

Susan M. Hawes  
Portland, Maine

April 22, 2025

**Testimony in Support of LD 1638**  
An Act Regarding Disability Retirement Benefits  
under the Maine Public Employees Retirement System

Good afternoon, Sen. Tipping, Rep. Roeder, and to all the distinguished members of the Labor Committee. My name is Sue Hawes. I live in Portland. Thank you for the opportunity to testify in support of LD 1638. I am deeply grateful to Senator Jill Dusen for tackling this issue and I also appreciate enormously the strong bipartisan support among the co-sponsors. Thank you all.

**WHAT DOES THIS BILL DO?**

Secs. 2 and 3 of LD 1638 remove the requirement that some members apply for Social Security Disability benefits prior to applying for Maine Public Employees Retirement System (MePERS) disability retirement.

Secs. 1 and 4 of LD 1838 repeal the MePERS Social Security Disability offset [herein, "the offset"]<sup>1</sup> The MePERS Social Security offset was created in 1991 within Workers Compensation reform legislation. **The offset reduces fully prefunded defined MePERS disability benefit to below the defined disability benefit of 59% of Annual Final Compensation (AFC) if the retiree receives Social Security disability income from working in a Social Security covered public service job while paying into both Social Security AND MePERS.** In my husband's case which I describe in detail in my written testimony, the underpayment of his MePERS disability benefits due to the offset is about \$900/month since March 2018. *otions<sup>1</sup>*

After passing LD 1638, MePERS will pay the agreed defined disability benefit of 59% of AFC, to disabled retirees instead of paying a reduced disability benefit to the small number of MePERS retirees from Social Security covered public service jobs receiving Social Security disability income.

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<sup>1</sup> See Participating Local District or "PLD" plan statute 5 MRS §18530 (4)(A)(2) and state employee/teacher plan statute 5 MRS §17906(2)(A) (2) The Legislative plan has the offset ("by reference"). The Judicial plan does not have the offset. **Most or all Social Security covered public service jobs are in the PLD plan.**

## **LD 1638 Repealing the MePERS Social Security Disability Offset**

The retroactivity clause in Section 5 of the bill releases the underpayments due to the offset from the MePERS retirement trust fund to their rightful owners. The bill makes whole the 51 current disabled retirees, restoring their withheld benefits including the accumulated interest and applicable Cost of Living Adjustments back to Date of Retirement as if the MePERS Social Security offset never existed.<sup>2</sup>

Retroactive repeal comes at no cost to the state—the offset does not impact the three state sponsored retirement plans, i.e. State Employee/Teachers, Legislative, and Judicial. Since Maine state government employees do not pay Social Security payroll taxes, it should be no surprise that the fifty-one (51) current disabled retirees harmed by the offset are in the MePERS Participating Local District retirement plan (PLDs are municipalities, county government, firefighters, etc.<sup>3</sup>).

I won't have enough time to go into all the details of my testimony during my 3 minutes at today's public hearing. Therefore, I lay out thoroughly in my printed testimony showing (1) historically MePERS has grossly over collected disability contributions, (2) how MePERS has been profiting from disabled retirees who receive Social Security income, and (3) I demonstrate why eliminating the offset going forward and releasing the withheld benefits have no "cost" because there is no actuarial assumption accounting for the MePERS Social Security offset in the Contribution Rate—despite the January 2025 statements of MePERS senior management transcribed herein.

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<sup>2</sup> The list of fifty-one (51) current MePERS disabled retirees with the offset reducing their disability benefit was provided from MePERS via FOAA request in mid-February 2025.

<sup>3</sup> There is a wide variety of employers/employees in the Participating Local District (PLD) retirement plan at MePERS. For example, Maine School Management Association, Maine Administrators of Services for Children with Disabilities, private schools and regional school districts, Good Will Home Association, Paris Utility District, Caribou Fire and Police, Maine Turnpike Authority, Maine Housing, Municipal Review Committee, Maine Veterans Homes, to name a few. A complete list of the PLDs is found at the end of each ACFR. MainePERS employees are not in the state employee retirement plan—they are members of the PLD plan as their employer, MePERS, is in the PLD plan. The PLD plan is unaffected by the 2011 cuts to the COLAs. The PLD Advisory Committee manages the PLD retirement plan. The MePERS CEO chairs the PLD Advisory Committee and serves as an ex officio nonvoting member.

