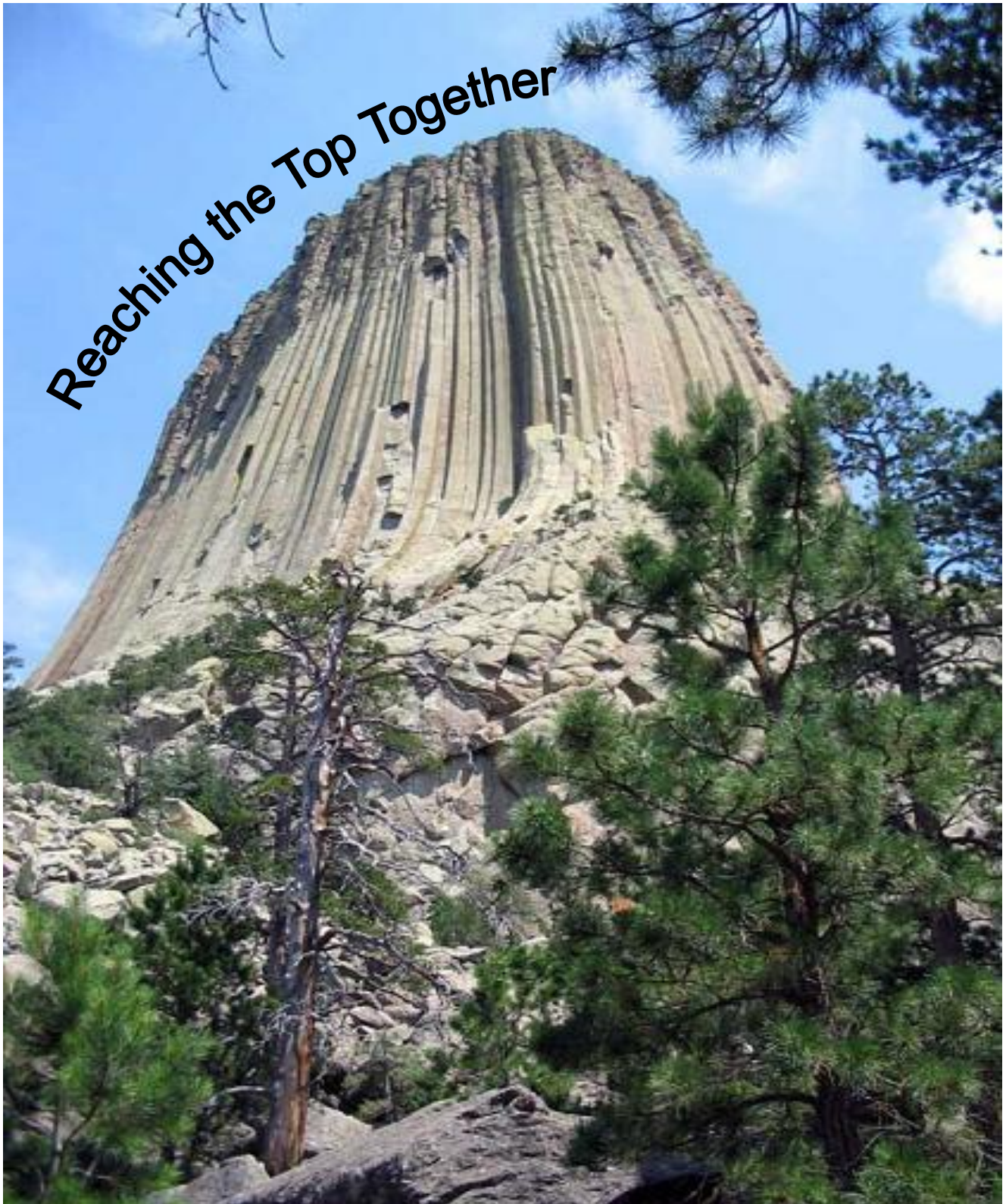


*National Conference of State Social Security Administrators*



**61<sup>st</sup> Annual Conference**  
*Little America Resort*  
*Cheyenne, Wyoming*  
**August 7-10, 2011**

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61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011

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*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

## **EXECUTIVE COMMITTEE 2010-2011**

### **PRESIDENT**

Maryann Motza, PhD, Colorado

### **FIRST VICE-PRESIDENT**

Michele Briggs, Arizona

### **VICE-PRESIDENT DESIGNATE**

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### **SECRETARY**

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Region II - Barry Faison, Virginia

Region III - Shirley Sessoms, Mississippi

Region IV - Nick Merrill, Illinois

Region V - James Sawyer, Texas

Region VI - Richard Beckstead, Utah

Region VII - Kim Smith, Washington

### **PAST PRESIDENT**

Linda Yelverton, Louisiana

*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

**COMMITTEE ASSIGNMENTS**

**Auditing**

***Shirley Sessoms (MS) – Chairperson***

Richard Beckstead (UT)  
James Sawyer (TX)  
Harry Wales (WY)

**Constitution & By-laws**

***Dean Conder (CO) – Chairperson***

Kay Gouyton (AK)

**History**

***Linda Yelverton (LA) – Chairperson***

Angie Dowdy (LA)  
Maryann Motza (CO)

**Hospitality**

***Rita Foltman (ID) – Co-Chairperson***

***Harry Wales (WY) – Co-Chairperson***

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Barry Faison (VA)  
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Karen Park (OR)  
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**Internet Communications**

***Tammy Taylor (KY) – Chairperson***

Kathleen Baxter (AL)  
Barry Faison (VA)  
Karen Park (OR)

**Legislative**

***Maryann Motza, PhD (CO) – Chairperson***

Michele Briggs (AZ)  
Dean Conder (CO)  
Vandee DeVore (MO)  
Angie Dowdy (LA)  
Joe Lancaster (KY)

**Membership**

***Karen Park (OR) – Chairperson***

Richard Beckstead (UT)  
Angie Dowdy (LA)  
Barry Faison (VA)  
Rita Foltman (ID)  
Kevin Mack (NY)  
Nick Merrill (IL)  
James Sawyer (TX)  
Shirley Sessoms (MS)  
Kim Smith (WA)  
Harry Wales (WY)

**Nominating**

***Harry Wales (WY) – Chairperson***

Dean Conder (CO)  
Kevin Mack (NY)  
Nick Merrill (IL)  
Maryann Motza, PhD (CO)

**Program**

***Michele Briggs (AZ) – Chairperson***

Vernon Bush (TN)  
Dean Conder (CO)  
Angie Dowdy (LA)  
Barry Faison (VA)  
Maryann Motza, PhD (CO)  
Karen Park (OR)  
Barbara Taylor (MS)  
Harry Wales (WY)  
Linda Yelverton (LA)

**Research & Information**

***Madison Davis (AR) – Chairperson***

Vandee DeVore (MO)  
Angie Dowdy (LA)  
Karen Park (OP)  
Barbara Taylor (MS)  
Linda Yelverton (LA)

**Resolution**

***Angie Dowdy (LA) – Chairperson***

Barry Faison (VA)  
Harry Wales (WY)

**Time & Place**

***Nick Merrill (IL) – Chairperson***

Dean Conder (CO)  
Danielle Huffine (IA)  
Tammy Taylor (KY)  
Harry Wales (WY)

**Training**

***Dean Conder (CO) – Chairperson***

Vernon Bush (TN)  
Vandee DeVore (MO)  
Maryann Motza, PhD (CO)  
Karen Park (OR)  
T.J. Reardon (MD)  
Linda Yelverton (LA)

# Conference Attendees

2010-2011

## State Social Security Administrators and Staff

### ALABAMA

*Kathleen Baxter*

### ALASKA

*Kay Gouyton*

*Robert Gregg*

### ARIZONA

*Michele Briggs*

### ARKANSAS

*Madison Davis*

### CALIFORNIA

*Theo Akana*

*Steve Propp*

### COLORADO

*Dean Conder*

*Maryann Motza*

### DELAWARE

*Richard Rexrode*

### IDAHO

*Rita Foltman*

### ILLINOIS

*Nick Merrill*

### IOWA

*Danielle Huffine*

*Kurt Hyatt*

### KENTUCKY

*Joe Lancaster*

*Tammy Taylor*

### LOUISIANA

*Angie Dowdy*

*Linda Yelverton*

### MAINE

*Ann Brandt*

### MARYLAND

*Thomas Reardon*

### MISSISSIPPI

*Shirley Sessoms*

*Barbara Taylor*

### MISSOURI

*Vandee DeVore*

### MONTANA

*Meghann Butler*

### NEVADA

*Paul R. Brugger*

### OHIO

*Kevin Brinckerhoff*

### OKLAHOMA

*Karen Lawrence*

### OREGON

*Pamella Johnson*

*Karen Park*

### SOUTH DAKOTA

*Amanda Schmitgen*

### TEXAS

*James Sawyer*

### UTAH

*Richard Beckstead*

### VIRGINIA

*Barry Faison*

### WASHINGTON

*Melanie Piccin*

*Kim Smith*

### WEST VIRGINIA

*Eric Wagner*

### WISCONSIN

*Dianna Felsman*

*Matt Stohr*

### WYOMING

*Ben Brandes*

*Erin Gourney*

*Angela Hendricks*

*Harry Wales*

# *Conference Attendees*

---

**2010-2011**

## **Social Security Administration**

*Amy Bland  
Robert Bowman  
Mark Brown  
Suzanne Duman  
John Fox  
Pat Hayes  
Gerald Hill  
Natalie Jemison*

*Jim Kaib  
Timothy Kennedy  
Thomas Kraus  
John Molinaro  
Sonya Parks  
Cassia Parson  
Vickie Porter  
Benjamin Prevas*

*Scheindel Rabinowitz  
Ann Reeg  
Armand Roth  
Elizabeth Rothstein  
Fred Sanchez  
Kathy Suarez  
Darryl Swain*

## **Internal Revenue Service**

*No participants*

## **Government Accountability Office**

*Anjali Tekchandani*

**August 4, 2010**

**1st  
Executive  
Committee Meeting**

**Closed Meeting**



**August 7, 2011**

**2nd  
Executive  
Committee Meeting**

**Closed Meeting**

**August 7, 2011**

**1st  
Business Session**

**Closed Meeting**

**August 10, 2011**

**2nd  
Business Session**

**Closed Meeting**



# Navigating the State and Local Coverage Handbook

61<sup>st</sup> Annual NCSSSA Conference  
August 8, 2011  
Cheyenne, Wyoming

Beginning in the 1840's, in an effort to expand the borders of the United States all the way to the Pacific Ocean, people were encouraged to make the difficult six month 2,000 mile journey across the Great Plains and over the Rocky Mountains to the promised abundant and fertile land awaiting them in California and Oregon.



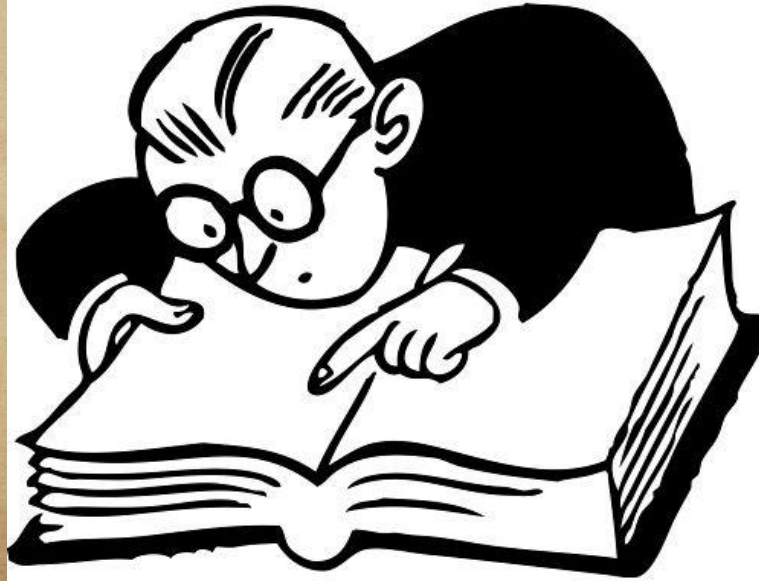
Over the following decades, thousands upon thousands joined the wagon trains leaving St. Joseph and Independence, Missouri. Various trails fanned out across the West to the promised land on the Pacific coast. Some of the most frequented trails passed near to where we are today. Danger was ever present on the trail. But which route was the best; which was the quickest; which was the safest?

The fates of many of these pioneers rested upon the knowledge, skill and experience of the wagon master that navigated their wagon train. Like the wagon masters that lead tens of thousands of pioneers across the West, you, as State Social Security Administrators, must use your knowledge, experience and the tools that are available to properly administer the voluntary Social Security provisions under Section 218 as well as the mandatory Social Security and Medicare provisions under Section 210 of the Social Security Act. The hundreds of State and local government employers in your state and their thousands of employees must rely on you to provide them with the correct information and guidance.

I think we can all agree that the Social Security and Medicare coverage provisions for State and local government employees are complex and unique. To administer the coverage provisions properly requires knowledge and understanding of:

- Section 218 Agreements
- Mandatory Social Security and Medicare provisions
- State laws, and how all these things interrelate to provide Social Security and Medicare coverage for State and local government employees.

Quite a daunting task, isn't it. And yet, from what you've told us at past conferences, many of you only get to devote between 5% and 25% of your time to State and local coverage issues. So you need to get accurate information as fast as you can.



One of the most valuable reference tools at your disposal is the “State and Local Coverage Handbook” or “SLCH” for short. Raise your hand if you have used the SLCH recently ... Raise your hand if you use the SLCH regularly ... Raise your hand if you have trouble knowing where to look for things in the SLCH. Since many of you are either new State Administrators or else are uncertain where to locate the information you need in the SLCH, we will try to give an overview of the subject matter contained in the SLCH and where to locate it. We also want to convey the logic behind the placement of topics in the SLCH, so that your searches will be easier. Treat the SLCH like the wagon master treated his maps and navigational tools.



# Navigating the State and Local Handbook

## STATE AND LOCAL COVERAGE HANDBOOK (SLCH)

- **A reference manual developed by SSA for State Social Security Administrator use**
- **Also used by SSA regional and field office staffs who work directly with the States**
- **Originally a paper publication, since December 2003 has been an online publication and part of SSA's Program Operation Manual System**



The State and Local Coverage Handbook (SLCH) is a reference manual developed by the Social Security Administration (SSA) for State Social Security Administrators to use in administering the Social Security and Medicare coverage provisions under Sections 218 and 210 of the Social Security Act.

The SLCH is also used by SSA regional and field office staffs responsible for working directly with the States in administering the State and local coverage program.

The SLCH was originally a paper publication that existed separately from the rest of Social Security's operations manuals. In December 2003, the SLCH was made an electronic publication integrated into Social Security's online *Program Operations Manual System*. This permits an efficient means of continuous procedural and editorial changes. The online SLCH is the version of record and supersedes all previous paper editions of the SLCH.



# Navigating the State and Local Handbook

## HOW TO ACCESS THE SLCH (TRAIL 1)

The State and Local Training Site

<http://www.ssa.gov/section218training>

No password or pin needed to gain access:

- Go to the Section 218 Training Site
- Click on “**State and Local Coverage Handbook**” at the end of the first paragraph
- Click on “**State and Local Coverage Handbook**” in the last paragraph



# Navigating the State and Local Handbook

## HOW TO ACCESS THE SLCH (TRAIL 2)

[www.ssa.gov](http://www.ssa.gov)

- On SSA.gov homepage, third column to the right: “**About our Agency**”
- Click on arrow in the box that says “**More**”
- Scroll down to “**Our Program Rules**” and click
- Scroll down to “**Employee Operating Instructions**” on the left side and click “**Program Operations Manual System (POMS)**”
- Under “Page Contents” click on “**Table of Contents**”
- Click on “**SL – State and Local Coverage Handbook**”







# Navigating the State and Local Handbook



## HOW TO ACCESS THE SLCH (TRAIL 3)

[www.ncsssa.org](http://www.ncsssa.org)

- Toward the upper part of Homepage click on **“Related Sites”**
- On the Related Sites page, under the second bullet, click **“SLCH: State and Local Coverage Handbook”**
- This takes you to SSA.gov’s page. Click on the **“State and Local Coverage Handbook”** link in the last paragraph



# Navigating the State and Local Handbook



## ALL TRAILS LEAD HERE

Social Security Online  
www.socialsecurity.gov

SSA's Program Operations Manual System

Search

<p>POMS Home Page</p> <p>POMS Table of Contents</p> <p>POMS Recent Changes</p> <p>Emergency Messages</p> <p>Chief Judge Bulletins</p> <p>SSA Program Rules</p>	<p><b>State and Local Coverage Handbook</b></p> <p>SL 100: Introduction to State and Local Coverage Handbook</p> <p>SL 150: Resource Guides and Informational Tools</p> <p>SL 200: Section 218 Program</p> <p>SL 300: Coverage Under Section 218 Agreements</p> <p>SL 400: Agreements and Modifications</p> <p>SL 500: Mandatory Coverage</p> <p>SL 600: Employment</p> <p>SL 700: Covered Wages</p> <p>SL 800: Reporting</p> <p>SL 900: Transmittals and Action Items</p>
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No matter which trail you take, you will ultimately end up here at the SLCH Table of Contents



# Navigating the State and Local Handbook



## SSA's Program Operations Manual

### State and Local Coverage Handbook

- SL 100: Introduction to State and Local Coverage Handbook
- SL 150: Resource Guides and Informational Tools
- SL 200: Section 218 Program
- SL 300: Coverage Under Section 218 Agreements
- SL 400: Agreements and Modifications
- SL 500: Mandatory Coverage
- SL 600: Employment
- SL 700: Covered Wages
- SL 800: Reporting
- SL 900: Transmittals and Action Items



The SLCH is made up of 10 “Chapters”:

- The SL 100 chapter which is the “**Introduction to the State and Local Coverage Handbook**” talks about the purpose of the handbook and the responsibilities of SSA, IRS, and the State Administrators in carrying out the provisions of Section 218 as well as the mandatory Social Security provisions. This is where you will find the updated list of State Social Security Administrator Responsibilities in **SL 10001.130**.
- In the SL 150 chapter you’ll find the resource guide dealing with the temporary emergency worker exclusion provisions.
- The SL 200 Chapter touches on the history of Section 218, determinations regarding Section 218 Agreements, and when Federal and State laws apply.
- For me, the SL 300, 400, and 500 chapters are the “heart” of the SLCH , and these are the chapters we use most to carry out our jobs. This is where we find the information concerning proper Social Security coverage under Section 218, how to prepare and submit modifications and dissolutions, and who is eligible for mandatory Medicare and who is eligible for mandatory Social Security.
- SL 600 chapter deals in a very cursory manner with the definition of “employee” and how specific employee positions are treated under Section 218. For me, the most important subjects in the SL 600 chapter are the treatment of predecessor-successor situations (such as consolidations and annexations) as well as how to handle joint ventures.
- SL chapters 700 and 800 are rarely used and are extremely brief discussions of material found in a more comprehensive state elsewhere in the Social Security Programs Operations Manual System.
- SL 900 is a list of all changes made to the SLCH from 2004 forward.

To explore further, you must click on one of the chapter titles. Let’s start off with SL 100.



# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

### SL 100: Introduction to State and Local Coverage Handbook

#### SL 10000: Introduction to State and Local Coverage Handbook

SL 10000.000: Introduction to State and Local Coverage Handbook - Table of Contents

#### SL 10001: Introduction

SL 10001.000: Introduction - Table of Contents

SL 10001.001: SLCH Subchapter 10001 - PDF File

#### SL 10001.001: SLCH Subchapter 10001 - PDF File

SL 10001.110: Maintaining the Security

SL 10001.120: SSA-IRS Federal Responsibilities

#### SL 10001.130: State Social Security Administrator Responsibilities

SL 10001.150: Communications Between the States and SSA



When you click on the SL 100 Chapter title “**Introduction to the State and Local Coverage Handbook,**” you come to the table of contents of the SL 10001 subchapter and its eight sections. Before we go any further let’s talk about making paper copies. If you want a printed version of the subchapter, there are two methods of doing it. You can either click:

1. on the individual sections in the subchapter and print them up one-by-one; it can be time consuming; or
2. You can go to the .001 Section , click on that title to pull up a PDF file of the entire subchapter and print that whole subchapter in one fell swoop. The only problem with this option is that whenever changes or additions to that subchapter are done it can be extremely difficult to accommodate them without reprinting the entire subchapter.

My preferred way is method 1 - printing up section by section. When changes occur to a section, you just have to reprint that section only, not the whole subchapter.

While we’re at it. Did you notice that although the chapter is SL 100, but all the items listed in the chapter are 10000 or 100001? I talked with someone in SSA’s PolicyNet about the numbering system they came up with.

For example, let’s take **SL 10001.130 “State Social Security Administrator Responsibilities”** which was recently updated.

The **first three digits** represent the **SLCH Chapter -- 100**

The **second two digits** represent the **Subchapter -- 01**

The three digits to the right of the decimal point represent the **Section -- .130**



# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

### **SL 100: Introduction to State and Local Coverage Handbook**

#### **SL 10000: Introduction to State and Local Coverage Handbook**

SL 10000.000: Introduction to State and Local Coverage Handbook - Table of Contents

#### **SL 10001: Introduction**

SL 10001.000: Introduction - Table of Contents

SL 10001.001: SLCH Subchapter 10001 - PDF File

SL 10001.101: Purpose of SLCH

SL 10001.110: Maintaining the SLCH

SL 10001.120: SSA-IRS Federal Responsibilities

**SL 10001.130: State Social Security Administrator Responsibilities**

SL 10001.150: Communications Between the States and SSA



**SL 10001.130** is by far the most important section in Chapter 100 for you State Social Security Administrators. But it is also helpful for you to be familiar with the surrounding sections of **SL 10001.120** (SSA-IRS Federal Responsibilities), **SL 10001.140** (SSA Program Administration) and **SL 10001.150** (Communications Between the States and SSA). ... Now, let's take a look at Chapter 150



# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

### SL 150: Resource Guides and Informational Tools

#### SL 15000: Resource Guides and Informational Tools

SL 15000.000: Resource Guides and Informational Tools - Table of Contents

#### SL 15001: Introduction to State and Local Coverage Handbook Conversion Guide

SL 15001.000: Introduction to State and Local Coverage Handbook Conversion Guide - Table of Contents

SL 15001.001: SLCH Subchapter 15001 - PDF File

SL 15001.050: Purpose of SLCH Conversion Guide

SL 15001.100: Introduction - Conversion Guide

SL 15001.200: Mandatory Coverage - Conversion Guide

SL 15001.300: Coverage Under Agreements - Conversion Guide

SL 15001.400: Extension of Coverage Under Agreements - Conversion Guide

SL 15001.500: Agreements and Modifications - Conversion Guide

SL 15001.600: Employment Issues - Conversion Guide

SL 15001.700: Covered Wages - Conversion Guide

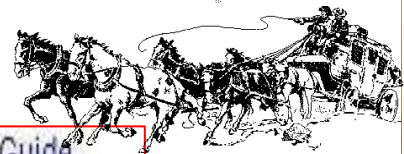
SL 15001.800: Reporting - Conversion Guide

#### SL 15005: Resource Materials

SL 15005.000: Resource Materials - Table of Contents

SL 15005.001: SLCH Subchapter 15005 - PDF File

SL 15005.010: Temporary Emergency Worker Exclusion: Resource Guide



When the SLCH was made an online publication in late December 2003, the arrangement of subject matter and the reference numbering system were completely changed from that of the prior 1995 SLCH paper edition that had been the version of record up to that time. As a means of easing the transition from the SLCH paper edition to the online edition, a conversion guide was placed in the **SL 15001 subchapter** to assist users of the former paper SLCH in locating equivalent references in the online SLCH and POMS. I presume most of the current State Administrators have either become accustomed to using the online SLCH or else it is the only version they've ever had and would have no need to use the Conversion Guide.

The important resource in Chapter 150 for most of you would be the Temporary Emergency Worker Guide in **SL 15005.010**. It will help you determine what positions would qualify for the emergency worker exclusion, and in what situations the exclusion would be applicable.

Now, on to the SL 200 Chapter.



# Navigating the State and Local Handbook

## SSA's Program Operations Manual System

### SL 200: Section 218 Program

#### SL 20000: Section 218 Program

SL 20000.000: Section 218 Program - Table of Contents

#### SL 20001: Section 218 Program

SL 20001.000: Section 218 Program - Table of Contents

SL 20001.001: SLCH Subchapter 20001 - PDF File

SL 20001.201: Program Overview

SL 20001.210: Determinations Regarding Section 218 Agreements

SL 20001.220: When Federal and State Laws Apply

SL 20001.230: Federal-State Agreements

SL 20001.240: Negotiations between the State and the Political Entity

SL 20001.250: Period of Limitation Ends on Non-Work Day

SL 20001.260: Individual's Right to Appeal

SL 20001.270: Employer's Right to Appeal



The 200 Chapter, “**Section 218 Program**” is rather brief which also reflects the amount of text in each of its sections. **SL 20001.201** provides an extremely short historical overview of Section 218 and mandatory Social Security and Medicare policy. For State Administrators, the sections that will probably be most applicable to you would be:

**SL 20001.220** – “When Federal and State Laws Apply” – This section contains lists of the situations where Federal law applies and the situations where State law generally applies.

**SL 20001.230** – “Federal-State Agreements” – This section briefly discusses the Section 218 Agreement as being a legal document between the State and the SSA. SSA cannot enter into an agreement with a political subdivision. The State enters into an agreement with SSA on behalf of the political subdivision.

**SL 20001.240** -- “Negotiations between the State and the Political Entity” – This is where you will find that negotiations between a State and political subdivisions in connection with coverage under the State's agreement are generally intrastate matters. It is the State that determines for whom and whether and when to extend Social Security coverage subject to the requirements of Section 218 of the Act.

But for those of us at Social Security, we like the reminder that is given in SL 20001.210. Check it out sometime.



# Navigating the State and Local Handbook



## SSA's Program Operations Manual

### State and Local Coverage Handbook

SL 100: Introduction to State and Local Coverage Handbook

SL 150: Resource Guides and Informational Tools

SL 200: Section 218 Program

SL 300: Coverage Under Section 218 Agreements

SL 400: Agreements and Modifications

SL 500: Mandatory Coverage

SL 600: Employment

SL 700: Covered Wages

SL 800: Reporting

SL 900: Transmittals and Action Items



Now we get to the “meat and potatoes.” These are the three chapters (SL 300, SL 400, and SL 500) where you will spend the bulk of your time when dealing with the SLCH. I encourage each of you to take the time to get acquainted with these three chapters:

**SL 300: Coverage Under Section 218 Agreements** -- This is where you should come first when dealing with issues concerning Social Security coverage and how to obtain it. Information on coverage of absolute coverage groups and coverage of retirement system groups is found here. This is where you come when you have issues concerning retirement system ineligibles and optionals or with police officers and firefighters. This is where you check out which employee positions are mandatorily excluded from Section 218 coverage and which positions can be optionally excluded from Section 218 coverage. Information about effective dates of coverage, continuation of coverage, and Medicare-only are all found here. If you have a coverage issue, go to chapter SL 300 first.

**SL 400: Agreements and Modifications** -- As its title says, SL 400 is where you go to find out about Section 218 agreements and, more importantly, modifications and error modifications to those agreements as well as dissolutions. Come here to find information on the required documentation and the process for getting modifications and dissolutions approved by SSA. Samples of Section 218 agreements for Interstate Instrumentalities, various types of coverage modifications, special modifications and notifications are here. So, if you have questions concerning the preparation of Modifications and Dissolutions, where in the SLCH do you go first?

**SL 500: Mandatory Coverage** -- This chapter deals with the provisions regarding Mandatory Medicare as well as the Mandatory Social Security and Medicare provisions. This chapter also lists the employee positions that are excluded from Mandatory Medicare and Mandatory Social Security. So, if you have questions concerning Mandatory Medicare and Mandatory Social Security, where in the SLCH do you go first?



The SL 300 chapter – “**Coverage Under Section 218 Agreements**” – is the cornerstone of the SLCH, and for those of us at SSA, it is probably the most often consulted chapter in the SLCH. If you are dealing with **coverage related issues**, the SL 300 chapter should be where you usually start looking in the SLCH. For that reason, we feel it deserves a closer examination than the other chapters.

**The SL 30001.301 thru .310 sections** serve as sort of a brief “getting your feet wet” introduction before diving in and having to tackle the weightier issues in Section 218 coverage.

The glossary of different Section 218 related terms in **.302** can be particularly helpful as you get to learn more about State and Local coverage. Also, quoting from some of the definitions as well as the basic concepts in **.303** can be helpful if you are having to prepare talking points or explain Section 218 coverage to the uninitiated.

The interstate instrumentality discussion in **.305** is probably more beneficial for SSA and IRS personnel than for State Administrators.

**SL 30001.310** gives a brief preview of coming attractions by letting us know ahead of time that coverage under the State’s Section 218 Agreement is extended to two types of “coverage groups”: **absolute coverage groups** and **retirement system coverage groups**.





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As we all probably know, employee groups made up of positions **not covered** by a retirement system or plan are known as **absolute coverage groups**. Social Security coverage is extended to absolute coverage groups under Section 218(b)(5) of the Social Security Act. Sometimes we call them “(b)(5) groups” for short.

**SL 30001.315 thru .317** deals with what constitutes an absolute coverage group, how Social Security coverage is extended to a State or Local government entity’s absolute coverage group of employees, and which employee positions are considered absolute coverage positions.

**For example**, you are an employee of the City of Newburgh and your position was covered under a retirement system when Social Security coverage was extended to the City’s absolute coverage group of employees. Subsequently, the retirement system closes down and terminates any further coverage. At this point, you are no longer covered under the retirement system. Does this now make you a member of the absolute coverage group? **Yes** or **No**? The answer is in **SL 30001.315**. (The answer is **No** because the position was still under a retirement system when Social Security coverage was awarded to the City of Newburgh’s absolute coverage group.)

You’ll also find a brief discussion in **.316** on what is a political subdivision, what are proprietary and non-proprietary functions, as well as how civilian employees of the National Guard are to be treated.



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In the **SL 30001.320's** we begin the discussion of extending Social Security coverage to retirement system groups.

**SL 30001.320** deals with what is a retirement system for Section 218 purposes and the extremely important topic of when a position is considered under a retirement system.

The remainder of the **.320's** is concerned with:

- what constitutes a retirement system for majority vote referendum purposes (Section 218(d)(4) ),
- the majority vote referendum process and SSA's requirements,
- who gets to vote in the majority vote referendum,
- the Social Security coverage outcome of a favorable majority vote referendum.

When you have the prospect of a **majority vote referendum** facing you, first take a look at the **SL 30001.320's**.

Since every state can hold a majority vote referendum, everyone in this room needs to be familiar with the **.320's**.



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The **SL 30001.330's** is primarily devoted to the subject of extending Social Security coverage to divided vote retirement system groups (under Section 218(d)(6) ).

**SL 30001.330-.335** discusses the various aspects of the divided vote referendum provisions including:

- the list of divided vote states
- what constitutes a retirement system for divided vote referendum purposes (Section 218(d)(6) ),
- the divided vote referendum process and SSA's requirements,
- who gets to vote in the divided vote referendum,
- the Social Security coverage outcome of a divided vote referendum.

We round out the .330's with **SL 30001.336**, an issue that is applicable to all referendums – the extension of the referendum waiting period for retirement system members who are deployed military personnel.



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SL 30001.330: Divided Vote Referendum Authority (Section 218(d)(6))

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Retirement System Ineligibles are those employees in positions covered by a retirement system but who are ineligible to join the retirement system due to a personal disqualification such as age, number of hours worked, date of hire, etc. Most states have amended their Section 218 agreements to permit extending of Social Security to retirement system ineligible, but not all states. For a more detailed explanation on how Social Security coverage is obtained for Ineligibles come to **SL 30001.340**.

When it comes administrating the Section 218 provisions, it can seem at times that Police Officers and Firefighters are the bane to our existence. For some of us in this room, the mere mention of the term “**public safety officers**” is guaranteed to illicit groans and start our stomachs churning. For those of you new to State and Local coverage, if you didn’t know already, police officers and firefighters are a breed apart and must be handled very carefully, especially if they happen to already be covered under a retirement system. You can find out more about them in **SL 30001.345**.

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As we continue on, we come to the **SL 30001.350's and .360's**. Except for **SL 30001.350** which deals with the Social Security coverage status of positions covered by more than one retirement system (a situation that occurs more often than you might think), the remainder of these sections deal with the various mandatory and optional exclusions that apply to Social Security coverage under Section 218.

**SL 30001.356** covers mandatory exclusions, those exclusions that have been mandated by the Social Security Act and automatically apply to all agreements and modifications. One word of caution – do not confuse the mandatory exclusions under Section 218 that are listed in **SL 30001.356** with the exclusions to mandatory Social Security coverage found in **SL 50001.560**.

These are two entirely different sets of exclusions and cannot be used interchangeably.

When a State elects to extend Section 218 coverage to a State or local government coverage group, it has the option of excluding or covering certain services or positions. The exclusions can apply on a Statewide basis or on an entity by entity basis. **SL 30001.357** is where you will find the list of optional exclusions from Social Security coverage plus more detailed discussions of the individual exclusions.

So please keep in mind **SL 30001.356** and **30001.357** when you are dealing with coverage exclusions under Section 218.



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Did you know that certain states have...uh...shall we say...**coverage peculiarities** all their own? These are bizarre abnormalities that can apply just to a particular coverage group within one state. You would think a **Psycho** dreamed them up. Is your state **Notorious** enough to be listed among those sideshow oddities? Go check out **SL 30001.370**; it's your **Rear Window** on such things. But do it at your own risk. **I Confess**, one state administrator was so shocked by what she found that she was overcome with **Vertigo** and even considered resigning. I think her name was **Rebecca**. However, you may just be bold enough to be **Spellbound** by such things. **Nebraska** is in there with its pyromania complex...in **Iowa** the corn is as high as an elephant's eye for a reason; something strange is going on with police and firefighters...oh, **Louisiana** and **Mississippi**, naughty...naughty, wasn't "True Blood" enough for you all? Ah, "laissez les bons temps roulez!" Then we go **North by Northwest** and end up in **Wisconsin's** sordid little secret...**California** and **Maine** despite your **Suspicion**, this isn't just a southern and mid-western thing; you're in there too. **Texas**, **Oklahoma** and **New Mexico** you have **SL 30001.370A** all to yourselves. Now, here's your invitation to see what skeletons are in your state's closet ("Calling Mrs. Bates!"), visit **SL 30001.370**.

When is an effective date more than effective date? When it's an "**applicable date**" (aka "**designated date**"). An applicable date can determine which employees get retroactive coverage, so visit **SL 30001.375**; you all need to be acquainted with it. But applicable dates also come into play in continuation of coverage issues which we will look at next.



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SL 30001.390: Entity No Longer in Existence or Inactivated  
SL 30001.395: Medicare HI-Only Coverage for Pre-1986 Hires

We now round out the **SL 300** Coverage Chapter with the **30001.380**'s and the **.390**'s. That brings us to **SL 30001.380** and “**Continuation of Coverage Rules.**” Continuation of Coverage is one of the most difficult State and Local concepts to understand and explain. It plays a role in a significant portion of the coverage questions SSA has to deal with each year. What happens to a Social Security covered absolute coverage position when it is subsequently covered under a retirement system? What happens when a Social Security covered retirement system position is moved out of the Social Security covered retirement system and placed into another retirement system that is not covered for Social Security? What is the Social Security coverage status of a newly created or reclassified position? We can't stress enough the importance of knowing and understanding the Continuation of Coverage procedure. Remember **SL 30001.380** is there to help you.

Since April 20, 1983, a Section 218 agreement or modification cannot be terminated. However, before then the State could terminate the Section 218 agreement for a State or local government entity by following certain proscribed steps. **SL 30001.385** provides the historical background. **SL 30001.390** discusses how entities that have legally dissolved or have been placed in “inactive” status are to be treated. In situations of this kind, you may also want to consult **SL 40001.480** and **.485**.

The **SL 300** chapter ends with a discussion in **SL 30001.395** of the procedure for extending Medicare-only coverage to pre-1986 hires. These are the people who do not fall under the mandatory Medicare provisions. Now, on to the **SL 400** chapter and Agreements, Modifications and Dissolutions...



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SL 40001.490: Agreement and Modification Exhibits

We've now left the SL 300 chapter and its various coverage issues behind us and now arrive in the SL 400 Chapter which deals with “**Agreement and Modifications**” – those instruments which extend Social Security coverage to State and local government entities under the Section 218 provisions. **SL 40001.401, .405, and .410** deal with the steps that must be taken by a State or interstate instrumentality to establish its **original Section 218 Agreement**.

Changes to a State's or an interstate instrumentality's original Section 218 Agreement are done through **modifications** to the Agreement. There may be 52 state Section 218 agreements, but there are approximately 30,000 modifications. Thus, it is imperative that you be knowledgeable about the different types of modifications and the steps that must be taken to properly prepare and execute them. **SL 40001. 415 through .445** deals with the handling of modifications in general and specifically with standard coverage modifications -- those modifications which are changing provisions of the State's Section 218 agreement or where Social Security coverage is being extended to a coverage group. Definitely keep **SL 40001.420** bookmarked; this section provides the general procedures for preparing and submitting modifications, including the new closing agreement procedure for standard modifications with effective dates that go beyond the IRS Statute of Limitations.





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Fortunately or unfortunately, no one is perfect; we all make mistakes. State and Local coverage is certainly not immune to error, and that is why “**error modifications**” were invented. Where a simple typographical error is made that does not affect coverage (such as listing School District **12** as School District **13**), you can refer to **SL 40001.420E** for that.

However, if an error relates to the **extent of coverage** or the **effective date of coverage**, then an error modification is necessary. For the various error modification situations you may face and how to handle them, you want to check out **SL 40001.450** though **.470**.

The error mods we most often deal with are the result of situations where a governmental entity has incorrectly assumed that merely withholding and reporting Social Security taxes to the IRS is sufficient enough to extend Social Security coverage to its employees. **SL 40001.465** discusses the two types of error modifications that can be used in these situations.



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When a governmental entity that is already covered under the State's Section Agreement changes its name, **SL 40001.475** can guide the state administrator toward what action must be taken and what documentation is required to inform SSA of the change.

If a political subdivision, such as a city or county, that is already covered under the State's Section 218 agreement creates a new component that is an integral part of that political subdivision, the State should notify SSA and IRS of that new component's existence. Unlike other integral parts of the political subdivision, this component has its own payroll, bookkeeping, tax reporting system, Employer Identification Number, etc. There is no need for a new modification, but still SSA and IRS should know that the new component is covered under the political subdivision's existing modification. That's where the new government component notification process comes in and **SL 40001.477** is the first place to look.



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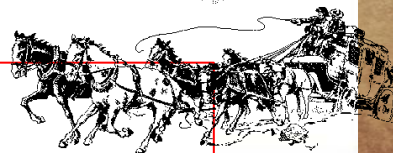
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SL 40001.475: Changes in Entity Name

SL 40001.477: Reporting New Government Components

SL 40001.485: Legally Dissolved Entities

SL 40001.490: Agreement and Modification Exhibits



From time to time, local governmental entities legally dissolve. When a Social Security covered political subdivision or absolute coverage group is legally dissolved, the State must submit to SSA a notice of legal dissolution to delete the dissolved entity from the State's Section 218 Agreement. The process for documenting and reporting a legally dissolved political entity is found in **SL 40001.485**.

We round out the **SL 400 Chapter** with **SL 40001.490** which houses the various Agreement and Modification Exhibits. Currently there are 29 exhibits, including the recently published "closing agreement" samples. Each exhibit is in its own separate PDF file which must be opened separately. The exhibits are of those most commonly used by the States. I'm sure you all refer to this section often; if not, you should. Now on to the **SL 500 Chapter** and **Mandatory Coverage**



# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

 Search

### SL 500: Mandatory Coverage

#### SL 50000: Mandatory Coverage

SL 50000.000: Mandatory Coverage - Table of Contents

#### SL 50001: Mandatory Coverage

SL 50001.000: Mandatory Coverage - Table of Contents

SL 50001.001: SL CH Subchapter 50001 - PDF File

SL 50001.501: Mandatory Social Security and Medicare Provisions

SL 50001.510: Mandatory Medicare Coverage

SL 50001.520: Continuing Employment Exception

SL 50001.530: Services Not Subject to Mandatory Medicare Coverage

SL 50001.540: Voluntary Medicare Coverage

SL 50001.550: Mandatory Social Security and Medicare Coverage

SL 50001.560: Services Not Subject to Mandatory Social Security and Medicare Coverage

SL 50001.570: Effect of Mandatory Coverage on Section 218 Coverage

SL 50001.580: Rehired Annuitants



We now have before us the **SL 500** chapter, where you will find information concerning Mandatory Medicare and Mandatory Social Security coverage. Basically the chapter can be split in half between Mandatory Medicare Coverage and Mandatory Social Security Coverage. The first half deals with Mandatory Medicare coverage.

With a few exceptions, State and local employees hired (or rehired) after March 31, 1986 are mandatorily covered for Medicare. **SL 50001.530** lists those employee services that are excluded from Mandatory Medicare coverage. As we said earlier, do not confuse this list with the list of Mandatory Exclusions to Section 218 Coverage found in **SL 30001.356**.

The Continuing Employment Exception can sometimes come into play, especially if there has been a consolidation or annexation, so keep **SL 50001.520** in mind.



# Navigating the State and Local Handbook



**SSA's Program Operations Manual System**

Search

**SL 500: Mandatory Coverage**

- SL 50000: Mandatory Coverage**
  - SL 50000.000: Mandatory Coverage - Table of Contents
- SL 50001: Mandatory Coverage**
  - SL 50001.000: Mandatory Coverage - Table of Contents
  - SL 50001.001: SLCH Subchapter 50001 - PDF File
  - SL 50001.501: Mandatory Social Security and Medicare Provisions
  - SL 50001.510: Mandatory Medicare Coverage
  - SL 50001.520: Continuing Employment Exception
  - SL 50001.530: Services Not Subject to Mandatory Medicare Coverage
  - SL 50001.540: Voluntary Medicare Coverage
  - SL 50001.550: Mandatory Social Security and Medicare Coverage**
  - SL 50001.560: Services Not Subject to Mandatory Social Security and Medicare Coverage
  - SL 50001.570: Effect of Mandatory Coverage on Section 218 Coverage
  - SL 50001.570: Effect of mandatory Coverage on Section 218 Coverage
  - SL 50001.580: Rehired Annuitants

The latter half of the **SL 500 Chapter** deals with Mandatory Social Security coverage. Of course, if there is Social Security coverage, Medicare coverage is included.

Beginning July 2, 1991, Social Security coverage became mandatory for State and local government employees who are not members of a Social Security equivalent public retirement system **and** who are not covered under a Section 218 Agreement. The rules concerning Mandatory Social Security coverage are found in **SL 50001.550**.

There are certain services that are excluded from mandatory Social Security coverage, and you will find the list of exclusions in **SL 50001.560**.



# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

### SL 500: Mandatory Coverage

#### SL 50000: Mandatory Coverage

SL 50000.000: [Mandatory Coverage - Table of Contents](#)

#### SL 50001: Mandatory Coverage

SL 50001.000: [Mandatory Coverage - Table of Contents](#)

SL 50001.001: [SLCH Subchapter 50001 - PDF File](#)

SL 50001.501: [Mandatory Social Security and Medicare Provisions](#)

SL 50001.510: [Mandatory Medicare Coverage](#)

SL 50001.520: [Continuing Employment Exception](#)

SL 50001.530: [Services Not Subject to Mandatory Medicare Coverage](#)

SL 50001.540: [Voluntary Medicare Coverage](#)

SL 50001.550: [Mandatory Social Security and Medicare Coverage](#)

SL 50001.560: [Services Not Subject to Mandatory Social Security and Medicare Coverage](#)

### SL 50001.580: Rehired Annuitants



We end the SL 500 Chapter with **SL 50001.580**. In addition to the excluded services listed in **SL 50001.560**, there is another group of employees who may be excluded from Mandatory Social Security coverage -- rehired annuitants. A rehired annuitant is exempt from mandatory Social Security coverage if he/she is a retiree of a State or local governmental entity who participated in a retirement system and who is rehired by his/her former employer or by another employer that participates in the same retirement system that he gets his pension from.

**SL 50001.580** discusses when a rehired annuitant can be excluded from Mandatory Social Security. Although the rehired annuitant may be exempt from Mandatory Social Security coverage, the rehired annuitant would have to pay into Mandatory Medicare. If the rehired annuitant occupies a position that is covered for Social Security under a Section 218 agreement his/her services are covered for Social Security under the provisions of the agreement. That's discussed here too.

The **SL 300**, the **SL 400** and the **SL 500** are probably the most important SLCH chapters in your everyday work in State and Local coverage. Remember:

- if a **coverage** question arises first go to **SL 300**
- if it concerns **modifications** and **dissolutions** first go to **SL 400**
- if it concerns **Mandatory Social Security** and **Mandatory Medicare** first go to **SL 500**



# Navigating the State and Local Handbook



SSA's Program Operations Manual System

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**SL 600: Employment**  
**SL 60000: Employment**  
SL 60000.000: Employment - Table of Contents  
**SL 60001: Employment**  
SL 60001.000: Employment - Table of Contents  
SL 60001.001: SLCH Subchapter 60001 - PDF File  
SL 60001.601: Employee Defined  
SL 60001.605: Common-Law Rules  
SL 60001.610: Employee vs. Independent Contractor  
SL 60001.615: Section 530 of the 1978 Revenue Act  
SL 60001.620: Elected Officials  
SL 60001.621: Election workers  
SL 60001.625: Fee-Based Public Officials  
SL 60001.630: Justices of the Peace  
SL 60001.635: Police Officers and Firefighters  
SL 60001.640: Public Officers  
SL 60001.642: Court Reporters  
SL 60001.645: Sheltered Workshops  
SL 60001.650: Tax Assessors and Tax Collectors  
SL 60001.655: Volunteer Firefighters  
SL 60001.660: Identity of the Employer  
**SL 60001.670: Cooperative State-Local Government Employment**  
SL 60001.680: Predecessor-Successor Situations  
SL 60001.681: How Social Security Coverage is Affected in Various Predecessor-Successor Situations  
SL 60001.682: Determining the Status of a Predecessor-Successor Situation and How Social Security Coverage is Affected  
SL 60001.683: Application of the Continuing Employment Exception to Mandatory Medicare Coverage in Predecessor-Successor Situations



Well we've crossed the summit of the last range of mountains. It should be all downhill for our wagon train from here on in. So we'll make a quick stop at **SL 600** the **Employment** chapter. **SL 600** chapter deals very briefly with the definition of "employee" and the common-law rules – subjects that are discussed at greater lengths elsewhere in the SSA's Program Operations Manual System in the **RS 021 Chapter**. There are also brief citations of how specific employee positions are treated under Section 218, several of which (police and firefighters, elected officials, election workers, fee-based public officials) are discussed in more detail in the **SL 300 Chapter**. However, you may want to check out the references on court reporters, sheltered workshops and volunteer firefighters.

There are a few sections toward the end of the chapter you should consider bookmarking. One of them is **SL 60001.670** which deals with joint ventures and what must be considered when determining the Social Security coverage status of the joint venture's employees. **For example**, As a means of cutting costs, the Town of Antelope and the Town of Big Horn establish a joint 911 Call Center. How are the Call Center employees covered, if at all, for Social Security? When faced with such issues check out to **SL 60001.670**.



# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

Search

### SL 600: Employment

#### SL 60000: Employment

SL 60000.000: Employment - Table of Contents

#### SL 60001: Employment

SL 60001.000: Employment - Table of Contents

SL 60001.001: SLCH Subchapter 60001 - PDF File

SL 60001.601: Employee Defined

SL 60001.605: Common-Law Rules

SL 60001.610: Employee vs. Independent Contractor

SL 60001.615: Section 530 of the 1978 Revenue Act

SL 60001.620: Elected Officials

SL 60001.621: Election workers

SL 60001.625: Fee-Based Public Officials

SL 60001.630: Justices of the Peace

SL 60001.635: Police Officers and Firefighters

SL 60001.640: Public Officers

SL 60001.642: Court Reporters

SL 60001.645: Sheltered Workshops

SL 60001.650: Tax Assessors and Tax Collectors

SL 60001.655: Volunteer Firefighters

SL 60001.660: Identity of the Employer

SL 60001.665: Cooperative Federal-State Government Employment

SL 60001.670: Cooperative State-Local Government Employment

SL 60001.680: Predecessor-Successor Situations

SL 60001.681: How Social Security Coverage is Affected in Various Predecessor-Successor Situations

SL 60001.682: Determining the Status of a Predecessor-Successor Situation and How Social Security Coverage is Affected

SL 60001.683: Application of the Continuing Employment Exception to Mandatory Medicare Coverage in Predecessor-Successor Situations



The remaining sections in this chapter -- **SL 60001.680 through 60001.683** -- are very à propos during this age of budget shortfalls and population shifts. It seems every few weeks we hear of school districts dissolving and then consolidating to form new and larger school districts. Or a city annexes a town or village. How is Social Security coverage affected by such predecessor-successor situations? How is the Continuation of Employment Exception (for Mandatory Social Security purposes) affected when these things happen? We encourage each of you to please keep these sections in mind when you are dealing with consolidations and annexations and miscellaneous transitions. That's **SL 60001.680 through 60001.683**.





# Navigating the State and Local Handbook



## SSA's Program Operations Manual System

### SL 700: Covered Wages

#### SL 70000: Covered Wages

SL 70000.000: Covered Wages - Table of Contents

#### SL 70001: Covered Wages

SL 70001.000: Covered Wages - Table of Contents

SL 70001.001: SLCH Subchapter 70001 - PDF File

SL 70001.701: Wages Defined

SL 70001.710: Covered State and Local Government Employment

SL 70001.720: Payments for Periods Not Covered Under Section 218 Agreement

SL 70001.725: Maximum Creditable Wages



The wagon train is coming toward the end of its journey, but just a couple brief mentions before we arrive at our destination, and then the quiz show can begin.

We're making a rest stop here at **SL 70001 "Covered Wages."** This subchapter is an extremely brief description of wages for Social Security coverage purposes. You can probably read the entire subchapter in 10 minutes. To get a full understanding of the subject you're better off going to the **RS 01401** and **RS 01402** subchapters elsewhere in the Social Security POMS Manuals. You can get to the other parts of the POMS by following **Trail Number 2** that we mentioned earlier. To be quite honest, I don't know why this chapter is here, except it's a remnant from the days when the SLCH was a separate and distinct publication from the rest of the POMS manuals. But if you really want the dish on **Wages for Coverage** go to **RS 01401** and **RS 01402** instead.



# Navigating the State and Local Handbook

## SSA's Program Operations Manual System

### SL 800: Reporting

#### SL 80000: Reporting

SL 80000.000: Reporting - Table of Contents

#### SL 80001: Reporting

SL 80001.000: Reporting - Table of Contents

SL 80001.001: SLCH Subchapter 80001 - PDF File

SL 80001.801: State Reporting Responsibilities

SL 80001.805: State's Request for Review (Pre-1987)

SL 80001.810: SSA Responsibilities

SL 80001.815: IRS Responsibilities

SL 80001.820: SSA Responsibilities

SL 80001.825: Earnings Records for Tax Years 1978-1981

SL 80001.830: Correction Reports

SL 80001.835: Corrections for Tax Years Before 1991

SL 80001.840: Corrections for Tax Years 1991 and Later

SL 80001.845: Reporting Back Pay to SSA

SL 80001.850: Reporting Election Workers



Except for a few State Administrators, like Linda Yelverton, most of the State Administrators sitting in this room weren't around (at least as State Administrators) in the days before 1987 when it was the State Administrator's job to collect all the Social Security contributions from all the covered State and Local government entities and then turn them over to Social Security to be placed in the trust fund and credited to the correct employees.

That all changed when IRS took over the collection of FICA taxes in 1987 and the entities began turning over the taxes directly to IRS. In some states, the State Administrators even questioned the validity of the continuation of their jobs now that their collection days were over.

Although IRS took over the collection of Social Security taxes in 1987, there are three states and one territory that have not yet resolved some their outstanding pre-1987 bills with us. The bulk of the material in this chapter deals with the proper handling of pre-1987 reporting issues.

However, **SL 80001.810 and .815** list the responsibilities of SSA and IRS respectively in the current post-1986 reporting process. **SL 80001.801** briefly discusses the State's reporting responsibilities before and after the 1987 change over.

We have now reached the end of our journey, but before you can cross over to the "promised land," we are going to play a quiz we will call....



# Navigating the State and Local Handbook



**WHERE IN THE HECK ARE YOU GOING?**



....**“Where in the Heck are You Going?”** State Administrators will be picked to lead wagon trains across the prairies and mountains and deserts to the “promised land.” At the end of each of these trails are answers to various questions we will ask. In order to get his/her wagon train safely across to the “promised land,” the State Administrator/Wagon Master will have to follow the right trail to the correct answer. Will you be able to get your settlers to the promised land, or will you wind up in the desert or stranded in a snowbound mountain pass like the Donner Party? Only the fates know the answer.

Now that everything is in place, who will be our first Wagon Master?



# Navigating the State and Local Handbook



## QUESTION 1

**Your boss asks you what are the responsibilities of a State Administrator . Where in the SLCH would you go to find that list?**



SL 10001.130



# Navigating the State and Local Handbook



## **QUESTION 2**

**You are about to hold your first majority vote referendum. You need to find the minimum conditions that SSA requires for the majority vote referendum. Where do you look for this information in the SLCH?**



SL 30001.323



## Navigating the State and Local Handbook



### **QUESTION 3**

**The Town of Orange and the Village of Lyme both legally dissolved and consolidated to form the City of Citrusville . The employees of Orange and Lyme were covered for Social Security under Section 218. Are they still covered for Social Security under Section 218 now that they are employees of Citrusville?**



Now, where in the SLCH should you look first for the answer? SL 60001.680 -.683



# Navigating the State and Local Handbook



## **QUESTION 4**

**In order for the new City of Citrusville to obtain Social Security coverage for its employees under Section 218. It must also provide proof of dissolution of the former Town of Orange and the Village of Lyme. Where in the SLCH do you check for the list of evidence of dissolution that must be submitted?**



Now, where in the SLCH should you look first for the answer? SL 40001.485



# Navigating the State and Local Handbook



## QUESTION 5

**Mr. Swain recently retired from the Town of Moosejaw and is receiving a pension from the Moosejaw Retirement System. Soon after retirement, he takes a part time job at the Long Horn County Public Library. Due to the part-time nature of his job, he is not covered under a retirement system or under a Section 218 Agreement. Long Horn County has no positions under the Moosejaw retirement system. Where might you look first in the SLCH to help you determine whether Mandatory Social Security applies to Mr. Swain?**



Now, where in the SLCH should you look first for the answer? SL 50001.580.





# Navigating the State and Local Handbook



## QUESTION 6

**The Town of Crystal Springs contacts you asking about whether the firefighters of the town's fire department should be excluded from Social Security under the town's Section 218 Agreement because the town views them to be emergency workers. Where might you look in the SLCH for an answer?**



SL 30001.356 (Mandatory Exclusions) and SL 30001.345 ("Police and Firefighters")



# Navigating the State and Local Handbook



# Navigating the State and Local Handbook



**Presented by  
Fred Sanchez  
and Mark Brown**

**Written by  
Mark Brown  
and Wayne  
Williamson**

# The End



**SOCIAL SECURITY**



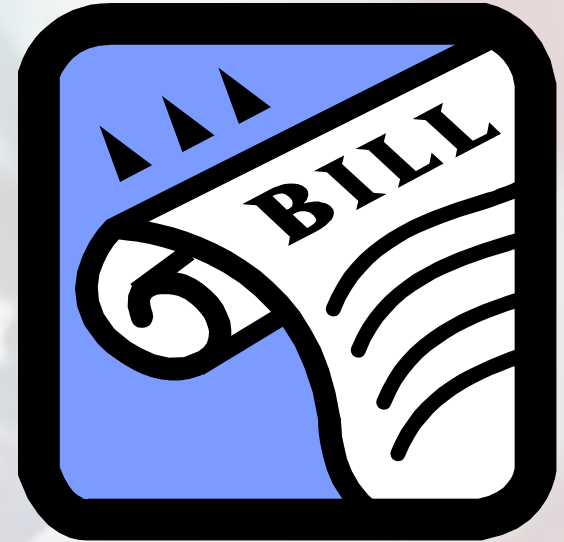
# Social Security Legislative Update NCSSSA Presentation

August 2011

# Legislative Update-112<sup>th</sup> Congress

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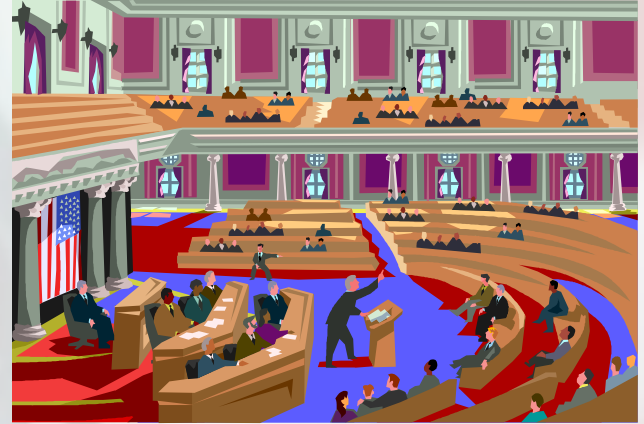
- **S.113 would modify WEP**



- **H.R. 1332 would repeal both WEP and GPO**

# Legislative Update-112<sup>th</sup> Congress

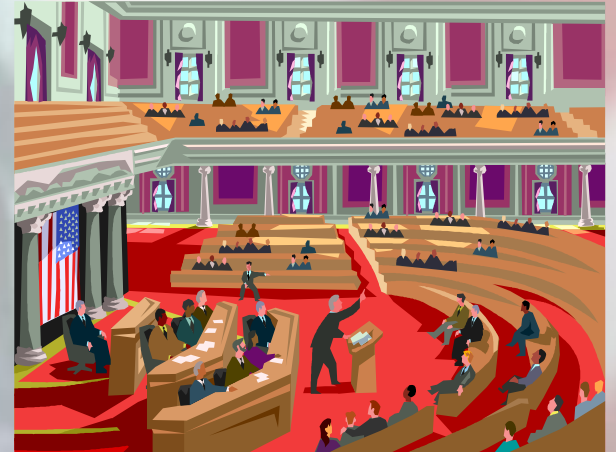
- **S.113 would modify WEP**
- **Would establish a new formula for treating non-covered earnings**
- **Could result in a smaller reduction for WEP based on lifelong earnings level—counting both covered & non-covered earnings**



# Legislative Update–112<sup>th</sup> Congress

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- **H.R. 1332 would repeal WEP and GPO.**
- **Benefits payable after December 2011 would be adjusted.**



# Congressional Interest

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**Not likely that WEP & GPO will go away**

- **Too costly to fully repeal**
- **Full repeal would not be equitable**

**Possibility of revising computation more likely**

# Mandatory Coverage Under Social Security

- About 25% of all state and local government employees are not covered under Social Security.
- Proposals to require Social Security coverage for newly hired employees have been included in several solvency proposals.
- There are currently no bills in Congress that provide for mandatory coverage.





**SOCIAL SECURITY**



**Thank You**  
**Any questions or comments?**



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

## *“Overview of Pub 963 Evaluation and Compliance Self-Assessment Tool”*

**Speaker: Maryann Motza and Dean Conder**

**Moderator: Danielle Huffine**

**A handout and PowerPoint presentation was given to all participants regarding the “Overview of Pub 963 Evaluation and Compliance Self-Assessment Tool”.**

**Maryann gave a synopsis of the two-year project regarding the questionnaire that was sent to all state and local government employers and State Administrators. This information will be used by IRS to adapt the FSLG Compliance Check (Form 4318) for use by public employers to verify their tax compliance. This tool will also help the State Social Security Administrators assess the levels of compliance in their area. Maryann walked through the 7 categories of compliance that are listed on the FSLG website. You want to go to [www.irs.gov](http://www.irs.gov) and click on Government Entities, Tax Information for Federal, State, & Local Governments and then FSLG Toolkit. You may then access the toolkits for Public Employers, Compliance and Government Entity Compliance. There is also a link here to Pub 963.**

**Maryann and Dean went over the history of Pub 963, why it was started and how it is maintained, but is truly meant to be a resource/overview tool so for very detailed specifics you should still work in conjunction with your FSLG and SS RO. There is an annual overview of the publication and many suggestions for improvement have been made which are being implemented. There was also a survey through “Survey Monkey” that NCSSSA requested to be sent to state and local employers to get feedback for their suggestions. The survey needed to be completed by August 24, 2011 and Maryann went over the questions that were on the survey. The results of this will be shared with SSA and IRS/FSLG for use in future edits.**

# **Overview of Pub. 963 Evaluation and Compliance Self-Assessment Tool**

Dr. Maryann Motza, Colorado State Social Security Administrator  
Dean Conder, Deputy State Social Security Administrator  
Colorado Public Employees' Social Security Program

NCSSSA Annual Conference  
August 8, 2011

# History of the FSLG Compliance Self-Assessment Tool – contd.

- o Checklist was a product of the IRS Advisory Committee on Tax Exempt and Government Entities (ACT).
- o Two-year project, including “pre-testing” the sample checklist with state and local government employers and State Administrators.
- o Goal: To adapt the FSLG Compliance Check (Form 4318) for use by public employers to verify their tax compliance.

# “Pre-Test” Results from Evaluation of Draft Checklist

(January 20 – March 15, 2010)

Large Number of Responses	158
<u>Diversity of Responses:</u>	
Local/Municipal	45.9%
School Districts	17.8%
<u>Support for Checklist:</u>	
Less than 1,000 Employees	67.5%
Over 10,000 Employees (Chiefly States)	15.9%
Clear and Understandable	87.2%
Explanatory notes make easier	94.0%
Checklist is a valuable tool	87.7%

# History of the FSLG Compliance Self-Assessment Tool – contd.

- IRS modified the ACT's proposed checklist slightly and officially rolled it out in January 2011.
- Final FSLG Compliance Self-Assessment Tool available at: [http://www.irs.gov/pub/irs-tege/compliance\\_tool\\_fslg.pdf](http://www.irs.gov/pub/irs-tege/compliance_tool_fslg.pdf)
- 7 Categories designed to help public employers identify areas that indicate potential compliance issues.
- Tool can also assist State Social Security Administrators in assessing the compliance levels of state and local governments in their states.

# History of the FSLG Compliance Self-Assessment Tool – contd.

**FSLG Website Explains the History and Purpose of the Tool:**  
<http://www.irs.gov/govt/fslg/article/0,,id=232452,00.html>

## **Compliance Self-Assessment Tool Available**

FSLG, in conjunction with the TE/GE Advisory Committee, has created a Compliance Self-Assessment Tool for government entities. This tool is designed to allow you to efficiently review all major areas of Federal tax law that governments typically deal with, and identify those where you may have compliance issues. The document is presented in a format allowing you to check items that require further attention. It contains links to sources with further information to help you answer questions that may arise. In addition, an FSLG Specialist can help answer questions that may arise as you review the questions. The Self-Assessment Compliance Tool is available on the [FSLG website](#) now. It was discussed during a [January 27 FSLG webinar](#).

# FSLG COMPLIANCE SELF-ASSESSMENT TOOL

http://www.irs.gov/pub/irs-tege/compliance\_tool\_fslg.pdf - Windows Internet Explorer

http://www.irs.gov/pub/irs-tege/compliance\_tool\_fslg.pdf

http://www.irs.gov/pub/irs-tege/compliance\_tool\_fslg...

## For Assistance While Completing the Form

The following Federal tax information is available from the FSLG website, [www.irs.gov/govt/fslg](http://www.irs.gov/govt/fslg).

- [Publication 963, Federal-State Reference Guide](#)
- [Quick Reference Guide for Public Employers](#)
- [Publication 1779, Independent Contractor or Employee](#)
- [FSLG Toolkit](#)
- [Retirement Plans for Government Employers](#)
- [Governmental Plans Information \(IRS Employee Plans\)](#)
- [Publication 15, Employers Tax Guide](#)
- [Publication 15-A, Employer's Supplemental Tax Guide](#)
- [Publication 15-B, Employer's Guide to Fringe Benefits](#)
- [Taxable Fringe Benefit Guide](#)

General SSA information is available at the Social Security Administration [website](#) and more specific information pertinent to government employers and employees is available at: [www.ssa.gov/slge](http://www.ssa.gov/slge).

National Conference of State Social Security Administrators (NCSSSA) website includes contact information for your state's Social Security Administrator, who is responsible for maintaining and administering the state's Section 218 Agreement and Modifications with the [Social Security Administration](#).

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# FSLG COMPLIANCE SELF-ASSESSMENT TOOL

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OK	Flag	SOCIAL SECURITY
		<p><b>1. Does the entity have a voluntary social security (full social security and Medicare) coverage agreement, often referred to as a Section 218 Agreement or Modification to the State's Section 218 Agreement?</b></p> <p><b>If not, SKIP to question 4 in this section.</b></p> <p><i>Note: If you are unsure whether your entity is covered by a Section 218 Agreement or to obtain a copy of your Section 218 Agreement and any related modifications, you may contact your State Social Security Administrator. These are listed at <a href="http://www.ncsssa.org/statessadminmenu.html">http://www.ncsssa.org/statessadminmenu.html</a></i></p>
		<p><b>2. If you have a Section 218 Agreement, are services performed by any of your employees excluded from social security and Medicare coverage?</b></p> <p><i>Note: Federal law requires the exclusion of the following services from voluntary (Section 218) coverage under the Social Security Act (Section 218(c)(6)):</i></p> <ul style="list-style-type: none"> <li>• Services performed by individuals hired to be relieved from unemployment.</li> <li>• Services performed in a hospital, home or other institution by a patient or inmate thereof as an employee of a state or local government.</li> <li>• Services performed by an employee hired on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.</li> <li>• Services performed by a nonresident alien temporarily residing in the U.S. holding an F-1, J-1, M-1 or Q-1 visa, when the services are performed to carry out the purpose for which the alien was admitted to the U.S.</li> <li>• Covered transportation service as defined in SSA 210(k)</li> </ul> <p><i>Note: Federal law allows for the optional exclusion of the following services from voluntary (Section 218) coverage under the Social Security Act ):</i></p> <ul style="list-style-type: none"> <li>• Services in positions compensated solely by fees received directly from the public or subject to SECA (Self-Employment Contributions Act) taxes</li> </ul>

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# History of the Federal State Reference Guide IRS Pub. 963

## Background on the Publication

- In 1995, the Federal-State Reference Guide for Social Security and FICA Reporting by State/Local Government Employers (IRS Pub. 963) was first published as a joint publication of the U.S. Internal Revenue Service, U.S. Social Security Administration (SSA), and the State of Colorado (whose role was subsequently replaced by the National Conference of State Social Security Administrators “NCSSSA”).

# History of the Federal State Reference Guide IRS Pub. 963 – contd.

- **The goal of the original Guide was to provide an easy to understand, single-source, reliable, and consistent reference tool for state and local government (public) employers and their legal and financial advisors as well as federal (IRS and SSA) officials who are responsible for administering Social Security/Medicare coverage, benefits, public pension system requirements, and FICA tax obligations for state and local governments.**
  - Pub. 963 does not provide definitive guidance, because the Internal Revenue Code and Social Security Act and the associated regulations, rulings, and case law are the only valid citations of authority for technical matters. The preface to the original edition stated “This material [contained in the Guide] was designed specifically to provide awareness to requirements (withholding, depositing, reporting and paying taxes) with respect to the responsibilities of state and local government employers along with other useful information.”
- **It continues to this day as the only joint publication by the IRS, SSA, and the states. Since its original publication in 1995, it has undergone a number of changes, including some formatting modifications.**

# Annual Review of the Federal State Reference Guide

- NCSSSA is a partner with the IRS and SSA in providing suggestions for content and format improvements to IRS Pub. 963.
- During 2010-2011 NCSSSA Legislative Committee members reviewed the current and past versions of Pub. 963 and identified a number of possible suggested changes and areas for improvement . . .

# Legislative Committee Members’ Suggestions for Improvement

- General Comment: Pub. 963 is a great tool for those with knowledge and experience, but some of the simplistic aspects of the original has been lost for those who lack sophistication in this area.
- Need paragraph in Chapter 5 that explains the need for a referendum when position already covered by qualifying pension plan.
- Provide link to Form SS-8 on page 4-11.
- Provide link (or language) to POMS SL: 10001.130 State Social Security Administrators Responsibilities, in Chapter 8.
- Provide internal link (jump) to Index from Table of Contents page.
- Provide a link to NCSSSA in Chapter 12.
- Amend Glossary and replace the definition of “pension plan” that speaks to a defined benefit plan with a definition of “qualifying FICA replacement plan;” or, provide the additional definition of “qualifying FICA replacement plan” along with the definition of “qualified participant.”
- Provide section on Charter Schools.
- Include the IRS’s QUICK REFERENCE GUIDE FOR PUBLIC EMPLOYERS ([http://www.irs.gov/pub/irs-tege/public\\_employers\\_outreach\\_guide.pdf](http://www.irs.gov/pub/irs-tege/public_employers_outreach_guide.pdf)) in Pub. 963. That doc has some good flowcharts that would also work well in 963.

# Legislative Committee Members' Suggestions for Improvement – contd.

- Restore Chapter entitled “Public Employers” so information they need to have at their fingertips, because they have direct responsibility for it, such as wage and reporting, SSA Form 1945, etc. is readily available in one place.
- Restore the visual clues contained in the original Pub. 963, e.g., symbols to represent each of the four key parties (i.e., SSA, IRS, SSSA, public employers) and include with each Q&A as well as in the appropriate chapter.
- Restore space for notes.
- Add an appendix that contains the list of all appropriate legal citations.
- Restore maps of IRS, SSA, NCSSSA regions, plus U.S. Circuit Court jurisdiction.
- Add to the appendix the IRS document entitled, “Retirement Plans for Government Employers
- Include the Compliance Self-Assessment Tool (created by the ACT Committee with assistance from NCSSSA) as an appendix.
- All language needs to be revisited to reduce “IRS-ese” and restore easy to understand English, while still ensuring the accuracy of the content.
- NOTE: Size of the document was originally a problem, due to the cost to print and distribute hard-copy version of the Guide. With the internet being much more widely available and used now, the size of the document should not be as big of a concern, while still keeping in mind the need to keep it a succinct, yet complete a single-source reference tool as much as possible.

# Legislative Committee Members' Suggestions for Improvement – contd.

- Delete Chapter 13 and move Frequently Asked Questions to end of each Chapter as appropriate.
- Add graphics and space for notes. I transfer notes from year to year in updated Publications. Since questions & answers are in one chapter I make notes in the margin to help me find specific questions on college students, statute of limitations, etc...
- Pub. uses the term “Absolute” Coverage Group as a title on page 5-3. It is my understanding that SSA has phased out using the term “Absolute” and now uses the term “non-retirement system group”. (Pub 963 has always used the term Absolute but I just wondered it is confusing?)
- The chapter about Public Employers was moved from Chapter 10 to Chapter 2. It was abbreviated with what IRS considered essential information.
- I could not find the maps that use to be in the Appendix (SSA Regions, IRS Regions, NCSSSA Regions & United States Circuit Courts). I don't know if they are necessary but they were deleted from subsequent versions.
- The current version of Publication 963 is a typical IRS publication written for CPA's who are trained to understand federal law. It is not a document that a local government employee such as a municipal clerk would understand or be able to locate answers for example, “A municipality hires a police officer from a neighboring town. The police office did not pay FICA at the prior employer but the new employer says “yes” we pay FICA. How does that clerk find out why the other town is different and is the current town deducting FICA correctly.

# Annual Review of the Federal State Reference Guide – contd.

- In 2011 NCSSSA is surveying State Administrators and public employers and their legal and financial advisors to get their suggestions.
- Survey at: <https://www.surveymonkey.com/s/BMT5WRV>
- And on the NCSSSA “What’s New” page at: <http://www.ncsssa.org/whatsnewcombo.html>.
- The results will be shared with the SSA and IRS/FSLG for use in future edits.
- NCSSSA wants responses from state and local employers – **Help us get the word out!**



# Conducting Referenda

The difference between **Majority** and **Divided** Vote States

Linda Yelverton and Angie Dowdy

NCSSSA Annual Conference

August 9, 2011

Cheyenne, Wyoming

# Brief History of Section 218

Social Security was implemented in 1935, state and local government positions were not allowed to participate because of a constitutional question about Federal government taxing State government.

Because many of these positions did not participate in a retirement system, Congress created a voluntary program under Section 218 of the Social Security Act in 1951.

# Brief History of Section 218

Each state entered into an Agreement with the Social Security Administration. The original Agreement incorporates the basic provisions, definitions and conditions. (Master Agreement)

These Agreements are modified to extend additional coverage to position groups by holding a referendum and modifying the Agreement based on the outcome of the referendum.

# Fundamental key

- Before Angie & I discuss the referendum process I want to explain a very fundamental key to understanding Section 218 coverage! After Congress created Section 218 in 1951 many modifications (some with multiple agencies) were filed to cover the Absolute coverage group. There is not (b)(5) listed in the modification but that is all the state could legally cover until the amendments in 1954 allowed for coverage of positions subject to a retirement system.

# What is a Referendum?

- A referendum is the legal process that allows a group of positions to elect (by vote) voluntary coverage for Social Security or Medicare only.
- There are two types of referenda:
  - > **Majority Vote**
  - > **Divided Vote**

# What are the groups of positions?

- Coverage is provided by “groups” of positions:
  - Non-Retirement System Group
  - Retirement System Group
- The concept of covering a “position” rather than an individual is unique to Section 218 coverage.

# What is a Non-Retirement System Group?

- A Non-Retirement System group is a group of positions that do not participate in a state or local retirement system or qualified retirement plan.
- The Non-Retirement System Group is also known as the Absolute Coverage Group or the (b) (5) group.

# What is a Retirement System Group?

- A Retirement System Group is a group of positions that do participate in a state or local retirement system or qualified retirement plan.



# What is a Majority Vote Referenda?

- Under this method, a majority of the employees in eligible positions must vote in favor of Social Security or Medicare only coverage.
- If a majority votes “yes”, all positions are covered as well as new hires.
- If a majority votes “no”, no positions are covered but new hires are covered.
- All states can hold Majority Vote Referenda
- Each states enabling legislation may have a different definition of “majority”.

# What is a Divided Vote Referenda?

- Only states listed in Section 218 can hold Divided Vote Referenda
- Using this method, the retirement system is divided into two parts. A “yes” and “no” group.
- Those that vote “yes” are covered as well as all new hires.
- Those that vote “no” are not covered.

# What states can hold Divided Vote Referenda?

- As of June 2011:  
Alaska, California, Connecticut, Florida, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, and Hawaii.
- To legally hold Divided Vote Referenda, your state must be listed in Section 218 and your State's enabling legislation must give you authority

# How can the Retirement System be divided?

- The entire system.
- The employees of the State.
- The employees of each political subdivision.
- The employees of the State and employees of one or more political subdivisions.
- The employees of any combination of political subdivisions.

# The vote is a state matter, but certain minimum conditions must be met

The Governor (or an official designated by the Governor) must certify that the:

- Vote was held by written ballot (secret ballot of majority vote);
- Opportunity to vote was given to all individuals eligible to vote;
- Employees who are members on the date of notice were given not less than 90 days notice;

# Minimum conditions continued!

- Vote was supervised by the Governor or a named designate;
- If divided vote – retirement system was divided into two parts, one composed of members who voted for coverage and the other composed of the remaining positions under the retirement system.

# Referendum Process

## Step One

- Agency contacts State Administrator or vice versa requesting Section 218 coverage information.
- State Administrator explains Section 218 coverage options (Social Security/Medicare only) and provides referenda instructions and forms to the agency.

# Referendum Process

## Step Two

- The governing body of the agency adopts a resolution to request either the majority or divided referendum.
- The resolution outlines the coverage requested, effective date of coverage and authorizes the appropriate individual who will sign all documents.



# Referendum Process

## Step Three

- ◉ State Administrator sets referendum date
- ◉ provides notice of referendum to agency
- ◉ coordinates educational workshop to educate employees on coverage options with SSA representative

# Referendum Process

## Step Four

- The State Administrator conducts the referendum
- supplying ballots
- certify the results
- provide the agreement/plan to the agency

# Referendum Process

## Step Five

- Upon receipt of executed agreement/plan the State Administrator prepares the Modification and Certification/s
- All documents are reviewed by the State Attorney before the Governor certifies the referendum

# Referendum Process

## Step Six

- Forward Modification, Certification and any supporting documents to SSA per agency checklist and SSA instructions.
- Upon receipt of executed documents the State Administrator forwards to the agency copies of all referendum documents along with IRS FSLG contact information. if applicable.



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“How Long Has This Been Going On?”*

**Speaker:** *Fred Sanchez, SSA Chicago OGC*

*Mark Brown, SSA OISP*

**Moderator:** *Vandee DeVore, Missouri*

This session is a continuation of the “Navigating State and Local Handbook” presentation from the previous day at the Conference. See the power point presentation for specific presentation information.

The speakers focused on SL 30001.380 Continuation of Coverage. The general rule of thumb is “once covered by a 218 agreement, always covered unless specific events occur.”

The audience was reminded that 218 coverage is based upon the position not the individual employee. While an employee may be covered in a specific position at one employer, they may not be covered at a neighboring similar employer.

When new positions are created, which may be several years after the agreement, determination of coverage is based on how the position would have been covered at the date the agreement was effectuated.

Applicable date or Designated Date was defined...see the slide for definition. When creating a Modification for coverage, it may be future dated.



# How Long Has This Been Going On?

Continuation of Coverage Examined

**61<sup>st</sup> Annual NCSSSA Conference**

**August 2011**

**Cheyenne, Wyoming**



Once Social Security coverage is provided for State and local government employees, it generally continues unless an “event” occurs which results in a termination of the coverage.

One such “event” could be a change in employer.



## What to remember:

Remember to distinguish between the individual employee and the actual position within the covered entity.



# Distinguishing Between Employee and Position

**“Event” Example:**  
**Mrs. Apple –**  
**Change in Employer**



# Cessation of Coverage for an Individual Employee

## **Example:**

Mrs. Apple is a school teacher for School District 122. She is covered for Social Security as an employee of School District 122, as it is covered under the State's Section 218 Agreement.

Mrs. Apple subsequently resigns from School District 122 to accept a position with School District 64, an entity not covered under the State's Section 218 Agreement.

## **What happens to her Social Security coverage?**

Mrs. Apple's Social Security coverage ceases as of the date she resigns from School District 122.

# Cessation of Coverage for a Position



## **Example:**

John works as a teacher for School District 125. The teacher position is covered by the State Teachers' Retirement System (STRS). STRS covers its members for Social Security on an entity-by-entity deemed retirement system basis. The STRS positions in School District 125 are covered for Social Security under the State's Section 218 agreement.

School District 125 and School District 86 dissolve and are then consolidated into a newly created school district named East School District.

# Cessation of Coverage for a Position

## **What happens to John's Social Security coverage?**

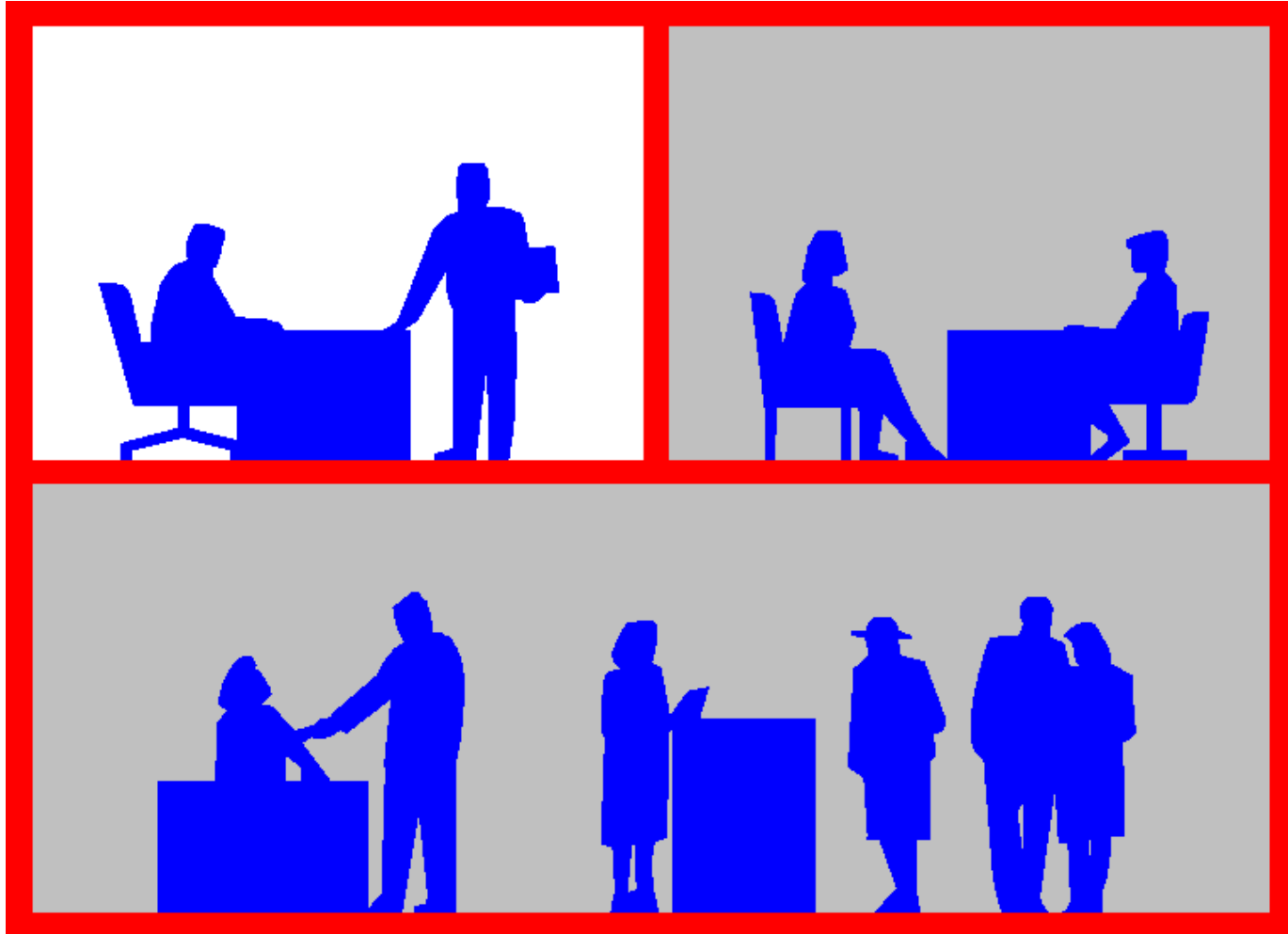
Once School District 125 dissolves, John will no longer be employed in a position covered for Social Security because there has been a change of employer to East School District. East School District may obtain Social Security coverage for its STRS employee positions via a modification to the State's 218 Agreement following a favorable coverage referendum.



## What to remember:

Coverage continues unless an “event” occurs which results in a cessation of coverage.

See POMS SL 30001.380 – Continuation of Coverage Rules  
POMS RS 01505.007 – Continuation of Coverage



# Absolute Coverage Defined

An absolute coverage group includes all positions not under the retirement system either:

- on September 1, 1954 or
- on the applicable date of the agreement or modification (Section 218(e)(2) of the Social Security Act).

