c)	State Share % (d)	Estimated annual cost to State with Enactment of LD 178 (as amended) (e)	Estimaed cost of LD 178 (as amended) (f)	Net cost of annual Increase in State share and MEABT Plan change (g)
			(a + b)		(c / .45) * (d)	(e - c)	(e - a)
FY20	$31,873,189	$0	$31,873,189	0.45	$31,873,189	$0	**$0**
FY21	$32,266,964	($3,077,432)	$29,189,533	0.55	$35,676,095	$6,486,563	**$3,409,131**
FY22	$33,441,481	($3,189,450)	$30,252,031	0.55	$36,974,705	$6,722,674	**$3,533,224**
FY23	$34,658,751	($3,305,546)	$31,353,205	0.55	$38,320,584	$6,967,379	**$3,661,833**

Windfall Elimination Provision

Your Social Security retirement or disability benefits can be reduced

The Windfall Elimination Provision can affect how we calculate your retirement or disability benefit. If you work for an employer who doesn't withhold Social Security taxes from your salary, such as a government agency or an employer in another country, any retirement or disability pension you get from that work can reduce your Social Security benefits.

When your benefits can be affected

This provision can affect you when you earn a retirement or disability pension from an employer who didn't withhold Social Security taxes ***and*** you qualify for Social Security retirement or disability benefits from work in other jobs for which you did pay taxes.

The Windfall Elimination Provision can apply if:

- You reached age 62 after 1985; or
- You became disabled after 1985; and
- You first became eligible for a monthly pension based on work where you didn't pay Social Security taxes after 1985. This rule applies even if you're still working.

This provision also affects Social Security benefits for people who performed federal service under the Civil Service Retirement System (CSRS) after 1956. We won't reduce your Social Security benefit amounts if you only performed federal service under a system such as the Federal Employees' Retirement System (FERS). Social Security taxes are withheld for workers under FERS.

How it works

Social Security benefits are intended to replace only some of a worker's pre-retirement earnings.

We base your Social Security benefit on your average monthly earnings adjusted for average wage growth. We separate your average earnings into three amounts and multiply the amounts using three factors to compute your full Primary Insurance Amount (PIA). For example, for a worker who turns 62 in 2021, the first $996 of average monthly earnings is multiplied by 90 percent; earnings between $996 and $6,002 are multiplied by 32 percent; and the balance by 15 percent. The sum of the three amounts equals the PIA, which is then decreased or increased depending on whether the worker starts benefits before or after full retirement age (FRA). This formula produces the monthly payment amount.

When we apply this formula, the percentage of career average earnings paid to lower-paid workers is greater than higher-paid workers. For example, workers age 62 in 2021, with average earnings of $3,000 per month could receive a benefit at FRA of $1,537 (approximately 50 percent) of their pre-retirement earnings increased by applicable cost of living adjustments (COLAs). For a worker with average earnings of $8,000 per month, the benefit starting at FRA could be $2,798 (approximately 35 percent) plus COLAs. However, if either of these workers start benefits earlier than their FRA, we'll reduce their monthly benefit.

Why we use a different formula

Before 1983, people whose primary job wasn't covered by Social Security had their Social Security benefits calculated as if they were long-term, low-wage workers. They had the advantage of receiving a Social Security benefit representing a higher percentage of their earnings, plus a pension from a job for which they didn't pay Social Security taxes. Congress passed the Windfall Elimination Provision to remove that advantage.

Under the provision, we reduce the 90 percent factor in our formula and phase it in for workers who reached age 62 or became disabled between 1986 and 1989. For people who reach 62 or became disabled in 1990 or later, we reduce the 90 percent factor to as little as 40 percent.

Some exceptions

The Windfall Elimination Provision doesn't apply if:

- You're a federal worker first hired after December 31, 1983.
- You're an employee of a non-profit organization who was exempt from Social Security coverage on December 31,1983, unless the non-profit organization waived exemption and did pay Social Security taxes, but then the waiver was terminated prior to December 31, 1983.
- Your only pension is for railroad employment.
- The only work you performed for which you didn't pay Social Security taxes was before 1957.
- You have 30 or more years of substantial earnings under Social Security.

The Windfall Elimination Provision doesn't apply to survivors benefits. We may reduce spouses, widows, or widowers benefits because of another law. For more information, read *Government Pension Offset* (Publication No. 05-10007).

Social Security years of substantial earnings

If you have 30 or more years of substantial earnings, we don't reduce the standard 90 percent factor in our formula. See the first table that lists substantial earnings for each year.