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### **SIMILAR BUT NOT THE SAME AS RECENTLY REPEALED WEP AND GPO SOCIAL SECURITY ADMINISTRATION OFFSETS**

Championed by Sen. Susan Collins and signed by President Biden in January 2025, Congress repealed the Social Security WEP and GPO offsets for millions of Americans through the Social Security Fairness Act. After government retirees fought the WEP/GPO for four decades, the ultimate repeal established that **offsetting between Social Security and pension benefits is unfair**.<sup>4</sup>

Unlike the Social Security WEP/GPO offsets which had reduced Social Security benefits paid to those who earned a government pension while NOT PAYING into Social Security, my husband and the other 50 current retirees impacted by the MePERS Social Security offset worked Social Security covered public service jobs. Therefore, the MePERS Social Security offset is even more unfair. These individuals' wages FULLY PAID into Social Security and FULLY PAID into MePERS—with equal or greater financial contributions into both programs by their employers (the taxpayers).

### **DETRIMENTAL LONG-TERM CONSEQUENCES OF UNDERPAYMENTS OF EMPLOYMENT BENEFITS TO VULNERABLE MAINERS**

Through payroll contributions throughout their careers, both the public employer (taxpayers) and the employee paid for a MePERS defined benefit pension and paid into Social Security. Both programs include disability insurance ensuring wage replacement should the worst happen to the employee—the worker becomes disabled and is no longer able to earn wages to support themselves.

Retroactively repealing the MePERS Social Security offset will restore fairness to these retired Maine workers and increase the financial security of the current and future MePERS disabled retirees who are or would be impacted by the offset. Disabled retirees struggle more than most with the ever-increasing cost of living. These retired Maine workers need their money released from the trust fund.

Furthermore, disabled retirees, their families, and other taxpayers experience **detrimental long-term consequences** from reductions in MePERS disability

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<sup>4</sup> "Senate Overwhelmingly Advances Senator Collins' Social Security Fairness Act," Sen. Susan Collins, press release, December 18, 2024, stating, "Our dedicated public servants, such as our teachers who help prepare our children for future success, or our police officers and firefighters who help keep our communities safe, should receive the full Social Security benefits that they have earned."

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benefits paid to some of our most medically needy Mainers for the remainder of their lives, leaving financial hardship, dependency, and mental distress in its wake.<sup>5</sup>

While reducing benefits paid to below the defined benefit amount enriches MePERS, legislators must keep in mind that benefit reductions may consequently require taxpayers support the disabled public employees. Every dollar of income for a disabled Mainer paid from an employment benefit earned through work and that the disabled retiree and the taxpayers have already paid for, defers into the future (to hopefully never) the disabled person's dependence upon taxpayers through qualifying for income-based state and federal welfare programs.<sup>6</sup>

### **FISCAL IMPACT OF THE SOCIAL SECURITY OFFSET TO MePERS IS NON-EXISTENT OR A FRACTION OF *DE MINIMIS***

Administrative costs for calculating the 51 underpayments are borne by MePERS. See Fiscal Note to LD 1644(130th) stating, "Implementing the requirements of this legislation will result in increased administrative costs to the Maine Public Employees Retirement System. All retirement system administrative costs are charged against the assets held by the system. No General Fund appropriations are required."

MePERS disability retirement is a "defined benefit plan." Disabled retirees deserve to receive the benefits they earned through work and paid for in full along with their public employers (taxpayers). The MePERS benefits withheld from the disabled retirees sit in the retirement trust fund accruing interest, but the funds do not rightly belong MePERS.

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<sup>5</sup> "Among adults with disabilities, the highest prevalences of frequent mental distress were in New Hampshire (42.9%), South Carolina (39.2%), and Maine (38.7%), see "Frequent Mental Distress Among Adults, by Disability Status, Disability Type, and Selected Characteristics — United States," by Robyn A. Cree, PhD<sup>1</sup>; Catherine A. Okoro, PhD<sup>1</sup>; Matthew M. Zack, MD<sup>2</sup>; Eric Carbone, PhD, CDC Morbidity and Mortality Weekly Report, September 11, 2020, Department of Health and Human Services/Centers for Disease Control and Prevention.