Absolute coverage positions remain covered even if they are later brought under a retirement system. See SL 30001.315

Positions created or reclassified after the absolute coverage group was brought under the agreement are covered as a part of the group if the newly created or reclassified positions would have been a part of the group had they existed when the absolute coverage group was covered.

See POMS SL 30001.380(A)(1)

# Once Absolute Coverage, Always Absolute Coverage

If services performed in a position are covered as part of an absolute coverage group, coverage continues even if the position subsequently comes under a retirement system.

This includes police and firefighter positions which, after coverage is obtained with an absolute coverage group, later come under a retirement system.

See POMS SL 30001.380 – Continuation of Coverage Rules.  
POMS RS 01505.007 – Continuation of Coverage.



# Later Coming Under a Retirement System



## **Example:**

Employees of the City of Lincoln are covered for Social Security as an absolute coverage group via Modification #55 (January 1, 1951) to the State's Social Security Agreement. Effective January 1, 2000, the positions of all employees of the City of Lincoln are placed under a retirement system, the Lincoln Employees Retirement Fund (LERF).

## **What happens to the employee's Social Security coverage?**

The employees of the City of Lincoln continue to be covered for Social Security despite the fact that they are now under a retirement system. Remember, once absolute coverage, always absolute coverage.

# What to Remember...



## What to remember:

An absolute coverage position coming under a retirement system at a later time is not an “event” which results in a cessation of Social Security coverage.

# Newly Created or Reclassified Positions

Positions created or reclassified after the absolute coverage group obtained Social Security coverage are also covered as a part of the absolute coverage group if those positions would have been a part of that group had they existed when coverage was obtained.

See POMS SL 30001.380(A)(1) – Continuation of Coverage Rules

## **Example: The Town of Roundup**

- February 1957: Social Security coverage extended to town's employees as an absolute coverage group.
- January 1964: Town's employees were provided coverage under the Public Employees Retirement System (PERS), which did not elect coverage under the 218 Agreement.
- November 1999: town created the position of Director of Information Technology, and the position was immediately placed under PERS.

## **How would you reply as State Administrator?**

Do regular town employees continue to pay Social Security after coming under PERS in 1964?

Yes!

Does the IT Director pay Social Security taxes?

Yes, if the position would not have been covered under PERS if the position had existed in 1957.

# Newly Created or Reclassified Positions



## **Newly Created Positions:**

**What was “the situation on the ground” at the time the modification took effect?**

# “The Situation on the Ground”

## What do we mean by “situation on the ground”?

- What positions, if any, were under a non-covered retirement system at the applicable date?
- Would the new position have been under that retirement system if the position had existed at that time?
- Did the law require that certain positions be under a retirement system at that time?

# The Applicable Date / Designated Date

## Applicable Date:

- For agreements or modifications executed before August 29, 1958: use execution date
- For agreements or modifications executed August 29, 1958 or later:
  - No earlier than the date the mailed or delivered to SSA.
  - If no date designated: use date of execution
  - If coverage is prospective only: use effective date

See SL 30001.380A1, 30001.375B

# Applying “The Situation on the Ground”

## **Example:** **The Hiring of the First Full-Time Firefighters**



**Cheyenne Fire & Rescue - 1909**



# The Story of Melville Township

- 1947: Melville Township Fire Department was founded as a volunteer fire department.
- January 1957: Modification #58 was executed to cover for Social Security all employee positions of Melville Township not under a retirement system.
- February 1982: The volunteer fire department became the Melville Township Fire Department; five full time paid firefighters were hired and immediately placed under the State's Firemen's Pension fund (which is not covered by the State's 218 Agreement).

# What was “the Situation on the Ground”?

What was “the situation on the ground” when the 1957 modification was executed?

- Would the firefighters have been covered under a retirement system on January 21, 1957, if the position of full-time firefighter existed back then?
- Did State law in 1957 require that firefighters be covered by a retirement system?
- Did Melville Township pass any resolution prior to January 21, 1957, providing that any future hired full-time firefighter would be considered to be under the 1935 Firemen’s Pension Fund?

## **So, what do you think? Should the firefighters be paying into Social Security?**

### **The Determination:**

Although the full-time firefighter position did not exist on January 21, 1957, the date that Modification #58 was executed (the applicable date), there was no State statute or other law in place which would have mandated the firefighter position in Melville Township being placed under a retirement system.

The governmental entity of the township volunteer fire department had been in existence since 1947, and no action had been taken to give its members retirement system coverage.

Thus, it was determined that the full-time firefighters of Melville Township should be covered for Social Security as part of the absolute coverage group under Modification #58.

# What to Remember...



## What to remember for New Positions:

Those positions are part of the absolute coverage group if they would have been a part of the absolute coverage group had they existed when the absolute coverage group was covered.

# What to Remember...



## On the flip side:

The new positions are not part of the absolute coverage group if they would have been under a non-covered retirement system if the position had been in existence on the date the agreement was made applicable to the absolute coverage group.

**Example:**

**San Diego Unified Port District**



# The Story of the San Diego Harbor Police

- January 1963: Modification 503 extended Social Security coverage to the San Diego Unified Port District as an absolute coverage group. (At this time the district employed only security officers, not police officers.)
- February 1963: The San Diego City Employee's Retirement System (CERS) covered all employees of the San Diego Unified Port District.
- 1981: Police officer positions were created and immediately covered by CERS.

**Issue:** Are the new police officer positions covered by the January 1963 absolute coverage modification?

**Would the Harbor Police Officer positions have been under a retirement system on February 8, 1963, the date Modification # 503 was made applicable?**

If Yes, then Modification # 503 would not apply to the Harbor Police Officer positions, and the officers would not be required to pay into Social Security.

If No, then the services in these positions would be covered for Social Security as part of the absolute coverage group.

### **The Situation on the Ground:**

One additional piece of information: no positions of the San Diego Unified Harbor District were covered by a retirement system on February 8, 1963.

### **How would you reply as State Administrator?**

The Harbor Police Officer positions should be covered as part of the absolute coverage group under Modification #503. It is not likely one could conclude that the Harbor Police Officer Positions would have been covered by a retirement system on February 8, 1963.



# What to Remember...



## What to remember:

Positions created after the absolute coverage group has been brought under a Section 218 agreement are covered as a part of the group if the newly created positions would have been a part of the absolute coverage group had they existed when the absolute coverage group was covered.



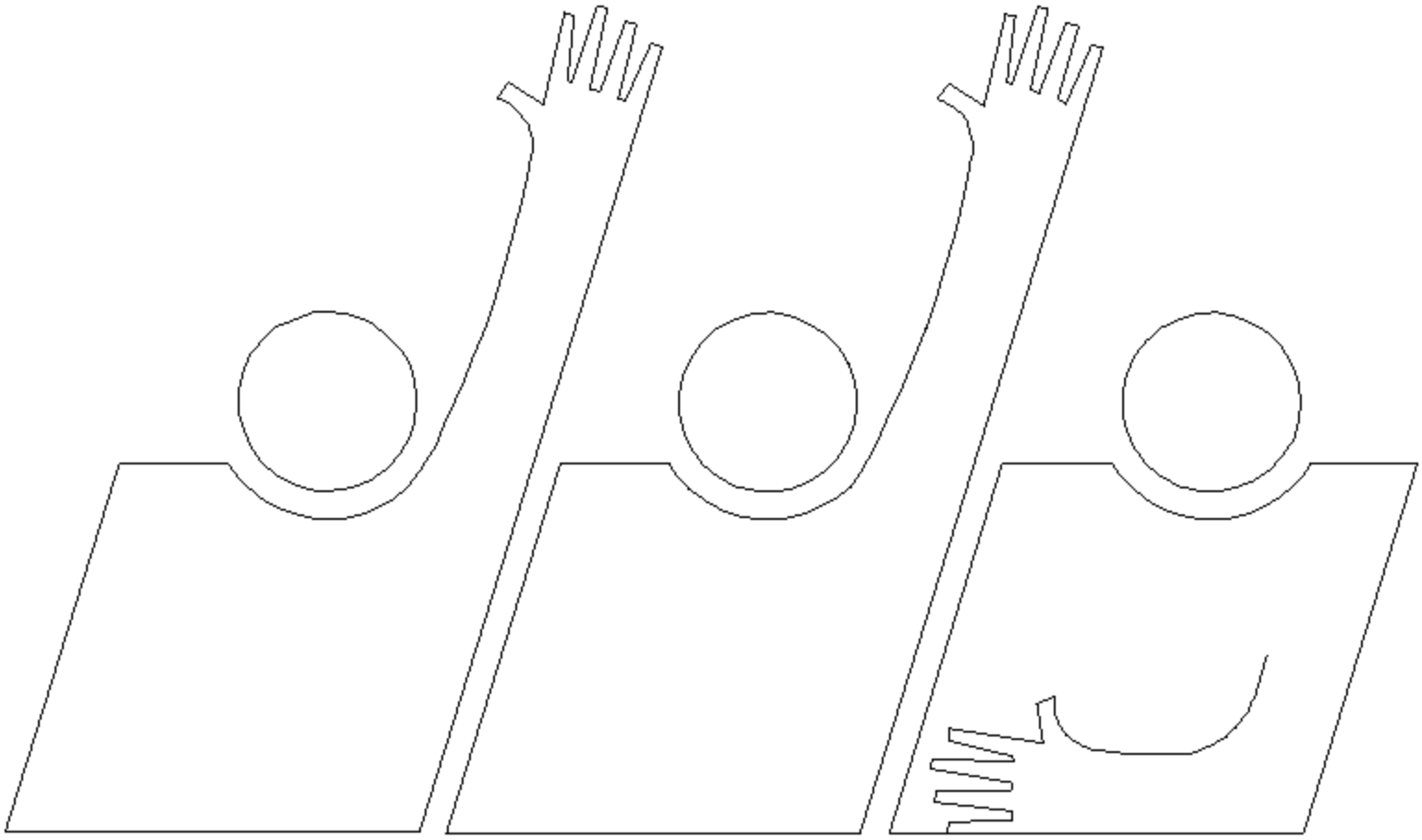
## Be aware:

If it would have been necessary to expand the scope of coverage under the retirement system by legislation, or a change in by-laws, charter, etc., in order to bring the new job under it, services in the new position would be covered under the agreement as part of the absolute coverage group.



Social Security  
Administration

# Majority Vote Retirement System Coverage Group



# Majority Vote Retirement System Single Retirement System

Social Security coverage can be extended to positions under a retirement system:

- system-wide, or
- entity-by-entity

# Majority Vote Retirement System Deemed Retirement System

Once covered as a majority vote  
retirement system coverage group,  
always covered.

# Majority Vote Retirement System Newly Created & Reclassified Positions

A newly created or reclassified position is part of the retirement system coverage group if the position would have been a part of that retirement system coverage group had it existed at the time the group was covered for Social Security.

See POMS SL 30001.380(B)(2)

# Majority Vote Retirement System Coverage Group

## **Before**

- Positions created or reclassified before the abolishment of the retirement system remain covered for Social Security as part of the retirement system coverage group.

## **After**

- Positions created or reclassified after the retirement system is abolished cannot be covered for Social Security as a part of the retirement system coverage group.

See POMS SL 30001.380(B)(2)



Social Security  
Administration

# Police and Firefighters





## Before August 16, 1994

Only 23 States were authorized to extend Social Security coverage to police and firefighter positions covered under a retirement system.



President Clinton signing the Social Security Independence and Program Improvements Act of 1994 on August 15, 1994. SSA History Archives.

## As of August 16, 1994

The Social Security Independence and Program Improvements Act of 1994 amended Section 218 of the Social Security Act to give all states the option of extending Social Security and Medicare coverage to police officers and firefighters who participate in a public retirement system.

- Generally, a police officer or firefighter position can be a position classified as such in State statutes and court decisions.
- These positions typically exist in the regularly organized police and fire departments of incorporated municipalities, towns, and cities.
- In most States, an employee in a police position is a member of a police force which is an organized civil force for maintaining order, preventing and detecting crimes, and enforcing laws.

See POMS SL 30001.345

# Police and Firefighters Newly Created & Reclassified Positions

If there were no police officer or firefighter positions in existence at the time the referendum was held, but such positions are later created and placed under the retirement system, employees in such positions are not compulsorily covered.

Positions which are reclassified as police officer or firefighter positions cease to be covered under the State's agreement until such time as the State may elect to cover them as provided by Section 218(l) of the Act.

See POMS SL 30001.380(B)(1)  
POMS RS 01505.007(2)(a)



Social Security  
Administration

# Divided Vote Retirement System Coverage Group



Yes



No

# Divided Vote Retirement System Coverage Group

- The “yes” group consists of all those who voted “yes” in the referendum, as well as all new hires.
- When a member of the retirement system transfers to another position under the same retirement system and **for the same government employer**, the individual carries his/her vote or group status (“yes” or “no” group) into the new position regardless of which group the position’s former occupant belonged.

See 20 CFR § 404.1207(b), §404.1217(b), POMS SL 30001.380C

- If the retirement system has not been abolished, a newly created or reclassified position is part of the retirement system coverage group if it is occupied by a member who chose coverage or by a new member of the retirement system.
- If the retirement system has been abolished, those positions created or reclassified after that cannot be covered for Social Security as part of the retirement system coverage group

See 20 CFR § 404.1217(b), POMS SL 30001.380C

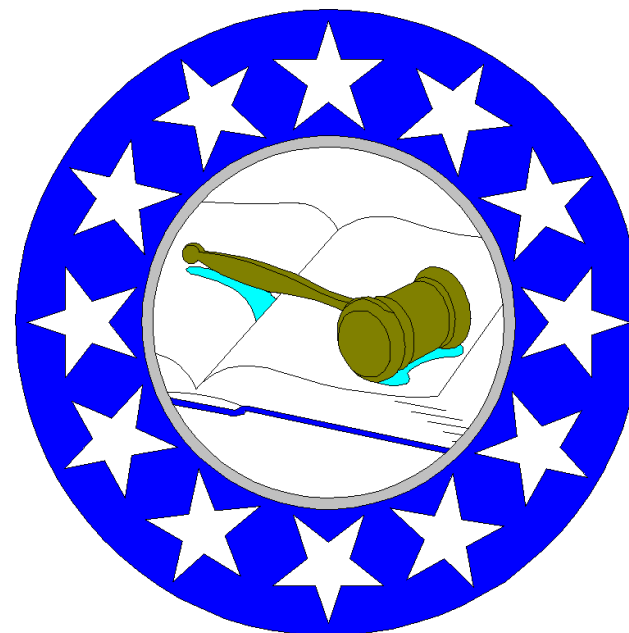
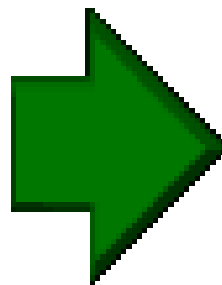
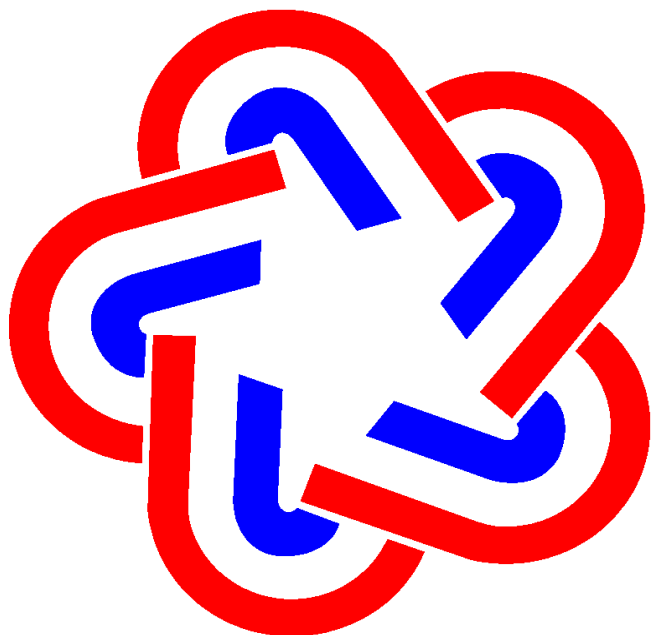
# Transfer of Positions

- Social Security coverage is not terminated because positions:
  - are later covered under additional retirement systems,
  - or removed from coverage under a retirement system,
  - or because the retirement system is abolished with respect to those positions.
- New employees hired after the position was removed from the retirement system or after the abolishment of the retirement system would not be covered for Social Security.

See 20 CRF § 404.1217(b), SL 30001.380

## **Example:**

**Transfer of Positions from One Retirement System to Another.**



**Employee's Retirement Fund**

**Judicial Retirement System**



# Transfer of Positions State of Myoming

## **Background:**

The State of Myoming established the Judicial Retirement System (JRS) effective July 23, 2011.

The JRS will be comprised of:

- appellate judges – Appellate Judge’s Retirement System (AJRS)
- district attorneys – District Attorney’s Retirement System (DARS)

The existing retirement systems obtained Social Security coverage following divided vote referendums as follows: AJRS (1973) and DARS (1979).

AJRS and DARS are abolished effective July 23, 2011.

## **Issue #1:**

What effect does the Myoming legislation have on the Social Security coverage of positions obtained through the predecessor retirement systems?

## **How would you reply as State Administrator?**

The Social Security coverage of positions under a retirement system generally continues even though the position is removed from coverage under the retirement system or placed under a new retirement system.

If positions which are part of a divided retirement system coverage group are removed from coverage under the retirement system, the “yes” group continues to be covered. However, new employees hired after JRS is established (July 23, 2011), would not be covered under Social Security unless the State chooses to cover JRS via the referendum process.

**Mark W. Brown**

**Office of Income Security Programs (OISP)/  
Office of Earnings and Information Exchange (OEIE)**

**Social Security Administration**

**Tel: (410) 965-5781**

**E-mail: [Mark.W.Brown@ssa.gov](mailto:Mark.W.Brown@ssa.gov)**



**Fred C. Sanchez**

**Assistant Regional Counsel  
Office of the Regional Chief Counsel – Region V**

**Social Security Administration**

**Tel: (877) 800-7578, Ext. 19157**

**E-mail: [Alfred.Sanchez@ssa.gov](mailto:Alfred.Sanchez@ssa.gov)**





*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“Student Exclusion and the Supreme Court  
case; update on other Treasury Counsel  
issues of importance to NCSSSA*

**Speaker: Jayne Maxwell, Field Operations, IRS/FSLG**

**Moderator: Angie Dowdy**

Ms. Maxwell provided the following notes on her PowerPoint presentation:

On January 11, 2011, the Supreme Court held, in a unanimous decision, that Treasury Regulation §31.3121(b)(10)-2(d)(3)(iii) was valid. The regulation, which is effective for periods after March 31, 2005, clarified that the student FICA exception in IRC §3121(b)(10) is not available to full time employees, even if their performance of services includes an educational component.

**How did this end up in the Supreme Court?**

The first medical resident case (Minnesota v. Apfel, 151 F.3d 742 (8th Cir. 1998)) did not involve the IRS. It involved SSA and the University of Minnesota and the years 1985 and 1986. The University of Minnesota entered into a Section 218 Agreement with SSA to provide social security coverage for state employees. At that time, state employees could only receive social security coverage under a Section 218 Agreement. (That changed in 1991.) Also at that time, SSA was responsible for collecting taxes under the Section 218 Agreement. (That changed in 1987.) In 1958, Minnesota added coverage for “services performed by individuals as employees of the University of Minnesota” to its Section 218 Agreement. Minnesota’s Section 218 Agreement had a student exclusion (meaning that students were not covered under the Section 218 Agreement). Minnesota believed its medical residents were not covered under the Section 218 Agreement and did not pay social security taxes on their behalf. SSA issued an assessment against Minnesota for the unpaid social security tax and Minnesota filed suit.

There were two holdings in the case. The first holding related to the contractual nature of Section 218 Agreements. The district court held (and the Court of Appeals affirmed) that when Minnesota added “services performed by individuals as employees of the University of Minnesota” as a coverage group, this was not intended to add medical residents to the Section 218 Agreement since the medical residents were not “employees” as the term was used in the Section 218 Agreement. Thus, the University of Minnesota was not liable for social security taxes on the stipends it paid its medical residents.

The second and more relevant holding was that even if the medical residents were “employees” under the terms of the Section 218 Agreement, the medical residents would be excluded from coverage due to the Section 218 Agreement’s student exclusion.

SSA’s student exclusion applies to service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and regularly attending classes at such school, college or university. The relevant SSA regulations provided that: “Whether you are a student for purposes of this section depends on your relationship with your employer. If your main purpose is pursuing a course of study rather than earning a living, we consider you to be a student and your work is not considered employment.” SSA also had a published ruling which stated that resident physicians were not students.

The Court of Appeals held that this regulation contemplated a case-by-case examination to determine whether an individual was student. The Court of Appeals decision was entered in 1998.

After Apfel, many medical residency programs (both hospitals and universities) began filing refund claims relying on the student exception from FICA for all their open years. Other medical residency programs made adjustments on their current quarterly Form 941 for prior periods. This resulted in some erroneous refunds.

The IRS issued guidance to its EO division through 3 Chief Counsel Advice Memorandums (CCA).

- CCA 200029030 discussed the steps to take in determining whether the student FICA exception was available to medical residency programs.
- CCA 200145040 concluded that a teaching hospital is not a school, college or university (SCU).
- CCA 200212029 concluded that medical residents are not students because their services are not incident to and for the purpose of pursuing a course of study.

Mayo Foundation for Medical Education and Research and Mayo Foundation (Mayo I) began as an erroneous refund suit. In 1999, Mayo I received a refund from the IRS for FICA taxes it paid on stipends paid to its medical residents in 1995. The Government sued to recover the refund and Mayo counterclaimed for 1994 and 1996.

- The issue in Mayo I was whether medical residents, who are paid a stipend during their residency program, are exempt from FICA due to the student FICA exception found in IRC § 3121(b)(10). This was an IRS case, not an SSA case.
- IRC §3121(b)(10) provides: The term “employment” ... shall not include ... service employed in the employ of a school, college, or university ... if such service is performed by a student who is enrolled in and regularly attending classes at such school, college or university.
- This is a 2 part test, the service has to be in the employ of an SCU and the employee has to be a student.

The IRS regulations at that time were similar to the SSA regulations at issue in Apfel and provided: The status of an employee as a student performing the services shall be determined on the basis of the relationship of such employee with the organization for which the services are performed. An employee who performs services in the employ of a school, college, or university

as an incident to and for the purposes of pursuing a course of study at such school, college, or university has the status of a student in the performance of such services.

The court in Mayo I found that Mayo Foundation was an SCU within the meaning of IRC § 3121(b)(10) and that its residents were students within the meaning of IRC 3121(b)(10) and therefore had no FICA liability on the stipends paid to medical residents.

- As litigation on other cases proceeded, four circuits outside the 8th Circuit rejected the Government's argument that medical residents are barred from the student FICA exception under section 3121(b)(10) as a matter of law. Rather, they held that qualification for the student FICA exception as a student depends upon the facts and circumstances of the resident's service. See, *University of Chicago Hospitals v. U.S.*, 545 F.3d 564 (7th Cir. 2008); *U.S. v. Detroit Medical Center*, 557 F.3d 412 (6th Cir. 2009); *U.S. v. Memorial Sloan-Kettering Cancer Center and Albany Medical Center v. U.S.*, 563 F.3d 19 (2nd Cir. 2009); and *U.S. v. Mount Sinai Medical Center of Florida, Inc.*, 468 F.3d 1248 (11th Cir. 2007).
- In 2004, the Treasury Department amended the student FICA exception regulations in two respects. First, it clarified the definition of an SCU by providing that whether an organization is an SCU is determined with reference to its primary function. Second, it clarified the definition of a "student." The more significant part of this clarification is the provision that an employee who regularly performs services 40 hours or more per week is ineligible for the student FICA exception. These regulations apply to services performed on or after April 1, 2005.

### **What does the regulation say?**

The regulation provision ultimately before the Supreme Court says:

(iii) Full-time employee. The services of a full-time employee are not incident to and for the purpose of pursuing a course of study. The determination of whether an employee is a full-time employee is based on the employer's standards and practices, except regardless of the employer's classification of the employee, an employee whose normal work schedule is 40 hours or more per week is considered a full-time employee. . . .

The Mayo Foundation for Medical Education and Research, Mayo Clinic and the Regents of the University of Minnesota (collectively know as Mayo) challenged the amended regulations by paying the FICA taxes and filing claims for refund with the IRS. They then filed in court (Mayo II). The district court said the amended regulations were invalid. The Government appealed and the Court of Appeals found that the full-time employee regulation was valid. Because the Court of Appeals said the full-time employee rule was valid, this solved the question before them. Because this answered the question as to whether medical residents qualified for the student FICA exception (they did not), the court did not have to address whether any other parts of the regulation, specifically the primary function test, were valid.

Mayo petitioned the Supreme Court to hear the case and they agreed. The Supreme Court, as noted earlier upheld the validity of the full-time employee rule.

The Supreme Court tested the validity of the full-time employee rule under a Chevron two-step test.

The first step was to determine whether Congress had specifically addressed the precise question at issue. Here the question at issue was whether IRC § 3121(b)(10) defined the word “student” or address whether medical residents are subject to FICA. The Supreme Court said Congress had not addressed the question at issue.

If Congress did not address the question at issue, the second step is to determine if the regulation is a “reasonable interpretation” of the enacted text.

The Supreme Court found the full-time employee was a reasonable interpretation of IRC § 3121(b)(10) and was therefore valid.

### **Why do we care?**

This decision is important for 2 reasons.

- First, this case resolves the issue of whether medical residents meet the student FICA exception (and are excepted from FICA) for periods after 4/1/2005.
- Second, and possibly more important is that it upheld the validity of regulations issued under the Treasury Department’s general authority under I.R.C. § 7805(a) in response to an adverse judicial decision. In determining the validity of the regulations, the Court held the appropriate deference standard is in Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) and United States v. Mead Corp., 533 U.S. 218 (2001). This will have an effect on many different Treasury regulations – not just the student FICA regulations.

### **What is happening with all the Pre-Reg cases?**

After Apfel, many medical residency employers filed refund claims for all the open years with the IRS. Some of the claimants headed to court. Initially, the Government had some success arguing that based on the legislative history to IRC § 3121(b)(10), medical resident could not be students. However, eventually many courts held that student status was a facts and circumstances test and under the relevant facts, medical residents were students and their employers were entitled to a refund.

In March, 2010, a decision was made to accept the position that medical residents were students for periods prior to April 1, 2005. This was not due to a change in IRS position. Rather, a decision was made based on IRS and Justice Department resources. The IRS had more than 7,000 administrative claims covering approximately a 10 year period filed by 430 institutions. DOJ was litigating over 20 cases in court, which needed resolution. Based on the pre-reg court decisions, these cases would likely be settled rather than litigated. Also, the amended regulations resolved the issue for periods after March 31, 2005.

The Supreme Court’s decision in Mayo does not affect the Medical Resident FICA Refund Claim program that the IRS implemented for tax periods before April 1, 2005.

There is a TEGE team in Ogden that is working diligently to pay those claims.

Angie Dowdy (LA)



# Student FICA Exclusion

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Presented by:

Jayne Maxwell, Manager

FSLG Field Operations

(512) 499-5070

[Jayne.E.Maxwell@irs.gov](mailto:Jayne.E.Maxwell@irs.gov)



# Mayo Foundation for Medical Education and Research et al v. United States

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- On January 11, 2011, the Supreme Court held, in a unanimous decision, that Treasury Regulation §31.3121(b)(10)-2(d)(3)(iii) was valid.
- Reg clarified that the student FICA exception in IRC §3121(b)(10) is not available to full time employees, even if their performance of services includes an educational component.

# How did this end up in the Supreme Court?

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- Minnesota v. Apfel 151 F.3d 742 (8<sup>th</sup> Cir. 1998)
  - The University of Minnesota entered into a Section 218 Agreement to provide social security coverage for state employees.
  - In 1958, Minnesota added coverage for “services performed by individuals as employees of the University of Minnesota”
  - Minnesota’s Section 218 Agreement also included a student exclusion (students were not covered under the Section 218 Agreement)
  - Minnesota believed its medical residents were not covered under the Section 218 Agreement
  - SSA issued and assessment against Minnesota for the unpaid social security tax and Minnesota filed suit

# How did this end up in the Supreme Court? (con't)

---

- **Minnesota v. Apfel** 151 F.3d 742 (8<sup>th</sup> Cir. 1998)
  - Two holdings in the case:
    1. Contractual nature of Section 218 Agreements
      - District court held (Court of Appeals affirmed) that stmt added was not intended to add medical residents to coverage group
    2. Student Exclusion
      - Even if the medical residents were considered “employees” under the Section 218 Agreement, they would be excluded from coverage due to the Agreement’s student exclusion

# How did this end up in the Supreme Court? (con't)

---

- **Minnesota v. Apfel** 151 F.3d 742 (8<sup>th</sup> Cir. 1998)
  - SSA's student exclusion applies to service performed in the employ of a school, college or university, if such service is performed by a student who is enrolled and regularly attending classes
  - SSA also had published a ruling that resident physicians were not students
  - The Court of Appeals held that this regulation contemplated a case-by-case examination to determine whether an individual was a student

# How did this end up in the Supreme Court? (con't)

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- After Apfel, relying on the student exception from FICA, medical residency programs began filing refund claims and making adjustments on prior Form 941 periods, resulting in erroneous refunds
- IRS issued guidance – 3 CCA memos
  - Availability of student FICA exception
  - A teaching hospital is not a school, college or university (SCU)
  - Medical residents are not students because their services are not for the purpose of pursuing a course of study

# How did this end up in the Supreme Court? (con't)

---

- Mayo Foundation for Medical Education and Research and Mayo Foundation (Mayo I)
  - Began as an erroneous refund suit
  - Issue at hand: Whether medical residents, who are paid a stipend during their residency program, are exempt from FICA due to the student FICA exception found in IRC § 3121(b)(10)
    - Service has to be in the employ of an SCU
    - Employee has to be a student

# How did this end up in the Supreme Court? (con't)

---

- The court in Mayo I found that Mayo Foundation was an SCU and that its residents were students, and therefore had no FICA liability
- In similar cases, other courts held that qualification for the student FICA exception as a student depends on the resident's service
- In 2004, the Treasury Department amended the student FICA exception
  - Clarified the definition of an SCU
  - Clarified the definition of a "student"

# What does the regulation say?

---

- The regulation provision ultimately before the Supreme Court says:
  - (iii) Full-time Employee
    - The services of a full-time employee are not incident to and for the purpose of pursuing a course of study.
    - The determination of whether an employee is a full-time employee is based on the employer's standards and practices, except regardless of the employer's classification of the employee, an employee whose normal work schedule is 40 hours or more per week is considered a full-time employee



# What does the regulation say? (con't)

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- Mayo II – Mayo challenged the amended regulations by paying the FICA taxes and filing claims for refunds with the IRS. They then filed in court.
  - District Court said the amended regulations were invalid
  - Government appealed
  - Court of Appeals found that the full-time employee rule was valid
    - Other parts of the regulation, such as the primary function test, did not have to be addressed because the question of student FICA exceptions had been answered

# What does the regulation say? (con't)

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## ○ Mayo II

- Mayo petitioned the Supreme Court to hear the case
- Supreme Court tested the validity of the full-time employee rule
  - Did Congress address whether IRC § 3121(b)(10) defined the word “student” or address whether medical residents are subject to FICA?
    - Congress had not addressed this question
  - If congress did not address this issue, then determination is made if the regulation is a “reasonable interpretation” of the enacted text
- Supreme Court found the full-time employee was a reasonable interpretation and was therefore valid

# Why do we care?

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- This decision is important for two reasons:
  - This case resolves the issue of whether medical residents meet the student FICA exception for periods after April 1, 2005
  - It upheld the validity of regulations issued under the Treasury Department's general authority under IRC § 7805(a) in response to an adverse judicial decision

# What is happening with all the Pre-Reg cases?

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- After Apfel many courts held that medical residents were students and their employers were entitled to a refund
- In March 2010 a decision, based on IRS and Justice Department resources, was made to accept the position that medical residents were students for periods prior to April 1, 2005
  - The amended regulations resolved the issue for periods after March 31, 2005
- The decision in Mayo does not affect the Medical Resident FICA Refund Claim Program that the IRS implemented for tax periods before April 1, 2005

# Review of the GAO Report on Social Security Management Oversight Issued in September 2010

NCSSSA Annual Conference  
August 9, 2011

**Panel Members:**

Anjali Tekchandani, Senior Policy Analyst, Government Accountability Office

Linda Pelic-Stradtman, Program Analyst for the Social Security Administration, Office of Public Service and Operations Support, Baltimore, MD

Amanda Reuschling, Team Leader for the Social Security Administration,  
Office of Public Service and Operations Support

Jayne Maxwell, Manager, Field Operations, IRS/FSLG

Maryann Motza, PhD, Colorado State Social Security Administrator and NCSSSA President (2010-2011)

# Findings from GAO report

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Presentation before the  
**National Conference of State Social Security  
Administrators**

**August 9, 2011**

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GAO

United States Government Accountability Office  
Report to Congressional Requesters

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September 2010

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## SOCIAL SECURITY ADMINISTRATION

### Management Oversight Needed to Ensure Accurate Treatment of State and Local Government Employees



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GAO-10-938

## Background on GAO

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The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that works for Congress. Often called the "congressional watchdog," GAO investigates how the federal government spends taxpayer dollars.

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# Background on Report

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- Request from House Committee on Ways and Means
  - Growth in social security coverage for public employees since 1950
  - Variation among state and local government coverage rules
  - IRS audit of Missouri in 2007
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# Research Questions

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- How does SSA work with states to approve Social Security coverage and ensure accurate coverage of public employees?
- How does IRS identify incorrect Social Security taxes for public employees?



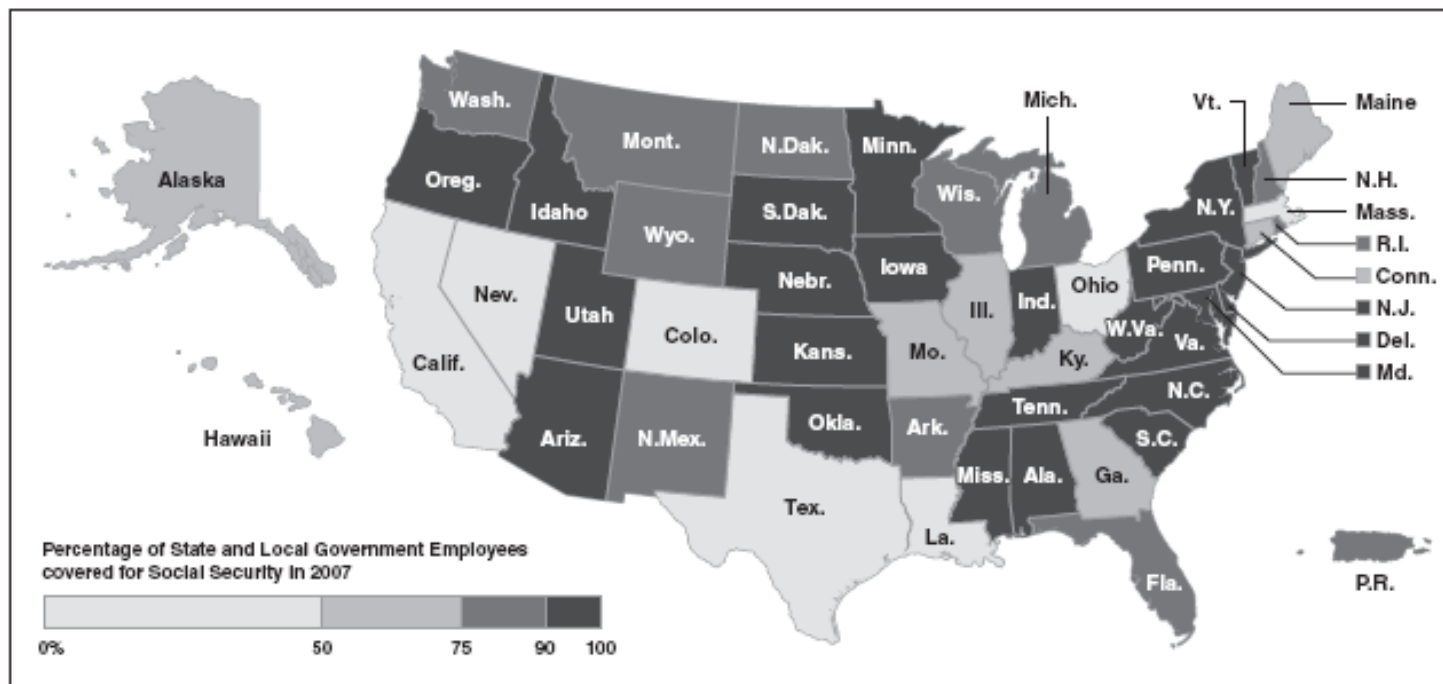
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## Scope and Methodology

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- Reviewed federal laws, regulations, and MOU between IRS and SSA
  - Reviewed relevant documents and data from IRS, SSA, and select states
  - Interviewed SSA, IRS, and select state officials
  - Reviewed a sample of IRS audit files
  - Administered a survey and received responses from all state Social Security Administrators of the 50 states, Puerto Rico, and Virgin Islands
-

# Percentage of State and Local Government Employees Covered for Social Security in 2007

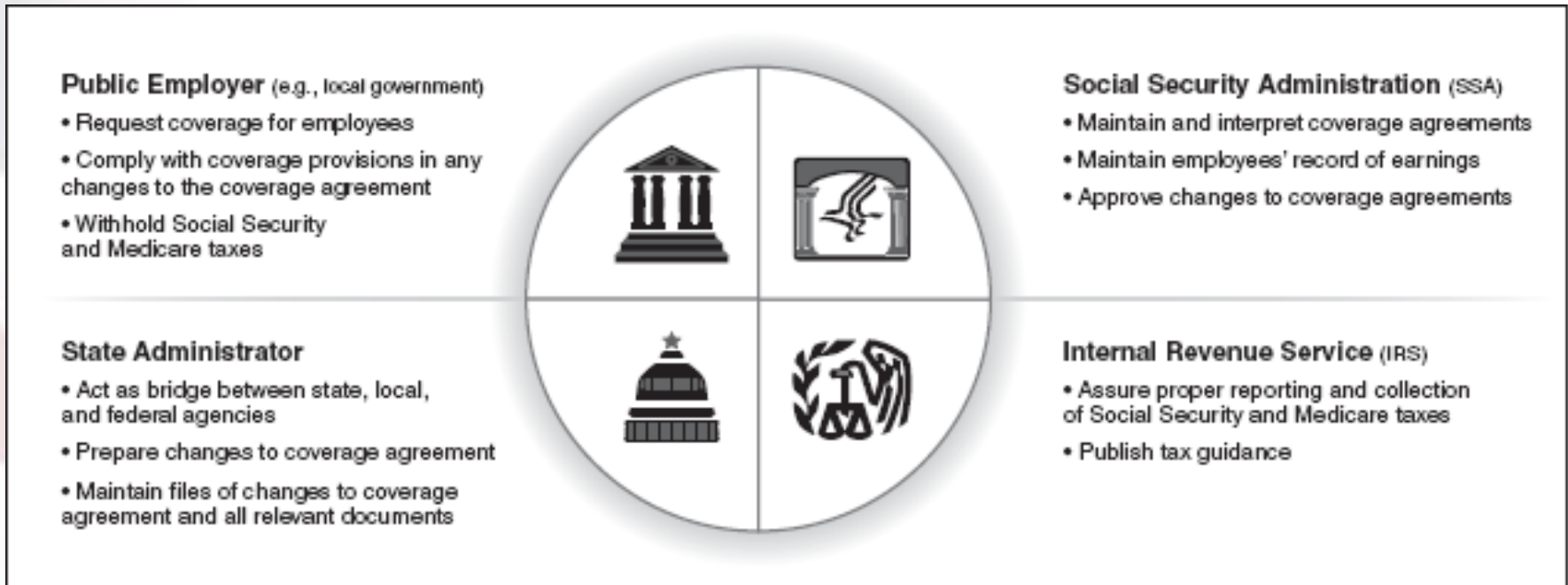


Source: GAO analysis of SSA data; National Atlas of the United States (map).

Note: SSA data did not provide the percentage of covered public employees specifically in the Virgin Islands.



# Shared Responsibilities for Administering Section 218 Agreements



Source: GAO analysis of agency documents.



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# SSA Has a Process to Approve Coverage, but Faces Challenges in Ensuring Accurate Coverage

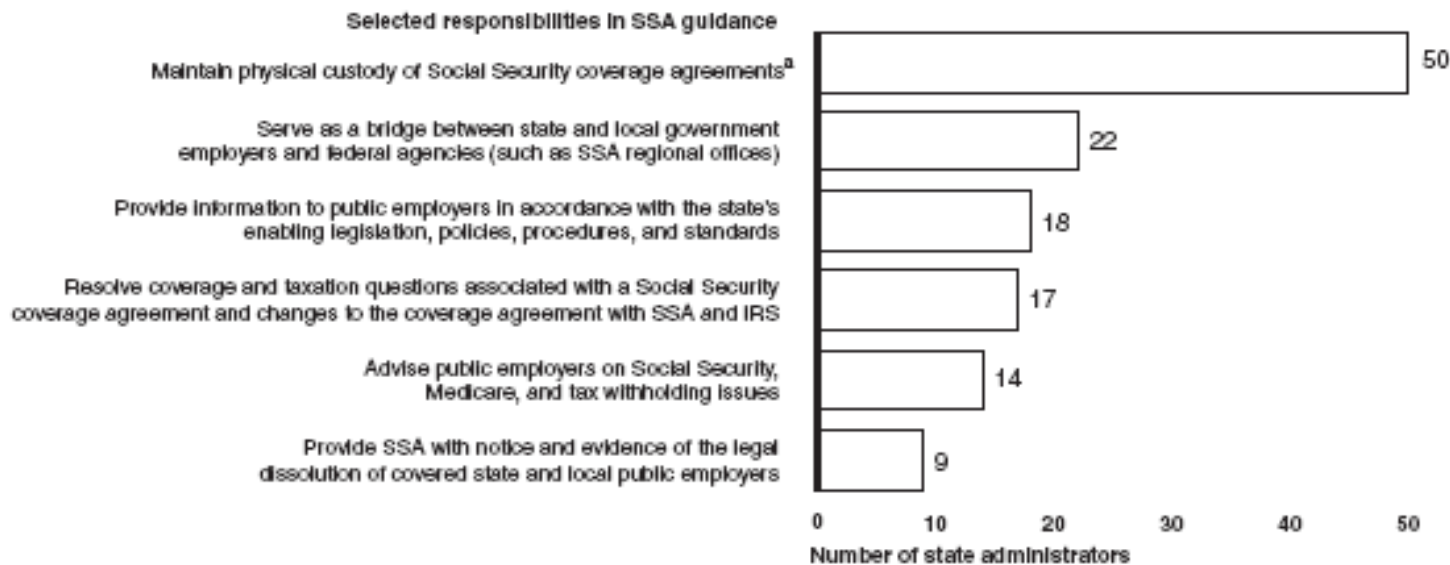
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- SSA Works with States to Approve Social Security Coverage, but It Is Unclear If Public Employers Always Know When to Seek Approval
  - SSA has an established process for working with states to approve coverage.
  - States may file modifications to their coverage agreement on behalf of public employers under a variety of circumstances.



# States Vary in Their Efforts to Implement SSA Guidelines

## SSA Guidance Undertaken By State Administrators to a Very Great or Great Extent to Manage Coverage Agreements

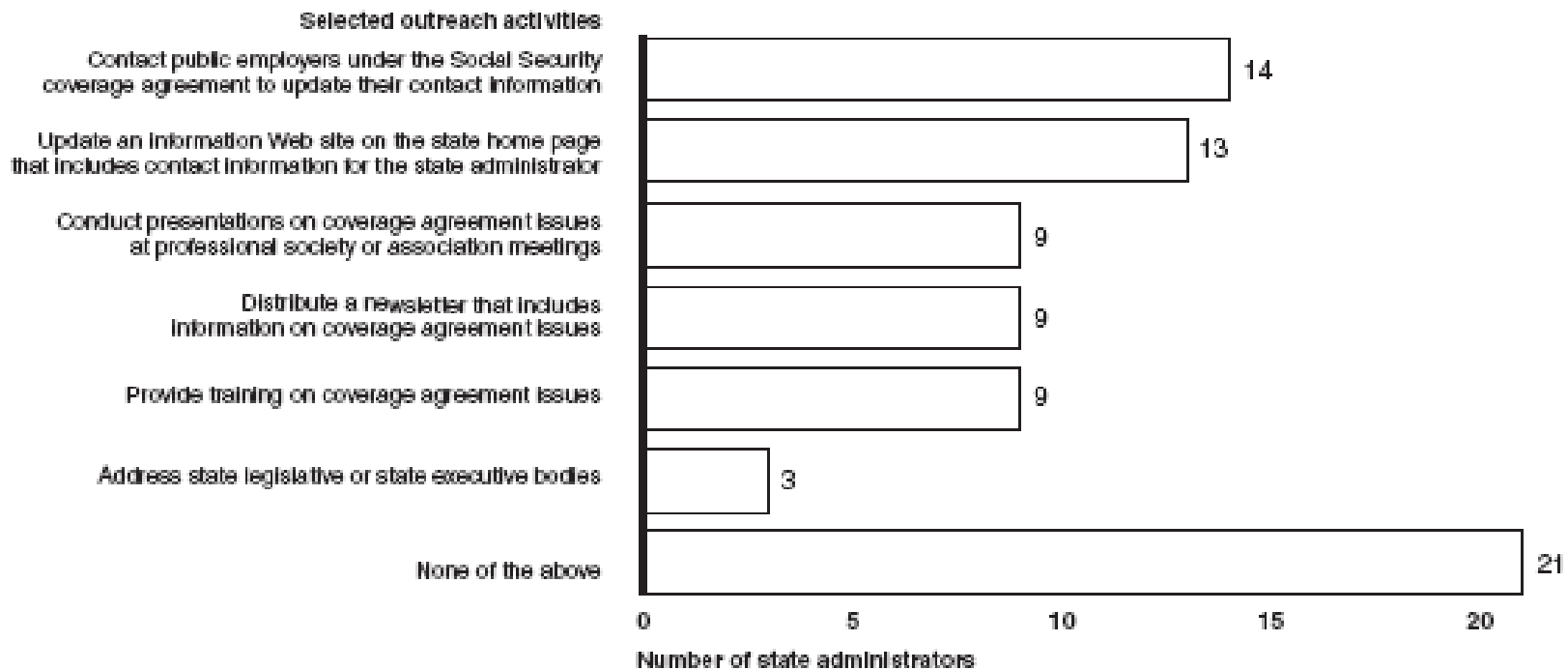


Source: GAO analysis of survey results.

<sup>a</sup>Number of state administrators who responded yes to our survey question asking whether they maintain physical custody of the section 218 agreement.



# Types of Outreach Activities Conducted by State Administrators at Least Annually to Assist Public Employers



Source: GAO analysis of survey results.





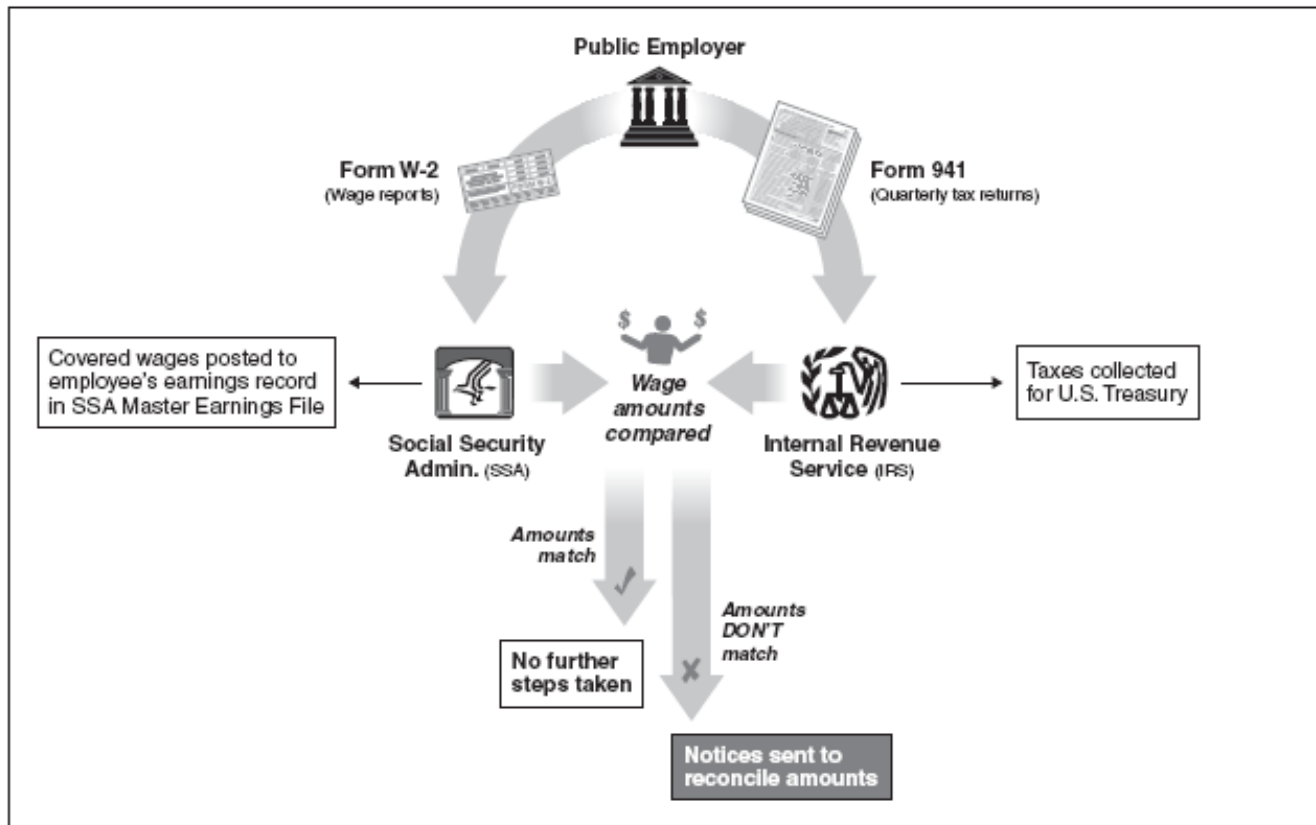
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# SSA Has Limited Management Oversight of Public Employee Wage Reporting

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- SSA relies primarily on public employers to correctly interpret their coverage and accurately report covered wages of public employees.
  - The Social Security Act requires SSA to ensure that all workers have accurate earnings records and SSA requires all employers to use SSA's process of wage reporting to report Social Security covered wages.
  - SSA does not have a process to ensure that public employers only report wages for covered employees and that such wages are associated with valid coverage under the state's agreement.
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# Wage-Reporting and Tax Payment Process of SSA and IRS



Source: GAO analysis of SSA and IRS documents.



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# SSA Has Limited Management Oversight of Public Employee Wage Reporting (cont.)

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- Prior to 1987, SSA conducted regular oversight activities to ensure more accurate reporting.
  - State administrators gathered Social Security payments in lieu of FICA taxes from public employers with approved coverage.
  - SSA ensured that state and local government employers made the correct payments for the Social Security Trust funds.
- In 1987, new laws required IRS to collect Social Security from public employers and employees directly. SSA and the states reduced staffing, management attention, and oversight of coverage agreements.



# SSA Has Limited Management Oversight of Public Employee Wage Reporting (cont.)

- SSA lacks basic data on public employers and employees, preventing the agency from monitoring potential errors.
  - SSA does not track the number of public employers that are under a state's approved coverage agreement.
  - SSA doesn't monitor activities that could expose a public employer to greater risk of committing coverage errors.
  - SSA has not provided regional offices with guidelines for what data should be collected and how. As a result, 6 of the 10 regional offices did not collect any data and the other 4 varied in which data they collected. Additionally, regional offices oversight efforts are reactive.



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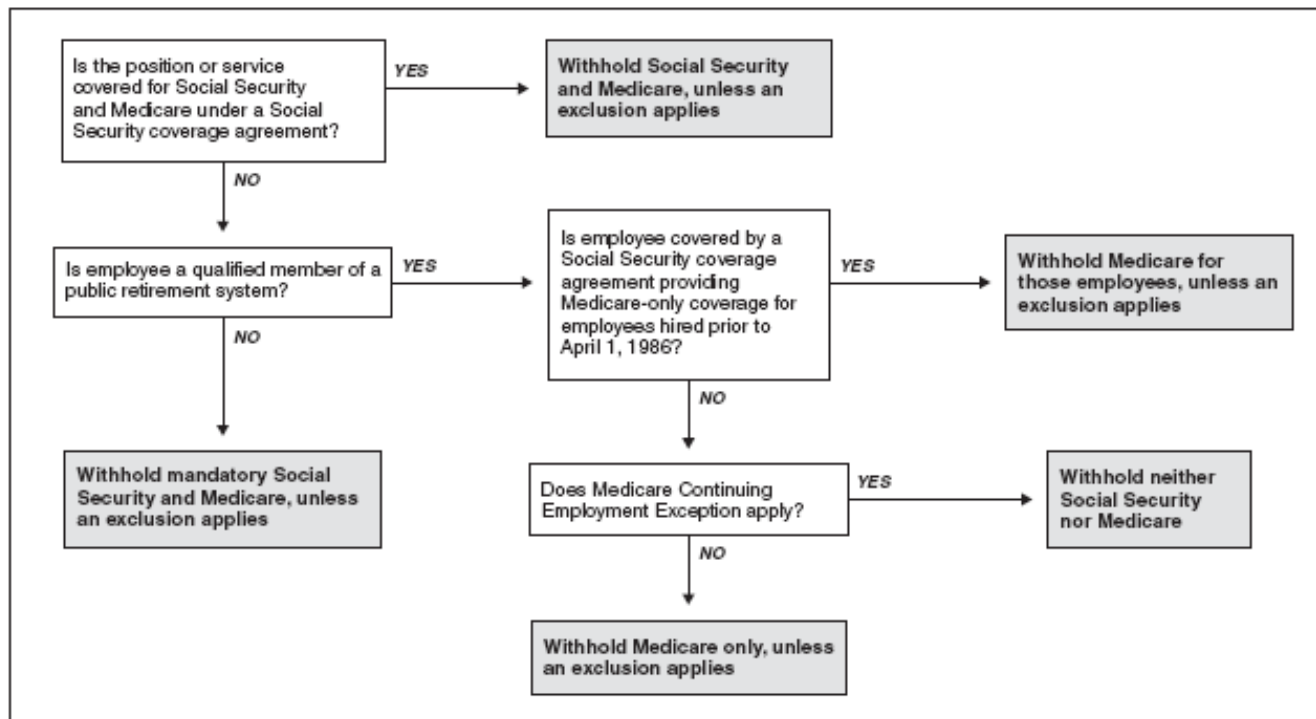
# IRS Compliance Efforts Are Limited By a Lack of Social Security Coverage Information

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- IRS is Responsible For Ensuring Public Employers Pay Social Security Taxes but Determining Coverage Is Challenging
  - Since 1987, IRS has been the primary agency responsible for ensuring that public employers are accurately paying Social Security and Medicare taxes, and its level of enforcement has increased over the years.
  - IRS's enforcement program consists of compliance checks and examinations.



# Determining Social Security or Medicare Coverage of State and Local Government Employees



Source: IRS Publication 963, Federal-State Reference Guide.

Note: The Medicare Continuing Employment Exception provides that state and local government employees hired prior to April 1, 1986, are exempt from mandatory Medicare taxes, if they meet certain requirements.



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# IRS Compliance Efforts Are Limited By a Lack of Social Security Coverage Information (cont.)

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- IRS Has Limited Information about Public Employers' Social Security Coverage but Is Working to Obtain Additional Information
- IRS is Evaluating It's Case Selection Process and Results of Its Compliance Checks and Examinations



# Data on Compliance Checks

**Table 3: Fiscal Year 2007 to 2009 Compliance Checks Completed and Discrepancy Letters Issued for Employment Tax Issues**

<b>Fiscal year</b>	<b>Closed cases for employers covered under Social Security coverage agreements<sup>a</sup></b>	<b>Cases with discrepancy letters for all employment tax issues<sup>b</sup></b>	<b>Percentage</b>
2007 compliance checks	563	499	88.6
2008 compliance checks	409	364	89.0
2009 compliance checks	355	281	79.2

Source: FSLG data.

<sup>a</sup>These data do not include the number of examinations on public employers who are not covered under a coverage agreement.

<sup>b</sup>Employment tax issues include many issues, one of which is Social Security coverage.





# Data on Examinations

**Table 4: Fiscal Year 2007 to 2009 Examinations Completed and Number with Tax Adjustments for Employment Tax Issues**

<b>Fiscal year</b>	<b>Closed cases for employers covered under Social Security coverage agreements<sup>a</sup></b>	<b>Number of cases with tax adjustments for all employment tax issues<sup>b</sup></b>	<b>Percentage</b>
2007 examinations	269	245	91.1
2008 examinations	391	349	89.3
2009 examinations	259	233	90.0

Source: FSLG data.

<sup>a</sup>These data do not include the number of examinations on public employers who are not covered under a coverage agreement.

<sup>b</sup>Employment tax issues include many issues, one of which is Social Security coverage.



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# Recommendations

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- To improve SSA's management oversight of public employees, we recommend that the Commissioner of Social Security, in consultation with IRS, state administrators, and public employers, develop procedures for monitoring the accuracy of Social Security earnings records.
  - To improve the state's administration of public employer wage reporting, we recommend that the Commissioner of Social Security, in consultation with NCSSSA, modify SSA's policy guidance to clarify state responsibilities governing their oversight of public employers and set clear expectations for the steps state administrators should take in implementing these responsibilities.
  - To improve the process for identifying and correcting errors, we recommend that the Commissioner of Internal Revenue track errors found through its compliance efforts on Social Security and Medicare taxes and share results with SSA, as permitted by federal law.
-

# **Social Security Administration's Perspective on the GAO Report**

## **Linda Pelic-Stradtman**

**Program Analyst for the Social Security Administration,  
Office of Public Service and Operations Support, Baltimore, MD**

## **Amanda Reuschling**

**Team Leader for the Social Security Administration,  
Office of Public Service and Operations Support**

# Review of GAO Report

Overview and what has changed since  
report came out

Jayne Maxwell, Manager  
Field Operations, FSLG  
512-499-5070

[Jayne.E.Maxwell@irs.gov](mailto:Jayne.E.Maxwell@irs.gov)

# IRS Recommendation

To track errors found through its compliance efforts on Social Security and Medicare taxes and share results with SSA, to the extent permitted by federal law.

# Actions to share results

- Early in FY11, initiated a process for sharing certain compliance findings with SSA,
  - shared a sampling of specific examine reports in an effort to define the kinds of information that would be of value to SSA.
- May 2011, we provided to SSA a summary report of our trending analysis of results data from compliance contacts conducted during FY07 - FY09.

# Internal Actions

- Completed our initial Compliance Results 3-yr Trending Analysis Report
- Developing enhancements to our current data capturing process to improve the scope and detail of reporting for our compliance results of Section 218 covered entities.

# **National Conference of State Social Security Administrator's Perspective on the GAO Report**

**Maryann Motza, PhD**

**Colorado State Social Security Administrator  
and NCSSSA President, 2010-2011**



# NCSSSA Follow-up Since September 2010

- Legislative Committee members analyzed the GAO report and summarized comments, issues, and concerns for the Executive Committee.
- Executive Committee members reviewed recommendations and approved the following actions by the NCSSSA President . . .

## NCSSSA Follow-up Since September 2010 – contd.

- Preparation and submission of a letter to the U.S. House Ways and Means providing comments for Congress on the GAO report and its implications for the states, as a party to the Section 218 Agreements, and state and local government employers and employees nationwide.

That letter identified the following major points and conclusions:

## NCSSSA Follow-up Since September 2010 – contd.

1. GAO report was complimentary of NCSSSA and states that both the SSA and the IRS should work with the NCSSSA and the states to facilitate compliance with federal laws by state and local governments.
2. NCSSSA applauds the GAO report for its analysis, insights into the issues, and recommendations.
3. NCSSSA thinks the GAO should have gone further.

## NCSSSA Follow-up Since September 2010 – contd.

4. The GAO report documented problems with the IRS and SSA not having sufficient information to properly ensure accurate Social Security and Medicare coverage and FICA tax collection.
  - Much of the information they need is available from most State Administrators' records.
  - When conducting examinations, the IRS cannot obtain that information from State Administrators about specific public employers because of the restrictions imposed by IRC § 6103.
  - Legal restrictions impact information sharing with both State Administrators and the U.S. Social Security Administration.

## NCSSSA Follow-up Since September 2010 – contd.

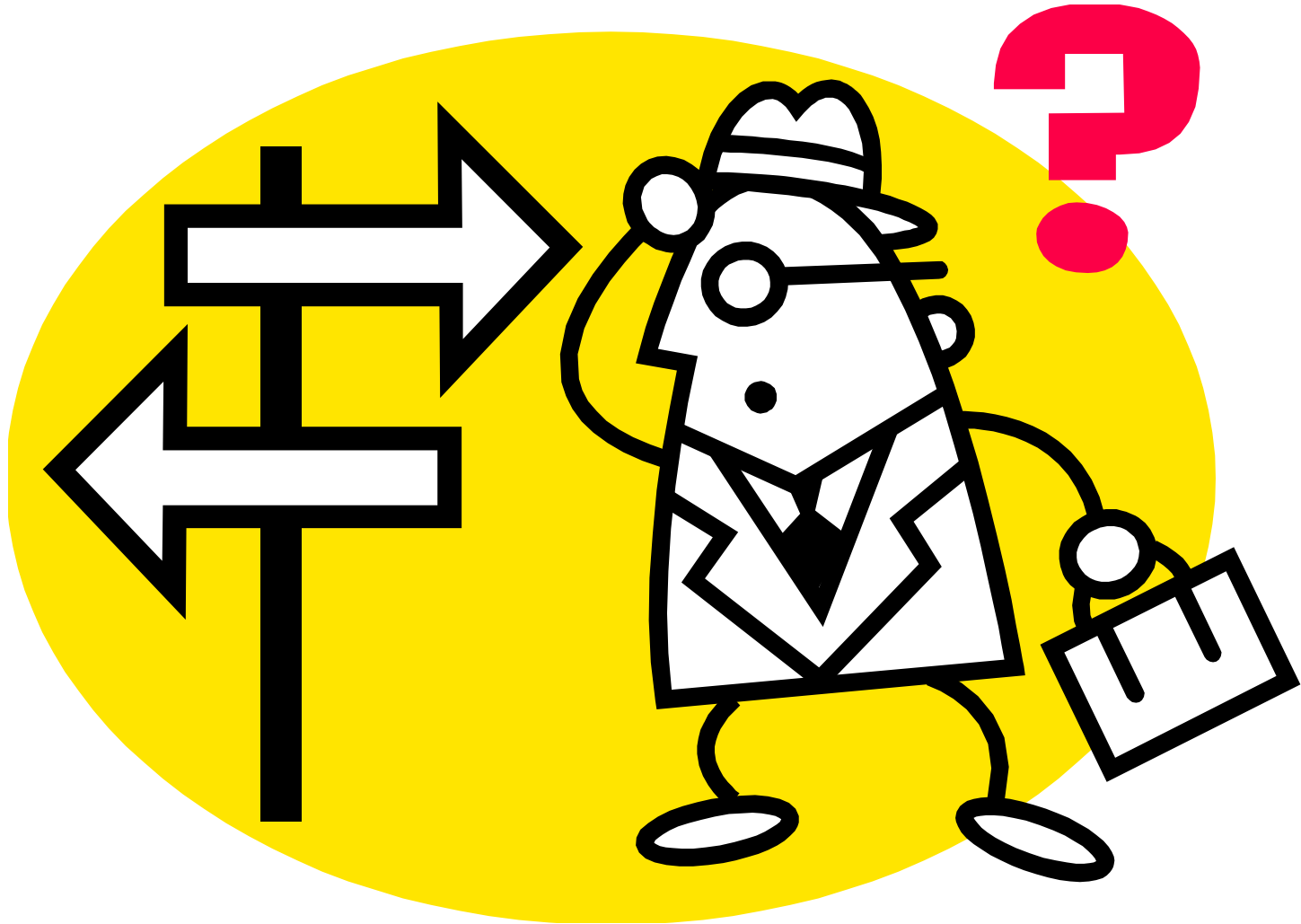
5. Collaboration and communication among all principal parties (i.e., SSA, IRS, and State Administrators) is crucial to compliance by state and local governments.
  
6. State Administrators should be included proactively – not reactively, such as occurred in Missouri -- as a key partner in discussions of all coverage and wage reporting issues that the SSA and IRS encounter.

## NCSSSA Follow-up Since September 2010 – contd.

7. Since the IRS assumed responsibility for collecting FICA taxes from public employers (January 1987), the State Social Security Administrator is no longer privy to tax information, because of the IRS's interpretation of Internal Revenue Code §6103.
  - A. The State Administrator is the official responsible for administering his/her state's Section 218 Agreement that was voluntarily entered into with the U.S. Social Security Administration.

Currently, one of the two named parties to the contracts between the federal government and the states are systematically excluded from discussions about possible coverage and tax issues arising from those agreements.
  - B. NCSSSA sent a second letter to the U.S. House Ways and Means Committee urging Congress to amend Internal Revenue Code §6103 (i) to include authorization for the Secretary of the U.S. Treasury and the IRS to disclose tax information obtained from state or local governments with the official designated pursuant to 20 C.F.R. §404.1204 (the State Social Security Administrator).

# Discussion and Q&A





*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“IRS - Update on TE / GE”*

**Panel:** *Jayne Maxwell, Field Operations, IRS/FSLG  
Robert Westhoven, Northeast Area Manager, IRS/FSLG  
Dwayne Jacobs, Western Area Manager, IRS/FSLG*

**Moderator:** *Karen Park, Oregon*

**Section 218 Assessment Tool Outline:** *(Bob Westhoven) No PPT w/this presentation*

- **Background**
  - PL 99-509 (10/21/1986) amended Section 218 of the Act and Sections 3121 and 3126 of the Internal Revenue Code
  - Prior to 1987, the State Administrators were responsible for reporting covered wages to SSA, collecting the contributions, and depositing these amounts into the Social Security Trust Fund.
  - December 1996, the SSA's inspector general issued a report concluding there was a significant risk of non-compliance - renewed emphasis on Section 218 and ultimately led to the formation of FSLG which started in 2000.
  - Lessons Learned with Missouri School Systems – Section 218 Taskforce – stakeholders worked collaboratively to resolve issue.
  
- **IRS Roles and Responsibilities**
  - To ensure proper reporting by most effective means available.
  
- **Overview of the Section 218 Assessment Project**
  - Oct 2009, development of 218 Assessment Project



- Developed tool for data gathering purposes w/design input from stakeholders.
  - Conducted pilot project which allowed further refinement of tool.
- **Section 218 Assessment Project Accomplishments**
  - Data used to portray a clearer picture of the 218 landscape by:
    - Identify unique or common attributes
    - Identify significant risk factors by state
  - Anticipated benefits:
    - Tailor internal/external educational products
    - Enabled effective use of resources.
    - Proactive approach in addressing high risk areas
    - Fostering collaborative efforts w/stakeholders
- **Initial analysis has identified potential risk areas:**
  - Public School “Teacher” Positions
  - Policemen and Firefighter Positions
  - School Consolidations and Mergers
  - IRC Sec 414(h)(2) Issues
  - Qualifying FICA Replacement Plans
- **Where do we go from here?**
  - Proactive approach concerning Section 218 compliance.
  - Follow up on information previously provided and potential risk areas.
  - Continue to organize and analyze the Section 218 data collected and share findings with our stakeholders.
  - Increased emphasis on education - develop case studies to address potential high risk areas.
- **Closing Comments**


# **FEDERAL, STATE AND LOCAL GOVERNMENTS**



**Dwayne Jacobs, Manager  
FSLG Western Area Group Manager**

**NCSSA Conference  
Cheyenne, Wyoming  
August 2011**

# FSLG Customer Base



FSLG's interaction with its customer base affects the degree of compliance by government employers and their 24 million employees. These entities employ approximately 18% of the American workforce, pay wages in excess of \$760 billion annually and pay employment taxes in excess of \$200 billion. In addition, governments own fixed assets in excess of \$8.7 trillion and purchase goods and services in excess of \$2.6 trillion, which is approximately 20% of the US economy.

# Methods of addressing compliance



- FSLG addresses key areas of noncompliance through a combination of:
  - Targeted Outreach Efforts,
  - Development of educational tools/products via our website, and
  - Field Compliance contacts (compliance checks and examinations)

# What is a Compliance check?



- (1) A compliance check is a contact with the customer that involves a review of filed information and tax returns of the entity. A compliance check is NOT an examination and the customer may legally choose not to participate. A compliance check does not directly relate to determining a tax liability for any particular period. The check is a tool to help educate government entities about their reporting requirements and increase voluntary compliance.
- (2) The compliance check shall not include an examination, inspection, or discussion of books and records, nor shall it include a review of employee/independent contractor classification questions.

# What is an Examination?



- (1) An examination is a contact with the customer that involves a review of filed information and tax returns of the entity. An examination does directly relate to determining a tax liability for a particular period. Assessments are made if warranted
- (2) An examination includes an inspection, or discussion of books and records, and includes a review of employee/independent contractor classification issues.

# What are the main issues in Exams and Compliance Checks?



- Information Return reporting compliance (1099s)
- W-2/W-3 reporting issues (reconciliation, pre-taxed items [i.e. pension plans, life ins.]
- W-4/W-9 Issues
- Taxable fringe benefits/non-Accountable plans
  - Day Meals
  - Personal Use of Gov't provided vehicle
  - Uniform/Clothing allowances
  - Payment reclassification issues resulting
- Worker Classification issues
- FICA Coverage on Employees (Section 218)

# Top Ten Issues Identified in Compliance Checks



<b>Issue</b>	<b># Cases</b>	<b>% Cases</b>
<b>1099 Issues/Education</b>	<b>1300</b>	<b>51.60%</b>
<b>W-9 Issues/Education</b>	<b>969</b>	<b>38.50%</b>
<b>Worker classification Issues</b>	<b>403</b>	<b>16.00%</b>
<b>W-2/W-3 Issues/Education</b>	<b>402</b>	<b>16.00%</b>
<b>Personal Use-Gov't Prop</b>	<b>400</b>	<b>16.00%</b>
<b>Day Meals</b>	<b>351</b>	<b>13.90%</b>
<b>Payment Re-characterization Issues</b>	<b>166</b>	<b>6.60%</b>
<b>W-4 Issues/Education</b>	<b>143</b>	<b>5.70%</b>
<b>Non-Accountable Plan</b>	<b>132</b>	<b>5.20%</b>
<b>Section 218 Coverage Issues</b>	<b>111</b>	<b>4.40%</b>



# Top Ten Issues Identified in Examinations



<b>Issue</b>	<b># Cases</b>	<b>% Cases</b>
<b>1099 Issues/Education</b>	<b>520</b>	<b>37.50%</b>
<b>Worker classification Issues</b>	<b>419</b>	<b>30.30%</b>
<b>Personal Use-Gov't Prop</b>	<b>352</b>	<b>25.40%</b>
<b>W-9 Issues/Education</b>	<b>282</b>	<b>20.40%</b>
<b>Non-Taxed Allowances</b>	<b>245</b>	<b>17.70%</b>
<b>Payment Re-characterization Issues</b>	<b>241</b>	<b>17.40%</b>
<b>Day Meals</b>	<b>239</b>	<b>17.30%</b>
<b>Non-Accountable Plan</b>	<b>182</b>	<b>13.10%</b>
<b>Other-Wage Issue</b>	<b>157</b>	<b>11.30%</b>
<b>W-2/W-3 Issues/Education</b>	<b>135</b>	<b>9.70%</b>

# Questions?



# Work Plan for Fiscal Year 2011



- Slight increase in compliance checks and examinations
- Key Area of Emphasis: National Research Program (NRP) Employment Tax Study
- International Issues

# ET NRP Initiative



- The primary purpose of the ET NRP is to measure voluntary compliance by various segments of the taxpayer population in reporting their employment tax obligations.
- National Initiative which includes other Business Units (SB/SE, LB&I, and TEGE (EO & FSLG))
- Tax Gap Study: Employment taxes appear to be the largest source of underpayment of taxes.
- First ET Initiative program in over 25 years.

# NRP Three Year Study



- Study of compliance levels related to employment tax returns which began in FY 2010 and will run through FY 2012.
  - 2008 ET return sample = 90 cases (in 2010)
  - 2009 ET return sample = 183 cases (in 2011)
  - 2010 ET return sample = 218 cases (in 2012)

# NRP Issue Findings on TY 2008 Sample



<b><i>TY 2008 Lead Sheet Issue Name</i></b>	<b><i>Count</i></b>
• <b>Fringe Benefits (Non-Executives)</b>	37
• <b>Re-characterization of Wages / Other</b>	27
• <b>Section 530 Lead Sheet</b>	22
• <b>Common Law Control Factors – NRP</b>	20
• <b>Backup Withholding (BUWH)</b>	19
• <b>FICA Coverage for Government Employees</b>	9
• <b>Classification Settlement Program (CSP) – NRP</b>	5
• <b>§ 3402(d) Relief from Income Tax Withholding</b>	3
• <b>Fringe Benefits (Executives)</b>	3

\*through May of 2011

# Current status of NRP Project?



- FSLG currently completing the examinations of the TY2008 sample and inputting the case data gathered.
- FSLG Specialists examining TY2009 sample cases received – currently (no data available)
- FSLG working with National NRP staff on TY2010 sample of cases that will be examined (anticipate initiation of these cases in 1<sup>st</sup> quarter of FY 2012).

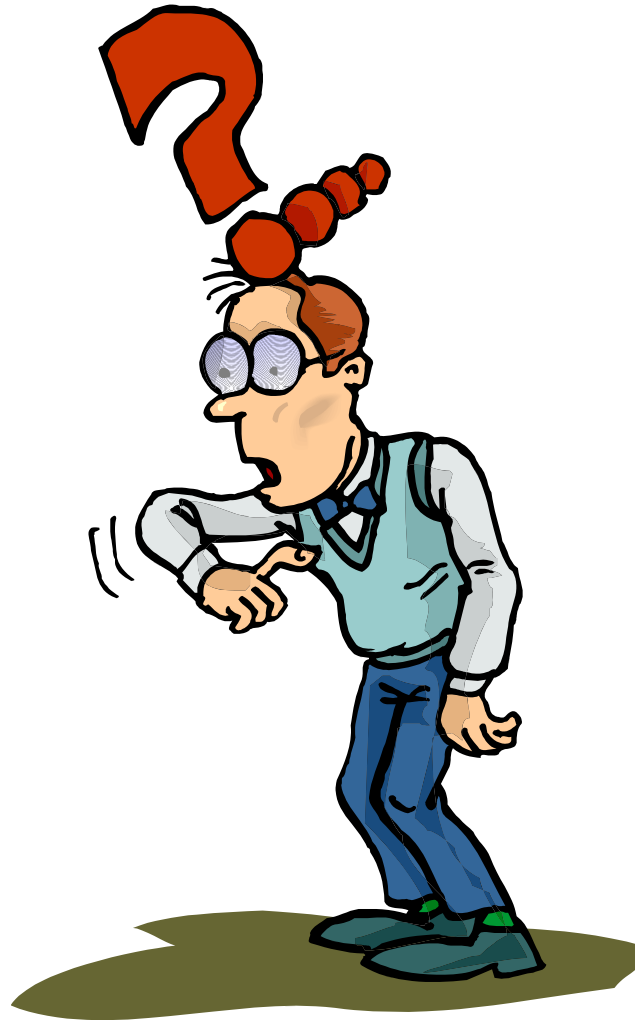
# FSLG Targeted accomplishment?



- Information gathered from compliance contacts will:
  - help FSLG make decisions about allocating our limited resources to address the greatest areas of non-compliance, and
  - allow us an opportunity to educate non-compliant taxpayers, and
- The data will assist us in the development of future work plans, ensuring our resources are being applied appropriately.



# Questions?





*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“IRS - Update on TE / GE”*

**Panel:** *Jayne Maxwell, Field Operations, IRS/FSLG  
Robert Westhoven, Northeast Area Manager, IRS/FSLG  
Dwayne Jacobs, Western Area Manager, IRS/FSLG*

**Moderator:** *Karen Park, Oregon*

IRC Section 3402(t) notes:

Welcome to our presentation of the provisions and proposed regulations for Internal Revenue Code section 3402(t).

The proposed regulations we’re discussing today reflect changes in the law made by the congressional act shown here.

The law requires government entities to withhold 3% income tax when making payments to persons providing property or services.

The law originally applied to payments made on or after January 1, 2011. The implementation date was extended by law until January 1, 2012, and by final regulation until January 1, 2013. These final regulations provide guidance to assist the government entities in complying with section 3402(t).

The regulations also provide certain guidance to persons receiving payments for property or services from government entities.

These regulations affect governments at the federal, state and local level.

We are required to use this presentation, which was developed for all levels of government. Because our group works only with federal agencies, we’ll skip any information relating to state and local governments. Thus, the last two bullet points here don’t apply to you.

Note that 3402(t) applies to “the Government of the United States,” without any restriction. Thus 3402(t) applies to all branches of the federal government, whether executive, legislative or judicial.

The 3% withholding requirement applies to payments made to all of the following recipients:

- Individuals and sole proprietorships

- Trusts and estates
- Partnerships
- Associations, and
- Corporations, both “C” Corps and “S” Corps
- This also includes limited liability companies, which are usually used to afford limited liability to sole proprietorships and partnerships.

Some entities are exempt and we’ll cover them shortly.

The requirement applies to all payments, whether by cash, check, credit card or electronic funds transfer.

There are special rules governing the application of 3402(t) to pass-through entities.

Pass-through entities include partnerships and “S” corporations, designed to pass on a pro rata share of an entity’s income and expenses to the entity’s partners or shareholders.

Because we are addressing only federal agencies today, we need not address payments *from* pass-through entities.

You can only exempt payments *to* pass-through entities from withholding if at least 80% of the entity is owned by governments, both domestic and foreign, or tax-exempt organizations, such as churches or organizations granted tax-exempt status by the IRS.

Non-church tax-exempt organizations will be listed on our website at [www.irs.gov](http://www.irs.gov). Click on “Charities & Non-Profits,” then select “Search for Charities.”

Here are some exceptions to the withholding requirements. You don’t have to withhold the 3% income tax from:

- Payments that are already subject to withholding for another reason. This includes wages to employees and payments to aliens under Internal Revenue Code section 1441.
- Retirement, unemployment and social security benefits
- Payments that are subject to backup withholding, such as to vendors from whom you cannot secure a valid tax identification number. This exemption applies only if you have actually performed backup withholding of 28% from the payments made to that recipient.
- Payments for real estate. Note that the proposed regulations adopt the position that payments for the construction of buildings or public works are not payments for real property excepted by 3402(t). If the payment is for buying or leasing an existing building, it’s excludable. Additionally, leasehold improvement payments are excludable.

Additional exemptions from withholding include:

- Payments of interest
- Payments to other government entities, domestic and foreign, as well as Indian tribes.
- Payments made under the provisions of contracts identified under Internal Revenue Code section 6050M(e)(3) as confidential or classified for reasons of national security, law enforcement, or foreign counterintelligence. The requirements of this Code section are stringent and specific, so don’t exclude a contract’s payments from withholding without consulting the Code and ensuring these requirements are met.

Because of possible confusion and disputes as to what is considered a “material modification,” the exception of existing contracts, whether modified or not, will not apply after December 31, 2013.

One provision of the proposed regulation that will reduce the administrative burden somewhat is the threshold for withholding.

If you make a payment less than \$10,000, you do not have to withhold the 3% income tax. Before you start making plans to avoid the withholding requirement by breaking payments into fractions to reduce them under \$10,000, be aware that there is an anti-abuse rule to prevent this. Thus, if you divide up payments only to avoid the withholding requirements, they are still subject to withholding.

This anti-abuse rule does not apply if the primary reason for division into separate payments is unrelated to 3402(t).

As stated earlier, the withholding requirement applies to payments made by credit card. The proposed regulation considers the payment made at the point of sale, so it’s necessary to withhold the tax at that point. The reg says the point of sale occurs when the card is tendered and not when the government entity pays the credit card company. **We’ve had many questions about how you’re supposed to accomplish this. The proposed regs are mute on this topic and we’ve received no guidance on this question, so we have no idea how you’re supposed to do this.**

As a practical matter with federal agencies, few holders of government purchase cards are authorized to charge payments as high as \$10,000, so their payments will not meet the withholding threshold. Only contracting officers whose warrant meets or exceeds \$10,000 will have to concern themselves with this requirement. If the \$10,000 threshold is met, your agency is liable for withholding and reporting associated with this payment. I was in a teleconference with an agency that discussed putting a true \$10,000 limit on all payment cards to avoid the quandary of how to withhold tax on charges of \$10,000 or more.

This liability is not transferred to any other party.

You may have heard or read about a new Code section 6050W which will require credit card companies to issue Forms 1099-MISC to vendors whose credit card receipts exceed 200 transactions for payments aggregating to more than \$20,000. Under this notice, payments reportable under the payment card rules will not be subject to the 3402(t) rules until at least the time indicated.

Withholding under 3402(t) applies only to payments by the government to the prime contractor. It does not apply to successive payments by the prime contractor to its subcontractors. As defined in the proposed regulation, a payment administrator is any person who acts solely as an agent for the government by making a payment on behalf of the federal agency to a person providing property or services to the government.

Under the proposed regulation, a payment administrator acting on behalf of the federal agency must withhold the 3% income tax from payments it makes on the government’s behalf.

Once you've withheld tax from these payments, how do you report it and what do you do with the money?

Basically, you treat it similarly to backup withholding:

- You'll make periodic tax deposits
  - Monthly if your Form 945 tax were less than or equal to, \$50,000 during the calendar year, two years previously.
  - Semiweekly if the tax for that year exceeded \$50,000.
  - The next day if the accumulated tax liability reaches \$100,000.
- You'll report the total tax withheld on all payments once a year on Form 945, due January 31<sup>st</sup> after the end of the calendar year.
- You'll report withholding to the recipients on box 4 of Form 1099-MISC, which you'll issue to each recipient by January 31st. A copy of this form will go to the IRS by the end of February.

Our Counsel is now reviewing the comments. They may revise the regulations when the regs are finalized.

If there are substantive changes in the final regs, we will probably do some sort of outreach, such as another series of teleconferences, to communicate them to you.

If you have any questions, don't hesitate to call me, but understand that I can't take comments that should have been submitted during the comment period and I can only provide answers on matters for which the proposed regs provided guidance.