The second table shows the percentage used to reduce the 90 percent factor depending on the number of years of substantial earnings. If you have 21 to 29 years of substantial earnings, we reduce the 90 percent factor to between 45 and 85 percent. To see the maximum amount we could reduce your benefit, visit ***www.ssa.gov/benefits/retirement/planner/wep.html***.

A guarantee

The law protects you if you get a low pension. We won't reduce your Social Security benefit by more than half of your pension for earnings after 1956 on which you didn't pay Social Security taxes.

Contacting Social Security

The most convenient way to do business with us from anywhere, on any device, is to visit ***www.ssa.gov***. There are several things you can do online: apply for benefits; get useful information; find publications; and get answers to frequently asked questions.

When you open a personal *my* Social Security account, you have more capabilities. You can review your *Social Security Statement*, verify your earnings, and get estimates of future benefits. You can also print a benefit verification letter, change your direct deposit information, request a replacement Medicare card, get a replacement SSA-1099/1042S, and request a replacement Social Security card (if you have no changes and your state participates).

If you don't have access to the internet, we offer many automated services by telephone, 24 hours a day, 7 days a week. Call us toll-free at **1-800-772-1213** or at our TTY number, **1-800-325-0778**, if you're deaf or hard of hearing.

A member of our staff can answer your call from 7 a.m. to 7 p.m., Monday through Friday. We ask for your patience during busy periods since you may experience a high rate of busy signals and longer hold times to speak to us. We look forward to serving you.

Year	Substantial earnings
1937–1954	$900
1955–1958	$1,050
1959–1965	$1,200
1966–1967	$1,650
1968–1971	$1,950
1972	$2,250
1973	$2,700
1974	$3,300
1975	$3,525
1976	$3,825
1977	$4,125
1978	$4,425
1979	$4,725
1980	$5,100
1981	$5,550
1982	$6,075
1983	$6,675
1984	$7,050
1985	$7,425
1986	$7,875
1987	$8,175
1988	$8,400
1989	$8,925
1990	$9,525
1991	$9,900
1992	$10,350
1993	$10,725
1994	$11,250
1995	$11,325
1996	$11,625
1997	$12,150
1998	$12,675
1999	$13,425
2000	$14,175
2001	$14,925
2002	$15,750
2003	$16,125
2004	$16,275
2005	$16,725
2006	$17,475
2007	$18,150
2008	$18,975
2009–2011	$19,800
2012	$20,475
2013	$21,075
2014	$21,750
2015-2016	$22,050
2017	$23,625
2018	$23,850
2019	$24,675
2020	$25,575
2021	$26,550

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

Securing today and tomorrow

Social Security Administration
Publication No. 05-10045
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Windfall Elimination Provision
Produced and published at U.S. taxpayer expense

The Retired Teachers Health Insurance program is currently budgeted to receive $45.0 million in General Fund appropriations in both fiscal year 2019-20 and fiscal year 2020-21. Based on 8 months of actual expenditure data, it is estimated that the State will pay approximately $31.9 million for its contribution for retired teachers health insurance premiums in fiscal year 2019-20. The State is also expected to apply $10.0 million of the General Fund appropriation towards the unfunded actuarial liability (UAL) of the retired teachers health insurance plan pursuant to Title 5, §286-B, sub-§2. Given this information, expenditures for this program are expected to be less than current appropriations for fiscal year 2019-20 by approximately $3.1 million ($45.0 million - $41.9 million). For fiscal year 2020-21, however, when the $3.4 million cost of this provision and the plan change together (g) is added to the projected expenditures of $32.3 million (a) along with another $10.0 million being applied to the UAL, expenditures are projected to exceed appropriations by approximately $0.676 million ($45.0 million - 3.4 million - $32.3 million - $10.0 million). Funds appropriated to the Retired Teachers Health Insurance program are transferred to the Retiree Health Insurance Fund, an internal services fund within the Department of Administrative and Financial Services. Unexpended funds in this Fund are carried forward into the next fiscal year and may be used to pay future premium costs or applied to the normal or UAL costs of the retired teachers health insurance plan. It is the intent that a portion of the $3.1 million in anticipated unexpended funds in fiscal year 2019-20 be used to cover the $676,000 cost in fiscal year 2020-21 and no additional funding is required in fiscal year 2020-21.