<sup>6</sup> The National Disability Institute estimates that households with a member who has a disability that limits their ability to work need 28% more income to maintain the same standard of living as comparable households without a disability. Indeed, just my husband's health insurance premiums are \$185 Medicare and \$678 Maine Municipal Employee Health Trust= \$863/month. Add to that the four monthly co-pays for four life-preserving anti-seizure medications, adaptive equipment, therapy, etc. Being disabled is expensive.

## LD 1638 Repealing the MePERS Social Security Disability Offset

Despite the January 2025 claims of Ms. Kathy Morin<sup>7</sup> and MePERS CEO, Dr. Rebecca Wyke,<sup>8</sup> there is no actuarial assumption lowering the Contribution Rate to account for the MePERS Social Security offset leading to any “cost” from repealing the offset. At the end of January 2025, CEO Wyke was aware of a bill to repeal the MePERS Social Security disability offset. The bill, LD 1638, was available on April 15th. Today is April 22. Has MePERS included the actuary’s analysis of the bill with its testimony? It would be untenable to rely solely upon unsubstantiated staff interpretations of actuarial assumptions.

If the Social Security offset did not lower the Contribution Rate in anticipation of paying reduced benefits to recipients of Social Security disability, neither the actuary nor the agency can claim a “cost” to paying out the full defined benefit.

I show below that there is no evidence supporting the statements of MePERS senior management when it comes to claiming any new or additional “cost” from repealing the MePERS Social Security disability offset. Imagine you buy a loaf of bread at a bakery. Then you go down the street to buy a different loaf at a different bakery. The second baker sees that you bought a loaf from the bakery down the street and demands you pay full price for 1/2 or 2/3 of a loaf because you already have a loaf from elsewhere.

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<sup>7</sup> Reportedly when contacted by Rep. Charles Skold in January 2025, MePERS’s Director of Actuarial and Legislative Affairs, Ms. Kathy Morin, stated that repealing the MePERS Social Security offset would “cost about \$600,000.”

<sup>8</sup> At the Jan 28, 2025, quarterly PLD Advisory Committee meeting, member Rick Callier, Retirement Representative for the Professional Firefighters of Maine, asked at the end of the meeting, “Where we’re seeing the Windfall Elimination provision and the GPO being eliminated, is it possible that we put on a future agenda a discussion on how we would get cutting out that from the disability AFC? I’ve always kind of wondered why someone’s AFC is the basis for their disability but we offset it with Social Security and other income that kind of seems unfair to me when I really look at the financial part of it. It seems like the employee is supporting the disability benefit in a way with outside income that I think we should really look at maybe eliminating Social Security as part of the disability offset.” CEO Wyke: **“I think there may be a bill in on that? I don’t know if the titles were clear enough to indicate but there was some discussion of someone putting in a bill. I know there is a fiscal impact to it because of the assumptions that the actuaries make. I don’t think we know exactly what that is yet.”** Bill Brown [replacing Kathy Morin]: “Right. As Becky said, some of the titles are a little opaque at the moment but we’ll have more information going forward.” CEO Wyke: **“But the answer to your question is yes we absolutely can bring that. I think our next meeting may be well-timed especially if the bill is in because then we will proceed with the actuary to do the calculation and see what the cost will be for that.”** Rick Callier: OK, so we can have that on the next agenda [April 29, 2025]?” CEO Wyke: “Absolutely.” Rick Callier: “All right. Thank you.” On March 31, I requested CEO Wyke provide the evidence supporting her statement “I know there is a fiscal impact to [repealing the MePERS Social Security offset] because of the assumptions that the actuaries make.” I received no response from CEO Wyke.

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Similarly, MePERS is \*profiting\* from the offset—charging for a full loaf through the Contribution Rate but in fact providing less than a full loaf to the disabled retirees with Social Security income.

The Contribution Rate assumes these individuals have been receiving and are receiving the full 59% defined disability benefit even though they are not in fact receiving the 59% of AFC defined disability benefit—hence my assertion that MePERS has been profiting from the MePERS Social Security disability offset at the expense of some of Maine’s most medically needy retired public employees.