# IRC SECTION 3402(t)

REQUIRED WITHHOLDING ON  
GOVERNMENT PAYMENTS

# Tax Increase Prevention and Reconciliation Act of 2005

- Added section 3402(t) to Internal Revenue Code
- Generally requires 3% income tax withholding by government entities on payments for property and services
- Originally applied to payments made after December 31, 2010

# IMPLEMENTATION DELAYS

- American Recovery and Reinvestment Act of 2009 delayed implementation for one year, to payments after December 31, 2011
- Final regulations May 9, 2011, delays implementation until after December 31, 2012



# AFFECTED GOVERNMENT ENTITIES

- All U.S. Government agencies, including judicial and legislative branches
- All state governments (including the District of Columbia, but excluding Indian tribal governments and U.S. possessions)
- All subdivisions or instrumentalities of state government that make annual payments for property and services (excluding wages) of \$100 million or more

# INSTRUMENTALITY

- Statute and regulations do not provide a definition for this purpose
- Final regulations indicate that general published guidance on definition of instrumentality should be consulted (see Revenue Rulings 57-128, 65-26, 65-196)

# SMALL SUBDIVISION OR INSTRUMENTALITY EXCEPTION

- Less than \$100 million in payments per year
- Eligibility for this exception is based on payments for a “lookback period” of the accounting year ending with or within the second preceding calendar year
- Under an optional rule, an entity may average payments made during any four of the previous five accounting years ending with the accounting year ending with or within the second preceding calendar year

# PAYMENT ADMINISTRATOR

- Any person that acts with respect to a payment solely as an agent for a government entity by making the payment on behalf of the government entity
- Payments to an administrator for payment services provided on behalf of government entity are subject to the withholding
- Government entity remains liable for tax

# RECIPIENTS

Payments to all of the following are subject to the 3% withholding:

- Individuals
- Trusts and Estates
- Partnerships
- Associations
- Corporations

# PASS-THROUGH ENTITIES

- Payments from pass-through entities are exempt from withholding unless at least 80% of entity is owned by government entities required to withhold under section 3402(t)
- Payments to pass-through entities are subject to withholding unless at least 80% of entity is owned by governments required to withhold under 3402(t), tax-exempt organizations, tribal organizations, or foreign governments

# EXCEPTION

- Applies with respect to payments to partnerships that are 80 percent owned by nonresident aliens and foreign corporations if payment is not effectively connected with conduct of US trade or business by partnership and not US source income

# EXCEPTIONS TO 3402(t)

Withholding is not required for payments:

- For retirement benefits, unemployment compensation, or social security
- Subject to backup withholding, if performed
- For real property, interest or repayment of principal, public assistance or welfare, loan guarantees, grants, taxes, or investment securities
- Made in emergency, disaster or hardship situations



# EXCEPTION FOR EMPLOYEES

Payments to employees in connection with service are excepted:

- Wages
- Retirement plan contributions
- Fringe benefits
- Expense reimbursements under accountable plans

# MORE EXCEPTIONS

- To other government entities, foreign governments, Indian tribes, or tax-exempt organizations
- Made under confidential or classified contracts under IRC 6050M(e)(3)
- To nonresident aliens and foreign corporations in certain situations

# GRANTS

A transfer of funds from government to recipient pursuant to agreement, when

- (1) Principal purpose is to carry out a public purpose, and
- (2) Substantial involvement between parties not expected when carrying out the activity.

# SALES TAXES

- Amount of payment subject to withholding and reporting includes any sales tax, excise tax, or VAT; but
- Government entities may exclude these from reportable payments and withholding if applied consistently to all payments to a payee during a calendar year

# EXISTING CONTRACTS

- Under the final regulations, withholding is not required under existing written contracts in effect on December 31, 2012
- Exception does not apply through 2013 if there are material modifications to the contract after that date
- Contract renewal is not material modification
- Companion proposed regulations [REG-151687-10] provide that existing contract exception does not apply after 2013

# REAL PROPERTY

- Real property includes land or completed buildings
- Payments for construction or improvements to existing buildings are subject to the requirement

# PAYMENT THRESHOLD

- All governmental entities (including Federal and state agencies) are not required to withhold on payments of less than \$10,000.
- \$10,000 threshold is applied separately to each payment and each payee
- 3% withholding applies to total amount paid in any form
- Payor and payee may agree to have withholding apply to payments that are not subject to withholding (including those under \$10,000)

# ANTI-ABUSE RULE

- Withholding is required if a payment is divided solely for the purpose of avoiding the withholding requirements
- Government entity payer is not liable for failure to withhold unless it knew or had reason to know that payee was structuring payments to avoid withholding



# PAYMENT CARDS

- Notice 2010-91- Payments made by payment card are exempt from the requirements if made for any calendar year beginning earlier than at least 18 months from the date of final regulations, if any, requiring withholding on payments by payment card.

# SUBCONTRACTORS

- The party contracting with the government to provide goods and services is subject to the 3402(t) withholding
- Subcontractors of the contracting party are not subject to the 3% withholding
- Agents acting as payment administrators for the government are required to withhold

# HOW TO REPORT

- Withholding required at time of payment (by entity or payment administrator)
- Withheld amounts are shown on Form 945
- Included with other Form 945 liabilities in applying deposit rules
- Payee takes credit for withholding on income tax return

# HOW TO REPORT

- Withholding reported to recipients on Form 1099-MISC, Miscellaneous Income
- Withholding may not be used by payee as a credit against employment or other taxes
- 3402(t) withholding may be taken into account in making estimated tax payments

# ADJUSTMENTS

- Rules for adjustments of overwithholding or underwithholding on wages apply to 3402(t) payments
- Withholding applies to amount actually paid, even if incorrect
- Withholding applies to amount without regard to governmental offsets

# FAILURE TO WITHHOLD

- In general, a government required to withhold under this provision that fails to do so is liable for the tax
- If government entity failed to comply, it is not liable for the withholding if it can establish that the payee included the payment on its income tax return and paid the income tax due on that payment.
- “Good faith” exception for interest and penalties for payments before 2014

# QUESTIONS?



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“IRS - Update on TE / GE”*

**Panel:** *Jayne Maxwell, Field Operations, IRS/FSLG  
Robert Westhoven, Northeast Area Manager, IRS/FSLG  
Dwayne Jacobs, Western Area Manager, IRS/FSLG*

**Moderator:** *Karen Park, Oregon*

**Notes on Form 8821:**

IRC Section 6103 restricts the information that IRS personnel can disclose to others in regards to our examinations.

Per IRC Section 6103 IRS personnel are prohibited from disclosing returns and return information to anyone other than the taxpayer of that return or return information except as authorized by the Code. The term “return information” includes any information received or prepared by Service employees with respect to a return or with respect to the determination of the existence or possible existence of liability of any person for any tax, penalty, or interest.

The term also includes any part of a written determination or related background file document that has been redacted in accordance with section 6110(c) or (i).

[IRC §6103\(c\)](#) provides that, subject to the requirements and conditions set forth by the Secretary in the regulations, returns and return information may be disclosed to persons designated by the taxpayer in a request for or consent to disclosure.

It also provides for disclosures to any person at the taxpayer’s request to the extent necessary to comply with a request for information or assistance made by the taxpayer to another person. The Treasury Regulation under IRC §6103(c), 26 C.F.R. 301.6103(c)-1, sets out requirements for such disclosures.

How does this help?

Form 8821 can be used for this purpose by the taxpayer to designate an appointee and execute a consent to disclosure.

Purpose of the Form



Form 8821, *Tax Information Authorization*, allows taxpayers to authorize individuals, corporations, firms, organizations, or partnerships to inspect and/or receive confidential tax information.

Form can be obtained through Forms/Pubs Repository at [www.irs.gov/formspubs/](http://www.irs.gov/formspubs/)

Copy of the form provided.

We must note what the form is not intended to do.

The Form 8821 does not authorize the TP's appointee:

- to advocate for the TP's position with respect to the federal tax laws;
- to execute waivers, consents, or closing agreements; or
- to otherwise represent the TP before the IRS.

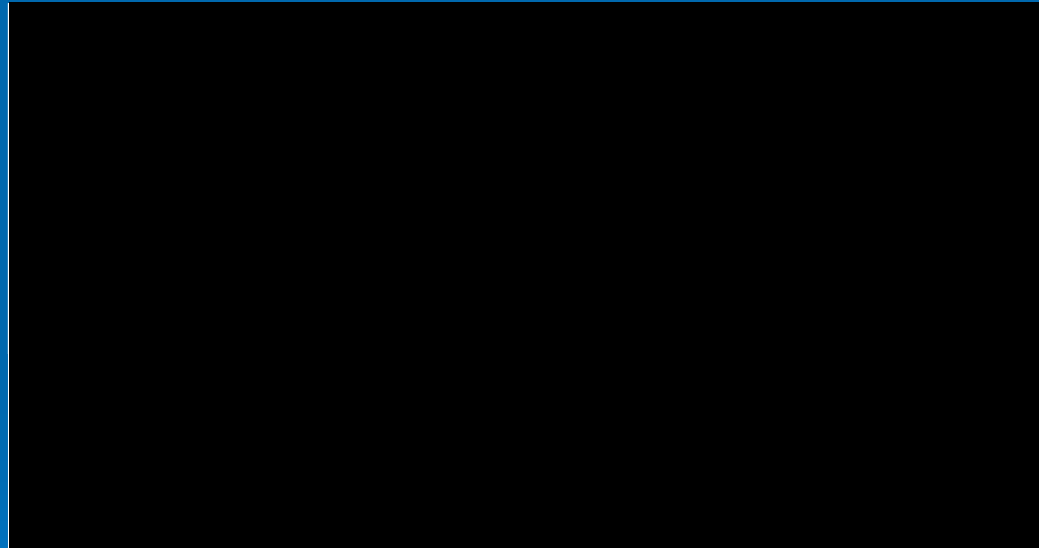
If the TP wants to authorize an individual to represent them, use Form 2848, Power of Attorney and Declaration of Representative.

Form 8821 must be received by the IRS within 60 days of the date it was signed and dated by the taxpayer.

It is valid only for the types of tax, tax forms, tax periods, and tax matters the taxpayer specifies on the form.

Locations of where to file are given on the instructions of the form.

# Form 8821, how is it used and how it can help



# IRC Section 6103

- Generally IRC § 6103 provides that:
  - Returns and return information must remain confidential.
    - “Return Information” includes any information received or prepared by Service employees with respect to a return, or
    - With respect to the determination of the existence or possible existence of liability of any person for any tax, penalty, or interest.

# How does it help?

- IRC §6103(c) provides that,
  - returns and return information may be disclosed to persons designated by the taxpayer in a request for or consent to disclosure.
  - It also provides for disclosures to any person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to another person.
  - Treasury Regulation under IRC §6103(c), 26 C.F.R. 301.6103(c)-1, sets out requirements for such disclosures.

# Form 8821

## ➤ Purpose:

- Form 8821, *Tax Information Authorization*, allows taxpayers to authorize individuals, corporations, firms, organizations, or partnerships to inspect and/or receive confidential tax information.
- Form can be obtained through Forms/Pubs Repository at [www.irs.gov/formspubs/](http://www.irs.gov/formspubs/)

# What it does not do:

- It does not authorize the TP's appointee to advocate for the TP's position with respect to the federal tax laws or represent the TP before the IRS.
- It can not be used to have the appointee execute:
  - Waivers
  - Consents, or
  - Closing Agreements

# When/Where the TP would file?

- It must be received by the IRS within 60 days of the date it was signed and dated by the taxpayer.
- It is valid only for the types of tax, tax forms, tax periods, and tax matters the taxpayer specifies on the form.
- Locations of where to file are given on the instructions of the form.

# Questions?





### Tax Information Authorization

OMB No. 1545-1165  
**For IRS Use Only**  
 Received by:  
 Name \_\_\_\_\_  
 Telephone ( ) \_\_\_\_\_  
 Function \_\_\_\_\_  
 Date / / \_\_\_\_\_

- ▶ **Do not sign this form unless all applicable lines have been completed.**
- ▶ **Do not use this form to request a copy or transcript of your tax return. Instead, use Form 4506 or Form 4506-T.**

**1 Taxpayer information.** Taxpayer(s) must sign and date this form on line 7.

Taxpayer name(s) and address (type or print)	Social security number(s) _____ _____ _____	Employer identification number _____ _____
	Daytime telephone number ( ) _____	Plan number (if applicable) _____

**2 Appointee.** If you wish to name more than one appointee, attach a list to this form.

Name and address	CAF No. _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
------------------	---

**3 Tax matters.** The appointee is authorized to inspect and/or receive confidential tax information in any office of the IRS for the tax matters listed on this line. Do not use Form 8821 to request copies of tax returns.

(a) Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty	(b) Tax Form Number (1040, 941, 720, etc.)	(c) Year(s) or Period(s) (see the instructions for line 3)	(d) Specific Tax Matters (see instr.)

**4 Specific use not recorded on Centralized Authorization File (CAF).** If the tax information authorization is for a specific use not recorded on CAF, check this box. See the instructions on page 4. If you check this box, skip lines 5 and 6. ▶

- 5 Disclosure of tax information** (you **must** check a box on line 5a or 5b unless the box on line 4 is checked):
- a If you want copies of tax information, notices, and other written communications sent to the appointee on an ongoing basis, check this box . . . . . ▶
  - b If you do not want any copies of notices or communications sent to your appointee, check this box . . . . . ▶

**6 Retention/revocation of tax information authorizations.** This tax information authorization automatically revokes all prior authorizations for the same tax matters you listed on line 3 above unless you checked the box on line 4. If you do not want to revoke a prior tax information authorization, you **must** attach a copy of any authorizations you want to remain in effect **and** check this box . . . . . ▶   
 To revoke this tax information authorization, see the instructions on page 4.

**7 Signature of taxpayer(s).** If a tax matter applies to a joint return, **either** husband or wife must sign. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters/periods on line 3 above.  
 ▶ **IF NOT SIGNED AND DATED, THIS TAX INFORMATION AUTHORIZATION WILL BE RETURNED.**  
 ▶ **DO NOT SIGN THIS FORM IF IT IS BLANK OR INCOMPLETE.**

_____ Signature	_____ Date	_____ Signature	_____ Date
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_____ Print Name	_____ Title (if applicable)	_____ Print Name	_____ Title (if applicable)
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<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> PIN number for electronic signature	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> PIN number for electronic signature
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Form 8821 authorizes any individual, corporation, firm, organization, or partnership you designate to inspect and/or receive your confidential information in any office of the IRS for the type of tax and the years or periods you list on Form 8821. You may file your own tax information authorization without using Form 8821, but it must include all the information that is requested on Form 8821.

Form 8821 does not authorize your appointee to advocate your position with respect to the federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent you before the IRS. If you want to authorize an individual to represent you, use Form 2848, Power of Attorney and Declaration of Representative.

Use Form 4506, Request for Copy of Tax Return, to get a copy of your tax return.

Use Form 4506-T, Request for Transcript of Tax Return, to order: (a) transcript of tax account information and (b) Form W-2 and Form 1099 series information.

Use Form 56, Notice Concerning Fiduciary Relationship, to notify the IRS of the existence of a fiduciary relationship. A fiduciary (trustee, executor, administrator, receiver, or guardian) stands in the position of a taxpayer and acts as the taxpayer. Therefore, a fiduciary does not act as an appointee and should not file Form 8821. If a fiduciary wishes to authorize an appointee to inspect and/or receive confidential tax information on behalf of the fiduciary, Form 8821 must be filed and signed by the fiduciary acting in the position of the taxpayer.

### When To File

Form 8821 must be received by the IRS within 60 days of the date it was signed and dated by the taxpayer.

## Where To File Chart

IF you live in . . .	THEN use this address . . .	Fax Number*
Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, or West Virginia	Internal Revenue Service Memphis Accounts Management Center PO Box 268, Stop 8423 Memphis, TN 38101-0268	901-546-4115
Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, or Wyoming	Internal Revenue Service 1973 N. Rulon White Blvd. MS 6737 Ogden, UT 84404	801-620-4249
All APO and FPO addresses, American Samoa, nonpermanent residents of Guam or the Virgin Islands**, Puerto Rico (or if excluding income under section 933), a foreign country, U.S. citizens and those filing Form 2555, 2555-EZ, or 4563.	Internal Revenue Service International CAF DP: SW-311 11601 Roosevelt Blvd. Philadelphia, PA 19255	215-516-1017

\*These numbers may change without notice.

\*\*Permanent residents of Guam should use Department of Taxation, Government of Guam, P.O. Box 23607, GMF, GU 96921; permanent residents of the Virgin Islands should use: V.I. Bureau of Internal Revenue, 9601 Estate Thomas Charlotte Amalie, St. Thomas, V.I. 00802.

## Where To File

Generally, mail or fax Form 8821 directly to the IRS. See the *Where To File Chart* on page 2. Exceptions are listed below.

If Form 8821 is for a specific tax matter, mail or fax it to the office handling that matter. For more information, see the instructions for line 4.

Your representative may be able to file Form 8821 electronically with the IRS from the IRS website. For more information, go to [www.irs.gov](http://www.irs.gov). Under the *Tax Professionals* tab, click on *e-services—Online Tools for Tax Professionals*. If you complete Form 8821 for electronic signature authorization, do not file a Form 8821 with the IRS. Instead, give it to your appointee, who will retain the document.

## Revocation of an Existing Tax Information Authorization

If you want to revoke an existing tax information authorization and do not want to name a new appointee, send a copy of the previously executed tax information authorization to the IRS, using the *Where To File Chart* on page 2. The copy of the tax information authorization must have a current signature and date of the taxpayer under the original signature on line 7. Write "REVOKE" across the top of Form 8821. If you do not have a copy of the tax information authorization you want to revoke, send a statement to the IRS. The statement of revocation or withdrawal must indicate that the authority of the appointee is revoked, list the tax matters and periods, and must be signed and dated by the taxpayer or representative. If the taxpayer is revoking, list the name and address of each recognized appointee whose authority is revoked. When the taxpayer is completely revoking authority, the form should state "remove all years/periods" instead of listing the specific tax matters, years, or periods. If the appointee is withdrawing, list the name, TIN, and address (if known) of the taxpayer.

To revoke a specific use tax information authorization, send the tax information authorization or statement of revocation to the IRS office handling your case, using the above instructions.

## Taxpayer Identification Numbers (TINs)

TINs are used to identify taxpayer information with corresponding tax returns. It is important that you furnish correct names, social security numbers (SSNs), individual taxpayer identification numbers (ITINs), or employer identification numbers (EINs) so that the IRS can respond to your request.

## Partnership Items

Sections 6221-6234 authorize a Tax Matters Partner to perform certain acts on behalf of an affected partnership. Rules governing the use of Form 8821 do not replace any provisions of these sections.

## Representative Address Change

If the representative's address has changed, a new Form 8821 is not required. The representative can send a written notification that includes the new information and their signature to the location where the Form 8821 was filed.

## Specific Instructions

### Line 1. Taxpayer Information

**Individuals.** Enter your name, TIN, and your street address in the space provided. Do not enter your appointee's address or post office box. If a joint return is used, also enter your spouse's name and TIN. Also enter your EIN if applicable.

**Corporations, partnerships, or associations.** Enter the name, EIN, and business address.

**Employee plan or exempt organization.** Enter the name, address, and EIN of the plan sponsor or exempt organization, and the plan name and three-digit plan number.

**Trust.** Enter the name, title, and address of the trustee, and the name and EIN of the trust.

**Estate.** Enter the name, title, and address of the decedent's executor/personal representative, and the name and identification number of the estate. The identification number for an estate includes both the EIN, if the estate has one, and the decedent's TIN.

### Line 2. Appointee

Enter your appointee's full name. Use the identical full name on all submissions and correspondence. Enter the nine-digit CAF number for each appointee. If an appointee has a CAF number for any previously filed Form 8821 or power of attorney (Form 2848), use that number. If a CAF number has not been assigned, enter "NONE," and the IRS will issue one directly to your appointee. The IRS does not assign CAF numbers to requests for employee plans and exempt organizations.

If you want to name more than one appointee, indicate so on this line and attach a list of appointees to Form 8821.

Check the appropriate box to indicate if either the address, telephone number, or fax number is new since a CAF number was assigned.

### Line 3. Tax Matters

Enter the type of tax, the tax form number, the years or periods, and the specific tax matter. Enter "Not applicable," in any of the columns that do not apply.

For example, you may list "Income, 1040" for calendar year "2006" and "Excise, 720" for "2006" (this covers all quarters in 2006). For multiple years or a series of inclusive periods, including quarterly periods, you may list 2004 through (thru or a hyphen) 2006. For example, "2004 thru 2006" or "2nd 2005-3rd 2006." For fiscal years, enter the ending year and month, using the YYYYMM format. Do not use a general reference such as "All years," "All periods," or "All taxes." Any tax information authorization with a general reference will be returned.

You may list the current year or period and any tax years or periods that have already ended as of the date you sign the tax information authorization. However, you may include on a tax information authorization only future tax periods that end no later than 3 years after the date the tax information authorization is received by the IRS. The 3 future periods are determined starting after December 31 of the year the tax information authorization is received by the IRS. You must enter the type of tax, the tax form number, and the future year(s) or period(s). If the matter relates to estate tax, enter the date of the decedent's death instead of the year or period.

In **column (d)**, enter any specific information you want the IRS to provide. Examples of column (d) information are: lien information, a balance due amount, a specific tax schedule, or a tax liability.

For requests regarding Form 8802, Application for United States Residency Certification, enter "Form 8802" in column (d) and check the specific use box on line 4. Also, enter the appointee's information as instructed on Form 8802.

**Note.** If the taxpayer is subject to penalties related to an individual retirement account (IRA) account (for example, a penalty for excess contributions) enter, "IRA civil penalty" on line 3, column a.

### Line 4. Specific Use Not Recorded on CAF

Generally, the IRS records all tax information authorizations on the CAF system. However, authorizations relating to a specific issue are not recorded.

Check the box on line 4 if Form 8821 is filed for any of the following reasons: (a) requests to disclose information to loan companies or educational institutions, (b) requests to disclose information to federal or state agency investigators for background checks, (c) application for EIN, or (d) claims filed on Form 843, Claim for Refund and Request for Abatement. If you check the box on line 4, your appointee should mail or fax Form 8821 to the IRS office handling the matter. Otherwise, your appointee should bring a copy of Form 8821 to each appointment to inspect or receive information. A specific-use tax information authorization will not revoke any prior tax information authorizations.

### Line 6. Retention/Revocation of Tax Information Authorizations

Check the box on this line and attach a copy of the tax information authorization you do not want to revoke. The filing of Form 8821 will not revoke any Form 2848 that is in effect.

### Line 7. Signature of Taxpayer(s)

**Individuals.** You must sign and date the authorization. Either husband or wife must sign if Form 8821 applies to a joint return.

**Corporations.** Generally, Form 8821 can be signed by: (a) an officer having legal authority to bind the corporation, (b) any person designated by the board of directors or other governing body, (c) any officer or employee on written request by any principal officer and attested to by the secretary or other officer, and (d) any other person authorized to access information under section 6103(e).

**Partnerships.** Generally, Form 8821 can be signed by any person who was a member of the partnership during any part of the tax period covered by Form 8821. See *Partnership Items* on page 3.

**All others.** See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

## Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Form 8821 is provided by the IRS for your convenience and its use is voluntary. If you designate an appointee to inspect and/or receive confidential tax information, you are required by section 6103(c) to provide the information requested on Form 8821. Under section 6109, you must disclose your social security number (SSN), employer identification number (EIN), or individual taxpayer identification number (ITIN). If you do not provide all the information requested on this form, we may not be able to honor the authorization.

The IRS may provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 6 min.; **Learning about the law or the form**, 12 min.; **Preparing the form**, 24 min.; **Copying and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 8821 simpler, we would be happy to hear from you. You can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send Form 8821 to this address. Instead, see the *Where To File Chart* on page 2.

***Update on Federal Legislative and  
Regulatory Issues, Including Universal  
(Mandatory) Social Security and  
Sustainability of Pension Plans***  
***NCSSSA Annual Conference***  
***August 9, 2011***

Maryann Motza, PhD  
Colorado State Social Security Administrator  
(With Special Thanks to Barrie Tabin-Berger,  
Assistant Director, Federal Liaison Center,  
Government Finance Officers Association)

# What's Hot?

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- ***Mandatory (universal) Social Security . . . It's baaack!!***
  - House Committee on Ways & Means Subcommittee on Social Security hearing held on June 23, 2011.
  - Congressional Research Service Report to Congress dated July 25, 2011, entitled "***Social Security: Mandatory Coverage of New State and Local Government Employees.***" (contact Maryann if you want a copy)



# Universal Social Security Issues

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- Discussions about universal (mandatory) Social Security for state and local government employees intensified during the fall of 2010 when the President's National Commission on Fiscal Responsibility and Reform (i.e., "Deficit Commission") report, issued in December 2010, proposed requiring newly hired state and local government employees to be covered by Social Security after 2020.

[http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12\\_1\\_2010.pdf](http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12_1_2010.pdf)

# Deficit Commission Recommended Mandatory (Universal) Social Security (Effective January 2020)

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- **Excerpt from the Deficit Commission Report:**

**“RECOMMENDATION 5.8: COVER NEWLY HIRED STATE AND LOCAL WORKERS AFTER 2020. After 2020, mandate that all newly hired state and local workers be covered under Social Security, and require state and local pension plans to share data with Social Security.**

“Under current law, more than 90 percent of all workers are covered by Social Security, but a small share of states and localities exclude their employees from Social Security and instead maintain separate retirement systems. As states face a double hardship of prolonged fiscal challenges and an aging workforce, relying entirely on this pension model has become riskier for both government sponsors and for program participants, and a potential future bailout risk for the federal government. To mitigate this risk and to plan for an orderly transition to comprehensive Social Security coverage, the Commission proposes to mandate coverage for all state and local workers newly hired after 2020.

“Full coverage will simplify retirement planning and benefit coordination for workers who spend part of their career working in state and local governments, and will ensure that all workers, regardless of employer, will retire with a secure and predictable benefit check. To improve the coordination of benefits for existing part-career state and local workers, the Commission also recommends requiring state and local pension plans to share data with Social Security.”



# Efforts to Counter the Universal Social Security Movement

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- Coalition to Preserve Retirement Security (CPRS) sponsored a **Congressional Briefing on June 6, 2011**, on Capitol Hill for Congressional staff from the **13 states** that would be most significantly impacted by universal (mandatory) Social Security for state and local government employees nationwide.
- National Association of State Retirement Systems (NASRA) is having Segal update its earlier report on the cost to state and local governments if Social Security is mandated for all public employees.

## Efforts to Counter the Universal Social Security Movement – contd.

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- Statement of Tim Lee, Board Member, Coalition to Preserve Retirement Security, Alexandria, Virginia. Testimony Before the Subcommittee on Social Security of the House Committee on Ways and Means on June 23, 2011.
- GFOA Issue Brief on Mandatory Social Security (updated April 2009):  
<http://www.gfoa.org/downloads/mandatorySS.pdf>

# Why Is Universal Social Security Raised Periodically?

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- Latest report of the Social Security and Medicare Trustees notes:
  - Social Security funds will be exhausted by 2036. After that time, payroll tax revenues will cover only  $\frac{3}{4}$  of the costs of benefits through 2085.
  - Medicare will be exhausted by 2024.
  - Extending Social Security to all state and local government employees extends the life of Social Security by two years (approximately).

# Social Security & Medicare Funding Status

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**A SUMMARY OF THE 2011 ANNUAL REPORTS, Social Security and Medicare Boards of Trustees:**

<http://www.ssa.gov/OACT/TRSUM/index.html>

## **Social Security**

- “Social Security expenditures exceeded the program’s non-interest income in 2010 for the first time since 1983. The \$49 billion deficit last year (excluding interest income) and \$46 billion projected deficit in 2011 are in large part due to the weakened economy and to downward income adjustments that correct for excess payroll tax revenue credited to the trust funds in earlier years. This deficit is expected to shrink to about \$20 billion for years 2012-2014 as the economy strengthens. After 2014, cash deficits are expected to grow rapidly as the number of beneficiaries continues to grow at a substantially faster rate than the number of covered workers. Through 2022, the annual cash deficits will be made up by redeeming trust fund assets from the General Fund of the Treasury. Because these redemptions will be less than interest earnings, trust fund balances will continue to grow. After 2022, trust fund assets will be redeemed in amounts that exceed interest earnings until trust fund reserves are exhausted in 2036, one year earlier than was projected last year. Thereafter, tax income would be sufficient to pay only about three-quarters of scheduled benefits through 2085.”

# **Social Security & Medicare Funding Status – contd.**

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## **Medicare**

“Relative to the combined Social Security Trust Funds, the Medicare HI Trust Fund faces a more immediate funding shortfall, though its longer term financial outlook is better under the assumptions employed in this report.

“Medicare costs (including both HI and SMI expenditures) are projected to grow substantially from approximately 3.6 percent of GDP in 2010 to 5.5 percent of GDP by 2035, and to increase gradually thereafter to about 6.2 percent of GDP by 2085.”

# Implications of the Universal Social Security for Public Pensions

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- Of special concern this time is that many proponents of universal Social Security are no longer couching the discussion in terms of “helping out Social Security”, but, instead, are saying things like:
  - “Public pension systems are failing and state and local government employees need retirement security.”

# Sustainability of Public Pensions

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- National Institute on Retirement Security Report on Lessons Learned from Well-Funded Public Pension Plans.
  - <http://www.nirsonline.org/index.php?option=content&task=view&id=613>
- Letter sent to the President and Members of Congress, dated July 25, 2011, by 10 major public pension systems, urging elected leaders to reduce the deficit because of the significant negative ramifications for the nation's economy if it is not reduced.

## Other Issues to Monitor . . .

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- IRS implementation of IRC Section 3402(t), 3% withholding (discussed during the IRS/TE-GE Update).
- Status of the governmental plans compliance initiative by the IRS (Employee Plans) section of the Tax Exempt and Government Entities (TE/GE) Division. IRS/EP abandoned their original approach, i.e., a questionnaire going to all public pensions plans, and is, instead, drafting a topical guide which will be posted on the IRS website for comment. No deadline is available for its completion and posting.



## Other Issues to Monitor . . . (contd.)

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- Nunes/Barr Bill in Congress: Public Employee Pension Transparency Act. **Would require states and local government sponsors of public pension plans to provide specific funding information to the U.S. Treasury Department. Failure to do so would cause the offending state or political subdivisions to lose federal tax benefits for any state or local bond issues.**
  - (HR 567-Ways & Means/Oversight Subcommittee; S 347 – Finance)

## Other Issues to Monitor . . . (contd.)

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- Government Accounting Standards Board (GASB) “Exposure Draft” on Proposed Changes to Pension Accounting and Financial Reporting Standards for Employers (June 2010 – July 2011, so far)
  - Covers employer financial statements (GASB 27).
  - Anticipate changes eventually will also impact pension reporting under GASB 25 and Other Post Employee Benefits (OPEB) reporting under GASB Statements 43 and 45.

Source: Segal (Cathie Eitelberg)

## **GASB Changes – contd.**

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- Actuarial Required Contribution (ARC) concept would go away.
- Replaced by Net Pension Liability (NPL) – the unfunded actuarial accrued liability using the market value of assets.
  - NPL must be reported on the Employer's balance sheet, includes future services and salary increases, is calculated using the new blended discount rate and market value of assets, is measured at the end of the employer's fiscal year.

Source: Segal (Cathie Eitelberg)

## GASB Changes (contd.) -Implications

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- Focus shifts from the *commitment to fund* to *funding status*
- **Creates confusion** between pension expense and pension funding
- **Under current GASB rules, the ARC serves as a *de facto* contribution standard.** The creation of two different sets of “cost” numbers (a funding calculation determined by the plan that could remain fundamentally unchanged and a separate pension expense number) could have an unintended, detrimental effect on public attitudes about state and local government pension plans. **At a minimum, it would cause confusion about which is the “true” cost.**

Source: Segal (Cathie Eitelberg)

## **GASB Changes (contd.) – What's Next?**

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- National Institute on Retirement Security session on GASB was held on August 3, 2011 [www.nirsonline.org](http://www.nirsonline.org)
- Comment deadline September 30, 2011
- Public Hearing and user Forums Scheduled
  - October 3-4, East Elmhurst, NY
  - October 13-14, San Francisco, CA
  - October 20-21, Chicago, IL
- Final Statement adopted (Statement No. XX)
  - Expected in 2012
  - Typically phased in effective dates based on revenue of entity

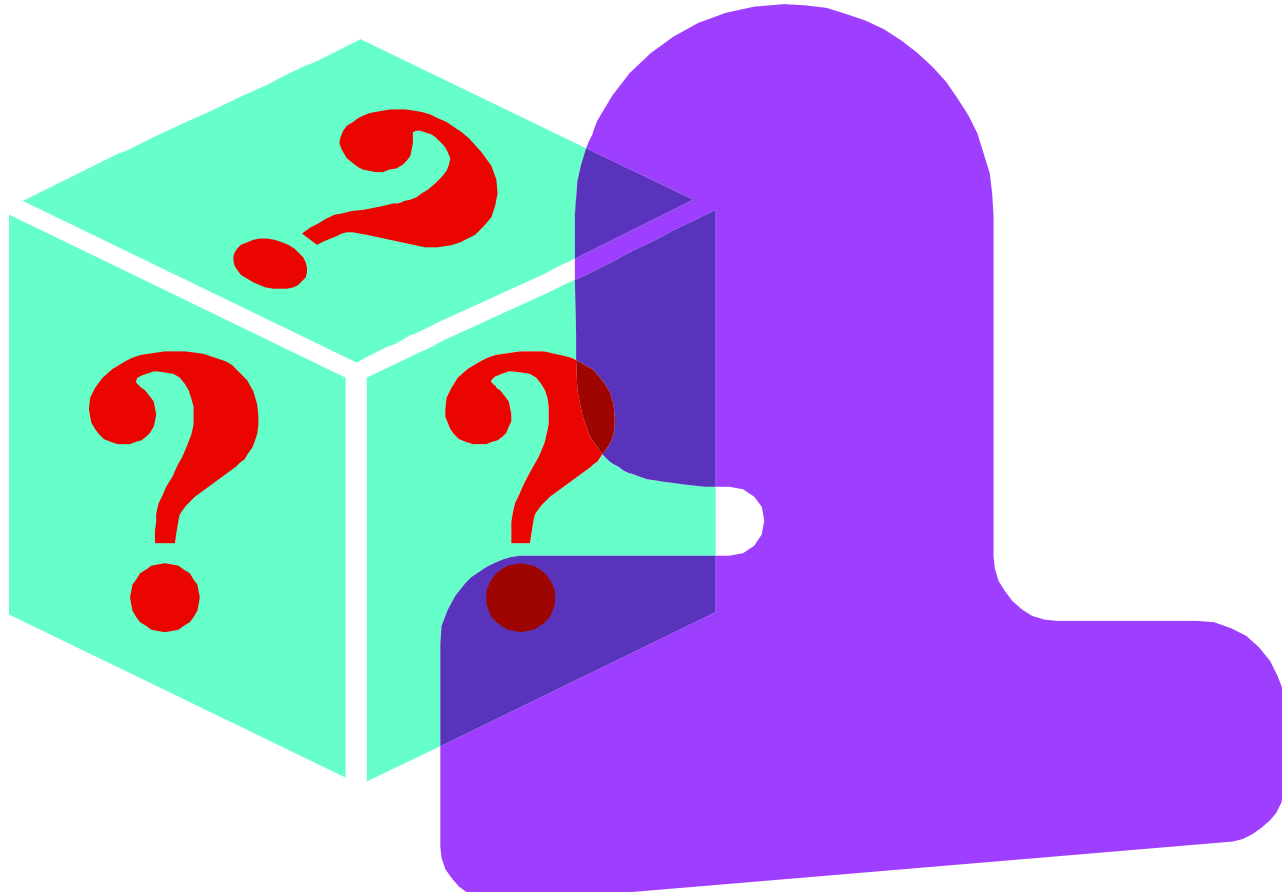
# Resources for Monitoring Developments in Public Pensions and Social Security and Medicare

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- Congressional Budget Office Reports, for example: Report issued in May 2011: “The Underfunding of State and Local Pension Plans.”
- Social Security Administration website: <http://www.ssa.gov/OACT/TRSUM/index.html>
- Center for Retirement Security at Boston College: <http://crr.bc.edu/>

# Questions?

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*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“Audit Committee”*

**Chair**  
*Shirley Sessoms*

**Members**  
Richard Beckstead  
James Sawyer  
Harry Wales

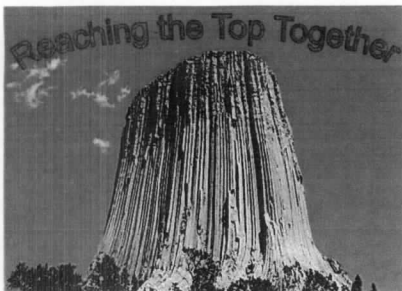
The audit committee met on August 9, 2011 for the purposes of reviewing the financial records of the National Conference of State Social Security Administrators. The Treasurer’s records of receipts and disbursements were found to be in order. The committee commends Kathleen Baxter for both her record keeping and dedicated service to NCSSSA.

There were no suggestions/recommendations offered after review of the records.

Respectfully submitted,

Shirley Sessoms  
Chairperson





*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Constitution and Bylaws Committee*

**Chair**

*Dean J. Conder, CO*

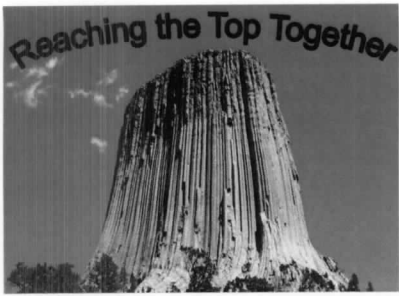
**Members**

Kay Gouyton, AK

There we NO suggested revisions to the NCSSSA Constitution or By-laws. As such, there are no proposed changes or amendments.

Respectfully Submitted,

Dean J. Conder, CO  
Chair, NCSSSA Constitution and By-Laws Committee



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Hospitality Committee Report*

**Rita Foltman and Harry Wales, Co-Chairs**

**Members**

Angie Dowdy, Louisiana  
Barry Faison, Virginia  
Danielle Huffine, Iowa  
Karen Park, Oregon  
Linda Yelverton, Louisiana

The National Conference of State Social Security Administrators' 61<sup>st</sup> Annual Conference was held at Little American Hotel and Resort in Cheyenne, Wyoming on August 7-10, 2011.

Hospitality Committee members worked in an efficient and effective manner in regards to the daily operation of the Hospitality Room. The Hospitality Room provided a comfortable setting for old friends, colleagues, and new conference attendees to converse. Hospitality Committee members made every attempt to ensure all conference attendees and guests were treated in a hospitable and welcoming manner on the part of NCSSSA.

We would like to thank Committee Members; Angie Dowdy (LA), Karen Park, (OR), Linda Yelverton, (LA), Danielle Huffine, (IA) and Barry Faison, (VI) for serving on the 2010-2011 Hospitality Committee. We would also like to extend a special "thanks" to Angela Hendricks (WY) as well as to everyone else who may not have been assigned to the Committee, but helped us immensely. All your time and efforts are greatly appreciated.

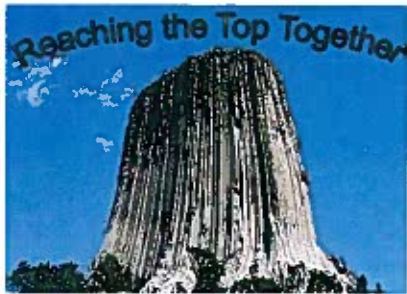
Respectfully submitted,

*Rita Foltman*

Rita Foltman,  
Co-Chairperson

*Harry Wales*

Harry Wales  
Co-Chairperson



## *National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

### *“Legislative Committee”*

#### **Chair**

**Maryann Motza (Colorado)**

#### **Members**

**Michele Briggs (AZ), Dean Conder (CO), Vandee DeVore (MO),  
Angie Dowdy (LA), Joe Lancaster (KY), and Linda Yelverton (LA)**

The purpose of the NCSSSA Legislative Committee is to: maintain, assess, and disseminate proposed legislative, policy, or regulatory changes affecting Social Security and employment tax programs and, as needed, to testify on behalf of the NCSSSA before Congress or in Federal forums, representing the NCSSSA public sector position.

The Legislative Committee was extremely active again this year, having accomplished the following:

- Held six (6) conference calls from October 14, 2010, through May 12, 2011. During the first conference call it was decided that the most efficient way to approach the Committee’s responsibilities was to divide up the workload and assignments among all Committee members. An agenda was distributed prior to each meeting and summary notes, including action items, were provided after each conference call.
- Continued networking/liaison relationship with thirteen (13) organizations or policy-making bodies at the national level that have similar issues and concerns to NCSSSA, i.e.:
  - Association of Government Accountants (AGA)
  - Government Finance Officer’s Association (GFOA)
  - National Association of Counties (NAC)
  - National Association of State Retirement Administrators (NASRA)
  - National Conference of Public Employees Retirement Systems (NCPERS)
  - National Conference of State Legislatures (NCSL)
  - National Council of Teacher Retirement Systems (NCTRS)
  - National Governor’s Conference (NGA)
  - National League of Cities (NLC)
  - Public Pension Network (PPN)
  - State Auditors, Comptrollers and Treasurers (SACT)
  - U.S. House Ways and Means Committee
  - U.S. Senate Finance Committee

Between conference calls, informational e-mails and reports from the above organizations were shared with members of the Legislative Committee and the NCSSSA leadership to ensure they were kept apprised of significant national-level issues and developments.

- Continued its active involvement in the Public Pension Network, which began during 2007-2008, after Ms. Barrie Tabin-Berger, Assistant Director, Federal Liaison Center, GFOA, sponsored NCSSSA's membership. The Public Pension Network consists of a group of organizations that lobby Congress and Federal agencies regarding many issues with which NCSSSA members are also concerned. Among participating organizations in the Network, in addition to the GFOA, are: National Conference of Public Employees Retirement Systems (NCPERS), National Association of State Retirement Administrators (NASRA), the National Council on Teacher Retirement (NCTR), National Association of Government Defined Contribution Administrators (NAGDCA), and the National Conference of State Legislatures (NCSL). Involvement in the Public Pension Network has proven to be extremely valuable to NCSSSA in two major ways:
  1. Ensures that NCSSSA is apprised immediately of any Federal-level developments (Presidential, Congressional, or regulatory) that impacts any aspects of NCSSSA's areas of interest, e.g., Social Security, Medicare, employment taxes, and public pension system requirements and oversight.
  2. Provides high-profile exposure for NCSSSA on significant national issues when NCSSSA signs on to letters expressing concern or support for proposed actions at the Federal level.
- NCSSSA was, thus, again this year a signatory on several letters sent to Congress by the PPN (see attached copies of letters for details). In addition to the letters sent to Congress, participation in the Public Pension Network also enabled NCSSSA to obtain information that would not otherwise be available to its membership, as follows:
  1. Congressional Research Service Report for Congress Entitled "Social Security: Mandatory Coverage of New State and Local Government Employees" issued July 25, 2011.
  2. NCSSSA also participated in a webinar conducted by Segal Company in July 2011, sponsored by the Public Pension Network, on the implications of the Government Accounting Standards Board's (GASB) exposure draft on Proposed Changes to Pension Accounting and Financial Reporting Standards for Employers (see attachment for the PowerPoint slides that were presented during that webinar).
  3. U.S. Supreme Court ruling regarding the University of Minnesota medical residency case. Details are attached.
- Legislative Committee members conducted a thorough review of the current *Federal-State Reference Guide* (IRS Pub. 963), which is a joint publication of the IRS, Social Security Administration, and NCSSSA. Committee members identified a number of suggested content and formatting improvements to the *Guide*. They also created a questionnaire (made available on [www.surveymonkey.com](http://www.surveymonkey.com)) that was completed by a number of other NCSSSA members and one local government employer. In the future, by using the new subscription to [www.surveymonkey.com](http://www.surveymonkey.com), NCSSSA can solicit input from both its members and public

employers and their legal and financial advisors throughout the year and provide timely suggestions to the IRS and SSA for future updates of the *Guide*. The information completed during the 2010-2011 conference year was summarized and provided to both the IRS and SSA.

- Legislative Committee (and other NCSSSA) members continued their participation in the follow-up efforts coordinated by the U.S. Social Security Administration that were created after the “Administering Section 218 – Can We Do Better’?” conference was held in Baltimore, Maryland, April 27 – 29, 2010. Members of the Legislative Committee (and other NCSSSA members) actively participated in one or more of the committees formed after the April 2010 Baltimore conference. The results of the follow-up committees’ activities have been mixed, but most recently it appears that one of the major recommendations to come out of that meeting, i.e., to establish a formal council to ensure on-going communication between and among the IRS, the SSA, NCSSSA (as a professional organization), and individual states (when the need arises), may actually come to fruition in the near future. Unfortunately, three other recommendations during the Baltimore conference have since been officially tabled by either or both the IRS and/or SSA: (1) to effort to get SSA and IRS to support legislative changes to the Internal Revenue Code’s Section 6103 (disclosure law); (2) Social Security Act (to eliminate the need for Medicare-only referenda for pre-April 1, 1986 public employees); and (3) request for the IRS and SSA Commissioners to send a joint letter to the Governors requesting that they provide on-going support for the State Social Security Administrator position in their respective states. One additional recommendation is still pending resolution: possible federal funding for the State Administrators.

One of the most significant efforts undertaken during the 2010-2011 year by the Legislative Committee was to pursue the request to make it easier for Medicare exempt public employees (i.e., those hired on or before March 31, 1986, who have been in continuous employment with the same employer and are not covered by a Section 218 Agreement) to obtain Medicare-only coverage. Two major surveys of NCSSSA membership were conducted by the Legislative Committee, at the request of the U.S. Social Security Administration. See the attachment for the results of both surveys and the final decision by SSA not to pursue this legislative proposal further at this time.

- The Legislative Committee drafted legislative briefing materials for the NCSSSA leadership team (President Maryann Motza, First Vice-President Michele Briggs, and Vice-President Designate Karen Park) for the meetings with U.S. House Ways and Means Committee staff during the leadership meetings in Washington, D.C. and Baltimore during February 2011 (see attachment).
- The Legislative Committee drafted letters for the NCSSSA President to address the failures by SSA and IRS to act in a number of important areas. The letters (copies attached to this report), sent by the current NCSSSA President, Dr. Maryann Motza, included:
  - Letters to all Governors and state officials in all states (except the four states – Idaho, Oregon, New York, and Nevada -- that specifically asked that their Governors not be contacted; those states received letters to their Department heads/official and working State Administrators). In addition, Indiana officials asked that the letter to their Governor (and “cc’s” to other state officials) be sent to a state official for him to distribute to the

appropriate state officials. A customized letter was sent to the State of Montana, which reinstated the position of State Administrator after receiving the revised policy guidance for State Administrator Responsibilities, issued by SSA in March 2011. See the attachments for: (1) a copy of the letter sent to Massachusetts (same letter sent to 47 states); (2) copies of the transmittal letters that were mailed to the IRS and SSA officials, providing them with copies of letters that went to the states. A PDF copy of all 52 letters that were mailed to the state officials is being sent to the NCSSSA Secretary for retention in the official NCSSSA records (not attached to this Committee report).

- Letter to the current Chair of the National Governors Association urging them to form a continuing Committee on Social Security Coverage for States and Their Political Subdivisions.
- Letter to the U.S. House Ways and Means Committee providing NCSSSA' comments on the GAO Report on Social Security Management Oversight (GAO-10-938).
- Letter to the U.S. House Ways and Means Committee asking Congress to amend IRC Section 6103 to name the State Administrator as an appropriate official who the U.S. Treasury (and IRS) can disclosure taxpayer information.

As chairperson of the Legislative Committee, I want to personally thank the other members of the Committee for their contributions and continued support of the efforts of the Committee: Michele Briggs (AZ), Dean Conder (CO), Angie Dowdy (LA), Joe Lancaster (KY), and Linda Yelverton (LA). Their work and dedication to the committee was invaluable to ensuring NCSSSA members are kept informed in a timely manner of critical national level regulatory and legislative developments that are of importance to State Administrators and public employers/employees throughout the country and that NCSSSA's voice is heard at the national level on important policy issues.

Special thanks to TJ Reardon (MD) for his ad hoc membership on the Committee due to his invaluable assistance in attending the June 6, 2011, Congressional briefing session for Congressional staff representing the 13 states with a large number of non-Social Security covered public employees. The briefing was hosted by the Coalition to Preserve Retirement Security (CPRS). Mr. Reardon provided an excellent summary of the briefing for the Legislative Committee which was, in turn, passed along to the Executive Committee (see attachment for details).

Respectfully submitted,



Maryann Motza, PhD, (CO), Chairperson  
NCSSSA Legislative Committee, 2010-2011

*Attachments*

# Public Pension Network Participation by NCSSSA

**Government Finance Officers Association (GFOA)**  
**International City/County Management Association (ICMA)**  
**International Municipal Lawyers Association (IMLA)**  
**International Public Management Association for Human Resources (IPMA-HR)**  
**National Council on Teacher Retirement (NCTR)**  
**National League of Cities (NLC)**  
**National Association of Counties (NACo)**  
**National Association of State Auditors, Comptrollers and Treasurers (NASACT)**  
**National Association of State Budget Officers (NASBO)**  
**National Association of State Procurement Officials (NASPO)**  
**National Association of State Retirement Administrators (NASRA)**  
**National Conference of State Social Security Administrators (NCSSSA)**  
**United States Conference of Mayors (USCM)**

March 7, 2011

The Honorable Dave Camp  
Chairman  
Committee on Ways and Means  
The United States House of Representatives  
Washington, DC 20515

Dear Chairman Camp:

We are writing on behalf of the state and local governments organizations above to applaud your recognition of the importance of repealing Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222) subsequent to your remarks to the Federation of American Hospitals. Full repeal of this law, which requires federal, state, and local governments to withhold three percent on payments made for most goods and services, is of the utmost importance and urgency to state and local governments, particularly given the impending implementation date of January 1, 2012, and the lack of the issuance of final regulations from the Department of Treasury.

This troubling provision will cause state and local governments to focus scarce resources on implementation at a time when those same resources are desperately needed to carry out important government programs. State and local governments face unique challenges in preparing to implement Section 511, as the sophistication of systems necessary to capture and report the required data vary greatly between governments and most entities do not have the resources, capacity or staff to undertake the required withholding and remittance. The costs to purchase or retrofit existing payment and procurement systems are particularly concerning in light of the current state and local government fiscal situation. Additionally, state and local governments cannot withstand an increase in the cost of goods and services that will likely result when private sector companies pass along the three percent withheld as a cost of doing business.



Similarly, businesses will face enormous administrative and financial challenges as a result of Section 511 at a time when they are trying to focus on creating jobs and encouraging economic growth.

While we fully support enhanced transparency and tax compliance for all taxpayers, we believe there are numerous other more effective and more efficient ways to address vendor tax compliance. Since the passage of Section 511 in 2006, numerous legislative and regulatory provisions have been put into place to focus on increasing tax compliance. The enclosure to this letter, put together by the Government Withholding Relief Coalition, provides a summary of such provisions. The coalition is comprised of numerous concerned businesses and government associations.

We thank you for recognizing the problematic nature of this provision and ask that you address this issue immediately, as state and local governments must start spending scarce resources now in order to accommodate a January 1 deadline – without the benefit of even having final regulations from Treasury. H.R. 674 has been introduced by Ways and Means member Wally Herger and would repeal this troubling provision. The goal of our tens of thousands of members representing state and local governments is and needs to remain being focused on the very important task of delivering vital public services, and your assistance in addressing repeal as soon as possible is requested. Should you have questions or if we can be of assistance in any way, please contact our representatives in Washington.

Michael Belarmino, NACo, (202) 942-4254  
Cornelia Chebinou, NASACT, (202) 624-5451  
Tina Ott Chiappetta, IPMA-HR, (703) 549-7100 x 244  
Lars Etzkorn, NLC, (202) 626-3173  
Susan Gaffney, GFOA, (202) 393-8020  
Jack Gallt, NASPO, (859) 514-9159  
Larry Jones, USCM, (202) 861-6709  
Elizabeth Kellar, ICMA, (202) 962-3611  
Maryann Motza, NCSSSA, (303) 318-8061  
Jeannine Markoe Raymond, NASRA, (202) 624-1417  
Brian Sigritz, NASBO, (202) 624-8439  
Leigh Snell, NCTR, (540) 333-1015  
Charles W. Thompson, Jr., IMLA, (202) 742-1016

Enclosure

cc: Representative Wally Herger

**Government Finance Officers Association (GFOA)**  
**International City/County Management Association (ICMA)**  
**National Council on Teacher Retirement (NCTR)**  
**National League of Cities (NLC)**  
**National Association of Counties (NACo)**  
**National Association of State Auditors, Comptrollers and Treasurers (NASACT)**  
**National Association of State Budget Officers (NASBO)**  
**National Association of State Procurement Officials (NASPO)**  
**National Association of State Retirement Administrators (NASRA)**  
**National Conference of State Social Security Administrators (NCSSSA)**  
**United States Conference of Mayors (USCM)**

March 17, 2011

The Honorable  
The United States Senate  
Washington, DC 20510

Dear Senator:

We are writing on behalf of the state and local governments organizations above to request your support for amendment number 212 to S. 493 (SBIR/STTR reauthorization) that is pending on the Senate floor. The amendment would repeal Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222) which requires federal, state, and local governments to withhold three percent on payments made for most goods and services. Immediate action is of the utmost importance to state and local governments, particularly given the impending implementation date of January 1, 2012, and the lack of the issuance of final regulations from the Department of Treasury.

This troubling provision will cause state and local governments to focus scarce resources on implementation at a time when those same resources are desperately needed to carry out important government programs. State and local governments face unique challenges in preparing to implement Section 511, as the sophistication of systems necessary to capture and report the required data vary greatly between governments and most entities do not have the resources, capacity or staff to undertake the required withholding and remittance. The costs to purchase or retrofit existing payment and procurement systems are particularly concerning in light of the current state and local government fiscal situation. Additionally, state and local governments cannot withstand an increase in the cost of goods and services that will likely result when private sector companies pass along the three percent withheld as a cost of doing business.

Similarly, businesses will face enormous administrative and financial challenges as a result of Section 511 at a time when they are trying to focus on creating jobs and encouraging economic growth.

While we fully support enhanced transparency and tax compliance for all taxpayers, we believe there are numerous other more effective and more efficient ways to address vendor tax compliance. Since the passage of Section 511 in 2006, numerous legislative and regulatory provisions have been put into place to focus on increasing tax compliance. The enclosure to this letter, put together by the Government Withholding Relief Coalition, provides a summary of such provisions. The coalition is comprised of numerous concerned businesses and government associations.

We urge you to support amendment number 212 to S. 493 as state and local governments must start spending scarce resources now in order to accommodate a January 1 deadline – without the benefit of even having final regulations from Treasury. The goal of our tens of thousands of members representing state and local governments is and needs to remain being focused on the very important task of delivering vital public services, and your assistance in repealing Section 511 is requested. Should you have questions or if we can be of assistance in any way, please contact our representatives in Washington.

Michael Belarmino, NACo, (202) 942-4254  
Cornelia Chebinou, NASACT, (202) 624-5451  
Lars Etzkorn, NLC, (202) 626-3173  
Susan Gaffney, GFOA, (202) 393-8020  
Jack Gallt, NASPO, (859) 514-9159  
Larry Jones, USCM, (202) 861-6709  
Elizabeth Kellar, ICMA, (202) 962-3611  
Maryann Motza, NCSSSA, (303) 318-8061  
Jeannine Markoe Raymond, NASRA, (202) 624-1417  
Brian Sigritz, NASBO, (202) 624-8439  
Leigh Snell, NCTR, (540) 333-1015

Enclosure

**Government Finance Officers Association (GFOA)**  
**International City/County Management Association (ICMA)**  
**National Council on Teacher Retirement (NCTR)**  
**National League of Cities (NLC)**  
**National Association of Counties (NACo)**  
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**National Association of State Procurement Officials (NASPO)**  
**National Association of State Retirement Administrators (NASRA)**  
**National Conference of State Social Security Administrators (NCSSSA)**  
**United States Conference of Mayors (USCM)**

June 8, 2011

The Honorable  
The United States Senate  
Washington, DC 20510

Dear Senator:

We are writing on behalf of the state and local government organizations above to request your support for S.164 as an amendment to S.782, the Economic Development Revitalization Act of 2011 that is pending on the Senate floor. The amendment would repeal Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222) which requires federal, state, and local governments to withhold three percent on payments made for most goods and services. Immediate action is of the utmost importance to state and local governments and businesses nationwide.

This troubling provision will cause state and local governments to focus scarce resources on implementation at a time when those same resources are desperately needed to carry out important government programs. State and local governments face unique challenges in preparing to implement Section 511, as the sophistication of systems necessary to capture and report the required data vary greatly between governments and most entities do not have the resources, capacity or staff to undertake the required withholding and remittance. The costs to purchase or retrofit existing payment and procurement systems are particularly concerning in light of the current state and local government fiscal situation. Additionally, state and local governments cannot withstand an increase in the cost of goods and services that will likely result when private sector companies pass along the three percent withheld as a cost of doing business.

Similarly, businesses will face enormous administrative and financial challenges as a result of Section 511 at a time when they are trying to focus on creating jobs and encouraging economic growth.

While we fully support enhanced transparency and tax compliance for all taxpayers, we believe there are numerous other more effective and more efficient ways to address vendor tax

compliance. Since the passage of Section 511 in 2006, numerous legislative and regulatory provisions have been put into place to focus on increasing tax compliance. The enclosure to this letter, put together by the Government Withholding Relief Coalition, provides a summary of such provisions. The coalition is comprised of numerous concerned businesses and government associations.

We urge you to support S. 164 as an amendment to S. 782 as state and local governments must start spending scarce resources now in order to comply with a January 2013 deadline – without the benefit of even having final regulations from Treasury. The goal of our tens of thousands of members representing state and local governments is and needs to remain being focused on the very important task of delivering vital public services, and your assistance in repealing Section 511 is requested. Should you have questions or if we can be of assistance in any way, please contact our representatives in Washington.

Michael Belarmino, NACo, (202) 942-4254  
Cornelia Chebinou, NASACT, (202) 624-5451  
Lars Etzkorn, NLC, (202) 626-3173  
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Jeannine Markoe Raymond, NASRA, (202) 624-1417  
Brian Sigritz, NASBO, (202) 624-8439  
Leigh Snell, NCTR, (540) 333-1015

Enclosure

## **GASB'S GAME CHANGERS**

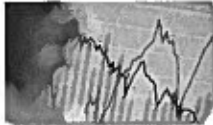
### **"Exposure Draft" on Proposed Changes to Pension Accounting and Financial Reporting Standards for Employers**

**Public Pension Network**  
July 27, 2011

**Cathie Eitelberg**  
Senior Vice President, National Director,  
Public Sector Market, Washington, DC

**Rocky Joyner ASA, MAAA, FCA, EA**  
Vice President and Actuary  
Atlanta, GA

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### ***Agenda for Today's Discussion***

#### **① GASB Objectives and Goals**

#### **② Game Changers**

- Measuring Net Pension Liability
- Discount Rate Calculation
- Cost Method and Expense Recognition
- Cost Sharing Plans
- Balance Sheet and Additional Reporting

#### **③ Implications**

#### **④ What's Next**

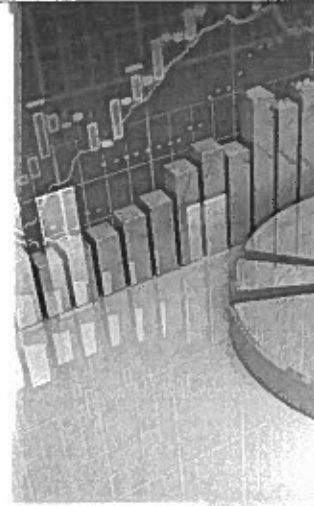
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## GASB Objectives and Goals

### ***Postemployment Benefits Project***

- Accounting and Financial Reporting
- Anticipate complete overhaul of:
  - Pension reporting under Statements 25 and 27
  - OPEB reporting under Statements 43 and 45
- June 16, 2010 – GASB issued Preliminary Views
  - Covers employer financial statements (GASB 27)
- July 8, 2011 – GASB issued Exposure Draft (dated June 27, 2011)
  - Covers employer financial statements (GASB 27)



✧ SEGAL 2

## GASB Objectives and Goals

### *Background*

### ***Objectives of Financial Reporting***

Accountability

Interperiod  
Equity

Decision  
Usefulness

- Cost of services
- Characteristics of financial statements
- Comparability
- Definition of liability
- Sufficiently reliable measurement
- Communication methods
  - Basic financial statements
  - Note disclosure
  - Supplementary information

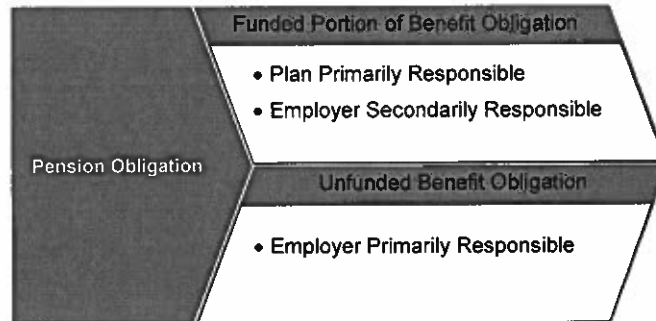
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## GASB Objectives and Goals

### *Background continued*

#### ➤ Financial Reporting Focus

- GASB establishes accounting and financial reporting, not funding policies
- Focus on pension obligation, changes in obligation, and attribution of expense



✧ SEGAL 4

## Game Changers

### *Measuring Net Pension Liability*

- Net Pension Liability (NPL) - is the unfunded actuarial accrued liability using the market value of assets
- NPL is required to be reported on the Employer's balance sheet
- NPL includes projected future services and salary increases
- NPL is calculated using the new blended discount rate and market value of assets
- NPL is measured at the end of the employers fiscal year



NPL is a projected snapshot of unfunded liabilities as of the end of the fiscal year

✧ SEGAL 5



## Game Changers

### Discount Rate Calculation

- Blended rate of current long-term actuarial assumed rate of return and new “discounted” high-quality municipal bond rate index
- If current and expected future plan assets, which include only contributions associated with current employees, do not cover future benefit payments the liabilities is calculated using the blended rate
- New discount rate will be based on a comparison of *projected assets (including future contributions to fund benefits for current participants)* to *projected benefit payments*, and – NOT simply current funding status

Future contributions are counted

★ SEGAL 6

## Game Changers

### Cost Method and Expense Recognition

- Entry Age Normal – is the only method permitted. Projected benefits are discounted as of the of date hire, then allocated over the period of employment as a level percentage of payroll
- Annual changes in total pension liability would have to be reported as expenses as they occur and could no longer be amortized, except as noted in the following bullets.
- The amortization period for recognizing changes in total pension liability for active participants would be much shorter than the 30-year period currently allowed. Such changes would have to be expensed over the future working lifetimes of active participants.
- Differences between assumed and actual investment returns on pension plan assets would have to be recognized in the unfunded liability for expense purposes over a five-year period rather than being amortized.

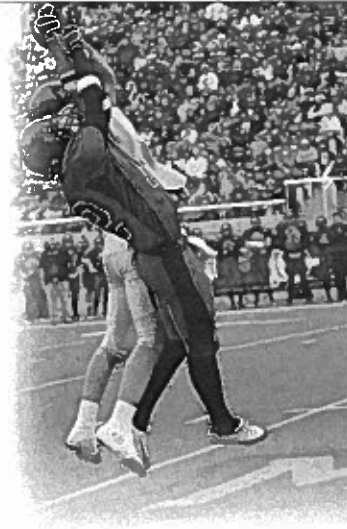
Most pension expenses will be recognized sooner

★ SEGAL 7

## Game Changers

### *Cost Sharing Plans*

- Employers in such plans would report an unfunded liability in financial statements based on a proportionate basis of the collective unfunded liability
- Employers portion would be equal to its long-term expected contributions



✧ SEGAL 8

## Game Changers

### *Balance Sheet and Additional Disclosure*

- Employers will report the NPL on their balance sheet
- Employers will also be required to disclose:
  - Description of the plan
  - Assumptions
  - Policy for determining contributions ---- the "new ARC"
  - Sensitivity analysis of the impact on NPL of a one percentage point increase and decrease in the discount rate
  - Changes in the NPL for the past 10 years
  - Actuarially calculated contribution
  - Amount contributed

NPL is more sensitive to Market volatility

✧ SEGAL 9

## Implications

- Focus shifts from the *commitment to fund* to *funding status*
- Creates confusion between pension expense and pension funding
- Under current GASB rules, the ARC serves as a *de facto* contribution standard. The creation of two different sets of “cost” numbers (a funding calculation determined by the plan that could remain fundamentally unchanged and a separate pension expense number) could have an unintended, detrimental effect on public attitudes about state and local government pension plans. At a minimum, it would cause confusion about which is the “true” cost.

Breaks Link between Expensing and Funding

\* SEGAL 10

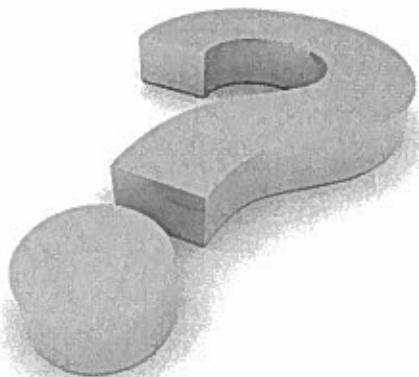
## What's Next?

- National Institute on Retirement Security session on GASB August 3, 2011 [www.nirsonline.org](http://www.nirsonline.org)
- Comment deadline September 30, 2011
- Public Hearing and user Forums Scheduled
  - October 3-4, East Elmhurst, NY
  - October 13-14, San Francisco, CA
  - October 20-21, Chicago, IL
- Final Statement adopted (Statement No. XX)
  - Expected in 2012
  - Typically phased in effective dates based on revenue of entity
- Twitter @FAFNorwalk



\* SEGAL 11

## Questions?



✧ SEGAL 12

## Thank You!

✧ SEGAL

1920 N Street, NW, Suite 400  
Washington DC 20036  
T 202.833.6437

Cathie Eitelberg  
ceitelberg@segalco.com

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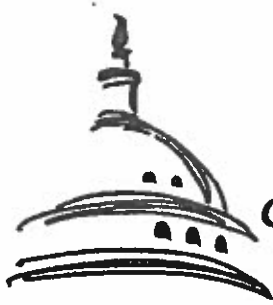
2018 Powers Ferry Road, Suite 850  
Atlanta, GA 30339-7200  
T 678.306.3119

Leon (Rocky) Joyner, FCA, ASA, MAAA  
rjoyner@segalco.com

[www.segalco.com](http://www.segalco.com)

✧ SEGAL 13

Congressional Research Service  
Report for Congress Entitled  
“Social Security: Mandatory  
Coverage of New State and Local  
Government Employees”  
Issued July 25, 2011



**Congressional  
Research  
Service**

---

# **Social Security: Mandatory Coverage of New State and Local Government Employees**

**Dawn Nuschler**  
Specialist in Income Security

**Alison M. Shelton**  
Analyst in Income Security

**John J. Topoleski**  
Analyst in Income Security

July 25, 2011

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R41936

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**CRS Report for Congress**  
*Prepared for Members and Committees of Congress*

11-1173008

## Summary

Social Security covers about 94% of all workers in the United States. Most of the remaining 6% of non-covered workers are public employees. About one-fourth of state and local government employees are not covered by Social Security for various historical and other reasons. The 1935 Social Security Act did not extend coverage to state and local government workers. Since the 1950s, Congress has passed laws to allow state and local government employees who have public pensions to elect Social Security coverage through employee referendums. In 1990, Congress made Social Security coverage mandatory, starting in July 1991, for most state and local government employees who are not covered by an alternative public pension plan.

Some have proposed extending mandatory Social Security coverage to all newly hired public employees. Recently, this proposal was included in the recommendations of the Bipartisan Policy Center's Debt Reduction Task Force and the National Commission on Fiscal Responsibility and Reform. According to the Social Security Administration (SSA), mandatory Social Security coverage of newly hired state and local government workers would close an estimated 8% to 9% of Social Security's projected average 75-year funding shortfall (the greatest positive financial effect would occur during the initial period following implementation) and extend Social Security trust fund solvency by 2 to 3 years. The Congressional Budget Office estimates that the proposal would increase net federal revenues by \$24 billion over 5 years and \$96 billion over 10 years.

Supporters of mandatory Social Security coverage maintain that it would result in better benefit protections for workers and their families through the provision of dependents' and survivors' benefits and full cost-of-living adjustments under Social Security. Opponents argue that mandatory coverage would not necessarily provide better benefit protections compared with existing non-covered pension plans; the net effect on a worker's total benefits would depend in part on how state and local governments modify their existing pension plans in response to mandatory coverage. Moreover, Congress could enact changes to the Social Security contribution and benefit structure that result in higher payroll taxes and lower benefits for current workers in response to Social Security's projected long-range funding shortfall. Supporters point out that, unlike state and local pension plan coverage, Social Security coverage is portable (i.e., coverage is transferrable as a worker moves from job to job). Mandatory Social Security coverage would prevent gaps in coverage that can adversely affect workers, especially those who become disabled. Some supporters of mandatory coverage argue that Social Security reduces poverty among retired and disabled workers, spouses, dependent children, and the survivors of deceased workers. They argue that all workers should share in providing this poverty reduction, which has national benefits.

Many state and local government employers and employees oppose mandatory Social Security coverage, even if it were extended only to newly hired employees. State and local governments are concerned that mandatory coverage could increase pension system costs significantly at a time when many state and local pension systems are struggling financially. The extent of cost increases would depend on how states and localities adjust their existing pension plans in response to mandatory Social Security coverage. Some state and local government employees and advocacy groups express concern that existing non-covered pension plans, including those designed for specific categories of workers such as fire fighters and police officers, could be "undermined" if Social Security coverage were mandated.

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## Introduction

Across the United States, about 27.5% of state and local government employees (about 6.6 million persons) work in positions that are not covered by Social Security. Coverage rates vary considerably across states.

Congress made Social Security coverage mandatory, starting in July 1991, for most state and local government employees who were not already covered by public pension plans. Under current law, public employees who have a pension plan, but who are not covered by Social Security, may hold a referendum on whether to elect Social Security coverage. Once Social Security coverage is provided, it generally cannot be terminated, and all future employees in covered positions are required to participate in Social Security.

Proposals to mandate Social Security coverage for all state and local government employees hired in the future have been part of the Social Security policy debate for many years. Under such a proposal, all state and local government positions eventually would be covered by Social Security. This report describes current law, provides some historical background, and discusses some of the potential advantages and disadvantages of mandating Social Security coverage for newly hired state and local government employees from a variety of perspectives.

## Current Law

Social Security coverage is extended to state and local government employees through “Section 218 Agreements” between a state and the Social Security Administration (SSA).<sup>1</sup> All states, as well as Puerto Rico and the Virgin Islands, have a voluntary Section 218 Agreement with SSA.<sup>2</sup> A state’s Section 218 Agreement details which state and local government positions are covered by Social Security and Medicare. Each state, as well as Puerto Rico and the Virgin Islands, designates a State Social Security Administrator who is responsible for administering, preparing modifications for, and monitoring coverage of, its subdivisions under the state’s Section 218 Agreement. The Administrator, who is a state employee, serves as a bridge between state and local public employers and SSA.<sup>3</sup>

Coverage under Section 218 Agreements differs greatly from state to state. For example, within a state, teachers in one county may be covered under Social Security, whereas teachers in the neighboring county may not be covered. The State Social Security Administrator is the main resource for information about Social Security and Medicare coverage and reporting issues for state and local government employers and employees.

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<sup>1</sup> These agreements are authorized by Section 218 of the Social Security Act.

<sup>2</sup> Approximately 60 interstate instrumentalities also have Section 218 Agreements with SSA. An interstate instrumentality is an independent legal entity organized by two or more States to carry out one or more governmental functions such as police power, taxing power and/or power of eminent domain.

<sup>3</sup> A roster of State Social Security Administrators can be found at <http://www.ncssa.org/statessadminmenu.html>. For more on the management of state Section 218 Agreements, including modifications to such agreements, see U.S. Government Accountability Office, *Social Security Administration: Management Oversight Needed to Ensure Accurate Treatment of State and Local Government Employees*, GAO-10-936, September 2010, <http://www.gao.gov/new.items/d10938.pdf>.

Section 218 Agreements cover positions, not individuals. If the government position is covered by Social Security and Medicare under a Section 218 Agreement, then any employee (current or future) filling that position is subject to Social Security and Medicare payroll taxes.

Coverage is extended to groups of employee positions known as “coverage groups;” coverage may not be extended on an individual basis. Various laws and regulations govern how coverage may be extended via employee referendums. All states are authorized to use a majority vote referendum process, and 23 states also are authorized to use a divided vote referendum process created in 1956 (see below). Most often, state governments allow their subdivisions (e.g., a school board) to decide whether to hold a referendum on coverage.

Generally, a Section 218 Agreement may be modified to increase, but not reduce, the extent of coverage. With certain exceptions, once Social Security coverage is provided, it cannot be terminated, and all future employees in covered positions are required to participate in Social Security.

## Legislative History

The 1935 Social Security Act did not extend Social Security coverage to state and local government workers. In 1950, Congress added Section 218 to the Social Security Act to allow all 50 states, Puerto Rico, and the Virgin Islands to elect Social Security coverage for certain state and local government employees.<sup>4</sup> In 1954, Congress extended voluntary coverage to employees who were already covered by pension plans, effective starting in 1955, if a majority of employees who were members of a pension system voted in favor of Social Security coverage.<sup>5</sup> Further amendments in 1956<sup>6</sup> permitted certain states to split state or local retirement systems into “divided retirement systems” based on groups of employees that voted for Social Security coverage and groups of employees that voted against Social Security coverage.<sup>7</sup> Currently, 23 states are authorized to operate a divided retirement system.<sup>8</sup>

Until April 1983, public employers could opt in and out of the Social Security program. In 1983, legislation prohibited public employers from withdrawing from the Social Security program once they are in it.<sup>9</sup> The state of California challenged the 1983 law, however the Supreme Court rejected California’s arguments.<sup>10</sup>

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<sup>4</sup> Social Security Act Amendments of 1950, P.L. 81-734, §106.

<sup>5</sup> Social Security Amendments of 1954, P.L. 83-761, §101(h)(2).

<sup>6</sup> Social Security Amendments of 1956, P.L. 84-880, §104(e).

<sup>7</sup> Under a divided retirement system, some positions are covered by Social Security and some positions are not covered. When a divided retirement group votes to elect Social Security coverage, coverage is extended only to those current employees who choose to participate in the Social Security system. Current employees who choose not to participate in Social Security may remain outside the system. However, all future employees in the group’s positions are mandatorily covered by Social Security.

<sup>8</sup> Most recently, Kentucky and Louisiana were added to the list of states authorized to operate a divided retirement system. Statutory authority was provided under the Social Security Protection Act of 2004 (P.L. 108-203, §416). A list of states with authority to hold divided vote referendums can be found in Section 218(d)(6)(c) of the Social Security Act, and at <https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001330>.

<sup>9</sup> Social Security Amendments of 1983, P.L. 98-21, §103.

<sup>10</sup> *Bowen v. Pub. Agencies Opposed to Social Security Entrapments*, 477 U.S. 41 (1986).

In 1984, Congress extended Social Security coverage to many groups that had not been covered previously, including many state and local government employees, Members of Congress, and federal civilian employees hired on or after January 1, 1984. Until 1984, federal employees were not covered by Social Security, but instead participated in the Civil Service Retirement System.<sup>11</sup>

In 1990, Congress made Social Security coverage mandatory, starting in July 1991, for most state and local government employees who are not covered by an alternative public pension plan.<sup>12</sup>

## Social Security Coverage by State

Across the United States, about 27.5% of state and local government employees (about 6.6 million persons) work in positions that are not covered by Social Security. Coverage rates vary considerably across the states, as shown in **Table 1**.

In 26 states, 90% or more of state and local government employees work in positions that are covered by Social Security. In three states, more than 95% of state and local government employees are covered by Social Security: Arizona (95.3%), New York (96.7%), and Vermont (97.9%). In two states, fewer than 5% of state and local government employees work in positions covered by Social Security: Massachusetts (4.1%) and Ohio (2.5%). States in which less than half of state and local government employees are in positions covered by Social Security include California (43.6%), Colorado (29.1%), Louisiana (27.9%), Nevada (17.6%), and Texas (47.9%).

About 70% of non-covered state and local government employees reside in seven states: California, Colorado, Illinois, Louisiana, Massachusetts, Ohio, and Texas. Almost half (48.4%) of non-covered state and local government employees reside in three states: California, Texas, and Ohio.

**Table 1. Social Security Coverage of State and Local Government Employees in 2008**

State	State and Local Government Employees	State and Local Government Employees With Social Security Covered Employment		State and Local Government Employees Without Social Security Covered Employment	
	Number	Number	Percentage	Number	Percentage
Alabama	391,900	361,600	92.3	30,300	7.7
Alaska	64,900	42,600	65.6	22,300	34.4
Arizona	387,800	369,600	95.3	18,200	4.7
Arkansas	200,200	180,600	90.2	19,600	9.8
California	2,491,000	1,085,500	43.6	1,405,500	56.4
Colorado	420,000	122,300	29.1	297,700	70.9

<sup>11</sup> Federal employees hired in 1984 or later participate in the Federal Employees' Retirement System (FERS), which includes a Social Security component. For more information on FERS, see CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*, by Katelin P. Isaacs.

<sup>12</sup> Omnibus Reconciliation Act of 1990, P.L. 101-508, §11332.

*Social Security: Mandatory Coverage of New State and Local Government Employees*

State	State and Local Government Employees	State and Local Government Employees With Social Security Covered Employment		State and Local Government Employees Without Social Security Covered Employment	
	Number	Number	Percentage	Number	Percentage
Connecticut	281,400	202,000	71.8	79,400	28.2
Delaware	66,400	62,400	94.0	4,000	6.0
District of Columbia	79,700	63,200	79.3	16,500	20.7
Florida	1,137,600	1,005,700	88.4	131,900	11.6
Georgia	704,500	516,000	73.2	188,500	26.8
Hawaii	115,500	80,200	69.4	35,300	30.6
Idaho	135,100	126,200	93.4	8,900	6.6
Illinois	971,700	530,700	54.6	441,000	45.4
Indiana	501,100	451,600	90.1	49,500	9.9
Iowa	294,100	262,400	89.2	31,700	10.8
Kansas	293,700	270,400	92.1	23,300	7.9
Kentucky	370,900	273,600	73.8	97,300	26.2
Louisiana	323,100	90,000	27.9	233,100	72.1
Maine	122,000	66,700	54.7	55,300	45.3
Maryland	465,100	420,800	90.5	44,300	9.5
Massachusetts	479,200	19,800	4.1	459,400	95.9
Michigan	758,000	666,200	87.9	91,800	12.1
Minnesota	453,700	419,400	92.4	34,300	7.6
Mississippi	255,000	234,800	92.1	20,200	7.9
Missouri	472,800	343,700	72.7	129,100	27.3
Montana	93,000	83,200	89.5	9,800	10.5
Nebraska	156,800	147,700	94.2	9,100	5.8
Nevada	158,400	27,800	17.6	130,600	82.4
New Hampshire	107,400	95,300	88.7	12,100	11.3
New Jersey	684,100	629,100	92.0	55,000	8.0
New Mexico	197,300	178,600	90.5	18,700	9.5
New York	1,750,000	1,692,900	96.7	57,100	3.3
North Carolina	706,000	647,700	91.7	58,300	8.3
North Dakota	73,100	63,700	87.1	9,400	12.9
Ohio	849,200	21,300	2.5	827,900	97.5
Oklahoma	311,000	283,700	91.2	27,300	8.8
Oregon	295,300	271,000	91.8	24,300	8.2
Pennsylvania	820,500	760,100	92.6	60,400	7.4
Puerto Rico	262,900	227,600	86.6	35,300	13.4

State	State and Local Government Employees	State and Local Government Employees With Social Security Covered Employment		State and Local Government Employees Without Social Security Covered Employment	
	Number	Number	Percentage	Number	Percentage
Rhode Island	65,400	54,500	83.3	10,900	16.7
South Carolina	380,200	352,800	92.8	27,400	7.2
South Dakota	81,000	75,200	92.8	5,800	7.2
Tennessee	492,900	445,400	90.4	47,500	9.6
Texas	1,800,700	861,700	47.9	939,000	52.1
Utah	228,600	207,600	90.8	21,000	9.2
Vermont	60,900	59,600	97.9	1,300	2.1
Virginia	685,800	645,700	94.2	40,100	5.8
Washington	555,300	486,800	87.7	68,500	12.3
West Virginia	157,400	144,300	91.7	13,100	8.3
Wisconsin	498,300	438,300	88.0	60,000	12.0
Wyoming	77,900	70,500	90.5	7,400	9.5
Other <sup>a</sup>	5,800	700	12.1	5,100	87.9
<b>Total</b>	<b>23,791,600</b>	<b>17,240,800</b>	<b>72.5</b>	<b>6,550,800</b>	<b>27.5</b>

**Source:** Data received by CRS from the Social Security Administration.

a. Includes persons employed by American Samoa, Guam, Northern Marianas and Virgin Islands.

## Recommendations of Recent Deficit Reduction Groups

Mandatory Social Security coverage of newly hired state and local government employees has been recommended by recent deficit reduction groups. For example, in November 2010, the Bipartisan Policy Center’s Debt Reduction Task Force, co-chaired by former Senator Pete Domenici and Dr. Alice Rivlin, recommended that all newly hired state and local government employees be covered under the Social Security system, beginning in 2020, to increase the universality of the program. In addition, the Bipartisan Policy Center recommended that state and local pension plans be required to share data with SSA until the transition is complete. The Bipartisan Policy Center noted that implementation should be delayed until 2020 to give state and local governments time to “shore up and reform their pension systems” pointing to the poor fiscal condition of state and local governments and the underfunding of public employee pensions.<sup>13</sup>

<sup>13</sup> Bipartisan Policy Center, *Restoring America’s Future: Reviving the Economy, Cutting Spending and Debt, and Creating a Simple, Pro-Growth Tax System*, The Debt Reduction Task Force, Senator Pete Domenici and Dr. Alice Rivlin, Co-Chairs, November 2010, pages 19 and 79, <http://bipartisanpolicy.org/sites/default/files/BPC%20FINAL%20REPORT%20FOR%20PRINTER%2002%2028%2011.pdf>. For more information, see estimates of the Social Security financial effects and benefit illustrations under the plan prepared by SSA, Office of the Chief Actuary, <http://www.ssa.gov/OACT/solvency/index.html>.

Similarly, in December 2010, the National Commission on Fiscal Responsibility and Reform established by President Obama recommended that all newly hired state and local government employees be covered under the Social Security system beginning in 2021. The commission noted that, as states face prolonged fiscal challenges and an aging workforce, maintaining separate retirement systems (i.e., outside of Social Security) could pose risks for plan sponsors and participants. In the commission's view, mandatory Social Security coverage could mitigate these risks, as well as a potential future bailout risk for the federal government. In addition, the commission recommended that state and local pension plans be required to share data with SSA to improve the coordination of benefits for current workers who spend part of their careers working in state and local government positions.<sup>14</sup>

## Issues to Consider

The following discussion highlights some of the issues underlying potential advantages and disadvantages of mandatory Social Security coverage: the financial status of the Social Security system, benefit protections for workers and their families, the impact on states and localities that currently maintain pension systems outside of Social Security, and a broader social perspective.

