NCSSSA

"Experience the Magic"

National Conference of State Social Security Administrators

57th Annual Conference

Anaheim, California

July 22-25, 2007

NCSSSA

National Conference of
State Social Security Administrators

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Anaheim, California

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Executive Committee
57th Annual Conference
Anaheim, California
July 22-25, 2006

PRESIDENT
Dean Conder, Colorado

FIRST VICE PRESIDENT
James Driver, Kentucky

SECRETARY
Linda Yelverton, Louisiana

TREASURER
Harry Wales, Wyoming

REGIONAL VICE-PRESIDENTS
Region I – Nick Favorito, Massachusetts
Region II – Kathleen Baxter, Alabama
Region III – John Vincent, Wisconsin
Region IV – Maryann Motza, Colorado
Region V – Karen Park, Oregon

PAST PRESIDENT
Dean Conder, Colorado

NCSSSA Standing Committees 2006 – 2007

Auditing:
Ardary Taylor, AR - *Chairperson*
John Vincent, WS
Michelle Briggs, AZ

Constitution and By-laws:
Michele Briggs, AZ – *Chairperson*
Dean Conder, CO
Barry Faison, VA

Government Affairs:
Carolyn Fry, TX – *Chairperson*
David Breckenridge, OH
Maryann Motza, CO
Jacqueline Smith-Bennett, PA
Wes Salyer, KY
Lee De Jabet, SD
Alice Copeland, SC

Hospitality:
Dawn Evans, CA – *Chairperson*
Kelli Aoki, CA
Harry Wales, WY
Linda Yelverton, LA

Legislative:
Steve Delaney, OR – *Chairperson*
Nick Merrill, IL
Maryann Motza, CO
Nick Favorito, MA

Nominating:
Harry Wales, WY – *Chairperson*
Laquitta Heard, OK
Nick Merrill, IL
Maryann Motza, CO

Program:
James Driver, KY– *Chairperson*
Laquitta Heard, OK
Karen Park, OR
Linda Yelverton, LA
Dawn Evans, CA
Carolyn Fry, TX

Research & Information:
Kelli Aoki, CA– *Chairperson*
James Driver, KY
Barry Faison, VA
Dean Conder, CO

Resolution:
Laquita Heard, OK – *Chairperson*
Harry Wales, WY
Barry Faison, VA

NCSSSA Ad Hoc Committees 2006 – 2007

Membership:
James Driver, KY - *Chairperson*
Ardary Taylor, AR
Laquitta Heard, OK
Karen Park, OR
Linda Yelverton,

History:
Dean Conder, CO - *Chairperson*
Linda Yelverton, LA
James Driver, KY
Dawn Evans, CA
LA Nick Merrill, IL

Training:
Dean Conder, CO - *Chairperson*
James Driver, KY
Lee DeJabet, SD
Karen Park, OR
Maryann Motza, CO

Internet Communications:
Tammy Taylor, KY – *Chairperson*
Linda Yelverton, LA
Michelle Baxter, WI
Kathleen Baxter, AL
Teresa Commeau, Retiree

Time & Place:
Michelle Williams, AK - *Chairperson*
John Vincent, WI
Nick Merrill, IL
Vandee DeVore, MO
Connie Eggen, KY

CONFERENCE

ATTENDEES

NCSSSA State Social Security Administrators and Staff Attending Annual NCSSSA Conference 2007 Anaheim, California

ALABAMA
Kathleen Baxter

ARIZONA
Michelle Briggs

ARKANSAS
Ardary Taylor
Michele Williams

CALIFORNIA
Cynthia Alameda
Kelli Aoki
Yolanda Clive
Karen Defrank
Dawn Evans
Jeralyn Flores
Eva Hwang
Marion Montez
Barbara Patterson
Marie Ziegler

COLORADO
Dean Conder
Maryann Motza

GEORGIA
Michael Neff
Megan Schaum

ILLINOIS
Nicholas C. Merrill, Jr.

IOWA
Kurt Hiatt
Danielle Huffine

KENTUCKY
James Driver
Tammy Taylor

LOUISIANA
Angie Dowdy
Heidi Wolf
Linda Yelverton

MINNESOTA
Cheryl Keating

MISSISSIPPI
Shirley Sessoms
Barbara Taylor

MISSOURI
Vandee DeVore

MONTANA
Tami Fiske

NEW HAMPSHIRE
Teresa Commeau-Retiree
Deb Bourbeau

NEW MEXICO
Christopher Bulman
Mary Frederick

OHIO
David Breckenridge

OKLAHOMA
Laquitta Heard

OREGON
Karen Park

PENNSYLVANIA
Arthur Doherty

SOUTH CAROLINA
Alice Copeland

SOUTH DAKOTA
Lee DeJabet

TEXAS
Carolyn Fry

VERMONT
Cynthia Webster

VIRGINIA
Barry Faison

WEST VIRGINIA
Kevin Goode

WISCONSIN
Michelle Baxter
John Vincent

WYOMING
Harry Wales

Federal Representatives Attending
Annual NCSSSA Conference 2007
Anaheim, California

SOCIAL SECURITY ADMINISTRATION

Regina Allen (Lansing, MI)
Ken Anderson (Baltimore)
Regina Bachini (Boston)
Timothy Beard (Seattle)
Mark Brown (Baltimore)
Susan Bussman (Baltimore)
Fred Crawford (Baltimore)
Julia Denegre (Dallas)
Jason Devos (Minnesota)
Renee Downes-Higginson (New York)
Suzanne Duman (Chicago)
Alan Follett (San Francisco)
Rick Gann (Indianapolis)
Patricia Hayes (Illinois)
Jim Kaib (Philadelphia)
Kirk Jockell (Atlanta)
Robin Kaplan (Baltimore)
Gwenda Jones Kelly (Baltimore)
Timothy Kelley (Baltimore)
Gloria Kelly (Kansas City)
Ron Konkol (Madison, Wisconsin)
John Lamotte (Columbus, Ohio)
Merry LeBlanc (Philagelphia)
Patricia Lightholder (Seattle)
Susan Mariano (Dallas)
Ann McConnell (Denver)
Vicki Porter (Dallas)
Kevin Rice (Springfield, Illinois)
Nancy Ruymen (Pennsylvania)
Fred Sanchez (Chicago)
Angela Simington (Dallas)
Peter Spencer (San Fransico)
Darryl Swain (Chicago)
Carla White (Philadelphia)
Kathy Woolsey (Kansas City)

INTERNAL REVENUE SERVICE

Janine Cook	**Chief of Employment Tax-Branch I**
Marilee Basarada	**FSLG Specialist (Pacific)**
Cheryl Power	**FSLG Pacific Group**
Stewart Rouleau	**FSLG Senior Analyst**
Steve O'Brien	**FSLG International Issues Specialist**

EXECUTIVE

COMMITTEE

JULY 26, 2006

1st EXECUTIVE COMMITTEE

CLOSED MEETING

JULY 26, 2006

1st EXECUTIVE COMMITTEE

CLOSED MEETING

JULY 21, 2007

2nd EXECUTIVE COMMITTEE

CLOSED MEETING

BUSINESS SESSIONS

JULY 22, 2007

1st
BUSINESS SESSION

CLOSED MEETING

JULY 22, 2007

1st
BUSINESS SESSION

CLOSED MEETING

JULY 22, 2007

1st
BUSINESS SESSION

CLOSED MEETING

JULY 25, 2007

2nd
BUSINESS SESSION

CLOSED MEETING

JULY 25, 2007

2nd
BUSINESS SESSION

CLOSED MEETING

JULY 25, 2007

2nd
BUSINESS SESSION

CLOSED MEETING

57th Annual National Conference of State Social Security Administrators
Welcoming Address
Anaheim, California
July 22, 2007

I want to welcome you to California and to the 57th Annual National Conference of State Social Security Administrators – Where you will ***Experience the Magic***.

The name "California" came from a knightly romance book that was published in 1510. It was about an island paradise near the Indies where beautiful Queen Califia ruled over a country of beautiful black Amazons with lots of pearls and gold. Men were only allowed there one day a year to help perpetuate the race. I seem to remember a *Star-Trek* episode something like that.

California's history is unique. It has been shaped, in part, by its geography. California has four main regions. The temperate coastal region, the Central Valley, (once an inland sea), the desert, and the mountain region. The imposing Sierra Nevadas caused California to develop in relative isolation from the rest of the nation.

Prior to the Gold Rush, settlers very slowly filtered into California. With the discovery of gold in late 1848 in the Sierra Nevada foothills - just east of Sacramento - the California Gold Rush began. A flood of 100,000 immigrants from around the world rushed to California searching for the golden riches.

Bumper-to-bumper highway congestion isn't just a modern phenomenon. Rush hour traffic on the Oregon-California trail was just as bad -- probably worse.

The image of a lone wagon on the endless prairie is largely myth; it's more accurate to imagine a moving city. Many reported seeing wagons all the way to the horizon day after day.

And just like today's highways, there was quite a bit of jockeying for position. The goal was to get in front of the pack because anyone who was behind had to eat the billowing dust kicked up by the wagons ahead. Competition was fierce.

Would you spend $10 for a bottle of water? Before you answer let me remind you that you are in California and will be ***Experiencing the MAGIC*** at Disneyland tomorrow evening…Oh I'm kidding. A bottle of water is probably only about $7.50…it's not $10.