If there is an actuarial assumption on the offset impacting the Contribution Rate, MePERS Annual Comprehensive Financial Reports (ACFRs) would say so under the ACFR sections with the heading “Actuarial Assumptions and Methods.”

For example, Workers Compensation has an actuarial assumption lowering the MePERS Contribution Rate in both the State Employee/Teacher retirement plan and the Participating Local District Plan in anticipation of paying less than the 59% of AFC defined disability benefit to public employees disabled by being injured on the job.

The “Actuarial Assumptions and Methods” within MePERS’s 2024 Annual Comprehensive Financial Report (ACFR), page 128 (State Employee/Teacher) and page 143 (Participating Local District Plan) state, “10% assumed to receive Workers Compensation benefits offsetting disability benefit.” There is no mention of the Social Security offset in the ACFR.

### 2024 MePERS Annual Comprehensive Financial Report (ACFR)

Portions of page 128:

#### State Employee and Teacher Program Actuarial Assumptions and Methods

##### 10. Sample Rates of Disability at Selected Ages (number becoming disabled per 10,000 members)\*

Age	State Employees		Teachers
	Regular	Special	
25	2.5	5.4	1.1
30	3.1	6.5	1.2
35	9.3	9.9	1.2
40	14.0	15.8	1.6
45	16.0	24.4	3.1
50	18.0	36.4	6.6
55	25.0	42.6	22.1
60	43.4	46.4	22.2

\* 10% assumed to receive Workers Compensation benefits offsetting disability benefit; also, current rates for State Special groups are higher by 7 per 10,000 at all ages.

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Page 143:

Actuarial Section

### Consolidated Plan for Participating Local Districts Actuarial Assumptions and Methods

#### 10. Sample Rates of Disability at Selected Ages (number becoming disabled per 10,000 members)\*

Age	Regular	Special
25	0.9	2.3
30	1.2	3.0
35	1.8	4.5
40	4.2	10.5
45	8.7	21.8
50	16.5	41.3
55	28.5	70.0
60	30.0	70.0

\* 10% assumed to receive Workers Compensation benefits offsetting disability benefit.

#### MePERS's ACTUAL DISABILITY BENEFITS PAID HAVE HISTORICALLY BEEN LOWER THAN THE DISABILITY BENEFIT FUNDED BY THE CONTRIBUTION RATE

MePERS has *for decades* collected more disability contributions from employees and employers than MePERS has paid out in disability benefits.

For example, legislation in 1989 created a *separate* Disability Retirement Benefit Fund (5 MRS §17421) at MePERS. Just two years later, in 1991, Maine legislators apparently raided or attempted to raid the new disability fund by removing about \$50 million.<sup>9</sup> At the time, the actuary reported that MePERS "disability retirement trust fund, which now stands at \$165 million, exceeds expected liabilities by 66%."<sup>10</sup> Unsurprisingly, in 2007, the legislature repealed the law. The portion of contributions accruing to pay projected disability benefits no longer accrues separately from the retirement trust fund.

Additionally, the "2015-2020 MePERS Experience Study as of June 30, 2020," produced in June 2021 by MePERS's actuary, Cheiron, makes no mention of the Social Security disability offset. However, the report does state, for all four retirement plans feeding the \$20 billion MePERS retirement trust fund, "The data shows lower actual disability rates than expected under the current assumption." In other words, MePERS

<sup>9</sup> "Budget Solution Nearer," *Sun-Journal* (Lewiston, Maine), January 30, 1991, pages 1-2.

<sup>10</sup> "Administration Again Urges Retirement Fund Transfer," *Kennebec Journal* (Augusta, Maine), January 24, 1991, page 16.

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pays out less in disability benefits than the Contribution Rate charges to employers (taxpayers) and employees.