## Projected Impact on the Social Security Trust Funds

Long-range projections published by the Social Security Board of Trustees in May 2011 show that Social Security expenditures will exceed income by 16% on average over the next 75 years. Stated another way, the projected average 75-year funding shortfall is an amount equal to 2.22% of taxable payroll. The trustees project that Social Security expenditures will exceed total income (tax revenues plus interest income) starting in 2023, and that trust fund assets will be exhausted in 2036. Social Security benefits scheduled under current law can be paid in full until trust fund assets are exhausted (2036). After trust fund exhaustion, annual Social Security revenues are projected to cover about three-fourths of benefit payments scheduled under current law.<sup>15</sup>

SSA's Office of the Chief Actuary has estimated the impact of covering newly hired state and local government employees on the Social Security Trust Funds. These estimates are based on the intermediate assumptions of the 2010 Trustees Report, which differ somewhat from the 2011 Trustees Report. Two variations of this option are discussed below—one with an immediate implementation date (2011) and one with a delayed implementation date (2020).

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<sup>14</sup> *The Moment of Truth: Report of the National Commission on Fiscal Responsibility and Reform*, December 1, 2010, p. 52, [http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12\\_1\\_2010.pdf](http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12_1_2010.pdf). For more information, see estimates of the Social Security financial effects and benefit illustrations under the plan prepared by SSA, Office of the Chief Actuary, <http://www.ssa.gov/OACT/solvency/index.html>.

<sup>15</sup> Projections are based on the intermediate assumptions of The 2011 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, May 13, 2011, <http://www.socialsecurity.gov/OACT/TR/2011/>. For more information on the trust fund projections, see CRS Report RL33028, *Social Security: The Trust Fund*, by Dawn Nuschler and Gary Sidor.

**Table 2. Projected Impact on the Social Security Trust Funds of Covering Newly Hired State and Local Government Employees**

(Based on the Intermediate Assumptions of the 2010 Social Security Trustees Report)

	Year in Which Trust Funds Are Projected to be Exhausted	Projected 75-Year Actuarial Balance (as a percentage of taxable payroll under current law)	Percentage of Projected 75-Year Funding Shortfall That Would be Closed
Current law	2037	-1.92%	
Option 1: Cover newly hired state and local government employees beginning in 2011	2040	-1.75%	9%
Option 2: Cover newly hired state and local government employees beginning in 2020	2039	-1.76%	8%

**Source:** Social Security Administration, Office of the Chief Actuary, *Provisions Affecting Coverage of Employment or Earnings*, <http://www.ssa.gov/OACT/solvency/provisions/coverage.html>. See options F1 (2011) and F2 (2020), respectively.

**Notes:** Estimates are based on the intermediate assumptions of the 2010 Trustees Report, under which the trust funds were projected to be exhausted in 2037 (compared to 2036 under the intermediate assumptions of the 2011 Trustees Report). In addition, the 75-year actuarial balance was projected to be equal to -1.92% of taxable payroll (compared to -2.22% of taxable payroll under the intermediate assumptions of the 2011 Trustees Report). The projections are expressed in terms of taxable payroll as estimated under current law, rather than taxable payroll as estimated under the proposal.

As shown in **Table 2**, mandatory Social Security coverage for newly hired state and local government employees is projected to have a net positive effect on the Social Security Trust Funds on average over the 75-year projection period. SSA's Office of the Chief Actuary estimates that, if mandatory coverage were implemented in 2011, it would close 9% of the system's projected long-range funding shortfall and extend the projected trust fund exhaustion date to 2040.<sup>16</sup> Similarly, if mandatory coverage were implemented in 2020, it would close 8% of the system's projected long-range funding shortfall and extend the projected trust fund exhaustion date to 2039.<sup>17</sup> Although mandatory coverage is projected to have a net positive effect on the Social Security Trust Funds *on average over the 75-year projection period*, the greatest positive effect with respect to Social Security's finances would occur during the initial period following implementation.<sup>18</sup>

## Projected Impact on Federal Revenues

Mandatory coverage of newly hired state and local government employees is projected to result in a net increase in payroll tax revenues to the Social Security system. These payroll tax revenues are credited to the Social Security Trust Funds in the form of special-issue Treasury securities,

<sup>16</sup> SSA, Office of the Chief Actuary, *Provisions Affecting Coverage of Employment or Earnings*, <http://www.ssa.gov/OACT/solvency/provisions/coverage.html>. See option F1 (2011).

<sup>17</sup> SSA, Office of the Chief Actuary, *Provisions Affecting Coverage of Employment or Earnings*, <http://www.ssa.gov/OACT/solvency/provisions/coverage.html>. See option F1 (2020).

<sup>18</sup> SSA notes that the projections are expressed in terms of taxable payroll as estimated under current law, rather than taxable payroll as estimated under the proposal. See SSA, Office of the Chief Actuary, *Methodology Changes for Estimates of Provisions that Affect Social Security*, <http://www.ssa.gov/OACT/solvency/provisions/updatedEstimates.html>.

and as a result of this exchange the revenues become available in the Treasury's general fund for other government operations. A report published by the Congressional Budget Office (CBO) in March 2011, *Reducing the Deficit: Spending and Revenue Options*, provides revenue estimates for an option that would expand Social Security coverage to include all state and local government employees hired after December 31, 2011.<sup>19</sup> This option is projected to increase revenues by about \$24 billion over 5 years (2012 to 2016) and \$96 billion over 10 years (2012 to 2021).<sup>20</sup> CBO points out that the estimates do not include any effect on outlays during the 2012 to 2021 period, because most state and local government employees that would be hired during this period would not begin receiving benefits for many years. Beyond the 10-year projection window, although this option would increase the number of Social Security beneficiaries, CBO estimates that the additional benefit payments would be about half the size of the additional revenues.<sup>21</sup> Detailed annual estimates are shown in Table 3.

**Table 3. Projected Revenue Impact of Extending Social Security Coverage to State and Local Government Employees Hired After December 31, 2011**

Year	Change in Revenues (dollars in billions)
2012	\$1.0
2013	2.8
2014	4.7
2015	6.6
2016	8.6
2017	10.5
2018	12.5
2019	14.4
2020	16.5
2021	18.5
<b>2012–2016</b>	<b>23.7</b>
<b>2012–2021</b>	<b>96.0</b>

**Source:** Joint Committee on Taxation. Estimates published in CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, p. 171, <http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf>.

## Benefit Protections for Workers and Their Families

Some observers point out that making Social Security coverage more universal could simplify retirement planning and benefit coordination for workers who divide their careers between state

<sup>19</sup> CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, pp. 171-172, <http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf>.

<sup>20</sup> CBO notes that the revenue estimates include a reduction in individual income tax revenues resulting from a shift of some labor compensation from a taxable to a nontaxable form.

<sup>21</sup> CBO notes that most of the newly hired state and local government employees would receive Social Security benefits under current law because they may have held other covered jobs in the past or they were covered by a spouse's employment.



and local government positions and other positions. In addition, they maintain that mandatory Social Security coverage of newly hired state and local government employees would prevent gaps in pension or Social Security coverage, resulting in better retirement, survivor, and disability insurance protections for workers who move between state and local government positions and other positions.<sup>22</sup> For example, under Social Security Disability Insurance, a recency of work test requires the worker to have at least 20 quarters of Social Security coverage in the 40 quarters preceding the onset of disability (generally 5 years of Social Security-covered employment in the last 10 years).<sup>23</sup>

Supporters of mandatory coverage also point out that it could result in better benefit protections for workers and their families through the provision of dependents' and survivors' benefits under Social Security. Social Security provides dependents' and survivors' benefits that generally are not available under state and local pension plans. For example, Social Security provides spouses or former spouses a benefit equal to 50% of the worker's basic monthly benefit amount.<sup>24</sup> Most state and local pension plans do not provide benefits for spouses while the worker is alive.<sup>25</sup> In addition, Social Security provides widow(er)s a benefit equal to 100% of the deceased worker's basic monthly benefit amount.<sup>26</sup> Most state and local pension plans provide only modest benefits to young widow(er)s, and provide benefits for widow(er)s at retirement age only if the deceased worker elected a joint-and-survivor annuity option.<sup>27</sup>

In addition, supporters point out that mandatory coverage could result in better benefit protections through the provision of full cost-of-living adjustments under Social Security. Although state and local pension plans are more likely than private sector plans to provide inflation protection, state and local pension plans generally cap cost-of-living adjustments at 3%.<sup>28</sup>

Some observers point to the current funding status of state and local pension plans and argue that non-covered pensions may be subject to benefit reductions, or contribution increases, in future years. For example, in a recent report, CBO stated: "By any measure, nearly all state and local pension plans are underfunded, which means that the value of the plans' assets is less than their accrued pension liabilities for current workers and retirees."<sup>29</sup> Some view the addition of a Social

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<sup>22</sup> Similarly, mandatory Social Security coverage could facilitate job mobility. Unlike Social Security benefits, benefits accrued under state and local pension plans generally are not transferrable unless the person moves to another position that is covered by the same public pension system. See CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, p. 172, <http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf>. See also the "Portability" section of this report.

<sup>23</sup> Requirements vary depending on the age of the worker at the onset of disability. Other eligibility requirements apply. For more information, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Umar Moulta-Ali.

<sup>24</sup> Under Social Security, a divorced spouse must have been married to the worker for at least 10 years to qualify for a benefit based on the worker's record.

<sup>25</sup> Alicia H. Munnell, *Mandatory Social Security Coverage of State and Local Workers: A Perennial Hot Button*, Center for Retirement Research, Boston College, IB Number 32, Boston, MA, June 2005, [http://crr.bc.edu/images/stories/Briefs/ib\\_32.pdf](http://crr.bc.edu/images/stories/Briefs/ib_32.pdf). Hereafter cited as Munnell 2005.

<sup>26</sup> Benefits paid to family members based on a worker's record may be subject to reduction under the dual entitlement rule and other provisions of Social Security law. For more information, see CRS Report R41479, *Social Security: Revisiting Benefits for Spouses and Survivors*, by Alison M. Shelton and Dawn Nuschler.

<sup>27</sup> Munnell 2005, [http://crr.bc.edu/images/stories/Briefs/ib\\_32.pdf](http://crr.bc.edu/images/stories/Briefs/ib_32.pdf).

<sup>28</sup> Munnell 2005, [http://crr.bc.edu/images/stories/Briefs/ib\\_32.pdf](http://crr.bc.edu/images/stories/Briefs/ib_32.pdf).

<sup>29</sup> CBO, *The Underfunding of State and Local Pension Plans*, May 2011, p. 1, <http://www.cbo.gov/ftpdocs/120xx/doc12084/05-04-Pensions.pdf>.

Security benefit component to state and local pension plans as a way to provide better benefit protections for workers whose future non-covered pensions may be at risk.

The net effect on a worker's total benefits, however, would depend in part on how state and local governments modify their existing non-covered pension plans in response to mandatory coverage. Opponents argue that mandatory Social Security coverage would not necessarily result in better benefit protections for workers because state and local governments could reduce some pension benefits currently available under non-covered pension plans to keep overall pension costs down.<sup>30</sup> Moreover, Congress could enact changes to the Social Security contribution and benefit structure that result in higher payroll taxes and lower benefits for current workers (compared with current law) in response to Social Security's projected long-range funding shortfall.<sup>31</sup> In addition, state and local government employees tend to be higher-wage workers.<sup>32</sup> According to data from the Bureau of Labor Statistics (BLS), state and local government workers have higher hourly earnings, on average, than the rest of the population.<sup>33</sup> Because Social Security has a progressive benefit formula, higher-wage workers receive lower replacement rates under Social Security compared to lower-wage workers. Therefore, the potential advantages and disadvantages of mandatory Social Security coverage could depend in part on a worker's wage level.

Still others who oppose mandatory Social Security coverage maintain that, while Social Security may provide better benefit protections for some workers, others may be better off in a separate retirement system (i.e., outside of Social Security) in which eligibility rules and other plan features are tailored to workers in certain occupations. For example, public pension plans for fire fighters and police officers typically provide full pension benefits at younger ages and with fewer years of service compared to other public pension plans. In contrast to some specialized public pension plans, Social Security retired-worker benefits are available beginning at the age of 62, and benefits claimed before the full retirement age (age 65 to age 67, depending on the person's year of birth) are permanently reduced for early retirement. In addition, Social Security benefits are based on a worker's 35 highest years of earnings in covered employment. If a worker has fewer than 35 years of covered earnings, years with no earnings are counted as zeros in the benefit computation, resulting in a lower initial monthly benefit amount.<sup>34</sup>

Some believe that the eligibility requirements under public pension plans for certain categories of workers (e.g., fire fighters and police officers) reflect the circumstances of these occupations, such as physical demands and higher disability rates. The International Association of Fire Fighters (IAFF), for example, opposes mandatory Social Security coverage for non-covered public sector employees. The IAFF points out that an estimated 70% of all fire fighters are covered by pension plans that are separate from Social Security. In a March 2011 document, the IAFF stated that "Opponents of mandatory coverage believe that forcing all public employees

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<sup>30</sup> In addition, if Social Security coverage were mandated, contributions paid by workers could increase under the new public pension system. See U.S. Government Accountability Office, *Social Security: Issues Regarding the Coverage of Public Employees*, GAO-08-248T, Testimony Before the Subcommittee on Social Security, Pensions, and Family Policy, Committee on Finance, U.S. Senate, November 6, 2007, pp. 9-10, <http://www.gao.gov/new.items/d08248t.pdf>.

<sup>31</sup> For more information on the projected long-range financial status of the Social Security program, see CRS Report RL33028, *Social Security: The Trust Fund*, by Dawn Nuschler and Gary Sidor.

<sup>32</sup> Munnell 2005, p. 5, [http://crr.bc.edu/images/stories/Briefs/ib\\_32.pdf](http://crr.bc.edu/images/stories/Briefs/ib_32.pdf).

<sup>33</sup> Bureau of Labor Statistics, *National Compensation Survey: Occupational Earnings in the United States, 2009*, June 2010, Bulletin 2738, Table 1, <http://www.bls.gov/ncs/ocs/sp/nctb1344.pdf>.

<sup>34</sup> For more information on the computation of a Social Security retired-worker benefit, see CRS Report R41242, *Social Security Retirement Earnings Test: How Earnings Affect Benefits*, by Dawn Nuschler and Alison M. Shelton.

into Social Security—even if it is only new hires—would undermine existing pension systems that provide superior benefits and reflect the unique circumstances of public safety work.”<sup>35</sup>

### **FERS System Accommodations for Public Safety Workers and Certain Other Employment Categories Transferred from CSRS in 1984**

If Congress were to mandate Social Security coverage for all newly hired state and local government employees, as it did for newly hired federal employees in the 1980s, the Federal Employees’ Retirement System (FERS) could serve as an example of how to address differences between an existing non-covered pension plan and Social Security with respect to eligibility requirements (retirement age, years of service, etc.) and other features. Under FERS, for example, certain categories of workers, including federal law enforcement officers and fire fighters, accrue benefits at higher rates than other federal employees.<sup>36</sup>

In addition, a temporary supplemental benefit is provided under FERS for workers who retire before the age of 62, the earliest age at which a Social Security retired-worker benefit is available. The FERS supplement is available to workers who retire at the age of 55 or older with 30 or more years of service, or at the age of 60 with 20 or more years of service. The FERS supplement, however, is available to law enforcement officers, fire fighters and air traffic controllers who retire at the age of 50 or older with 20 or more years of service. The FERS supplement is equal to the estimated Social Security benefit that the person earned while employed by the federal government, and it is paid only until the person attains the age of 62, regardless of whether the person claims Social Security retired-worker benefits at the age of 62.<sup>37</sup>

### **Portability**

The portability of state and local pension plans (defined benefit plans) is usually limited to positions that fall within the same public pension system. By contrast, Social Security coverage is portable among most jobs, with the exceptions of non-covered public employment and certain other non-covered positions such as election workers and household workers earning less than an annual threshold amount.

Retirement benefits from defined benefit plans are generally based on years of service and final pay. A worker who changes jobs frequently may not stay long enough in a given state or local government position to become vested in the retirement plan. Also, benefit amounts in defined benefit plans are generally based on earnings at the time the worker leaves the job, and many plans do not index earnings at departure for inflation. This may lower benefits significantly for a worker who leaves a state or local government position years before he or she retires from the workforce, or after only a few years of service. Social Security beneficiaries can move from job to job, continue to build years of service and earnings, and all covered earnings are indexed for inflation as part of the benefit computation, regardless of when the worker left covered employment.

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<sup>35</sup> International Association of Fire Fighters, *Fire Fighters Issues Book*, 112<sup>th</sup> Congress, First Session, March 2011, p. 8.

<sup>36</sup> Higher accrual rates also apply to Members of Congress, congressional staff and air traffic controllers. This is the case under the Civil Service Retirement System as well, which does not have a Social Security component.

<sup>37</sup> For more information, see CRS Report 98-810, *Federal Employees’ Retirement System: Benefits and Financing*, by Katelin P. Isaacs.

## WEP and GPO Provisions

Under current law, two Social Security provisions affect individuals who are receiving a pension from work that was not covered by Social Security: the windfall elimination provision (WEP) and the government pension offset (GPO).

### WEP

If a worker qualifies for a Social Security *retired-worker benefit* based on fewer than 30 years of Social Security coverage and is also receiving a pension from work that was not covered by Social Security (a non-covered pension), he or she is subject to the WEP. Under the WEP, the worker's Social Security retirement benefit is computed using the windfall benefit formula, rather than the regular benefit formula, which results in a lower initial monthly benefit.<sup>38</sup> The amount of the reduction in the worker's Social Security retirement benefit under the WEP is phased out for workers with between 21 and 30 years of Social Security-covered employment, and it is limited to one-half the amount of the worker's non-covered pension.

The windfall benefit formula is designed to remove the unintended advantage that the regular benefit formula would otherwise provide to a worker who has less than a full career in Social Security-covered employment. The Social Security benefit formula is progressive. That is, it is structured to provide a long-term, low-wage worker with a benefit that replaces a greater percentage of his or her pre-retirement earnings (i.e., a higher replacement rate). The benefit formula, however, does not distinguish between a long-term, low-wage worker and a high-wage worker with a relatively short career in Social Security-covered employment.<sup>39</sup> Both of these workers receive the advantage of Social Security's progressive benefit formula. The windfall benefit formula is designed to remove this unintended advantage for workers who have less than a full career in Social Security-covered employment (sometimes with high wages) because they also worked in non-covered employment and receive a pension based on non-covered work.<sup>40</sup>

### GPO

If a person qualifies for a Social Security *spousal benefit* and is receiving a non-covered pension, he or she is subject to the GPO. Under the GPO, a person's Social Security spousal benefit is reduced by two-thirds the amount of his or her non-covered pension. The GPO is intended to replicate the dual entitlement rule, which affects persons who qualify for both a Social Security retired-worker benefit and a Social Security spousal benefit. Under the dual entitlement rule, a person's Social Security spousal benefit is reduced by 100% of the amount of his or her Social Security retired-worker benefit.<sup>41</sup>

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<sup>38</sup> In the regular benefit formula, the first replacement factor is 90%. In the windfall benefit formula, the first replacement factor is lowered from 90% to 40%.

<sup>39</sup> In the latter case, many years of zero earnings would be counted in the benefit computation. For Social Security purposes, these workers could have the same career-average earnings and therefore the same monthly benefit amount.

<sup>40</sup> For more information on the WEP, see CRS Report 98-35, *Social Security: The Windfall Elimination Provision (WEP)*, by Alison M. Shelton.

<sup>41</sup> For more information on the GPO, see CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*, by Alison M. Shelton.

The WEP and the GPO are unpopular provisions of Social Security law among the public and some policymakers. Some observers point out that the way Social Security benefit reductions are computed under the WEP and the GPO seems arbitrary and unfair. Legislation is introduced routinely to modify or repeal these provisions.

In terms of administering these provisions, SSA must rely on self-reported data to determine if a person's Social Security retired-worker benefit should be reduced under the WEP, or if a person's Social Security spousal benefit should be reduced under the GPO, and what the Social Security benefit reduction should be under these provisions. In other words, a Social Security claimant or a current Social Security beneficiary must inform SSA that he or she is receiving a non-covered pension, and the amount of the non-covered pension, so that the WEP and the GPO can be applied in the Social Security benefit computation. Proposals have been made over the years to require state and local governments to provide information on their non-covered pension payments to SSA for purposes of administering the WEP and the GPO. President Obama's FY2012 budget request, for example, included up to \$50 million for the development of a mechanism for SSA to enforce the WEP and the GPO and estimated that greater enforcement would result in Social Security program savings of almost \$3.4 billion over 10 years.<sup>42</sup>

Mandatory Social Security coverage of newly hired state and local government employees would eventually eliminate the need for the WEP and the GPO, two provisions of Social Security law that are unpopular among the public and that present administrative difficulties for SSA.

## **Potential Impact on State and Local Pension Plans**

Some state and local government pension plans could be affected if newly hired state and local government employees were required to participate in Social Security. In response to mandatory Social Security coverage, employers might change the pension benefits of newly hired public employees to reflect the added Social Security coverage. The basic options for state and local governments include (1) maintaining the current pension structure for newly hired employees; (2) providing a different, presumably lower, benefit structure for newly hired employees within an existing pension plan; (3) closing the existing pension plan to new participants and creating a new pension plan for newly hired employees with a different, presumably lower, benefit structure; and (4) eliminating pension benefits (apart from Social Security) for new hires.<sup>43</sup>

Most state and local government workers currently participate in defined benefit (DB) pension plans. In DB pension plans, participants are guaranteed a monthly benefit in retirement that is

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<sup>42</sup> The President's Budget for Fiscal Year 2012, Analytical Perspectives, February 2011, p. 162, <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/spec.pdf>. The lack of an enforcement mechanism for the WEP and the GPO also raises equity issues. Beneficiaries who do not accurately report their public pension information to SSA may receive higher benefits than they are due under current law. For more on equity, see the "Equity Considerations" section of this report.

<sup>43</sup> While state and local governments may change the benefit structure for new hires, some state and local governments have sought to implement changes to the pension structure of existing employees (see, for example, New Jersey P. L. 2011, Chapter 78, a summary of which is available at <http://nj.gov/treasury/pensions/reform-2011.shtml>). Some have argued that changes to current employee pensions may be subject to state constitutional challenges. For a discussion of these issues, see CRS Report R41736, *State and Local Pension Plans and Fiscal Distress: A Legal Overview*, by Jennifer Staman; and *Constitutional Contracts Clause Challenges in Public Pension Litigation*, by Paul M. Secunda, Marquette Law School Legal Studies Paper No. 11-06, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1806018##](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1806018##).

determined using a formula based on an accrual rate, years of service, and the average of a number of years' final salary.<sup>44</sup> In contrast, many private sector workers are covered by defined contribution (DC) pension plans. In DC pension plans, participants are provided with individual accounts that accumulate employees' (and often employers') contributions and investment returns. Employees use the funds in their accounts as a source of income in retirement.

States would have to decide what pension benefits to offer new employees who would be covered by Social Security. Some of the changes that states and localities might consider include lowering the accrual rate for covered workers, increasing the number of high or final years of salary in the benefit formula, altering early retirement benefits, or creating defined contribution pensions. For example, one survey indicated that in 1997 the accrual rate for DB pensions provided to state and local government workers who were participating in Social Security at the time of the survey was 1.84%, compared with an accrual rate of 2.24% for workers who were not participating in Social Security.<sup>45</sup>

In some cases, state and local government employers might "freeze" their pension plans in which new hires or current employees do not accrue benefits. Plan sponsors have several types of pension freezes available. In a hard freeze, a pension plan is closed to new entrants and current participants cease accruing benefits. In a soft freeze, a pension plan is closed to new entrants but current participants continue to accrue benefits. Frozen pension plans remain subject to Internal Revenue Service rules that apply to state and local government pension plans. Bureau of Labor Statistics data from March 2009 indicated that 10% of state and local government workers who participated in a DB pension plan were in a frozen DB pension plan. The data indicated that 99% of the state and local government workers in frozen plans continued to accrue benefits; that is, the pension plan was a soft freeze. In addition, pension plans for 94% of workers in frozen plans were frozen more than five years prior to the survey, and 95% of the workers in frozen plans were offered a new DB pension plan. None of the workers in frozen DB pension plans were offered a new DC pension plan.<sup>46</sup>

Increased costs might come as a result of states operating several pension plans or several benefit structures within a single pension plan. For example, states could decide to offer some combination of DB and DC pension benefits. It could take several years to determine and fully implement the changes. Whether overall costs to employees and governments would increase, decrease, or remain the same depends on the type of pension benefit structure governments adopt in response to mandatory participation in Social Security. Factors that would affect this include the 6.2% Social Security payroll tax paid by employers, the 6.2% Social Security payroll tax paid by employees, the amount of employer contributions to retirement plans, and the amount of employee contributions, if any, to retirement plans.

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<sup>44</sup> An example of a typical formula in a DB pension plan would be: an accrual rate of 1.5% \* number of years of service \* average of final 3 years of salary. A participant who worked for 30 years and earned \$30,000 per year in the last 3 years of service would receive a benefit of \$13,500 per year in retirement (1.5% \* 30 \* \$30,000). The benefit is typically paid as an annuity for the life of the retiree. Married participants may receive a joint-and-survivor annuity, which pays an actuarially equivalent amount for the longer of the lifetime of the retiree or the retiree's spouse.

<sup>45</sup> See *The Impact of Mandatory Social Security Coverage of State and Local Workers: A Multi-state Review*, by Alicia Munnell, [http://assets.aarp.org/rgcenter/econ/2000\\_11\\_security.pdf](http://assets.aarp.org/rgcenter/econ/2000_11_security.pdf).

<sup>46</sup> See *National Compensation Survey: Employee Benefits in the United States*, March 2009, <http://www.bls.gov/ncs/ebs/benefits/2009/ebbl0044.pdf>.

Because the pension benefits (apart from Social Security) that the plans would provide to new employees would likely decrease, pension plan contributions made by employers, and possibly employee contributions, would likely decrease as well. The impact would likely be minimal in plans that have sufficient assets from which to pay 100% of the benefits that participants have accrued. However, the resulting decrease in contributions could add financial strain to pension systems that are currently underfunded and do not have sufficient assets on hand. For example, a plan that is underfunded and ceases to have new participants will find that plan assets will have been used up and that some benefits for some participants do not have a funding source. Sponsors of pension plans that are not fully funded would have to eventually make up for the funding shortfalls that exist within their plans. Although many state and local government pension plans do not have enough assets set aside to pay 100% of promised benefits, participants are not at risk of not receiving their promised benefits in the short- or medium-term as most pension plans have enough funds set aside to pay benefits for many years.<sup>47</sup>

Potential sources of funding to make up for shortfalls include state or local general revenues, increased contributions from current employees, and greater returns on pension plan investments. Currently, many states and localities are facing revenue shortfalls and may be reluctant to set aside funds to cover pension benefits payable several years in the future. It may be difficult or impossible to require increased employee contributions from current employees. Pension plan sponsors may be tempted to increase the riskiness of their investments to capture market gains. However, in the event of a market downturn, riskier pension fund investments would lose value, exacerbating the situation.

Unlike private-sector employers, state and local pension plans do not participate in a pension insurance system. Most private-sector employers participate in the Pension Benefit Guarantee Corporation (PBGC), which is a government run insurance company that pays pension benefits to retirees in bankrupt private-sector pension plans.<sup>48</sup> State and local pension plans do not have the opportunity to transfer pension plan liabilities to a PBGC-like entity if they cannot pay benefits.

## State and Local Pension Plans and Funding Status

Census Bureau data indicates that in 2007 there were 2,547 state and local pension plans, of which 2,115 responded to a Census Bureau survey of state and local pension plans. As shown in **Table 4**, the 2,115 plans that responded to the survey had a total of 18.5 million participants.<sup>49</sup>

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<sup>47</sup> Some economists have criticized the methodology that state and local government pension funds use to discount future benefit obligations. Alternative methodologies for discounting future benefit obligations indicate that the underfunding of state and local government pension funds may be greater than is currently estimated. For example, Joshua D. Rauh, an economist at Northwestern University, estimates that seven state pension funds may be insolvent by 2020. See *Are State Public Pensions Sustainable? Why the Federal Government Should Worry About State Pension Liabilities*, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1596679](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1596679). More information on the underfunding of pension plans is available in a May 2011 CBO Economic and Budget Issue Brief, *The Underfunding of State and Local Pension Plans*, <http://www.cbo.gov/ftpdocs/120xx/doc12084/05-04-Pensions.pdf>. In addition, a Brookings Institution report contains a discussion of the methodologies used to discount state and local government pension plan liabilities. See *State and Local Pension Funding Deficits: A Primer*, by Douglas J. Elliott, [http://www.brookings.edu/~media/Files/rc/reports/2010/1206\\_state\\_local\\_funding\\_elliott/1206\\_state\\_local\\_funding\\_elliott.pdf](http://www.brookings.edu/~media/Files/rc/reports/2010/1206_state_local_funding_elliott/1206_state_local_funding_elliott.pdf).

<sup>48</sup> For more information on the PBGC, see CRS Report 95-118, *Pension Benefit Guaranty Corporation (PBGC): A Fact Sheet*, by John J. Topoleski.

<sup>49</sup> The Census Bureau conducts a census of state and local pension plans in years ending with 2 or 7. In years not ending with 2 or 7, the Census Bureau conducts a survey of about 1,000 state and local pension plans. The Census Bureau public use data does not include sampling weights to adjust for non-response by pension plans. CRS analysis of (continued...)

Although most of these plans (1,897 plans or 89.7%) were local pension plans, statewide plans accounted for more than 90% of plan participants. Some plans were very large; however, most plans had relatively few participants. The average number of participants per plan was 8,755, while the median number of participants per plan was 43.<sup>50</sup>

**Table 4.State and Local Pension Plans in 2007**

	Total Number of Plans	Number of Participants			Cash and Investment Holdings (thousands of dollars)	
		Total	Average	Median	Average	Median
State	218	16,768,128	76,918	10,205	\$12,933,338	\$1,448,620
Local	1,897	1,747,848	921	33	\$286,643	\$7,659
State and Local	2,115	18,515,976	8,755	43	\$1,590,180	\$10,539

**Source:** U.S. Census Bureau, 2007 Survey of State & Local Government Public-Employee Retirement Systems, public use data file.

**Notes:** The public use Individual Unit Data File does not include Census Bureau adjustments for the non-response of 432 local pension plans that contained 78,475 participants (or less than 1% of all state and local pension plan participants).

A common measure of the financial health of a DB pension plan is its funding ratio, which measures the adequacy of a DB pension plan’s ability to pay promised benefits. The funding ratio is calculated as

$$\frac{\text{Value of Plan Assets}}{\text{Present Value of Plan Liabilities}}$$

A funding ratio of 100% indicates that the DB pension plan has set aside enough funds, if the invested funds grow at the expected rate of return or better, to pay all of the benefit obligations. Funding ratios that are less than 100% indicate that the DB pension plan will not be able to meet all of its future benefit obligations. **Table 5** details the funding ratios for 122 public pension plans in the Public Pension Plans Database, which was developed by the Center for State and Local Government Excellence and the Center for Retirement Research at Boston College.<sup>51</sup> The pension plans in the database cover approximately 90% of the participants in state and local government pension plans. Funding ratios varied considerably among the pension plans in the database. Among the 122 pension plans for which actuarial information is provided for 2009, the median

(...continued)

the data indicates that all of the pension systems that did not respond to the 2007 Census of State & Local Government Public-Employee Retirement Systems were local plans and most of these were relatively small. The 2007 public use Individual Unit Data File has information on pension plans that cover 99.6% of participants in state and local pension plans. One advantage of using the public use data is that it allows for the calculation of median values of participants and asset holdings, which can be important in a discussion in which average values are much larger than median values.

<sup>50</sup> The Census Bureau data does not indicate which plans had Social Security-covered workers, non-covered workers, or a mix.

<sup>51</sup> The Public Pension Plans Database contains a variety of information on 126 public pension plans; however, actuarial information on plan assets and plan liabilities is not available for four of the plans.



funding ratio was 77.5%. Some pension plans were well-funded: in 2009, 11 of the 122 pension plans had funding ratios of 100% or greater. Nearly one-third of the pension plans (31.2%), which covered 24.0% of plan participants, had funding ratios of less than 70%.

**Table 5. Distribution of State and Local Pension Plan Funding Ratios in 2009**

Funding Ratio	Number of Plans	Percentage of Plans	Number of Active and Inactive Plan Participants	Percentage of Active and Inactive Plan Participants
100% or more	11	9.0%	1,306,976	8.5%
90% - 99.9%	11	9.0%	1,617,740	10.5%
80% to 89.9%	30	24.6%	5,302,151	34.3%
70% to 79.9%	32	26.2%	3,523,744	22.8%
60% to 69.9%	25	20.5%	2,735,654	17.7%
Less than 60%	13	10.7%	980,215	6.3%

**Source:** CRS analysis of the Public Pension Plans Database, available at the Center for State and Local Government Excellence and the Center for Retirement Research at Boston College, [http://www.slge.org/index.asp?Type=B\\_BASIC&SEC={6B5D32FD-C99D-41F7-9691-4F1B1D11452B}&DE={2FC4DEA5-E113-4C0E-822F-359297BF92C2}](http://www.slge.org/index.asp?Type=B_BASIC&SEC={6B5D32FD-C99D-41F7-9691-4F1B1D11452B}&DE={2FC4DEA5-E113-4C0E-822F-359297BF92C2}).

## State Administrative Costs and Legal Issues

Some argue that mandating Social Security coverage for all public employees would impose significant administrative burdens on state and local governments. State and local governments would have to administer two different systems, one for existing non-covered employees and another for employees who are newly covered by Social Security, until there were no more pensioners under the original pension system. Additional costs would include communicating with employees and actuarial reviews.<sup>52</sup> SSA would also need to administer two systems for a while, one system for covered employees and a second system for remaining beneficiaries with pensions from non-covered employment who are subject to WEP or GPO reductions on their Social Security benefits.

State and local governments would need to negotiate extensively with employees and legislatures about the redesign of existing pension systems, in order to adapt existing plans to Social Security coverage. When Congress mandated Social Security coverage for new federal workers in 1983, the federal government enacted a new federal pension plan after three years. GAO has suggested that four years might be required to complete negotiations among legislatures and employee representatives about adapting existing plans to Social Security coverage.<sup>53</sup>

Others counter that states and localities already withhold workers' federal income taxes, so the additional administrative costs associated with payroll tax deductions would not be significant.

<sup>52</sup> The Segal Company, *Report on Universal Social Security Coverage of State and Local Workers*, July 2005, <http://www.retirementsecurity.org/public/330.cfm>.

<sup>53</sup> U.S. General Accounting Office (now called the Government Accountability Office), *Social Security: Implications of Extending Mandatory Coverage to State and Local Employees*, GAO/HEHS 98-196, August 1998, <http://www.gao.gov/archive/1998/he98196.pdf>.

Opponents of mandatory coverage sometimes argue that mandated coverage would raise constitutional issues and might be challenged in court. GAO wrote in 1998, “we believe that mandatory coverage is likely to be upheld under current U.S. Supreme Court decisions.”<sup>54</sup> (*A discussion of the potential legal issues associated with mandatory Social Security coverage is beyond the scope of this report.*)

## Equity Considerations

Some argue that non-covered state and local government workers should share in providing the poverty reduction that occurs through the Social Security system, which offers disability benefits, dependents’ benefits and survivors’ benefits, in addition to retirement benefits. In June 2011, retired workers and their dependents accounted for 73% of total benefits paid. The remaining 27% was paid to disabled workers and their dependents (16% of total benefits paid) and to the survivors of deceased workers (11% of total benefits paid).<sup>55</sup> Social Security also redistributes income from workers with higher lifetime earnings to workers with lower lifetime earnings. According to data from BLS, state and local government workers have higher hourly earnings, on average, than the rest of the population.<sup>56</sup> To the extent that state and local government workers do not participate in Social Security, they do not share in providing the poverty reduction that occurs through Social Security. This places an extra burden on higher-earning workers within the Social Security system. According to the 1994-1996 Advisory Council on Social Security, “an effective Social Security program helps to reduce public costs for relief and assistance, which, in turn, means lower general taxes. There is an element of unfairness in a situation where ... a few benefit both directly and indirectly, but are excused from contributing to the program.”<sup>57</sup>

A related argument is that non-covered workers do not share the ongoing costs related to the start-up of the Social Security program. When Social Security was created, the first beneficiaries—often the parents and grandparents of current state and local government employees—paid into the system for a short period and received benefits far in excess of their contributions. About 25% of today’s Social Security payroll tax revenues (about 3 percentage points of the current 12.4% payroll tax) go to cover the implicit interest costs of these net transfers to the first beneficiaries.<sup>58</sup> Non-covered workers do not share in these costs, which are sometimes known as “legacy costs.”

In addition, as noted above, CBO projects that mandatory Social Security coverage would increase the number of Social Security beneficiaries in the long-term, though the additional benefit payments would be about half the size of the additional revenues. The reason, as explained by CBO, is that most of the newly hired state and local government employees would receive Social Security benefits under current law because they may have held other covered jobs

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<sup>54</sup> U.S. General Accounting Office (now called the Government Accountability Office), *Social Security: Implications of Extending Mandatory Coverage to State and Local Employees*, GAO/HEHS-98-196, August 1998, pp. 19-20, <http://www.gao.gov/archive/1998/he98196.pdf>.

<sup>55</sup> SSA, *Monthly Statistical Snapshot, June 2011* (released July 2011), Table 2, [http://www.socialsecurity.gov/policy/docs/quickfacts/stat\\_snapshot/](http://www.socialsecurity.gov/policy/docs/quickfacts/stat_snapshot/).

<sup>56</sup> Bureau of Labor Statistics, *National Compensation Survey: Occupational Earnings in the United States, 2009*, June 2010, Bulletin 2738, Table 1, <http://www.bls.gov/ncs/ocsp/nctb1344.pdf>.

<sup>57</sup> 1994-1996 Advisory Council on Social Security, *Report*, Vol. 1: Findings and Recommendations, Washington, DC, January 1997, p. 19, <http://www.socialsecurity.gov/history/reports/adccouncil/report/toc.htm>.

<sup>58</sup> Munnell 2005, [http://crr.bc.edu/images/stories/Briefs/ib\\_32.pdf](http://crr.bc.edu/images/stories/Briefs/ib_32.pdf).

in the past or they were covered by a spouse's employment.<sup>59</sup> Supporters of mandatory Social Security coverage argue that, if most non-covered state and local government employees will qualify for Social Security benefits under current law based on a second job or a spouse's employment, they should be required to pay into the Social Security system throughout their careers. Opponents of mandatory coverage maintain that Social Security benefit reductions under the WEP and the GPO already take into account that some workers participate in alternative public pension plans that operate outside of Social Security.

Opponents argue that Social Security coverage has been available to state and local governments since the early 1950s. Thus, many states and localities have had the opportunity to weigh the pros and cons of Social Security coverage. States and localities that have chosen not to participate in the Social Security system would likely view mandatory Social Security coverage as unfair.

## Conclusion

The majority of state and local government employees are covered by Social Security (72.5% in 2008). Proposals to mandate Social Security coverage for all state and local government employees hired in the future have been part of the Social Security policy debate for many years. The underlying issues to consider in evaluating the potential advantages and disadvantages of mandatory Social Security coverage include Social Security's long-range financial status; benefit protections for workers and their families; the impact on states and localities that would be required to revise their public pension plans to incorporate a Social Security component; and a broader social perspective.

## Author Contact Information

Dawn Nuschler  
Specialist in Income Security  
dnuschler@crs.loc.gov, 7-6283

Alison M. Shelton  
Analyst in Income Security  
ashelton@crs.loc.gov, 7-9558

John J. Topoleski  
Analyst in Income Security  
jtopoleski@crs.loc.gov, 7-2290

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<sup>59</sup> CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, pp. 171-172, <http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf>.

**U.S. Supreme Court Ruling  
Regarding the University of  
Minnesota Medical Residency Case**

# **The University of Minnesota and others must cover medical residents with Social Security tax**

**Boston Globe**

Associated Press / January 12, 2011

WASHINGTON — The Supreme Court ruled yesterday that medical residents should be considered employees when it comes to collecting Social Security taxes. The high court said that the IRS did not have to refund tax money collected by the Mayo Foundation of Rochester, Minn., and the **University of Minnesota** from doctors still in training, who routinely work in hospitals and pay income taxes. The University of Minnesota and Mayo officials failed in arguing that residents fall under the Social Security 'student' tax exemption for student employees whose work is part of their education.

The Treasury Department finally took away that student exemption in 2004, after it learned decades ago about the University of Minnesota illicit practice, for medical students who work more than 40 hours per week. The Obama administration said Social Security taxes for medical residents can be as much as \$900 million a year.

Mayo Clinic officials wanted the court to overturn a federal appeals court ruling and restore the student exemption for medical residents. It and the University of Minnesota also wanted a refund of the money they had withheld and paid to the IRS on its residents' stipends since 2004.

In arguments before the Supreme Court, the University of Minnesota and Mayo's lawyer, former solicitor general Theodore Olson, argued that the IRS's decision that anyone who works over 40 hours a week at a hospital can no longer be classified as a student was arbitrary and capricious.

But the high court ruled **unanimously with Chief Justice John Roberts, Jr writing** "...that the Treasury Department had the right to take away the exemption with which the University of Minnesota had abused for decades, dating back to the 1950's."

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April 21, 2011

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

## Syllabus

MAYO FOUNDATION FOR MEDICAL EDUCATION  
AND RESEARCH ET AL. *v.* UNITED STATESCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE EIGHTH CIRCUIT

No. 09–837. Argued November 8, 2010—Decided January 11, 2011

Petitioners (hereinafter Mayo) offer residency programs to doctors who have graduated from medical school and seek additional instruction in a chosen specialty. Those programs train doctors primarily through hands-on experience. Although residents are required to take part in formal educational activities, these doctors generally spend the bulk of their time—typically 50 to 80 hours a week—caring for patients. Mayo pays its residents annual “stipends” of over \$40,000 and also provides them with health insurance, malpractice insurance, and paid vacation time.

The Federal Insurance Contributions Act (FICA) requires employees and employers to pay taxes on all “wages” employees receive, 26 U. S. C. §§3101(a), 3111(a), and defines “wages” to include “all remuneration for employment,” §3121(a). FICA defines “employment” as “any service . . . performed . . . by an employee for the person employing him,” §3121(b), but excludes from taxation any “service performed in the employ of . . . a school, college, or university . . . if such service is performed by a student who is enrolled and regularly attending classes at [the school],” §3121(b)(10). Since 1951, the Treasury Department has construed the student exception to exempt from taxation students who work for their schools “as an incident to and for the purpose of pursuing a course of study.” 16 Fed. Reg. 12474. In 2004, the Department issued regulations providing that “[t]he services of a full-time employee”—which includes an employee normally scheduled to work 40 hours or more per week—“are not incident to and for the purpose of pursuing a course of study.” 26 CFR §31.3121(b)(10)–2(d)(3)(iii). The Department explained that this analysis “is not affected by the fact that the services . . . may have an educational, in-

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structional, or training aspect.” *Ibid.* The rule offers as an example a medical resident whose normal schedule requires him to perform services 40 or more hours per week, and concludes that the resident is not a student.

Mayo filed suit asserting that this rule was invalid, and the District Court agreed. It found the full-time employee rule inconsistent with §3121’s unambiguous text and concluded that the factors governing this Court’s analysis in *National Muffler Dealers Assn., Inc. v. United States*, 440 U. S. 472, also indicated that the rule was invalid. The Eighth Circuit reversed. Applying *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U. S. 837, the Court of Appeals concluded that the Department’s regulation was a permissible interpretation of an ambiguous statute.

*Held:* The Treasury Department’s full-time employee rule is a reasonable construction of §3121(b)(10). Pp. 6–15.

(a) Under *Chevron*’s two-part framework, the Court first asks whether Congress has “directly addressed the precise question at issue.” 467 U. S., at 842-843. Congress has not done so here; the statute does not define “student” or otherwise attend to the question whether medical residents are subject to FICA. Pp. 6–7.

(b) The parties debate whether the Court should next apply *Chevron* step two or the multi-factor analysis used to review a tax regulation in *National Muffler*. Absent a justification to do so, this Court is not inclined to apply a less deferential framework to evaluate Treasury Department regulations than it uses to review rules adopted by any other agency. The Court has “[r]ecogniz[ed] the importance of maintaining a uniform approach to judicial review of administrative action.” *Dickinson v. Zurko*, 527 U. S. 150, 154. And the principles underlying *Chevron* apply with full force in the tax context. *Chevron* recognized that an agency’s power “to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left . . . by Congress.” 467 U. S., at 843. Filling gaps in the Internal Revenue Code plainly requires the Treasury Department to make interpretive choices for statutory implementation at least as complex as the ones made by other agencies in administering their statutes.

It is true that the full-time employee rule, like the rule at issue in *National Muffler*, was promulgated under the Department’s general authority to “prescribe all needful rules and regulations for the enforcement” of the Internal Revenue Code. 26 U. S. C. §7805(a). It is also true that this Court, in opinions predating *Chevron*, stated that it owed less deference to a rule adopted under that general grant of authority than it would afford rules issued pursuant to more specific grants. See *Rowan Cos. v. United States*, 452 U. S. 247, 253; *United*

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*States v. Vogel Fertilizer Co.*, 455 U. S. 16, 24. Since then, however, the Court has found *Chevron* deference appropriate “when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law, and that the agency interpretation claiming deference was promulgated in the exercise of that authority.” *United States v. Mead Corp.*, 533 U. S. 218, 226–227. *Chevron* and *Mead* provide the appropriate framework for evaluating the full-time employee rule. The Department issued the rule pursuant to an explicit authorization to prescribe needful rules and regulations, and only after notice-and-comment procedures. The Court has recognized these to be good indicators of a rule meriting *Chevron* deference, *Mead*, 533 U. S., at 229–231. Pp. 7–12.

(c) The rule easily satisfies *Chevron*’s second step. Mayo accepts the Treasury Department’s determination that an individual may not qualify for the student exception unless the educational aspect of his relationship with his employer predominates over the service aspect of that relationship, but objects to the Department’s conclusion that residents working more than 40 hours per week categorically cannot satisfy that requirement. Mayo argues that the Treasury Department should be required to engage in a case-by-case inquiry into what each employee does and why he does it, and that the Department has arbitrarily distinguished between hands-on training and classroom instruction. But regulation, like legislation, often requires drawing lines. The Department reasonably sought to distinguish between workers who study and students who work. Focusing on the hours spent working and those spent in studies is a sensible way to accomplish that goal. The Department thus has drawn a distinction between education and service, not between classroom instruction and hands-on training. The Treasury Department also reasonably concluded that its full-time employee rule would “improve administrability,” 69 Fed. Reg. 76405, and thereby “has avoided the wasteful litigation and continuing uncertainty that would inevitably accompany [a] case-by-case approach” like the one Mayo advocates, *United States v. Correll*, 389 U. S. 299, 302. Moreover, the rule reasonably takes into account the Social Security Administration’s concern that exempting residents from FICA would deprive them and their families of vital social security disability and survivorship benefits. Pp. 12–15.

568 F. 3d 675, affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which all other Members joined, except KAGAN, J., who took no part in the consideration or decision of the case.



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**SUPREME COURT OF THE UNITED STATES**

No. 09–837

**MAYO FOUNDATION FOR MEDICAL EDUCATION  
AND RESEARCH, ET AL., PETITIONERS *v.*  
UNITED STATES**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE EIGHTH CIRCUIT**

[January 11, 2011]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

Nearly all Americans who work for wages pay taxes on those wages under the Federal Insurance Contributions Act (FICA), which Congress enacted to collect funds for Social Security. The question presented in this case is whether doctors who serve as medical residents are properly viewed as “student[s]” whose service Congress has exempted from FICA taxes under 26 U. S. C. §3121(b)(10).

I

A

Most doctors who graduate from medical school in the United States pursue additional education in a specialty to become board certified to practice in that field. Petitioners Mayo Foundation for Medical Education and Research, Mayo Clinic, and the Regents of the University of Minnesota (collectively Mayo) offer medical residency programs that provide such instruction. Mayo’s residency programs, which usually last three to five years, train doctors primarily through hands-on experience. Residents often

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spend between 50 and 80 hours a week caring for patients, typically examining and diagnosing them, prescribing medication, recommending plans of care, and performing certain procedures. Residents are generally supervised in this work by more senior residents and by faculty members known as attending physicians. In 2005, Mayo paid its residents annual “stipends” ranging between \$41,000 and \$56,000 and provided them with health insurance, malpractice insurance, and paid vacation time.

Mayo residents also take part in “a formal and structured educational program.” Brief for Petitioners 5 (internal quotation marks omitted). Residents are assigned textbooks and journal articles to read and are expected to attend weekly lectures and other conferences. Residents also take written exams and are evaluated by the attending faculty physicians. But the parties do not dispute that the bulk of residents’ time is spent caring for patients.

B

Through the Social Security Act and related legislation, Congress has created a comprehensive national insurance system that provides benefits for retired workers, disabled workers, unemployed workers, and their families. See *United States v. Lee*, 455 U. S. 252, 254, 258, and nn. 1, 7 (1982). Congress funds Social Security by taxing both employers and employees under FICA on the wages employees earn. See 26 U. S. C. §3101(a) (tax on employees); §3111(a) (tax on employers). Congress has defined “wages” broadly, to encompass “all remuneration for employment.” §3121(a) (2006 ed. and Supp. III). The term “employment” has a similarly broad reach, extending to “any service, of whatever nature, performed . . . by an employee for the person employing him.” §3121(b).

Congress has, however, exempted certain categories of service and individuals from FICA’s demands. As relevant here, Congress has excluded from taxation “service per-

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formed in the employ of . . . a school, college, or university . . . if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university.” §3121(b)(10) (2006 ed.). The Social Security Act, which governs workers’ eligibility for benefits, contains a corresponding student exception materially identical to §3121(b)(10). 42 U. S. C. §410(a)(10).

Since 1951, the Treasury Department has applied the student exception to exempt from taxation students who work for their schools “as an incident to and for the purpose of pursuing a course of study” there. 16 Fed. Reg. 12474 (adopting Treas. Regs. 127, §408.219(c)); see Treas. Reg. §31.3121(b)(10)–2(d), 26 CFR §31.3121(b)(10)–2(d) (2010). Until 2005, the Department determined whether an individual’s work was “incident to” his studies by performing a case-by-case analysis. The primary considerations in that analysis were the number of hours worked and the course load taken. See, e.g., Rev. Rul. 78–17, 1978–1 Cum. Bull. 307 (services of individual “employed on a full-time basis” with a part-time course load are “not incident to and for the purpose of pursuing a course of study”).

For its part, the Social Security Administration (SSA) also articulated in its regulations a case-by-case approach to the corresponding student exception in the Social Security Act. See 20 CFR §404.1028(c) (1998). The SSA has, however, “always held that resident physicians are not students.” SSR 78–3, 1978 Cum. Bull. 55–56. In 1998, the Court of Appeals for the Eighth Circuit held that the SSA could not categorically exclude residents from student status, given that its regulations provided for a case-by-case approach. See *Minnesota v. Apfel*, 151 F.3d 742, 747–748. Following that decision, the Internal Revenue Service received more than 7,000 claims seeking FICA tax refunds on the ground that medical residents qualified as students under §3121(b)(10) of the Internal Revenue Code.

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568 F. 3d 675, 677 (CA8 2009).

Facing that flood of claims, the Treasury Department “determined that it [wa]s necessary to provide additional clarification of the ter[m]” “student” as used in §3121(b)(10), particularly with respect to individuals who perform “services that are in the nature of on the job training.” 69 Fed. Reg. 8605 (2004). The Department proposed an amended rule for comment and held a public hearing on it. See *id.*, at 76405.

On December 21, 2004, the Department adopted an amended rule prescribing that an employee’s service is “incident” to his studies only when “[t]he educational aspect of the relationship between the employer and the employee, as compared to the service aspect of the relationship, [is] predominant.” *Id.*, at 76408; Treas. Reg. §31.3121(b)(10)–2(d)(3)(i), 26 CFR §31.3121(b)(10)–2(d)(3)(i) (2005). The rule categorically provides that “[t]he services of a full-time employee”—as defined by the employer’s policies, but in any event including any employee normally scheduled to work 40 hours or more per week—“are not incident to and for the purpose of pursuing a course of study.” 69 Fed. Reg. 76408; Treas. Reg. §31.3121(b)(10)–2(d)(3)(iii), 26 CFR §31.3121(b)(10)–2(d)(3)(iii) (the full-time employee rule). The amended provision clarifies that the Department’s analysis “is not affected by the fact that the services performed . . . may have an educational, instructional, or training aspect.” *Ibid.* The rule also includes as an example the case of “Employee E,” who is employed by “University V” as a medical resident. 69 Fed. Reg. 76409; Treas. Reg. §31.3121(b)(10)–2(e), 26 CFR §31.3121(b)(10)–2(e) (Example 4). Because Employee E’s “normal work schedule calls for [him] to perform services 40 or more hours per week,” the rule provides that his service is “not incident to and for the purpose of pursuing a course of study,” and he accordingly is not an exempt “student” under §3121(b)(10). 69

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Fed. Reg. 76409, 76410; Treas. Reg. §31.3121(b)(10)–2(e), 26 CFR §31.3121(b)(10)–2(e) (Example 4).

## C

After the Department promulgated the full-time employee rule, Mayo filed suit seeking a refund of the money it had withheld and paid on its residents' stipends during the second quarter of 2005. 503 F. Supp. 2d 1164, 1166–1167 (Minn. 2007); *Regents of Univ. of Minn. v. United States*, No. 06–5084 (D Minn., Apr. 1, 2008), App. to Pet. for Cert. C–47a. Mayo asserted that its residents were exempt under §3121(b)(10) and that the Treasury Department's full-time employee rule was invalid.

The District Court granted Mayo's motion for summary judgment. The court held that the full-time employee rule is inconsistent with the unambiguous text of §3121, which the court understood to dictate that "an employee is a 'student' so long as the educational aspect of his service predominates over the service aspect of the relationship with his employer." 503 F. Supp. 2d, at 1175. The court also determined that the factors governing this Court's analysis of regulations set forth in *National Muffler Dealers Assn., Inc. v. United States*, 440 U. S. 472 (1979), "indicate that the full-time employee exception is invalid." 503 F. Supp. 2d, at 1176; see App. to Pet. for Cert. C–54a.

The Government appealed, and the Court of Appeals reversed. 568 F. 3d 675. Applying our opinion in *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U. S. 837 (1984), the Court of Appeals concluded that "the statute is silent or ambiguous on the question whether a medical resident working for the school full-time is a 'student'" for purposes of §3121(b)(10), and that the Department's amended regulation "is a permissible interpretation of the statut[e]." 568 F. 3d, at 679–680, 683.

We granted Mayo's petition for certiorari. 560 U. S. \_\_\_\_

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(2010).

II

A

We begin our analysis with the first step of the two-part framework announced in *Chevron*, *supra*, at 842–843, and ask whether Congress has “directly addressed the precise question at issue.” We agree with the Court of Appeals that Congress has not done so. The statute does not define the term “student,” and does not otherwise attend to the precise question whether medical residents are subject to FICA. See 26 U. S. C. §3121(b)(10).

Mayo nonetheless contends that the Treasury Department’s full-time employee rule must be rejected under *Chevron* step one. Mayo argues that the dictionary definition of “student”—one “who engages in ‘study’ by applying the mind ‘to the acquisition of learning, whether by means of books, observation, or experiment’”—plainly encompasses residents. Brief for Petitioners 22 (quoting Oxford Universal Dictionary 2049–2050 (3d ed. 1955)). And, Mayo adds, residents are not excluded from that category by the only limitation on students Congress has imposed under the statute—that they “be ‘enrolled and regularly attending classes at [a] school.’” Brief for Petitioners 22 (quoting 26 U. S. C. §3121(b)(10)).

Mayo’s reading does not eliminate the statute’s ambiguity as applied to working professionals. In its reply brief, Mayo acknowledges that a full-time professor taking evening classes—a person who presumably would satisfy the statute’s class-enrollment requirement and apply his mind to learning—could be excluded from the exemption and taxed because he is not “‘predominant[ly]’” a student. Reply Brief for Petitioners 7. Medical residents might likewise be excluded on the same basis; the statute itself does not resolve the ambiguity.

The District Court interpreted §3121(b)(10) as unambig-

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uously foreclosing the Department's rule by mandating that an employee be deemed "a 'student' so long as the educational aspect of his service predominates over the service aspect of the relationship with his employer." 503 F. Supp. 2d, at 1175. We do not think it possible to glean so much from the little that §3121 provides. In any event, the statutory text still would offer no insight into how Congress intended predominance to be determined or whether Congress thought that medical residents would satisfy the requirement.

To the extent Congress has specifically addressed medical residents in §3121, moreover, it has expressly excluded these doctors from exemptions they might otherwise invoke. See 26 U. S. C. §§3121(b)(6)(B), (7)(C)(ii) (excluding medical residents from exemptions available to employees of the District of Columbia and the United States). That choice casts doubt on any claim that Congress specifically intended to insulate medical residents from FICA's reach in the first place.

In sum, neither the plain text of the statute nor the District Court's interpretation of the exemption "speak[s] with the precision necessary to say definitively whether [the statute] applies to" medical residents. *United States v. Eurodif S. A.*, 555 U. S. \_\_\_\_, \_\_\_\_ (2009) (slip op., at 13).

## B

In the typical case, such an ambiguity would lead us inexorably to *Chevron* step two, under which we may not disturb an agency rule unless it is "arbitrary or capricious in substance, or manifestly contrary to the statute." *Household Credit Services, Inc. v. Pfennig*, 541 U. S. 232, 242 (2004) (quoting *United States v. Mead Corp.*, 533 U. S. 218, 227 (2001)). In this case, however, the parties disagree over the proper framework for evaluating an ambiguous provision of the Internal Revenue Code.

Mayo asks us to apply the multi-factor analysis we used

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to review a tax regulation in *National Muffler*, 440 U. S. 472. There we explained:

“A regulation may have particular force if it is a substantially contemporaneous construction of the statute by those presumed to have been aware of congressional intent. If the regulation dates from a later period, the manner in which it evolved merits inquiry. Other relevant considerations are the length of time the regulation has been in effect, the reliance placed on it, the consistency of the Commissioner’s interpretation, and the degree of scrutiny Congress has devoted to the regulation during subsequent re-enactments of the statute.” *Id.*, at 477.

The Government, on the other hand, contends that the *National Muffler* standard has been superseded by *Chevron*. The sole question for the Court at step two under the *Chevron* analysis is “whether the agency’s answer is based on a permissible construction of the statute.” 467 U. S., at 843.

Since deciding *Chevron*, we have cited both *National Muffler* and *Chevron* in our review of Treasury Department regulations. See, e.g., *United States v. Cleveland Indians Baseball Co.*, 532 U. S. 200, 219 (2001) (citing *National Muffler*); *Cottage Savings Assn. v. Commissioner*, 499 U. S. 554, 560–561 (1991) (same); *United States v. Boyle*, 469 U. S. 241, 246, n. 4 (1985) (citing *Chevron*); see also *Atlantic Mut. Ins. Co. v. Commissioner*, 523 U. S. 382, 387, 389 (1998) (citing *Chevron* and *Cottage Savings*).

Although we have not thus far distinguished between *National Muffler* and *Chevron*, they call for different analyses of an ambiguous statute. Under *National Muffler*, for example, a court might view an agency’s interpretation of a statute with heightened skepticism when it has not been consistent over time, when it was promulgated years after the relevant statute was enacted, or because of



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the way in which the regulation evolved. 440 U. S., at 477. The District Court in this case cited each of these factors in rejecting the Treasury Department's rule, noting in particular that the regulation had been promulgated after an adverse judicial decision. See 503 F. Supp. 2d, at 1176; see also Brief for Petitioners 41–44 (relying on the same considerations).

Under *Chevron*, in contrast, deference to an agency's interpretation of an ambiguous statute does not turn on such considerations. We have repeatedly held that “[a]gency inconsistency is not a basis for declining to analyze the agency's interpretation under the *Chevron* framework.” *National Cable & Telecommunications Assn. v. Brand X Internet Services*, 545 U. S. 967, 981 (2005); accord, *Eurodif S. A.*, *supra*, at \_\_\_\_ (slip op., at 10). We have instructed that “neither antiquity nor contemporaneity with [a] statute is a condition of [a regulation's] validity.” *Smiley v. Citibank (South Dakota), N. A.*, 517 U. S. 735, 740 (1996). And we have found it immaterial to our analysis that a “regulation was prompted by litigation.” *Id.*, at 741. Indeed, in *United Dominion Industries, Inc. v. United States*, 532 U. S. 822, 838 (2001), we expressly invited the Treasury Department to “amend its regulations” if troubled by the consequences of our resolution of the case.

Aside from our past citation of *National Muffler*, Mayo has not advanced any justification for applying a less deferential standard of review to Treasury Department regulations than we apply to the rules of any other agency. In the absence of such justification, we are not inclined to carve out an approach to administrative review good for tax law only. To the contrary, we have expressly “[r]ecogniz[ed] the importance of maintaining a uniform approach to judicial review of administrative action.” *Dickinson v. Zurko*, 527 U. S. 150, 154 (1999). See, e.g., *Skinner v. Mid-America Pipeline Co.*, 490 U. S. 212, 222–

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223 (1989) (declining to apply “a different and stricter nondelegation doctrine in cases where Congress delegates discretionary authority to the Executive under its taxing power”).

The principles underlying our decision in *Chevron* apply with full force in the tax context. *Chevron* recognized that “[t]he power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.” 467 U. S., at 843 (internal quotation marks omitted). It acknowledged that the formulation of that policy might require “more than ordinary knowledge respecting the matters subjected to agency regulations.” *Id.*, at 844 (internal quotation marks omitted). Filling gaps in the Internal Revenue Code plainly requires the Treasury Department to make interpretive choices for statutory implementation at least as complex as the ones other agencies must make in administering their statutes. Cf. *Bob Jones Univ. v. United States*, 461 U. S. 574, 596 (1983) (“[I]n an area as complex as the tax system, the agency Congress vests with administrative responsibility must be able to exercise its authority to meet changing conditions and new problems”). We see no reason why our review of tax regulations should not be guided by agency expertise pursuant to *Chevron* to the same extent as our review of other regulations.

As one of Mayo’s *amici* points out, however, both the full-time employee rule and the rule at issue in *National Muffler* were promulgated pursuant to the Treasury Department’s general authority under 26 U. S. C. §7805(a) to “prescribe all needful rules and regulations for the enforcement” of the Internal Revenue Code. See Brief for Carlton M. Smith 4–7. In two decisions predating *Chevron*, this Court stated that “we owe the [Treasury Department’s] interpretation less deference” when it is contained

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in a rule adopted under that “general authority” than when it is “issued under a specific grant of authority to define a statutory term or prescribe a method of executing a statutory provision.” *Rowan Cos. v. United States*, 452 U. S. 247, 253 (1981); *United States v. Vogel Fertilizer Co.*, 455 U. S. 16, 24 (1982) (quoting *Rowan*).

Since *Rowan* and *Vogel* were decided, however, the administrative landscape has changed significantly. We have held that *Chevron* deference is appropriate “when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law, and that the agency interpretation claiming deference was promulgated in the exercise of that authority.” *Mead*, 533 U. S., at 226–227. Our inquiry in that regard does not turn on whether Congress’s delegation of authority was general or specific. For example, in *National Cable & Telecommunications Assn.*, *supra*, we held that the Federal Communications Commission was delegated “the authority to promulgate binding legal rules” entitled to *Chevron* deference under statutes that gave the Commission “the authority to ‘execute and enforce,’” and “to ‘prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions’ of,” the Communications Act of 1934. 545 U. S., at 980–981 (quoting 47 U. S. C. §§151, 201(b)). See also *Sullivan v. Everhart*, 494 U. S. 83, 87, 88–89 (1990) (applying *Chevron* deference to rule promulgated pursuant to delegation of “general authority to ‘make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions’” (quoting 42 U. S. C. §405(a) (1982 ed.))).

We believe *Chevron* and *Mead*, rather than *National Muffler* and *Rowan*, provide the appropriate framework for evaluating the full-time employee rule. The Department issued the full-time employee rule pursuant to the explicit authorization to “prescribe all needful rules and

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regulations for the enforcement” of the Internal Revenue Code. 26 U. S. C. §7805(a). We have found such “express congressional authorizations to engage in the process of rulemaking” to be “a very good indicator of delegation meriting *Chevron* treatment.” *Mead, supra*, at 229. The Department issued the full-time employee rule only after notice-and-comment procedures, 69 Fed. Reg. 76405, again a consideration identified in our precedents as a “significant” sign that a rule merits *Chevron* deference. *Mead, supra*, at 230–231; see, e.g., *Long Island Care at Home, Ltd. v. Coke*, 551 U. S. 158, 173–174 (2007).

We have explained that “the ultimate question is whether Congress would have intended, and expected, courts to treat [the regulation] as within, or outside, its delegation to the agency of ‘gap-filling’ authority.” *Id.*, at 173 (emphasis deleted). In the *Long Island Care* case, we found that *Chevron* provided the appropriate standard of review “[w]here an agency rule sets forth important individual rights and duties, where the agency focuses fully and directly upon the issue, where the agency uses full notice-and-comment procedures to promulgate a rule, [and] where the resulting rule falls within the statutory grant of authority.” 551 U. S., at 173. These same considerations point to the same result here. This case falls squarely within the bounds of, and is properly analyzed under, *Chevron* and *Mead*.

C

The full-time employee rule easily satisfies the second step of *Chevron*, which asks whether the Department’s rule is a “reasonable interpretation” of the enacted text. 467 U. S., at 844. To begin, Mayo accepts that “the ‘educational aspect of the relationship between the employer and the employee, as compared to the service aspect of the relationship, [must] be predominant’” in order for an individual to qualify for the exemption. Reply Brief for

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Petitioners 6–7 (quoting Treas. Reg. §31.3121(b)(10)–2(d)(3)(i), 26 CFR §31.3121(b)(10)–2(d)(3)(i)). Mayo objects, however, to the Department’s conclusion that residents who work more than 40 hours per week categorically cannot satisfy that requirement. Because residents’ employment is itself educational, Mayo argues, the hours a resident spends working make him “more of a student, not less of one.” Reply Brief for Petitioners 15, n. 3 (emphasis deleted). Mayo contends that the Treasury Department should be required to engage in a case-by-case inquiry into “*what* [each] employee does [in his service] and *why*” he does it. *Id.*, at 7. Mayo also objects that the Department has drawn an arbitrary distinction between “hands-on training” and “classroom instruction.” Brief for Petitioners 35.

We disagree. Regulation, like legislation, often requires drawing lines. Mayo does not dispute that the Treasury Department reasonably sought a way to distinguish between workers who study and students who work, see IRS Letter Ruling 9332005 (May 3, 1993). Focusing on the hours an individual works and the hours he spends in studies is a perfectly sensible way of accomplishing that goal. The Department explained that an individual’s service and his “course of study are separate and distinct activities” in “the vast majority of cases,” and reasoned that “[e]mployees who are working enough hours to be considered full-time employees . . . have filled the conventional measure of available time with work, and not study.” 69 Fed. Reg. 8607. The Department thus did not distinguish classroom education from clinical training but rather education from service. The Department reasonably concluded that its full-time employee rule would “improve administrability,” *id.*, at 76405, and it thereby “has avoided the wasteful litigation and continuing uncertainty that would inevitably accompany any purely case-by-case approach” like the one Mayo advocates, *United States v.*

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*Correll*, 389 U. S. 299, 302 (1967).

As the Treasury Department has explained, moreover, the full-time employee rule has more to recommend it than administrative convenience. The Department reasonably determined that taxing residents under FICA would further the purpose of the Social Security Act and comport with this Court's precedent. As the Treasury Department appreciated, this Court has understood the terms of the Social Security Act to "import a breadth of coverage," 69 Fed. Reg. 8605 (quoting *Social Security Bd. v. Nierotko*, 327 U. S. 358, 365 (1946)), and we have instructed that "exemptions from taxation are to be construed narrowly," *Bingler v. Johnson*, 394 U. S. 741, 752 (1969). Although Mayo contends that medical residents have not yet begun their "working lives" because they are not "fully trained," Reply Brief for Petitioners 13 (internal quotation marks omitted), the Department certainly did not act irrationally in concluding that these doctors—"who work long hours, serve as highly skilled professionals, and typically share some or all of the terms of employment of career employees"—are the kind of workers that Congress intended to both contribute to and benefit from the Social Security system. 69 Fed. Reg. 8608.

The Department's rule takes into account the SSA's concern that exempting residents from FICA would deprive residents and their families of vital disability and survivorship benefits that Social Security provides. *Id.*, at 8605. Mayo wonders whether the full-time employee rule will result in residents being taxed under FICA but denied coverage by the SSA. The Government informs us, however, that the SSA continues to adhere to its longstanding position that medical residents are not students and thus remain eligible for coverage. Brief for United States 29–30; Tr. of Oral Arg. 33–34.

Opinion of the Court

\* \* \*

We do not doubt that Mayo's residents are engaged in a valuable educational pursuit or that they are students of their craft. The question whether they are "students" for purposes of §3121, however, is a different matter. Because it is one to which Congress has not directly spoken, and because the Treasury Department's rule is a reasonable construction of what Congress has said, the judgment of the Court of Appeals must be affirmed.

*It is so ordered.*

JUSTICE KAGAN took no part in the consideration or decision of this case.

Review of the *Federal-State  
Reference Guide* (IRS Pub. 963) and  
Suggestions for Improvement



National Conference of State Social Security Administrators (NCSSSA)  
Suggested Edits and Formatting Changes Suggested for the  
*Federal-State Reference Guide* (IRS Pub. 963)

Submitted to the IRS and SSA on September 2, 2011

Suggested edit or format change	Rationale (if necessary)
<b><u>General Comments</u></b>	
Pub. 963 is a great tool for those with knowledge and experience, but some of the simplistic aspects of the original has been lost for those who lack sophistication in this area.	
All language needs to be revisited to reduce “IRS-ese” and restore easy to understand English, while still ensuring the accuracy of the content.	
The size of the document was originally a problem, due to the cost to print and distribute large numbers of hard-copy versions of the <i>Guide</i> (before the internet enabled sharing the publication electronically). With the internet being much more widely available and used now, the size of the document should not be as big of a concern, while still keeping in mind the need to keep it a succinct, yet complete a single-source reference tool as much as possible.	
The current version of Publication 963 is a typical IRS publication written for CPA’s or attorneys who are trained to understand federal law. It is not a document that a local government employee such as a municipal clerk would understand or be able to locate answers for example, “A municipality hires a police officer from a neighboring town. The police office did not pay FICA at the prior employer but the new employer says “yes” we pay FICA. How does that clerk find out why the other town is different and is the current town deducting FICA correctly?	
<b><u>Content Edits and Suggestions</u></b>	
The chapter that now includes information about public employers was moved from a separate Chapter (entitled “Public Employers Responsibilities”). The information has been abbreviated based on what the IRS considers essential information, but key	The underlying purpose of the <i>Federal-State Reference Guide</i> was to help all parties, especially the public employers and their legal and financial advisors, voluntarily comply with and understand all aspects of federal law related to FICA taxes,

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<p>information needed by the public employers was eliminated.</p>	<p>Social Security and Medicare benefits, voluntary (Section 218) Social Security and Medicare coverage requirements, and both mandatory Social Security (including public pension system FICA replacement plans) and mandatory Medicare provisions.</p> <p>By distributing public employers' requirements throughout the Guide, it is more difficult and time-consuming for the public employers to readily find a single place where all of their duties are noted. To ensure ease of use of the <i>Guide</i> (and their compliance with federal requirements), it is important for the Guide to give them the information they need "at their fingertips." The public employers play a key role in compliance (it's not just SSA, IRS, and State Administrators, as is currently implied by the <i>Guide</i>); they have direct responsibility for it, such as wage and reporting, SSA Form 1945, etc. is readily available in one place.. At a minimum, a separate Chapter entitled "Public Employers' Responsibilities" should provide a basic overview of their responsibilities, who to contact for what types of issues (e.g., IRS for tax questions, SSA for benefit questions, State Administrator for coverage issues, etc.), then links (or "jumps" internally within the publication) to other sections or chapters that address specific topics in more detail. See the attached PDF file, entitled "Excerpts from 2002 Edition_Pub_963_Need to be Reinstated in Future Pub_963" for language from the 2002 edition of the <i>Guide</i> that should be reinstated to future editions of the <i>Guide</i>, including the separate chapter for public employers' responsibilities.</p> <p><b>Note:</b> Some of the substantive content of the older edition of the <i>Guide</i> would need to be changed, due to intervening statutory or regulatory changes that have been adopted, such as passage of the Pension Protection Act and national health care.</p>

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<p>Add Form 8821 (Tax Information Authorization) to the “Publications, Forms and Other Resources” Chapter, including a link to the form on the IRS website.</p>	<p>Address restrictions imposed on the IRS by IRC §6103 which prevent them from discussing taxpayer information about public employers with State Social Security Administrators.</p>
<p>Include the Compliance Self-Assessment Tool (created by the ACT Committee with assistance from NCSSSA) as an appendix. Add the following language from the FSLG website to Pub. 963 (in the reinstated chapter entitled “Public Employers’ Responsibilities”) and link to the webpage and to the Compliance Self-Assessment Tool: <a href="http://www.irs.gov/govt/fslg/article/0,,id=232452,00.html">http://www.irs.gov/govt/fslg/article/0,,id=232452,00.html</a> .</p> <p>FSLG, in conjunction with the TE/GE Advisory Committee, has created a Compliance Self-Assessment Tool for government entities. This tool is designed to allow you to efficiently review all major areas of Federal tax law that governments typically deal with, and identify those where you may have compliance issues. The document is presented in a format allowing you to check items that require further attention. It contains links to sources with further information to help you answer questions that may arise. In addition, an FSLG Specialist can help answer questions that may arise as you review the questions.</p> <p>The Self-Assessment Compliance Tool is available on the <a href="#">FSLG website</a> now. It was discussed during a <a href="#">January 27 FSLG webinar</a>.</p>	<p>Would encourage increased use of the FSLG website and provide additional information for public employers thereby facilitating voluntary compliance.</p>
<p>Add note in Chapter 7 regarding the temporary (and possible extension by Congress) change in the employee’s share of OASDI that applied to calendar year 2010. Also provide a link to SSA’s website where they can verify the latest information.</p>	<p>Ensures public employers know to which years the changes apply (or that such an extension may be granted in the future).</p>

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<p>Reinstate former language in Pub. 963 related to the history of Section 218 coverage eligibility for police officers and firefighters, including listing the 23 states that were permitted to cover their police officers and firefighters under a retirement system prior to August 15, 1994.</p>	<p>Many Section 218 issues need extensive historical research and information about federal (and state) eligibility to cover particular groups of employees under Social Security. Information on the historical permissions (and limitations) that apply is critical to a proper determination of coverage.</p> <p>See the attached PDF file, entitled "Excerpts from 2002 Edition_Pub_963_Need to be Reinstated in Future Pub_963" for language from the 2002 edition of the <i>Guide</i> that should be reinstated to future editions of the <i>Guide</i>.</p>
<p>Need paragraph in Chapter 5 (Social Security and Medicare Coverage Chapter) that explains the need for a referendum when a position is already covered by a qualifying pension plan.</p>	<p>Provides necessary clarifications based on more recent decisions by the SSA policy office in Baltimore (OISP).</p>
<p>Provide link to Form SS-8 on page 4-11 (Determining Worker Status Chapter).</p>	<p>Ease of access to information via links facilitates voluntary compliance.</p>
<p>Add an appendix that includes the text of the Program Operations Manual System (POMS) Section SL 10001.130 (State Social Security Administrator Responsibilities), plus link to the POMS section in the <i>Guide</i>: <a href="https://secure.ssa.gov/apps10/poms.nsf/lrx/1910001130">https://secure.ssa.gov/apps10/poms.nsf/lrx/1910001130</a> . Discuss the new policy statement in the chapter entitled "State Social Security Administrators."</p>	<p>Ensures ease of reference for all parties to key information needed to comply with federal laws, rules, and regulations.</p>
<p>Links to other appropriate POMS policies should be added throughout the entire <i>Guide</i>, especially:</p> <p>General POMS Link: <a href="https://secure.ssa.gov/poms.nsf/home!readform">https://secure.ssa.gov/poms.nsf/home!readform</a></p> <p>POMS Entire State and Local (SL) Coverage Handbook : <a href="https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview&amp;restricttcategory=19">https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview&amp;restricttcategory=19</a></p>	<p>Same as above.</p>

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Amend Glossary and replace the definition of “pension plan” that speaks to a defined benefit plan with a definition of “qualifying FICA replacement plan;” or, provide the additional definition of “qualifying FICA replacement plan” along with the definition of “qualified participant.”	Provides for consistency and ability to track historical developments over time so it is clear to the reader that we are comparing apples to apples and not something totally different.
Provide a link to NCSSSA in Chapter 12 (Publications, Forms and Other Resources): <a href="http://www.ncsssa.org/">http://www.ncsssa.org/</a> .	
Add Pension Protection Act of 2006 to “Key Dates” in Chapter 1 (Social Security and Government Employers) to address public employer-related issues of importance to public employers, such as the requirement to notify employees what are not covered by Social Security of the offset provisions, etc.	Important for all key requirements to be summarized for state and local governments (regardless of which federal agency has responsibility/oversight duties).
Add discussion of new requirements imposed by the Pension Protection Act of 2006 associated with the offset provisions to Chapter 11 (Social Security and Medicare Benefits). Need to go beyond merely mentioning SSA Form 1945 (Statement Concerning Your Employment in a Job Not Covered by Social Security) in Chapter 3 (Wages and Employment Taxes) and Chapter 12 (Publications, Forms and Other Resources). The significance of the form is to notify employees not covered by Social Security that their Social Security benefits may be offset, due to their being covered by a public pension plan.	Same as above.
Provide section on Charter Schools, including any appropriate link to POMS sections (policy statement currently being developed by SSA/OISP).	Charter schools are expanding rapidly throughout the country and there is much confusion over which ones are governmental. Clarification of this area would be valuable.
Add an appendix that contains the list of all appropriate legal citations.	Because the Guide is a reference tool, and not the definitive law, it is valuable to provide appropriate legal citations to applicable Social Security Act and Internal Revenue Code statutes as well as to

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	IRS and SSA regulations.
<p>Restore maps of IRS areas, SSA regions, plus U.S. Circuit Court jurisdiction.</p> <p><b>NOTE:</b> NCSSSA region maps are not as necessary as the above maps, which have legal implications for compliance, thus the map of the NCSSSA regions does not need to be included/reinstated. (New regions have been established since the maps were last included in the Guide, so if IRS and SSA wants to include them, NCSSSA will need to provide the updated map.)</p>	<p>The region, area, and circuit court maps are necessary so states can readily tell which other states are affected by SSA, IRS, or circuit court decisions that only impact certain portions of the U.S. The student exclusion situation which was only recently resolved by the U.S. Supreme Court (in the Mayo case) is a perfect example as to why those maps are important.</p> <p>See the attached PDF file, entitled "Excerpts from 2002 Edition Pub_963 Need to be Reinstated in Future Pub_963" for language from the 2002 edition of the <i>Guide</i> that should be reinstated to future editions of the <i>Guide</i>.</p>
<p>Add to the appendix the IRS document entitled, "Retirement Plans for Government Employers." Mention the appendix and value to public employers in the chapter entitled "Social Security and Public Retirement Systems." This was included as an appendix item in the IRS Advisory Committee on Tax Exempt and Government Entities (ACT) Report of Recommendations to the Commissioner in the June 2009 report: <a href="http://www.irs.gov/pub/irs-tege/tege_act_rpt8.pdf">http://www.irs.gov/pub/irs-tege/tege_act_rpt8.pdf</a>.</p>	<p>To be an effective single-source reference guide and to make it easy for public employers to comply, Pub. 963 needs to provide basic information (and links to details) on everything related to state and local governments' FICA taxes, public pension system requirements, Social Security and Medicare benefits and coverage.</p>
<p>Pub. 963 uses the term "Absolute" Coverage Group as a title on page 5-3 (Social Security and Medicare Coverage). It is my understanding that SSA has phased out using the term "Absolute" and now uses the term "non-retirement system group." This needs to be clarified with SSA so the terminology is consistent between SSA's policy statements and what is contained in Pub. 963.</p>	<p>Ensures consistency between SSA and IRS, thereby facilitating voluntary compliance by public employers.</p>
<p>Add new language that is being adopted by the IRS and Treasury Counsel throughout the <i>Guide</i> re: "FICA replacement pension plan" (current terminology is "qualifying public pension plan").</p>	

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Both terms should still be included in the Glossary, so people understand they are referring to the same thing.	
<p>Other important FSLG website pages to specifically mention in Pub. 963 (and link to), include the following:</p> <ul style="list-style-type: none"> <li>• <b><u>The FSLG Toolkit:</u></b> <a href="http://www.irs.gov/govt/fslg/article/0,,id=158481,00.html">http://www.irs.gov/govt/fslg/article/0,,id=158481,00.html</a> .</li> <li>• <b><u>Public Employer’s Toolkit:</u></b> <a href="http://www.irs.gov/govt/fslg/article/0,,id=158481,00.html#1">http://www.irs.gov/govt/fslg/article/0,,id=158481,00.html#1</a> .</li> <li>• <b><u>Compliance Toolkit:</u></b> <a href="http://www.irs.gov/govt/fslg/article/0,,id=158481,00.html#2">http://www.irs.gov/govt/fslg/article/0,,id=158481,00.html#2</a> .</li> <li>• <b><u>IRS/FSLG Quick Reference Guide for Public Employers (February 2011 edition, or latest available):</u></b> <a href="http://www.irs.gov/pub/irs-tege/public_employers_outreach_guide.pdf">http://www.irs.gov/pub/irs-tege/public_employers_outreach_guide.pdf</a> .</li> <li>• <b><u>The FSLG Newsletter:</u></b> <a href="http://www.irs.gov/govt/fslg/article/0,,id=103384,00.html">http://www.irs.gov/govt/fslg/article/0,,id=103384,00.html</a> .</li> </ul>	Would encourage increased use of the FSLG website.
In the “Social Security and Medicare Coverage” and “Social Security and Public Retirement Systems” chapters, mention (and link to) SSA’s general site related to state and local government employees: <a href="http://www.ssa.gov/retire2/stateandlocal.htm">http://www.ssa.gov/retire2/stateandlocal.htm</a> .	To be an effective single-source reference guide and to make it easy for public employers to comply, Pub. 963 needs to provide basic information (and links to details) on everything related to state and local governments’ FICA taxes, public pension system requirements, Social Security and Medicare benefits and coverage.
In the “Social Security and Medicare Coverage” and “Social Security and Public Retirement Systems” chapters, mention (and link to) SSA’s WEP and GPO information: <a href="http://www.ssa.gov/gpo-wep/">http://www.ssa.gov/gpo-wep/</a> .	
Create a “companion” volume to accompany Pub. 963	Longer-term effort that would be a great joint

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<b>Suggested edit or format change</b>	<b>Rationale (if necessary)</b>
<p>that includes state-specific information on all 52 states that are included as eligible for voluntary Social Security (and Medicare) coverage pursuant to Section 218 of the U.S. Social Security Act. The companion volume should include, among other things: copies of each state's Section 218 Agreement, a list of all Modifications (including the names of public employers/employee groups covered under each Modification), each state's enabling legislation (and any revisions that have occurred or occur in the future), pertinent state laws related to public pension plans in the state, results of the IRS's Section 218 Assessment Tool project, etc.</p>	<p>project among the SSA (policy and regional offices), the IRS, and NCSSSA. Could possibly be a project for the newly-created Section 218 Council.</p>
<b><u>Formatting Suggestions</u></b>	
<p>Delete Chapter 13 (Frequently Asked Questions) and move Frequently Asked Questions to end of each Chapter, as appropriate.</p>	<p>Makes it easier for the reader to find information specific to the question at-hand, rather than having to search the entire Guide to see if anything else is pertinent to their issue.</p>
<p>Add graphics and space for notes. I transfer notes from year to year in updated Publications. Since questions &amp; answers are in one chapter I make notes in the margin to help me find specific questions on college students, statute of limitations, etc.</p>	
<p>Provide internal link (jump) to Index from Table of Contents page.</p>	
<p>Restore the visual clues contained in the original Pub. 963, e.g., symbols to represent each of the four key parties (i.e., SSA, IRS, SSSA, public employers) and include with each Q&amp;A as well as in the appropriate chapter.</p>	

**SurveyMonkey Questionnaire Results:**

Due to logistical issues related to when we obtained access to surveymonkey.com for the organization, NCSSSA was unable to distribute the survey to members and public employers and advertise the survey



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as widely as we had hoped in order to solicit more responses. The NCSSSA Legislative Committee, however, plans to include this topic as an on-going agenda item and to promote completion of the survey more widely in the future, thereby increasing the quality and quantity of feedback that can be provided from both State Administrators and public employers. With that caveat, the results of the first survey (which only had limited distribution over a brief period of time), are as follows:

- 20 people responded (95 % were state respondents, all but one of whom were State Administrators; the remaining 5% was one municipal employee).
- 100% of the respondents have used the Federal-State Reference Guide.
- 45% of respondents use the Guide weekly, another 15% use it monthly, and 40% use it less than once monthly.
- 85% are likely to use the Guide in the future. Only one person (5%) is not likely to use the Guide.
- 90% of the people are likely to recommend use of the Guide to someone else. No one indicated they were unlikely to recommend its use to others with 10% being unsure.
- 75% of respondents Agree (65%) or Strongly Agree (10%) that the Guide is “clear and understandable.” 10% disagree; 15% are neutral; none strongly disagree.
- 90% of respondents Agree (45%) or Strongly Agree (45%) that the Guide is “a valuable tool for keeping apprised of federal requirements for employment tax obligations for public employers.” One person (5%) disagrees; another 5% are neutral; none strongly disagree.
- 70% of respondents Agree (50%) or Strongly Agree (20%) that the Guide’s “index is helpful for finding information contained in the publication.” 5% disagree; 25% are neutral; none strongly disagree.
- 55% of respondents Agree (40%) or Strongly Agree (15%) that the Guide’s “substantive information provides adequate information that a public employer needs to know to meet employment tax requirements.” 10% disagree; 35% are neutral; none strongly disagree.
- 70% of respondents Agree (30%) or Strongly Agree (40%) that the “additional flowcharts and other graphic representations of some of the content would make it easier to use and understand.” None disagree; 25% are neutral; one (5%) strongly disagrees
- 65% of respondents Agree (45%) or Strongly Agree (20%) that the Guide’s “Frequently Asked Questions Chapter provides useful answers to common issues and concerns.” 35% are neutral; none disagree or strongly disagree.
- 85% of respondents Agree (30%) or Strongly Agree (55%) that “there should be a separate chapter that summarizes public employer responsibilities.” 15% are neutral; none disagree or strongly disagree.
- 57.9% of respondents Agree (52.6%) or Strongly Agree (5.3%) that “the chapters are logically organized.” 36.8% are neutral; one (5.3%) disagrees; none strongly disagree.
- 84.2% of respondents prefer having “initials of agency or official in brackets at the end of the answer to each Frequently Asked Question.”
- 50% do not want “a graphic or pictorial representation of the agency or official”, 30% do want it, and another 20% are unsure.
- 80% would prefer that “the agency/official to contact should be noted throughout the Guide, not just in the Frequently Asked Questions Chapter.”