Anyway, would you pay $100 for a glass of water? Some 49ers on the California Trail did.

Because of poor planning, many western-bound 49ers were unprepared for the hot, dry deserts of Nevada. A few businessmen (I'm thinking they were probably from Chicago) had seen how unprepared these travelers were and took advantage of the situation. They traveled eastward with barrels of water. Extremely thirsty, many 49ers paid $1, $5, even $100 for a glass of precious water.

California became the 31st state on September 9, 1850, and the first capital was based in San Jose. That city, along with Benicia and Vallejo (*future capital cities*) all eventually proved too small and unacceptable, so the capital was finally established in Sacramento.

From 1900 to 1965, the population of California grew from fewer than one million to become the most populated state in the U.S., and its population today is one of the most diverse in the world.

California is a land of accomplishments, beauty and wonder. It is famous across the nation for its productive agriculture, its beaches, deserts, mountains, national parks, redwood trees, sparkling cities and trendy lifestyles. California is famous for its film, television and music industries; its wine country. California is the state that produces the most FRUITS and NUTS!

The list of famous California natives goes on and on. I'll name a few:

Shirley Temple
Ben Affleck
Troy Aikman
Drew Barrymore
Cher
Kevin Costner
Mickey Mouse
John Fogerty
Jodie Foster
Jeff Gordon
Merle Haggard
Goofy – No I think I heard Goofy was in New Hampshire and moved to Arizona last year.
Tom Hanks
Clint Eastwood
Ice Cube
John Steinbeck
Marilyn Monroe
George Patton
Sally Ride
Billie Jean King
Mark McGwire
Jack LaLanne
Tiger Woods

Quite a list. Actors, singers, authors, athletes, astronauts, chefs, race car drivers and yes Mickey Mouse.

If you get the chance to visit Sacramento while you are here be sure to take a stroll through the Capitol and keep an eye out for the governor, Arnold. I'll let you know for sure if I ever happen to see him in person, but from the pictures I've seen – if he is 6'2" tall, then I weigh 98 pounds.

The 57th Annual National Conference of State Social Security Administrators is the third conference to be held in California. The first was in 1961 in San Francisco and no I was not at it. The second time the Conference was hosted in California was in 2001 in San Diego. The weather was beautiful, the facilities were comfortable and I think we all had a good time at the zoo.

I have enjoyed the 16 conferences I have attended. Participation in the NCSSSA has allowed me to ***Experience the Magic***. It has given me the opportunity to meet many wonderful people who are not only great storehouses of knowledge but are people I consider to be my friends. They are people who exemplify the best in public service, day after day. Participation in the NCSSSA has given me the opportunity to travel to many states I may never have had an opportunity to visit otherwise. Through these visits I have come to better appreciate how great this nation is.

This is my last NCSSSA Conference. I changed jobs in April and although I still work for CalPERS I am now the Assistant Division Chief in our Actuarial Office. I would like to introduce you to the people at CalPERS who are now responsible for the California social security program. Marion Montez is the second level manager over the Employer Contracts and Compensation Review Section and she reports to Karen DeFrank. Cindy Alameda is the manager over one of the employer contracts units that will handle the social security program. The other manager Jean Krum was not able to join us. Barbara Patterson, Eva Hwang, Yolanda Clive and Jeralyn Flores will be working directly with public employers to handle the 218 coverage and other issues that may arise. Please welcome these and all others that are new to the conference and be sure and share your stories of how you came to be involved with the NCSSSA. I'm sure they will enjoy hearing them.

One thing I've noticed about the Conferences is that if I go to the east coast, all of the meetings start when it is 5:00 a.m. in California. I don't even really fully wake up until after lunch is served.

By 8:00 tonight many of you will be turning in. That way you can get up at 3:00 or 4:00 a.m. and fidget and pace around. You'll be thinking *where is everyone; we are really getting a late start. Back home it's nearly noon!*

And the Monday night event? You don't want to miss it. There will be so much to do that is fun and exciting!

Make sure you don't try and nod off at dinner…Just ask Daryl what happens when you nod off at one of these Conferences. And oh yes…one more thing. In California we like to be different and do things differently. But don't fret. We've got the hospitality room. Just like always. It's all set up. Just like always. But there isn't any beer and there isn't any wine. To make sure no one is in bed at 9:00 p.m. we're serving Red Bulls and Rock Stars.

We've got it all in California. Happy cows, dancing raisins, wonderful cheeses, beautiful vineyards, sour dough bread and a Kindergarten Cop in the Capital. It's exciting for me to have you all here. For you, I want this Conference to be informative, enjoyable, exciting and memorable as you ***Experience the Magic***!

Dawn Evans
California

CONFERENCE

SESSIONS

Come Experience the Magic

President's Welcome

by Dean J. Conder
NCSSSA Conference July 2007
Anaheim, California

Welcome to the 57th Annual National Conference of State Social Security Administrators. Many thanks to the State of California and in particular Dawn Evans and Kelli Aoiki for hosting this year's conference. Also, everyone please thank James Driver, and the Program Committee – Laquitta Heard, Karen Park, Linda Yelverton, Dawn Evans, and Carolyn Fry – for putting together this year's event. But most of all, thanks to each of you for attending. I am positive that you will find the information and networking to be very valuable when you return to your day-to-day duties. My name is Dean Conder from the great state of Colorado and I have had the honor once again to be President of the NCSSSA .

As I sat down to jot down my thoughts on this year's conference to prepare this address, I started with this year's theme: Come Experience the Magic. Well, I'm thrilled to be here in the land of magic, probably not as much as my four year old daughter, but still there is nothing like being a kid again yourself. But for you parents, Disneyland blackmail is probably more effective then the threat that Santa won't come. Anyway, as I thought "how am I going to tie Disneyland into state and local FICA" many thoughts came to mind. I know some of you are thinking, yeah, Goofy, or even Mickey Mouse Operation, but the more I thought about it, the more I found that there is indeed magic in what we do.

Here is a small example: IRC §3121 defines employment for FICA purposes, seems simple enough. But lets take a closer look: paragraph (b) states Employment is ANY service except (oh-oh) and it goes on to list several situations, foreign agriculture workers, working for mom and dad, etc, but then subparagraph (7) states . . . in the employ of a state or political subdivision except (oh-oh – there's that word again) that this paragraph shall NOT apply to . . . (here goes another list) Transportation services, Guam or American Samoa, DC not covered by retirement system, Guam (again), service under a §218 Agreement (ok, sounds a little familiar) and (hold on here) service in the employ of a state or political subdivision by person not a member of retirement system except (oh-oh) this subparagraph shall not apply to (mandatory exclusions) . . .

I don't know about you all but I need to retrace, I lost track.

OK, so employment is ANY service except in the employ of state or local government except the exception does not apply to service in the employ of state or local government by someone who is not a member of a retirement system unless you have a certain job.

As Dr. Evil from the Austin Powers movies would say: RIIGHTTT

Well, there must be some kind of magic – or divine intervention – to understand and apply this kind of law. To quote my friend and mentor Maryann Motza: "If you're not confused, you're not paying attention." But I have the magic wand or pixie dust to remedy this confusion.

This magic is the most powerful you can find. Do you want to know what it is? I'll tell you, the magic is each and every one of you here today. It is the cooperation and partnership between and among the NCSSSA, the states and federal government.

So lets take the time to build upon this magic by making new acquaintances and offering a hand to new attendees. Our program this year is quite robust with many opportunities to make these connections and find this magic.

Dean Conder, Colorado
NCSSSA President
2006-2007

57th Annual Conference
July 22-25 2007
Anaheim, California

Keynote Address

Peter D. Spencer, Regional Commissioner
Social Security Administration

Moderator: Dean Conder, Colorado

Mr. Spencer addressed the conference in his capacity as regional commissioner. He provided a wonderful account of the Social Security Administration's (SSA) efforts to be proactive, visionary and to continue to meet the challenges of providing quality services. Mr. Spencer spoke about the need to continue to use technology as an effective tool as the demands on the Social Security system continue to grow. He also spoke of the crucial need to provide leadership as SSA's workforce goes into retirement and how to capture that institutional history and knowledge. Mr. Spencer's speech was well received and provided wonderful inspiration to start the conference.

Respectfully submitted,
Dean J. Conder
Colorado

VOLUNTARY SOCIAL SECURITY COVERAGE

HISTORICAL OVERVIEW OF SOCIAL SECURITY COVERAGE FOR STATE AND LOCAL GOVERNMENT EMPLOYEES
NCSSSA CONFERENCE
JULY 23, 2007

(Click on link below to view presentation)

http://www.ncsssa.org/1-HistoricalOverview-2007NCSSSA.pdf

The Role of a State Administrator

Presented by:
Linda Yelverton

(Click on link below to view presentation)

http://www.ncsssa.org/2-RoleofStateAdmin-2007NCSSSA.pdf

57th Annual Conference
July 22-25 2007
Anaheim, California

2007 NCSSSA State Round Table Discussion
Covering New Entities for Full Social Security
Presented by James Driver (Kentucky)

This 20 minute discussion will outline the steps to consider when covering new entities for full FICA. This will not be an exhaustive study, but should provide a framework that State Administrators could follow in covering a political subdivision for full Social Security within their state. The intent of this discussion is to cover the topic of those entities that do not have social security coverage based on participating in a retirement system.