### **THE WHOLE LOT OF MePERS DISABLED RETIREES IS *DE MINIMIS***

MePERS considers the whole lot of its 800 disabled retirees *de minimis*. At the January 12, 2023, MePERS Board of Trustees monthly meeting, CEO Rebecca Wyke stated to the Board of Trustees, "This is such a small population of people. So, we've got approximately 50,000 active members, 50,000 retired members and then another 50,000 inactives. This is 1000 people on this [disability] payroll. So it's so small I don't believe there was any fiscal note change between the old law and the new law [LD 1644(130th)]." It's very...it's...We have such a large population, this is a very small group of people." Consequently, I ask, is there a **word for a fraction of *de minimis*** to describe the 51 of 1000 to be made whole by LD 1638?

### **EXAMPLE: HOW THE OFFSET IMPACTS MY HUSBAND**

MePERS disability retirement benefits are crucial to someone like my husband who was deemed unemployable at age 47 due to complications from lifelong epilepsy resulting in dementia. He was found Not Fit for Duty by the employer's physician and forced to medically retire in March 2018 after working for eleven years as a Corrections Officer, later promoted to Deputy Sheriff, at Cumberland County Jail.

In my husband's case, the MePERS initial monthly benefit should have been \$2,378.57/month (59% of AFC), but the amount on his MePERS Notice of Retirement was \$1,482.97/month. MePERS did not disclose the loss of \$900/month of the MePERS disability benefit due to Social Security disability income (\$1,789/month).

**\$28,540.94** Annual MePERS Disability benefit my husband worked for, earned, and paid for based upon employer/employee contributions to the MePERS defined benefit plan during his career

**\$17,795.58** Actual annual MePERS disability benefit with the MePERS Social Security offset applied

My husband's annual Cost-of-Living Adjustments (COLAs) are also detrimentally impacted by the offset. The amount withheld from him every month since March 2018 grows over the years because the offset also causes about \$10,800 to be absent from his



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COLA base when annual COLAs are applied, *further accelerating the loss of purchasing power of his pension*. Repealing the offset restores the offset amount back into the disabled retiree's base amount used for calculating annual COLAs.

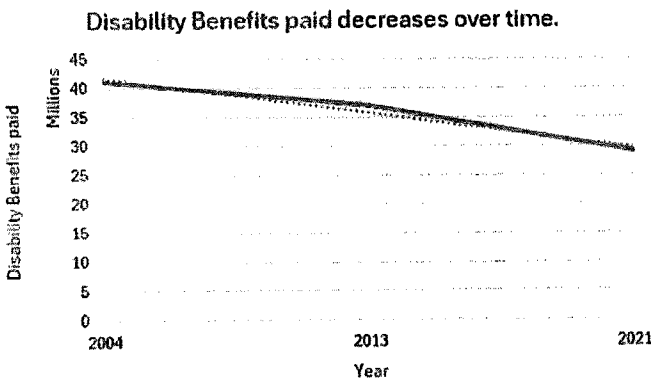
Since being forced to medically retire March 2018, my husband has paid about \$60,000 in health insurance premiums to Maine Municipal Employees Health Trust for his Medicare companion plan. He has paid about \$15,000 in Medicare premiums since that time. I estimate he has been underpaid by MePERS by about \$76,500+ due to the offset—almost exactly his health insurance costs which creates a double whammy to his fixed income since employer paid health insurance is NOT accounted for in the retiree's Average Final Compensation.

### IN CONCLUSION

There is no “cost” to repealing the MePERS Social Security offset. Additionally, the disability benefit underpayments sitting in the retirement trust fund due to the offset do not belong to MePERS—the funds belong to the 51 disabled retirees thus far denied the defined disability benefit that they and their employers paid for through their contributions to the retirement system's defined benefit plan.

These disabled public employees deserve the financial security insurance they and their employers, the taxpayers, paid for and they earned through work and who unfortunately now need their wages replaced due to disability. Already suffering from life-altering medical conditions, these 51 disabled retirees deserve fairness and to be made whole by releasing their withheld disability benefits.

I urge the committee to vote unanimously Ought to Pass on LD 1638 to repeal the



MePERS Social Security offset with retroactivity for current disabled retirees to Date of Retirement. I hope to be included in the committee's work session. Thank you for listening.

Source: MePERS Program Evaluation  
Reports: Disability Benefits Paid:  
**2004: \$41,322,458.00,**  
**2013: \$37,020,969.00,**  
**2021: \$28,922,900.00**

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