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- 88.9% oppose having no indication of the agency/official to contact to address specific issues or questions.
- 66.7% of respondents indicated “the State Social Security Administrator in my state has recommended use of IRS Pub. 963 to public employers (state and local governmental employers, including political subdivisions.”
- 80% of respondents indicated that “as a State Social Security Administrator, I refer public employers in the state to IRS Pub. 963.”

**Comments Received Through SurveyMonkey Questionnaire to Open-Ended Questions:**

**Most Beneficial Area(s):**

- Determining Social Security and Medicare coverage of state and local government employees.
- Continuation of coverage (Medicare pre-1986).
- FAQ’s. (2 responses)
- All.
- When a government entity that does not have a Section 218 Agreement asks about stopping Social Security and jointing a retirement system, rehired annuitant, etc.
- Chapter 5.
- None. Too much information, too complicated, too many “except this” situations.
- Tax and Social Security Laws.
- All sections within the Tax and Social Security Laws.
- Coverage groups.
- Examples of circumstances are very helpful in understanding the law.
- Flowcharts.
- Chapter 1, including the flowchart on page 1-5, because it helps organize your thoughts for how to approach the issues. The easier to understand language (compared with most IRS publications). The links to other reference tools and information. The Frequently Asked Questions chapter, including who should be contacted (or has primary responsibility for addressing) the particular question posed in each question (i.e., the bracketed initials/ abbreviation at the end).

**Least Beneficial Area(s):**

- None; all are beneficial.
- Wage reporting is not beneficial to the State Administrator, but is beneficial to the agency (public employer).
- None; I use all sections of Pub. 963.
- Probably the section on Social Security and Medicare benefits.
- I don’t yet know what is the least beneficial. I’m new to this and have not had the time to read the whole publication.
- All.

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- All areas are beneficial, depending on what I needed information on.
- Publications, forms, and other resources.
- FAQ's.
- The IRS lingo.
- None. Entire Guide is beneficial.

**Which Area(s) of the Guide Should be Improved and How Would Those Improvements Benefit You?:**

- Police and Firefighter position information would make for a clearer understanding.
- Chapters 8 & 9 (municipal employee).
- Move Q & A's to the applicable chapters. This would aid in answering questions on particular subjects and not having to look in the separate chapter and hunt for the answer to your question. (2 responses)
- I think some additional detailed (or clearer) explanation of most of the Tax and Social Security laws information would be useful.
- More bullet points. Instead of having one topic spread out throughout the publication, perhaps have hyperlinks.
- The FSLG IRS and SLG SSA websites are more authoritative and definitive.
- Links to POMS to further explain information.
- I would appreciate questions and answers at the end of each chapter.
- Make it in more layman's terms.
- Should add maps of the IRS areas, SSA regions, and U.S. Circuit Courts (so people can readily know their relationship to neighboring states; e.g., some policies/court rulings only apply to certain areas/regions/circuits and "sharing" information with a State Administrator or fellow public employer in a neighboring state could actually create a non-compliant situation. Responsibilities of Public Employers should be mentioned in Chapter 1 because they are a key stakeholder/partner in FICA and public pension system compliance, and the Guide is a more useful tool to them if they have their responsibilities outlined in one chapter even if details on those responsibilities are described elsewhere in the Guide or in one of the linked resources.

**General Comments or Suggestions for Improvement:**

- Table of Contents should also list page numbers.
- Proved very useful this year (new State Administrator).
- Examples in each section would be helpful.
- I like the idea of more charts and/or graphs.
- Retire it.
- More specific payroll officer advice and comparisons.
- Keep the language non-legalese. The Guide is not intended to be the definitive law, but is meant to help direct people to the proper source(s) of information to get answers to their questions in easy-to-understand terminology. Add a link to the FSLG Compliance Self-Assessment Tool.

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# **Federal-State Reference Guide**

(IRS Publication 963)

## **A Federal-State Cooperative Publication**

- **Social Security Administration**
- **Internal Revenue Service**
- **National Conference of State Social Security Administrators**

**Providing guidelines for social security and Medicare coverage and tax withholding requirements for state, local and Indian tribal government employees and public employers.**

**2002 Revision**

The *Federal-State Reference Guide* provides state and local government employers a comprehensive reference source for social security and Medicare coverage and Federal Insurance Contributions Act (FICA) tax withholding issues. This guide is a cooperative effort of the Social Security Administration (SSA), the Internal Revenue Service (IRS), and the National Conference of State Social Security Administrators (NCSSSA).

The 2002 edition supersedes the second edition of the *Federal-State Reference Guide* issued in 1997. This *Guide* originated in July 1995 as a cooperative effort among the Social Security Administration, the Internal Revenue Service, the National Conference of State Social Security Administrators, and in particular the State of Colorado, which spearheaded the effort.

Topics addressed in this publication include determining worker status, public retirement systems, social security and Medicare coverage and benefits, Section 218 Agreements, employment tax laws and more.

All IRS forms and publications referred to in this publication can be ordered free through the IRS at (800) 829-3676. Most can be downloaded through the IRS web site at [www.irs.gov](http://www.irs.gov). The office of Federal, State and Local Governments (FSLG) web site is at [www.irs.gov/govts](http://www.irs.gov/govts). Call the Customer Account Service (877) 829-5500, 8:00 a.m. to 6:30 p.m. ET, Monday through Friday, for an FSLG specialist.

All SSA forms and publications can be downloaded from SSA's web site at [www.ssa.gov](http://www.ssa.gov) or go directly to SSA web pages for state and local government employers at [www.ssa.gov/slge](http://www.ssa.gov/slge). Here you can find contact information for Social Security local offices, regional specialists and State Social Security Administrators. To talk to a Social Security representative call 1-800-772-1213; TTY 1-800-325-0778.

The *Federal-State Reference Guide* is for informational and reference purposes only. Under no circumstances should the content be used or cited as authority for assuming, or attempting to sustain a technical position with respect to employment tax or benefit obligations. The Internal Revenue Code (IRC), Social Security Act (Act) and related regulations, rulings and case law are the only valid citations of authority for technical matters.

Visit the office of Federal, State and Local Governments' web site at [www.irs.gov/govts](http://www.irs.gov/govts) or contact an FSLG specialist in your area for further information on Federal-state tax law.

Note: After many of the Questions & Answers at the end of the chapters, the appropriate agency (SSA, IRS, or State) to contact for more information is identified in brackets following the text.

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## **Chapter 1**

# **Social Security and Medicare Coverage Requirements**

Social security and Medicare Hospital Insurance (HI) coverage and withholding requirements for state and local government employees differ from those of employees in the private sector or the Federal government.

### **Historical Overview — State and Local Social Security**

State and local government employees were excluded from social security coverage from 1935 (the date of the original Social Security Act) until 1950 because there was a legal question regarding the Federal government's authority to tax state and local governments. Beginning in 1951, states were allowed to enter voluntary agreements with the Federal government to provide social security coverage to public employees. These agreements are called Section 218 Agreements because they are authorized by Section 218 of the Act.

All 50 states, Puerto Rico, the Virgin Islands, and approximately 60 interstate instrumentalities have a Section 218 Agreement with SSA. Because of the voluntary nature of Section 218 Agreements, the extent of social security coverage varies from state to state. At the state level, most public employees participate in social security. The major exceptions are state employees of Alaska, Colorado, Louisiana, Maine, Massachusetts, Nevada and Ohio. The largest proportion of uncovered state and local government employees work at the local level. The majority of uncovered local government public employees are police, firefighters and teachers. It is estimated that more than 6 million public employees are not covered for social security.

Significant legal and political changes occurred which eventually resulted in mandatory Medicare coverage for state and local government employees hired (or rehired) after March 31, 1986. Mandatory social security and Medicare coverage for state and local government employees who are not members of a public retirement system and who are not covered under a Section 218 Agreement became effective July 2, 1991.



## **Key Dates**

- 1951** States could voluntarily elect social security coverage for public employees not covered under a public retirement system by entering into a Section 218 Agreement with SSA.
- 1955** States could extend social security coverage to employees (other than police officers and firefighters) covered under a public retirement system.
- 1965** Medicare becomes law. Employees covered for social security under a Section 218 Agreement are automatically covered for Medicare beginning July 1, 1966.
- Apr 20, 1983** Beginning this date, coverage under a Section 218 Agreement cannot be terminated (unless the governmental entity is legally dissolved).
- Apr 01, 1986** Employees hired on or after this date are mandatorily covered for Medicare only, unless specifically excluded by law. For state and local government employees hired before April 1, 1986, Medicare coverage may be elected under a Section 218 Agreement.
- Jan 01, 1987** Beginning this date, State Social Security Administrators are no longer responsible for collecting social security contributions from public employers or for verifying and depositing the taxes owed by public employers. Since that date, public employers pay Federal Insurance Contributions Act (FICA) taxes directly to the Internal Revenue Service (IRS) similar to any private employer.
- Jul 02, 1991** Beginning this date, most state and local government employees are subject to mandatory social security and Medicare coverage, unless they are (1) members of a public retirement system, or (2) covered under a Section 218 Agreement.
- Aug 15, 1994** The Social Security Independence and Program Improvements Act of 1994 established the SSA as an independent agency, effective March 31, 1995. This act increased the FICA exclusion amount for election workers from \$100 to any amount less than the threshold amount mandated by law in a calendar year (\$1,200 for 2002). States were authorized to amend their Section 218 Agreements to increase the FICA exclusion amount for election workers to a statutorily mandated threshold. It also amended Section 218 of the Act to authorize all states the option to extend social security and Medicare coverage to police officers and firefighters who participate in a public retirement system. (Under previous law, only 23 states were specifically authorized.)
- Oct 21, 1998** Public Law 105-277 provided a 3-month period for states to modify their Section 218 Agreements to exclude from coverage services performed by students. This provision was effective July 1, 2000, for states that exercised the option to take this exclusion.

## **Public Versus Private Employers' FICA Responsibilities**

Since the early 1980s, the application of the Social Security Act (Act) and the Internal Revenue Code (IRC) to state and local government employers has changed significantly. At the same time, the roles and responsibilities of the Federal government (SSA and IRS)

and state governments (as State Social Security Administrators) have changed. Social security coverage of state and local employees involves a complex set of laws and regulations that provide for coverage and tax withholding requirements that do not apply to private employers. In addition, the legal responsibilities of state and local public employers have changed over the years, especially since 1983, so a public employee's status may not be the same now as it was in earlier years.

## **FICA Status (Section 218 and Non-Section 218 Coverage)**

Do not assume an entity's FICA status (Section 218 and non-Section 218 coverage) and whether it is in compliance with all applicable laws merely because of the status of a similar entity either in the same or a different state. For Section 218 coverage questions, contact your State Social Security Administrator (see list in Chapter 7). For mandatory coverage questions, contact an IRS FSLG Specialist (see Chapter 9).

To determine the correct coverage, the following must be reviewed:

### **Section 218 Agreements:**

1. When did the state voluntarily enter into a Section 218 Agreement to elect voluntary social security coverage for a particular political subdivision? What optional exclusions and what coverage groups were listed in that Agreement? Does the political subdivision have more than one modification?
2. Did the state or political subdivision terminate voluntary social security coverage, in its entirety or with respect to any coverage group(s), before April 20, 1983?
3. Has the state elected to provide Medicare HI-only for a particular entity?

### **Non-Section 218 Coverage (Public Retirement Systems):**

1. Does the state or political subdivision have any employees who were hired prior to April 1, 1986, and are exempt from mandatory Medicare?
2. Does the state or political subdivision have a public retirement system\*? If so, employees who are qualified participants in the public retirement system are not subject to mandatory social security coverage (effective July 2, 1991).

\* Throughout this guide, the term "public retirement system" refers to a retirement system of a state, political subdivision, or instrumentality thereof that meets the requirements of Section 3121(b)(7)(F) of the IRC. See Revenue Procedure 91-40, Appendix.

## **Determining Social Security and Medicare Coverage of State and Local Government Employees**

The following steps outline how a public employer determines whether social security and Medicare coverage or Medicare-only coverage applies to an employee.

**Step 1:** Determine whether the employee's position is covered by a Section 218 Agreement. (Chapter 4, **Social Security Coverage**.) If "yes," the employee is covered for social security and Medicare under the Agreement, unless an exclusion applies. If "no," proceed to the next step.

**Step 2:** If the employee's position is not covered under a Section 218 Agreement, determine whether the employee is a member of a public retirement system. (Chapter 6, **Public Retirement System**.) If "no," the employee is subject to mandatory social security and Medicare, unless an exclusion applies. If the employee is a member of a public retirement system, the employee is exempt from mandatory social security. Medicare is mandatory for public employees hired or rehired after March 31, 1986, regardless of membership in a public retirement system. Proceed to next step to determine Medicare coverage for any employee hired prior to April 1, 1986.

**Step 3:** Determine whether the retirement system has a Section 218 Agreement that provides Medicare only coverage for employees hired prior to April 1, 1986. If "yes," the employee is covered for Medicare only. If "no," proceed to next step.

**Step 4:** Determine whether the Medicare continuing employment exception applies to the employee. (Chapter 5, **Medicare Coverage**.) If "yes," the employee is exempt from mandatory Medicare. If "no," the employee is subject to mandatory Medicare, unless an exclusion applies.

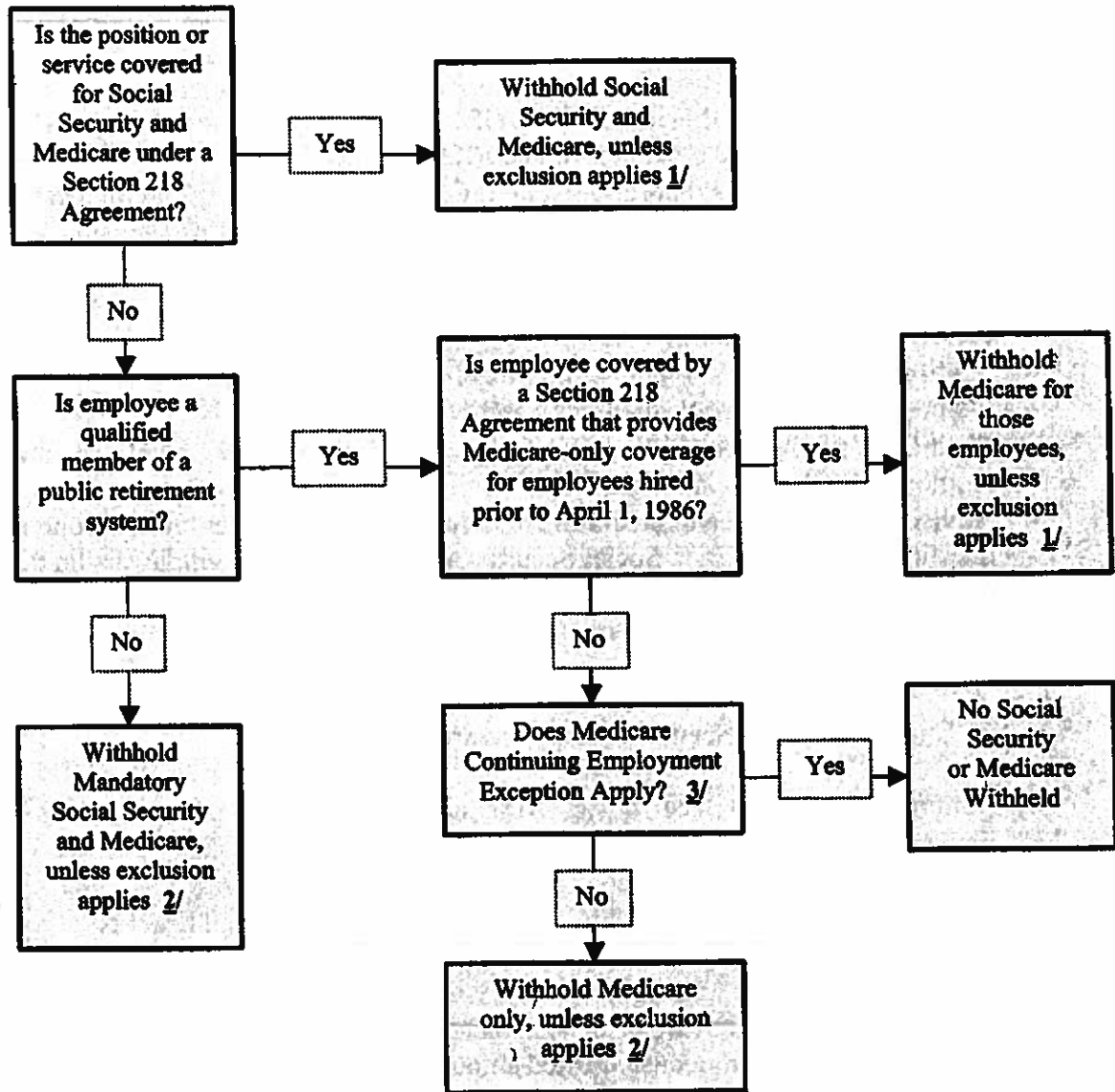
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**The flowchart on next page illustrates the above steps.**

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**Note:** Section 218 coverage is based on the position an employee occupies. If the position is covered under a Section 218 Agreement, any employee occupying that position is covered. This is the first coverage consideration an employer makes. If, however, the position is not covered under an Agreement, then the employer must determine whether mandatory FICA coverage applies. To determine mandatory coverage, the employer must look not at the position but at the employee, and determine whether the employee is a member of a public retirement system. This is an important distinction to understand when determining whether and how Section 218 or mandatory FICA coverage applies to an employee.

## SOCIAL SECURITY AND MEDICARE COVERAGE OF STATE AND LOCAL GOVERNMENT EMPLOYEES



- 1/ Section 218 Mandatory and Optional Exclusions (see Chapter 4, Social Security Coverage)**  
**2/ Mandatory Exclusions from FICA (see Chapter 4, Social Security Coverage)**  
**3/ Medicare Continuing Employment Exception (see Chapter 5, Medicare Coverage)**

**NOTE: This chart is meant as a guide only and is not a substitute for discussing difficult Section 218 coverage situations with your State Social Security Administrator or FICA taxation issues with your IRS FSLG Specialist.**

## **IRS, SSA, State Social Security Administrators and Public Employer Social Security and Medicare Tax Responsibilities**

### **IRS – See Chapter 9, Internal Revenue Service.**

- Administer the Internal Revenue Code (IRC), including the mandatory social security and Medicare provisions under FICA.
- Advise on and enforce reporting requirements for social security and Medicare taxes.
- Advise on and enforce withholding and deposit requirements for social security and Medicare taxes.
- Receive and process Form 941.
- Audit and collect social security and Medicare taxes.
- Define and resolve employment tax liability issues.
- Define and resolve tax issues associated with payment of wages, employment and employee-employer relationship.
- Advise SSA and state administrators of tax issues; clarify issues; and respond to questions from SSA, State Social Security Administrators and employers on tax matters.
- Provide publications and forms required for reporting.

### **SSA - See Chapter 8, Social Security Administration.**

- Administer the Social Security Act (Act), including interpreting its provisions.
- Review and process Section 218 agreements and modifications.
- Interpret Section 218 Agreements and modifications.
- Define and resolve issues related to social security coverage and benefits, including, but not limited to, defining wages for social security coverage purposes.
- Determine the amount of wages placed on an individual's social security earnings record, and correct erroneously posted amounts, as required by law.
- Provide information about social security and Medicare programs; accept claims for and determine entitlements to those programs.
- Review social security and Medicare coverage, ensuring proper social security coverage and benefit payments.
- Advise IRS and State Social Security Administrators regarding social security and Medicare issues.
- Receive, process annual wage reports (IRS Forms W-2 & W-3 data) from employers.
- Answer reporting questions from employers, whether filing via *e-file*, magnetic media, or paper; and assist employers in reporting correctly.
- Assist employers with resubmission of reports that could not be processed because of format or content problems.

- Answer questions and serve as a liaison with the Annual Wage Reporting Processing Section if a file is returned.
- Assist employers with reconciliation of Form W-3 data with Form 941 totals.

**State Social Security Administrators - See Chapter 7, State Social Security Administrator.**

- Under Section 218 of the Act, the primary legal responsibility State Social Security Administrators have is for Section 218 entities. However, responsibilities for non-Section 218 entities vary from state to state. Some state administrators may not interact with non-Section 218 entities while others may perform monitoring, quasi-regulatory and enforcement functions. If a non-Section 218 entity needs information regarding coverage under an agreement, it should contact the State Social Security Administrator.
- Serve as a bridge between state and local government employers and Federal agencies, including SSA and IRS.
- Administer and maintain the Section 218 Agreement that governs voluntary social security and Medicare coverage by state and local government employers in each state.
- Prepare Section 218 modifications to include additional coverage groups, correct errors in other modifications, identify additional political subdivisions that join a covered retirement system, or obtain Medicare coverage for public employees whose employment relationship with a public employer has been continuous since March 31, 1986.
- Provide SSA with notice and evidence of the legal dissolution of covered state or political subdivision entities.
- Conduct referenda for social security and Medicare coverage for services performed by employees in positions under a public retirement system.
- Resolve coverage and taxation questions associated with Section 218 Agreements and modifications with SSA and IRS.
- Negotiate with SSA to resolve social security contribution payment and wage reporting questions concerning wages paid before 1987.
- Advise the state's public employers on social security and Medicare and tax withholding matters.
- Provide information to state and local public employers as appropriate and in accordance with the state's enabling legislation, policies, procedures and standards.
- Provide advice on Section 218 optional exclusions applicable to the state and/or individual modifications, and advice on state and local laws, rules, regulations and compliance concerns.
- Maintain physical custody of the state's master Section 218 Agreement, modifications, dissolutions and intrastate agreements.

**Public Employers - See Chapter 10, Public Employer Responsibilities.**

- Properly classify workers as independent contractors or employees.
- Determine which employees are exempt from social security and/or Medicare taxes.
- Withhold, report and pay appropriate social security and Medicare taxes, or Medicare-only taxes for each employee.
- Obtain clarifications of laws, regulations and other appropriate information from State Social Security Administrators, IRS, and SSA.

## Chapter 2

# Social Security and Medicare for Public Employees - Frequently Asked Questions

The following questions address some key issues for public employers and employees concerning social security and Medicare. Because of the complexity of issues and unique circumstances of each entity, general questions have been selected. Check the appropriate chapter(s) for more detailed information about specific questions.

- 1. What is a Section 218 Agreement?** A Section 218 Agreement is a written voluntary agreement between a state and the SSA pursuant to the provisions of Section 218 of the Act to provide social security and Medicare or Medicare-only coverage for state and local government employees. The term refers to the original agreement and all subsequent modifications. These agreements can cover services of employees who are covered by a public retirement system as well as those who are not. To determine whether your entity is covered under a Section 218 Agreement, or needs to execute one, contact your State Social Security Administrator. See list of state administrators under Chapter 7, **State Social Security Administrators**. [SSA/STATE]
- 2. A Section 218 Agreement can cover services of employees who are in a retirement system but how does the Social Security Administration define a retirement system for this purpose? Is it the same definition that the Internal Revenue Service uses?** A retirement system for retirement system group coverage under an Agreement is any pension, annuity, retirement or similar fund or system established by a state or political subdivision to cover the services or positions of its employees. **NOTE:** For a retirement system to be covered under a Section 218 agreement it **does not need to meet minimum benefit levels**. Only a retirement system a state or political subdivision is considering as an alternative to mandatory social security has to meet these minimum standards as required by the IRS. See Chapter 6, **Public Retirement Systems**, and Question 5 below. [IRS]
- 3. Are Indian tribal government employers eligible to enter into Section 218 Agreements?** No, Indian tribal governments are not treated as states for this purpose. See IRC section 7871. [IRS]
- 4. What is mandatory social security? What is mandatory Medicare?** Prior to July 2, 1991, the only way a state or local government could cover its employees under social security was to include them under the state's Section 218 Agreement with SSA. Beginning July 2, 1991, most state and local government employees whose services are not covered by a voluntary agreement and who are not qualified participants in public retirement system, must be covered for social security and pay social security taxes. This is called *mandatory* social security.



With limited exceptions, other state and local government employees hired (or rehired) after March 31, 1986, must be covered for Medicare and pay Medicare taxes. This is called *mandatory* Medicare.

Employees who have been in continuous employment with an employer since March 31, 1986, who are not covered under a Section 218 Agreement and are not subject to *mandatory* social security, remain exempt from both social security and Medicare taxes (if they are qualified participants in a public retirement system) [IRS]

5. **What is a “public retirement system” as defined by the IRS?** A “public retirement system” or a “retirement system” is a pension plan maintained by a public employer that meets the requirements of IRC Section 3121(b)(7)(F). See Revenue Procedure 91-40 in the **Appendix**, and Section 31.3121(b)(7)-2 of the Employment Tax Regulations. These requirements must be met for a retirement system to be used as an alternative to mandatory social security coverage. See Chapter 6, **Public Retirement Systems** and Question 2 above. A public retirement system is not required to be a qualified plan within the meaning of the Employees’ Retirement Income Security Act of 1974 (ERISA). [IRS]
6. **What determines whether an organization is a public or a private non-profit employer?** Generally, you should consider the provisions of state and local law when determining whether an organization is a public employer or a private non-profit employer. Obtain a copy of the statute under which the entity is created and the legal document creating the entity. When the status of an entity is unclear, the state may request the Attorney General’s opinion concerning whether the entity constitutes a political subdivision under the laws of that state. Some political subdivisions, such as hospitals and libraries, can be both public and nonprofit. Contact the IRS concerning the status of an entity for social security and Medicare purposes. Refer questions concerning the status of an entity for Section 218 purposes to the State Social Security Administrator. Also, see Chapter 10, **Public Employer Responsibilities**, for information on wholly owned instrumentalities of a state or political subdivision. [IRS]
7. **Why don’t all public employees pay social security and Medicare taxes when all private employees are required to do so?** When initially enacted in 1935, the Act did not cover public employees because there was a constitutional question regarding the power of the Federal government to tax state and local governments. In 1950, Congress added Section 218 to the Act to allow states to voluntarily enter into agreements with the SSA to permit coverage for some or all their employees and employees of political subdivisions and interstate instrumentalities. These agreements are known as Section 218 Agreements. [SSA]

8. **Are elected and appointed officials employees?** Elected and most appointed officials are defined by statute as employees of the public entity they serve, e.g., mayors, members of the legislature, county commissioners, city council members and board or commission members. Mandatory social security and Medicare applies unless the official is covered under a Section 218 Agreement or is a qualified participant in a public retirement system. However, all officials elected or appointed to their positions after March 31, 1986, are subject to Medicare withholding. See Chapter 3, **Determining Worker Status**. [IRS]
9. **What is FICA?** FICA stands for Federal Insurance Contributions Act (Chapter 21 of the IRC). FICA taxes include Old-Age, Survivors and Disability Insurance (OASDI) and Hospital Insurance (HI or Medicare) taxes. [IRS]
10. **Are any services excluded from mandatory social security and Medicare coverage under Section 3121(b)(7)(F) of the IRC?** Yes. However, some services excluded under Section 3121(b)(7) of the IRC may be covered by a Section 218 Agreement. See Chapter 4, **Social Security Coverage**. Services are excluded if they are performed by:
- Persons hired to be relieved from unemployment
  - Individuals paid for services performed in a hospital, home, or other institution where they are patients or inmates
  - Employees hired temporarily to handle disaster emergencies, such as fire, flood, storm, snow, earthquake
  - Nonresident aliens with F-1, J-1, M-1, or Q-1 visas for services they perform to carry out the purposes for which they were admitted to the United States
  - Public officials compensated solely by fees received directly from the public that are covered by the Self-Employment Contributions (SECA) tax
  - Students enrolled and regularly attending classes at the school, college or university where they are working
  - Election officials and election workers paid less than the threshold amount mandated by law in a calendar year
  - Individuals performing services that would be excluded if performed for a private employer [IRS, SSA]
11. **My entity was never covered under a Section 218 Agreement. Therefore, we have not been subject to social security or Medicare. Why should I care about changes in the laws related to these programs?** Since 1985, there have been significant changes in the social security and Medicare responsibilities of state and local government entities. If an employee is not covered under a Section 218 Agreement, is not a qualified participant in a public retirement system, and is not excluded under Federal law, the employee is subject to social security and Medicare taxes. In addition, any employee hired after March 31, 1986, even if covered under a public retirement system, is subject to Medicare. Requirements vary not only from one entity to another but on an employee-by-employee basis

within the entity. Contact your IRS FSLG Specialist to determine whether you comply with Federal laws. [IRS]

12. **I have a question regarding social security and Medicare coverage requirements. Whom do I contact?** The State Social Security Administrator should always be an entity's first contact on any questions regarding coverage under social security or Medicare. See Chapter 7, *State Social Security Administrators*. [STATE]
13. **Where should questions that begin, "Do we have to pay social security taxes on...?" be directed?** All questions related to tax liability should be directed to the IRS.
14. **Where should questions related to social security and Medicare coverage, benefits, and earnings records be directed?** All questions related to social security and Medicare coverage should be directed to the State Social Security Administrator. Questions concerning social security benefits or correcting earnings records should be directed to SSA.
15. **What are the consequences of misclassifying a worker?** Generally, when an employer erroneously classifies an employee as an independent contractor and does not withhold Federal payroll taxes, the employer could be liable for the employer and employee shares of all applicable Federal payroll taxes, as well as penalties. See Chapter 3, *Determining Worker Status*. [IRS]
16. **What do you do if the status of a worker cannot be determined?** The state or local entity and/or the worker can request a formal determination by submitting, to the IRS, IRS Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*. When Form SS-8 is submitted to the IRS, all the facts are analyzed and the determination of the worker's status is presented to the worker and the service recipient. See Chapter 3, *Determining Worker Status*. [IRS]
17. **I prepare payroll for six individuals. With a question on withholding social security taxes, I called the nearest Social Security office and was told to contact the IRS. Why should I call the IRS if I am asking about social security taxes?** First, contact your State Social Security Administrator to determine whether the services are covered for social security and Medicare. The IRS is responsible for collecting social security and Medicare taxes. Contact the IRS with questions regarding when to withhold social security and Medicare taxes and where and how to pay them. [STATE/IRS]
18. **If the IRS is responsible for answering questions on withholding and paying social security and Medicare taxes, why do we get reporting information from SSA and why do we have to send IRS Forms W-2 to SSA?** People apply to SSA for monthly retirement, disability or survivors benefits. The amount of benefits is based in part on an individual's earnings over his or her working

career. Therefore, SSA must know about those earnings. The information on an individual's earnings record is taken directly from the social security and Medicare wage fields on the Form W-2 sent to SSA by the employer. After SSA processes this information, it is forwarded to the IRS. Either IRS or SSA can help you with reporting questions. [IRS/SSA]

19. **I am the mayor of a small town. Employees of the town have to pay social security taxes. I just learned that a neighboring town stopped paying social security taxes on its employees when it created a pension plan for them. Can we do this?** First, check with your State Social Security Administrator to determine whether your town is covered by a Section 218 Agreement. Social security coverage obtained in this manner cannot be terminated. If your town does not have a Section 218 Agreement, it may be possible to stop paying mandatory social security if your town has a public retirement system. However, employees hired after March 31, 1986, are mandatorily covered for Medicare even if they are qualified participants in a public retirement system. [STATE]
20. **I checked with the State Social Security Administrator and was told that my town is covered for social security under the state's Section 218 Agreement and therefore, the coverage cannot be terminated. Why can't our town stop its coverage?** Since April 20, 1983, coverage obtained under a Section 218 Agreement cannot be terminated. Beginning July 2, 1991, if state and local government employees are not covered for social security under a Section 218 Agreement, and are not qualified participants in a public retirement system, they are mandatorily covered under social security. For employees covered mandatorily, coverage ceases if they become qualified participants in a public retirement system. [STATE/SSA]
21. **How does an employee verify what the SSA shows on her/his earnings record?** An employee may submit Form SSA-7004, *Request for Social Security Statement*, to the SSA. The *Social Security Statement* is mailed annually to workers and former workers aged 25 and older who have worked in covered employment. There is no charge. You can get Form SSA-7004 from any Social Security office, by calling 1-800-772-1213, or through the SSA web site at [www.ssa.gov/mystatement](http://www.ssa.gov/mystatement).
22. **What should an employee do if the earnings information on the Social Security Statement is incorrect?** If an employee has a question or disagrees with the information shown, the employee should contact SSA at 1-800-772-1213.
23. **If board members are paid nominal amounts, for example under \$1,000 per year, must social security and Medicare taxes be withheld?** Elected and most appointed officials are employees of the public entity they serve. Withhold social security and Medicare taxes for any official who is 1) covered under a Section 218 Agreement; or 2) not a qualified participant in a public retirement system.

However, any official elected or appointed after March 31, 1986, is subject to Medicare. [IRS]

24. **My employees are paying into the State Teachers' Retirement System and some have enough social security credits from former employment to be eligible for social security benefits. Will they receive full benefits from both? The Windfall Elimination Provision may reduce social security benefits. Additionally, spouses' benefits may be reduced by the Government Pension Offset formula. See Chapter 11, Social Security and Medicare Benefits. [SSA]**
25. **Our employees' union wants us to begin withholding only Medicare taxes for all employees who are not currently covered for Medicare because they were hired before April 1, 1986. Can we agree with the union to do this? If the employees have been in continuous employment with the employer since March 31, 1986, and are members of a public retirement system, a referendum must be conducted by the state for all eligible employees. A modification to the Section 218 Agreement for Medicare-only coverage must be executed by the state and SSA before you begin withholding Medicare taxes. A collective bargaining agreement with the union does not change this requirement. Contact your State Social Security Administrator to prepare a Medicare-only Section 218 Agreement modification. [STATE]**
26. **I was told that we have to withhold Medicare even if employees are not covered by social security. Is this true? Yes, but only for employees hired after March 31, 1986. [IRS/SSA]**
27. **How do I get a refund if I paid social security and Medicare tax in error? Generally, errors on an IRS Form 941 for a prior quarter are corrected by making an adjustment on the Form 941 for the quarter during which the error was discovered. The adjustment can include both overpayments and underpayments. With Form 941, submit IRS Form 941c, *Supporting Statement to Correct Information*, and any background information and certifications supporting the adjustment to the IRS. The IRS will not be able to process your adjustment(s) without all necessary supporting information.**

If the error cannot be adjusted on Form 941, an employer can file a claim for refund by submitting IRS Form 843, *Claim for Refund and Request for Abatement*. Attach Form 941c or an equivalent supporting statement that provides background information.

If social security and Medicare taxes were overcollected from an employee, the employer must repay the amount to the employee. The employer must obtain from the employee a written receipt showing the date and amount of the repayment and a written statement that the employee will not claim a refund or credit for the amount. See Chapter 10, **Public Employer Responsibilities**, and IRS Publication 15, *Employer's Tax Guide (Circular E)*, for more detailed information.

The employer may want to contact the State Social Security Administrator first to verify that there has truly been an error. [STATE/IRS]

28. **What is the statute of limitations date for an adjustment or claim for refund of payroll taxes?** The general rule is that an adjustment or claim for refund of any overpayment of Federal payroll taxes must be filed within three years from the date the return was due or three years from the date it was filed, if that date is later. [IRS]
29. **I am the payroll clerk of a new water district that was formed by the merger and dissolution of two other water districts. The new district is providing retirement coverage to the employees through the state's PERS and is also withholding and paying social security and Medicare taxes. What should I do about a Section 218 Agreement?** You should first contact your State Social Security Administrator to determine the social security status of the new and the old water districts. The State Administrator will need to review the legal documentation establishing the new district and terminating the old district, ascertain the necessary procedures to be followed and, working with you, enact the appropriate coverage. Action may also be required by the State Administrator to dissolve the Section 218 coverage for the old districts that are no longer in existence. [STATE]

Note: Generally, employees of a state or political subdivision who are not covered for social security under a Section 218 Agreement but who are qualified participants in a public retirement system, are not covered for social security even if the employer continues to withhold and report such taxes. However, all state and political subdivision employees, regardless of retirement system status, are covered for Medicare if they were hired or rehired after March 31, 1986.

### **Fee-Basis Exclusion—Positions Compensated Solely by Fees**

Services in positions compensated solely by fees are excluded from coverage under Section 218 Agreements (unless the state specifically included these services) and are covered as self-employment and subject to SECA.

### **Fee-Basis Exclusion—Position Compensated by Salary and Fees**

Generally, a position compensated by a salary and fees is considered a fee-basis position if the fees are the principal source of compensation, unless a state law provides that a position for which any salary is paid is not a fee-basis position. A state may exclude services from social security/Medicare coverage under Section 218 Agreements in positions compensated by both salary and fees. If the exclusion is taken, none of the compensation received, including the salary, is covered wages under the state's 218 Agreement. In this case, the salary payment, while excluded under the Agreement, would be subject to mandatory social security if the official is not a qualified participant in a public retirement system.

### **Police Officers and Firefighters**

Police officer and firefighter positions are defined under state statutes and court decisions. The terms do not include services in positions that, although connected with police and firefighting functions, are not actually police officer and firefighter positions.

Note: Police officers and firefighters are not considered emergency workers under the mandatory exclusion from social security and Medicare coverage. This exclusion applies only to services of an employee who was hired because of an unforeseen emergency to do work in connection with that emergency on a temporary basis (e.g., an individual hired to battle a major forest fire or to provide emergency assistance in other similar disasters such as volcano eruption, severe ice storm, earthquake, flood).

Beginning August 16, 1994, all states may extend social security and Medicare or Medicare-only coverage to police officer and firefighter positions covered under a retirement system through a referendum procedure conducted by the state. Prior to that date, only 23 states (and all interstate instrumentalities) were specifically authorized to do so. These states are:

Alabama	Kansas	North Carolina	Tennessee
California	Maine	North Dakota	Texas
Florida	Maryland	Oregon	Vermont
Georgia	Mississippi	Puerto Rico	Virginia
Hawaii	Montana	South Carolina	Washington
Idaho	New York	South Dakota	

All states may use the majority vote referendum procedure. Some states are also authorized under the Act to use the divided retirement system referendum. (Interstate

instrumentalities may use the majority or divided retirement system referendum procedures.)

If the police officers and firefighters are covered under the same retirement system, their positions may be considered separate retirement systems for referendum and coverage purposes, or combined with each other, or with other positions, or both.

### **Police and Firefighter Positions Not Covered Under a Retirement System**

If police officer and firefighter positions are not covered under a retirement system, these positions are mandatorily covered for social security and Medicare unless the positions were already covered under an Agreement as part of a non-retirement system coverage group.

### **Foreign Students, Teachers and Apprentices**

Wages earned within the United States are subject to income tax whether or not the workers are U.S. citizens. Nonresident students who are not U.S. citizens, permanent residents or resident aliens for tax purposes may be able to take advantage of treaty exemptions to exclude a portion of their U.S. source income from withholding. For more information on specific issues, contact the IRS or SSA. (See IRS Publications 515, 519 and 901 for additional information.) These individuals are admitted to the United States under an F-1, J-1, M-1 or Q-1 visa and are generally exempt from both social security and Medicare taxes.

### **Applicability of Federal and State Laws to Coverage Issues**

Federal law governs determinations involving coverage of state and local government employees. These determinations may be based on decisions regarding specific issues to which Federal law is applied and other issues to which state law is applied. It is important to know whether Federal or state law is applied in making a determination on a specific issue. Generally, questions involving interpretation or application of state law are resolved by the authorized legal officers of the state in accordance with applicable state and local laws, regulations and the state court decisions. The chart below shows the more significant issues that will require such determinations and the authority under which the determinations are to be made:

#### **Federal Law:**

- Does an employer-employee relationship exist?
- What is the identity of the employer?
- Are earnings wages?
- What are emergency services?
- What are student services?

#### **State Law:**

- Who is an officer of a state or political subdivision?
- Is an entity a political subdivision?
- Is a function governmental or proprietary?



Is a position under a retirement system?  
Which employees are eligible for membership in a retirement system?  
Who is an employee for purposes of retirement system participation?

The IRS determines whether earnings are subject to social security and Medicare. SSA decides issues regarding whether to report the earnings as wages. However, state laws have a bearing on the issue of employment, e.g., whether a position is that of a public official of a state. Where this is the case, an opinion of the state legal officer may be requested. The state's opinion will be given weight in making the decision, but it will not be determinative of the issue. Before contacting IRS or SSA, contact the State Social Security Administrator for guidance. (See list of State Administrators in Chapter 7.)

### **Identity of the Employer for Social Security Coverage and Taxation Purposes**

Sometimes it is not clear which of two or more entities, organizations, or individuals is a worker's employer. In some cases, individuals ("leased workers") are supplied or paid by one entity but work under the direction of another. Generally, if there is a provision in a statute or ordinance that creates a position, and the individual is hired or elected under this authority, the individual is an employee of the state or political subdivision to which the provision applies. If there is no such authority, the employer is the entity that has the right to control the worker in the performance of the work, i.e., the common-law employer.

### **State Entities and Reporting Officials**

The employing entity is responsible for withholding and paying social security and Medicare taxes on its employees' wages, as well as reporting to SSA the amount of wages paid. These withholding, paying and reporting requirements apply to wages of individuals subject to mandatory social security and Medicare, as well as to wages of individuals covered under a Section 218 Agreement. (Refer to IRS Publication 15, *Circular E, Employer's Tax Guide*, for more information.)

The reporting officials should be familiar with Form 941 filing requirements, Federal tax deposit requirements, and information return requirements, and they should maintain appropriate records.

The IRS has the responsibility for investigating incorrect reports and failures in reporting and assisting local officials in the proper preparation of tax reports. The SSA Employer Services Liaison Officer has the responsibility for responding to questions regarding the preparation of wage reports. (See Chapter 10, **Public Employer Responsibilities**.)

### **Indian Tribal Governments**

Indian tribal governments, while treated as states for many purposes, are not treated as states for social security and Medicare tax purposes (IRC section 7871). Thus Indian

## Chapter 10

# Public Employer Responsibilities

### State Government

A state, for purposes of a Section 218 Agreement, includes the 50 states, Puerto Rico, the Virgin Islands, and interstate instrumentalities. It does not include the District of Columbia, Guam, or American Samoa.

### Authority

The states have primary responsibility for many aspects of government. The 10th Amendment to the U.S. Constitution reserves to the states or to the people all powers not delegated nor prohibited by the Constitution. Sometimes the state receives Federal aid for specific programs. Some services for which the state has primary responsibility include:

- Protection of lives and property by maintenance of a police force;
- Regulation and improvement of transportation within the state;
- Regulation of business within the state; and
- Education.

In many cases, the Federal and state governments work as partners, with the Federal government providing most of the funding and the state providing distribution. Some of these services include:

- Health care;
- Public assistance for persons in need;
- Protection of natural resources; and,
- Improvement in living and working conditions. (Source: *U.S. Government Structure*)

### Local Government

Local governments include *political subdivisions* of states and are different from state and Federal governments because their authority is not based directly on a constitution. Instead, each state constitution describes in detail a procedure for establishing local governments. Usually the state legislature has to approve the creation or incorporation of a local government. The local government then receives a charter defining its organization, authority and responsibilities. All local governments have an elected government.

The jurisdiction and names vary in legal meaning from state to state. Local government units may be named borough, city, county, township, village, district, etc.

A political subdivision for purposes of a Section 218 Agreement includes an instrumentality of a state, one or more of the political subdivisions of a state, or a state and one or more of its political subdivisions. It is a separate legal entity of a state and usually has specific governmental functions. A political subdivision ordinarily includes a county, city, township, town, village, as well as school, water, utility, sanitation, recreation and housing districts and authorities, and other similar governmental entities. (Contact the State Social Security Administrator to determine an entity's status for Section 218 purposes.)

### ***Authority***

The authority of local governments varies almost as much as the types of local governments. Generally, a local government has the authority to:

- ◆ Raise taxes,
- ◆ Try people accused of breaking local laws or ordinances, and
- ◆ Administer local programs within its boundaries.

Local governments generally provide services as needed by the local area (such as building a bridge over a river) or protective services (such as police and fire protection).

Local governments receive financial aid from state and Federal governments in providing these services according to need. Some of the services for which local governments take primary responsibility include:

- ◆ Ensuring the safety of drinking water,
- ◆ Protecting public health and safety,
- ◆ Building and repairing local roads and streets,
- ◆ Providing police and fire protection,
- ◆ Collecting garbage,
- ◆ Maintaining schools,
- ◆ Conducting and coordinating elections,
- ◆ Maintaining courts, courthouses and jails,
- ◆ Collecting taxes for local and state governments, and
- ◆ Keeping official records such as marriage, birth and death. (Source: *U.S. Government Structure*)

The Bureau of the Census estimated that in 1997, there were 87,453 local governments in the United States.

## **Indian Tribes**

The legal relationship between the United States and Indian tribal governments is set forth in the Constitution, treaties, statutes, and court decisions. Congress may limit the authority of Indian tribes, but, within those limits, the tribes retain attributes of sovereignty over both their members and their territory.

### **Authority**

Tribal governmental power includes the authority to:

- Choose the form of tribal government,
- Determine tribal membership,
- Regulate tribal and individual property,
- Levy taxes,
- Establish courts, and
- Maintain law and order.

Generally, Indian tribes provide government services, such as transportation, education, and medical care to reservation Indians.

## **Instrumentalities for FICA Purposes**

An instrumentality is an organization created by or pursuant to state statute, operated for public purposes, and expressly declared by statute to be an instrumentality. Generally an instrumentality performs governmental functions but does not have the full powers of a government, i.e., police, tax, and eminent domain. Questions concerning the status of an instrumentality, for social security and Medicare purposes, should be directed to the IRS. Questions concerning the status of an instrumentality for Section 218 Agreement purposes should be addressed to the State Administrator or the SSA.

A wholly-owned instrumentality of a state or political subdivision is treated as a state or local government employer for purposes of the mandatory social security and Medicare provisions. See IRC section 3121(b)(7)(F).

In determining whether an organization is wholly owned by one or more states or political subdivisions, the following factors are taken into consideration:

1. Whether it is used for a governmental purpose and performs a governmental function;
2. Whether performance of its function is on behalf of one or more states or political subdivisions;
3. Whether there are any private interests involved, or whether the states or political subdivisions involved have the powers and interests of an owner;

4. Whether control and supervision of the organizations is vested in public authority or authorities;
5. Whether express or implied statutory authority is necessary for its creation and/or use, and whether such authority exists; and
6. The degree of financial autonomy and the source of operating expenses. An instrumentality owned by more than one state can be a wholly-owned instrumentality. (See Rev. Rul. 57-128.)

### ***Qualifications of Instrumentalities***

Schools, hospitals and libraries, as well as associations formed for public purposes, such as soil and water conservation, may or may not be instrumentalities. State sponsorship of an organization, state regulation of its activities, the participation of its employees in a public retirement system, and operation with public funds are among the factors to be considered in determining whether an organization is an instrumentality. If an organization is essentially under private ownership and control, it is not an instrumentality.

Associations formed for conservation, protection and promotion, although they may carry out a public purpose, may not rise to the level of state instrumentalities. The following associations may or may not be state instrumentalities:

- Soil and water conservation districts
- Fire associations that protect forestland
- Associations that promote a state or municipality

Documents that establish statutory authority under which the entity was established are required for status determination.

The following examples apply the tests of Revenue Ruling 57-128 to determine whether they are wholly-owned instrumentalities.

**Soil and Water Conservation Districts.** Entities whose revenues are principally generated from fees collected from land owners within the district may or may not be instrumentalities, depending upon application of the factors listed above, including whether the district is under public or private control.

*Example: A soil conservation district in Minnesota was established to carry out a state conservation program. The Soil Conservation Service of the U.S. Department of Agriculture furnished the district with technical and clerical personnel. The disbursements of the district were made from fees collected from members (occupiers of the land within the district) for services rendered from funds allocated by the U.S. Department of Agriculture and from state appropriations. The soil conservation district was created by statute as a political subdivision of the state and was under the control of a board of supervisors elected or appointed in accordance with state law. This is a political subdivision of the state. [Revenue Ruling 57-120, 1957-1, 310]*

*Example: A Connecticut soil and water conservation district was formed as a private nonstock corporation by private individuals. The state had authority to assist private individuals in forming conservation districts but did not have the power to operate them. The private individuals had complete control over the corporate operations, revenue and expenditures. Therefore, the soil and water conservation district is not a wholly-owned instrumentality of the state. [Revenue Ruling 69-453, CB 1969-2, 182]*

**Fire associations.** Fire associations may or may not be instrumentalities, depending on whether they are under public or private control.

*Example: A fire association was organized pursuant to an Oregon state law that required all forest land in the state to be adequately protected from the dangers of fire. While the fire association was organized as a result of an Oregon law, it was organized and operated for the mutual benefit of its members, and was not an instrumentality of the state. Furthermore, except for the work it performed on a cost basis for the state and Federal government, the association derived most of its support from assessments made on its members. [Revenue Ruling 70-483, CB 1970-2, 201]*

*Example: Under the laws of the state of Pennsylvania, townships have the authority to purchase fire engines and fire apparatus out of general township funds for use of the township and to appropriate money to fire companies located in the township in order to secure fire protection. Members of volunteer fire departments organized under the laws of Pennsylvania are employees of the political subdivision. [Revenue Ruling 70-484, CB1970-2, 202]*

**Associations that Promote a State or Municipality.** State sponsorship of promotional activities isn't enough to raise an association to instrumentality status.

*Example: A municipal league comprised of qualified officials of member cities or villages, but with no control and supervision vested in a public authority, is not a state instrumentality. The League's activities consisted of publishing a monthly magazine featuring articles on governmental matters, conducting conferences and sponsoring and participating in municipal law institutes and seminars. The state had no statute for the incorporation of a league of this nature as an instrumentality. [Revenue Ruling 65-26, 1965-1, 444]*

*Note: Some state statutes specifically create certain associations as instrumentalities. A review of the establishing legislation is required for status determination.*

### ***Interstate Instrumentalities***

An interstate instrumentality is an independent legal entity organized by two or more states to carry on governmental functions, such as a regional planning authority, a regional transportation system or a regional water district. There may be FICA liability with regard to services performed by employees of interstate instrumentalities. For social security coverage purposes under Section 218, an interstate instrumentality is treated as a state.

If an interstate instrumentality covers its employees with a retirement system a referendum must be held prior to the execution of the 218 agreement. All interstate instrumentalities are authorized to divide a retirement system on the basis of the desires of the members, in addition to being able to conduct a majority vote referendum. Employees of an interstate instrumentality who are not covered for social security under a Section 218 Agreement, but who are qualified participants in a public retirement system, are **not** covered for social security even if the employer continues to withhold and report such taxes.

## **Wages and Employment Taxes**

Taxes under the Federal Insurance Contributions Act (social security and Medicare) consist of Old-Age, Survivors and Disability Insurance and Medicare Hospital Insurance taxes. The Internal Revenue Code (IRC) section 3101 imposes a tax on the employee, and section 3111 imposes a tax on the employer. The state or local entity must collect and pay the employee's part of the taxes and must pay the employer's part.

IRC section 3121(a) provides that wages include all remuneration for employment, whether paid in cash or in some other form, unless specifically excepted by statute. Some examples of wages for social security and Medicare purposes are salaries, fees, bonuses, prizes, awards and commissions. It is immaterial whether the payments are based on the hour, week, month, year, piecework, or on a percentage basis.

The social security wage and benefit base applies to the remuneration received from each employer and not to the aggregate remuneration received from all employers. (Beginning in 1994, there is no wage base limit for Medicare tax.) Consequently, if an employee works for more than one employer in one calendar year, excess social security taxes may be withheld. In order to get a refund of the excess social security tax withheld by the employers, the employee shows the overpayment on Form 1040. Employers, however, may not claim a refund because each employer is responsible for withholding and paying social security tax on wages paid to each employee up to the wage base.

For the purpose of determining responsibility for reporting wages, a state is considered to be one employer and each political subdivision is considered a separate employer. An employee who transfers from one state agency to another during a calendar year does not change employers. The state should withhold and pay social security tax only up to the wage base for that employee. An employee who transfers from a state agency to a political subdivision, a city or county, *has* changed employers. Each employer must withhold and pay social security tax up to the wage base for that employee.

## **Noncash Payments**

Generally, noncash payments are wages subject to social security and Medicare. Wages paid in a medium other than cash should be computed based on the fair market value at the time of payment. The fair market value may be based on the prevailing value of the items in the locality or upon a reasonable value established for other purposes.

## **Back Pay**

Back pay is pay received in a tax year for actual or deemed employment in an earlier year. For social security coverage and benefit purposes, all back pay is wages except amounts specifically and legitimately designated otherwise, e.g., interest, penalties, and legal fees. For tax purposes, back pay is treated as wages in the year received and is reported on Form W-2 for that year. Social security and Medicare tax and income tax withholding apply in the year of payment at the rates in effect for that period.

The period for which back pay is credited as wages for social security purposes is different if the back pay is awarded under a statute. However, payments of back pay under a statute will remain posted to the employee's social security earnings record in the year reported on Form W-2 unless the employer or employee notifies the SSA in a special, separate report of the payment of back pay under a statute. If this is done, SSA can allocate the statutory back pay to the appropriate periods. See IRS Publication 957 for more information.

## **Fringe Benefits**

Generally, fringe benefits must be included in an employee's gross income and are subject to social security and Medicare as well as income taxes. Fringe benefits include vehicles for personal use, tickets to entertainment or sporting events, etc. Some fringe benefits are nontaxable. See IRS Publication 15-B for further details.

## **Business Expense Reimbursements**

Payments to employees for travel and other ordinary and necessary expenses of the employer's business generally are wages subject to social security and Medicare and withholding unless paid under an "accountable plan". See IRC section 62(c) and section 1.62-2, Income Tax Regulations. There are three requirements for an accountable plan:

- (1) The expenses must be deductible as business expenses incurred while performing services for the employer;
- (2) The employee must adequately account for the expenses to the employer within a reasonable period of time, and
- (3) The employee must return any amounts in excess of expenses within a reasonable period of time.

Allowances at the Federal rates or less for mileage, lodging, meals and incidental expenses are deemed substantiated.

## **Employer-Provided Vehicles**

If an employer provides an employee with unrestricted use of a vehicle, the employee receives a noncash fringe benefit and the value is required to be included in income. The value of the vehicle is included in income unless the employee substantiates its business use. See IRC section 274(d) and section 1.274-5T, Income Tax Regulations.

There are three methods for determining the value of the use of a vehicle:

- Cents-per-mile rule



- Commuting rule
- Lease value rule

These rules are discussed in IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.

An employee is allowed to exclude from income the value of any property or services provided by the employer to the extent that, if the employee paid for the property or services, the payment would be allowable as a business expense deduction. See IRC section 132(a)(3). This is called a working condition fringe.

Under certain circumstances, the value of a "qualified nonpersonal use vehicle" can be excluded from income as a working condition fringe. A qualified nonpersonal use vehicle is one that, due to its nature, is not likely to be used more than a minimal amount for personal purposes. This includes, for example, a clearly marked police or fire vehicle, a flatbed truck, a school bus, ambulance, etc. An employee does not have to substantiate the business use of a nonpersonal use vehicle in order to exclude its value from income. See IRC section 274(d)(i).

### **Cafeteria Plans**

Cafeteria plans, including flexible spending arrangements, are benefit plans under which employees can choose from among cash and certain qualified benefits. If the employee elects qualified benefits, employer contributions are excluded from wages if the benefits are excludable from gross income under a specific section of the Internal Revenue Code (other than scholarship and fellowship grants under section 117 and employee fringe benefits under section 132). The cost of group-term life insurance that is includible in income only because the insurance exceeds \$50,000 of coverage is considered a qualified benefit. Generally, qualified benefits under a cafeteria plan are not subject to social security and Medicare taxes or income tax withholding. However, group-term life insurance that exceeds \$50,000 of coverage and adoption benefits are subject to social security and Medicare taxes, but not to income tax withholding, even when provided as qualified benefits in a cafeteria plan. If an employee elects to receive cash instead of any qualified benefit, it is treated as wages subject to all employment taxes. See IRS Publication 15-B, *Employer's Supplemental Tax Guide*, for further details.

### **Meals and Lodging**

The value of meals and lodging is not wages if furnished on the business premises of the employer and for the convenience of the employer. There is one additional requirement that applies to lodging: the employee must be required to accept lodging as a condition of employment. See IRS Publication 15 for more information.

### **Deceased Employee's Wages**

If an employee dies during the year, the employer must report the accrued wages, vacation pay, and other compensation paid after the date of death. If the employer made the payment in the same year the employee died, the payment and social security and Medicare taxes must be reported on Form W-2. On Form W-2, show the payment as social security wages (box 3) and Medicare wages and tips (box 5). Show the social

security and Medicare taxes withheld in boxes 4 and 6. **Do not show the payment in box 1.** If you made the payment *after* the year of death, do not report it on Form W-2 and do not withhold social security and Medicare taxes. See the Instructions for Forms W-2 and W-3 for more information.

If the payment is made after the year of death, report it in box 3 of **Form 1099-MISC**, Miscellaneous Income, as a payment to the estate or beneficiary. Use the name and taxpayer identification number (TIN) of the estate or beneficiary on Form 1099-MISC. See Revenue Ruling 86-109, 1986-2 C.B.196.

### **Sick Pay**

Sick pay is an amount paid to an employee because of sickness or injury. Sick pay is generally subject to social security and Medicare taxes and income tax withholding if paid by the employer. The employer withholds on the basis of the employee's Form W-4. Sick pay is sometimes paid by a third party, such as an insurance company or employee trust. The rules on third party withholding, paying and reporting social security and Medicare taxes differ, depending upon whether the third party is an agent of the employer or an insurer and the terms of an agreement between the employer and agent or insurer.

If the third party payer does not withhold income tax, the employee may request income tax withholding by giving the third party a Form W-4S (Request for Federal Income Tax Withholding from Sick Pay).

The following types of sick pay or injury pay are **not** subject to social security and Medicare taxes:

1. Payments received under a worker's compensation law,
2. Payments, or portions of payments, attributable to the employees' contributions to a sick pay plan,
3. Payments made for the same sickness or injury more than six months after the last calendar month in which the employee worked.

See IRS Publication 15-A for more details on third-party sick pay.

### **Vacation Pay**

Vacation pay is wages and subject to social security and Medicare tax and income tax withholding.

### **Federal Unemployment Tax Act (FUTA)**

The Federal Unemployment Tax Act (FUTA) provides a Federal-state insurance system for workers who lose their jobs. Most employers pay both a Federal and state unemployment tax. States and their political subdivisions are exempt from paying tax under FUTA. However, state and local government employees, with certain exceptions, must be covered by state unemployment insurance.

## **FUTA Exception for Indian Tribal Members**

Federally recognized Indian tribal governments are exempt from FUTA tax for services rendered to them after December 20, 2000. Instead, an Indian tribal government may elect to make contributions to the state unemployment fund as if services by its employees were employment under FUTA. Or the Indian tribal government may make separate elections for any subdivision, subsidiary, or business enterprise wholly owned by it. (IRC section 3306(c)(7)).

## **Federal Income Tax Withholding**

Employers are required to withhold Federal income tax from the wages paid to employees. The withheld amount is credited to the employees' individual income taxes.

The amount of Federal income tax withheld depends on five factors:

1. Payroll period,
2. Employee marital status,
3. Amount of wages,
4. Number of withholding allowances claimed by the employee, and
5. Additional amounts the employee requests to be withheld.

Each employee should be provided with a Form W-4 to claim the appropriate number of withholding allowances and identify marital status. The signed Form W-4 must be kept on file for each employee. If an employee does not complete a Form W-4, the employer is required to withhold tax as if the employee were a single person claiming no withholding allowances. If not enough tax is withheld, the employee may be subject to penalties. Generally, Forms W-4 are for the employer's records and do not need to be sent to the IRS unless:

1. An employee claims more than 10 allowances, or
2. The employee normally earns more than \$200 per week and claims exemption from withholding.

There are two common ways to determine the amount of Federal income tax to be withheld: the wage bracket method and the percentage method. Tables for both methods are found in IRS Publication 15. Alternative methods of withholding are explained in IRS Publication 15-A, including methods for annualized wages, average estimated wages, cumulative wages, and part-year employment methods.

Generally, the wage bracket method is the easiest to use. However, for amounts of pay or pay periods not included in the tables, the percentage method may be needed. Any method may be used if it achieves approximately the same withholding.

### **Section 457 Plans**

Social security and Medicare taxes are generally levied upon deferrals to an eligible section 457(b) deferred compensation plan at the later of the time 1) when the services giving rise to the related compensation are performed or 2) when there is no substantial risk of forfeiture of the rights to the amounts. For further information regarding social security and Medicare tax withholding and reporting on amounts deferred into eligible deferred compensation plans, see Section V of Notice 2000-38 in the Appendix.

Amounts deferred into an eligible section 457(b) deferred compensation plan are not subject to income tax withholding until they are distributed from the plan or made available to the participant or beneficiary. For further information regarding income tax reporting and withholding upon amounts deferred into and distributed from eligible deferred compensation plans, see Section IV of Notice 2000-38.

## **Supplemental Wages**

Supplemental wages are compensation paid to an employee in addition to the employee's regular wages (e.g., overtime pay, severance pay, awards, back pay, payments for non-deductible moving expenses, etc.). Supplemental wages are subject to social security and Medicare and income tax withholding.

If an employer pays supplemental wages with regular wages but does not specify amounts of each, income tax should be withheld as if the total were a single payment for a regular payroll period.

If an employer pays supplemental wages separately (or combines them in a single payment and specifies the amount of each), the income tax withholding method depends partly on whether the employer withheld income tax from the employee's regular wages.

If the employer withheld income tax from regular wages, one of the following methods for the supplemental wages can be used:

1. Withhold at a flat 27% rate, or
2. Add the supplemental and regular wages for the most recent payroll period this year. Then figure the income tax withholding as if the total were a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.

If the employer did not withhold income tax from the employee's regular wages, method 2 above should be used.

## **Employer Identification Number**

IRS keeps track of individual taxpayers by using a taxpayer identification number (TIN). For individuals, the TIN is the social security number. State and local entities use Employer Identification Numbers (EINs) assigned by IRS to identify their tax returns. EINs should be used on all employment tax returns, information returns and correspondence with the IRS. Generally, each county, city, school district and other governmental unit will have a unique EIN. However, this is not always the case within state governments. Many state agencies may use an EIN assigned to another agency; some larger state agencies may use a unique EIN.

When one municipality annexes another, or when school districts are combined, the EIN of the annexed area or abolished district should no longer be used, as it is no longer a separate entity. When an unincorporated area is incorporated, it becomes a separate entity and must obtain its own EIN. To obtain a new EIN, complete a Form SS-4.

Check the EIN for accuracy and completeness on each tax document submitted. When an incorrect EIN is used, tax monies will be credited to the wrong account.

**Note:** EINs beginning with the digits 69 are SSA-assigned employer identification to report earnings for tax years prior to 1987 but are no longer used. Prior to 1987, these numbers were assigned for new modifications to Section 218 Agreements and then used to process wage reports. Many states have a filing system based upon the 69-number and, therefore, continue to sequentially assign 69-numbers for internal recordkeeping purposes.

## **Advance Earned Income Credit**

The Earned Income Credit (EIC) is a tax credit for workers who have earned income below specific thresholds. Eligible employees can choose to collect part of the earned income tax credit during the year from their employers with their paychecks, or they can claim the entire amount on their tax returns at the end of the year.

Eligible employees who want to receive advance EIC payments during the year with their pay must complete Form W-5, Earned Income Credit Advance Payment Certificate. A state entity is required to make advance EIC payments to eligible employees who complete a Form W-5. See IRS Publication 15.

### **Form W-5**

On Form W-5, an employee states that he or she expects to be eligible for the EIC and shows whether he or she has a certificate in effect with any current employer. The employee also shows whether he or she is married, and, if married, whether his or her spouse has a certificate in effect with an employer. An employee may have only one certificate in effect with a current employer at one time. If an employee is married and his or her spouse also works, each spouse should file a separate Form W-5. Form W-5 remains in effect until the end of the calendar year unless the employee revokes the certificate or files another one. Eligible employees must file a new certificate each year.

An advance EIC payment is not wages and is not subject to withholding of income tax or social security and Medicare taxes. An advance EIC payment does not change the amount of income tax or social security and Medicare taxes withheld from the employee's wages. Add the EIC payment to the employee's net pay for the pay period. When the Form W-2 is completed for that year, show the total advance EIC payments in box 9, "Advance EIC Payment," of Form W-2. Do not include this amount in the "Wages" box.

Show the total payments made to employees on the advance EIC line of Form 941, discussed below. Subtract this amount from the total taxes. (See the instructions for Form 941.)

### **Required Notice to Employees**

State and local entities are required to notify employees who have no income tax withheld that they may be eligible for a tax refund because of the EIC. Employers are encouraged to notify employees eligible for EIC. Eligible employees may get a refund of the amount of EIC that exceeds any tax they owe. For further information on eligible employees, how to figure advance EIC payments, notification requirements, refer to IRS Publication 15.

## **Form 941**

**Form 941**, Employer's Quarterly Federal Tax Return, is used to report total wages, wages subject to social security and Medicare tax and Federal income tax and to reflect the total employer tax liabilities. Agricultural employers file **Form 943**, Employer's Annual Tax Return for Agricultural Employers.

To prepare **Form 941**, total wages and compensation must be determined. Wage payments are included in the quarter in which they are paid. For example, an employee works for the county on March 20, but is not paid until April 5. In this situation, the employee's wage payment is included in the second quarter when the payment is made, not the first quarter when the work was done. Total wages and compensation entered on line 2 of **Form 941** includes all payments to employees. Examples of these payments are:

1. Wages, salaries, commissions, fees, and bonuses;
2. Vacation allowances;
3. Dismissal pay and severance pay;
4. Tip income; and
5. Noncash payments, goods, lodging, food, clothing or services given instead of cash.

Wages from which social security and Medicare tax must be withheld (line 6a) may differ from total wages. Earnings over the limit are not subject to the OASDI portion of social security tax. However, there are no limits on the earnings subject to Medicare tax (line 7). The total income tax withheld (line 3) includes all Federal income tax withheld from all employees for the calendar quarter covered by the return.

**Form 941** must be filed with the IRS by the last day of the month following the reporting quarter. The first quarter return covering January through March is due by April 30<sup>th</sup>. If all taxes are deposited when due, the employer has 10 additional days after the due date to file the return. If the return is not filed by this date, the employer may be subject to penalties and interest in addition to the tax on the return.

## **Form 941c**

To correct errors in social security and Medicare taxes from prior quarters, make adjustments on line 9 of **Form 941** for the quarter in which the error was discovered. Explain the adjustments on **Form 941c** (Supporting Statement to Correct Information) or on an attached statement. The explanation should include:

1. What the error was,
2. The ending date of the quarter in which the error was made,
3. The amount of the error,
4. The ending date of the quarter in which the error was found, and
5. Additional requirements found on the **Form 941c**.

Report the adjustments on line 17 of **Form 941** or on Schedule B of **Form 941**, as explained in the instructions.

## **Depositing Taxes**

Employers deposit Federal employment taxes by using the Electronic Federal Tax Payment System (EFTPS) or by mailing or delivering a check, money order, or cash to an

authorized financial institution. Some employers are required to use EFTPS. See information on electronic deposit requirements below.

Two additional alternatives for the depositing of income tax withheld upon distributions from eligible section 457(b) plans (and for the reporting of such deposits) are provided in Section IV.E of Notice 2000-38.

### **Separate Deposit Requirements for Nonpayroll (Form 945) Tax Liabilities**

Separate deposits are required for nonpayroll income tax withholding. Do not combine deposits for employment tax liabilities with any other deposits, such as those for Form 945 (Annual Return of Withheld Federal Income Tax). Although deposited separately, the deposit rules for nonpayroll liabilities are the same as for payroll tax liabilities. See the instructions for Form 945 for details.

#### **Electronic Deposit Requirement**

In order to determine whether your entity is required to use EFTPS to deposit taxes, you must “look back” to its total tax deposits (such as social security and Medicare taxes and excise taxes) in prior years. When an entity’s total depository taxes exceeds \$200,000 a year, it is required to make deposits using EFTPS for deposits made after December 31 of the following year. For example, if your entity’s total deposit of depository taxes in 2001 exceeded \$200,000, then you must make all deposits through EFTPS for deposits made after December 31, 2002. Once an entity is required to deposit through EFTPS, it must continue to use EFTPS in all succeeding years regardless of the amount of deposits it makes. Employers who are not required to make electronic deposits may voluntarily participate in EFTPS. For information on EFTPS, see IRS Publication 966, or call toll free 1-800-945-8400 or 1-800-555-4477. (These numbers are for EFTPS information only.)

#### **When to Deposit**

There are two schedules—monthly or semiweekly—for deposit of Federal employment taxes. These schedules tell when a deposit is due after a tax liability arises (e.g., payday). Before the beginning of each calendar year, employers must determine which of the two deposit schedules they are required to use. The deposit schedule used is based on the total tax liability reported on Form 941 or Form 943 during a four-quarter lookback period as discussed below. **The deposit schedule is not determined by how often employees are paid.**

#### **Lookback Period**

The deposit schedule for a calendar year is determined from the total taxes (not reduced by any advance EIC payments) reported on Forms 941 (line 11) in a four-quarter lookback period. The lookback period begins July 1 and ends June 30 of the preceding year. If the employer reported \$50,000 or less of taxes for the lookback period, it is a *monthly schedule depositor*; if it reported more than \$50,000, it is a *semiweekly schedule depositor*.

<b>Federal Tax Deposit (FTD) Fast Facts</b>		
<b>If the employer is a...</b>	<b>And the payroll date is...</b>	<b>Then a deposit must be made:</b>
Monthly schedule depositor <i>(\$50,000 or less during the lookback period)</i>	Any time during the month	On or before the 15 <sup>th</sup> of the month
Semiweekly schedule depositor <i>(More than \$50,000 during the lookback period)</i>	Saturday, Sunday, Monday, Tuesday	On or before the following Friday
	Wednesday, Thursday, Friday	On or before the following Wednesday
<b>Special Rules:</b>		
<p><b>\$2,500 Rule:</b> Taxes less than \$2,500 in a quarter do not have to be deposited if paid with a timely filed return.</p> <p><b>\$100,000 Next Day Rule:</b> \$100,000 or more within a deposit period must be deposited on the next banking day. Monthly depositors become semiweekly depositors on the next day and remain so for the remainder of the year and all of the following year.</p> <p><b>Accuracy of Deposit Rule:</b> An employer who inadvertently under-deposits will not be penalized if the shortfall is \$100 or 2% of the amount of employment taxes required to be deposited. Balance due must be deposited by a shortfall make-up date. See IRS Publication 15 for details.</p> <p><b>Deposits on Banking Days Only:</b> If a deposit is required to be made on a day that is not a banking day, the deposit is considered timely made if it is made by the close of the next banking day. In addition to Federal and state bank holidays, Saturday and Sunday are treated as non-banking days.</p> <p><b>Special Rules for Non-banking Days:</b> Semiweekly depositors get at least three banking days following the close of the semiweekly period by which to deposit taxes accumulated during the semiweekly period. For more information, see IRS Publication 15.</p>		

For more information on deposit rules, see IRS Publication 15, *Employer's Tax Guide* (Circular E). For more information on the Electronic Federal Tax Deposit System, see IRS Publication 966.



Penalties, figured as a percentage of the amount due, apply in the following cases:

<b>Deposit</b>	<b>Rate</b>
1-5 days late	2%
6-15 days late	5%
More than 15 days late, but paid by the 10 <sup>th</sup> day after notice and demand. Notice and demand date is the assessment date (23C date).	10%
Taxes still unpaid after the 10 <sup>th</sup> day following notice and demand for payment	15%
Failure to deposit	10%
Amounts subject to electronic deposit but not deposited by EFTPS	10%

## **Wage Reporting**

Form 941 and Form 943 show wages paid and taxes withheld. After the calendar year ends, employers prepare individual employee reports on Forms W-2 (Wage and Tax Statements) with Form W-3 (Transmittal of Wage and Tax Statements), showing the total wages paid and taxes withheld for each employee during the year. This wage information is reported to SSA for crediting to the employees' earnings records—either by sending SSA Copy A of the paper Form W-2 with a covering Form W-3 or by sending the Form W-2 information in the form of electronic or magnetic media reports. Employers who file 250 or more Forms W-2 are required to file returns electronically or use magnetic media.

The information submitted to IRS on Form 941 is compared to the Form W-2 information sent to SSA and any discrepancies must be resolved by the employer. As SSA processes employer wage reports, it maintains a record of total wages processed for each employer. These totals are then compared with IRS employment tax records filed by the employer on Forms 941 or Form 943. Employers whose reports to IRS and to SSA do not match are contacted for an explanation—IRS contacts employers who reported more wages to SSA than to IRS and SSA contacts employers who reported a higher amount to IRS. Failure to resolve these discrepancies may result in IRS assessing penalties for filing incorrect reports.

If an employer needs to talk directly to SSA about an electronic file, magnetic media filing or other wage report processing problem, the employer may contact an Employer Services Liaison Officer (ESLO), listed below, or call 1-800-772-6270 for earnings report technicians' help. Specifications for electronic or magnetic media reporting of Form W-2 information can be found at [www.ssa.gov/employer](http://www.ssa.gov/employer) or by calling the ESLO for your state.

## **Special Situations**

**Information Reporting for Election Workers:** Compensation of election workers is not subject to income tax withholding. See IRC section 3401(a). If an election worker's

compensation is less than a statutorily established amount (\$1,200 for calendar year 2002), it is generally not subject to social security and Medicare tax. See IRC section 3121(b)(7)(F)(iv) and 3121(u)(2)(B)(ii)(V). However, under a state's 218 Agreement an election worker's compensation may be subject to social security and Medicare taxes at a level below the statutory amount.

If an election worker's compensation is subject to withholding of social security and Medicare tax, Form W-2 reporting is required for all compensation, regardless of the amount. If an election worker's compensation is not subject to withholding of social security and Medicare tax, Form W-2 reporting is required for payments that aggregate \$600 or more in a calendar year. See Revenue Ruling 2000-6, in the Appendix, for further discussion of information reporting with respect to election workers.

**Section 457 (g) Trusts:** A section 457(g) trust, established to hold section 457(b) assets, is not required to file Form 990 (Return of Organization Exempt From Income Tax), Form 1041 (U.S. Income Tax Return for Estates and Trusts), Form 1120, (U.S. Corporation Income Tax Return), or Form 5500 (Annual Return/Report of Employee Benefits Plans). For further information regarding the annual reporting requirements for section 457(g) trusts, annuity contracts or custodial accounts, see Section VI.B of Notice 2000-38 in the Appendix.

### **Worker's Compensation**

Amounts received by police, firefighters, and other employees or their survivors for personal injuries or sickness incurred in the course of employment are excludable from income and social security and Medicare taxes if they are paid under a worker's compensation act or a statute in the nature of a worker's compensation act.

This exclusion does not apply to retirement plan benefits based on age, length of service, or prior contributions to the plan, even if the individual retired because of an occupational sickness or injury.

Worker's compensation benefits are fully excluded from gross income and are not subject to employment taxes, income tax withholding or reporting. Amounts received under a statute "in the nature of" a worker's compensation act, however, may be subject to employment taxes and reporting for the first six months after the employee ceases to work for the employer.

### **Medicare Qualified Government Employment (MQGE)**

Employers must file a separate Form W-2 for each employee subject to Medicare-only withholding. MQGE Forms W-2 are filed separately from Forms W-2 having full FICA wages, or from Forms W-2 having no social security or Medicare wages. Paper MQGE Forms W-2 must be transmitted with a covering Form W-3 with "Medicare Govt. Emp." checked in box b. See the Instructions for Forms W-2 and W-3 or contact your ESLO for more information.

MQGE Forms W-2 records (Code RW records) transmitted by magnetic media or electronically should be grouped to follow a Code RE record with an Employment Code of "Q". All other W-2 records should be grouped to follow a Code RE record with an

Employment Code of "R". Do not group MQGE W-2 records and non-MQGE W-2 records together after a single Code RE record.

### **Employees Covered for MQGE and FICA**

Some state and local employees may be subject to both Medicare-only withholding and full social security and Medicare in the same reporting year. When the employee is in a continuous employment relationship with the same employer (same EIN) for the year, the employer has two reporting options. The employer may:

1. Prepare a single Form W-2 with the total annual wages in box 1, the total Medicare wages and taxes from BOTH positions in box 5 and box 6. Social security and Medicare wages and taxes are entered in box 3 and box 4. (SSA prefers that this method be used to reduce errors), or
2. Use a separate Form W-2 for each withholding category, i.e., one Form W-2 for wage data from the Medicare-only position and a second Form W-2 for FICA wage data from the positions with both social security and Medicare coverage.

### **How SSA Processes Wage Reports**

All wage reports (Form W-2 information) sent to SSA are subject to:

- balancing and validation programs to determine whether the reports are accurate and can be "read" by SSA systems; and
- employee name and social security number (SSN) verification.

Reports that have errors, do not match or do not meet edit conditions are returned to the employer (or submitter) for correction and resubmission.

All employers are subject to IRS late filing penalty assessments.

*Note: If the initial report was filed timely and later returned for corrections, the employer will be subject to late filing penalties if the report is not resubmitted on time.*

## Employer Services Liaison Officers

<b>Region 1</b> Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Don Wilson Boston, MA (617) 565-2895 donald.wilson@ssa.gov
<b>Region 2</b> New Jersey, New York, Puerto Rico, Virgin Islands	Terry Maresca New York, NY (212) 264-5643 terry.maresca@ssa.gov
<b>Region 3</b> Delaware, Maryland, Pennsylvania, Virginia, West Virginia	Frank O'Brien Philadelphia, PA (215) 597-4632 frank.obrien@ssa.gov
<b>Region 4</b> Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee	Pat McCarron Atlanta, GA (404) 562-1315 pat.mccarron@ssa.gov
<b>Region 5</b> Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	Paul Dieterle Chicago, IL (312) 575-4244 paul.dieterle@ssa.gov
<b>Region 6</b> Arkansas, Louisiana, New Mexico, Oklahoma, Texas	Bill Bates Dallas, TX (214) 767-0928 bill.bates@ssa.gov
<b>Region 7</b> Iowa, Kansas, Missouri, Nebraska	John Gezich Kansas City, MO (816) 936-5649 john.gezich@ssa.gov
<b>Region 8</b> Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	Bill Bates Denver, CO (800) 314-1964 bill.bates@ssa.gov
<b>Region 9</b> Arizona, California, Hawaii, Guam, American Samoa, Nevada, Saipan	Bill Brees San Francisco, CA (415) 744-4559 bill.brees@ssa.gov
<b>Region 10</b> Alaska, Idaho, Oregon, Washington	Tim Beard Seattle, WA (206) 615-2125 tim.beard@ssa.gov

### **Verifying Employee Names and Social Security Numbers**

After wage reports have been entered into SSA's system, each employee name and social security number (SSN) is compared to SSA's records to verify that it is correct. Matched wage reports are updated to the individual employee's record; reports that do not match are identified and the employer or employee is contacted and asked to provide a corrected name or SSN to SSA. Additionally, IRS may impose a penalty of up to \$50 per misreported name and SSN. Accurate crediting of earnings to individual records is essential to the correct payment of social security benefits. Therefore, obtaining a correct name and SSN is very important. See IRS Publication 15, Circular E, section 4, for a discussion of requirements for new hires. SSA offers a free SSN verification service to allow employers to be sure they have a correct name and SSN.

### **Verification Services Available from Social Security**

SSA offers free verification of employee names and social security numbers to employers. This can be done by telephone, paper list, or magnetic media. The instructions are in SSA Publication 20-004, Employee Verification Service (EVS). This is available from any ESLO or it can also be downloaded from SSA's web site at [www.ssa.gov/employer/evs2000](http://www.ssa.gov/employer/evs2000).