Step 1
Obtain Legal Documentation that formed the entity. Make a determination based on the legal documentation and your State's Statutes of whether the entity is indeed a political subdivision of your state for social security purposes.

Note: Retirement Systems have more latitude in allowing entities to join the retirement system and may be more inclusive than the definition of a political subdivision for social security purposes. For example, Kentucky Retirement Systems may allow entities to join the retirement systems that do not fit the requirements of State Laws for the formation of a political subdivision. Many quasi-governmental entities have been allowed to participate in the Kentucky Retirement System. This may be the same for your state.

Step 2
Assuming the entity is a political subdivision; notify the political subdivision of Social Security options.

1. Full FICA coverage, social security and Medicare, is extended through a voluntary plan and agreement with the State. These agreements are commonly referred to as "Section 218" agreements. [Section 218 of the Social Security Act (Act)].
2. For services performed after July 1, 1991, full FICA coverage, social security and Medicare, is required for employees whose services are not covered under a Section 218 agreement or by a qualified, employer's retirement system. This coverage is commonly referred to as "mandatory FICA". [Section 210(a)(7)(F) of the Act and Section 3121(b)(7)(F) of the Internal Revenue Code (Code)].
3. Medicare only coverage is required for political subdivision employees whose services are not covered for social security under a Section 218 agreement or under mandatory FICA, but who were hired after March 31, 1986. This coverage constitutes Medicare qualified government employment. [Section 210(p) of the Act and Section 2131(u) of the Code].

Step 3
Submit Referendum Resolution to governing board or council of the political subdivision. In many cases, education of the governing body may be needed to explain the process and to answer questions.

Step 4
Set referendum date, time, and place. Get referendum notice to employer and employees. Set up any times for employee educational meetings.

Step 5
Send and receive the referendum register of eligible employees.

Step 6
Conduct Referendum. (Discussion occurred with the groups on the differences in the States. Larger States delegate the conducting of referendums to local representatives while smaller states may send State staff).

Step 7
Once the Referendum has been completed, your office can issue a Plan and Agreement for the Governing Body of the political subdivision to sign.

Step 8
Prepare Modification and send to Regional SSA Office. (Discussion surrounded the issue of some states sending Modifications directly to the region while other states go through State SSA office).

Step 9
Notify political subdivision that the Modification has been signed and received back to your office and what that means to the entity.

57th Annual Conference
Breakout Session
July 22-25, 2007
Anaheim, California

Understanding the difference between Absolute coverage groups and "Mandatory coverage provisions" of the Social Security Act

Moderators: Karen Park, Oregon and Michelle Briggs, Arizona

At 1:00pm on July 23, 2007 conference attendees chose three breakout sessions to attend from the four sessions offered. Time allotted per session was 20 minutes. Handouts were distributed. Click here to see handout.

57th Annual Conference
Breakout Session
July 22-25, 2007
Anaheim, California

How to read and understand Plan and Agreements

Moderator: Dr. Maryann Motza, Colorado

At 1:00pm on July 23, 2007 conference attendees chose three breakout sessions to attend from the four sessions offered. Time allotted per session was 20 minutes. Handouts were distributed.

57th Annual Conference
Breakout Session
July 22-25, 2007
Anaheim, California

Information on "Modifications" for Entities Closing or Merging

Moderators: Nicholas C. Merrill, Jr., Illinois

This 20 minute discussion will outline the steps necessary when an entity has decided to close or merge into another entity. This will provide a general approach to the issue rather than an in-depth discussion of the process.

Step 1
Distinguish between "termination of Section 218 agreements" and dissolution of an entity. An entity can no longer terminate its agreements either, in its entirety, or with respect to any coverage group.

Step2
There still are instances when an entity may be legally dissolved, notwithstanding the 1983 Social Security Amendments.

Step 3
Distinguish between a dissolved entity and an inactive entity.

Step 4
Report a legally dissolved political entity to SSA.

Step 5
Provide evidence of legal dissolution to SSA, either primary or secondary evidence.

Step 6
Mergers can involve either the abolition of an old entity and the creation of a new one, or simply the takeover of one entity into another governmental entity.

Step 7
Depending on the ultimate nature of the entity after the merger, a new modification may be required.

Step 8
If a new modification is required, prepare the necessary paperwork and send to the appropriate SSA office.

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Internal Revenue Service

Presenter: Ms. Cheryl Powers, FSLG Group Manager, Pacific Group Area

Moderator: Carolyn J. Fry, Texas

Recap of Session: "General Overview of What FSLG Has Done in 2007 and Will Do in 2008"

Background

- **1 out of 5 employees in the U.S. works for a federal, state or local unit of government**
- **Federal, State & Local Government (FSLG) is a division of the IRS and has 8 area groups that focus on tax compliance for FSLG**

FY2007 Plans

- **• FSLG continued to work on two strategic initiatives:**
  - **The Federal Agency initiative & large entities initiative in excess of $40M**
    - **YTD 62 federal agency returns opened / 57 closed**
    - **YTD 257 large case returns opened / 145 closed**
- **Compliance Checks - YTD 613 compliance checks closed**
- **Closing Agreements – Allowed FSLG to bring many employers into compliance**
- **Compliance Project focused on specific market segment – community colleges**
- **Outreach - FSLG conducted 114 events**
- **FLSG Newsletter – Issued semiannually**
- **FSLG & SSA meet quarterly to discuss items of mutual interest that affect state and local governments**

FY2008 Plans

- **1500 audits**
- **Market Segment Project – Housing Authorities**
- **Compliance Checks – Firefighters**
- **ACT projects**

Respectfully submitted,

Carolyn J. Fry
State Social Security Administrator, Texas

57th Annual Conference
July 22-25, 2007
Anaheim, California

Internal Revenue Service

Presenter: Mr. Stewart Rouleau, FSLG, Tax Law Specialist, Washington, DC

Moderator: Carolyn J. Fry, Texas

Recap of Session: "Employer-Provided Health Coverage"

Mr. Rouleau provided information on the following:

- **IRC Exclusions for Health Benefits**
- **Definition of a Health Plan**
- **Employer Reimbursement**
- **Health Reimbursement Arrangements (HRA)**
- **Cafeteria Plan**
- **Salary Reduction Arrangement (SRA)**
- **IRS Published Guidance on Health Plans**
- **Common Abusive Schemes**
- **FSLG Help With Health Plans**
    1. **FSLG CANNOT make rulings or determinations on plans**
    2. **FSLG CAN:**
        - **Provide technical background on issues that arise with health benefit plans**
        - **Cite relevant case law**
        - **Explain closing agreement procedures**
        - **Explain letter ruling procedures**

Please see Mr. Rouleau's power point for details on the above.

Respectfully submitted,

Carolyn J. Fry
State Social Security Administrator, Texas

EMPLOYER-PROVIDED HEALTH COVERAGE

Compliant and Noncompliant Plans

Internal Revenue Service
Federal State and Local Governments
July 2007

Stewart Rouleau
FSLG Tax Law Specialist
Stewart.G.Rouleau@irs.gov

(Click on link below to view presentation)

http://www.ncsssa.org/3a-Employer-ProvidedHealthCoverage-2007NCSSSA.pdf

(Click on the link below to see an example of a Typical Abusive Scheme)

http://www.ncsssa.org/3b-CommonAbusiveScheme-2007NCSSSA.pdf

57th Annual Conference
July 22-25, 2007
Anaheim, California

Continuation of coverage in regulations, including newly-created and reclassified positions

Presenters: Mark Brown and Fred Sanchez

Moderator: Kathleen D. Baxter, Alabama

Recap of Session

The session was held Monday July 23, 2007 and started at 2:34 p.m.

The two presenters used a tag team approach to presenting their topic. One would speak and then the other would follow up. This appeared to captivate the audience. Their sense of humor was delightful.

They covered changes in employers, distinguishing between the employee and the actual position, absolute coverage such as firefighters and police officers, and coverage of position that were not around at the time of the modifications.

There was a lot of input from the audience including Dawn Evans, Nick Merrill, and Susan Mariano. Dawn asked that absolute coverage be explained for the newcomers and do you use current law or 1957 law in determining. Nick brought up about absolute joined retirement system and thought they would not have to pay SS put would since they were absolute when they joined. Susan added that is municipalities wanted to cover all employees it doesn't hurt to have the statement "also includes police & firefighters" included.

There were 76 guests in attendance. We even had a little music going and the man from the doubletree came to assist with the AV and his cell phone started ringing a cute tune in which Mark Brown did a little dance.

Respectfully submitted,

Kathleen D. Baxter
State of Alabama
Accounting Director
NCSSSA Regional VP

Social Security

Continuation of Coverage

(Click on link below to view presentation)

http://www.ncsssa.org/4-ContinuationofCoverage-2007NCSSSA.pdf

57th Annual Conference
July 22-25, 2007
Anaheim, California

Social Security Administration Update

Presenters: Susan Bussman (SSA), Tim Kelly (SSA), Fred Crawford (SSA)

Moderator: John Vincent (WI)

Susan Bussman - Office of Legislation and Congressional Affairs, provided a presentation on a NCSSSA legislative proposal, legislation being proposed for mandatory Social Security coverage, and comments on the Windfall Elimination Provision (WEP).