Government Pension Offset

A law that affects spouses and widows or widowers

If you receive a retirement or disability pension from a federal, state, or local government based on your own work for which you didn't pay Social Security taxes, we may reduce your Social Security spouses or widows or widowers benefits. This fact sheet provides answers to questions you may have about the reduction.

How much will my Social Security benefits be reduced?

We'll reduce your Social Security benefits by two-thirds of your government pension. In other words, if you get a monthly civil service pension of $600, two-thirds of that, or $400, must be deducted from your Social Security benefits. For example, if you're eligible for a $500 spouses, widows, or widowers benefit from Social Security, you'll get $100 a month from Social Security ($500 – $400 = $100). If two-thirds of your government pension is more than your Social Security benefit, your benefit could be reduced to zero.

If you take your government pension annuity in a lump sum, Social Security will calculate the reduction as if you chose to get monthly benefit payments from your government work.

Why will my Social Security benefits be reduced?

Benefits we pay to spouses, widows, and widowers are "dependent" benefits. Set up in the 1930s, these benefits were to compensate spouses who stayed home to raise a family and were financially dependent on the working spouse. It's now common for both spouses to work, each earning their own Social Security retirement benefit. The law requires a person's spouse, widow, or widower benefit to be offset by the dollar amount of their own retirement benefit.

For example, if a woman worked and earned her own $800 monthly Social Security benefit, but was also due a $500 spouse's benefit on her husband's record, we couldn't pay that spouse's benefit because her own benefit offsets it. Before enactment of the Government Pension Offset law, if that same woman was a government employee who didn't pay into Social Security and earned an $800 government pension, there was no offset. We had to pay her a full spouse's benefit and her full government pension.

If this person's government work had been subject to Social Security taxes, we would reduce any spouse, widow, or widower benefit because of their own Social Security retirement benefit. The Government Pension Offset ensures that we calculate the benefits of government employees who don't pay Social Security taxes the same as workers in the private sector who pay Social Security taxes.

When won't my Social Security benefits be reduced?

Generally, we won't reduce your Social Security benefits as a spouse, widow, or widower if you:

- Receive a government pension that's not based on your earnings; or
- Are a federal (including Civil Service Offset), state, or local government employee and your government pension is from a job for which you paid Social Security taxes; and:
  - —Your last day of employment (that your pension is based on) is before July 1, 2004; or
  - —You filed for and were entitled to spouses, widows, or widowers benefits before April 1, 2004 (you may work your last day in Social Security covered employment at any time); or
  - —You paid Social Security taxes on your earnings during the last 60 months of government service. (Under certain

conditions, we require fewer than 60 months for people whose last day of employment falls after June 30, 2004, and before March 2, 2009.)

There are other situations for which we won't reduce your Social Security benefits as a spouse, widow, or widower; for example, if you:

- Are a federal employee who switched from the Civil Service Retirement System (CSRS) to the Federal Employees' Retirement System (FERS) after December 31, 1987; and:
  - —Your last day of service (that your pension is based on) is before July 1, 2004;
  - —You paid Social Security taxes on your earnings for 60 months or more during the period beginning January 1988 and ending with the first month of entitlement to benefits; or
  - —You filed for and were entitled to spouses, widows, or widowers benefits before April 1, 2004 (you may work your last day in Social Security covered employment at any time).
- Received, or were eligible to receive, a government pension before December 1982 and meet all the requirements for Social Security spouse's benefits in effect in January 1977; or
- Received, or were eligible to receive, a federal, state, or local government pension before July 1, 1983, and were receiving one-half support from your spouse.

Note: *A Civil Service Offset employee is a federal employee, rehired after December 31, 1983, following a break in service of more than 365 days, with five years of prior CSRS coverage.*

What about Medicare?

Even if you don't get benefit payments from your spouse's work, you can still get Medicare at age 65 on your spouse's record if you aren't eligible for it on your own record.

Can I still get Social Security benefits from my own work?

The offset applies only to Social Security benefits as a spouse, or widow, or widower. However, we may reduce your own benefits because of another provision. For more information, go online to read *Windfall Elimination Provision* (Publication No. 05-10045).

Contacting Social Security

The most convenient way to contact us anytime, anywhere is to visit ***www.socialsecurity.gov***. There, you can: apply for benefits; open a *my* Social Security account, which you can use to review your *Social Security Statement*, verify your earnings, print a benefit verification letter, change your direct deposit information, request a replacement Medicare card, and get a replacement SSA-1099/1042S; obtain valuable information; find publications; get answers to frequently asked questions; and much more.

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and tomorrow

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