**Telephone:** You may call SSA's Employer Services Hotline at 800-772-6270 and verify up to 50 names and SSNs per call. SSA will always verify at least five and may be able (workload permitting) to verify up to 50 items per call. You may also contact SSA at 1-800-772-1213, but only five names per call can be verified at this number.

**Paper List:** You may submit a list of up to 50 items to the local social security office. Write a letter on letterhead and send "Attention: District Manager."

**Larger Requests:** These require registration with SSA's Office of Employer Services. See page 3 of the Employee Verification Service booklet for the address to register and for registration instructions. This allows verification of paper lists of up to three hundred (300) items or an unlimited number of items via Magnetic Media.

**Magnetic Media:** Complete instructions are provided in SSA's Publication 20-004 for submission of either diskette or magnetic tape or cartridge for verification of over 50 items. If you have any questions consult your local ESLO. See table on page 10-19.

### **Verifying Employment Eligibility**

Under the **Immigration and Nationality Act**, employers must verify the identity and employment eligibility of anyone hired for employment in the United States. This includes citizens and non-citizens.

Form I-9, The Employment Eligibility Verification Form, was developed by the Immigration and Naturalization Service (INS) to verify that persons are eligible to work in the United States. Completion of this form is required for every employee hired after November 6, 1986.

The M-274, *Handbook for Employers*, complete with Form I-9 and answers to questions, is available to employers at INS regional and district offices, as well as local government

printing office bookstores. For questions not addressed in the handbook, contact INS at (202) 375-5283 or mail questions to:

U.S. Immigration and Naturalization Service  
Office of Employer and Labor Relations  
425 I Street NW  
Washington DC 20536

A free on-line computer verification service is available to employers in the states of California, Florida, Illinois, Iowa, Nebraska, New Jersey, New York, and Texas. This allows instant verification of name, SSN, and work eligibility via a personal computer and modem. Contact the INS' Business Liaison Office at 888-357-2099 for information and free software for this service.

### **Making Corrections**

Once Form W-2 information has been filed with SSA, any corrections must be made using Form W-2c and Form W-3c.

Forms W-2c may be filed on paper, via electronic transmission, or on magnetic media. Electronic Transmission or magnetic media files should be formatted following the instructions in SSA Publication MMREF-2, Magnetic Media Reporting and Electronic Filing of Forms W-2c, available on SSA's web site at <http://www.ssa.gov/employer/00mmref2.asc> or from any Employer Service Liaison Officer (ESLO), listed in the table above. See "Failure to File Form W-2c and/or Form W-3c with SSA" in Chapter 11 of this publication when adjusting prior year earnings on Form 941 and/or Form 941c.

*Note: There is no requirement to file electronic or magnetic media Forms W-2c regardless of quantity filed.*

If the employee has a name change, the employee must notify SSA and request a new social security card. Never change an employee's name in your payroll system until the employee has furnished you a new social security card showing the change. See IRS Publication 15, (*Circular E*), Section 4, for rules on name changes.

Occasionally, a correction to Form W-2 information is required before filing such information with SSA, but after providing the form to the employee. Make changes on a new original form, but annotate it "Reissued Statement" at the top. Be sure to change the information submitted to SSA as well, either by marking the original paper W-2 "VOID" at the top (if you submit on paper) or by correcting the data file before filing either electronically or via magnetic media.

Form W-3c must accompany Copy A of Form W-2c when it is sent to SSA. A separate Form W-3c must be used for each type of Form W-2 being corrected and must accompany a single Form W-2c, as well as multiple Forms W-2c. Large numbers of Forms W-2c may also be filed on magnetic media. Contact your ESLO for details (see page 10-19).

## **Common Reporting Errors**

### ***General***

**Incorrect or missing Employer Identification Number (EIN).** SSA and IRS maintain records by the EIN. Reports received with missing or erroneous EINs may be credited to the wrong record and result in IRS assessing penalties for failure to file correct reports.

**Incorrect employee names and social security numbers.** SSA cannot credit earnings to an employee's record unless the employee's name and social security number on the wage report matches the name and number in the SSA files. Use the name exactly as it is shown on the employee's social security card.

**Wage reports for years after employee's death.** Payments on behalf of a deceased employee made after the year of death cannot be credited as wages for social security purposes. Such payments should be reported to the employee's estate on Form 1099-MISC, **Miscellaneous Income**.

**Errors resulting in out-of-balance reports.** Errors may occur due to incorrect wage base for social security, or applying a wage base limitation to the Medicare wages.

**Tips.** If an employee has tips, they must be reported in the Social Security Tips field (of the W-2). They are **not** included in the social security Wage field. These two fields are added together by SSA to obtain the total social security earnings.

**Omitted wage or tax fields on wage reports.** All fields must be completed.

### ***Paper Form W-2 Reports***

**Wrong tax year form used.** SSA optical scanning and imaging systems are modified annually to meet yearly changes in Form W-2 formats. The correct year's W-2 form must be used or SSA (1) will post the earnings to the wrong year, or (2) will be unable to read the form.

**Unscannable reports.** Reports that are not scannable by the SSA's optical equipment are more costly to process and subject to error.

**Failure to file Copy A of Form W-2 with SSA.** Employers must always file Copy A of Form W-2 with SSA, unless they submit the same data electronically or via magnetic media.

**"Void" indicator on Form W-2 checked in error.** SSA will not credit wages shown on any Form W-2 that is void.

### ***Electronic/Magnetic Media Reports***

**Failure to file Form 6559 with each magnetic media tape/cartridge.** Form 6559, *Transmitter Report and Summary of Magnetic Media*, must be filed with magnetic media cartridges or tapes to help SSA identify the employer, the type of report and the year being reported before scheduling the report for processing. Multi-reel filers should provide a copy of Form 6559 for each reel.

**Major reporting problems.** Make sure you show the correct tax year on the code RE records. Dollar totals ("RT" Record) are used by SSA to determine whether the report is in balance and, if not, to show where the error may be found. Make sure you report employee names and social security numbers correctly.

**Missing/Incorrect submitter (Code "RA").** This information helps SSA properly identify and control each report. It provides contact information in case there is a problem with the submission.

**Unreadable reports.** Reports must meet the requirements set out in MMREF-1, Magnetic Media Reporting and Electronic Filing, to be processable on SSA's electronic equipment. Unprocessable reports will be returned to the transmitter for correction and returned to SSA. Failure to return the correction reports timely may result in IRS penalty assessment.

*Note: For information on the most recent MMREF-1 formats, visit SSA's website at <http://www.ssa.gov/employer/pub>.*

#### **Form 941 Reports.**

**Incorrect or omitted Medicare wage/tip amounts.** Medicare wages/tips must be shown separately from social security wages on Forms 941 filed with the IRS. All Medicare wages/tips are subject to Medicare taxes.

**Showing non-covered amounts as social security and/or Medicare wages.** Examples of non-covered amounts include employee earnings that exceed the wage base for social security and payments to an independent contractor shown as wages.

*See IRS Publication 15 for other noncovered payments under the heading "Special Rules for Various Types of Services and Payments."*

**Failure to file Form W-2c and/or Form W-3c with SSA when adjusting prior year earnings on Form 941 and/or Form 941c.** Adjustments of tax liability filed with IRS that are based on changes in social security and/or Medicare wages must be matched by the filing of Forms W-2c and W-3c with SSA to allow entry of the wage changes on the employee's social security earnings records.

**Filing of duplicate or partially duplicate Forms 941.** Social security and/or Medicare wages shown on duplicate Forms 941 may lead to unnecessary and costly reconciliations between SSA, the IRS and the employer.



## Social Security and Medicare Tax Rates and Limits

<b>Social Security and Medicare Tax</b>				
	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
<b>Social Security (OASDI) Tax Information</b>				
<b>Employee Rate</b>	<b>6.20%</b>	<b>6.20%</b>	<b>6.20%</b>	<b>6.20%</b>
<b>Employer Rate</b>	<b>6.20%</b>	<b>6.20%</b>	<b>6.20%</b>	<b>6.20%</b>
<b>Maximum Wages*</b>	<b>\$72,600</b>	<b>\$76,200</b>	<b>\$80,400</b>	<b>\$84,900</b>
<b>Medicare Tax Information</b>				
<b>Employee Rate</b>	<b>1.45%</b>	<b>1.45%</b>	<b>1.45%</b>	<b>1.45%</b>
<b>Employer Rate</b>	<b>1.45%</b>	<b>1.45%</b>	<b>1.45%</b>	<b>1.45%</b>
<b>Maximum Wages</b>	<b>All Wages</b>			
<p>*The wage base subject to social security for the next calendar year is calculated and announced by SSA in October. <i>Note: For years after 2002, visit SSA's website at <a href="http://www.ssa.gov/OACT">www.ssa.gov/OACT</a> to obtain the wage base information.</i></p>				

## **Chapter 11**

# **Social Security and Medicare Benefits**

### **Social Security and Medicare Benefits**

Under the Federal Insurance Contributions Act (FICA), social security and Medicare benefits are financed through taxes paid by employees and their employers. The social security and Medicare tax rates are set by law. The tax rate for the Old-Age, Survivors and Disability Insurance (OASDI) program applies to earnings up to an annual maximum amount. This amount, called the earnings base, increases as average wages increase. Medicare Hospital Insurance (HI) taxes are paid on total earnings. There is no wage base limit for Medicare tax. The Supplementary Medical Insurance (SMI) part of Medicare is financed by monthly premiums charged beneficiaries and by payments from Federal general revenues.

### **Earning Credits**

Individuals become eligible for social security benefits and Medicare hospital insurance based on credits for work covered by social security and/or Medicare. (In 2002, one credit is earned for each \$870 in earnings, for up to four quarters.) The amount of earnings required for each credit increases each year to reflect average wage increases.

Credits earned remain on the worker's social security earnings record even if the individual has a period of no earnings. The number of credits needed to be eligible for social security and Medicare benefits depends on the individual's age and the type of benefit. Most people need 40 credits (10 years of work) to qualify for benefits. Younger people need fewer credits to be eligible for disability benefits or for their family members to be eligible for survivors' benefits if they die.

State and local government employees covered for Medicare HI-only must earn the same number of credits to qualify for Medicare as required for social security benefits. Basic pay earned from active military duty or training in the military service beginning in 1957 may earn social security credits. In addition, military service before 1957 may qualify a person for additional earnings credits. Determination of these additional credits is made at the time a person applies for benefits.

If a question arises concerning the employment relationship of a worker for claims purposes, SSA determines whether there was a common-law employer-employee relationship for the purpose of determining the benefits of the claimant.

### **Retirement**

Retirement benefits are payable at full retirement age (with reduced benefits available as early as 62) to individuals with 40 credits (10 years of work). Beginning in the year 2003,

the age at which full benefits are payable will increase in gradual steps from 65 to 67. This provision affects people born in 1938 and later.

If you receive social security benefits before you reach full retirement age, your benefits are reduced if you continue to work and earn over an annual exempt amount. The annual exempt amount changes each year. You can earn up to that amount and still receive all of your social security benefits. If you are under full retirement age and earn over the exempt amount, your benefits will be reduced \$1 for every \$2 in earnings above the exempt amount. In the year you reach full retirement age your benefits will be reduced \$1 for every \$3 in earnings above the exempt amount.

A spouse or former spouse may qualify for benefits upon a worker's retirement or disability. (Note: Benefits for divorced spouses age 62 or older may be payable if the insured worker is "eligible" for retirement benefits, even though not yet retired.) Benefits are paid as early as age 62 or at any age if the spouse is caring for the worker's child. The child must be under 16 or disabled and receive benefits on the worker's record. Spouse's benefits will be one-half or less of "full retirement age" monthly benefit.

Unmarried children under the age of 18 (under 19 if in high school) or any age if disabled before age 22 may qualify for social security benefits on a retired or disabled parent's social security record.

### Social Security Benefits

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<b>Earnings required for one credit</b>	<b>\$740</b>	<b>\$780</b>	<b>\$830</b>	<b>\$870</b>
<b>Exempt amounts under annual earnings test:</b>				
<b>Under full retirement age</b>	<b>\$9,600</b>	<b>\$10,080</b>	<b>\$10,680</b>	<b>\$11,280</b>
<b>Year of Attainment of full retirement age</b>	<b>\$15,500</b>	<b>\$17,000</b>	<b>\$25,000</b>	<b>\$30,000</b>
<b>Full retirement age or older</b>	<b>No limits effective January 2000.</b>			

***NOTE:** For years after 2002, visit the Social Security Administration's website at [www.ssa.gov/OACT](http://www.ssa.gov/OACT) to obtain new Social Security benefit amounts.*

### Survivors

For family members to receive benefits upon a worker's death, the worker must have earned one social security credit for each year beginning in 1951 (or since age 21, whichever is later) and a minimum of six credits. Family members may also qualify for benefits if the worker earned six credits in the three years prior to death. The number of credits a person needs for survivors to be eligible for benefits increases each year until the worker reaches age 62, up to a maximum of 40 credits.

Children and the surviving spouse may qualify for monthly benefits up to a maximum level and may also qualify for a one-time death benefit. A surviving spouse's benefit can be affected by his or her age, work history, and the number of other family members who receive benefits on the deceased worker's earnings record. The benefit is permanently reduced if the surviving spouse retires before age 65 and is not caring for a child who receives benefits on the deceased worker's earnings record.

Benefits are paid to widows and widowers at age 60, at age 50 if disabled, or at any age if the widow or widower is caring for the deceased's child. The child must be under age 16 or disabled before age 21 and eligible to receive benefits on the deceased's record.

Unmarried children under the age of 18 (under 19 if in high school) or any age if disabled before age 22 also may qualify for social security benefits on a deceased parent's social security record.

### **Disability**

To qualify for disability benefits, a worker must be fully insured and, except where the individual is disabled because of blindness, must also meet a test of substantial recent work activity. Under this test, a worker aged 31 or older must have at least 20 credits during the period of 40 calendar quarters ending with the quarter in which the disability began. Workers disabled at ages 24 through 30 must have credit in one-half of the calendar quarters elapsing after age 21, and workers under age 24 need 6 credits in the period of 12 quarters ending with the quarter of disability onset.

Benefits to the worker and entitled family members may be reduced if workers' compensation or public disability benefits are also received.

### **Medicare Hospital Insurance (HI)**

The Medicare program is administered by the Centers for Medicare & Medicaid Services (CMS), formerly known as the Health Care Financing Administration. However, SSA enrolls people in the program and disseminates general Medicare information. Individuals who are eligible for social security are eligible for premium-free hospital insurance (HI) benefits when they reach age 65. In addition, workers and their spouses with a sufficient period of Medicare-only coverage in Federal, state and local government employment are eligible at age 65. HI provides protection to disabled beneficiaries who have been entitled to social security disability benefits for at least 24 months (or government employees with Medicare-only coverage who have been disabled for more than 29 months), and to insured workers (and their spouses and children) with chronic kidney disease that requires dialysis or a kidney transplant. Effective July 1, 2000, the 24-month waiting period is waived for disability beneficiaries who have Amyotrophic Lateral Sclerosis. Call 1-800-MEDICARE to speak with a Medicare Customer Representative.

**Note:** Although the full retirement age for social security is changing, Medicare eligibility remains at age 65. Eligibility for HI is based on benefits as a retired worker, as a spouse of a retired or disabled worker or as a spouse of a deceased worker. The

individual qualifies even if the individual does not receive monthly social security retirement benefits because the individual or the individual's spouse continues to work.

Special rules apply to uninsured persons who are at least 65 but who are not eligible for HI under the regular rules. See Chapter 5, **Medicare Coverage**.

## **Social Security Statement**

SSA sends a statement annually to workers and former workers aged 25 and older that have paid social security taxes during their working years. This statement shows all earnings on which a worker has paid social security taxes during his/her working years. Workers at any age may request a benefit estimate by completing Form SSA-7004 (Request for Social Security Statement). These requests should be made by calling 1-800-772-1213 or through the SSA web site at [www.ssa.gov/mystatement](http://www.ssa.gov/mystatement). The statements should be examined closely by the employee to ensure all earnings are properly credited. If the earnings shown on the statement are not correct, the employee should call SSA at 1-800-772-1213.

**Note:** Individuals who have worked only in non-covered employment (no social security and Medicare taxes) for their entire working lifetimes will not receive a Social Security Statement.

The Medicare portion of the Social Security Statement reflects the amount of earnings that were taxed and an estimate of the amount of taxes paid to support the Medicare program. The taxes are estimated because SSA does not keep records of Medicare taxes paid. If an employee had both social security earnings and government earnings that qualified for Medicare in the same year, the statement would reflect an estimate of the combined Medicare taxes paid. Online benefit planners are available at [www.ssa.gov/planners](http://www.ssa.gov/planners). These can be used to project potential benefits using various earnings scenarios.

## **Pensions from Work not Covered by Social Security**

There are two situations where receipt of a pension based on employment not covered by social security will affect the amount of your social security benefit. The Windfall Elimination Provision (WEP) affects the way your social security retirement or disability benefit is computed. The Government Pension Offset (GPO) affects the amount of the social security benefit you receive as a spouse or widow (er). SSA Publication 05-10045 covering WEP and SSA Publication 05-10007 covering GPO are available from the Social Security Administration by calling 1-800-772-1213. These publications can also be downloaded from the SSA Publications web page at [www.ssa.gov/about](http://www.ssa.gov/about). Employers assisting in retirement planning are urged to provide copies of these publications to their employees.

### **Windfall Elimination Provision (WEP)**

If you receive a pension based on work not covered by social security, your social security retirement or disability benefit is computed using a modified benefit formula.

The resulting benefit amount is lower than you would receive if you did not also receive a pension based on noncovered employment.

The purpose of WEP is to remove the unintended advantage that the heavy weighting in the social security benefit formula provides for persons who receive pensions from noncovered employment. The weighting is intended to help people who spend their working lives in low paying jobs by providing them with a benefit that is higher in relation to their prior earnings than the benefit provided for workers with high career earnings.

However, the formula also benefits people who worked for only a portion of their careers in jobs covered by social security but had their benefits computed as if they were long-term, low-wage workers. WEP eliminated this advantage by providing for a different, less heavily weighted benefit formula used to compute benefits for persons who receive a pension based on non-covered employment.

The modified formula applies to those who reach age 62 or become disabled after 1985 and first become eligible after 1985 for a monthly pension based in whole or in part on work not covered by social security. You are considered eligible to receive a pension if you meet the requirements of the pension, even if you continue to work.

Workers with relatively low pensions are protected because the reduction in the social security benefit cannot be more than one-half of that part of the pension attributable to earnings not covered by social security.

The modified formula does not apply to survivor benefits. It also does not apply to:

- A Federal worker performing service on January 1, 1984, who becomes newly covered under social security on January 1, 1984 under the mandatory coverage provision in PL 98-21;
- An employee of a non-profit organization who is exempt from social security coverage on December 31, 1983, and who becomes covered for the first time as an employee of that organization on January 1, 1984 under the compulsory coverage provision of PL 98-21;
- Pensions based on earnings under the Railroad Retirement Act;
- Pensions based entirely on noncovered employment before 1957; or
- Persons who have 30 or more years of substantial earnings under social security.

#### **Government Pension Offset (GPO)**

The Government Pension Offset (GPO) applies only to workers who get a government pension and are eligible for social security as a spouse or widow (er). Two-thirds of the government pension is used to offset any spouse's or widow(er)'s social security benefit.

Before the offset provisions were enacted, many government employees qualified for a pension from their agency and for a spouse's benefit from social security, even though they were not dependent on their husbands or wives.

This was considered unfair because those who receive a spouse's or widow(er)'s benefit and are not government employees already were subject to a similar offset that affects their benefits. For example, a woman eligible for \$400 in social security retirement benefits on her own work record, and also eligible for a wife's benefit of \$300 receives only the higher of the two benefits - \$400 in this case.

The Government Pension Offset does not apply if on the spouse's last day of state/local employment, he/she is in a position that was covered by social security and the pension plan. This rule applies even if the employment:

- terminates but the employee returns to work for the same or different employer; or
- is not terminated, but the employee transfers to a different position for the same employer; or
- is not terminated, but the employee takes a second job for the same employer.

Options provided by certain deferred compensation plans may allow state and local government employees to make decisions that would allow them to meet the criteria for this GPO exemption. A state or local entity may maintain an elective defined contribution plan that allows employees to change their contribution election during the year, including moving in or out of the plan. Further, one plan may provide one or more open seasons when the participants may change their elections to participate or change the amount of contribution.

Another plan may allow participants to "revoke" an election to defer amounts to the plan at any time during the year. When the employee decides not to participate in the plan, the plan administrator must determine whether the employee is (1) still a participant of the plan based on IRS regulations and (2) covered for social security mandatorily or by a Section 218 agreement.

A statement from the employer or pension-paying agency showing the employee was in a position on the last day of employment that was covered under social security AND also covered by the pension plan is acceptable evidence to show the GPO exemption is met. SSA generally accepts the employer's statement at face value when making the determination that the GPO exemption is met.

### **Defining a Pension for WEP/GPO Purposes**

Since 1991, state and local government employees who are not members of a retirement system must be covered by social security. This provision, called mandatory social security, does not apply if the employee already has social security coverage under an Agreement under Section 218 of the Social Security Act. Mandatory social security coverage may cease if the employee becomes a qualified participant in a public retirement system that satisfies the criteria in IRC section 3121(b)(7) and regulations.

In lieu of social security, some public employers have opted for alternative retirement plans instead of a conventional pension plan, for instance a deferred compensation plan. This and other alternative plans raise questions about the applicability of WEP and GPO.

A plan is considered a savings plan and is not a pension for WEP/GPO purposes if:

- An employee voluntarily contributes to a plan that is separate from and in addition to a primary retirement plan;
- The employer makes no contributions to the plan;
- The withdrawals from the plan do not exceed the employee's contributions (plus interest); and
- Withdrawals are not based upon age, length of service or earnings.

*Examples:*

1. A part-time employee for a city is not covered by a 218 Agreement. In July 1991, the employee elected to participate in the state's public employees deferred compensation plan in lieu of mandatory social security coverage. The employee, upon retirement, will receive a payment from the deferred compensation plan based on employee and employer contributions to the plan, as this is the only plan to which the employee contributes. This plan is not considered a savings plan for GPO or WEP purposes and the payment will be considered a pension and subject to the GPO or WEP provisions.
2. A state employee is not covered by a 218 Agreement, but is covered by a state employee retirement system and has also elected to make contributions to a deferred compensation plan. The payment from this deferred compensation plan is separate from and in addition to the primary retirement plan. The employer made no contributions to the deferred compensation plan and the payment from the deferred compensation plan is not based on age, length of service or earnings. While the payment from the retirement system is subject to GPO or WEP, the payment from the deferred compensation plan is not.

## **QUESTIONS AND ANSWERS**

1. **Are social security benefits calculated on the last five years of earnings?** No. Retirement benefits are calculated on earnings during a lifetime of work, generally the highest-earning 35 years under the social security system. Years of high earnings will increase the amount of the benefit. [SSA]

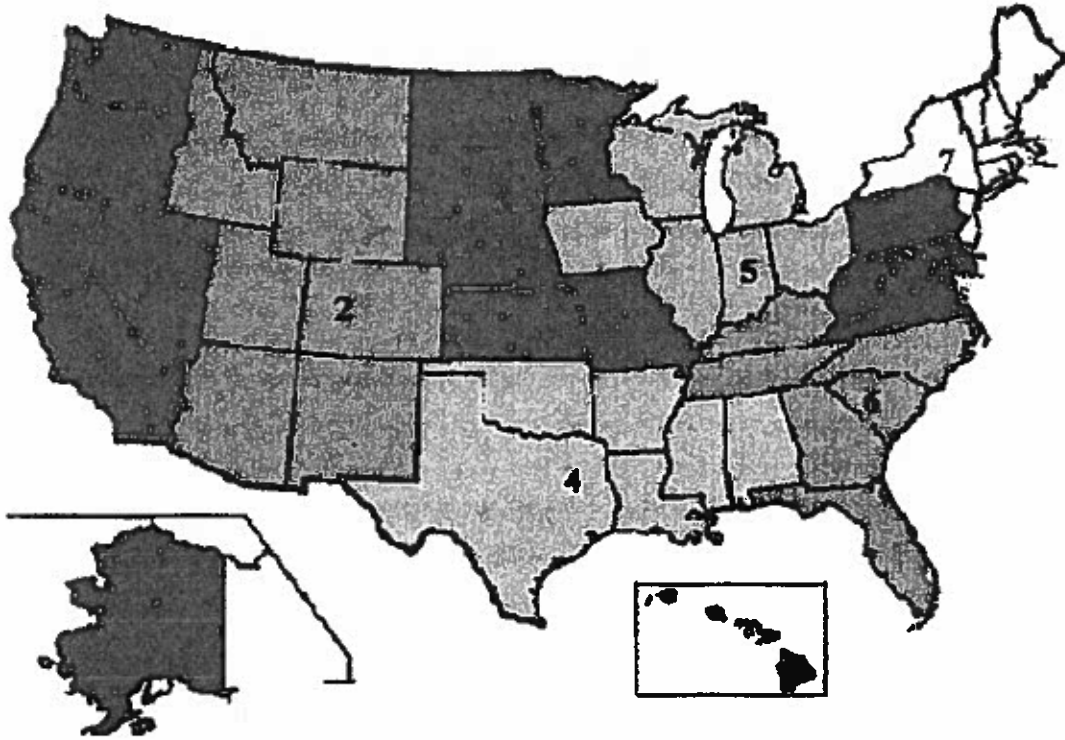


2. **Will my retirement pension from my government job reduce the amount of my social security benefit?** If you receive a pension based on employment covered under social security, it will not affect your social security benefit. If you receive a pension either wholly or partially based on employment not covered under social security (for example, certain Federal, state or local government employment), your social security benefit may be reduced. For additional information, see SSA publications "Government Pension Offset" (05-10007) and "A Pension for Work Not Covered by Social Security" (05-10045). These publications are available online at [www.ssa.gov](http://www.ssa.gov). [SSA]
3. **I understand I can retire at age 62 and collect social security benefits, but that they will be less than if I wait until 65 to retire. How does that work?** Your benefits are reduced for each month you retire before full retirement age. The reduction is five ninths of one percent for each of the first thirty-six months of early retirement and five twelfths of one percent for each additional month. However, remember, by taking benefits at age 62, you'll receive social security checks for a longer period of time. [SSA]
4. **I have two children at home and I plan to retire next fall. Will my children be eligible for monthly social security checks after I retire?** Monthly social security payments may be made to unmarried children under age 18, or age 19 if still in high school, or children age 18 or over who were severely disabled before age 22 and who continue to be disabled. [SSA]

# Appendix

The following pages contain organizational maps and important documents referred to in the text. Many other related documents may be found at the web sites [www.irs.gov](http://www.irs.gov), [www.ssa.gov](http://www.ssa.gov), and [www.ncsssa.org](http://www.ncsssa.org).

**MAP OF AREA JURISDICTION OF IRS FEDERAL, STATE, AND LOCAL GOVERNMENTS (FSLG)**



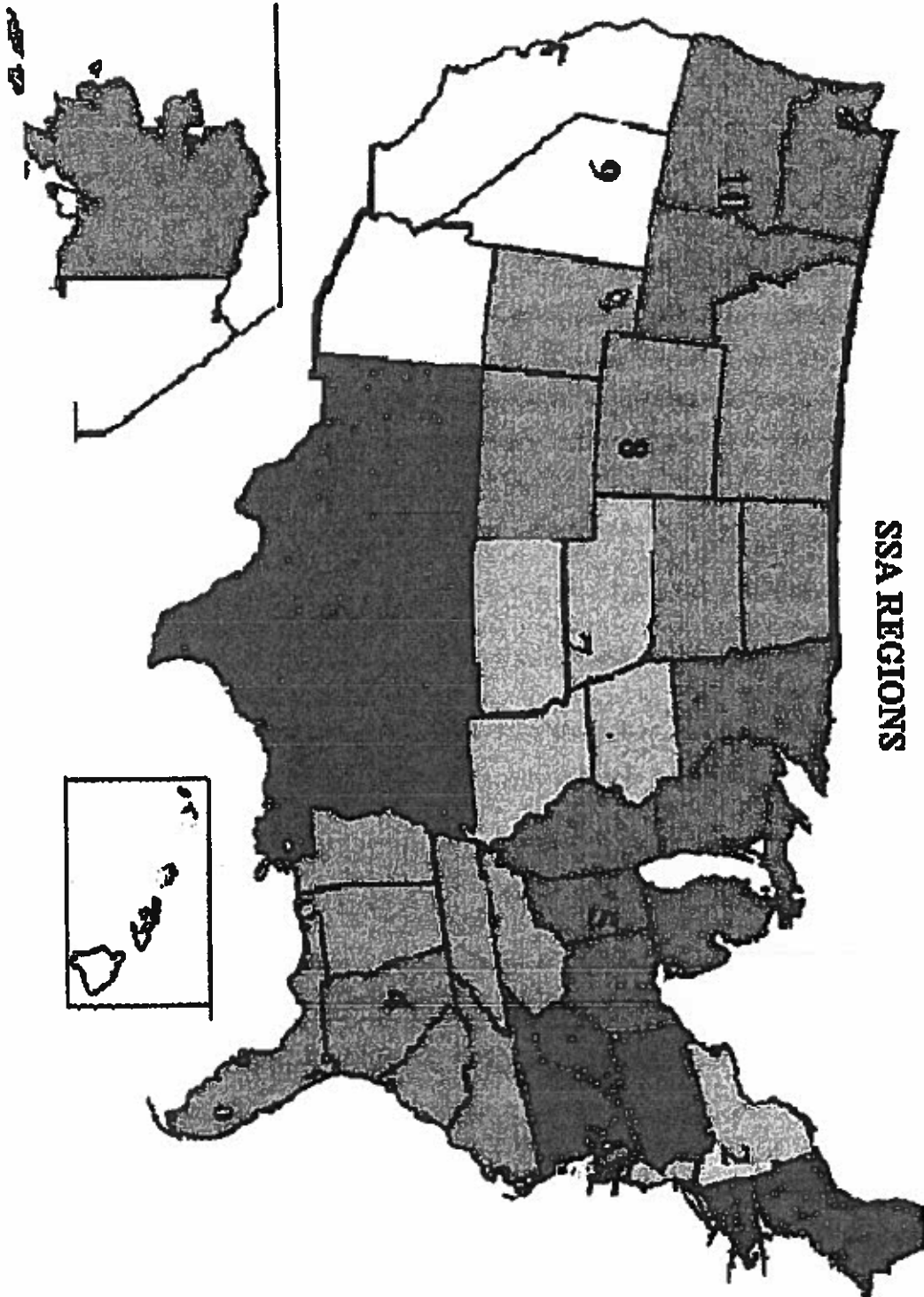
**Federal, State, and Local Governments**

**National Headquarters**

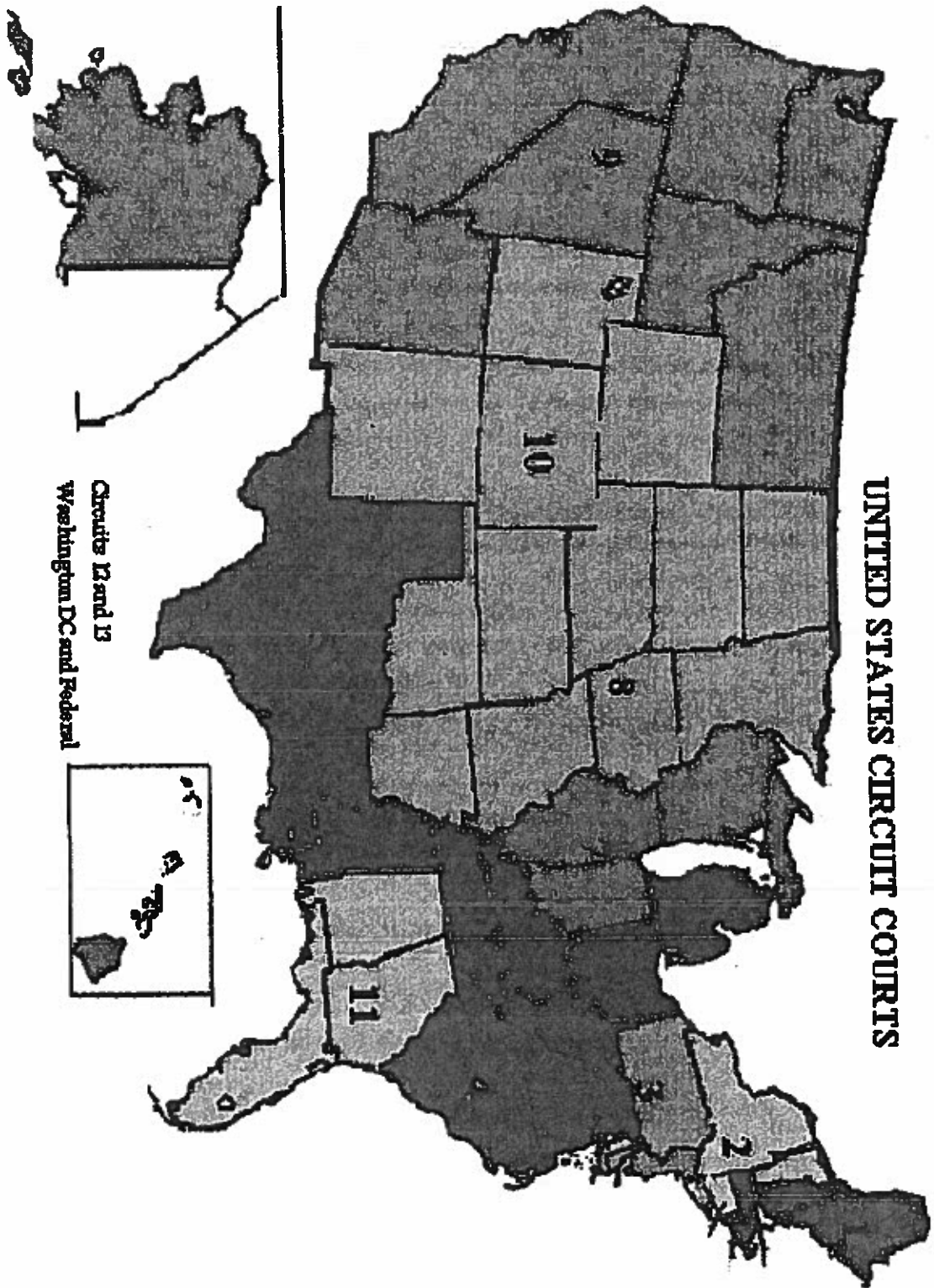
Allen P. Jones, Director, FSLG  
Internal Revenue Service  
T:GE:FSLG  
1111 W. Constitution Avenue NW  
Washington, D.C. 20224  
Telephone: (202) 283-9818  
FAX Number: (202) 283-9797

**National Headquarters**

William H. Reed, Manager,  
Outreach Planning and Review Staff  
Internal Revenue Service  
T: GE: FSLG:OPR  
1111 W. Constitution Avenue NW  
Washington, D.C. 20224  
Telephone: (202) 283-9799  
FAX Number: (202) 283-9797



**UNITED STATES CIRCUIT COURTS**



**Circuit 12 and 13**  
**Washington DC and Federal**

Medicare-only Referendum Process  
Change Request  
and Associated Surveys  
of NCSSSA Membership

**Maryann Motza**

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**From:** Maryann Motza  
**Sent:** Monday, July 18, 2011 3:57 PM  
**To:** 'Bussman, Susan'  
**Cc:** Kelley, Tim J. DCLCA; Berglund, Dena; Bucks, Christa; Denos, Marc; Brown, Mark W. HQ ORDP; Williamson, Wayne HQ; 'Precht, Paul (CMS/OL)'; 'Scott, Anne B. (CMS/OL)'; Angie Dowdy; Barry Faison; CPA Richard Beckstead (rbeckstead@utah.gov); James Sawyer; Karen Park; Kathleen Baxter (kathleen.baxter@comptroller.alabama.gov); Kim Smith; kmack@osc.state.ny.us; Linda Yelverton (linda.yelverton@la.gov); Maryann Motza; Michele Briggs (micheleb@azasrs.gov); MMotza@hotmail.msn.com; Nick Merrill (Nick.Merrill@srs.illinois.gov); Shirley Sessoms; Dean Conder; DeVore, Vandee; Lancaster, Joe (Finance Local Government)  
**Subject:** RE: Medicare Only Referenda  
**Follow Up Flag:** Follow up  
**Due By:** Friday, July 29, 2011 12:00 AM  
**Flag Status:** Red

Sue,

Thanks for the update. I am extremely disappointed, but understand the constraints. Based on my analysis and experience of the situation, I do know that eliminating the need for any referenda elections would save everyone time and money, plus would provide an immediate infusion of funds into the already bankrupt Medicare Trust Fund by allowing only those individuals and public employers who voluntarily want to opt into Medicare coverage to begin paying into the system and earning Medicare credits. Those goals would seem to fit within the guidelines you outlined below.

Remember, we never advocated for the divided vote referendum authority for all states; that was SSA's suggestion. Our suggestion was to eliminate referenda entirely for Medicare-only coverage by allowing individual state and local government employers and their employees to merely check a box on the W-4 and, if the public employer agreed to the coverage, to file the necessary W-2's and 941's. No benefits would be granted to public employees unless and until they had the necessary 40 quarters of Medicare coverage. It is truly unfortunate that, because a number of State Administrators are inexperienced (or, sadly, in some cases, lazy), that the needs and wishes of a sizable number of public employees/employers cannot be met.

Thank you for considering the request.

Maryann

Maryann Motza, PhD  
 NCSSSA President (2010-2011)  
 State Social Security Administrator  
 Public Employees' Social Security Program  
 Colorado Department of Labor and Employment

10/4/2011

633 17th Street, Suite 700  
Denver, CO 80202-3660  
Telephone: (303) 318-8061  
FAX: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)  
PESS Website: <http://pess.cdle.state.co.us>  
NCSSSA Website: <http://www.ncsssa.org>

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**From:** Bussman, Susan [mailto:[Susan.Bussman@ssa.gov](mailto:Susan.Bussman@ssa.gov)]  
**Sent:** Thursday, July 14, 2011 11:52 AM  
**To:** Maryann Motza  
**Cc:** Kelley, Tim J. DCLCA; Berglund, Dena; Bucks, Christa; Denos, Marc; Brown, Mark W. HQ ORDP; Williamson, Wayne HQ; 'Precht, Paul (CMS/OL)'; 'Scott, Anne B. (CMS/OL)'  
**Subject:** Medicare Only Referenda

Mary Ann,

I wanted to let you know that, after reviewing the material you provided and discussing the issue internally and with CMS, both CMS and SSA have decided that at this time, we will not pursue a legislative proposal to allow states to conduct divided vote referenda for Medicare-Only, or to remove the referendum requirement to begin Medicare withholding and reporting.

Our resources are severely limited, and our legislative priorities must focus on changes that will simplify our programs, allow us to administer our programs more efficiently, or save time and money. While we recognize our responsibility to effectively administer Section 218 of the Social Security Act, most states that responded to your survey did not seem to believe this change was necessary. I know you suggested that this may be due to lack of familiarity, however, we will be happy to revisit this issue if interest grows.

Thank you for your cooperation and patience as we worked through issues related to this proposal. We know there may be other legislative proposals NCSSSA may be interested in, and we look forward to working with you on those.

Please call me if you have any questions. Thanks!

Sue Bussman  
Office of Legislation and Congressional Affairs  
410-965-3313

10/4/2011



**Maryann Motza**


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**From:** Maryann Motza [mmotza@msn.com]  
**Sent:** Tuesday, October 04, 2011 1:35 PM  
**To:** Maryann Motza  
**Subject:** FW: Results of NCSSSA Survey of Majority Vote States re: Medicare-only Referenda  
**Importance:** High  
**Attachments:** Analysis of Medicare-only Survey of Majority Vote States\_final of 5-22-2011.docx; Attachment A\_contd\_5-20-11\_Medicare-only Survey Results\_Majority Vote States\_5-2011(1).xls; Attachment B\_contd\_Summary Findings\_Med-only Referenda\_February 2011 Survey.xls; Attachment B\_contd\_Louisiana\_Divided Vote Medicare Only Referenda(1).xls; Attachment B\_5-20-11\_Hi only referendum survey 1-31-2011.doc; Attachment A\_Medicare Survey Final 4-1-2011.doc; Attachment C\_5-20-11\_Bussman\_Medicare only explanation\_final of 12-6-2010.doc

---

From: mmotza@msn.com  
 To: tim.j.kelley@ssa.gov; dena.berglund@ssa.gov; susan.bussman@ssa.gov  
 CC: dean.conder@state.co.us; maryann.motza@state.co.us  
 Subject: Results of NCSSSA Survey of Majority Vote States re: Medicare-only Referenda  
 Date: Sun, 22 May 2011 21:18:32 -0600

Tim, Sue, & Dena,

Attached are a series of documents containing the results of the April 2011 survey of majority votes states regarding Medicare-only divided vote authority. The principal document containing NCSSSA's analysis of the data that we obtained from the survey is entitled "Analysis of Medicare-only Survey of Majority Vote States\_Final of 5-22-2011.doc." Due to the size of the two PDF files that contain the detailed responses to the survey, I am sending those two documents via a separate email.

As I mentioned in my status update on this project last week, I'm currently attending a conference out of state. Thus, if you have any immediate questions, please contact Dean Conder at 303-318-8060 or [dean.conder@state.co.us](mailto:dean.conder@state.co.us). Otherwise, I'll be back in the office on Thursday, May 26th, and would be happy to discuss the results and our analysis with you at that time.

Thank you for pursuing this important initiative for Medicare-exempt government employees nationwide.

Maryann

*Maryann Motza, PhD  
 State Social Security Administrator  
 Public Employees' Social Security Program  
 Colorado Department of Labor & Employment  
 633 17th Street, Suite 700  
 Denver, CO 80202-3660  
 Work Telephone: (303) 318-8061  
 Work FAX: (303) 318-8069  
 Work E-mail: maryann.motza@state.co.us  
 Home E-mail: MMotza@msn.com  
 Home Phone: 303-751-2346*

10/4/2011

# **NCSSSA Survey of Majority Vote States Regarding Support for Federal Law Change to Permit Divided Votes for Medicare-only Referenda in All States**

**Summary Prepared by: Maryann Motza, PhD  
President, NCSSSA (2010-2011)**

**Dean J. Conder, M.S. (NCSSSA Training/Succession Planning Committee Chair)  
May 22, 2011**

## **Introduction**

In April 2011, NCSSSA conducted a survey of the 29 Majority Vote states in the United States, asking them a series of questions (see Attachment A) related to their desire to be granted Divided Vote authority for Medicare-only referenda. That was a follow-up survey to an earlier one conducted by NCSSSA in January/February 2011, of both Majority and Divided Vote states wherein we asked for their actual experiences (see Attachment B). Both surveys were conducted at the U.S. Social Security Administration's (SSA) request for us to obtain more information related to NCSSSA's legislative proposal to eliminate the need for Medicare-only referenda (see Attachment C).

## **Analysis of Results**

The results of the April 2011 NCSSSA conducted of the 29 Majority Vote states (included within Attachment A) were mixed regarding their desire to have Divided Authority to conduct Medicare-only referenda. The data indicate the following major findings:

- Total "Yes" = 6 (20.7%)
- Total "No" = 11 (37.9%)
- Total "No Response" = 8 (27.6%)
- Total "Not Sure" = 4 (13.8%)

Thus, although the "raw" numbers show a plurality of respondents voted against having Divided Vote authority for Medicare-only purposes, it is not a conclusive number, especially since nearly half of the Majority Vote states (i.e., 12, or 41.4%) either did not respond to the survey or were unsure if they wanted the authority or not.

It is also interesting to note that of the 17 states who actually expressed a "Yes" or "No" opinion, the vast majority (13, or 76.4%) are some of the most inexperienced State Administrators, i.e., "Tier I." See summary, below, of NCSSSA's Training and Succession Planning Committee's analysis of current training needs for state administrators nationwide. The Excel spreadsheet containing the summary results of the Majority Vote states' survey (included within Attachment A) shows the states that fall into the three different training/experience tiers.

As you know, much of the GAO report on management of Social Security for state and local government employees (GAO-10-938), issued in September 2010, discussed areas for improvement of training. We acknowledge that NCSSSA needs to be more assertive in its outreach to inactive and inexperienced state administrators. For example, we need to enhance/improve mentoring as well as initial and follow-up training for new state administrators, enhance/improve the Best Practices document; etc. The NCSSSA Training Committee, in its succession planning efforts, has documented the need to establish a tiered

# NCSSSA Survey of Majority Vote States Regarding Support for Federal Law Change to Permit Divided Votes for Medicare-only Referenda in All States

Summary Prepared by: Maryann Motza, PhD  
President, NCSSSA (2010-2011)

Dean J. Conder, M.S. (NCSSSA Training/Succession Planning Committee Chair)  
May 22, 2011

approach to address the training needs of its membership. As of January 2011, NCSSSA identified the following categories of training needs for its membership:

- a. **Level I (38 states).** New administrators with less than 2 years experience. Training Method needs to be in person and will cover the basic fundamentals. Training will take place at regional training sessions during the year and at the annual conference.
- b. **Level II (8 states).** New administrators that have received Level I training and those administrators with less than 10 years experience. Training Method will be via Webinars or Teleconferences and will provide refresher and issue specific training. Training will take place during the year and at the annual conference.
- c. **Level III (6 states).** Experienced administrators with 10 or more years experience. Training Method will be via Webinars or Teleconferences and focus on issue specific training. Training will take place during the year and at the annual conference.

*Thus, NCSSSA thinks that, with all of the turnover that has occurred over the past few years, many State Administrators are too inexperienced to express an informed opinion to the survey we conducted in April 2011. As noted above, quite a few did not respond at all or indicated they were "unsure" whether they would support such authority or not. We think that is a significant factor that you need to take into account when analyzing the results of the latest survey. We suspect that the results of this recent survey are a reflection of the "wants" of the State Administrators as opposed to the "needs" of the public employees who are Medicare-exempt in their states.*

## Conclusion

We still contend that the best (i.e., least costly and most efficient) approach to meeting the needs of Medicare-only exempt government employees, on a case-by-case basis is to eliminate the need for any referenda elections. See Attachment C for the explanation of NCSSSA's original proposal.

## Summary of Attachments

- A. **Attachment A:** Documents associated with the April 2011 NCSSSA survey of Majority Vote states re: Medicare-only referenda are:
  1. NCSSSA Regarding Medicare-only Divided Coverage Authority-- Survey of Majority Vote States, April 2011(Word Document)
  2. Summary Results -- Survey of State Administrators in Majority Vote States Regarding Desires for Divided Vote Capability for Medicare-only Referenda (Excel spreadsheet)

**NCSSSA Survey of Majority Vote States Regarding Support for Federal Law Change to Permit Divided Votes for Medicare-only Referenda in All States**

**Summary Prepared by: Maryann Motza, PhD  
President, NCSSSA (2010-2011)**

**Dean J. Conder, M.S. (NCSSSA Training/Succession Planning Committee Chair)  
May 22, 2011**

3. Survey results generated by SurveyMonkey.com (Part 1) (PDF Document)
  4. Survey results generated by SurveyMonkey.com (Part 2) (PDF Document)
- B. Attachment B:** Documents associated with the April 2011 NCSSSA survey of Majority Vote states re: Medicare-only referenda are:
1. Text of Email to NCSSSA Working State Administrators Regarding the NCSSSA Survey Medicare-only Referenda History in Both Majority and Divided Vote Authority States, February 2011 (Word Document)
  2. Summary Findings: Medicare-only Referenda History—Survey of All States by NCSSSA, January/February 2011 (Excel Spreadsheet)
  3. Louisiana Divided Vote Referenda (Excel spreadsheet)
- C. Attachment C:** Explanation of NCSSSA Legislative Proposal Regarding Elimination of Referenda Requirements Associated with Medicare-only Coverage for State and Local Government Employees, January 2011



**[Include comment box on the surveymonkey form]**

***Please respond to this brief survey on or before April 22, 2011.*** Thank you for completing the survey and assisting us in moving this legislative proposal forward. If you have any questions about this, please contact Maryann Motza at [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us) or 303-318-8061.

Attachment A – contd.  
 Summary Results – Survey of State Administrators in Majority Vote States Regarding Desires  
 for Divided Vote Capability for Medicare-only Referenda  
 April 2011 Survey

	A	B	C	D
1	State	Survey Response	% SS Covered	Experience Level & Training Needs
2	Alabama	No Response	97	Tier II
3	Alaska	////	42	Tier III
4	Arizona	Not sure	92	Tier II
5	Arkansas *	NO	94	Tier I
6	California	////	40	Tier I
7	Colorado	Yes	30	Tier III
8	Connecticut	////	55	Tier I
9	Delaware	Yes	92	Tier I
10	Florida	////	95	Tier I
11	Georgia	////	75	Tier I
12	Hawaii	////	83	Tier I
13	Idaho	NO	90	Tier I
14	Illinois	////	36	Tier III
15	Indiana	NO	92	Tier I
16	Iowa	NO	98	Tier I
17	Kansas	No Response	96	Tier I
18	Kentucky	////	67	Tier I
19	Louisiana	////	17	Tier III
20	Maine	No Response	36	Tier I
21	Maryland	NO	93	Tier I
22	Massachusetts	////	3	Tier III
23	Michigan	Not sure	95	Tier I
24	Minnesota	////	93	Tier I
25	Mississippi	Not sure	97	Tier II
26	Missouri	Yes	65	Tier II
27	Montana *	NO	95	Tier I
28	Nebraska	No Response	91	Tier I
29	Nevada	////	4	Tier II
30	New Hampshire	No Response	84	Tier I
31	New Jersey	////	91	Tier I
32	New Mexico	////	93	Tier I
33	New York	////	99	Tier I
34	North Carolina	NO	98	Tier I
35	North Dakota	////	95	Tier I
36	Ohio	No Response	1	Tier I
37	Oklahoma	Yes	92	Tier I
38	Oregon	Yes	97	Tier III
39	Pennsylvania	////	93	Tier I
40	Puerto Rico	No Response	83	Tier I
41	Rhode Island	////	77	Tier I
42	South Carolina	NO	98	Tier I
43	South Dakota	NO	98	Tier I
44	Tennessee	////	91	Tier II
45	Texas	////	47	Tier II
46	Utah	NO	94	Tier I
47	Vermont	////	99	Tier I
48	Virgin Islands	No Response		Tier I
49	Virginia	NO	98	Tier II
50	Washington	////	91	Tier I
51	West Virginia	Yes	95	Tier I
52	Wisconsin	////	96	Tier I
53	Wyoming *	Yes & No	97	Tier II
54				
55	Total "Yes"	6		
56	Percent "Yes"	20.70%		
57				
58	Total "No"	11		
59	Percent "No"	37.90%		
60				
61	Total "Not Sure"	4		
62	Percent "Not Sure"	13.80%		
63				
64	Total "No Response"	8		
65	Percent "No Response"	27.60%		
66				
67	Grand Total (Majority Vote States)	29		
68		100.00%		
69	Total Tier I			38
70	Percent Tier I			73.10%
71				
72	Total Tier II			8
73	Percent Tier II			15.40%
74				
75	Total Tier III			6
76	Percent Tier III			11.50%
77				
78	Total States	52		52.00%
79	Percent	100%		100%
80				

Notes: (1) States listed with an asterisk (\*) provided two different responses. To ensure the results were not distorted by double counting a state, only the response submitted by the highest-ranking official who responded or, if someone responded twice, only one response was included in the summary. The surveymonks.com print-out, however, includes all responses, because some comments were included that might be of value. One state answered both Yes and No, so that state's response is listed as "not sure" in the above tally. (2) Percent of state and local government earnings covered for Social Security is based on Appendix II of the GAO Report on Social Security Management Oversight, GAO-10-938, issued September 2010. (3) Shaded cells in column "B" (Survey Response) indicates the 23 states that currently have divided vote authority which were not surveyed, so no response was anticipated or needed from them. All states are included, however, to show the level of experience and training needs in each state (not just Majority vote states) – (see column D).

**Attachment B**

**Text of  
NCSSSA Survey Medicare-only Referenda History in  
Both Majority and Divided Vote Authority States  
January/February 2011**

Sorry to ask once again for your assistance, but, we need your help in gathering some information. The U.S. Social Security Administration is pursuing a legislative initiative that NCSSSA has been requesting for several years. To move it forward, however, they need some data from us. Unfortunately they need to submit the information through SSA channels by the end of this week.

Thus, I need you to provide me this information no later than close of business Thursday (February 3, 2011). The information needed is:

1. For both divided vote and majority vote states, how many Medicare-only referenda have been held and in what years? (If all years are not available, information for as many years as possible would be useful.)
2. What were the results? (For example, in majority vote states, how many passed versus failed?)
3. If available, please provide some data on the number of Sec. 218 Agreement modifications that provided for retroactive payment of HI taxes in recent years? How many employees affected? How much was paid in retroactive taxes?

Thanks for your assistance!

Maryann

Maryann Motza, PhD  
NCSSSA President (2010-2011)  
State Social Security Administrator  
Public Employees' Social Security Program  
Colorado Department of Labor and Employment  
633 17th Street, Suite 700  
Denver, CO 80202-3660  
Telephone: (303) 318-8061  
FAX: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)  
PESS Website: <http://pess.cdle.state.co.us>  
NCSSSA Website: <http://www.ncssa.org>



**Attachment B-contd.  
Summary Findings: Medicare-only Referenda History  
Survey of All States by NCSSSA**

STATE	Number of Medicare-Only Referenda Held	Number of Medicare-only Modifications	Employees Covered	NOTES
Alaska	0	0		Alaska has done NONE. The people (like me) that don't have Medicare are still excluded. The employers don't want to pay the additional costs.
California	58			We have completed from 1990 to Present, 6 Referendum elections, and 52 Division elections for Medicare-only coverage for Public Agencies. For the Teachers' Medicare process we have had approximately 850 school districts that have completed the Medicare-only process by Division. None of the Referendum elections failed for either full Social Security or Medicare-only. California has completed 1555 Modifications and all have been Federally Approved. Of all Modifications, most have some retroactive period, based on the effective date chosen for the coverage and the date of federal approval. The amount of retroactivity ranges from 1-3 months to the possible 5 year limitation. I have no available data on the number of employees that were affected. I also cannot provide any information of the amount of retroactive taxes that have been paid.
Colorado	11	7	30	Of the four failing Medicare referenda, 96 voted YES (for coverage) and 310 voted NO (against coverage) = 24% that sought coverage but were left without. Only 1 entity sought retroactive coverage- but that was to correct an error back to 1994.
Florida	1	1	62	The State of Florida has one Medicare only modification, Modification 458. Effective date of coverage was 10/1/99 for the Orange County Library District and covered 62 employees. No information on retroactive taxes.
Idaho				Idaho has not held any Medicare only referenda.

**Attachment B-contd.  
Summary Findings: Medicare-only Referenda History  
Survey of All States by NCSSSA**

Illinois	6	6	6	<p><b>Referenda</b>                  Schaumburg - effective 10/01/1988 - 5 yes, 26 no (total 31)[16%                  desiring coverage]; Pleasantview Fire Protection District - 01/01/1989 - 3                  yes, 8 no (4 no votes - total 15)[20%]; Schaumburg Township District                  Library - effective 01/01/1996 [vote count not available]; Teachers'                  Retirement System of Illinois - effective 07/01/2004 - 28,000 eligible, 14000                  voted, 5,600 yes, 8,400 no [20%]; State Universities Retirement System                  (SURS) - effective 09/01/2006 - 1,539 yes, 8,218 no (total 9,757)[16%];                  Chicago Teachers Pension Fund (CTPF) - effective 10/01/2006 - 6,779                  eligible, 2,017 returned [30%]</p>
Iowa			1	<p>In May 1994 a referendum was held for the City of Atlantic to give                  Medicare coverage to the fire and police personnel that were employed on                  March 31, 1986 under Municipal Fire and Police. 9 voted and all voted yes                  for a majority vote. The coverage became effective July 1, 1994 with no                  retroactive pay. It is Modification #387. No other referendums have been                  done. One city inquired about doing a referenda in 2005 but never                  followed through.</p>
Kentucky			2	<p>The Commonwealth of Kentucky has conducted two Medicare Only                  referendums. The first was conducted in 2002. There were three eligible                  voters and all three voted yes. There was no retroactive coverage. The                  second was conducted in 2008. There were two eligible voters. One voted                  yes and one voted no. They had retroactive coverage to 2005. Our office                  has no way of knowing how much was paid in retroactive taxes.</p>
Louisiana			5	<p>Louisiana conducted 20 majority vote Medicare only referendums at 14                  agencies where a majority of the eligible employees wanted to pay the                  Medicare tax. Agencies polled their eligible employees before requesting                  the Medicare only referendum to make sure a majority would vote YES.                  670 individuals were covered for Medicare only under the majority vote                  referendums. 79 Agencies have conducted 157 Divided Vote Medicare                  Only referendums since 2004 (17 agencies were retroactive coverage. 1                  do not have the amount of contributions paid by the agencies). 32,450                  individuals were eligible to vote in Medicare Only referendums. 4,589 voted                  YES and 27,861 voted NO [14%]. SEE ALSO THE ATTACHED                  SPREAD SHEET</p>

**Attachment B-contd.  
Summary Findings: Medicare-only Referenda History  
Survey of All States by NCSSSA**

Minnesota				<p>Minnesota (provided vote state) had a few retirement-system Medicare-only referendums in 1989 for the Minneapolis Teachers Retirement Fund Association, Minneapolis Employees Retirement Fund, St. Paul Teachers Retirement Fund Association, Public Employees Retirement Association - Coordinated Retirement Plan. No information as to the number of members who voted to have Medicare coverage in the 1989 referendums. No modifications for Medicare only coverage have been done in Minnesota since 1989.</p>
Mississippi	0		0	<p>Mississippi has never held a Medicare Only Referenda.</p>
Missouri		1	0	<p>The only Medicare only ref was in 2003 in Missouri....it was for the only retirement plan that was excluded from our original agreement, PSRS, Public School Retirement System. That referendum failed miserably due to the lack of voters....a majority of the voters did not even vote.</p>
Montana				<p>The State of Montana has held 4 referenda that resulted in a mod for Medicare only. Mod 381 was executed on 11/17/06 and effective 1/1/92. Mod 385 was executed on 2/27/07 and effective 4/1/88. Mod 355 was executed on 2/6/01 and effective 7/1/00. Mod 368 was executed on 9/27/05 and effective 4/1/05. We had 7 other requests for Medicare only mods which were cancelled or withdrawn due to Informational Release No. 80 or because of mandatory Medicare coverage provision of Public Law 99-272.</p>
Nevada			4	<p>I have only been in this position for a few weeks but a search of or files, plus inquiry with allied staff members, and a conversation with my predecessor, have revealed no record of referenda within the last 30 or more years. Our most recent modification to the agreement was over 20 years ago.</p>
New Hampshire			1	<p>We are a majority state, and only one referendum for Medicare has ever been held. A referendum was held on 9/9/1999 for the City of Nashua Police Dept employees hired before 4/1/86. It involved 71 employees eligible to vote. The referendum passed 50 yes 21 no (4 no 17 absentee (counted as no) [70%] Mod #299 was effective 10/1/1999. We have had 0 section 218 modifications for retroactive payment of HI.</p>
				71

**Attachment B-contd.  
 Summary Findings: Medicare-only Referenda History  
 Survey of All States by NCSSSA**

North Dakota					<p>13 Referenda with Med only, The first in December 9, 1998, with the City of Bismarck Police Department, vote based on majority vote with 11 employees who passed referendum, this modified original referendum #37. And another in September 13, 1999 with the Mapleton Public School system. Data not available at this time. These were mods 675 and 676.</p>
Oklahoma	2	0			The database shows no Medicare Only Referenda have been held.
Oregon	0	0			4 Majority vote Medicare only - 2 in 2005 (1 failed - 1 to 2 : 1 passed - 6 to 3) 1 in 2008 (passed - 1 to 0) 1 in 2010 (passed - 2 to 1). The failed 2005 and the passed 2010 were held for the same employer. All were error mods. No additional taxes paid.
Vermont	3	4			Vermont has never held a Medicare-only referenda. In point of fact, we have not held referenda since I took over as State Administrator almost 20 years ago, and it was many years prior to that when the last one was held.
Washington	0				We have conducted 10 Medicare-only divided referenda since 2008. Out of 195 eligible voters 52 chose coverage (26%). 5 of the entities chose a retroactive effective date of coverage: 3 chose a date 11 months retro 1 chose a date 7 months retro 1 chose a date 1 month retro
N=20	10	92	37	186	
			40.2% of referenda conducted		

**Attachment B (contd)**  
**Louisiana Divided Vote Referenda**

No	EntityName	EligtoVote	YES	NO	EffDate	Group	Mod#	Remarks
1	City of New Roads	12	<b>8</b>	4	January 1, 2005	Medicare-only	673	218(d)(6)Divided ref.
2	Opelousas Eunice Public Library	2	<b>1</b>	1	January 1, 2005	Medicare-only	674	218(d)(6)Divided ref.
3	Calcasieu Parish Police Jury	64	<b>14</b>	50	January 1, 2005	Medicare-only	675	218(d)(6)Divided ref.
4	West Calcasieu Cameron Hospital	64	<b>17</b>	47	December 19, 2004	Medicare-only	676	218(d)(6)Divided ref.
5	Vermilion Parish School Board	310	<b>38</b>	272	July 1, 2003	Medicare-only	684	218(d)(6)Divided ref.
6	City of Kenner	113	<b>21</b>	92	January 1, 2005	Medicare-only	677	218(d)(6)Divided ref.
7	Pineville Housing Authority-SS	6	<b>4</b>	2	January 1, 2005	Social Security	678	218(d)(6)Divided ref.
8	Lake Borgne Basin Levee District	6	<b>1</b>	5	July 1, 2005	Medicare-only	679	218(d)(6)Divided ref.
9	Lafayette City-Parish Con. Government	434	<b>68</b>	366	October 1, 2003	Medicare-only	669	218(d)(6)Divided ref.
10	Jefferson Davis Parish School Board	169	<b>18</b>	151	April 1, 2005	Medicare-only	680	218(d)(6)Divided ref.
11	Terrebonne Parish School Board	579	<b>70</b>	509	July 1, 2005	Medicare-only	681	218(d)(6)Divided ref.
12	Evangeline Parish School Board	196	<b>21</b>	175	January 1, 2005	Medicare-only	682	218(d)(6)Divided ref.
13	Rapides Parish School Board	654	<b>29</b>	625	July 1, 2004	Medicare-only	670	218(d)(6)Divided ref.
14	Lafayette Airport Commission	2	<b>2</b>	0	November 1, 2003	Medicare-only	671	218(d)(6)Divided ref.
15	Louisiana State University and Agricultural & Mechanical C	4642	<b>613</b>	4029	April 1, 2005	Medicare-only	683	218(d)(6)Divided ref.
16	St. John Parish School Board	187	<b>5</b>	182	July 1, 2003	Medicare-only	672	218(d)(6)Divided ref.
17	Assumption Parish School Board	112	<b>8</b>	104	July 1, 2005	Medicare-only	717	218(d)(6)Divided ref.
18	Grant Parish School Board	63	<b>8</b>	55	January 1, 2005	Medicare-only	685	218(d)(6)Divided ref.
19	Vernon Parish School Board	265	<b>20</b>	245	July 1, 2005	Medicare-only	686	218(d)(6)Divided ref.
20	Ascension Parish School Board	372	<b>31</b>	341	July 1, 2005	Medicare-only	687	218(d)(6)Divided ref.
21	Calcasieu Parish School Board	839	<b>41</b>	798	July 1, 2005	Medicare-only	688	218(d)(6)Divided ref.
22	Orleans Levee District	68	<b>7</b>	61	July 1, 2005	Medicare-only	689	218(d)(6)Divided ref.
23	University of Louisiana System	1614	<b>307</b>	1304	July 1, 2005	Medicare-only	690	218(d)(6)Divided ref.
24	Assessors' Retirement Fund	218	<b>39</b>	176	January 1, 2005	Medicare-only	691	218(d)(6)Divided ref.
25	Tangipahoa Parish School System	526	<b>78</b>	448	July 1, 2005	Medicare-only	692	218(d)(6)Divided ref.
26	Southern University and A & M College System	540	<b>93</b>	447	July 1, 2005	Medicare-only	693	218(d)(6)Divided ref.
27	Acadia Parish School Board	279	<b>15</b>	264	July 1, 2003	Medicare-only	694	218(d)(6)Divided ref.
28	St. James Parish School Board	163	<b>3</b>	160	July 1, 2005	Medicare-only	695	218(d)(6)Divided ref.
29	Washington Parish School Board	150	<b>7</b>	143	July 1, 2005	Medicare-only	696	218(d)(6)Divided ref.
30	Beauregard Parish School Board	264	<b>12</b>	252	July 1, 2005	Medicare-only	697	218(d)(6)Divided ref.
31	Lafourche Parish School Board	390	<b>32</b>	358	July 1, 2005	Medicare-only	698	218(d)(6)Divided ref.
32	Plaquemines Parish Government	102	<b>15</b>	87	September 1, 2003	Medicare-only	723	218(d)(6)Divided ref.
33	City of Slidell	59	<b>11</b>	47	January 1, 2006	Medicare-only	700	218(d)(6)Divided ref.
34	Louisiana Community & Technical College System	505	<b>106</b>	399	October 1, 2005	Medicare-only	707	218(d)(6)Divided ref.
35	Board of Elementary and Secondary Education	234	<b>72</b>	162	April 1, 2006	Medicare-only	702	218(d)(6)Divided ref.
36	St. Tammany Parish Clerk of Court	17	<b>9</b>	8	September 1, 2005	Medicare-only	703	218(d)(6)Divided ref.
37	Ascension Parish Sheriff's Office	33	<b>8</b>	25	October 1, 2005	Medicare-only	704	218(d)(6)Divided ref.
38	Pointe Coupee Parish School Board	95	<b>3</b>	92	October 1, 2005	Medicare-only	705	218(d)(6)Divided ref.
39	Atchafalaya Basin Levee District	13	<b>1</b>	12	July 1, 2003	Medicare-only	706	218(d)(6)Divided ref.
40	State of Louisiana	10,634	<b>1852</b>	8782	October 1, 2005	Medicare-only	714	218(d)(6)Divided ref.
41	St. Landry Parish School Board	546	<b>22</b>	524	May 1, 2005	Medicare-only	708	218(d)(6)Divided ref.
42	Louisiana Clerk's of Court Retirement and Relief Fund	503	<b>137</b>	366	October 1, 2005	Medicare-only	699	218(d)(6)Divided ref.

**Attachment B (contd)**  
**Louisiana Divided Vote Referenda**

No	EntityName	EligtoVote	YES	NO	EffDate	Group	Mod#	Remarks
43	Acadia Parish Police Jury	19	3	15	October 1, 2003	Medicare-only	711	218(d)(6)Divided ref
44	East Feliciana Parish School Board	49	4	45	July 1, 2005	Medicare-only	701	218(d)(6)Divided ref
45	Bienville Parish School Board	64	8	56	October 1, 2005	Medicare-only	713	218(d)(6)Divided ref
46	Iberia Parish School Board	491	44	447	September 1, 2003	Medicare-only	710	218(d)(6)Divided ref
47	Breaux Bridge Housing Authority	2	2	0	January 1, 2006	Medicare-only	709	218(d)(6)Divided ref
48	St. Charles Parish Council	119	22	97	October 1, 2005	Medicare-only	712	218(d)(6)Divided ref
49	Sheriffs' Pension & Relief Fund	1	1	0	January 1, 2003	Medicare-only	722	218(d)(6)Divided ref
50	Natchitoches Parish School Board	168	21	147	July 1, 2006	Medicare-only	718	218(d)(6)Divided ref
51	City of New Iberia	39	8	31	July 1, 2006	Medicare-only	715	218(d)(6)Divided ref
52	St. Mary Parish School Board	239	26	213	July 1, 2006	Medicare-only	716	218(d)(6)Divided ref
53	Lincoln Parish Police Jury	21	3	18	July 6, 2006	Medicare-only	719	218(d)(6)Divided ref
54	Ouachita Parish Police Jury	47	15	32	June 1, 2006	Medicare-only	720	218(d)(6)Divided ref
55	Lafourche Parish Water District No. 1	17	4	12	October 1, 2006	Medicare-only	721	218(d)(6)Divided ref
56	City of Eunice	16	7	9	October 1, 2006	Medicare-only	726	218(d)(6)Divided ref
57	Greater New Orleans Expressway Commission	11	3	8	September 1, 2006	Medicare-only	724	218(d)(6)Divided ref
58	Jefferson Parish School Board	1229	142	1087	July 1, 2006	Medicare-only	728	218(d)(6)Divided ref
59	Claiborne Parish School Board	61	2	59	January 1, 2003	Medicare-only	725	218(d)(6)Divided ref
60	Caddo Parish Commission	3	3	34	October 1, 2006	Medicare-only	727	218(d)(6)Divided ref
61	City of Alexandria	194	21	173	December 30, 2006	Medicare-only	729	218(d)(6)Divided ref
62	Caldwell Parish School Board		0	0	April 1, 2007	Medicare-only		218(d)(6)Divided ref
63	East Baton Rouge Parish School System	966	46	920	July 1, 2007	Medicare-only	731	218(d)(6)Divided ref
64	Iberville Parish School Board	142	12	130	July 1, 2007	Medicare-only	732	218(d)(6)Divided ref
65	Jefferson Parish Government	642	101	541	September 15, 2007	Medicare-only	733	218(d)(6)Divided ref
66	Morehouse Parish School Board	98	12	76	October 1, 2007	Medicare-only	734	218(d)(6)Divided ref
67	Tensas Parish School Board	34	5	29	August 2, 2004	Medicare-only	735	218(d)(6)Divided ref
68	Allen Parish School Board	77	5	72	January 1, 2008	Medicare-only	736	218(d)(6)Divided ref
69	Catahoula Parish School Board	36	6	30	July 1, 2008	Medicare-only	737	218(d)(6)Divided ref
70	Lafayette Parish School Board	508	82	426	July 1, 2007	Medicare-only	738	218(d)(6)Divided ref
71	Calcasieu Parish Library	10	3	7	January 1, 2003	Medicare-only	739	218(d)(6)Divided ref
72	Franklin Parish School Board	66	9	57	July 1, 2008	Medicare-only	740	218(d)(6)Divided ref
73	East Carroll Parish School Board	42	10	32	January 3, 2003	Medicare-only	741	218(d)(6)Divided ref
74	Ouachita Parish School Board	319	53	266	July 1, 2008	Medicare-only	742	218(d)(6)Divided ref
75	Bossier Parish Police Jury	21	4	17	July 1, 2008	Medicare-only	743	218(d)(6)Divided ref
76	St. Charles Parish School Board	178	13	165	January 1, 2003	Medicare-only	744	218(d)(6)Divided ref
77	Terrebonne Parish School Board	300	5	295	February 1, 2009	Medicare-only	Failed*	218(d)(4)Majority ref *
78	Concordia Parish Library	2	1	1	July 1, 2009	Medicare-only	745	218(d)(6)Divided ref
79	Southwest Allen Parish Water District	6	3	3	July 1, 2009	Social Security	746	218(d)(6)Divided ref
80	St. Bernard Parish School Board	57	12	45	July 1, 2009	Medicare-only	747	218(d)(6)Divided ref
81	Avoyelles Parish School Board	78	12	66	January 1, 2010	Medicare-only	748	218(d)(6)Divided ref
82	Winn Parish School Board	56	4	52	January 1, 2005	Medicare-Only	749	218(d)(6)Divided ref
83	St. John the Baptist Parish Library	2			January 1, 2005	Medicare-only	750	218(d)(6)Divided ref
<b>No</b>	<b>EntityName</b>	<b>EligtoVote</b>	<b>YES</b>	<b>NO</b>	<b>EffDate</b>	<b>Group</b>	<b>Mod#</b>	<b>Remarks</b>
		<b>32462</b>	<b>4596</b>	<b>27879</b>				

**Attachment C**  
**Explanation of NCSSSA Legislative Proposal Regarding Elimination of Referenda Requirements Associated with Medicare-only Coverage for State and Local Government Employees**

**January 2011**

Email to Sue Bussman

Thanks for following up on the legislative proposal associated with changes in how Medicare-only coverage can be obtained by state and local government employees who were hired prior to 4/1/1986. I am afraid, however, there has been a miscommunication about the nature of the change that is proposed by NCSSSA. We acknowledge that according to current practices, all states are authorized by P.L. 99-272 (governing Medicare for state and local government employees) to extend Medicare-only coverage; **what we want to change, however, is the basic requirement to hold such referenda at all in any state.**

**Eliminate the need to conduct a Medicare-only referendum:**

This proposal would eliminate the need for State Social Security Administrators throughout the United States to conduct Medicare-only referenda under 42 U.S.C. §418(n) for Medicare Exempt Government Employees (i.e., those hired on or before March 31, 1986, who have been in continuous employment with a government employer) to be covered by Medicare. Associated with this change is to specifically allow voluntary Medicare-only coverage for state and local government employees on an employee-by-employee and employer-by-employer basis nationwide, not just in states where divided coverage referenda are now permitted under federal law. **Moreover and directly to the point, this proposal does *not* wish to expand the states authorized to conduct divided vote referenda, but, rather, proposes to eliminate the need for Medicare-only referenda altogether for all states.**

Current practices require state and local governments to follow a costly and complex referendum vote process to gain coverage for those employees hired on or before March 31, 1986; otherwise, they are excluded from participation in Medicare. Medicare was made mandatory for all new state and local government employees hired on or after April 1, 1986, but excluded those hired and in continuous employment prior to that date. If not a divided referendum state, the law requires that a majority (in some states, a super-majority) of employees to vote for coverage. Often, the vote fails and those employees unable to qualify for Medicare from a spouse or ex-spouse, or other employment, will face retirement without this medical insurance. Thus, there are a percentage of older state and local government employees who do not and cannot contribute to the Medicare program, but **want** to do so.

In fact, an argument could be made that 42 U.S.C. §418(n) DOES NOT impose a referenda procedure [as does paragraph (d), i.e., 42 USC 418(d)]. For example, Medicare is otherwise completely independent of retirement systems. A look at the history of §218 can help illustrate this point. In 1951 when §218 was created and states entered into their agreements, no referenda was required if a state chose to cover all, or even only a few, of its (or its political subdivisions') employees for Social Security. The agreement and modifications simply supplied coverage. In 1955, coverage was made possible for retirement systems by using a referendum process. The

passage of P.L. 99-272, however, did not implicate retirement systems, nor did it (by its own language) seem to require any referenda procedures. *Thus, it may be that only a regulatory and policy change is necessary, not Congressional action.*

This can be achieved simply by removing the requirement of a referendum vote, *if the employer agrees*, for those wishing to participate in Medicare-only and substituting a form that both the employer and employee must agree to before Medicare-only coverage would apply. The current process can be replaced by employers and employees using existing SSA and IRS forms, i.e., W-2 and 941, and an approved form placed in the employee's personnel file that reflects the employee's and employer's consent to be subject to the Medicare taxes throughout the remainder of the individual's employment with that employer.

**This change will immediately accomplish three goals:** (1) increase Medicare revenue into the Trust Fund, (2) allow state and local government employees throughout the United States who are otherwise ineligible for such coverage when they retire from public service to earn Medicare credits, and (3) save the states, local governments, and the federal government time and money by replacing a time-consuming and burdensome process with a simple administrative procedure. The current, dramatic financial and other resource constraints confronting all levels of government and the need for an additional revenue infusion into the Medicare Trust Fund makes this change even more critical. SEE "ATTACHMENT 1" TO THIS EMAIL FOR A MORE CONVENIENT FACT SHEET.

\*\*\*\*\*

Also, 42 U.S.C. 418(n) states:

“(n) Optional medicare coverage of current employees

(1) The Commissioner of Social Security shall, at the request of any State, enter into or modify an agreement with such State under this section for the purpose of extending the provisions of subchapter XVIII of this chapter, and sections 426 and 426-1 of this title, to services performed by employees of such State or any political subdivision thereof who are described in paragraph (2).

(2) This subsection shall apply only with respect to employees--

(A) whose services are not treated as employment as that term applies under section 410(p) of this title by reason of paragraph (3) of such section; and

(B) who are not otherwise covered under the State's agreement under this section.

(3) For purposes of sections 426 and 426-1 of this title, services covered under an agreement pursuant to this subsection shall be treated as “medicare qualified government employment”.

(4) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under the agreement pursuant to this subsection.”



\*\*\*\*\*

Attached are some attachments that explain the reasons for the Medicare-only proposal. If you have time to review the documents prior to our call this afternoon, I'd be happy to answer any questions you may have regarding the proposal.

The bottom line on this proposal is: all states currently are permitted to conduct Medicare-only referenda (per policies adopted by SSA), but we are requesting that SSA eliminate the need for such referenda elections (on Medicare-only matters solely, not OASDI) in all states. Eventually all state and local government positions in the country will be covered by Medicare anyway, but this would just enable the estimated 20 percent of the remaining Medicare-exempt employees (hired on or before 3/31/1986) to obtain Medicare coverage without going through the onerous, time-consuming referendum process. In Divided Vote states, such employees can already obtain that coverage, but in states like Colorado (and a number of others), where divided referenda are not permitted (and would be opposed by the states for political reasons), those employees cannot currently obtain that coverage.

ATTACHMENT #1  
ELIMINATION OF MEDICARE-ONLY REFERENDA

Current practice requires state and local governments to follow a costly and complex referendum vote to gain coverage for those employees hired on or before March 31, 1986. This proposal seeks to delete the requirement for a referendum vote and allow state and local employers and employees to simply start withholding, paying and reporting Medicare wages voluntarily.

42 U.S.C. 418(n) allows states to extend Medicare-only coverage to ineligible (pre-86 hires) following the referendum procedures of Section 218 of the Act (42 U.S.C. 418). By simply removing the requirement of a referendum vote, if the employer agrees, those wishing to participate in Medicare-only can do so by using existing payroll forms, i.e., W-2 and 941, and an approved form (to be determined by the U.S. Social Security Administration and the Internal Revenue Service) placed in the employee's personnel file that reflect the employee's and employer's consent to be subject to the Medicare taxes throughout the remainder of the individual's employment with that employer.

**Rationale:**

- The U.S. Social Security Administration estimates that 700,000 state and local employees are not covered by Medicare<sup>1</sup> and that by the year 2020 all state and local government employees will be under "Mandatory Medicare."
- Many ineligible (pre-86 hires) nearing retirement now want to qualify for Medicare.
- There remains approximately 20% of state and local employees that desire Medicare-only coverage who are willing to make the Medicare contributions.<sup>2</sup>
- This change in the law would **add and estimated \$1.2 Billion of additional revenue** to the Medicare coffers over the next 10 years that would otherwise be lost.<sup>3</sup>
- Most majority vote referenda fail because employees discover that they can qualify for Medicare on a spouse or ex-spouse's earnings record. Thus, they do not vote to pay the additional tax. In majority vote states, those employees who want Medicare (who cannot qualify for it otherwise) are then precluded from such coverage. Most of the majority vote states oppose becoming divided vote states, because they do not want full Social Security (Old Age-Survivors-Disability insurance to be expanded in their states), thus often making it difficult, if not impossible, for the 20 percent of Medicare-exempt government employees who want Medicare coverage to obtain it.
- "Simple" coverage would save the state and local governments the cost of conducting the referenda and the U.S. Social Security Administration of processing Medicare-only modifications.
- "Simple" coverage helps pension plans (retirement systems) by reducing retiree health costs, so this proposal would not face the political opposition that would be experienced if full Social Security (OASDI) coverage were mandated for state and local governmental employees.
- Qualifications for Medicare, i.e., 40 credits, would remain the same.

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<sup>1</sup> Based on information provided to the State of Colorado by the actuary for the Centers for Medicare and Medicaid Services in 2006.

<sup>2</sup> Based on Colorado and Illinois experiences with Medicare-only coverage referenda, 20% of Medicare-exempt employees would voluntarily enter Medicare.

<sup>3</sup> Estimate is derived as follows: 20% of 700,000 is 140,000. U.S. Census data shows the average yearly salary \$43,812 for state and local government employees with the 2.9% (employer and employee) Medicare tax = \$177,876,720 for the first year with a 9.3% attrition rate (current state of Colorado rate) for next 10 years equals \$1,192,045,916.

- Eliminates ethical and legal problems. State Administrators have been contacted by some employers who wish to provide coverage to ineligible employees and cannot get enough Medicare exempt employees to vote in favor of such coverage, asking the Administrator to sanction violating the spirit of the law with a false break in service for employees.
- “Simple” coverage provides “equal protection” of the law to all similarly situated state and local employers / employees.

**Additional Attachments:**

- Louisiana Divided Vote Medicare-only Referenda Experience (See separate Excel spreadsheet)
- Summary Results--Medicare-only Referenda History—Survey of All States by NCSSSA (Word Document)

**NCSSSA Issues Statement  
Delivered to Congressional Staff  
February 2011**

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## ISSUES STATEMENT

### Background on NCSSSA

The National Conference of State Social Security Administrators (NCSSSA) was founded in 1952, after the U.S. Social Security Act was amended by Congress to include Section 218 in 1950. The NCSSSA was established to provide a unified state perspective at the federal level, an on-going medium for problem solving, and an open forum for the development of new policy with the federal government. Since its inception, the NCSSSA has provided an effective network of communication for federal, state, and local governments concerning Social Security coverage and federal employment tax policy.

Section 218 allowed states the option of voluntarily providing Social Security coverage for state and local government employees. The responsibility for administering the Social Security program for state and local government (public) employees varies depending on each state's enabling legislation.

### Issues of Concern to NCSSSA

The following issues are of most concern to NCSSSA. For further information on any or all of these issues, please contact either Maryann Motza (NCSSSA President) or Michele Briggs (NCSSSA First Vice-President) (contact information is listed at the end of this statement):

1. **We have two proposals that would change state and local governments' FICA requirements which would increase revenue into both the Social Security Trust Fund and the Medicare Trust Fund and assist in reducing the tax gap:**
  - A. Specifically name the State Social Security Administrator position as an authorized recipient of tax information from the IRS under Internal Revenue Code (IRC) §6103. The restriction on open communication with State Administrators places IRS Federal State Local Government Specialists (FSLG) at a disadvantage, since specific coverage issues on individual government entities cannot be requested. Historically, requests by State Social Security Administrators to receive such information have been rebuffed by the IRS and Treasury Counsel, due to their interpretation of §6103. The IRS FSLG specialist has insufficient information and knowledge to accurately perform compliance reviews and/or examinations of state and local government employers. By specifically naming State Administrators in IRC §6103, we can assist the IRS FSLG specialists in understanding the coverage requirements of public employers and employees, thus ensuring accurate assessment of employment taxes by the IRS. We can also intervene and educate our state and local government employers about audit problems other entities (which would not be named by the Administrator during education sessions) have encountered. Such interventions will allow State Administrators nationwide to focus our limited resources on education, which will increase voluntary compliance among state and local governments with the FICA tax laws, thereby, relieving the IRS and SSA of this burden.  
**NOTE:** This request is formally described in the letter, dated February 9, 2011, addressed to Chairman Dave Camp, a copy of which is being provided with this Issue Statement.
  - B. Eliminate the need for State Social Security Administrators throughout the United States to conduct Medicare-only referenda under 42 U.S.C. §418(n) for Medicare Exempt Government Employees (i.e., those hired on or before March 31, 1986, who have been in continuous employment with a government employer) to be covered by Medicare. The proposed statutory change would add a minimum of \$1 billion of revenue to the Medicare Trust Fund, but still preserve states' rights granted by the 10<sup>th</sup> amendment.  
**NOTE:** NCSSSA is currently working with the Social Security Administration (SSA) and the Centers for Medicare and Medicaid Services (CMS) on preparing a legislative package for submission to Congress related to this proposal.
2. **Mandatory (or universal) Social Security.** As NCSSSA has indicated in the past<sup>1</sup>, our organization strongly opposes universal or mandatory Social Security coverage for state and local government employees for several reasons:

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<sup>1</sup> Previous NCSSSA position papers on this topic (available upon request), i.e., (1) Statement submitted by Steve Lortz, NCSSSA President, for the printed record of the hearing on restoring the long-term solvency of Social Security conducted by the House Ways and Means Committee's Subcommittee on Social Security, September 27, 1994; and (2) Position Paper entitled "Mandatory Social Security Coverage for all State and Local Government Employees", dated March 16, 1999, sent to House Ways and Means Committee Chairman Archer (TX) and Senate Finance Chair Senator Roth (DE), and a House Budget Committee member (Representative Clement, TN), on March 16, 1999.