The NCSSSA proposal, with respect to State and local government employees hired before April 1, 1986, permit these employees (and their employers) to voluntarily withhold, pay and report Medicare wages on an employee-by-basis. The goals would be to (1) increase Medicare revenue, (2) allow these employees who are otherwise ineligible for such coverage when they retire from public service to earn Medicare credits, and (3) save both the States and Federal government time and money by replacing a time-consuming and burdensome process with a simple administrative procedure. The proposal has been submitted to the House Ways & Means Committee.

Regarding mandatory coverage, the proposal would require coverage under Social Security for newly hired State and local government employees. Currently, about 28% (6.4 million) of all state and local government employees are not covered under Social Security.

- Supporter position: (1) Universal coverage meets the goal of the SS program, and (2) mandatory coverage would reduce SS long term financing deficit by 11%. Supporting organizations include AARP, Brookings Institution.

- Opponent position: (1) Fiscal impact on State and local governments, (2) would adversely affect funding of some state and local pension plans, and (3) newly hired employees may prefer the existing retirement system. Opponents include NCSSSA, state and local governments, AFSCME, and National Conference on Public Employee Retirement Systems.

Susan Bussman continued:

A general review of the Windfall Elimination Provision (WEP) were provided to include how a different SS benefit formula applies to workers who (1) receive a pension based on non-covered employment, and (2) who have fewer than 30 years of substantial earnings under SS. In addition, information was provided on legislation that has been introduced to either eliminate or reduce WEP.

Tim Kelly, Staff Director – Office of Legislation and Congressional Affairs, provided a presentation on the Government Pension Offset (GPO), immigration reform, and Trust Funds solvency.

The GPO, which was enacted in 1977, affects Government retirees who receive two benefits; (1) A Government pension not covered by SS, and (2) an SS dependent spousal benefit. Legislation has been proposed to either repeal GPO or reduce the affect of GPO.

Regarding immigration reform, one aspect of current legislation is with regards to mandatory employee verification. In three years current employees would come under the same test.

Concerning the solvency of the Social Security Trust Funds, highlights of the 2007 Trustees Report were shared to include: (1) The Trustees have said that SS is not solvent over the 75-year period and SS is unsustainable at scheduled benefit and tax levels. OASDI Trust Funds are projected to be exhausted in 2041, and cash flow turns negative in 2017. Options include (1) increase borrowing, (2) decrease expenditures, and (3) increase taxes. To address solvency, in the last Congress 10 comprehensive solvency bills were introduced. Currently, there are two. Most bills provide proposals for personal accounts.

Fred Crawford, Senior Public Affairs Specialist – Office of External Affairs, provided comment on changes at Social Security regarding SS statements, online information for a variety of Social Security topics, to include ID theft. Social Security-related calculations and advice is available at www.mymoney.gov. The Office Directory, for 2007, is now on-line, and offers a direct link to 29 Social Security publications. ID theft publications are available via the SS Administration.

Respectfully submitted,

John J. Vincent
Wisconsin Social Security Administrator

Social Security: Legislative Update

NCSSSA Presentation
July 2007

(Click on link below to view presentation)

http://www.ncsssa.org/5-SocSecLegislativeUpdate-2007NCSSSA.pdf

(Click on the link below to view the remarks by Fred Crawford)

http://www.ncsssa.org/6-Remarks3-2007NCSSSA.pdf

57th Annual Conference
July 22-25, 2007
Anaheim, California

Title of Session:
"I am not schizophrenic, just a little divided. So what do I do?"

Presenter: Mark Brown, Social Security Administration

Moderator: Alice R. Copeland, South Carolina

Recap of Session:

In preparation for his presentation, Mr. Brown, informed NCSSSA that he had gone through case histories, modification correspondence files, and legislative histories researching information concerning the history of the divided vote retirement system referendum process and as a result shared with us during his presentation some things he learned that may affect NCSSSA members' approach to these referendums in the future. Primarily, the presentation focused on the issue of, "What happens if no one votes 'yes' in a divided vote referendum?"

During his presentation Mr. Brown both gave interactive demonstrations, as well as provided the following history of the divided vote referendum:

Jan. 1, 1951 Social Security coverage was extended only to state and local government employee positions not already covered by a retirement system; however, 1954 Amendments changed this.

Jan.1, 1955 Extension of Social Security coverage to state and local government employees, who were members of a public retirement system, was allowed--provided that coverage is authorized by the State and approved by a majority of eligible retirement system members via a voluntary secret ballot referendum (majority vote referendum). If majority vote referendum was favorable, all current and future members of the retirement system group would be covered for SS.

Jan. 1, 1956 Social Security Amendments allowed certain named states to extend Social Security coverage via divided vote referendum. Divided vote referendum states also have an option of majority vote referendums and are not required to hold only divided vote referendums.

This was a direct result of the 84th Congress' divided retirement system legislation, H.R. 7725 (P.L. 880 to 1956 Social Security Amendments, approved August 1, 1956). According to Senate Report No. 2133 which accompanied the legislation, the bill provided, "that the State, at its option, may cover under Old-Age and Survivors Insurance only those persons now members of a retirement system who wished to be covered, provided that all new employees are covered compulsorily under Old-Age and Survivor's Insurance."

1956 Since the 1956 amendments failed to set forth a specific divided vote referendum procedure, the divided vote referendum process was originally established as a two-step process using aspects of the majority vote referendum process, as required by existing law. In the original divided vote referendum process:
Step1: The State first polled the retirement system members individually to indicate (either "Yes" or "No") whether they desired Social Security coverage or not; this was not a referendum, but an expression of preference. There was no specific time period between the notice of the polling action and the actually polling. As a result of the polling, if anyone stated "yes" to Social Security coverage, the retirement system was "split" at that point into two "deemed retirement systems"— the "Yes" and "No" groups.
Step 2: Once this division was done, the State would then hold (after giving at least 90 days notice) a secret ballot referendum just among those employees of the "Yes" group deemed retirement system. The 90 days enabled the potential voters to reflect on their initial decision and change their minds if they wanted when they voted in the referendum. The referendum portion of the divided two step referendum is a majority vote referendum and follows majority vote referendum rules. In order for Social Security coverage to be extended to the "Yes" group, a majority of the "Yes" group has to vote in favor of Social Security coverage. If the majority of the "Yes" group votes in favor of Social Security coverage, then the entire "Yes" group (including those that voted against coverage in the secret ballot referendum) along with all future hires would be covered for Social Security. Those that voted "No" in the initial polling of Step 1 would not be covered for Social Security.

1957 Due to the length of time required in the original two-step referendum and its effect on the effective date of coverage, Congress enacted a simplified divided vote referendum process via Public Law 85-229 of the 1957 Social Security Amendments with certain safeguards.

These safeguards ultimately became the requirements in Section 218(d)(7) and can be found in SLCH SL 30001.333 and only apply when the simplified one step divided vote referendum is used. (They do not apply to the two-step divided vote referendum process, which incorporates the majority vote referendum and its rules.) The simplified one-step divided referendum process has become the method of choice and has been known as THE divided vote referendum process.

Although the original two-step divided vote referendum process soon fell out of use, Congress did not do away with it; the two-step divided vote referendum process still exists as a viable referendum option for use by the divided vote retirement system states.

Sept. 28, 2005 The Atlanta ROGC advised that if the result of a simplified one-step divided vote referendum is a "unanimous "No" vote by the entity's current retirement system members, then only future members of the retirement system would be covered for Social Security.

2006-2007 A few months after the issuance of this opinion, Social Security's national State and Local coverage area began to hear concerns expressed by some State Social Security Administrators and some State and Local policy specialists at the Regional Office level who were of the opposite opinion. They felt that in the simplified one-step divided referendum if none of the retirement system members vote "yes," then the retirement system is NOT divided and no future members of the retirement system can be covered, basically the same result as a majority "No" vote in a majority vote referendum. In fact, divided vote referendums have been held where this has occurred.

But there are other states that have been operating for years along the lines as laid out in the Atlanta ROGC opinion – not covering current retirement system members and extending coverage only to future members of the retirement system.

Social Security Administration Headquarters Office of General Counsel was requested to render an opinion as to whether the result of a unanimous "No" vote in the one-step divided vote referendum process would mean that future members of the retirement system would be covered for Social Security or not.

July 19, 2007 OGC's Opinion, "In our view, the referendum itself divided the retirement system, regardless of the results of the actual voting. Once the system is divided, future employees are covered as part of the 'yes' group."

July 24, 2007 Social Security's Office of General Counsel rendered an opinion that the result of a one-step divided vote referendum where none of the current retirement system members vote in favor of Social Security coverage, future members of the retirement System will be covered for Social Security as part of the "Yes" Group. This opinion concerning the outcome of a unanimous "No" one-step divided vote referendum is prospective from July 24, 2007.

Respectfully submitted,

Alice R. Copeland, SCRS
Assistant Director

I'm Not Schizophrenic, Just a Little Divided.
So What Do I Do?

Presentation for the July 24, 2007 NCSSSA Annual Meeting

For several months during the past year, I have been going through the case histories, modification correspondence files and legislative histories researching information concerning the history of the divided vote retirement system referendum process and would like to share with you now some of the things I learned and how this information may affect your approach to these referendums in the future. Especially how you approach the issue, "What happens if no one votes "yes" in a divided vote referendum?"