- The principal reason is simple: the powers reserved to the states and to the people by the 10<sup>th</sup> Amendment to the U.S. Constitution and the associated restriction on imposing a tax on the states or their political subdivisions.
- The Omnibus Budget Reconciliation Act (OBRA) of 1990 required Social Security coverage for any employee not covered by a voluntary Section 218 Social Security Agreement or a public pension plan. Thus, basic protections are already ensured for all public sector employees, thereby precluding the need for Congress to mandate full Social Security coverage to protect workers.
- Another important consideration is the negative financial implications for state and local governments, their entire state economies, and even the national economy of the United States if the 2,659 public retirement systems in the nation<sup>2</sup> are decimated because Social Security is mandated for all public employees. Most public pension plans currently involve combined employee and employer contributions of 21 percent of payroll<sup>3</sup>. If Congress mandates full Social Security for all state and local government employees, it would be financially impossible for the vast majority of state and local governments and their employees to continue contributing to the public retirement systems at the current contribution level while also having to contribute an additional 12.4 percent of payroll to Social Security.

The implications of such a Congressional mandate would be devastating not only to the beneficiaries of those pension systems, but also to the very economy of our country itself. Further details are available upon request.

3. **Public Pension Systems.** To paraphrase Mark Twain, "The death of public pension plans has been greatly exaggerated." That aptly summarizes the state and local (public) pension plans in the nation, which are actually significant economic engines for the total economy. The vast majority of public pension plans are financially sound and are well-managed. State and local government pension plans do not want, nor need, Federal financial assistance. Indeed, the majority of the public pension plans are in far better financial shape than are either the Social Security or Medicare Trust Funds. NCSSSA fully supports the press statement and fact sheet (copies of both are attached, for ease of reference) that was recently issued by ten major national, state, and local government organizations, correcting the misinformation that has been distributed by supporters of defined contribution plans and some media outlets.
4. **NCSSSA is concerned about Section 511 of the 2005 Tax Increase Prevention and Reconciliation Act – P.L. 109-222 (TIPRA)**, which requires governments that spend more than \$100 million per year on goods and services to withhold 3 percent of the payments made to vendors and contractors, and remit that 3 percent to the federal government. The withholding requirement is set to begin January 1, 2012. We support H.R. 275 and S. 292 which would repeal section 511 of TIPRA.

In particular, we are concerned about the estimated costs to states and local governments for administering this provision which, according to the CBO, could be approximately \$62 million per year. We are further concerned that vendors will increase their costs by three percent, which will be a cost burden to state and local governments during a time of decreased revenue, not to mention the increased tax burden on the public if the governments are forced to pass along those costs to taxpayers.

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For further information, please contact:

Maryann Motza, PhD  
 NCSSSA President (2010-2011)  
 Colorado State Social Security Administrator  
 Telephone: (303) 318-8061  
 E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)

Michele Briggs  
 NCSSSA First Vice-President and Program Committee Chair (2010-2011)  
 Arizona State Social Security Administrator  
 Telephone: (602) 240-2022  
 E-mail: [micheleb@asrs.state.az.us](mailto:micheleb@asrs.state.az.us)

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<sup>2</sup> U.S. Department of Commerce. U.S. Census Bureau. Governments Division. Table 5b. Coefficient of Variation for Number and Membership of State and Local Government Employee-Retirement Systems by State: Fiscal Year 2003-04. Created: September 28 2005, and last revised: September 28 2005.

<sup>3</sup> Testimony provided by Ms. Priya Sara Mathur, elected member of the Board of Administration of the California Public Employees' Retirement System (CalPERS) before the Subcommittee on Social Security, Pensions and Family Policy, U.S. Senate Committee on Finance, on November 6, 2007, p. 2.



## FACTS ON STATE AND LOCAL GOVERNMENT PENSIONS

**Retirement systems remain a small portion of state and local government budgets.** State and local government pensions are not paid out of general operating revenues, but instead, a trust that public retirees and their employers contributed to while they were working. The portion of state and local government spending dedicated to retirement system contributions is about three percent.<sup>1</sup> While some pension trusts are fully funded (they have enough assets in the trust now for all pension obligations), following the recent market decline, plans will need to increase their contribution levels to five percent on average to return to full funding.<sup>2</sup> The unprecedented number of benefit and financing changes in public plans over the last few years will help to keep any required increases to a minimum.

**Public pension plans are not in crisis.** Most state and local government employee retirement systems have substantial assets to weather the economic crisis; those that are underfunded are taking steps to strengthen funding. It is important to understand that pensions are funded and paid out over decades. There is currently \$2.7 trillion already set aside in pension trusts for current and future retirees. Further, state and local government retirees do not draw down their pensions all at once. Employees must reach certain age and/or years of service before they are eligible for a pension; once retired, they must receive their pension in installments over their retirement years (as an annuity).

**State and local governments are already taking steps to secure their pensions for the long-term.** More state and local governments enacted significant modifications to improve the long-term sustainability of their retirement plans in 2010 than in any other year in recent history. In the past few years, nearly two-thirds of states have made changes to benefit levels, contribution rate structures, or both; many local governments have made similar fixes to their plans.<sup>3</sup>

**Public employees share in the financing of their pension, which in many cases is in lieu of Social Security.** The vast majority of public employees are required to contribute a portion of their wages—typically five to ten percent—to their state or local pension, and these contribution rates are being raised in many state and local governments. Employee contributions along with investment returns comprise the majority of public pension fund revenues. The average retirement benefit for public employees is \$22,600 and for many of them, including nearly half of all teachers and over two-thirds of firefighters and public safety officers, it is in lieu of Social Security. State and local salaries on which these pensions are based are lower than those for private sector employees with comparable education and work experience, even when benefits are included.<sup>4,5</sup>

**Pension dollars help the economy of every jurisdiction.** Public employees live in every city and town in the nation; more than 90 percent retire in the same jurisdiction where they worked. The over \$175 billion in annual benefit distributions from pension trusts are a critical source of economic stimulus to communities throughout the nation, and act as an economic stabilizer in difficult financial times. Recent studies have documented public retirement system pension distributions annually generate over \$29 billion in federal tax revenue, more than \$21 billion in annual state and local government tax revenue, and a total economic impact of more than \$358 billion.<sup>6</sup>

**Long-term investment returns of public funds continue to exceed assumptions.** Since 1985 – a period that has included three economic recessions and four years of negative median public fund investment returns – actual public pension investment returns have exceeded assumptions.<sup>7</sup> For the 25-year period ended 12/31/09, the median public pension investment return was 9.25%.<sup>8</sup> Moreover, for the year ended 6/30/10, this return was 12.8%.<sup>9</sup> These actual returns exceed the 8% average public pension investment assumption, as well as the average assumed rate of return used by the largest corporate pension plans.<sup>10</sup>

**State and local government retirement systems do not require, nor are they seeking, Federal financial assistance.** The great strides made in the ability of state and local government retirement systems to ensure that more than 20 million working and retired public employees have financial security in retirement have been achieved without Federal intervention. One-size-fits-all Federal regulation is neither needed nor warranted and would only inhibit recovery efforts already underway at the state and local levels.

ENDNOTES

- <sup>1</sup> NASRA Issue Brief: State and Local Government Spending on Public Employee Retirement Systems
- <sup>2</sup> The Funding of State and Local Pensions, Center for State and Local Government Excellence
- <sup>3</sup> Pensions and Retirement Plan Enactments in 2010 State Legislatures, National Conference of State Legislatures
- <sup>4</sup> The Wage Penalty for State and Local Government Employees, Center for Economic and Policy Research
- <sup>5</sup> Out of Balance? Comparing Public and Private Sector Compensation Over 20 Years, Center for State and Local Government Excellence/National Institute on Retirement Security
- <sup>6</sup> Pensionomics: Measuring the Economic Impact of State and Local Pension Plans, National Institute on Retirement Security
- <sup>7</sup> Investment Return Assumption for Public Funds: The Historical Record, Callan Investments Institute Research
- <sup>8</sup> NASRA Issue Brief: Public Pension Plan Investment Return Assumptions
- <sup>9</sup> The Public Fund Survey
- <sup>10</sup> Milliman 2010 Pension Funding Study

OTHER RESOURCES:

- The Impact of Public Pensions on State and Local Budgets, Center for Retirement Research at Boston College
- Faulty Analysis is Unhelpful to State and Local Pension Sustainability Efforts, National Association of State Retirement Administrators
- Frequently Asked Questions About Pensions, National Institute for Retirement Security
- Research Brief on America's Cities, National League of Cities

**NATIONAL CONFERENCE OF STATE LEGISLATURES ([WWW.NCSL.ORG](http://www.ncsl.org))**  
**NATIONAL ASSOCIATION OF COUNTIES ([WWW.NACO.ORG](http://www.naco.org))**  
**UNITED STATES CONFERENCE OF MAYORS ([WWW.USCM.ORG](http://www.uscm.org))**  
**NATIONAL LEAGUE OF CITIES ([WWW.NLC.ORG](http://www.nlc.org))**  
**INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION ([WWW.ICMA.ORG](http://www.icma.org))**  
**NATIONAL ASSOCIATION OF STATE AUDITORS COMPTROLLERS & TREASURERS ([WWW.NASACT.ORG](http://www.nasact.org))**  
**GOVERNMENT FINANCE OFFICERS ASSOCIATION ([WWW.GFOA.ORG](http://www.gfoa.org))**  
**INTERNATIONAL PERSONNEL MANAGEMENT ASSOCIATION FOR HUMAN RESOURCES ([WWW.IPMA-HR.ORG](http://www.ipma-hr.org))**  
**NATIONAL COUNCIL ON TEACHER RETIREMENT ([WWW.NCTR.ORG](http://www.nctr.org))**  
**NATIONAL ASSOCIATION OF STATE RETIREMENT ADMINISTRATORS ([WWW.NASRA.ORG](http://www.nasra.org))**



# Letter to State Officials Reinforcing the Importance of the State Social Security Administrator

(Letter to Governor of Massachusetts is attached as a sample of the letters that were sent to all states. Also included are cover letters to various federal officials transmitting copies of the letters to them.)

August 10, 2011

The Honorable Deval Patrick  
Governor of Massachusetts  
State House, Room 280  
Boston, MA 02133

Dear Governor Patrick:

The National Conference of State Social Security Administrators (NCSSSA) is alerting Governors, as the named parties to voluntary Social Security (and Medicare-only) coverage agreements, along with other state government officials, about a recently released policy statement issued by the United States Social Security Administration (SSA). That updated policy statement was an outgrowth of recommendations made to SSA and the U.S. Internal Revenue Service (IRS) by the Government Accountability Office in a September 2010 Report to Congressional Requesters on Social Security Management Oversight (GAO-10-938; available at: <http://www.gao.gov/new.items/d10938.pdf>). Among the recommendations GAO made were that SSA work with the IRS and State Social Security Administrators to improve management and oversight of public employer reporting of Social Security wages and that SSA clarify its guidance on state administrator responsibilities. On March 15, 2011, the Social Security Administration released updated SL 10001.130, State Social Security Administrator Responsibilities, available at: <https://secure.ssa.gov/apps10/poms.nsf/lrx/1910001130>, clarifying the prescripts of 20 C.F.R. 404.1204 associated with the function and duties of the State Social Security Administrator, reinforcing that the responsibilities are still mandated by federal law.

As the Governor of Massachusetts, your State Administrator Nicola Favorito, is the principal state official for ensuring compliance with federal employment tax laws and for verifying that state laws which are enacted in the future are not in conflict with federal requirements. The State Administrator protects the interests of their individual State and its political subdivisions by properly analyzing individual state laws coupled with the federal law, thereby ensuring the efficient and effective administration of Social Security and Medicare coverage, employment tax laws, and public pension system obligations for state and local government employers and employees.

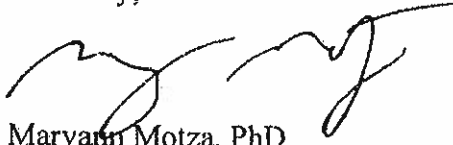
Many state and local governments throughout the country are making changes to their pension systems due to continued budget issues. These changes, however, without knowledgeable scrutiny, can have an adverse effect upon a state or local government's federal tax compliance, as these state laws may conflict with federal law. This area of state and local government federal employment tax is exceedingly complicated where seemingly minor changes can result in a federal tax liability. Thus, NCSSSA is encouraging each state (and local government) to contact their State Social Security Administrator -- the official in their state with this knowledge -- to understand the impact that proposed legislative changes to state or local government pensions or employment tax would have on the Section 218 Agreements. The list of State Administrators, including their contact information, can be found at: <http://www.ncsssa.org/statessadminmenu.html> .

In some states virtually no state or local employees pay Social Security while in other states all or a majority of state and local employees pay Social Security. Your State Administrator can properly advise each state or local government employer in your state. The State Administrator is the liaison (or "bridge") between the federal government (both SSA and IRS) and state and local government employers. Those liaison functions which are performed by the State Administrator help the public employers ensure both coverage and tax compliance are accurate for each of their public employees.

NCSSSA is taking the lead on notifying the Governor, and other principal state officials, about the importance of ensuring the State Administrator responsibility, which is federally mandated, is properly supported both financially and politically. Since the IRS was given responsibility to collect the FICA taxes from state and local government employers in 1987, some states have, erroneously, assumed the State Administrator is no longer a valuable state resource, let alone an on-going responsibility of the state. The GAO report highlights the folly of that assumption. NCSSSA is the sole professional organization for the State Social Security Administrators nationwide. The NCSSSA was established in 1952 to provide a unified State Administrator's perspective at the federal level to ensure ongoing problem solving and to maintain an open forum for the development of new policy. The NCSSSA works with federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of state and federal laws and regulations, communication of federal tax policy, and resolution of problems arising at the state and local levels. The NCSSSA continues to serve our constituents with a presence before Congressional staff, U.S. Treasury officials, the Internal Revenue Service, and the Social Security Administration. We are also host to an annual conference where current issues and concerns are addressed (see <http://www.ncsssa.org/presentconferencesite.html> for further information). We welcome your state's active participation in each of our annual conferences and know you and your staff will find attendance to be both informative and rewarding.

For further information on state and local government FICA tax coverage and compliance, please view IRS Publication 963 at <http://www.irs.gov/pub/irs-pdf/p963.pdf>. If the NCSSSA or I can be of assistance or if you have questions about the roles and responsibilities of State Administrators, please contact me. My contact information is listed below.

Sincerely,



Maryann Motza, PhD  
President, NCSSSA  
Colorado Department of Labor and Employment  
633 17th Street, Suite 700  
Denver, CO 80202-3660  
Telephone: (303) 318-8061  
Fax: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)

cc: The Honorable Michael J. Astrue, Esq., Commissioner of Social Security  
The Honorable Douglas Shulman, Esq., Commissioner Internal Revenue Service  
The Honorable Therese Murray, President of the Senate  
The Honorable Robert DeLeo, Speaker of House of Representatives  
The Honorable Douglas F. Gansler, State Attorney General  
The Honorable Roderick L. Ireland, Chief Justice of the State of Massachusetts, State  
Chief Justice  
Mr. Nicola Favorito, Executive Director, Massachusetts State Employees' Retirement  
System  
Mr. Steven Grossman, Treasurer & Receiver General  
The Honorable Joseph Grant, Acting Commissioner, IRS/Tax Exempt and Government  
Entities  
Mr. Paul Marmolejo, IRS/FSLG Director  
Ms. Christa Bucks Camacho, SSA Headquarters, Social Insurance Specialist,  
SSA//OISP//Office of Earnings and Program Integrity Policy  
The Honorable Susan Harding, Regional Commissioner, Region 1

August 15, 2011

The Honorable Michael J. Astrue, Esq.  
Commissioner  
U.S. Social Security Administration  
6401 Security Blvd., Suite 900  
Baltimore, MD 21235

Dear Commissioner Astrue:

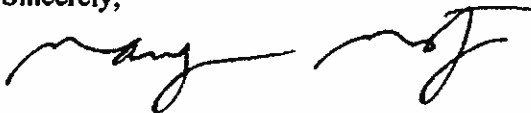
Enclosed is a copy of one of the letters I sent on behalf of the National Conference of State Social Security Administrators (NCSSSA) to officials in all 50 states plus Puerto Rico and the Virgin Islands reiterating the continuing importance of the role of State Social Security Administrator in all 52 locations throughout the country. The appropriate Social Security Administration (SSA) Regional Commissioner is copied on each letter. The letter highlights both the updated policy statement issued by the U.S. Social Security Administration in March of this year as well as the Government Accountability Office Report on Social Security Management Oversight which was issued in September 2010.

I am sending copies of all 52 letters to Ms. Christa Bucks Camacho at the SSA's Baltimore policy office suggesting that she share copies of the letters with the appropriate SSA staff in the respective headquarters offices as well as with SSA staff in the various states (including staff in the Parallel Social Security Offices). I am also sending copies of all letters to Mr. Paul Marmolejo, IRS/Federal-State-Local Government Director, requesting that he do likewise within the Internal Revenue Service. It is vital for all federal and state officials to coordinate and share information among ourselves to ensure we can properly serve our mutual customers – state and local government employers and employees throughout the nation.

Please let me know if you have any questions. My contact information is listed below.

Thank you.

Sincerely,



Maryann Motza, PhD  
President, NCSSSA (2010-2011)  
Colorado Department of Labor and Employment  
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FAX: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)

Enclosure

August 15, 2011

The Honorable Douglas Shulman, Esq.  
Commissioner  
U.S. Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224-0001

Dear Commissioner Shulman:

Enclosed is a copy of one of the letters I sent on behalf of the National Conference of State Social Security Administrators (NCSSSA) to officials in all 50 states plus Puerto Rico and the Virgin Islands reiterating the continuing importance of the role of State Social Security Administrator in all 52 locations throughout the country. The appropriate Social Security Administration (SSA) Regional Commissioner is copied on each letter. The letter highlights both the updated policy statement issued by the U.S. Social Security Administration in March of this year as well as the Government Accountability Office Report on Social Security Management Oversight which was issued in September 2010.

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President, NCSSSA (2010-2011)  
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Telephone: (303) 318-8061  
FAX: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)

Enclosure

August 15, 2011

The Honorable Joseph Grant  
Acting Commissioner  
Tax Exempt and Government Entities Division  
Internal Revenue Service  
1750 Pennsylvania Avenue, NW, 6<sup>th</sup> Floor  
Washington, DC 20006-4502

*Joseph*  
Dear Commissioner Grant:

Enclosed is a copy of one of the letters I sent on behalf of the National Conference of State Social Security Administrators (NCSSSA) to officials in all 50 states plus Puerto Rico and the Virgin Islands reiterating the continuing importance of the role of State Social Security Administrator in all 52 locations throughout the country. The appropriate Social Security Administration (SSA) Regional Commissioner is copied on each letter. The letter highlights both the updated policy statement issued by the U.S. Social Security Administration in March of this year as well as the Government Accountability Office Report on Social Security Management Oversight which was issued in September 2010.

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Sincerely,



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President, NCSSSA (2010-2011)  
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E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)

Enclosure

August 15, 2011

Ms. Christa Bucks Camacho  
Supervisory Social Insurance Specialist  
U.S. Social Security Administration  
State and Local Coverage  
4430-41, West High Rise  
6401 Security Blvd.  
Baltimore, MD 21235

*Christa*  
Dear Ms. Camacho:

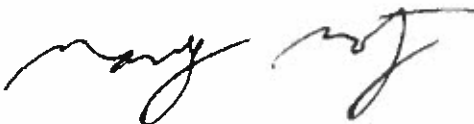
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Please let me know if you have any questions. My contact information is listed below.

Thank you.

Sincerely,



Maryann Motza, PhD  
President, NCSSSA (2010-2011)  
Colorado Department of Labor and Employment  
633 17th Street, Suite 700  
Denver, CO 80202-3660  
Telephone: (303) 318-8061  
FAX: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)

Enclosures



August 15, 2011

Mr. Paul A. Marmolejo, Director  
Federal, State and Local Governments  
2525 Capitol Street, Suite 222  
Fresno, CA 93721-2227

  
Dear Mr. Marmolejo:

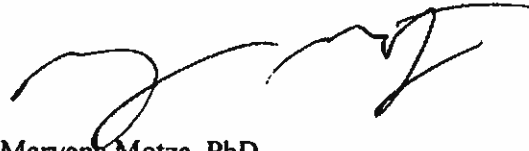
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Enclosures

August 15, 2011

The Honorable Susan Harding  
Regional Commissioner, Region 1  
U.S. Social Security Administration  
Office of the Regional Commissioner  
15 New Sudbury Street, Room 1900  
Boston, MA 02203

Dear Commissioner Harding:

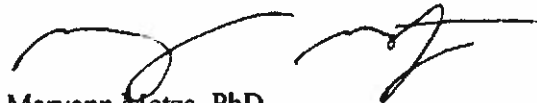
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Enclosures

August 15, 2011

The Honorable Beatrice M. Disman  
Regional Commissioner, Region 2  
U.S. Social Security Administration  
Office of the Regional Commissioner  
Room 40-102  
26 Federal Plaza  
New York, NY 10278

Dear Commissioner Disman:

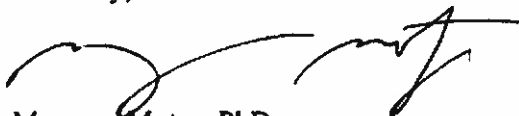
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Enclosures

August 15, 2011

The Honorable Laurie Watkins  
Regional Commissioner, Region 3  
U.S. Social Security Administration  
Office of the Regional Commissioner  
300 Spring Garden Street, 7th Floor  
Philadelphia, PA 19123

Dear Commissioner Watkins:

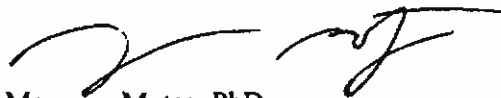
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Enclosures

August 15, 2011

The Honorable Michael W. Grochowski  
Regional Commissioner, Region 4  
U.S. Social Security Administration  
Office of the Regional Commissioner  
61 Forsyth Street, S.W.  
Suite 23T30 (Mailing: 22T64)  
Atlanta, GA 30303-8907

Dear Commissioner Grochowski:

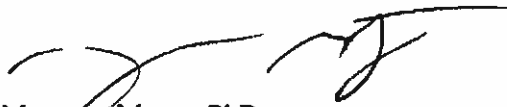
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Enclosures

August 15, 2011

The Honorable Nancy A. Berryhill  
Regional Commissioner, Region 5  
U.S. Social Security Administration  
Office of the Regional Commissioner  
Harold Washington Social Security Center  
P.O. Box 8280, 10th Floor  
Chicago, IL 60680-8280

Dear Commissioner Berryhill:


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Enclosures

August 15, 2011

The Honorable Sarah Schultz-Lackey  
Regional Commissioner, Region 6  
U.S. Social Security Administration  
Office of the Regional Commissioner  
1301 Young St.  
Suite 500  
Dallas, TX 75202-5433

Dear Commissioner Shultz-Lackey:

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Enclosures

August 15, 2011

The Honorable Carolyn L. Simmons  
Regional Commissioner, Region 7  
U.S. Social Security Administration  
Office of the Regional Commissioner  
Richard Bolling Federal Building, Room 436  
601 East 12th Street  
Kansas City, MO 64106

Dear Commissioner Simmons:

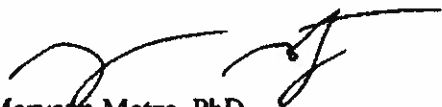
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Enclosures



August 15, 2011

The Honorable Sean Brune  
Regional Commissioner, Region 8  
U.S. Social Security Administration  
Office of the Regional Commissioner  
1001 17th Street  
N/A  
Denver, CO 80202

Dear Commissioner Brune:

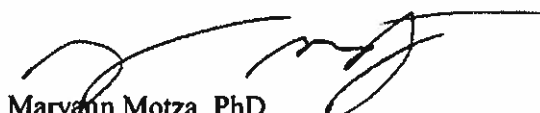
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Enclosures

August 15, 2011

The Honorable Peter D. Spencer  
Regional Commissioner, Region 9  
U.S. Social Security Administration  
Office of the Regional Commissioner  
Frank Hagel Federal Building  
P.O. Box 4200  
Richmond, CA 94804

Dear Commissioner Spencer:

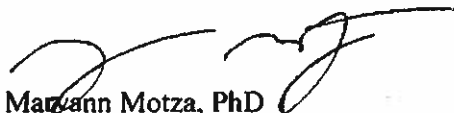
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Enclosures

August 15, 2011

The Honorable Stanley Friendship  
Regional Commissioner, Region 10  
U.S. Social Security Administration  
Office of the Regional Commissioner  
701 5th Avenue  
Suite 2900 M/S 301  
Seattle, WA 98104-7075

Dear Commissioner Friendship:

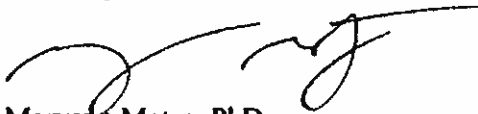
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Enclosures

**Letter to the National Governors  
Association Requesting Creation of a  
Special Continuing NGA Committee  
on Social Security Coverage for  
States and their Political Subdivisions**

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August 3, 2011

The Honorable Dave Heineman, Chair  
National Governors Association  
Hall of the States  
444 N. Capitol St, Suite 267  
Washington, DC 20001-1512

RE: Request for Special Continuing NGA Committee on Social Security Coverage  
for States and Their Political Subdivisions

Dear Governor Heineman:

As Governor of Nebraska you are the named party to the Social Security coverage agreements, as are all Governors of each state, and, therefore, of vital importance to the National Governors Association. The State Social Security Administrator serves a critical role in ensuring compliance with these agreements in each state and that state legislative changes, especially related to public pension systems, do not conflict with federal law. NCSSSA is the only organization that supports these State Administrators and is asking for your help in recognizing the issues that exist for the State Administrator in all states.

This issue is so crucial to every state in ensuring proper withholding and potential Social Security and Medicare benefits to affected state and local government employees nationwide, we ask that a special continuing committee be formed within the National Governors Association's Office of Federal Relations to address the ongoing concerns noted in a Government Accountability Office (GAO) report on Social Security Management Oversight, issued in September 2010, GAO-10-938: <http://www.gao.gov/new.items/d10938.pdf>. We hope to develop collaborative processes with SSA and the IRS to be proactive (i.e., prevent problems from occurring), and not just reactive (i.e., as occurred in Missouri<sup>1</sup>).

The National Conference of State Social Security Administrators (NCSSSA) was established in 1952 to provide a unified state perspective at the federal level to ensure there is an ongoing mechanism for problem-solving and to maintain an open forum for the development of new policy. Since its formation in 1952, the NCSSSA has worked closely with the U.S. Social Security Administration (SSA) and Internal Revenue Service (IRS) to address Social Security and Medicare coverage and employment tax issues raised by state and local governmental employers and State

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<sup>1</sup> See the final Task Force Report for a description of the problems identified in the State of Missouri, which caused the concerns among members of Congress that led to the formation of the special Task Force to address the issues. That report discusses how the problems had to be addressed by multiple individuals and agencies over an extended period of time, at considerable cost to all parties: M. Grochowski, et al., *REPORT: Federal Section 218 Task Force For Missouri School Districts*, March 31, 2009, <http://oa.mo.gov/acct/033109FederalTaskForceReport.pdf>.

Social Security Administrators throughout the United States. The NCSSSA works with the federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of federal tax policy, and resolution of problems arising at the state and local levels.

In 2009, the NCSSSA leadership was pleased to learn that the Committee on Ways and Means had requested a study by the Government Accountability Office (GAO) as to how voluntary Social Security and Medicare coverage agreements (commonly referred to as Section 218 Agreements) between the states (on behalf of their state and local government employers) and the federal government were being administered by the responsible federal agencies. The Social Security Administration is responsible for ensuring proper coverage, benefits, and wage reporting while the Internal Revenue Service is responsible for collecting the appropriate employment taxes from state and local government employers for Social Security and Medicare coverage and benefits that their employees are subject to, either through a voluntary Section 218 Agreement or mandatory Social Security or mandatory Medicare.

Since voluntary coverage agreements were first permitted by federal law in 1951, each state (plus Puerto Rico and the Virgin Islands) has had a person serving as that state's Social Security Administrator, based on each state's particular enabling legislation. From 1951 through 1986 the State Social Security Administrator not only administered the voluntary coverage agreements for his/her state (which each still does to this day), but also was the collection agent for the Social Security (and, later, Medicare) contributions that were paid by the state and local governments. Since 1987, when federal law changed and the IRS became the tax collection agent for those contributions, the State Social Security Administrator no longer performs that function. The importance of the State Administrator as an effective liaison (or "bridge") between his/her state and local governments and federal agencies (both SSA and the IRS) continues to be a vital responsibility to ensure public employers' efficient and effective compliance with federal and state laws. In fact, the added complexity to federal laws that occurred, especially with establishment of mandatory Medicare (April 1, 1986) and mandatory Social Security (July 2, 1991) makes the State Administrator in each state and even more important resource for each Governor than ever before. Further, the GAO report was complimentary of NCSSSA and clearly states that both SSA and the IRS should "work with" NCSSSA and the states to facilitate compliance by state and local governments with federal laws. The NGA's support in helping us accomplish that goal would be appreciated by all of our customers, i.e., the more than 19.7 million state and local government employees and more than 80,000 state and local government employers nationwide.<sup>2</sup>

NCSSSA applauds the GAO report for its recommendations on how the SSA and IRS can improve performance of their federal responsibilities vis-à-vis state and local governments. After analysis of the report, however, we think the GAO could have made additional recommendations. In March 2011, we communicated our concerns to the U.S. House Committee on Ways and Means and would be happy to share that letter with the NGA.

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<sup>2</sup> Based on the 2007 U.S. Census of Governments:

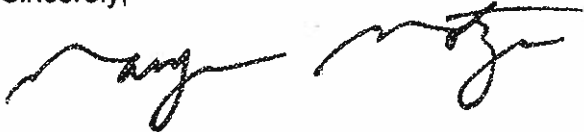
[https://ask.census.gov/app/answers/detail/a\\_id/1111/kw/total%20state%20and%20local%20governments](https://ask.census.gov/app/answers/detail/a_id/1111/kw/total%20state%20and%20local%20governments)

***Thus, we ask that the National Governors Association assist us in ensuring proper compliance with federal and state laws by state and local government employers nationwide by forming a special continuing committee within NGA to address these issues with us.*** We think it would be a logical addition to NGA's existing cadre of committees within its Office of Federal Relations that ensure the Governors' views are reflected in shaping federal policy. The retirement security and health care needs of public sector employees throughout the country are at stake, whether they are covered by Social Security and/or a public pension system.

On behalf of NCSSSA, I look forward to hearing from you or members of your staff regarding this matter. Please let me know if you have any questions or need any further information from me. I can be reached by telephone at: (303) 318-8061 or email at: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us). My mailing address is listed below.

Thank you for your consideration.

Sincerely,



Maryann Motza, PhD  
NCSSSA President, 2010-2011  
Public Employees' Social Security Program  
Colorado Department of Labor and Employment  
633 17th Street, Suite 700  
Denver, CO 80202-3660

cc: Mr. Michael J. Astrue, Esq., Commissioner of Social Security  
Mr. Douglas Shulman, Esq., Commissioner Internal Revenue Service  
Ms. Scheindel Rabinowitz, SSA Headquarters, Division Director, SSA/OISP/Office of Earnings and Program Integrity Policy  
Ms. Christa Bucks, SSA Headquarters, Social Insurance Specialist, SSA/OISP/Office of Earnings and Program Integrity Policy  
Mr. Joseph Grant, Acting Commissioner, IRS/Tax Exempt and Government Entities  
Mr. Paul Marmolejo, IRS/FSLG Director

Letter to the  
U.S. House of Representatives  
Committee on Ways and Means  
Providing NCSSSA's Comments  
On the Government Accountability  
Office Report (GAO-10-938)  
Regarding Social Security  
Management Oversight



March 9, 2011

The Honorable Sam Johnson  
Chairman  
The Honorable Xavier Becerra  
Ranking Member  
Subcommittee on Social Security  
Committee on Ways and Means  
House of Representatives

The Honorable Charles W. Boustany, Jr., MD  
Chairman  
The Honorable John Lewis  
Ranking Member  
Subcommittee on Oversight  
Committee on Ways and Means  
House of Representatives

Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

RE: National Conference of State Social Security Administrators (NCSSSA) Comments for Congress Regarding the Government Accountability Office (GAO) Report Number GAO-10-938, Issued September 2010, entitled: "Social Security Administration – Management Oversight Needed to Ensure Accurate Treatment of State and Local Government Employees"

Gentlemen:

The National Conference of State Social Security Administrators (NCSSSA) was established in 1952 to provide a unified state perspective at the federal level to ensure there is an ongoing mechanism for problem-solving and to maintain an open forum for the development of new policy. Since its formation in 1952, the NCSSSA has worked closely with SSA and IRS to address Social Security/Medicare coverage and employment tax issues raised by state and local governmental employers and State Social Security Administrators throughout the United States. The NCSSSA works with the federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of federal tax policy, and resolution of problems arising at the state and local levels.

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responsible for ensuring proper coverage, benefits, and wage reporting, and the Internal Revenue Service is responsible for collecting the appropriate employment taxes from state and local government employers for Social Security and Medicare coverage and benefits that their employees are subject to, either through a Section 218 Agreement or mandatory Social Security or mandatory Medicare.

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NCSSSA thus applauds the GAO report for its recommendations on how the SSA and IRS can improve performance of their federal responsibilities vis-à-vis state and local governments. After analysis of the report, however, we think the GAO could have made additional recommendations. Our detailed analysis of the GAO report is attached to this letter, but the highlights of our conclusions are summarized below:

1. Collaboration and communication among all principal parties (SSA, IRS, and State Administrators) is crucial to compliance by state and local (public) employers. The GAO report documents serious flaws in the current collaboration and communication among the federal and state partners. In fact, the GAO report includes several examples of inadequate communication *within the SSA and IRS*, let alone inadequate communication with State Administrators. Effective and efficient communication between/among all parties is the only way to proactively, rather than reactively, address compliance and coverage issues.
2. Since the IRS became an active participant in state and local FICA compliance, effective January 1987, the State Social Security Administrator is no longer privy to tax information, because of the IRS's interpretation of Internal Revenue Code §6103. The State Administrator, however, is the official responsible for administering his/her state's Section 218 Agreement that was voluntarily entered into with the U.S. Social Security Administrator. Thus, one of the two named parties to the contracts between the federal government and the states are systematically excluded from discussions about possible coverage and tax issues arising from those agreements. NCSSSA urges Congress to change that by amending IRC §6103 (i) to include authorization for the Secretary of the U.S. Treasury and the IRS to disclose tax information obtained from state or local governments with the official designated pursuant to 20 C.F.R. §404.1204 (the State Social Security Administrator).<sup>1</sup> We are convinced that, as occurred prior to 1987 when State Administrators were clearly treated as equal partners by the SSA in administering Section 218 Agreements, our involvement as equal partners now with both the SSA and IRS will be mutually beneficial to the federal government and the states.
3. The State Administrator should be included as a key partner in discussions of ALL coverage and wage reporting issues that the SSA and IRS encounter. This should be done proactively (to prevent problems from occurring), not just reactively (as occurred in Missouri). For example,

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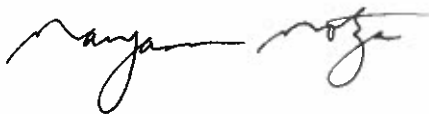
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even if IRS has a copy of every modification or a database of all 218 coverage in a particular state, there is still the rest of the story. State records include a variety of other key information that is pertinent to a proper resolution of coverage and withholding issues, such as past SSA or State Attorney General's opinions. It is also important to identify which retirement systems were in effect at time of coverage and which positions were covered – or not covered -- by a retirement system.

On behalf of NCSSSA, I look forward to hearing from you or members of your staff regarding this matter. Please let me know if you have any questions or need any further information from me. I can be reached by telephone at: (303) 318-8061 or email at: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us) . My mailing address is listed below.

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Maryann Motza, PhD  
NCSSSA President, 2010-2011  
Public Employees' Social Security Program  
Colorado Department of Labor and Employment  
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Attachment

cc: The Honorable Michael J. Astrue, Commissioner, U.S. Social Security Administration  
The Honorable Douglas H. Shulman, Commissioner, U.S. Internal Revenue Service  
Ms. Kim Hildred, Majority Staff Director, Ways and Means Subcommittee on Social Security  
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Ms. Karen McAfee, Minority Staff Director, Ways and Means Subcommittee on Oversight  
Mr. Daniel Bertoni, Director, Education, Workforce, and Income Security Issues, U.S. Government  
Accountability Office

March 9, 2011

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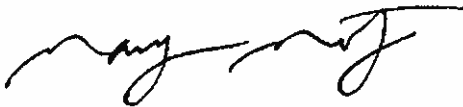
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**National Conference of State Social Security Administrators (NCSSSA)**  
Analysis of the Government Accountability Office (GAO) Report on  
Social Security Administration: Management Oversight Needed to  
Ensure Accurate Treatment of State and Local Government  
Employees (GAO-10-938; issued September 2010)  
March 9, 2011

**Introduction**

In September 2010, the Government Accountability Office (GAO) issued a Report to Congressional Requesters entitled, "Social Security Administration: Management Oversight Needed to Ensure Accurate Treatment of State and Local Government Employees" (GAO-10-938). The GAO report was a result of concerns about how the voluntary Social Security and Medicare coverage agreements (commonly referred to as Section 218 Agreements because they are authorized by Section 218 of the U.S. Social Security Act) were being administered throughout the country.<sup>1</sup>

The GAO reported that public employers/ees had \$528 billion (out of nearly \$5 trillion) of Social Security covered wages in 2007. That constitutes 10.6% of the total; not a trivial amount of money. Thus, identifying ways to enhance and improve compliance by public employers is of value to everyone.

Generally, the GAO report is excellent and shows that the GAO staff did a remarkable job in a brief period of time on learning about the myriad of issues, nuances, and complexities associated with state and local FICA taxes, Social Security coverage and benefits, and public pension system requirements.

GAO acknowledges that universal, mandatory Social Security is not the panacea to solve coverage and compliance problems that the U.S. Social Security Administration (SSA) and the U.S. Internal Revenue Service (IRS) are increasingly pushing for as the way to solve the complexity of state and local FICA coverage and compliance.

The NCSSSA strongly supports the following recommendations made by the GAO on pages 32 & 33 of its Report:

***"To improve SSA's management oversight of retirement benefits for public employees, we recommend that the Commissioner of Social Security, in consultation with IRS, state administrators, and public employers, develop procedures for monitoring the accuracy of Social Security earnings records. This could include (1) improving data collected on public employers, (2) identifying risk factors using existing SSA information and IRS audit findings, and (3) targeting public employers with those risk factors for follow-up reviews on an ongoing basis. (emphasis added)***

***"To improve the states' administration of public employer wage reporting, we recommend that the Commissioner of Social Security, in consultation with the National Conference of State Social Security Administrators, modify SSA's policy guidance to clarify state responsibilities governing their oversight of public employers and set clear expectations for the steps state administrators should take in implementing these responsibilities." (emphasis added)***

**NOTE:** The following points are numbered sequentially for ease of reference, not to indicate their relative importance. Also, some points apply to more than one category, so the full

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<sup>1</sup> This fact was documented by an issue that arose in the State of Missouri. See the final Task Force Report for a description of the problem and how it had to be addressed by multiple individuals and agencies: M. Grochowski, et al., *REPORT: Federal Section 218 Task Force For Missouri School Districts*, March 31, 2009, <http://oa.mo.gov/acct/033109FederalTaskForceReport.pdf>.

## **National Conference of State Social Security Administrators (NCSSSA)**

Analysis of the Government Accountability Office (GAO) Report on  
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March 9, 2011

comment is included under the first category where it is mentioned and in subsequent category(ies), the number is mentioned so it can be considered in that context as well.

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### **Disclosure**

1. According to the GAO, generally the IRS does not provide information about its enforcement activities to SSA or state administrators. Since SSA does not have that information and IRS can't disclose that information to State Administrators, even if the IRS Federal-State-Local Governments (FSLG) agent wanted to discuss problems, errors go unnoticed by the State Administrator and unfixed or unresolved. Both the SSA and IRS take a "reactive" approach to addressing problems, such as occurred in the State of Missouri. A better approach for all parties (federal, state, and local governments as well as state and local government employees) is for the federal officials (i.e., SSA and IRS) to partner with State Administrators proactively to identify potential problems and resolve them jointly. Since January 1987, when the IRS assumed responsibility for collecting FICA taxes from public employers, the State Administrator has systematically been excluded from receiving information because of the IRS's interpretation of Internal Revenue Code Section 6103.
2. "To improve the process for identifying and correcting errors, we recommend that the Commissioner of Internal Revenue track errors found through its compliance efforts on Social Security and Medicare taxes and share results with SSA, to the extent permitted by federal law." (GAO report, pages 32-33)  
**NOTE:** Federal law should be changed to require the IRS to also share information with State Administrators.
3. 26 U.S.C. § 6103 needs to be amended to specifically name State Administrators as an authorized exception. Amending § 6103 appears to be the only way that states can again be treated as full partners with the SSA and IRS on handling public employees' Social Security, Medicare, and public pension system issues. Unless and until the states are returned to a full partnership level with the SSA and IRS, inconsistencies, reporting errors, and compliance problems among public employers will continue to occur.

### **Communication and Collaboration**

4. Collaboration and communication among all principal parties (SSA, IRS and State Administrators) is crucial to compliance by public employers. However, the GAO report documents serious flaws in the current collaboration and communication among the federal and state partners.
5. The GAO report includes several examples of inadequate communication within the SSA and IRS, let alone inadequate communication with State Administrators. Effective and efficient communication between/among all parties is the only way to address compliance and coverage issues.
6. Lack of effective communication by the IRS with SSA and the states severely constrain the ability of SSA and the states to know of problems within their respective states, even though SSA and the states (not the IRS) are the parties to the voluntary Section 218 Agreements.



**National Conference of State Social Security Administrators (NCSSSA)**

Analysis of the Government Accountability Office (GAO) Report on  
Social Security Administration: Management Oversight Needed to  
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March 9, 2011

7. NCSSSA, as the only professional organization for all 52 State Social Security Administrators in the country, and individual State Administrators have not been treated as full partners by either the SSA or IRS since the IRS assumed responsibility for collecting FICA taxes from state and local governments, effective January 1987. This fact is even more egregious when you consider the fact that the Section 218 Agreements are entered into between the SSA and the states (neither their political subdivisions nor the IRS).
8. By not treating the states, especially NCSSSA as the sole professional organization for State Administrators nationwide, as an EQUAL partner the SSA and IRS effectively undermine the compliance levels of state and local governments with the Social Security Act and Internal Revenue Code. That, in turn, exacerbates problems within the states, which leads to situations such as those documented in the Missouri Task Force Report.
9. Much of the GAO report discusses areas for improvement of training. NCSSSA needs to be more assertive in its outreach to inactive state administrators. E.g., need to enhance/improve mentoring, initial and follow-up training for new state administrators, enhance/improve the Best Practices document, etc. The NCSSSA Training Committee, in its succession planning efforts, has documented the need to establish a tiered approach to address the training needs of its membership. As of January 2011, NCSSSA has identified the following categories of training needs for its membership:
  - a. **Level I (38 states).** New administrators with less than 2 years experience. Training Method needs to be in person and will cover the basic fundamentals. Training will take place at regional training sessions during the year and at the annual conference.
  - b. **Level II (7 states).** New administrators that have received Level I training and those administrators with less than 10 years experience. Training Method will be via Webinars or Teleconferences and will provide refresher and issue specific training. Training will take place during the year and at the annual conference.
  - c. **Level III (7 states).** Experienced administrators with 10 or more years experience. Training Method will be via Webinars or Teleconferences and focus on issue specific training. Training will take place during the year and at the annual conference.
10. Open, full communication and exchange of information between and among the three principal partners, federal (SSA & IRS) and state (State Administrators) , is vital to efficient and effective management of state and local governments' FICA/pension system compliance.
11. SSA has unclear guidelines and expectations of State Administrators' roles and responsibilities for their oversight of public employers. Inadequate funding and political support (both by the federal government and within the states themselves) denigrates and diminishes the importance of the role of State Administrator. Resolving these problems needs to be given a high priority by the federal and state partners.

**National Conference of State Social Security Administrators (NCSSSA)**  
**Analysis of the Government Accountability Office (GAO) Report on**  
**Social Security Administration: Management Oversight Needed to**  
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**Employees (GAO-10-938; issued September 2010)**  
**March 9, 2011**

**Social Security Administration Structure and Program Implementation**

12. Inconsistencies between/among the regional offices and headquarters policy office create significant issues and concerns for the states (State Administrators and public employers/employees). Many issues are never even shared with headquarters by the regional offices. Thus, inconsistencies between and among how the regions deal with coverage issues are, undoubtedly, prevalent in the states. Central control and management of state and local FICA and coverage matters is essential within SSA to ensure similar situations in the states are treated in a consistent manner.
13. Both the SSA and IRS lack data and information on compliance issues among public employers. Even after information is obtained by the SSA or IRS, it is not effectively compiled, let alone shared within and among the SSA, IRS and the states. If compliance and coverage issues (and how they are resolved) are not shared, past problems will continue to be experienced, rather than prevented in the future.
14. SSA has significant areas where improvement could be made in working with the States. Ideally, all of SSA's Section 218 decisions should be coordinated and managed out of the SSA Headquarters' policy office. If SSA insists on continuing with its current delegation to the Regional Offices of the operational aspects of Section 218 matters, then, at a minimum, training and succession planning is crucial. Without such training and succession planning of SSA Regional staff the SSA is unable to provide consistent and reliable assistance to State Administrators with Section 218 coverage issues.
15. The GAO report was not comprehensive enough in detailing all of the important responsibilities that should be performed by State Administrators. Those responsibilities (and authority) should be enhanced and improved through formal, detailed guidance developed by the SSA and should include specific information mandating performance of those duties by the states, rather than making them "suggestions" as is currently the case.
16. The GAO report noted that in 1996, SSA's Inspector General found that many public employers were at risk of not complying with their states' coverage agreements, partly due to SSA's reduced focus on administration after the IRS became responsible for collecting FICA taxes from public employers, effective 1987. SSA needs to renew this focus – by implementing the policies and process developed by §218 Conference Committees.
17. The GAO report documents numerous instances of inconsistencies in how SSA regional offices (and headquarters) deal with coverage issues. This makes it clear that SSA should centrally control all such matters, rather than have resolution of them delegated to the regional commissioners.
18. GAO recommends that SSA work with the IRS, state administrators, and public employers to improve management oversight and monitoring of public employer reporting of Social Security wages and that SSA clarify its guidance on state administrator responsibilities.
19. Regional office disparities and lack of consistent guidance for the regions by SSA headquarters severely constrains SSA, IRS, and State Administrators in serving public employers to ensure they accurately report and pay appropriate Social Security and Medicare taxes.

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20. See # 11 (under Communication and Collaboration heading).

**Internal Revenue Service Operations**

21. IRS says they are evaluating both sides of correct withholding, but in practice they are only assessing anyone that is NOT paying. They are not always bringing to the entity's or the State's attention when withholding is occurring and it shouldn't be. **Accurate** coverage and reporting of Social Security and Medicare coverage is what is important.

22. GAO also recommends that IRS track errors found through compliance efforts and share results with SSA to the extent permitted by law.

23. See # 2 (under Disclosure heading).

24. See # 13 (under SSA Structure and Program Implementation heading).

**NCSSSA and State Social Security Administrators as Equal Partners**

25. The State Administrator should be included as a key partner in discussions of ALL coverage and wage reporting issues that the SSA and IRS encounter. This should be done proactively (to prevent problems from occurring), not just reactively (as occurred in Missouri). For example, even if IRS has a copy of every modification or a database of all 218 coverage in a particular state, there is still the rest of the story. State records include a variety of other key information that is pertinent to a proper resolution of coverage and withholding issues, such as past SSA or State Attorney General's opinions. It is also important to identify which retirement systems were in effect at time of coverage, which positions were covered by retirement and which were NOT.

26. See # 9 (under Communication and Collaboration heading).

27. See # 13 (under SSA Structure and Program Implementation heading).

28. See # 15 (under SSA Structure and Program Implementation heading).

**General Comments About the GAO Report**

The NCSSSA generally agrees wholeheartedly with the conclusions and recommendations made by the GAO. We do not, however, think the GAO went far enough in its comments and recommendations on the following key points:

1. **Accurate** Social Security and Medicare coverage and FICA withholding should be the principal goal of ALL parties – the IRS, SSA, states, and public employers.

**National Conference of State Social Security Administrators (NCSSSA)**  
**Analysis of the Government Accountability Office (GAO) Report on**  
**Social Security Administration: Management Oversight Needed to**  
**Ensure Accurate Treatment of State and Local Government**  
**Employees (GAO-10-938; issued September 2010)**  
March 9, 2011

2. Since 1987 when the IRS assumed responsibility for collecting the FICA taxes from state and local governments, the State Administrators have been systematically excluded from key discussions and decisions that relate to Section 218 Agreements to which the states and SSA are the sole parties. Section 218 Agreements and modification to that agreement extend coverage to state agencies and institutions within each state and to political subdivisions of the states only if the agreements are executed by the states and SSA. The IRS is not a party to any of those agreements. Basic contract law is violated by a key party to an agreement, i.e., the state, being excluded from discussions and decisions that directly impact how the terms and conditions of the Section 218 Agreement are enforced by the SSA or IRS.
3. The U.S. Congress should acknowledge and budget for the continuing program support within SSA, to ensure the State Administrator is given the necessary level of support required to properly perform their federal responsibilities under Section 218 of the U.S. Social Security Act.
4. The Commissioner of the U.S. Social Security Administration should consolidate the administration of Section 218 activities at the national, headquarters, level, rather than delegate those responsibilities to its Regional Commissioners. The GAO report documents the disparate treatment that has been occurring within the regional offices since the administration of Section 218 matters was delegated to them following the IRS being given responsibility by Congress for collection of FICA taxes in 1987.
5. From the states' perspective, since 1987, our federal partners – both SSA and the IRS – have been the State Administrators' biggest obstacle to performing their responsibilities properly. They have failed to provide the necessary level of regulatory support to reinforce to the states the importance of the State Administrator as a bridge or liaison between the federal government (both SSA and the IRS) and the state and its political subdivisions in enforcing federal employment tax and Social Security/Medicare laws.
6. The IRS's refusal to share information with State Administrators is based on its and Treasury Counsel's interpretation of Internal Revenue Code (IRC) Section 6103, regarding disclosure restrictions that Congress placed on the IRS. It should be noted that due to apparent oversight during the drafting process when the 1987 amendments to the IRC were adopted by Congress, Section 6103 was overlooked and failed to name the State Social Security Administrator as a taxing authority for disclosure purposes even though the State Administrator HAD exercised that responsibility for all Section 218-covered public employers/employees in the nation from 1951 through 1986. Thus, NCSSSA does not think Congress intended to have the State Administrator excluded from the permissible state officials with whom the IRS can, and should, share tax information and data.

**National Conference of State Social Security Administrators (NCSSSA)**  
Analysis of the Government Accountability Office (GAO) Report on  
Social Security Administration: Management Oversight Needed to  
Ensure Accurate Treatment of State and Local Government  
Employees (GAO-10-938; issued September 2010)  
March 9, 2011

**Quote of the GAO Summary Comments (from pages 32-33 of the GAO report)**

**Conclusions:**

SSA and IRS do not currently have the information needed and procedures in place to effectively and efficiently provide oversight of Social Security coverage for public employees. When IRS began collecting and overseeing the accuracy of the taxes collected in 1987, SSA ceased key monitoring activities that could help ensure states and public employers are following the states' agreements for Social Security coverage. Ensuring the accuracy of the Social Security records for public employees is still a requirement for SSA, and should be a priority for the managers of SSA and IRS. At present, SSA and IRS managers do not know the extent to which wages are reported accurately or to which Social Security taxes are paid in accordance with program rules. States can also play a vital role in the oversight structure of Social Security coverage for public employees, but lack clear guidelines with specific responsibilities to ensure state participation. Absent additional management attention and a system to monitor the accuracy of public employer wage reporting, Social Security benefits and tax payments may be inaccurately reported. Without a coordinated monitoring process between SSA and IRS to make sure that public employers are complying with state coverage agreements, opportunities to identify and correct errors will be lost. Given the projected fiscal challenges of the Social Security program in the coming decades, every attempt should be made to assure coverage is correctly applied so that employers and employees are reporting earnings and paying taxes when required to do so.

**Recommendations for Executive Action:**

To improve SSA's management oversight of retirement benefits for public employees, we recommend that the Commissioner of Social Security, in consultation with IRS, state administrators, and public employers, develop procedures for monitoring the accuracy of Social Security earnings records. This could include (1) improving data collected on public employers, (2) identifying risk factors using existing SSA information and IRS audit findings, and (3) targeting public employers with those risk factors for follow-up reviews on an ongoing basis.

To improve the states' administration of public employer wage reporting, we recommend that the Commissioner of Social Security, in consultation with the National Conference of State Social Security Administrators, modify SSA's policy guidance to clarify state responsibilities governing their oversight of public employers and set clear expectations for the steps state administrators should take in implementing these responsibilities.

To improve the process for identifying and correcting errors, we recommend that the Commissioner of Internal Revenue track errors found through its compliance efforts on Social Security and Medicare taxes and share results with SSA, to the extent permitted by federal law.

Letter to the  
U.S. House of Representatives  
Committee on Ways and Means  
Requesting Amendment of Internal  
Revenue Code Section 6103

February 9, 2011

The Honorable Dave Camp  
Chairman, U.S. House Ways and Means Committee  
Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

RE: Formal Request to Amend Internal Revenue Code (IRC) §6103 to Name State Social Security Administrators as an Appropriate Official to which the U.S. Secretary of the Treasury can Disclosure Taxpayer Information

Dear Chairman Camp:

The National Conference of State Social Security Administrators (NCSSSA) propose an amendment to Internal Revenue Code (IRC) §6103 that specifically permits the disclosure of tax information to those state officials – commonly referred to as State Social Security Administrators – as designated pursuant to 20 C.F.R. §404.1204, who are performing federally-mandated duties detailed in Section 218 of the U.S. Social Security Act. Prior to 1987, State Administrators were responsible for collecting and reporting Social Security contributions from state and local government employers and transmitting the funds to the U.S. Treasury. Since 1987, when the Internal Revenue Service (IRS) assumed that responsibility, State Administrators no longer receive feedback on non-complaint state and local government (“public”) employers.

The Government Accountability Office (GAO) issued a report (GAO-10-938) in September 2010 in which it addressed: (1) how the Social Security Administration (SSA) works with states to approve Social Security coverage and ensure accurate coverage of public employees, and (2) how IRS identifies incorrect Social Security taxes for public employees. The report finds that the lack of shared information is problematic to proper Social Security coverage and tax administration. The GAO’s report clearly documents that, since 1987 when the IRS assumed responsibility for collecting FICA taxes from state and local governments throughout the country, both the IRS and SSA have “dropped the ball” in performing their statutorily required obligations. The GAO’s conclusion, quoted in its entirety, makes this evident:

“SSA and IRS do not currently have the information needed and procedures in place to effectively and efficiently provide oversight of Social Security coverage for public employees. When IRS began collecting and overseeing the accuracy of the taxes collected in 1987, SSA ceased key monitoring activities that could help ensure states and public employers are following the states’ agreements for Social Security coverage. Ensuring the accuracy of the Social Security records for public employees is still a requirement for SSA, and should be a priority for the managers of SSA and IRS. At present, SSA and IRS managers do not know the extent to which wages are reported accurately or to which Social Security taxes are paid in accordance with program rules. States can also play a vital role in the oversight structure of Social Security coverage for public employees, but lack clear guidelines with specific responsibilities to ensure state participation. Absent additional management attention and a system to monitor the accuracy of public employer wage reporting, Social Security benefits and tax payments may be inaccurately reported. Without a coordinated monitoring process between SSA and IRS to make sure that public employers are

complying with state coverage agreements, opportunities to identify and correct errors will be lost. Given the projected fiscal challenges of the Social Security program in the coming decades, every attempt should be made to assure coverage is correctly applied so that employers and employees are reporting earnings and paying taxes when required to do so." Source: GAO Report 10-938, issued September 2010; page 32.

NCSSSA thinks a significant reason for the GAO-documented failures by both the IRS and SSA is directly related to the fact that, since 1987, the State Social Security Administrator has been effectively excluded by the IRS and SSA from full partnership in administering the voluntary coverage agreements entered into by the states and the U.S. Social Security Administration. By refusing to share pertinent information with the State Social Security Administrator – who acts on behalf of the Governor of each state in administering the voluntary Section 218 coverage agreements for public employers – the IRS is often unable to accurately assess and collect the proper FICA taxes that are owed to the U.S. Treasury. What is even more egregious about the exclusion of the State Administrator from such information sharing by the IRS is that they represent the state who is a signatory to every Section 218 Agreement entered into with the U.S. Social Security Administration.

State and local government employees are often covered for Social Security and Medicare through Section 218 of the Social Security Act (42 USC 418) by a written agreement between the particular state and Social Security Administration. These agreements are then modified to include a particular local government entity through the State Social Security Administrator. The entity then pays their employment tax in accord with these agreements and the IRS is charged with collecting those taxes, and by extension, enforce the §218 Agreements. The only two parties, however, to these agreements (contracts) are the Social Security Administration and the particular state. Yet, the state official responsible for enforcement as a party to the agreement has been excluded from information about the agreement. While the Social Security Administration may assign their rights under the agreement to the IRS; having done so, this assignment cannot then foreclose the rights of the state (the other party to the agreement).

Prior to 1987, the State Social Security Administrators were responsible for collection of the taxes (contributions) pursuant to the original wording of Section 218 of the U.S. Social Security Act, which created the mechanism for states to voluntarily obtain Social Security (and, later, Medicare) coverage for their public employers and employee by entering into Section 218 Agreements. After January 1, 1987, the states and their political subdivisions paid their taxes directly to the federal government when the IRS became responsible for enforcement. With this change came the need to amend the IRC disclosure law to allow the IRS to disclose information to the State Social Security Administrator, but such permission and amendment have not occurred.

This proposal to amend IRC §6103 is justified by many facts including:

- IRC §6103 already allows for disclosure of tax information to certain state officials involved in state tax administration.
- This proposal seeks to have the IRS share results of state and local government compliance checks and examinations, so that issues (and if evident, patterns) can be addressed in education and outreach sessions with state and local governments by State Social Security Administrators. By sharing such information the State Administrators can use limited state resources to provide targeted outreach and education to similar public employers in their states to prevent future noncompliance by others in their states.
- As occurred when the Federal-State Reference Guide (IRS Pub. 963), the first and only joint publication issued by the IRS, SSA, and the states, was created in 1995 and used as an education tool with public employers throughout the country, the tax gap can be reduced by enhancing communication between the IRS and State Administrators. The IRS documented that



due to the use of Pub. 963 for education purposes and the joint training efforts by the IRS, SSA, and State Administrators, revenue paid by public employers into the Social Security and Medicare Trust Funds were increased by \$12 Billion from 1997 through 2000, through voluntary payments just because the public employers better understood their federal tax obligations.

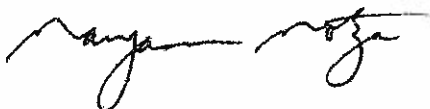
- State Administrators have a proven track record, since their inception in 1951, for being able to educate their state and local employers about compliance problems and provide guidance on how they can voluntarily correct the problems and prevent future issues.
- Since January 1987, State Administrators have been hampered in the proper performance of their federally-mandated duties because the IRS cannot share pertinent tax information with them on public employers/employees. Prior to 1987, the State Administrator was responsible and accountable for collecting the Social Security (and, later, Medicare) contributions from public employers in their states and transmitting the revenue to the U.S. Treasury. State Administrators had all taxpayer information on every public employee and employer in their state that paid into Social Security and Medicare under a Section 218 (voluntary coverage) Agreement. It is illogical and inconceivable to think that the very people who used to perform this task successfully from 1951 through 1986 suddenly became incapable of properly treating taxpayer information with the privacy it so rightly deserves.
- Much of the non-compliance with FICA tax laws by state and local governments is due to misunderstandings and confusion, rather than intentional malfeasance.
- IRS resources, in turn, can be freed up to focus on examinations and pursuing tax fraud and other intentional violations.
- IRC §6103 (i) already allows disclosure to others for various purposes including to the Railroad Retirement Board and information pertaining to the District of Columbia Retirement Protection Act of 1997. All of which indicate an intent of Congress to allow disclosure when such information is necessary to the function of various programs.

In conclusion, the NCSSSA proposes that IRC §6103 (i) be amended to include authorization for the Secretary of the U.S. Treasury to disclose tax information obtained from state or local government with the official designated pursuant to 20 C.F.R. §404.1204 (the State Social Security Administrator) in furtherance of their duties.

On behalf of NCSSSA, I look forward to your response to this request. Please let me know if you have any questions or need any further information from me. I can be reached by telephone at: (303) 318-8061 or email at: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us). My mailing address is listed below.

Thank you for your consideration.

Sincerely,



Maryann Motza, PhD  
NCSSSA President  
Public Employees' Social Security Program  
Colorado Department of Labor and Employment  
633 17th Street, Suite 700  
Denver, CO 80202-3660

**Coalition to Preserve Retirement  
Security (CPRS) Congressional Staff  
Briefing Regarding Mandatory  
(Universal) Social Security**

## Maryann Motza

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**From:** Leigh Snell [lsmell@lgva.net]  
**Sent:** Monday, May 16, 2011 8:54 PM  
**To:** Maryann Motza  
**Subject:** FW: Important CPRS Congressional Briefing Re Mandatory Social Security!  
**Importance:** High  
**Attachments:** Briefing Invitation Letter.docx; CPRS Congressional Staff Directory (By State).xls

Maryann,

Didn't know if you were aware of this, but wanted to be sure you knew about this briefing. Not sure who is actually going to be doing the talking.

Leigh

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**From:** Tom Lussier  
**Sent:** Monday, May 16, 2011 1:01 PM  
**To:** donna\_lum@calpers.ca.gov; klindahl@fppaco.org; mwilliams@copera.org; cspera@aps.k12.co.us; robynk@cea.org; arta98@aol.com; gary.harbin@ky.gov; dtully@persla.org; retirep@tmlp.net; lilli@essexregional.com; fredgfd@comcast.net; hillariwenniferstrom@ream1951.org; southbridgeretsys@verizon.net; mthompso@th.ci.shrewsbury.ma.us; sean.neilon@trb.state.ma.us; rpatrick@moare.com; syoakum@psrsmo.org; tleiss@nvpers.org; leibensp@ohea.org; lmorris@ohsers.org; ahanning@orta.org; bierdemt@strsoh.org; cdrake@opers.org; ruth.ryerson@fwretirement.org; jlawson@hpopers.org; bgregg@atpe.org; tim@trta.org; pat.shier@alaska.gov; mhovey@sandiego.gov; sdelaney@ocers.org; ken.swanson@ieanea.org; RIngram@trs.illinois.gov; jbachman@irtaonline.org; flohoover@roadrunner.com; patrick@hampshireretirementma.org; jconnarton@per.state.ma.us; jimkreider@morta.org; rsmithson@msta.org; steve\_olish@sbcglobal.net; hamilton@basa-ohio.org; system@ohprs.org; bestabrook@op-f.org; max.patterson@texpers.org; wschott@safireandpolicepension.org; bassett@txkusa.org; tettamant@dpfp.org; jveselka@tasanet.org; mhovey@sdcers.org; jehnes@calstrs.com; sandy.matheson@mainepers.org; clark@iasaedu.org; cdoggett@cta.org; angelique@calrta.org; utlapresident@utla.net; smithd13@aol.com; wpw@artct.org; huberk@ctpf.org; wsampson@masschiefs.org  
**Cc:** james miller; Tom Lussier; Don Marlais; Sharon Pollard; Ron Hawkins; Leigh Snell; gdavis@nppconline.org; btberger@gfoa.org  
**Subject:** Important CPRS Congressional Briefing Re Mandatory Social Security!  
**Importance:** High

CPRS Members and Friends –

This is a **“Time Sensitive Request for Assistance”** – please take notice!

As you know, the issue of mandatory Social Security coverage for future state and local governmental employees has been raised – and in some notable cases recommended – by a number of sources over the last year. In response to this activity, CPRS has been increasing its engagement with key Members of Congress, specific Congressional staff members, and with allies who share our opposition to mandatory coverage.

**As part of that effort, CPRS has scheduled a Congressional Staff Briefing for Monday, June 6<sup>th</sup> at 9:30 AM in Room SVC 203-02 in the U.S. Capitol Visitors Center.** The briefing is a bipartisan event designed to educate Congressional staff regarding the history of Social Security as it relates to state and local employees, the retirement plans that currently protect the financial futures of our dedicated public employees, and the unintended consequences that would result from Congress mandating coverage for future employees.

Since Congressional staff have lots of demands on their time, **we need your help today to encourage staff from your state's Congressional Delegation to attend the briefing.**

8/19/2011

Attached is a draft letter that we'd like you to personalize from your organization and then e-mail to the staff member(s) in each of your Senators' and Representatives' offices. We've attached a list of those individuals for your convenience. Also, once you know that your letter has been received, it would be very helpful if you would place a follow-up telephone call to urge each staffer to attend. We would be grateful if you would report the outcome of your contact to CPRS at [tlussier@lgva.net](mailto:tlussier@lgva.net). Also, please note that for security purposes, regular congressional mail is significantly delayed – as a result, we would suggest that you NOT send this letter via regular mail.

CPRS staff will also be reaching out to these Congressional staff members and will be monitoring responses to our invitations. As the date draws near, we may contact you to initiate further follow-up with your Delegation.

The very best way for us to prevent mandatory Social Security coverage from advancing in the current Congress is to educate our elected officials regarding why it's a bad idea for their constituents at home – including state and local taxpayers, public employers, and public employees and retirees. **We need your help to get this done!**

Finally, all of this information, together with a Congressional Staff RSVP form, has been posted on the CPRS website at [www.RetirementSecurity.org](http://www.RetirementSecurity.org). Please contact us if you have any questions regarding the upcoming Congressional Staff Briefing. Let us know if we can be helpful as you reach out to your Delegation.

**Thank you for your help!**

Tom Lussier

Tom Lussier  
Coalition to Preserve Retirement Security (CPRS)  
c/o Lussier, Gregor, Vienna & Associates  
112 South Pitt Street  
Alexandria, VA 22314  
(T) 703-684-5236  
(F) 703-684-3417  
(C) 978-835-5424  
[tlussier@lgva.net](mailto:tlussier@lgva.net)

## (On System/Organization Letterhead)

May xx, 2011

Dear (Insert Name from CPRS Directory):

On behalf of the (Insert System/Organization Name) and in cooperation with the Coalition to Preserve Retirement Security, I would like to invite you to an important briefing on behalf of the taxpayers, public employers, and public sector employees and retirees of our (State/Retirement System/Membership). **The briefing will be held on Monday, June 6, at 9:30 a.m. in Room SVC 203-02 of the U.S. Capitol Visitor Center.** Coffee, tea and breakfast pastries will be served beginning at 9 a.m.

As Congress is examining ways to reform the Social Security system, it is important to review the social and economic impacts of various proposals. One idea that surfaces from time to time would mandate that all future state and local employees be required to be covered by Social Security. **Such a proposal would impose a multi-billion dollar unfunded mandate on state and local taxpayers and would affect nearly 6 million people who depend on a public employee retirement system for their future retirement security.**

(Insert a paragraph that highlights the potential impact on your system/organization/members.)

The purpose of this briefing - which is bicameral and bipartisan - is to educate you regarding the history of Social Security as it relates to state and local employees, the retirement plans that currently protect the financial futures of our dedicated public employees, and **the unintended consequences that would result from Congress mandating coverage for future employees.** In addition, the briefing will provide information regarding the impact that this proposal would have on the Social Security system.

Although this may appear to be a rather narrow issue in a much larger public policy discussion, for us, this is a very important discussion. **We hope that you will make sure that your office is represented at this event.**

If you and/or a colleague from your office will be able to attend on Monday, June 6, please RSVP at [www.retirementsecurity.org/CPRScongressionalbriefing.html](http://www.retirementsecurity.org/CPRScongressionalbriefing.html) by May 31st.

Sincerely,

**Congress of the United States**  
**Washington, DC 20515**

June 1, 2011

Dear Colleague:

We would like to follow up on an invitation that your office recently received from the Coalition to Preserve Retirement Security (CPRS). CPRS has invited your staff to an important briefing on behalf of the taxpayers, public employers, and public sector employees and retirees of our several states. **The briefing will be held on Monday, June 6 at 9:30 AM in Room SVC 203-02 of the U. S. Capitol Visitors Center.** Coffee, tea and breakfast pastries will be served beginning at 9:00 A.M.

As Congress is examining ways to reform the Social Security system, it is important to review the social and economic impacts of various proposals. One idea that surfaces from time-to-time would mandate that all future state and local public employees be required to be covered by Social Security. **Such a proposal would affect nearly six million employees who are currently enrolled in a public employee retirement system for their future retirement security.**

Despite the suggestion that most non-covered employees are found in less than 15 states, there are non-covered employees in all 50 states. In fact, nationwide, 45% of public school teachers and 75% of police officers and firefighters are not covered by Social Security.

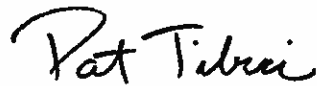
The purpose of this briefing is to educate your staff regarding the history of Social Security as it relates to state and local public employees. In addition, the briefing will provide information regarding the impact that this proposal would have on the Social Security system.

Although this may appear to be a rather narrow issue in a much larger public policy discussion, for our states' employees and for the taxpayers that fund their benefits, this is a very important discussion. **We hope that you will make sure that your office is represented.**

Sincerely,



Richard E. Neal  
Member of Congress



Patrick J. Tiberi  
Member of Congress



Kevin P. Brady  
Member of Congress



Mike Thompson  
Member of Congress

## Maryann Motza

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**From:** Reardon, Thomas [tjreardon@dbm.state.md.us]  
**Sent:** Wednesday, June 08, 2011 3:56 PM  
**To:** Maryann Motza  
**Subject:** RE: CPRS Congressional Briefing: Monday, June 6th

Hi Maryann,

Below please find the outline of my notes on the Briefing. If you need any additional information let me know and I will fill-in with anything else I have. I unfortunately will be out of the office for the next few days, but will response to any questions on Tuesday of next week, when I return.

*Notes on CPRS's June 6, 2011 Briefing on Mandatory Universal Coverage.*

*The event was fairly well attend (the room was not full but also did not feel like it was too big. I would estimate about 50 or 60 audience members, maybe more; but I would be surprised if it was any less than 50.*

*The Speakers consisted of Ms. Terri Bierman the President of the CPPS giving the opening statement, followed by a pre-recorded message from the Speaker of the House for the State of Ohio House of Representative. The impact on Public Safety portion was presented by Kevin O'Connor of the International Association of Firefighters and Thomas Lussier Administrator of the CPRS did a presentation on facts and myths related to Mandatory Universal Coverage.*

*The primary points of the presentation were:*

- 1. This is a national problem because every state has at least some uncovered workers.*
- 2. The costs associated with the additional burden of Social Security would negatively impact the current retirements systems which were established on the premises that the members would not be paying into SS.*
- 3. The state plans can be molded to address special or unique needs of the local governments (such as earlier retirement ages for Public Safety professionals) in a way that a rigid national plan like SS cannot.*
- 4. The financial health of the state pension funds in most cases is better then is being alleged by proponents of Mandatory Coverage.*
- 5. Any positive effect on the status of the Social Security trust fund would be short term, realized on very short horizon, and the related additional and long term costs outweigh any benefits*
- 6. The loss of funds from the state plans to SS has a multiplier effect on the old plans greater then just the lost contributions as it is also the interest income on those dollars that is lost; and*
- 7. Applying social security only to new hires does not alleviate the problems discussed.*

*The general tone of the room was subdued. There seemed to be some genuine interest, a good amount apathy, but little angst with respect to the presentation. The one time that things got interesting was during the Q and A when a few people expressed some concerns about the Speakers' representations of certain issues. For instance, a staffer from the Ways and Means Committee said she agreed with the premise of the presentation but wanted to clarify Social Security itself is still invaluable. Another women, I did not catch which organization she represented but did not appear to be a staffer, indicated that she disagreed with the premise that the addition of SS contributions to the States liabilities would be a problem; citing to the fact that the Feds did add their works to Social Security successfully. The response was that the Feds were in a different situation at that time, especially financially, and they actually did have to change their system. Of course an issue came up about the GPO and WEP, but it seemed to be made clear that this was regarded as a separate, if still somewhat related, concern.*

9/30/2011

*I felt the presentation both went and was received well. The general reaction seemed to be agreement with the speakers. I did not get the impression anyone was truly a strong advocate on behalf of mandatory social security.*

---

**From:** Maryann Motza [mailto:Maryann.Motza@state.co.us]  
**Sent:** Monday, June 06, 2011 1:22 PM  
**To:** Angie Dowdy; Dean Conder; DeVore, Vandee; Lancaster, Joe (Finance Local Government); linda.yelverton@la.gov; Maryann Motza; micheleb@azasrs.gov; MMotza@hotmail.msn.com  
**Cc:** mmotza@msn.com; Reardon, Thomas  
**Subject:** FW: CPRS Congressional Briefing: Monday, June 6th

FYI. More information about today's Congressional briefing regarding universal Social Security. TJ Reardon attended the brief as a representative of NCSSEA, so I'll provide his update to everyone once I hear back from him.

Maryann

Maryann Motza, PhD  
NCSSEA Legislative Committee Chair (2010-2011)  
State Social Security Administrator  
Public Employees' Social Security Program  
Colorado Department of Labor and Employment  
633 17th Street, Suite 700  
Denver, CO 80202-3660  
Telephone: (303) 318-8061  
FAX: (303) 318-8069  
E-mail: [maryann.motza@state.co.us](mailto:maryann.motza@state.co.us)  
Website: <http://pess.cdle.state.co.us>

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**From:** Barrie Tabin Berger [mailto:btberger@gfoa.org]  
**Sent:** Monday, June 06, 2011 9:43 AM  
**To:** Maryann Motza  
**Subject:** FW: CPRS Congressional Briefing: Monday, June 6th

FYI and also see attached letter.

Barrie

---

**From:** Tom Lussier [mailto:tlussier@lgva.net]  
**Sent:** Wednesday, June 01, 2011 12:59 PM  
**To:** Jeannine Markoe Raymond (Jeannine Markoe Raymond); Isnell@nctr.org; btberger@gfoa.org; acamos@nea.org; ceitelberg@segalco.com; ddann@aarp.org; ejayne@afscme.org; Gerri Madrid-Davis; jabraham@aft.org; sheri.steisel@ncsl.org; John Stanton; Chebinou, Cornelia; cchiapp@ipma-hr.org; bkasinitz@iaff.org; Bill Cunningham, Legislation; Diana Hinton; trichardson@grandlodgefop.org; ddaniel@naco.org; ekellar@slge.org; Neil Bomberg; hank@ncpers.org

9/30/2011



Cc: Don Marlais

Subject: CPRS Congressional Briefing: Monday, June 6th

Greetings!

Next Monday morning, June 6<sup>th</sup>, the Coalition to Preserve Retirement Security (CPRS) will be holding a briefing for targeted Congressional staff regarding the issue of mandatory Social Security coverage for State and local public employees. **The briefing will be held at 9:30 AM in Room SVC 203-02 of the U. S. Capitol Visitors Center and is expected to run slightly less than one hour.** Coffee, tea and breakfast pastries will be served beginning at 9:00 A.M.

As Congress considers ways to address the national debt and/or reform the Social Security system, one idea that has surfaced again would mandate that all future state and local public employees be required to be covered by Social Security. **As we all know, such a proposal would impose a multi-billion dollar unfunded federal mandate on state and local taxpayers and would affect nearly six million employees who currently depend on a public employee retirement system for their future retirement security.**

The purpose of this briefing – which is bicameral and bipartisan – is to educate key Congressional staff regarding the history of Social Security as it relates to state and local employees, the retirement plans that currently protect the financial futures of our dedicated public employees, and **the unintended consequences that would result from Congress mandating coverage for future employees.** In addition, the briefing will provide information regarding the impact that this proposal would have on the Social Security system.

Attached is a “Dear Colleague” letter that has been circulated on our behalf to every office in the 13 most affected states.

If you would like to join us for this briefing we’d be happy to have you attend. **Since I need to provide the Capitol Visitors Center with a list of non-Congressional staff attendees, please let me know if you think you might join us by mid-day tomorrow.**

Thanks for your interest and support!

Tom Lussier

Tom Lussier  
Coalition to Preserve Retirement Security (CPRS)  
c/o Lussier, Gregor, Vienna & Associates  
112 South Pitt Street  
Alexandria, VA 22314  
(T) 703-684-5236  
(F) 703-684-3417  
(C) 978-835-5424  
tlussier@lgva.net

9/30/2011

## Maryann Motza

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**From:** Barrie Tabin Berger [btberger@gfoa.org]  
**Sent:** Monday, June 20, 2011 9:14 AM  
**To:** Maryann Motza  
**Subject:** FW: Important CPRS Update Regarding Mandatory Social Security!  
**Follow Up Flag:** Follow up  
**Due By:** Tuesday, July 05, 2011 12:00 AM  
**Flag Status:** Red

Hi Maryann,

It was great seeing you last week.

I think you will find this of interest. Let me know if you have any questions.

Barrie

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**From:** Tom Lussier [mailto:tlussier@lgva.net]  
**Sent:** Friday, June 17, 2011 1:13 PM  
**To:** donna\_lum@calpers.ca.gov; ann\_boynton@calpers.ca.gov; klindahl@fppaco.org; mwilliams@copera.org; cspera@aps.k12.co.us; robynk@cea.org; arta98@aol.com; gary.harbin@ky.gov; dtully@persla.org; retirep@tmlp.net; lilli@essexregional.com; fredgfd@comcast.net; hillariwenniferstrom@ream1951.org; southbridgeretsys@verizon.net; mthomps@th.ci.shrewsbury.ma.us; sean.neilon@trb.state.ma.us; rpatrick@moare.com; syoakum@psrsmo.org; tleiss@nvpers.org; leibensp@ohea.org; lmorris@ohsers.org; ahanning@orta.org; bierdemt@strsoh.org; cdrake@opers.org; ruth.ryerson@fwretirement.org; jlawson@hpops.org; bgregg@atpe.org; tim@trta.org; pat.shier@alaska.gov; mhovey@sandiego.gov; sdelaney@ocers.org; ken.swanson@ieanea.org; RIngram@trs.illinois.gov; jbachman@irtaonline.org; flohoover@roadrunner.com; patrick@hampshireretirementma.org; jconnarton@per.state.ma.us; jimkreider@morta.org; rsmithson@msta.org; steve\_olish@sbcglobal.net; hamilton@basa-ohio.org; system@ohprs.org; bestabrook@op-f.org; max.patterson@texpers.org; wschott@safireandpolicepension.org; bassett@txkusa.org; tettamant@dpfp.org; jveselka@tasenet.org; mhovey@sdcers.org; jehnes@calstrs.com; sandy.matheson@mainepers.org; clark@iasaedu.org; cdoggett@cta.org; angelique@calrta.org; utlapresident@utla.net; smithd13@aol.com; wpw@artct.org; huberk@ctpf.org; wsampson@masschiefs.org  
**Cc:** acampos@nea.org; bjohnson@napo.org; ejayne@afscme.org; jeannine@nasra.org; ljohnson@ohsers.org; Maris LeBlanc; Peter Hapgood; sean.neilon@trb.state.ma.us; sheri.steisel@ncsl.org; SYoakum@psrsmo.org; BierdemT@strsoh.org; tim@trta.org; james miller; Don Marlais; Sharon Pollard; Ron Hawkins; Leigh Snell; gdavis@nppconline.org; btberger@gfoa.org; Schloss, Joan (MTRS)  
**Subject:** Important CPRS Update Regarding Mandatory Social Security!

Good afternoon –

I would like to take a moment to update you on a couple of important events regarding the issue of mandatory Social Security for State and local public employees.

### Congressional Briefing

As many of you know, earlier this month the Coalition to Preserve Retirement Security (CPRS) sponsored a briefing on Capitol Hill for Congressional staff from the 13 states that would be most significantly impacted by mandatory coverage for new State and local public employees. We had approximately 70 staffers attend and we've had very favorable feedback. We were particularly grateful that we were able to secure bipartisan participation on Dear Colleague letters in both the House and Senate prior to the briefing. Regardless of whether an office actually attended, we know that every Member of Congress within our targeted population received our message from a bipartisan group of their colleagues.

9/30/2011

Many of you helped us by writing to and/or calling staff in your state's Congressional delegation – **thank you for that critical outreach!** Since I know that many of you would like to follow-up with those that attended (and in some cases those that didn't attend), I will forward a state-specific list of attendees to our primary contact in each state. We are sending information to every office that was not represented.

We will be adding all of this information to the CPRS website by early next week. If you need anything else to assist your efforts in support of our common agenda, please let me know.

### **Updated Segal Study**

CPRS has contracted with the Segal Company to once again update the study they originally performed in 1999. Many of you routinely utilize the data they produced in 2005 – we hope to have the new update in about a month. CPRS is very grateful to AFSCME, the International Association of Fire Fighters, the National Education Association, and the American Federation of Teachers who have generously agreed to fund this important analysis. We will notify all of you when that report is available.

### **Congressional Hearing**

Next Thursday, June 23<sup>rd</sup>, the U. S. House Committee on Ways and Means Subcommittee on Social Security is holding a hearing on "Social Security's Finances." Our coalition has been invited by the Majority Staff to provide a witness who will testify in opposition to mandatory coverage. After consultation with the Committee staff and with Chairman Sam Johnson of Texas, we have recommended Tim Lee, a CPRS Board Member and the Executive Director of the Texas Retired Teachers Association. We are currently working with Tim to prepare his testimony on behalf of CPRS. We will circulate his testimony next week.

Depending on the outcome of the hearing, we may ask some of you to follow-up with targeted Members of Congress.

As always, please let me know if there is anything that we can do to assist you regarding this important issue. As we have so many times in the past, we are working to make sure that mandatory coverage doesn't become part of any specific legislative proposal to address either entitlement reform or deficit reduction goals. **Your help is key and always appreciated!**

### **Tom Lussier**

Thomas R. Lussier  
Coalition to Preserve Retirement Security (CPRS)  
c/o Lussier, Gregor, Vienna & Associates  
112 South Pitt Street  
Alexandria, VA 22314  
(T) 703-684-5236  
(F) 703-684-3417  
(C) 978-835-5424  
tlussier@lgva.net



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“Membership Committee”*

**Chair**  
***Karen Park***

**Members**  
Richard Beckstead  
Angie Dowdy  
Barry Faison  
Rita Foltman  
Kevin Mack  
Nick Merrill  
James Sawyer  
Shirley Sessoms  
Kim Smith

As committee chair, I would like to thank all those serving on the membership committee for their continuing effort to keep the membership well informed of conference issues.

The membership committee assisted the executive committee in communicating conference issues with the conference members, along with reinforcing the need for regional vp’s to communicate and offer their support to their regions states.

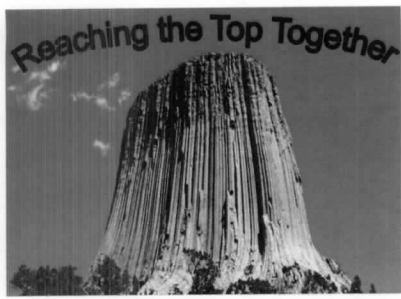
Below are some of the issues the committee shared with the conference in support of the exec committee.

- ACT questionnaire on FSLG website
- Training Committee Training Survey
- State Employment question survey
- GAO Report
- SSA Webinar
- State Social Security Administrators revised policy guidance
- New Social Security Policy- Retroactive Coverage and Closing Agreement with the Internal Revenue Service

In addition the committee polled all membership, the SSA and IRS for current contact information to be used in the conference booklet.

Respectfully Submitted

Karen Park  
Membership Committee Chair



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Nominations Committee*

**Harry Wales, Chair**

**Members**

Dean Conder, Colorado  
Maryann Motza, Colorado  
Kevin Mack, New York  
Nick Merrill, Illinois

Individuals nominated were:

President	1 <sup>st</sup> VP	Secretary	VP Designee
Michelle Briggs	Karen Park	Angie Dowdy Kim Smith Kay Gouyton Joe Lancaster	Rita Foltman Angie Dowdy Kim Smith

Kim Smith, Kay Gouyton have respectfully bowed out, and Karen Park will be retiring at the end of September of 2011.

Therefore the Nomination Committee's recommendations to the NCSSSA membership are:

President:	Michele Briggs
First Vice President:	Angie Dowdy
Secretary:	Joe Lancaster
Vice President Designee:	Rita Foltman
Treasurer:	Kathleen Baxter will serve a second year of a two-year term



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“Program Committee”*

**Chair**

*Michele Briggs, AZ*

**Members**

Maryann Motza, Barry Faison, Angie Dowdy, Linda Yelverton, Karen Park, Vernon Bush, Dean Conder, Barbara Taylor, Harry Wales, Rita Foltman

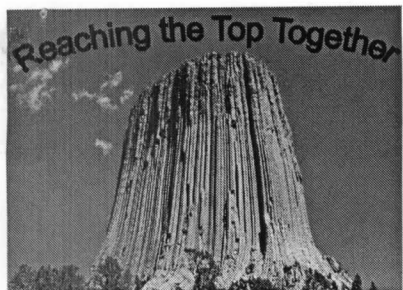
The purpose of the Program Committee is to develop an agenda for the NCSSTA's upcoming conference. Our group works directly with the President, the Host State and Executive Committee to obtain speakers and topics that are relevant to our audience.

Our committee held monthly meetings to discuss the theme, topics, lodging, speakers, transportation issues, meals, layout of the program, hotel contract, technical equipment needed, meeting areas, pre-site visits, etc. This program seemed to be more of a challenge than other years due to the economy. The committee was making revisions to the program up until a week before the conference.

Although we had our challenges this year, our committee resolved every concern and we put together a program that we should be proud of. I just wanted to say thank you to the committee for your constant help and support throughout the year.

Respectfully submitted,

Michele Briggs, AZ  
Vice President



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“Research and Information Committee”*

**Chair**

***Madison Davis***

**Members**

Linda Yelverton

Karen Park

Barbara Taylor

Vandee DeVore

Angie Dowdy

The Committee’s purpose is to maintain, update and distribute NCSSSA procedures, reports, informational releases as well as perform specific research as requested by the Executive Committee. In addition, during the past year our responsibilities have included:

1. Distribute via the Internet, within 30 days after Committee assignments are announced each year, a current copy of the NCSSSA Standard Operating Procedures Manual to each Committee Chairperson, Vice or Co-Chairperson and Executive Committee Member.
2. Prepare and distribute to NCSSSA members any informational or newsletter releases as assigned by the NCSSSA President. Releases shall be prepared consistent with the President's requirements and authorization.
3. Assess, via a minimum of one contact per State per Conference year, informational needs of the States, interests of Conference Members and Executive Committee. Prepare and distribute information as requested.
4. Prepare and present to the Executive Committee a committee report at least 30 days to commencement of the Conference of significant changes to the Standard Operating Procedures Manual on Committee activities. The report must be prepared consistent with the Secretary's prescribed requirements.
5. Secure written modifications, from each Chairperson no later than 30 days after each Annual Conference, for inclusion in the Standard Operating Procedures Manual. All proposed modifications shall be presented and approved or denied by the incoming Executive Committee. Upon approval, update the Standard Operating Procedures Manual

and distribute the new version to the incoming Research and Information Committee Chairperson.

We have conducted a review of the changes proposed by the Time and Place Committee to the Standard Operating Procedures (SOP). We submitted our changes along with the committee's recommendations to the National Conference of State Social Security Administrators' (NCSSSA) President and the Executive Committee. The Committee recommended approval.

*Change number 1 on the first page of the Time and Place SOP to read "Announce invitations for host-bids to all NCSSSA Members. The invitation shall be made via email one month prior to the Conference, and again at the Annual Conference's State Administrator Meeting encouraging being the Host State Administrator (Sample 1).*

The Training and Succession Planning Committee SOP draft was submitted to the Research and Information Committee. We made recommendations and forwarded the draft to the NCSSSA President and the Executive Committee. The Committee agreed with the changes.

#### TRAINING and SUCCESSION PLANNING COMMITTEE

*PURPOSE: To assess the needs for membership training and provide training to state and federal officials in the area of state and local government FICA compliance. Educate state administrators and other officials on the responsibilities of the state administrator and provide advice on succession planning. The Chairperson of the Committee shall be appointed by the President of NCSSSA.*

#### *RESPONSIBILITIES:*

- 1. The Chairperson of the Committee will serve as the primary contact for state and federal officials seeking training, succession planning or training information from NCSSSA.*
  - a. The Training Committee shall assess the training needs and assist in training state or federal officials requesting such training. The Training Committee shall conduct an annual survey, via Survey Monkey (or other such method), no later than November 1<sup>st</sup> of each year, to assess the needs, determine topics and assess the proficiency of state administrators.*
  - b. Based upon such assessment, the Training Committee shall provide assistance, by phone, reference materials, or other means appropriate to provide the needed training.*
  - c. Based upon such assessment, the Training Committee shall create an annual training plan.*



2. *The Training Committee, as a whole, shall review, edit and enhance training materials and methods.*
  - a. *The Training Committee shall respond to requests from SSA and IRS for comments and edits to training materials, such as, but not limited to, the SSA web material, IRS Pub. 963, and the State and Local Coverage Handbook.*
  - b. *The Training Committee members, as assigned by the Chairperson or the NCSSSA President, shall participate in various committees, workgroups and other forums where training needs and delivery are of concern.*
3. *The Training Committee, under the direction of the Training Committee Chairperson, shall devise ways to implement a three-tiered training approach.*
  - a. *Tier One: Basic Training shall be offered to all NCSSSA members, but the focus of such training will be to new administrators with three or fewer years of experience. When the NCSSSA budget allows, as determined by the NCSSSA President, Basic Training shall be conducted in person and offered on a regional basis wherein at least three state officials can attend an extended (day and one half) training. Such in person training shall include representatives from the Training Committee, the IRS and SSA (when feasible) and focus on basic roles and responsibilities and basic terminology and practices.*
    - i. *Costs of travel for IRS, SSA, and state attendees (trainees) shall be borne by the individual participants.*
    - ii. *Costs estimates of NCSSSA training personnel shall be approved in advance by the NCSSSA President.*
  - b. *Tier Two: Intermediate Training shall be offered to all NCSSSA members, but the focus of such training will be to those administrators with more than three years experience. Intermediate Training may be conducted via webinar, teleconference, or other such means, and shall focus on particular topics of interest to membership.*
  - c. *Tier Three: Advanced Training shall be offered to all NCSSSA members, but the focus of such training will be for those administrators with ten or more years of experience. Such training may be conducted via webinar, teleconference, or other such means, and shall focus on systemic problem solving.*
4. *The Training Committee, under the direction of the Training Committee Chairperson, shall devise ways to aide states in state administrator succession planning.*
  - a. *The Training Committee shall establish and publish on the NCSSSA website, a best-practices treatise on succession planning, to include, but not limited to, recruitment, qualifications, and training.*

- b. *When asked, the Training Committee shall offer guidance on the recruitment and selection of state administrators.*
5. *Training services shall be made available to all State Social Security Administrators and their staff for a fee set by the NCSSSA. Training Services shall be provided at a reduced rate or may be offered for free to dues paying members. For non-dues paying members any fee may be reduced or waived at the discretion of the NCSSSA President.*
6. *The Chairperson will facilitate a smooth transition between an outgoing and incoming Chair. The outgoing Chair shall provide all prior records, notes and materials to the new Chair within 30 days after the Conference. Provide technical advice, as needed, to the new Chairperson.*

The Research and Information Committee reviewed the updated SOP for the position of Secretary. The Ad-Hoc History Committee has been added to the Secretary's duties. This change is reflected in the addition of numbers 6 and 7 under the heading of Conference Year. The committee submitted its recommendations to the President NCSSSA and the Executive Committee. The Committee was in agreement with the changes.

6. *Supply other documents to SSA for their History files. SSA has foldered and filed all NCSSSA materials at their online inventory site. It is in Lateral Files Collection and can be seen at Drawer#3 <http://www.ssa.gov/history/archives/lateral.htm>.*
7. *Secure prior authorization for reproduction, mailing and related items. Submit a detailed accounting (receipts) of all expenses incurred to both, the NCSSSA President and Treasurer. (Sample 2)*

Respectfully Submitted,

Madison Davis  
Chairman, Research and Information Committee



## National Conference of State Social Security Administrators

*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

### *“Resolution Committee”*

Angie Dowdy, Louisiana  
**Chair**  
Harry Wales, Wyoming  
Barry Faison, Virginia

The Resolution committee offers the following Resolutions at the 61<sup>st</sup> NCSSSA annual conference in Cheyenne, Wyoming:

#### **NCSSSA**

- |                               |                          |
|-------------------------------|--------------------------|
| 2. Dr. Mary Ann Motza PhD, CO | 15. Harry Wales, WY      |
| 3. Michele Briggs, AZ         | 24. Dean Conder, CO      |
| 4. Karen Park, OR             | 30. Danielle Huffine, IA |
| 5. Linda Yelverton, LA        | 31. Rita Foltman, IN     |
| 6. Kathleen Baxter, AL        | 32. Vandee Devore, MO    |
| 7. Angie Dowdy, LA            | 33. Tammy Taylor, KY     |
| 8. Kevin Mack, NY             | 34. Madison Davis, AR    |
| 9. Barry Faison, VA           | 35. Kay Gouyton, AK      |
| 10. Shirley Sessoms, MS       | 36. Vernon Bush, TN      |
| 11. Nick Merrill, IL          | 37. Barbara Taylor, MS   |
| 12. James Sawyer, TX          | 38. T.J. Reardon, MD     |
| 13. Rick Beckstead, UT        | 39. Joe Lancaster, KY    |
| 14. Kim Smith, WA             | 47. Pamella Johnson, OR  |

#### **SPECIAL GUESTS**

17. Patricia O’Brien Arp, Wyoming Deputy Secretary of State
18. The Honorable Sean Brune, SSA Denver Regional Commissioner

#### **SSA OFFICIALS**

- |                   |                           |
|-------------------|---------------------------|
| 19. Mark Brown    | 22. Mike Baksa            |
| 20. Fred Sanchez  | 23. Tim Kelley            |
| 21. Cassia Parson | 24. Linda Pelic-Stradtman |

#### **IRS OFFICIALS**

- |                   |                      |
|-------------------|----------------------|
| 23. Jayne Maxwell | 27. Robert Westhoven |
| 24. Dwayne Jacobs |                      |

#### **GAO OFFICIAL**

26. Anjali Tekchandani

#### **Retirement/Well wishes**

- |                       |                      |
|-----------------------|----------------------|
| 1. Laquitta Pitts, OK | 3. Karen Park, OR    |
| 2. Ken Anderson, SSA  | 4. Darryl Swain, SSA |

#### **OTHER**

- |                                   |   |
|-----------------------------------|---|
| 16. Wyoming ANG Color Guard       | 40. Little America Hotel and Resort     |
| 41. Bit-O-Wyo Ranch               | 42. Angela Hendricks                    |
| 43. Charmaine Wallace, OK Retiree | 44. Ron Park, OR (Karen Park’s husband) |
| 45. Amanda Schmitgen, SD          | 46. Barrie Tabin-Berger                 |

Copies of all Resolutions have been forwarded to the Conference Secretary.

Respectfully submitted this 7<sup>th</sup> day of August, 2011.

Angie Dowdy,  
Chair

# N C S S S A

## *National Conference of State Social Security Administrators*



**WHEREAS**, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of **Dr. Maryann Motza**, NCSSSA President 2010-2011, Colorado; and

**WHEREAS**, **Dr. Motza** presented numerous sessions entitled;

- Conference Attendees' Introduction Session and Basic Social Security Training
- NCSSSA President's Welcome
- Overview of Pub 963 Evaluation and Compliance Self-Assessment Tool
- Review of GAO Report – Overview and what has changed since report came out.
- "Update on Federal Legislative and Regulatory Issues, including Universal Social Security and Sustainability of Pension Plans".

All sessions presented by **Dr. Motza** were of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and significantly contributed to the overall success of the Conference; and

**WHEREAS**, **Dr. Motza** served the National Conference of State Social Security Administrators in the executive position of President and Chair of the Legislative Committee; and

**WHEREAS**, **Dr. Motza** supported the National Conference of State Social Security Administrators as an integral member of the Nominating, Program, History and Training Committees; and

**WHEREAS**, **Dr. Motza** further aided the National Conference of State Social Security Administrators by introducing the keynote speaker at the 2011 Annual Conference; and

**THEREFORE**, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Dr. Motza**; and

**BE IT FURTHER RESOLVED**, that the conference president forwards this resolution to **Dr. Motza**.

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 2-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



**WHEREAS**, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of **Ms. Michele Briggs**, NCSSSA First Vice-President, Arizona; and

**WHEREAS**, the session entitled “Conference Attendees’ Introduction Session and Basic Social Security Training” presented by **Ms. Briggs** was of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and was a significant contribution to the overall success of the Conference; and

**WHEREAS**, **Ms. Briggs** served the National Conference of State Social Security Administrators in the executive position of First Vice-President and Chair of the Program Committee; and

**WHEREAS**, **Ms. Briggs** supported the National Conference of State Social Security Administrators as an integral member of the Legislative Committee; and

**THEREFORE**, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to **Ms. Briggs**; and

**BE IT FURTHER RESOLVED**, that the conference president forwards this resolution to **Ms. Michele Briggs**

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 3-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



**WHEREAS**, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of **Ms. Karen Park**, NCSSSA Vice-President Designate, Oregon; and

**WHEREAS**, **Ms. Park** served the National Conference of State Social Security Administrators in the executive position of Vice-President Designate and Chair of the Membership Committee; and

**WHEREAS**, **Ms. Park** supported the National Conference of State Social Security Administrators as an integral member of the Hospitality, Program, Research and Information, Communications and Training Committees; and

**WHEREAS**, **Ms. Park** further aided the success of the Annual Conference as Moderator for the “IRS – Update on TE/GE” session; and

**THEREFORE**, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to **Ms. Park**; and

**BE IT FURTHER RESOLVED**, that the conference president forwards this resolution to **Ms. Park**.

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 4-2011

# NCSSSA

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Linda Yelverton, NCSSSA Past President, Louisiana; and*

*WHEREAS, the session entitled "Conducting Referenda – The difference between a divided and majority vote state" presented by Ms. Yelverton was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference; and*

*WHEREAS, Ms. Yelverton served the National Conference of State Social Security Administrators in the executive position of Past President and Chair of the History Committee; and*

*WHEREAS, Ms. Yelverton supported the National Conference of State Social Security Administrators as an integral member of the Hospitality, Legislative, Program, Research and Information and Training Committees; and*

*WHEREAS, Ms. Yelverton further aided the success of the Annual Conference as Moderator for the "Social Security 101" session; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Yelverton; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Yelverton.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 5-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61st annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Kathleen Baxter, NCSSSA Treasurer, Alabama; and*

*WHEREAS, Ms. Baxter served the National Conference of State Social Security Administrators in the executive position of Treasurer; and*

*WHEREAS, Ms. Baxter supported the National Conference of State Social Security Administrators as an integral member of the Communications Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Baxter; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Baxter.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 6-2011



# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Angie Dowdy, NCSSSA Secretary, Louisiana; and*

*WHEREAS, the session entitled “Conducting Referenda – The Difference Between a Divided and Majority Vote State” presented by Ms. Dowdy was of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and was a significant contribution to the overall success of the Conference; and*

*WHEREAS, Ms. Dowdy served the National Conference of State Social Security Administrators in the executive position of Secretary and Chair of the Resolution Committee; and*

*WHEREAS, Ms. Dowdy supported the National Conference of State Social Security Administrators as an integral member of the Hospitality, Legislative, Program, Research and Information, History and Membership Committees; and*

*WHEREAS, Ms. Dowdy further aided the success of the Annual Conference as Moderator for the “Student exclusion and the Supreme Court case; update on other Treasury Counsel issues of importance to NCSSSA” and “Update on Federal Legislative and Regulatory Issues, including Universal Social Security and Sustainability of Pension Plans” sessions; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Dowdy; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Dowdy.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 7-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Kevin Mack, NCSSSA Region I Vice-President, New York; and*

*WHEREAS, Mr. Mack served the National Conference of State Social Security Administrators in the executive position of Region I Vice-President; and*

*WHEREAS, Mr. Mack supported the National Conference of State Social Security Administrators as an integral member of the Nominating and Membership Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Mack; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Mack.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 8-2011

# NCSSSA

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Barry Faison, NCSSSA Region II Vice-President, Virginia; and*

*WHEREAS, Mr. Faison served the National Conference of State Social Security Administrators in the executive position of Region II Vice-President; and*

*WHEREAS, Mr. Faison supported the National Conference of State Social Security Administrators as an integral member of the Hospitality, Program, Resolution, Communications and Membership Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Faison; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Barry Faison.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 9-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Shirley Sessoms, NCSSSA Region III Vice-President, Mississippi; and*

*WHEREAS, Ms. Sessoms served the National Conference of State Social Security Administrators in the executive position of Region III Vice-President and Chair of the Auditing Committee; and*

*WHEREAS, Ms. Sessoms supported the National Conference of State Social Security Administrators as an integral member of the Membership Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Sessoms; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Shirley Sessoms.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 10-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Nick Merrill, NCSSSA Region IV Vice-President, Illinois; and*

*WHEREAS, Mr. Merrill served the National Conference of State Social Security Administrators in the executive position of Region IV Vice-President and Chair of the Time and Place Committee; and*

*WHEREAS, Mr. Merrill supported the National Conference of State Social Security Administrators as an integral member of the Nominating and Membership Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Merrill; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Merrill.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 11-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. James Sawyer, NCSSSA Region V Vice-President, Texas; and*

*WHEREAS, Mr. Sawyer served the National Conference of State Social Security Administrators in the executive position of Region V Vice-President; and*

*WHEREAS, Mr. Sawyer supported the National Conference of State Social Security Administrators as an integral member of the Auditing and Membership Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Sawyer; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Sawyer.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 12-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Richard Beckstead, NCSSSA Region VI Vice-President, Utah; and*

*WHEREAS, Mr. Beckstead served the National Conference of State Social Security Administrators in the executive position of Region VI Vice-President; and*

*WHEREAS, Mr. Beckstead supported the National Conference of State Social Security Administrators as an integral member of the Auditing and Membership Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Beckstead; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Beckstead.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 13-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Kim Smith, NCSSSA Region VII Vice-President, Washington; and*

*WHEREAS, Ms. Smith served the National Conference of State Social Security Administrators in the executive position of Region VII Vice-President; and*

*WHEREAS, Ms. Smith supported the National Conference of State Social Security Administrators as an integral member of the Membership Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Smith; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Smith.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 14-2011



# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Harry Wales, Wyoming; and*

*WHEREAS, Mr. Wales was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference as the host-state administrator; and*

*WHEREAS, Mr. Wales served the National Conference of State Social Security Administrators in the position of Co-Chair of the Hospitality Committee and Chair of the Nominating Committee; and*

*WHEREAS, Mr. Wales supported the National Conference of State Social Security Administrators as an integral member of the Auditing, Program, Resolution and Time & Place Committees; and*

*WHEREAS, Mr. Wales further aided the success of the Annual Conference by introducing the Guest Speaker, The Honorable Max Maxfield, Wyoming Secretary of State; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Wales; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Wales.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 15-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, The National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, wishes to express its appreciation to the Wyoming ANG Color Guard, and in particular to,*

*SMSgt Exie Brown  
SMSgt Michele Henning  
SMSgt Carl Hocking  
MSgt Lila Howell*

*for their prestigious and heartwarming showing of the colors; and*

*WHEREAS, the NCSSSA Conference members and their families, invited guests, and participants, have been greatly inspired by the Wyoming ANG Color Guard; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly records by this instrument, its appreciation to the Wyoming ANG Color Guard and directs the conference president to present this resolution to the Guard.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 16-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, desires to express its sincere appreciation for the cordial welcome to Wyoming presented by the Wyoming Deputy Secretary of State, **Patricia O'Brien Arp**; and*

*WHEREAS, the National Conference of State Social Security Administrators gratefully acknowledges the dedicated and sincere efforts of **Ms. Arp** to make the National Conference of State Social Security Administrators' Annual Conference a success; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses its appreciation and sincere thankfulness to **Ms. Arp**; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to **Ms. Arp**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 17-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, desires to express its sincere appreciation for the Keynote Speech presented by the Social Security Administration Denver Regional Commissioner, **The Honorable Sean Brune**; and*

*WHEREAS, the National Conference of State Social Security Administrators gratefully acknowledges the dedicated and sincere efforts of **Mr. Brune** to make the National Conference of State Social Security Administrators' Annual Conference a success; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses its appreciation and sincere thankfulness to **Mr. Brune**; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to **Mr. Brune**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 18-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Mark Brown, Social Security Administration Office of Income Security Programs; and*

*WHEREAS, the sessions entitled “Navigating the State and Local Handbook” and “How long has this been going on? (Continuation of coverage explained)” presented by Mr. Brown were of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and were significant contributions to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Brown; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Brown.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 19-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Fred Sanchez, Social Security Administration Chicago Regional Office of General Counsel; and*

*WHEREAS, the sessions entitled “Navigating the State and Local Handbook” and “How long has this been going on? (Continuation of coverage explained)” presented by Mr. Sanchez were of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and were significant contributions to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Sanchez; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Sanchez.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 20-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Cassia Parson, Social Security Administration Headquarters Office of General Counsel; and*

*WHEREAS, the session entitled "Social Security 101" presented by Ms. Parson was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Parson; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Parson.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 21-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Mike Baksa, Social Security Administration Administrative Lead Public Affairs Specialist, Denver Office; and*

*WHEREAS, the session entitled "Social Security 101" presented by Mr. Baksa was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Baksa; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Baksa.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 22-2011



# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61st annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Tim Kelley, Social Security Administration, Office of Legislative and Regulatory Affairs; and*

*WHEREAS, the session entitled "Social Security 101" presented via video conference by Mr. Kelley was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Kelley; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Kelley.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 23-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Dean Conder, Deputy State Social Security Administrator, Colorado; and*

*WHEREAS, the session entitled "Overview of Pub 963 Evaluation and Compliance Self-Assessment Tool" presented by Mr. Conder was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference; and*

*WHEREAS, Mr. Conder served the National Conference of State Social Security Administrators in the position of Chair of the Constitution & By-Laws and Training Committees; and*

*WHEREAS, Mr. Conder supported the National Conference of State Social Security Administrators as an integral member of the Legislative, Nominating, Program, and Time & Place Committees; and*

*WHEREAS, Mr. Conder further aided the success of the Annual Conference as Moderator for the "Navigating the State and Local Handbook" session; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Conder; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Conder.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 24-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Jayne Maxwell, Internal Revenue Service Federal State and Local Government Field Operations; and*

*WHEREAS, the sessions entitled “Student exclusion and the Supreme Court case; update on other Treasury Counsel issues of importance to NCSSSA”, “Review of GAO Report – Overview and what has changed since the report came out” and “IRS Update on TE/GE” presented by Ms. Maxwell were of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and were significant contributions to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Maxwell; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Maxwell.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 25-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Anjali Tekchandani, Senior Policy Analyst, Government Accountability Office Education Workforce and Income Security; and*

*WHEREAS, the session entitled “Review of GAO Report – Overview and what has changed since the report came out” presented by Ms. Tekchandani was of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Tekchandani; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Tekchandani.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 26-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Linda Pelic-Stradtman, Social Security Administration, Baltimore; and*

*WHEREAS, the session entitled “Review of GAO Report – Overview and what has changed since the report came out” presented via video conference by Ms. Pelic-Stradtman was of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Pelic-Stradtman; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Pelic-Stradtman.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 27-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of **Mr. Robert Westhoven**, Internal Revenue Service Northeast Area Manager, Federal State and Local Government; and*

*WHEREAS, the session entitled “IRS – Update on TE/GE” presented by **Mr. Westhoven** was of tremendous value to attendees of the National Conference of State Social Security Administrators’ Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Westhoven**; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to **Mr. Westhoven**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 28-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Dwayne Jacobs, Internal Revenue Service Western Area Manager, Federal State and Local Government; and*

*WHEREAS, the session entitled "IRS – Update on TE/GE" presented by Mr. Jacobs was of tremendous value to attendees of the National Conference of State Social Security Administrators' Annual Conference and was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Jacobs; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Jacobs.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 29-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Danielle Huffine, State Social Security Administrator, Iowa; and*

*WHEREAS, Ms. Huffine served the National Conference of State Social Security Administrators as an integral member of the Hospitality and Time & Place Committees; and*

*WHEREAS, Ms. Huffine further supported the success of the Annual Conference as Moderator for the “Overview of Pub 963 Evaluation and Compliance Self-Assessment Tool” session; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Huffine; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Huffine.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 30-2011



# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Rita Foltman, State Social Security Administrator, Idaho; and*

*WHEREAS, Ms. Foltman served the National Conference of State Social Security Administrators in the position of Co-Chair of the Hospitality Committee; and*

*WHEREAS, Ms. Foltman further supported the success of the Annual Conference as Moderator for the “Conducting Referenda & the Difference Between a Divided and Majority Vote State” session; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Foltman; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Foltman.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 31-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Vandee DeVore, Assistant Director, Missouri; and*

*WHEREAS, Ms. DeVore supported the National Conference of State Social Security Administrators as an integral member of the Legislative, Research & Information and Training Committees; and*

*WHEREAS, Ms. DeVore further aided the success of the Annual Conference as Moderator for the "How long has this been going on? (Continuation of coverage explained)" session; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. DeVore; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. DeVore.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61st ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 32-2011

# NCSSSA

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Tammy Taylor, Kentucky; and*

*WHEREAS, Ms. Taylor served the National Conference of State Social Security Administrators in the position of Chair of the Communications Committee; and*

*WHEREAS, Ms. Taylor supported the National Conference of State Social Security Administrators as an integral member of the Time and Place Committee; and*

*WHEREAS, Ms. Taylor further aided the success of the Annual Conference as Moderator for the “Review of GAO Report – Overview and what has changed since the report came out” session; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Taylor; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Taylor.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 33-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Madison Davis, Social Security Manager, Arkansas; and*

*WHEREAS, Mr. Davis served the National Conference of State Social Security Administrators in the position of Chair of the Research and Information Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Mr. Davis; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Davis.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 34-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Kay Gouyton, State Social Security Administrator, Alaska; and*

*WHEREAS, Ms. Gouyton supported the National Conference of State Social Security Administrators as an integral member of the Constitution and By-Laws Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Gouyton; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Gouyton.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 35-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Vernon Bush, State Social Security Administrator, Tennessee; and*

*WHEREAS, Mr. Bush supported the National Conference of State Social Security Administrators as an integral member of the Program and Training Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Bush; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Bush.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 36-2011

# NCSSSA

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Barbara Taylor, Mississippi; and*

*WHEREAS, Ms. Taylor supported the National Conference of State Social Security Administrators as an integral member of the Program and Research & Information Committees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Taylor; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Taylor.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61st ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 37-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Thomas J. Reardon, State Social Security Administrator, Maryland; and*

*WHEREAS, Mr. Reardon supported the National Conference of State Social Security Administrators as an integral member of the Training Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Reardon; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Reardon.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 38-2011



# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Mr. Joe Lancaster, State Social Security Administrator, Kentucky; and*

*WHEREAS, Mr. Lancaster supported the National Conference of State Social Security Administrators as an integral member of the Legislative Committee; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Lancaster; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Mr. Lancaster.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 39-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming desires to express its sincere appreciation to the **Little America Hotel and Resort**, Cheyenne, Wyoming; and*

*WHEREAS, The National Conference of State Social Security Administrators wishes to specifically express our appreciation to the management and staff of the **Little America Hotel and Resort** for their extremely efficient service which overwhelmingly contributed to the overall success of the conference; and*

*WHEREAS, the comfort, convenience and activities of conference attendees and guests have been professionally and courteously attended to by **Gregg Manning**, Sales Manager, and the staff of the **Little America Hotel and Resort**; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses its sincere thankfulness to the **Little America Hotel and Resort**; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to the **Little America Hotel and Resort**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 40-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, desires to express its sincere appreciation to the **Bit-O-Wyo Ranch**; and*

*WHEREAS, the **Bit-O-Wyo Ranch** provided an enjoyable and memorable evening for the National Conference of State Social Security Administrators' Annual Conference attendees and guests. The entertainment and wonderful Cowboy dinner was a highlight of our visit to Cheyenne and greatly contributed to the overall success of the conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses its sincere thankfulness to the **Bit-O-Wyo Ranch**; and*

***BE IT FURTHER RESOLVED**, that the conference president forwards this resolution to the **Bit-O-Wyo Ranch**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 41-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming desires to express our sincere appreciation to Ms. Angela Hendricks, Senior Accountant, Wyoming Retirement System; and*

*WHEREAS, The National Conference of State Social Security Administrators gratefully acknowledges the efficient contributions of Ms. Hendricks for tirelessly coordinating with the Little America Hotel and Resort regarding registrations and conference needs, Chamber of Commerce and Tourist Center for registration bag items, among many other various assignments; and*

*WHEREAS, The National Conference of State Social Security Administrators expresses its sincerest gratitude to Ms. Hendricks for the expertise and diligence she exhibited in procuring the Bit-O-Wyo Ranch as the site of the Monday night event as well as the details pertaining to transportation for conference attendees; and*

*WHEREAS, Ms. Hendricks' assistance was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our indebtedness and heartfelt thankfulness to Ms. Hendricks; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Hendricks.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 42-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Charmaine Wallace, retiree from Oklahoma; and*

*WHEREAS, Ms. Wallace supported the National Conference of State Social Security Administrators as an honorary member of the Hospitality Committee; and*

*WHEREAS, Ms. Wallace freely volunteered her time to assist with the conference registration process; and*

*WHEREAS, the National Conference of State Social Security Administrators recognizes Ms. Wallace for the hospitality shown to all conference attendees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Wallace; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Wallace.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 43-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of **Mr. Ron Park**, Oregon; and*

*WHEREAS, **Mr. Park** supported the National Conference of State Social Security Administrators as an honorary member of the Hospitality Committee; and*

*WHEREAS, **Mr. Park** freely volunteered his time to assist with the conference registration process; and*

*WHEREAS, the National Conference of State Social Security Administrators recognizes **Mr. Park** for the hospitality shown to all conference attendees; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to **Mr. Park**; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to **Mr. Park**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 44-2011

# N C S S S A

*National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. Amanda Schmitgen, State Social Security Administrator, South Dakota; and*

*WHEREAS, the National Conference of State Social Security Administrators recognizes Ms. Schmitgen for her inspirational rendition of the National Anthem during the Presentation of the Colors at the conference opening; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Schmitgen; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Schmitgen.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 45-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming, gratefully acknowledges the participation of Ms. **Barrie Tabin-Berger**, Assistant Director, Federal Liaison Center, Government Finance Officers Association; and*

*WHEREAS, the National Conference of State Social Security Administrators recognizes Ms. **Tabin-Berger** for her assistance to the National Conference of State Social Security Administrators since 2007; and*

*WHEREAS, the National Conference of State Social Security Administrators wishes to express its sincerest gratitude to Ms. **Tabin-Berger** for her instrumental support in having the National Conference of State Social Security Administrators included in the Public Pension Network; and*

*WHEREAS, the National Conference of State Social Security Administrators acknowledges Ms. **Tabin-Berger** for her special assistance to Dr. Maryann Motza, PhD, in preparing the "Update on Federal Legislative and Regulatory Issues, Including Universal (Mandatory) Social Security and Sustainability of Pension Plans." presentation during the 2011 Annual Conference in Cheyenne, Wyoming; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. **Tabin-Berger**; and*

***BE IT FURTHER RESOLVED**, that the conference president forwards this resolution to Ms. **Barrie Tabin-Berger**.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 46-2011



# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne, Wyoming desires to express our sincere appreciation to Ms. Pamela Johnson, Oregon; and*

*WHEREAS, The National Conference of State Social Security Administrators gratefully acknowledges the efficient contributions of Ms. Johnson for tirelessly assisting with the conference registration process; and*

*WHEREAS, The National Conference of State Social Security Administrators expresses its sincerest gratitude to Ms. Johnson for voluntarily supporting the Hospitality and Program Committee members; and*

*WHEREAS, Ms. Johnson's assistance was a significant contribution to the overall success of the Conference; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our indebtedness and heartfelt thankfulness to Ms. Johnson; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Johnson.*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011 AT THE NCSSSA 61<sup>st</sup> ANNUAL MEETING IN CHEYENNE, WYOMING.**

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Maryann Motza, PhD, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Resolution 47-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators gratefully acknowledges the hard work and dedication shown by Ms. Laquitta Pitts, Oklahoma; and*

*WHEREAS, Ms. Pitts service on the NCSSSA Executive Committee in the capacity of Regional Vice President has been of the utmost value to the National Conference of State Social Security Administrators; and*

*WHEREAS, Ms. Pitts served the National Conference of State Social Security Administrators in the position of Chair of the Resolution Committee as well as membership on numerous other committees; and*

*WHEREAS, the National Conference of State Social Security Administrators respectfully bestows its best wishes to Ms. Pitts for her continued success; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our appreciation and sincere thankfulness to Ms. Pitts; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Pitts.*

**ADOPTED THIS 1st DAY OF DECEMBER, 2010.**

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Maryann Motza, Colorado  
President 2010-2011

*Angie Dowdy*

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Special Resolution 1-2011

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS*, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne Wyoming, desires to recognize **Mr. Ken Anderson**, upon his retirement from the Social Security Administration ; and

*WHEREAS*, **Ken Anderson** has generously shared his knowledge and expertise of State and Local Coverage as it pertains to Section 218 of the Social Security Act with genuine dedication for numerous years to the National Conference of State Social Security Administrators ; and

*WHEREAS*, the National Conference of State Social Security Administrators recognizes and honors **Ken Anderson** for his efforts that added immensely to the conference in the sharing of his experience and knowledge and wishes to express its sincere appreciation to **Ken Anderson**; and

*WHEREAS*, the National Conference of State Social Security Administrators, duly expresses its grateful appreciation and sincere thankfulness to **Ken Anderson**;

*THEREFORE*, be it resolved that the National Conference of State Social Security Administrators, by unanimous vote, hereby extends best wishes for a continued active life, good health and a happy retirement to **Ken Anderson** and **presents to him an honorary lifetime membership as an "active" retired member of the National Conference of State Social Security Administrators**; and

*BE IT FURTHER RESOLVED*, that the conference president forwards this resolution to **Ken Anderson** along with an invitation to all future **NCSSSA Annual Conferences**. Details for each year will be posted at [www.ncssa.org](http://www.ncssa.org).

**ADOPTED THIS 1<sup>st</sup> DAY OF JUNE, 2011.**

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Maryann Motza, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Special Resolution 2011-2

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS, the National Conference of State Social Security Administrators respectfully acknowledges the hard work and dedication shown by Ms. Karen Park, Oregon; and*

*WHEREAS, Ms. Park's service on the NCSSSA Executive Committee in the capacity of Vice-President Designate and Regional Vice President before that, has been of meaningful and significant value to the National Conference of State Social Security Administrators; and*

*WHEREAS, Ms. Park has eagerly and earnestly served the National Conference of State Social Security Administrators in the position of Chair of the Membership Committee and participated on numerous other committees such as Program, Hospitality, Training, Communications and Research & Information Committees; and*

*WHEREAS, the National Conference of State Social Security Administrators wishes to express its sincerest gratitude to Ms. Park for publishing the Program Booklet used not only during annual conferences but year round by State Administrators as a source of reference and information; and*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, by unanimous vote, hereby extends best wishes for a continued active life, good health and a happy retirement to Ms. Karen Park and presents to her an honorary lifetime membership as an "active" retired member of the National Conference of State Social Security Administrators; and*

*BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Ms. Karen Park along with an invitation to all future NCSSSA Annual Conferences. Details for each year will be posted at [www.ncsssa.org](http://www.ncsssa.org).*

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011.**

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Maryann Motza, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Special Resolution 2011-3

# N C S S S A

## *National Conference of State Social Security Administrators*



*WHEREAS*, the National Conference of State Social Security Administrators at its 61<sup>st</sup> annual meeting in Cheyenne Wyoming, desires to recognize **Mr. Darryl Swain**, upon his retirement from the Social Security Administration ; and

*WHEREAS*, **Mr. Swain** has generously shared his knowledge and expertise of State and Local Coverage as it pertains to Section 218 of the Social Security Act with genuine dedication for numerous years to the National Conference of State Social Security Administrators ; and

*WHEREAS*, the National Conference of State Social Security Administrators respectfully honors **Mr. Swain** for continually exhibiting a genuine willingness to teach, learn and lead by example; and

*WHEREAS*, the National Conference of State Social Security Administrators, duly expresses its grateful appreciation and sincere thankfulness to **Mr. Swain**; and

*THEREFORE*, be it resolved that the National Conference of State Social Security Administrators, by unanimous vote, hereby extends best wishes for a continued active life, good health and a happy retirement to **Mr. Swain**; and

*BE IT FURTHER RESOLVED*, that the conference president forwards this resolution to **Mr. Darryl Swain** along with an invitation to all future *NCSSSA Annual Conferences*. Details for each year will be posted at [www.ncssa.org](http://www.ncssa.org).

**ADOPTED THIS 10<sup>th</sup> DAY OF AUGUST, 2011.**

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Maryann Motza, Colorado  
President 2010-2011

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Angie Dowdy, Louisiana  
Secretary 2010-2011

Special Resolution 2011-4



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Time and Place Committee*

**Chair**

**Nick Merrill, Illinois**

**Members**

**Dean Conder (CO), Danielle Huffine (IA), Tammy Taylor (KY), Harry Wales (WY)**

The purpose of the Time & Place Committee is to secure, screen, and recommend future host-site bids for the Annual Conference to the Executive Committee for their approval. The 2012 Conference is already contracted for Scottsdale Arizona.

The Committee held an email conversation regarding the conference location for 2013. With no States volunteering, the recommendation is for Philadelphia, Pennsylvania to host for 2013.

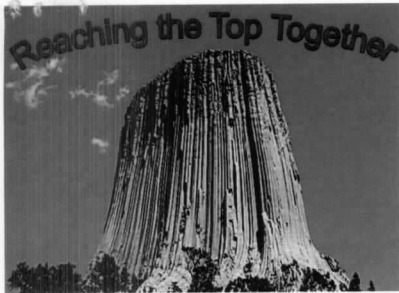
Vandee DeVore has researched locations in coordination with the Philadelphia Convention and Visitor's Bureau. Three hotels offered to bid for our conference location. No specific hotel was recommended to the Executive Committee for their approval, since we are still awaiting more cost information. All of the prospective hotels were available August 3-7, 2013.

I want to thank all of the members of the Time & Place Committee who contributed their time to a great conference site recommendation.

As an additional note, I would like to announce an invitation to any State to host the 2014 Annual Conference. The Committee encourages each state administrator to consider hosting these important, national meetings. The host state administrator duties are relatively straightforward and require minimal effort. The host administrator, however, is an essential player in making our annual meeting a success. The NCSSSA annual conference is normally held during the last week of July or the first two weeks of August. The conference ordinarily kicks off on Sunday at noon and runs through Wednesday at noon. Please consider hosting a future NCSSSA annual conference. You may address questions concerning the site bid or host state duties to any member of the Committee.

Respectfully submitted,

Nick Merrill, Chair  
NCSSSA Time & Place Committee, 2010-2011



*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

## *Training and Succession Planning Committee*

### **Chair**

**Dean J. Conder, (CO)**

### **Members**

Vernon Bush, (TN); T. J. Reardon, (MD); Vandee DeVore, (MO); Maryann Motza, (CO)  
Karen Park, (OR); and Linda Yelverton, (LA)

The NCSSSA Training and Succession Planning Committee had a very active year. The Committee surveyed NCSSSA membership to determine the training needs. Based upon this information, a training schematic was developed to deliver training based on membership experience and knowledge wherein training will be delivered in a three-tiered method:

**Tier One:** Basic Training shall be offered to all NCSSSA members, but the focus of such training will be to new administrators with three or fewer years of experience. When the NCSSSA budget allows, as determined by the NCSSSA President, Basic Training shall be conducted in person and offered on a regional basis wherein at least three state officials can attend an extended (day and one half) training. Such in person training shall include representatives from the Training Committee, the IRS and SSA (when feasible) and focus on basic roles and responsibilities and basic terminology and practices.

**Tier Two:** Intermediate Training shall be offered to all NCSSSA members, but the focus of such training will be to those administrators with more than three years experience. Intermediate Training may be conducted via webinar, teleconference, or other such means, and shall focus on particular topics of interest to membership.

**Tier Three:** Advanced Training shall be offered to all NCSSSA members, but the focus of such training will be for those administrators with ten or more years of experience. Such training may be conducted via webinar, teleconference, or other such means, and shall focus on systemic problem solving.

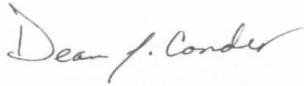
The Training and Succession Planning Committee developed a curriculum for the tier-one training for use in regional training sessions. The Committee is in process of developing additional tier-two and tier-three training courses.

Training Committee member, Vandee DeVore, provided tier-one training to the state of Oklahoma in November 2010.

Training Committee Chair, Dean Conder, provided regional tier-one training to six State Administrators in March 2011.

Finally, the Training and Succession Planning Committee proposed standard operating procedures to be included in the NCSSSA SOP Manual.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Dean J. Conder".

Dean J. Conder, CO  
Chair, NCSSSA Training and Succession Planning Committee, 2010-2011



**Itemized Categories - YTD**  
 1/1/2011 through 8/3/2011 (Cash Basis)

8/3/2011

Page 1

Date	Account	Num	Description	Memo	Tag	Clr	Amount
<b>EXPENSES</b>							<b>-21,398.11</b>
<b>CONFERENCE EXPENSES</b>							<b>-21,398.11</b>
4/4/2011	Checking	1055	Little Americ... HOTEL CO...			R	-8,611.00
4/5/2011	Checking		Marco Meeting Conference...			R	-973.35
6/29/2011	Checking	1058	Bit-O-Wyo	Deposit Mo...		R	-1,205.75
7/12/2011	Checking	1059	Bit-O-Wyo	Final Paym...		R	-1,205.75
8/1/2011	Checking	1060	Action ADS				-516.26
8/3/2011	Checking		Booklets				-270.00
8/3/2011	Checking		Hotel				-8,616.00
<b>OVERALL TOTAL</b>							<b>-21,398.11</b>

# Transaction Checking - Last month

7/1/2011 through 7/31/2011

8/3/2011

Page 1

Date	Account	Num	Description	Memo	Category	Tag	Clr	Amount	
<b>BALANCE 6/30/2011</b>								<b>16,229.28</b>	
7/1/2011	Checking		Bankcard	BTOT DEP	2011 CONF...		R	750.00	
7/5/2011	Checking		Bankcard	BTOT DEP	2011 CONF...		R	1,164.00	
7/5/2011	Checking		Bankcard	MTOT DISC	Merchant Ca...		R	-179.57	
7/12/2011	Checking	1059	Bit-O-Wyo	Final Paym...	CONFEREN...		R	-1,205.75	
7/13/2011	Checking		Bankcard	BTOT DEP	2011 CONF...		R	1,600.00	
7/14/2011	Checking		Surveymonkey	Survey Sub...	Dues and Su...		R	-199.00	
7/15/2011	Checking		Bankcard	BTOT DEP	2011 CONF...		R	1,221.00	
7/20/2011	Checking		Bankcard	BTOT DEP	2011 CONF...		R	455.00	
7/25/2011	Checking		Bankcard	BTOT DEP	2011 CONF...		R	1,120.00	
<b>7/1/2011 - 7/31/2011</b>								<b>4,725.68</b>	
<b>BALANCE 7/31/2011</b>								<b>20,954.96</b>	
								<b>TOTAL INFLOWS</b>	<b>6,310.00</b>
								<b>TOTAL OUTFLOWS</b>	<b>-1,584.32</b>
								<b>NET TOTAL</b>	<b>4,725.68</b>

# Transaction Money Market - Last month

7/1/2011 through 7/31/2011

8/3/2011

Page 1

Date	Account	Num	Description	Memo	Category	Tag	Clr	Amount
<b>BALANCE 6/30/2011</b>								<b>31,773.29</b>
7/29/2011	Money Market		Interest Earn... Interest		Interest Inc		R	6.75
<b>7/1/2011 - 7/31/2011</b>								<b>6.75</b>
<b>BALANCE 7/31/2011</b>								<b>31,780.04</b>
<b>TOTAL INFLOWS</b>								<b>6.75</b>
<b>TOTAL OUTFLOWS</b>								<b>0.00</b>
<b>NET TOTAL</b>								<b>6.75</b>



*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Secretary Report  
Angie Dowdy  
2009-2011*

*The Proceedings Book for the NCSSSA 60th Annual Conference held in Kansas City, Missouri was put on CD and brought to the Cheyenne Conference. Each state not represented at this year's conference will have it mailed to the state administrator or their designate. A copy of the Proceedings Book CD was sent to the Social Security Historian for safekeeping in their historical files. The Proceedings Book will be placed on the NCSSSA [www.ncsssa.org](http://www.ncsssa.org) website.*

*Changes to the Secretary SOP were made to incorporate duties of the History Committee.*

*I would like to thank Harry Wales for hosting this year's conference!*

*Respectfully Submitted,*

*Angie Dowdy,  
NCSSSA Secretary  
2010-2011*



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Regional Vice-President's Report*

**Regions III**

**2011-2011**

Region III held its regional caucus on Sunday, August 7, 2011. The following states were represented at the meeting:

Alabama, Kathleen Baxter  
Kentucky, Joe Lancaster and Tammy Taylor  
Mississippi, Shirley Sessoms and Barbara Taylor

The following states were not in attendance:

Florida  
Georgia  
North Carolina  
South Carolina  
Tennessee

As new members, Joe Lancaster and Tammy Taylor were welcomed to the conference. Each administrator was given the opportunity to discuss concerns/issues in their state. With the exception of Alabama, no issues were provided. Alabama currently has an issue with state firefighters paying into Social Security erroneously.

Region III unanimously voted Barbara Taylor to serve as its regional vice president for 2011-2012.

Respectfully Submitted

Shirley Sessoms, Mississippi  
Region III, 2010-2011 Vice President



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*Region IV*

**Vice-President: Nick Merrill (IL)**

Region IV communicated with the states in our Region primarily through the use of emails and telephone calls. During the course of the past Conference year, there were a number of items which were passed on to the states regarding issues raised by the Social Security Administration (SSA), and the Internal Revenue Service (IRS). Contact was also made with the states regarding attendance and participation at this year's annual conference.

The following states were in attendance this year:

Illinois – Nick Merrill

Ohio- Kevin Brinckenhoff

Wisconsin- Diana Felsman, Matt Stohr

A regional meeting was held at the conference. The topics discussed were:

- Collection of contributions and reporting prior to 1987
- History of “mandatory” Social Security coverage
- Referendum process
- Assistance to/from other State Administrators, and
- Getting involved with the Conference

Diana Felsmand (WI) was elected as the Region IV Vice President for the next Conference year.

Submitted by:

Nicholas C. Merrill, Jr.

Region III Vice President

Illinois State Social Security Administrator

Region VI Vice President Report  
61<sup>st</sup> Annual Conference  
August 7-10, 2011

Little America Resort  
Cheyenne, Wyoming

Region VI held its regional caucus on Sunday, August 7, 2010.

**States Represented**

Of the 6 states in Region VI, there were a total of 8 representatives from 6 states in attendance. The following are the members in attendance:

<u>States</u>	<u>Representative/s</u>
Colorado	Maryann Motza and Dean Conder
Montana	Meghann Butler
South Dakota	Amanda Schmitgen
Utah	Richard Beckstead
Wyoming	Harry Wales, Erin Gorney, and Angela Hendricks

**Topics Discussed at regional caucus**

IRS 218 assessment and how it the IRS is using it.

The IRS looking at Board member stipends as wages

The 3% withholding requirement that is scheduled to begin 1-1-2013.

Richard Beckstead was elected as the new Regional Vice-President for 2011-2012.

Respectfully submitted,

Richard Beckstead  
Region VI Vice President  
2010-2011



*National Conference of State Social Security Administrators*

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*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

***“Past Presidents”***

- |                |   |                |   |
|----------------|---|----------------|---|
| <b>1952-53</b> | <b>William Farris, Tennessee</b>          | <b>1984-85</b> | <b>Daniel J. McAuley, New York</b>        |
| <b>1953-54</b> | <b>Charles H. Smith, Virginia</b>         | <b>1985-86</b> | <b>Gary R. King, Maine</b>                |
| <b>1954-55</b> | <b>Donald M. O'Hara, Michigan</b>         | <b>1986-87</b> | <b>Dennis B. Snodgrass, Missouri</b>      |
| <b>1955-56</b> | <b>Bruce Parkinson, Arizona</b>           | <b>1987-88</b> | <b>Michael K. Blankenship, Illinois</b>   |
| <b>1956-57</b> | <b>Tatum W. Gressette, South Carolina</b> | <b>1988-89</b> | <b>Patrick L. Doyle, Kentucky</b>         |
| <b>1957-58</b> | <b>Steven E. Schanes, New Jersey</b>      | <b>1989-90</b> | <b>Bobby J. Malley, Mississippi</b>       |
| <b>1958-59</b> | <b>James B. Atlee, Texas</b>              |                |   |
| <b>1959-60</b> | <b>Edward W. Bush, Illinois</b>           |                |   |
|                |   | <b>1990-91</b> | <b>James A. Correll, North Carolina</b>   |
| <b>1960-61</b> | <b>W. Frank DeLamar, Georgia</b>          | <b>1991-92</b> | <b>Nicholas C. Merrill, Jr., Illinois</b> |
| <b>1961-62</b> | <b>Frederick N. MacMillin, Wisconsin</b>  | <b>1992-93</b> | <b>Nicholas C. Merrill, Jr., Illinois</b> |
| <b>1962-63</b> | <b>John F. Sasek, Montana</b>             | <b>1993-94</b> | <b>Daryl Dunagan, Kentucky</b>            |
| <b>1963-64</b> | <b>B. E. "Bus" Friday., Arkansas</b>      | <b>1994-95</b> | <b>Steve Lortz, Nebraska</b>              |
| <b>1964-65</b> | <b>William J. Cudding, Pennsylvania</b>   | <b>1995-96</b> | <b>Dawn Evans, California</b>             |
| <b>1965-66</b> | <b>Carl J. Blechinger, California</b>     | <b>1996-97</b> | <b>Johnnie Morales Sr., Texas</b>         |
| <b>1966-67</b> | <b>Lawrence L. Farrell, Michigan</b>      | <b>1997-98</b> | <b>Russell Graves, Oklahoma</b>           |
| <b>1967-68</b> | <b>Murray L. Biegalle, Kentucky</b>       | <b>1998-99</b> | <b>Charles R. Severn, Idaho</b>           |
| <b>1968-69</b> | <b>Robert A. Healy, Delaware</b>          | <b>1999-00</b> | <b>Donald C. Rohan, Arizona</b>           |
| <b>1969-70</b> | <b>Arnold W. Jaeger, North Dakota</b>     |                |   |
|                |   | <b>2000-01</b> | <b>Doug Peterson, South Dakota</b>        |
| <b>1970-71</b> | <b>Sidney M. VanDeventer, Oklahoma</b>    | <b>2001-02</b> | <b>Maryann Motza, Colorado</b>            |
| <b>1971-72</b> | <b>Abe Domain, Georgia</b>                | <b>2002-03</b> | <b>Steve Delaney, Oregon</b>              |
| <b>1972-73</b> | <b>Fred E. Henne, Arkansas</b>            | <b>2003-04</b> | <b>Teresa Commeau, New Hampshire</b>      |
| <b>1973-74</b> | <b>Alta E. Moore, Wisconsin</b>           | <b>2004-05</b> | <b>Barry Faison, Virginia</b>             |
| <b>1974-75</b> | <b>Edward A. Baublits, Colorado</b>       | <b>2005-06</b> | <b>Dean Conder, Colorado</b>              |
| <b>1975-76</b> | <b>William J. Joseph, New Jersey</b>      | <b>2006-07</b> | <b>Dean Conder, Colorado</b>              |
| <b>1976-77</b> | <b>Harold G. Purser, Oklahoma</b>         | <b>2007-08</b> | <b>James Driver, Kentucky</b>             |
| <b>1977-78</b> | <b>Gerald P. Slaybaugh, Kansas</b>        | <b>2008-09</b> | <b>James Driver, Kentucky</b>             |
| <b>1978-79</b> | <b>Edwin C. Gallison, Vermont</b>         | <b>2009-10</b> | <b>Linda Yelverton, Louisiana</b>         |
| <b>1979-80</b> | <b>Purvis W. Collins, South Carolina</b>  |                |   |
|                |   |                |   |
| <b>1980-81</b> | <b>Starlene Mitchell, South Dakota</b>    |                |   |
| <b>1981-82</b> | <b>David I. Herbert, Pennsylvania</b>     |                |   |
| <b>1982-83</b> | <b>Carlos A. Gallegos, New Mexico</b>     |                |   |
| <b>1983-84</b> | <b>Jim Larche, Georgia</b>                |                |   |





*National Conference of State Social Security Administrators*

*61st Annual Conference  
Cheyenne, Wyoming  
August 7-10, 2011*

*“Past Conference Sites”*

- 1951 Bloomington, Indiana
- 1952 Nashville, Tennessee
- 1953 Chicago, Illinois
- 1954 Baltimore, Maryland
- 1955 Baltimore, Maryland
- 1956 Atlanta, Georgia
- 1957 Denver, Colorado
- 1958 St. Louis, Missouri
- 1959 Chicago, Illinois
- 1960 Philadelphia, Pennsylvania
  
- 1961 San Francisco, California
- 1962 Miami Beach, Florida
- 1963 Billings, Montana
- 1964 Boston, Massachusetts
- 1965 Milwaukee, Wisconsin
- 1966 Gearheart, Oregon
- 1967 Fort Lauderdale, Florida
- 1968 Tucson, Arizona
- 1969 San Juan, Puerto Rico
- 1970 Louisville, Kentucky
  
- 1971 Hot Springs National Park, Arkansas
- 1972 Seattle, Washington
- 1973 New Orleans, Louisiana
- 1974 Sante Fe, New Mexico
- 1975 Mobile, Alabama
- 1976 Las Vegas, Nevada
- 1977 Kansas City, Missouri
- 1978 Sun Valley, Idaho
- 1979 Williamsburg, Virginia
- 1980 Hershey, Pennsylvania
  
- 1981 Biloxi, Mississippi
- 1982 Hartford, Connecticut
- 1983 Portland, Oregon
- 1984 St. Paul, Minnesota
- 1985 Topeka, Kansas
  
- 1986 Park City, Utah
- 1987 Myrtle Beach, South Carolina
- 1988 Boston, Massachusetts
- 1989 Baltimore, Maryland
- 1990 Kansas City, Missouri
  
- 1991 Washington, D. C.
- 1992 Newport, Rhode Island
- 1993 Louisville, Kentucky
- 1994 Olympia, Washington
- 1995 Des Moines, Iowa
- 1996 Denver, Colorado
- 1997 Chicago, Illinois
- 1998 Biloxi, Mississippi
- 1999 San Antonio, Texas
- 2000 Baltimore, Maryland
  
- 2001 San Diego, California
- 2002 Rapid City, South Dakota
- 2003 Portland, Oregon
- 2004 Merrimack, New Hampshire
- 2005 Denver, Colorado
- 2006 Williamsburg, Virginia
- 2007 Anaheim, California
- 2008 Louisville, Kentucky
- 2009 Chicago, Illinois
- 2010 Kansas City, Missouri

# Roster of State Administrators and Officials

<b>ALABAMA</b>	<b>Region III</b>			<b>CALIFORNIA</b>	<b>Region VII</b>		
Robert Childree, Comptroller RSA Union Building 100 North Union Street, Suite 274 Montgomery, AL 36130-2602		(334) 242-7063		Marion Montez, Section Manager Post Office Box 942709 Sacramento, CA 94229-2709		(916) 795-3121 888 CALPERS FAX (916) 795-1523 <a href="mailto:marion.montez@calpers.ca.gov">marion.montez@calpers.ca.gov</a>	
* <b>Kathleen Baxter</b> , Accounting Director Department of Finance		(334) 242-4857 FAX (334) 353-0147 <a href="mailto:kathleen.baxter@comptroller.alabama.gov">kathleen.baxter@comptroller.alabama.gov</a>		* <b>Steven Propp</b> , Manager Social Security Unit Employer Services Division		(916) 795-9390 <a href="mailto:steven.propp@calpers.ca.gov">steven.propp@calpers.ca.gov</a>	
*Sue Blanton Department of Finance		(334) 242-7075 <a href="mailto:sue.blanton@comptroller.alabama.gov">sue.blanton@comptroller.alabama.gov</a>					
<b>ALASKA</b>	<b>Region VII</b>			<b>COLORADO</b>	<b>Region VI</b>		
Division of Retirement & Benefits 6 <sup>th</sup> Floor Office Building 333 Willoughby Avenue Post Office Box 110203 Juneau, AK 99811-0203				* <b>Maryann Motza, Ph.D.</b> , State Social Security Administrator Public Employees' Social Security Section Colorado Department of Labor & Employment 633 17 <sup>th</sup> Street, 7 <sup>th</sup> Floor Denver, Co 80202-2117		(303) 318-8061 FAX (303) 318-8069 <a href="mailto:maryann.motza@state.co.us">maryann.motza@state.co.us</a>	
* <b>Kay Gouyton</b> , Division Auditor/State Social Security Administrator		(907) 465-5707 FAX (907) 465-4469 <a href="mailto:kay.gouyton@alaska.gov">kay.gouyton@alaska.gov</a>		Dean Conder, Deputy Social Security Administrator		(303) 318-8060 <a href="mailto:dean.conder@state.co.us">dean.conder@state.co.us</a> Website: <a href="http://pess.cdle.state.co.us/">http://pess.cdle.state.co.us/</a>	
Robert Gregg, Internal Auditor/State Social Security Assistant		(907) 465-4469 <a href="mailto:robert.gregg@alaska.gov">robert.gregg@alaska.gov</a>		<b>CONNECTICUT</b>	<b>Region I</b>		
				Jeanne Kopek, Acting Director Retirement and Benefits Division Office of the State Comptroller 55 Elm Street Hartford, CT 06106-1797		(860) 702-3481	
<b>ARIZONA</b>	<b>Region VII</b>			* <b>Jeffrey G. Bieber</b> , Coordinator Social Security Unit		(860) 702-3524 FAX (860) 702-3489 <a href="mailto:jeff.bieber@po.state.ct.us">jeff.bieber@po.state.ct.us</a>	
* <b>Michele Briggs</b> , Administrator Arizona State Retirement System 3300 North Central Post Office Box 33910 Phoenix, AZ 85067-3910		(602) 240-2022 FAX (602) 264-6113 <a href="mailto:micheleb@azasrs.gov">micheleb@azasrs.gov</a>					
<b>ARKANSAS</b>	<b>Region V</b>			<b>DELAWARE</b>	<b>Region II</b>		
Gail Stone, Social Security Administrator Arkansas Public Employees' Retirement System One Union National Plaza 124 West Capitol Avenue, Suite 400 Little Rock, AR 72201		(501) 682-7855 <a href="mailto:gail.stone@arkansas.gov">gail.stone@arkansas.gov</a>		<b>The Honorable Chipman L. Flowers, JR.</b> Delaware State Treasurer 820 Silver Lake Blvd Suite 100 Dover, DE 19904		(302) 672-6701 (800) 722-7300 FAX (302) 739-5635 <a href="mailto:chip.flowers@state.de.us">chip.flowers@state.de.us</a>	
Michele Williams, Deputy Director		(501) 682-7855 <a href="mailto:michele.williams@arkansas.gov">michele.williams@arkansas.gov</a>		*Erika Benner Deputy State Treasurer 820 Silver Lake Blvd, Suite 100 Dover, DE 19904		(302) 672-6703 FAX (302) 739-5635 <a href="mailto:erika.benner@state.de.us">erika.benner@state.de.us</a>	
* <b>Madison Davis</b> , Social Security Manager		(501) 683-0890 <a href="mailto:madison.davis@arkansas.gov">madison.davis@arkansas.gov</a>					
*Jay Wills, III		(501) 682-7856 <a href="mailto:jay.wills@arkansas.gov">jay.wills@arkansas.gov</a>					

**FLORIDA** **Region III**  
Sarabeth Snuggs, State Retirement Director (850) 488-5540  
Division of Retirement [sarabeth.snuggs@dms.myflorida.com](mailto:sarabeth.snuggs@dms.myflorida.com)  
Post Office Box 9000  
Tallahassee, FL 32315-9000

**\*Cathy Smith** (850) 414-6371  
Bureau of Enrollment and Contributions FAX (850) 410-2030  
[cathy.smith@dms.myflorida.com](mailto:cathy.smith@dms.myflorida.com)

**GEORGIA** **Region III**  
Pamela L. Pharris, Executive Director  
Employees Retirement System of Georgia  
Two Northside 75, Suite 300  
Atlanta, GA 30318-7778

**\*Megan Schaum**, Social Security Coordinator (404) 603-5615  
FAX (404) 350-1406  
[mschaum@ers.state.ga.us](mailto:mschaum@ers.state.ga.us)

**HAWAII** **Region VII**  
Administrator  
Employees Retirement System of Hawaii (808) 586-1700  
201 Merchant Street, Suite 1400 FAX (808) 586-1677  
Honolulu, HI 96813-2929

**\*Wesley Machida**, Assistant Administrator (808) 587-5380  
[machidaw@hiers.org](mailto:machidaw@hiers.org)

Larry Wolfe, Accounting Manager (808) 586-1721  
FAX (808) 586-2882  
[wolfel@hiers.org](mailto:wolfel@hiers.org)

Darrick Tokuda (808) 586-1722  
[tokudad@hiers.org](mailto:tokudad@hiers.org)

**IDAHO** **Region VII**  
Donna M. Jones, Controller (208) 334-3100  
State Social Security Administrator  
Joe R. Williams Building  
700 West State Street  
Post Office Box 83720  
Boise, ID 83720-0011

Brandon Woolf, Administrator (208) 334-2394  
Office of State Wide Payroll FAX (208) 334-3338  
[bwoolf@sco.idaho.gov](mailto:bwoolf@sco.idaho.gov)

**\*Rita Foltman**, State Social Security Coordinator (208) 332-8734  
[rfoltman@sco.idaho.gov](mailto:rfoltman@sco.idaho.gov)

**ILLINOIS** **Region IV**  
Timothy B. Blair, Executive Secretary (217) 785-7444  
State Employees Retirement System  
2101 South Veterans Parkway  
Post Office Box 19255  
Springfield, IL 62794-9255

**\*Nicholas C. Merrill, Jr.**, Accounting Division Manager (217) 785-2340  
Accounting Division Manager FAX (217) 547-9721  
State Employees Retirement System of Illinois [nick.merrill@srs.illinois.gov](mailto:nick.merrill@srs.illinois.gov)

**INDIANA** **Region IV**  
Steve Russo, Executive Director (317) 234-0315  
Public Employees Retirement Fund 888 526-1687  
1 North Capitol, Suite 001 [ehankins@trf.in.gov](mailto:ehankins@trf.in.gov)  
Indianapolis, IN 46204

**\*R. Thomas Parker** (317) 233-4146  
PERF, Legal Benefits Analyst [tparker@perf.in.gov](mailto:tparker@perf.in.gov)

**IOWA** **Region IV**  
**\*Danielle Huffine**, State Social Security Administrator (515) 281-0089  
7401 Register Drive FAX (515) 281-0053  
Des Moines, IA 50321 [danielle.huffine@ipers.org](mailto:danielle.huffine@ipers.org)

**KANSAS** **Region V**  
**\*Kent E. Olson**, Director (785) 296-2314  
Department of Administration FAX (785) 296-6841  
Division of Accounts and Reports [kent.olson@da.ks.gov](mailto:kent.olson@da.ks.gov)  
Landon State Office Building  
900 South-West Jackson Street, Room 351S  
Topeka, KS 66612-1248

Roger Basinger (785) 296-8083  
Division of Accounts and Reports [robert.basinger@da.ks.gov](mailto:robert.basinger@da.ks.gov)

**KENTUCKY** **Region III**  
**\*Gerald V. Howard**, Director (502) 564-3952  
Division of Local Government Services FAX (502) 564-2124  
Social Security Coverage and Reporting Branch [geraldv.howard@ky.gov](mailto:geraldv.howard@ky.gov)  
Post Office Box 639  
Frankfort, KY 40602-0639 Website: [www.sssa.ky.gov](http://www.sssa.ky.gov)

**\*Joe L. Lancaster, Jr.** (502) 564-6888  
Assistant Director FAX (502) 564-2124  
501 High St, 4<sup>th</sup> Floor – Station 11 [joe.lancaster@ky.gov](mailto:joe.lancaster@ky.gov)  
P.O. Box 639  
Frankfort, KY 40602-0639

Tammy Taylor, Program Coordinator Office (502) 564-3952  
Division of Local Government Services Direct (502) 564-6915  
501 High St, 4<sup>th</sup> Floor – Station 11 FAX (502) 564-2124  
P.O. Box 639 [tammy.taylor@ky.gov](mailto:tammy.taylor@ky.gov)  
Frankfort, KY 40602-0639

**LOUISIANA** **Region V**

John Neely Kennedy, State Treasurer  
 Department of Treasury  
 Division of Social Security  
 Post Office Box 44154  
 Baton Rouge, LA 70804-4154

\***Linda Yelverton**, Social Security Program Director

(225) 342-0026  
 FAX (225) 342-1650  
[linda.yelverton@la.gov](mailto:linda.yelverton@la.gov)

Angie Dowdy, Social Security Program Analyst

(225) 342-0295  
[angie.dowdy@la.gov](mailto:angie.dowdy@la.gov)

**MAINE** **Region I**

Sandra J. Matheson, Executive Director  
 Maine Public Employees' Retirement System  
 #46 State House Station  
 Augusta, ME 04333

(207) 512-3190  
 (800) 451-9800  
 FAX (207) 512-3282

John Milazzo, Chief Deputy Executive Director and Legal Counsel

(207) 512-3105  
 (207) 451-3284  
[jmilazzo@bsrs.org](mailto:jmilazzo@bsrs.org)

\***Ann Brandt**

(207) 512-3218  
 FAX (207) 512-3248  
[ann.brandt@mainepers.org](mailto:ann.brandt@mainepers.org)

**MARYLAND** **Region II**

\***Thomas J. Reardon**  
 MD State Social Security Administrator  
 301 W. Preston St, Suite 607  
 Baltimore, MD 21201

(410) 767-4773  
 FAX (410) 333-7603  
[tjreardon@dbm.state.md.us](mailto:tjreardon@dbm.state.md.us)

Jim Fox, Personnel Administrator

(410) 767-5846  
[jfox@dbm.state.md.us](mailto:jfox@dbm.state.md.us)

Rick Losemann

[rlosemann@dbm.state.md.us](mailto:rlosemann@dbm.state.md.us)

**MASSACHUSETTS** **Region I**

\***Nick Favorito**, Deputy Treasurer/Executive Director  
 State Board of Retirement  
 One Ashburton Place #219  
 Boston, MA 02108-1518

(617) 367-7770, EXT 302  
 FAX (617) 723-1438  
[nfavorito@tre.state.ma.us](mailto:nfavorito@tre.state.ma.us)

**MICHIGAN** **Region IV**

\***Lois Musbach**, Social Security Administrator  
 State of Michigan  
 Office of Retirement Services  
 Post Office Box 30171  
 Lansing, MI 48909

(517) 322-6062  
 (800) 381-5111  
 FAX (517) 322-1116  
[musbachl@michigan.gov](mailto:musbachl@michigan.gov)

**MINNESOTA** **Region IV**

Mary Most Vanek, Social Security Administrator  
 Public Employees Retirement Association (PERA)  
 60 Empire Drive  
 Saint Paul, MN 55103-2088

\***Cheryl Keating**, Administrative Services Manager

(651) 355-0055  
[cheryl.keating@mnpera.org](mailto:cheryl.keating@mnpera.org)

Scott McLeod

(651) 355-0059  
[scott.mcleod@state.mn.us](mailto:scott.mcleod@state.mn.us)

Chris Arcand

(651) 355-0050  
[chris.arcand@state.mn.us](mailto:chris.arcand@state.mn.us)

**MISSISSIPPI** **Region III**

Pat Robertson, Executive Director  
 Public Employees Retirement System  
 429 Mississippi Street  
 Jackson, MS 39201-1005

(601) 359-3589

\***Shirley Sessoms**, Deputy Director  
 Wage and Contribution Division

(601) 359-2257  
 FAX (601) 359-2124  
[shirley\\_sessoms@pers.ms.gov](mailto:shirley_sessoms@pers.ms.gov)

Barbara Taylor  
 Public Employees Retirement

(601) 359-2534  
[btaylor@pers.ms.gov](mailto:btaylor@pers.ms.gov)

**MISSOURI** **Region V**

Stacy Neal, Director  
 Division of Accounting  
 Office of Administration  
 Post Office Box 809  
 Jefferson City, MO 65102-0809

(573) 751-4013  
 FAX (573) 526-9810  
[mark.a.kaiser@oa.mo.gov](mailto:mark.a.kaiser@oa.mo.gov)

\***Vandee DeVore**, Assistant Director

(573) 751-3289  
 FAX (573) 526-9810  
[vandee.devore@oa.mo.gov](mailto:vandee.devore@oa.mo.gov)

**MONTANA** **Region VI**

\***Beth Riitano**, State Social Security Administrator  
 Local Government Services Bureau  
 Room 301 South Park Avenue – Room 340  
 Post Office Box 200547  
 Helena, MT 59620-0547

(406) 841-2912  
 FAX (406) 841-2910  
[briitano@mt.gov](mailto:briitano@mt.gov)

**NEBRASKA** **Region V**  
\*Wes Mohling, Social Security Administrator  
Department of Administrative Services  
Post Office Box 94664  
State Capitol  
Lincoln, NE 68509

(402) 471-0601  
FAX (402) 471-2583  
[wes.mohling@nebraska.gov](mailto:wes.mohling@nebraska.gov)

Ron Carlson, Assistant

(402) 471-0619  
FAX (402) 471-2583  
[ron.carlson@nebraska.gov](mailto:ron.carlson@nebraska.gov)

**NEVADA** **Region VII**  
\*Paul R. Brugger  
Nevada Department of Employment  
Training and Rehabilitation  
Employment Security Division  
500 E Third Street  
Carson City, NV 89713-0030

(775) 684-6384  
FAX (775) 684-6397  
[prbrugger@nvdetr.org](mailto:prbrugger@nvdetr.org)

**NEW HAMPSHIRE** **Region I**  
James Fredyma, Controller  
New Hampshire Department of Health & Human Services  
129 Pleasant Street  
Concord, NH 03301-3857

(603) 271-4333  
FAX (603) 271-4232  
[jfredyma@dhhs.state.nh.us](mailto:jfredyma@dhhs.state.nh.us)

Ann Mattice, Administrator  
DHHS – Bureau of Finance

(603) 271-4203  
[amattice@dhhs.state.nh.us](mailto:amattice@dhhs.state.nh.us)

\*Connie Manus  
DHHS – Bureau of Finance

(603) 271-5077  
FAX (603) 271-4478  
[constance.m.manus@dhhs.state.nh.us](mailto:constance.m.manus@dhhs.state.nh.us)

**NEW JERSEY** **Region I**  
Florence Sheppard, Acting Director  
New Jersey Division of Pension Benefits  
50 West State St  
Post Office Box 295  
Trenton, NJ 08625

(609) 292-3678

\*Peter Gorman, Executive Assistant  
Social Security Agency

(609) 292-0132  
FAX (609) 393-4606  
[peter.gorman@treas.state.nj.us](mailto:peter.gorman@treas.state.nj.us)

**NEW MEXICO** **Region V**  
\*Mary M. Frederick, Deputy Executive Director  
Public Employees Retirement Association  
Post Office Box 2123  
Santa Fe, NM 87504-2123

(505) 476-9303  
FAX (505) 954-0379  
[mary.frederick@state.nm.us](mailto:mary.frederick@state.nm.us)

**NEW YORK** **Region I**  
\*Kevin Mack, Administrator  
Disability Services Bureau  
New York State & Local Retirement Systems  
110 State Street  
Albany, NY 12244

(518) 474-0333  
FAX (518) 474-3091  
[kmack@nyslrs.osc.state.ny.us](mailto:kmack@nyslrs.osc.state.ny.us)

**NORTH CAROLINA** **Region III**  
Michael L. Williamson  
Deputy State Treasurer and Director of Retirement Systems Divisions  
Department of State Treasurer  
325 North Salisbury Street  
Raleigh, NC 27603-1385

(919) 508-5377

\*Don Perry, Deputy Director for Social Security Operations

(919) 508-5377  
FAX (919) 508-5167  
[don.perry@nctreasurer.com](mailto:don.perry@nctreasurer.com)

**NORTH DAKOTA** **Region VI**  
\*Jeff Gitter, State Social Security Administrator  
Job Service-North Dakota  
Post Office Box 5507  
Bismarck, ND 58506-5507

(701) 328-1680  
FAX (701) 328-1882  
[jgitter@nd.gov](mailto:jgitter@nd.gov)

**OHIO** **Region IV**  
\*Beth Gifford, SPHR, MBA  
Administrator  
Office of HCM and HR Agency Support  
30 East Broad Street, 28<sup>th</sup> Floor  
Columbus, OH 43215

(614) 728-7166  
Cell (614) 619-0926  
[beth.gifford@das.state.oh.us](mailto:beth.gifford@das.state.oh.us)

**OKLAHOMA** **Region V**  
\*Karen Lawrence, State Administrator  
State Bureau of Social Security  
Department of Human Services  
Post Office Box 25352 Room 327  
Oklahoma City, OK 73125-0352

(405) 521-3555  
FAX (405) 522-2082  
[karen.lawrence@okdhs.org](mailto:karen.lawrence@okdhs.org)

**OREGON** **Region VII**  
Paul Cleary, Executive Director  
Oregon Public Employees Retirement System  
Post Office Box 23700  
Tigard, OR 97281-3700

Steve Rodeman, Deputy Director

\*Karen Park, State Social Security Administrator

(503) 603-7633  
FAX (503) 598-1218  
[karen.park@state.or.us](mailto:karen.park@state.or.us)

**PENNSYLVANIA** **Region II**

**\*Arthur T. Doherty**, State Administrator  
Department of Labor and Industry  
Social Security for Public Employees  
Pennsylvania Department of Labor and Industry Room 1424  
651 Boas Street  
Harrisburg, PA 17121

Website: [www.state.pa.us](http://www.state.pa.us) keyword – SSPE

(717) 783-8860  
FAX (717) 772-3351  
[adoherty@state.pa.us](mailto:adoherty@state.pa.us)

**\*James Sawyer**, State Social Security Administrator  
Employees Retirement System of Texas  
Post Office Box 13207  
Austin, TX 78711-3207

(512) 867-7373  
FAX (512) 867-3379  
[jsawyer@ers.state.tx.us](mailto:jsawyer@ers.state.tx.us)

**PUERTO RICO** **Region I**

**\*Alejandro Sanchez-Rivera**  
Assistant Secretary for Central Government Accounting  
State Administrator for the Commonwealth of Puerto Rico  
Department of the Treasury  
Post Office Box 9024 140  
San Juan, PR 00902-4140

(787) 721-2020 EXT 2379; 2380  
FAX (787) 723-6215  
[asanchez@hacienda.gobierno.pr](mailto:asanchez@hacienda.gobierno.pr)

**UTAH** **Region VI**

**\*Richard Beckstead, CPA**, State Accountant  
Division of Finance  
2110 State Office Building  
Salt Lake City, UT 84114

(801) 538-3100  
FAX (801) 538-3562  
[rbeckstead@utah.gov](mailto:rbeckstead@utah.gov)

Brandon Bagley, Accounting Operations Manager

(801) 538-3110  
[bbagley@utah.gov](mailto:bbagley@utah.gov)

**RHODE ISLAND** **Region I**

**\*Gayle Mambro-Martin**, Internal Legal Counsel  
Employees Retirement System of Rhode Island  
40 Fountain Street, 1<sup>st</sup> Floor  
Providence, RI 02903-1854

(401) 457-3949  
FAX (401) 222-2430  
[gmambro@ersri.org](mailto:gmambro@ersri.org)

**VERMONT** **Region I**

**\*Cynthia L. Webster**, Director  
Social Security Division  
Office of the State Treasurer  
109 State Street, 4<sup>th</sup> Floor  
Montpelier, VT 05609-6901

(802) 828-2302  
FAX (802) 828-5182  
[cynthia.webster@state.vt.us](mailto:cynthia.webster@state.vt.us)

Mary Graves, Payroll Manager

(802) 828-2314

**SOUTH CAROLINA** **Region III**

Peggy G. Boykin, CPA, Director  
South Carolina Retirement Systems  
Post Office Box 11960  
Columbia, SC 29211-1960

(803) 737-6906  
FAX (803) 737-6947

**VIRGINIA** **Region II**

Robert P. Schultze, Director  
Virginia Retirement System  
Post Office Box 2500  
Richmond, VA 23218-2500

(804) 344-3120  
FAX (804) 786-1541  
[rschultze@varetire.org](mailto:rschultze@varetire.org)

**\*Barry Faison**, Chief Financial Officer  
Virginia Retirement System

(804) 344-3128  
FAX (804) 786-1425  
[bfaison@varetire.org](mailto:bfaison@varetire.org)

**\*David Avant**, Senior Managing Counsel

(803) 737-6811  
[davant@retirement.sc.gov](mailto:davant@retirement.sc.gov)

**VIRGIN ISLANDS** **Region I**

Claudette Watson-Anderson, Commissioner  
Department of Finance  
Government of the Virgin Islands  
2314 Kronprindsens Gade  
Charlotte Amalie, VI 00802

(304) 774-1553  
FAX (304) 776-4028  
[candercpa@dof.gov.vi](mailto:candercpa@dof.gov.vi)

**SOUTH DAKOTA** **Region VI**

**\*Eric Fahrendorf**, Administrator  
State Social Security-IRS Division  
Office of the State Auditor  
500 East Capitol Avenue  
Pierre, SD 57501-5070

(605) 773-3341  
FAX (605) 773-4942  
[eric.fahrendorf@state.sd.us](mailto:eric.fahrendorf@state.sd.us)

**\*William Belardo**, Director  
Central Payroll

(340) 774-4750 EXT 2252  
[wbelardo@dof.gov.vi](mailto:wbelardo@dof.gov.vi)

Amanda Schmitgen, Assistant Administrator

(605) 773-3341  
[amanda.schmitgen@state.sd.us](mailto:amanda.schmitgen@state.sd.us)

**TENNESSEE** **Region III**

**\*Vernon Bush**, State Social Security Administrator  
Old Age & Survivors Insurance Agency  
Tennessee Consolidated Retirement System  
Andrew Jackson State Office Building, 10<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, TN 37243-0237

(615) 741-7902  
FAX (615) 532-8725  
[vernon.bush@tn.gov](mailto:vernon.bush@tn.gov)

**WASHINGTON** **Region VII**

**\*Kim Smith**, State Social Security Administrator  
Department of Retirement Services  
Post Office Box 48380  
Olympia, WA 98504-8380

(360) 664-7107  
FAX (360) 753-1090  
[kims@drs.wa.gov](mailto:kims@drs.wa.gov)

Melanie Piccin, State Social Security Coordinator

(360) 664-7165  
[melaniep@drs.wa.gov](mailto:melaniep@drs.wa.gov)

Eleanor Conway, State Social Security Coordinator

(360) 664-7980  
[eleanorc@drs.wa.gov](mailto:eleanorc@drs.wa.gov)

**TEXAS** **Region V**

**WEST VIRGINIA****Region II**

Glen B. Grainer III, State Auditor  
State Administrator for Social Security  
State Auditor's Office  
West Wing, 100 State Capitol Building  
Charleston, WV 25305-0002

(304) 558-2251  
FAX (304) 558-5200  
[glen.grainer@wvsao.gov](mailto:glen.grainer@wvsao.gov)

Todd Childers, CPA, Deputy State Auditor  
State Capitol Building, Room W  
Charleston, WV 25305-0002

(304) 558-2261 EXT 2146  
FAX (304)558-4155  
[todd.childers@wvsao.gov](mailto:todd.childers@wvsao.gov)

Eric Wagner, Director of Accounting  
Deputy Social Security Administrator

(304) 558-2250 EXT 2186  
[eric.wagner@wvsao.gov](mailto:eric.wagner@wvsao.gov)

Carrie Chambers, Auditor Assistant

[carrie.chambers@wvsao.gov](mailto:carrie.chambers@wvsao.gov)

**WISCONSIN****Region IV**

\***Shawn Smith**, State Social Security Administrator  
Department of Employee Trust Funds  
Post Office Box 7931  
Madison, WI 53707

(608) 266-6725  
[shawn.smith@etf.state.wi.us](mailto:shawn.smith@etf.state.wi.us)

**WYOMING****Region VI**

\***Harry Wales**, Interim Director  
Wyoming Retirement System  
6101 Yellowstone Road, 5<sup>th</sup> Floor West  
Cheyenne, WY 82002-0001

(307) 777-6109  
FAX (307) 777-5995  
[hwales@wyo.gov](mailto:hwales@wyo.gov)