In the beginning (January 1, 1951), Social Security coverage was extended only to those State and local government employee positions not already covered by a retirement system, but this changed with the passage of the 1954 Social Security Amendments.

Effective January 1, 1955, States are allowed to extend Social Security coverage to State and local government employees who are members of a public retirement system provided that coverage is authorized by the State and approved by a majority of eligible retirement system members through a voluntary secret ballot referendum (majority vote referendum). The result of a favorable majority vote referendum is that all current and future members of the retirement system group are covered for Social Security.

As it turned out, there were cases where the employees or the governmental entities employing them were either unwilling or unable to pay the combined Social Security and retirement system contributions required under such an arrangement, thus, preventing some government employees from obtaining Social Security coverage. Avoiding such situations was of primary concern to the members of the 84th Congress when they incorporated the divided retirement system legislation in H.R. 7725 (ultimately P.L. 880 to the 1956 Social Security Amendments):

"The bill would provide that the State, at its option, may cover under old-age and survivors insurance only those persons now members of a retirement system who wish to be covered, provided that all new employees are covered compulsorily under old-age and survivor's insurance." (Senate Report No. 2133) (Emphasis added)

The 1956 Social Security Amendments enabled certain named States to extend Social Security coverage via the divided vote referendum process beginning January 1, 1956, but it must be remembered that the divided vote referendum states also have the option of holding majority vote referendums; they are not required to hold just divided vote referendums.

Since the 1956 amendments failed to set forth a specific divided vote referendum procedure, the divided vote referendum process was originally established as a two step process using aspects of the majority vote referendum process, as required by existing law. In the original divided vote referendum process:

Step1: The State first **polled** the retirement system members individually to indicate (either "Yes" or "No") whether they desired Social Security coverage or not; **this was not a referendum, but an expression of preference**. There was no specific time period between the notice of the polling action and the actually polling.

As a result of the polling, if anyone stated "yes" to Social Security coverage, the retirement system was "**split**" at that point into two "deemed retirement systems"— the "Yes" and "No" groups (per the October 11, 1956 letter from SSA's Assistant General Counsel, Harold P. Packer to SSA's Division of Claims Policy).

Example: A two-step divided vote referendum is held for the employees of Disneyville who are members of the Goofy retirement system. The town of Disneyville, working with the State, has decided to hold a referendum for the Goofy retirement system members; and since it is March 6, 1957, the only divided vote referendum process available is the two-step.

So, first off, each of the 16 members of the Goofy retirement system has to be polled whether he or she wishes to be covered under Social Security. Each of the retirement system members submits a ballot that includes his/her name and preference, either "yes" or "no," for Social Security coverage.

I must emphasize that in the two-step referendum process this is not the referendum; it is merely a polling of the retirement system members to find out where their desire for Social Security coverage lies. Furthermore, there is no specific time period between the notice of the polling action and the actual polling.

In this first step of the referendum process, five Goofy retirement system members said "No" to Social Security coverage and eleven said "Yes." Using the nomenclature of the time, the retirement system is "**split**" at this point into two "deemed retirement systems"— the "Yes" and "No" groups.

Step 2: Once this division was done, the State would then hold (after giving at least 90 days notice) a **secret ballot referendum** just among those employees of the "Yes" group deemed retirement system. The 90 days enabled the potential voters to reflect on their initial decision and change their minds if they wanted when they voted in the referendum.

Now, back to the Goofy retirement system, ninety days have past since the referendum was announced, and it's time to hold the referendum among only the Goofy retirement system's "Yes" people. The "No" people can't vote in the referendum, so their role in our little drama has ended; they will not have Social Security coverage no matter what the outcome of the referendum is. In the actual referendum, each member of the "Yes" group of the Goofy retirement system must cast a ballot indicating his/her final decision, either for or against Social Security coverage. Since this is a "secret ballot" referendum, the individual's name will not appear on the ballot, just his/her choice.

- The referendum portion of the divided two step referendum is a majority vote referendum and follows majority vote referendum rules. In order for Social Security coverage to be extended to the "Yes" group, a majority of the "Yes" group has to vote in favor of Social Security coverage. If the majority of the "Yes" group votes in favor of Social Security coverage, then the entire "Yes" group (including those that voted against coverage in the secret ballot referendum) along with all future hires would be covered for Social Security. Those that voted "No" in the initial polling of Step 1 would not be covered for Social Security.

- If a majority votes against Social Security coverage in the Step 2 secret ballot referendum, then no one is covered including future hires. Remember, at this point in the two-step process we're dealing with a majority vote referendum. Also, if no one had chosen "Yes" in the initial polling, there could not have been a referendum, and the ultimate outcome would have been the same – no one would be covered.

Let's see how the "Yes" group of the Goofy retirement system voted in the referendum…. of the eleven members of the "Yes" group…two voted against Social Security coverage and nine for Social Security coverage. Since a majority of the "Yes" group ultimately voted in favor of Social Security coverage, then the entire eleven members of the Goofy retirement system's "Yes" group (including the two that ultimately voted against Social Security coverage in the referendum) will be covered for Social Security as well as all future members of Disneyville's Goofy retirement system.

Under this original two-step referendum process, it was impossible to provide Social Security coverage for "new members" of the retirement system (future hires), if there were no "yes" group voters to vote in the referendum, or if a majority of the "yes" group ended up changing their minds and voting against Social Security coverage in the referendum. It is possible under the two-step divided vote process that some could have been polled "yes" and voted for coverage in the "yes" group referendum and still not get Social Security coverage.

Right away, the ungainliness of the two-step process and the additional time needed to carry it out became woefully apparent, especially since the additional time taken with the two-step referendum could affect the effective date of coverage. There are contemporary documents on file from entities in Wisconsin and California complaining about the process and questioning the logic of holding a referendum among employees that had already said "yes" to Social Security coverage.

This led Congress to review the situation and pass legislation to provide a simplified divided vote referendum process.

Congress established, via Public law 85-229 of the 1957 Social Security Amendments, a simplified one-step divided vote referendum process that would exist as an option to the original 1956 Amendments' two-step divided vote referendum procedure. The one-step divided vote referendum process combines the division of the retirement system and the coverage referendum into a single step. To accomplish this, Congress also insisted that certain safeguards be written into the legislation. Quoting from the Congressional report accompanying Public Law 85-229:

"The new, shorter procedure would be available, however, only if certain safeguards, similar to those included in the regular referendum provisions, were observed in connection with the division of the system in two parts. Thus, the governor would need to certify that in connection with the division of the system (1) an opportunity to vote by **written ballot** on the question of whether they wish to be covered by old-age and survivors insurance was given to all individuals who were members of such system at the time the vote was held, (2) not less than 90 days notice of such vote was given to all individuals who were members on the date the notice was issued, and (3) the vote was conducted under the supervision of the governor or a designated agency or individual. **The governor would also have to certify that the retirement system was then divided into two parts in accordance with the existing Social Security Act provisions on this matter**." (Emphasis added)

These safeguards ultimately became the requirements in Section 218 (d)(7) and can be found in SLCH SL 30001.333; they only apply to those instances when the simplified one step divided vote referendum process is used. They do not apply to the two-step divided vote referendum process, which incorporates the majority vote referendum and its rules.

Although the original two-step divided vote referendum process soon fell out of use and became a late 1950's relic, Congress did not do away with it; the two-step divided vote referendum process still exists as a viable referendum option for use by the divided vote retirement system states.

While the original two-step referendum quickly sank into the quagmire of oblivion and disuse, the simplified one-step divided referendum process became the overwhelming method of choice and is basically been known as THE divided vote referendum process.

I think it is very important to know the background histories of these two divided vote referendum processes in order to understand what happens when faced with:

A Unanimous "No" Vote in a Simplified One-Step Divided Vote Referendum

The issue of what happens in such a situation was referred to the Atlanta Regional Office of General Counsel (Atlanta ROGC) nearly two years ago by the Kentucky State Social Security Administrator. The Atlanta ROGC advised on September 28, 2005 that if the result of a simplified one-step divided vote referendum is a unanimous "No" vote by the entity's current retirement system members, then only future members of the retirement system would be covered for Social Security.

A few months after the issuance of this opinion, we in the national State and Local coverage area began to hear concerns expressed by some State Social Security Administrators and some State and Local policy specialists at the Regional Office level who were of the opposite opinion. They felt that in the simplified one-step divided referendum if none of the retirement system members vote "yes," then the retirement system is NOT divided and no future members of the retirement system can be covered, basically the same result as a majority "No" vote in a majority vote referendum. In fact, divided vote referendums have been held where this has occurred.

Yet, as we have since learned, there are other states that have been operating for years along the lines as laid out in the Atlanta ROGC opinion – not covering current retirement system members and extending coverage only to future members of the retirement system.

After months of reviewing legislative files and histories, case histories, agency and state correspondence, the Office of Income and Security Programs shared with the Social Security Administration Headquarters Office of General Counsel the information we had found in our research and requested that the Office of General Counsel render an opinion as to whether the result of a unanimous "No" vote in the one-step divided vote referendum process would mean that future members of the retirement system would be covered for Social Security or not.

After months of additional research and review the Office of General Counsel just a few days ago rendered its opinion:

As the result of a one-step divided vote referendum where none of the current retirement system members vote in favor of Social Security coverage, future members of the retirement system will be covered for Social Security as part of the "Yes" group.

Also we need to keep in mind that the following "safeguard" was written into the 1957 legislation that created the simplified one-step divided vote referendum process – the governor would have to certify that the retirement system was divided into two parts in accordance with the existing Social Security Act provisions.

Those of you who have held the view that a unanimous "No" vote would not divide a retirement system, how would you treat a unanimous "Yes" vote? Using your same logic, a unanimous "Yes" vote would not divide the retirement system either.

Per the recent Office of General Counsel decision: "In our view, the referendum itself divides the retirement system, regardless of the results of the actual voting. Once the system is divided, future employees are covered as part of the 'yes' group. " (OGC Opinion July 19, 2007)

The retirement system is divided at the point the simplified one-step divided vote referendum is held, not as a result of the vote. The division of the retirement system occurs at the point that the current retirement system members are given the choice of being a part of the " Yes" group or a part of the "No" group. This is reiterated in Assistant General Counsel Harold P. Packer's opinion issued October 7, 1957:

"While members of the system at the time of its division into two parts are privileged to choose whether or not they wish to be covered under the agreement, all new members of the system are, by operation of law, compulsorily classified in the part of the system composed of the positions of those members who elected coverage."

In a July 30, 1968 letter to Georgia Congressman Williamson S. Stuckey, Jr., Social Security Commissioner Robert M. Ball, described the simplified one-step divided vote referendum as permitting "…the State to divide a retirement system into two parts, one part composed of those members who desire coverage and all new members and the other part composed of those members who did not wish coverage." In a May 14, 1975 letter, Commissioner James B. Cardwell stated "…section 218 (d) (6) (C)…permits the State to provide coverage by dividing the retirement system into two parts, one part composed of those members who desire social security coverage and all new members, and the other part composed of employees who do not choose coverage." In neither situation was it mentioned that there must first be someone voting "Yes" in the referendum in order to give Social Security coverage to new members of the retirement system.

Opting for the simplified one-step divided vote referendum process, the retirement system coverage group is intending to acquire Social Security coverage for its future members but is affording its current members the opportunity to individually choose coverage under Social Security (the "yes" group) or not (the "no" group).

Some may ask whether a modification should be prepared if, as a result of a unanimous "No" vote, there are no current retirement system members who can be covered. The answer is "Yes, you can." Language can be added to the modification stating that as a result of the referendum no current retirement system members are to be covered, but Social Security coverage will be extended to future members of the retirement system.

Despite all this, it must be acknowledged that it is the State that ultimately decides whether or not to extend Social Security to a coverage group.

It is very important to keep in mind how each of the referendum processes affect future coverage when advising governmental entities which process they should consider for their coverage referendum. The State must be mindful of the governmental entity's coverage intentions when advising and preparing for the referendum.

For example, if the entity's primary concern is to cover future hires for Social Security, then the simplified one-step divided vote referendum process should be chosen.

If the there is little or no interest among current employees for Social Security coverage and the entity is lukewarm about whether to cover future hires for Social Security, then the majority vote or the original two-step divided vote processes should be considered.

The Office of General Counsel opinion I have just shared with you concerning the outcome of a unanimous "No" one-step divided vote referendum is prospective from today (July 24, 2007) and will be applicable to all one-step divided vote referendums from this date forward.

Prepared and presented by: Mark Brown
Social Security Administration
Office of Income Security Programs
July 24, 2007

57th Annual Conference
July 22-25, 2007
Anaheim, California

Internal Revenue Service

Presenter: Steve C. O'Brien, FSLG International Issues Specialist

Moderator: Carolyn J. Fry, Texas

Recap of Session: International Tax Aspects of Employing Nonresident Alien Teachers on "J" Visas

Mr. O'Brien provided information on the following:

- **Definition of a Non-Student Exchange Visitor**
- **Work Authorization Required**
- **Determination of "Tax Residency"**
- **Change in Immigration Status**
- **Sourcing of Income**
- **SEVIS – Student "Exchange Visitor" Information System**
- **FICA Applicability**
- **Tax Treaties**
- **Form I-9 Requirement**
- **Form SS-5 / Application for U.S. Social Security Number**
- **Tax Withholding Requirements**
- **Special Wage-Withholding Rules**
- **Special Withholding Rates**
- **Additional Assistance – IRS Publications: 515, 519, 901, 963**

Please see Mr. O'Brien's power point for details on the above.

Respectfully submitted,

Carolyn J. Fry
State Social Security Administrator, Texas

INTERNATIONAL TAX ASPECTS OF EMPLOYING NONRESIDENT ALIEN TEACHERS ON "J" VISAS

PRESENTED BY:
STEVE C. OBRIEN
FSLG INTERNATIONAL ISSUES SPECIALIST
512.464.3129
steve.c.obrien@irs.gov

(Click on link below to view presentation)

http://www.ncsssa.org/7-InternationlTeachers-2007NCSSSA.pdf

57th Annual Conference
July 22-25, 2007
Anaheim, California

Issues FSLG Specialists Have Seen in Audits

Presenter: Ms. Marilee Basaraba, IRS

Moderator: Kelli Aoki, CA

Recap of Session

Ms. Marilee Basaraba's presentation provided important information as to what the FSLG Specialists have been finding in their audits. A majority of their findings are related to travel reimbursements, employer provided vehicles, allowances paid by the employer, and worker classification.

In regards to travel reimbursements, the FSLG Specialists look to see if there is an accountable plan in place, meaning that the reimbursements have a business purpose and are job position related, there is an adequate accounting of the date, time, place, and purpose of the spending, and that any excess of the travel advance is accounted for and returned timely. In addition, they look to see if taxes are being assessed on travel reimbursements. For example, meals on a day trip are partially taxable, reimbursements for a spouse's travel is fully taxable, and reimbursements that meet all of the IRS tax law requirements are non-taxable. Any meal reimbursements that are provided for travel away from home and overnight are non-taxable.

When an employer provides a vehicle to the employee, the employee must keep an accurate record of business and personal use of that vehicle. Any personal use of an employer provided vehicle is always taxable. There are some employer provided vehicles that are qualified as non-personal use vehicles. The qualified non-personal use vehicles must have a permanent identifier on the car indicating that it is for business use only and any personal use of the vehicle does not have to be accounted for.

Uniform or clothing allowances are non-taxable if it is required for performing duties and fulfills a condition of employment. The uniform or clothing must not be used for general use. For example, if an undercover officer must purchase clothing to wear for an undercover operation, that clothing is taxable, because the officer could wear that clothing again for general use, even if it is not the officer's "style." The cleaning and maintenance of the clothing is taxable if the clothing is taxable.

Mileage allowances are non-taxable if it follows the accountable plan rules. The employee must substantiate the business miles used and keep track of the usage. An example of tracking the usage is a calendar that states the purpose of the business and the number of miles driven in relation to that business purpose. If the mileage is reimbursed at a rate higher than the federal rate, the reimbursement is taxable.

Cell phone allowances are a big issue nationwide. The employee must keep records of all business and personal use of the cell phone, including laptops and PDAs. If there are no records to distinguish personal use versus business use, all of the value is taxable. If the employer does not want to keep records of business and personal use and provides a monthly allowance instead, that allowance is taxable.

In regards to worker classification, the FSLG Specialists are looking at whether or not the employee is truly an employee of the employer or an independent contractor. Federal and state requirements could be different. The right of control over the worker is the key element in determining whether or not the employee is an independent contractor or not. Employers can refer to Publication 1779, which outlines the aspects of control, such as behavior control (training), financial control, and the relationship the employee has with the parties involved.

The information provided in this session was of great value and worthwhile.

Respectfully submitted,

Kelli Aoki
California

NCSSSA
Annual Conference
Anaheim, CA
July 24, 2007

Internal Revenue Service
Federal, State and Local Governments

TAX EXEMPT GOVERNMENT ENTITIES DIVISION

Marilee Basaraba
Federal, State and Local Government Specialist
Portland, Oregon

(Click on link below to view presentation)

http://www.ncsssa.org/8-IRSAuditIssues-2007NCSSSA.pdf

57th Annual Conference
July 22-25, 2007
Anaheim, California

Audit Committee
2006/2007 Conference Year Report

The Audit Committee met with Harry Wales, Treasurer (WY) on Tuesday, July 24, 2007 to review the Conference's financial records and/or receipts. The Report was put together by Harry Wales for the period of July, 2006 – July 18, 2007.

The Committee reviewed the financial report in detail. No discrepancies were noticed, but the Committee did have questions. Harry provided answers and explanations to the committee's satisfaction. Expenses for the Anaheim Conference had not been reconciled at the time of the Conference; therefore, some numbers will change in the current statement.

As of July 18, 2007 the total amount in the Money Market & Checking Accounts - $63,759.92.

The Audit Committee wishes to thank Harry Wales for his diligence and commitment to the Conference.

Respectfully Submitted By:

Ardary Taylor (AR), Chairperson

57th Annual Conference
July 22-25, 2007
Anaheim, California

TREASURER"S REPORT
July 25, 2007

Financial Reports were prepared by Harry Wales and are attached to the Audit Committee Report.

Harry Wales, Wyoming
NCSSSA-Treasurer

2006-2007

57th Annual Conference
July 22-25, 2007
Anaheim, California

July 29, 2007

Linda Yelverton
Social Security Official
Department of Treasury
Division of Social Security
P.O. Box 44154
Baton Rouge, LA 70804-4154

RE: Constitution and By-laws Committee

Dear Ms. Yelverton,

The Constitution and By-laws Committee has no proposed changes for 2007 and no outstanding issues for the year. If you have any questions, please contact me at 602-240-2022 or micheleb@asrs.state.az.us.

Respectfully,

Michele Briggs
State Social Security Administration
Arizona State Retirement System

Cc: Dean Conder - CO
Barry Faison – VA

57th Annual Conference
July 22-25, 2007
Anaheim, California

Government Affairs Committee Report
2006-2007 Conference Year
July 22, 2007

The Government Affairs Committee (GAC) of the National Conference of State Social Security Administrators (NCSSSA) established and accomplished the following goals for the past conference year.

- Committee members participated monthly in a one hour teleconference.
- Continued to elevate the communications with SSA and IRS.
- Encouraged more IRS participation and attendance at the annual conference. E-mailed communications to the IRS Area Managers extending our appreciation for their role with the NCSSSA, encouraging their ongoing participation in our annual conferences, and complimenting the State FSLG Specialist for their knowledge and assistance to our State Social Security Administrators.
- Encouraged participation from Roger P. McDonnell, Associate Commissioner, Office of Public Services and Operations Support. NCSSSA President, Dean Conder, and Vice President, James Driver, visited with Mr. McDonnell during their visit to Baltimore and Washington, D.C.
- Promoted and assisted in comprehensive Section 218 coverage training from SSA and IRS.
- Coordinated and promoted IRS/NCSSSA telephone forum. Promoted SSA website training.
    - IRS/NCSSSA Telephone Forum-January 10, 2007. Successful.
    - Reviewed the SSA Training Site. The site is just getting started. The basic course has some very good information for new State Social Security Administrators. There is one case study on the site and links to resources. This is a good start to the site and advise monitoring as content changes.
- Secured SSA and IRS guidance on definitions of retirement systems. Ongoing effort, especially being pursued through the IRS Taxpayer Advocacy Panel (TAP), which is currently considering several issue referrals from Maryann Motza related to State Social Security Administrator concerns, including this item.

- Monitoring of Social Security and IRS issues. Monitor Mandatory (i.e., Universal) Social Security issues: and monitoring of Social Security and IRS issues. This is an ongoing project.

- Promote the use of the Memorandum of Understanding between IRS and SSA

    - No immediate action needed. Recent PUB 963 revisions take into account NCSSSA concerns.

The Government Affairs Committee reports the following activities and accomplishments for the 2006-2007 conference years:

- Committee proposed a change in language to the Public Employer Outreach Guide / Tax Guide relating to page 9, 07/02/91 language. Committee drafted a letter for the NCSSSA's President, Dean Conder, to review and execute. Mr. Conder also included a request for clarification of Section 2. Letter dated June 6, 2007 was mailed to Sunita Lough, IRS.

- Reviewed and revised Standard Operating Procedures for the Government Affairs Committee as requested by Harry Wales, WY.

- IRS refuses to take retroactive dollars that are owed to the SSA for Section 218 retroactive coverage.

    - Maryann Motza stated that she is a member of IRS' Taxpayer Advocacy Panel (TAP) and would take the issue to TAP for possible consideration. Ongoing effort, especially being pursued through the IRS Taxpayer Advocacy Panel (TAP) which is currently considering several issue referrals FROM Maryann Motza related to State Social Security Administrator concerns, including this item.

- National Organizations Requesting Information: Committee was contacted by Ken Anderson,
- SSA, informing of action to be taken due to a large number of calls from a national organization requesting photocopies of Section 218 agreements, modifications and information on individual employee positions. SSA was informing Regional Offices to direct inquiries on state agreements to the respective State Social Security Administrator for assistance. GAC was concerned this action would increase the State Social Security Administrator's workload greatly. Executive Committee and GAC agreed that a letter be sent to SSA with additional recommended solutions to this issue. The letter was mailed February 15, 2007 to SSA. Mr. Anderson concurred with our request and recommendations and forwarded a copy of the letter to Ms. Diane Hunt of Roger McDonnell's office, Office of Public Services and Operations Support, for review and further assistance.

- IRS Notice 2007-45 which provides interim guidance on section 6104(d)(1)(A)(ii) of the Internal Revenue Code, added by the Pension Protection Act of 2006.

E-mail Alerts to Conference Members:

- 2007 Social Security Changes:
  http://www.ssa.gov/pressoffice/pr/2007cola-pr.htm
  http://www.ssa.gov/pressoffice/factsheets/colafacts2007.htm

- New Social Security Commissioner Michael J. Astrue
  http://www.ssa.gov/pressoffice/pr/astrue-pr.htm

- July 2007 FSLG Newsletter: Highlights: IRS/NCSSSA Phone Forum and Article on Correcting Fringe Benefits Report by Nick Merrill, IL, NCSSSA.
  http://www.ssa.gov/pub/irs-tege/p4090_0707.pdf

The Government Affairs Committee recommends the following issues be addressed by the 2007-2008 Government Affairs Committee:

- Propose that a letter be prepared and signed jointly by SSA and IRS informing Governors of the responsibilities of the State Social Security Administrator. A carbon copy of this letter is sent to the respective State Social Security Administrator and the head of their respective agency and a copy to the NCSSSA. NCSSSA President, Dean Conder, and Vice President, James Driver, discussed this proposal with Maria Chaves, Team Leader, OPSOS, DPPO, RSI/SSA Team, Social Security Administration. Ms. Chaves informed Dean Conder, President, and James Driver, Vice President, of NCSSSA, that the SSA is discussing how they can accomplish this effort.

- Draft a generic letter to SSA for states to use to ensure respective states have no liability for Social Security taxes collected prior to January 1, 1987.

- Promote an electronic conference newsletter.

Respectfully submitted,

Government Affairs Committee
National Conference of State Social Security Administrators
Carolyn J. Fry, TX, Chair
Maryann Motza, CO, Vice Chair
David Breckenridge, OH
Lee DeJabet, SD
Jaqueline Smith-Bennett, PA (Retired, June 2007)

Internal Revenue Service

Federal, State and Local Governments

July 2007

PUBLIC EMPLOYER TAX GUIDE

PUBUC EMPLOYERS OUTREACH GUIDE

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Disclaimer:
The training materials attached hereto, although prepared by employees of the Internal Revenue Service, do not constitute an official ruling of the Internal Revenue Service and should not be used as such. The user of these training materials assumes all risks as to their accuracy under the law. Anyone who wants an official ruling by the Internal Revenue Service should follow the instructions outlined in Revenue Procedure 2001-1 and its successor revenue procedures.

INTERNAL REVENUE SERVICE
EMPLOYMENT TAX HIGHLIGHTS
FOR PUBLIC EMPLOYERS

1. SOCIAL SECURITY AND MEDICARE COVERAGE

Public employers need to be aware of the rules that govern social security and Medicare coverage for their employees. The laws can be complicated, but if you follow the rules below you will be able to apply the tax laws correctly to your employees.

First, you must determine whether or not a Section 218 Agreement applies to services performed by the worker A Section 218 Agreement covers positions, not Individuals. If the position is covered by such an agreement, your worker is subject to social security up to the wage base ($97,500 in 2007) and Medicare or Medicare-only taxes and you, as employer, must match these tax amounts. (There is no wage base limit for Medicare tax) Since April 20, 1983, any public employer who had previously entered into a Section 218 Agreement to cover their employees is required to continue coverage regardless of whether or not another public retirement system is available to those employees.

These agreements have been in effect for many years and have a critical bearing and the social security and Medicare coverage of the worker. If you are not sure whether a worker's position is covered, please call your State Social Security Administrator.

If a position is not covered by a Section 218 Agreement, you then need to find out the date the worker in question was hired This IS the date the worker began his/her current employment. If a worker was terminated and re-hired, the date you use to figure the coverage would be the rehire date. If the worker was hired after March 31, 1986, it is mandatory that both the worker and public employer pay Medicare tax.

After July 1, 1991, full-time, part-time, temporary and seasonal employees who are not participating in a qualifying retirement system made available through their employer MUST be covered by social security and Medicare It is also possible for employees under a public retirement system to be covered for social security if a Section 218 Agreement covers them If the worker was hired prior to April 1, 1986, Medicare coverage depends on whether the worker is currently covered by a public retirement system that meets the requirements discussed next

2. PUBLIC RETIREMENT SYSTEM COVERAGE

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) The employee may be a member of any type of retirement system, Including a nonqualified system (for example, a section 457(b) plan, discussed below), as long as the plan provides a minimum level of benefits, as specified by law, under that system.

A public retirement system may take one of two forms: the **defined benefit retirement system,** which IS based on a guaranteed minimum benefit, and the **defined contribution retirement system,** which IS based on a minimum contribution relative to salary.

For a **defined benefit retirement system** to meet the requirement to be a public retirement system, it must provide a benefit comparable to social security retirement benefits. The benefit must be measured by and based on various factors, including years of service rendered by the employee, compensation earned by the employee and the age of the employee at retirement. The Service issued Revenue Procedure 91-40 to clarify the minimum retirement benefit tests, which must be met in the plan's formula This Revenue Procedure can be found In the Appendix of **Publication** 963, Federal-State Reference Guide.

For a **defined contribution retirement system** to meet the requirement of a public retirement system, the worker must be covered in a plan In which at least 7,5% of his/her income is placed Into a retirement plan, This contribution can be any combination of employer and employee contributions, but must total a minimum of 75% of his pay, and cannot include any interest in the calculation The plan may Include any plan described In section 401 (a), an annuity plan or contract under section 403(b) or a plan described in section 457(b) or (f) of the Internal Revenue Code

Any person working for a public employer after July 1, 1991, who is not covered in a public retirement system plan that meets the requirements discussed above or the Defined Benefit System safe harbor rules of Revenue Procedure 91 *AO,* must be covered by social security and Medicare under the mandatory coverage provisions of Section 210 of the Social Security Act.

For more information on determining who is a qualified participant In a public retirement system, see section 31,3121(b)(7)-2 of the Income Tax Regulations.

3. SECTION 457(b) (NONQUALIFIED) PLAN

Section 457 of the Internal Revenue Code establishes a nonqualified plan for employees of tax-exempt organizations and governments A section 457(b) plan is "nonqualified" In that It does not qualify for the same tax-deferral treatment as "qualified plans" under Sections 401, 403, and other provisions of the Internal Revenue Code. However, it can still be a public retirement system and provide for the deferral of compensation under certain circumstances.

An employee can defer compensation up to $15,500 per section 457(b) plan for the year 2007 The municipality owns the funds until the employee retires and withdraws the money The employer can match the employee's contribution but IS not required to. The employer's contribution usually vests immediately.

The 457(b) plan can be used either as a primary retirement plan or as a deferred compensation plan in addition to the employee's retirement system or social security.

When a 457(b) deferred compensation plan IS used In addition to either social security or a state retirement system, an employer must be aware of the social security and Medicare (FICA) tax implications. The employees' contributions are subject to FICA tax in the same manner as the employees' regular wages. If the employees' wages are subject to social security and/or Medicare tax, so is the contribution.

Unlike qualified pension plans, the employer's contributions are subject to social security and/or Medicare tax in the same manner as the employee's wages. All contributions and deferrals are subject to social security and Medicare tax at the later of:

a) When the services are rendered, or
b) When the plan vests to the employee so that there IS no substantial risk of forfeiture.

Please review Notice 2000-38, in Internal Revenue Bulletin 2000-33, for more information on Withholding and reporting requirements for Section 457(b) plans.

4. FEE-BASED PUBLIC OFFICIALS

In general, if an individual performs services as an official of a public entity (city, state, town, village, water district, library, etc.) and the remuneration received, is paid out of governmental funds. the official is an employee and the wages are subject to Federal employment taxes. Examples of public officials Include, but are not limited to, the President, a governor, mayor, county commissioner, judge, justice of the peace, sheriff, constable, registrar of deeds, building and plumbing inspectors, etc. The only exception to this rule involves a public official who receives his/her remuneration in the form of fees **directly from the public** with whom he/she does business. However, if the fee service is covered by a Section 218 agreement, the services would be covered as employment, as discussed in **Publication** 15, Employer's Tax Guide (Circular E).

If a public official receives his or her remuneration or salary directly from or through a government fund on the basis of a fixed percentage and no portion of the monies collected belongs to or can be retained by him/her as compensation, then the remuneration IS not fees, but salary subject to all employment taxes.

If an individual performs services in more than one position, each position is treated separately for purposes of determining whether the compensation for the service meets the fee based or wage criteria.

For detailed information on this subject, please review the Information in **Publication** 963, Federal-State Reference Guide, and Revenue Ruling 74-608, 1974-2 C.B. 275.

5. BARTER EXCHANGES

Bartering between municipalities and Individuals has a tax consequence Examples of bartering include having a contractor demolish a building in exchange for land, or engaging an individual to perform work In exchange for relief from property taxes.

The relevant forms and provisions of the law are as follows:

a) Form 1099-MISC: Regulation 1.6041-1 Return of Information as to payments of $600 or more.

Paragraph (e) Payment made in medium other than cash.

If any payment that is required to be reported on Form 1099 IS made In property other than money, the fair market value of the property at the time of payment IS the amount to be included on such form.

Paragraph (f) when payment deemed made.

For purposes of a return of information, an amount is deemed to have been paid when It is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition.

b) Form W-2, Wage and Tax Statement:

Regulations Section 31.3401(a)-1 Wages

(1) In General:

(a) The term "wages" means all remuneration for services performed by an employee for his employer unless specifically excepted.

(b) Generally. the medium in which the remuneration IS paid is also immaterial. It may be paid in cash or in goods or services, such as, for example, stocks, bonds or other forms of property, If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be Included as wages.

The cited law makes clear that a Form 1099 or W-2 is required to be filed if the exchange is between the municipality and an individual and/or partnership. The issuance of a Form 1099!s not required for exchanges between an employer and incorporated entities.

6. GROUP-TERM LIFE INSURANCE

An employer may exclude from income the cost of up to $50,000 of group-term life insurance from an employee's wages, If the employee receives more than $50,000 Insurance. only the IRS-determined cost of the excess is includable as wages. Use the tables in Publication 15-8, Employer's Tax Guide to Fringe Benefits to calculate the Includible income.

If the employee makes any payment toward the cost of the Insurance, then the amount of coverage attributable to that payment is not considered in determining the amount of insurance provided by the employer.

Taxable employer-provided group-term life Insurance is treated as wages, but is not subject to income tax withholding. It is subject to social security and Medicare tax withholding and must be included on Form W-2, in box 1, 3, 5 and 12 (code C).

The taxable portion is included on **Form 941,** Employer's Quarterly Federal Tax Return, as part of wages, tips and other compensation, and on the lines for social security and Medicare wages.

7. SPECIAL SITUATIONS FOR PUBLIC WORKERS

Elected and **appointed** officials are employees for Federal income tax withholding purposes, per Section 3401 (c) of the Internal Revenue Code. For social security and Medicare purposes, all elected and most appointed officials are employees of the public entity they serve, per Section 3121 (d)(2) and 3121(d)(4) of the Code For more Information, see Publication 963.

We have also included a brief analysis of a few of the issues you as the public employer may encounter during your normal work in properly classifying other types of workers:

a) Casual Laborer

Federal tax law does not recognize the term "casual laborer " If you hire a student to clean up the town dump or a day laborer to cut trees, the worker is an employee and you must withhold, report, and pay over applicable employment taxes. There are no grace periods. You must Withhold with the first dollar earned by the worker.

b) Volunteer Firefighters
Volunteer firefighters are considered employees and their remuneration is generally subject to all withholding taxes. However, if the payment is a nominal reimbursement for out-of-pocket expenses actually incurred, AND the payment is accounted for according to the requirements of Reg 162-2 regarding accountable plans. then the payment could be excludable from the rest of the firefighter's Form W-2. Please review the material in Publication 963 for more information on this issue.

c) Road Commissioners
The road commissioner is an elected or appointed town official, and therefore can be supervised, directed, and disciplined if necessary and a work plan and job description can be developed for the position by the appointing body.

The relationship between the town and the commissioner may also allow for a fair rental payment for the use of any large equipment owned by the commissioner. This rental fee for equipment used should be separate, agreed upon in advance, and reported to the individual on Form 1099-MISC, Box 7 Fair equipment rental rates should be determined and municipalities should be guided by what a private company would charge.

Scenarios such as these, in which the road commissioner may hire a crew to perform certain services, generally have to be determined on a case-by-case basis. It is possible that these workers could be employees of the town. All remuneration that the road commissioner personally receives is wages.

d) Animal Control Officer
If an animal control officer holds an elected or appointed position, then the remuneration paid to that person should be regarded as wages.

Note: Moderators, civil emergency directors, bus drivers, harbormasters, correction officers, fire chiefs. Fire and ambulance workers, airport managers, summer aides, and librarians are all considered employees.

8. FRINGE BENEFITS

a) Reimbursements Paid to Employees

For expense reimbursements to employees to be exempt from taxes, the reimbursements must be made under an accountable plan. This means that the employees must:

(1) Incur the expenses in the performance of work;
(2) Adequately account for the expenses within a reasonable period of lime; and
(3) Return any amounts in excess of expenses within a reasonable period of time.

Reimbursements may be made in the form of allowances for travel, tools, shoes or clothing.

Note: Reimbursement for clothing that is suitable for everyday use while not on duty is always a taxable fringe benefit.

b) Municipally-Owned Vehicles
The personal use of a municipally-owned vehicle is a taxable fringe benefit. Personal use includes the value of commuting to and from work in a municipal vehicle, even if the vehicle is taken home for the convenience of the employer. The value of the fringe benefit must be included in wages and is subject to income and employment taxes. There are three methods that can be used to determine the value of the vehicle provided to the employee: commuting value rule cents-per-mile rule and automobile lease rule (see below). Control employees who work for a government employer includes elected officials (such as a mayor) and employees who earn at least Federal Executive Level V salary ($136.200 for 2007), can only use the cents-per-mile rule or the automobile lease rule

All of your employee's use of a **qualified non-personal use vehicle** qualifies as a working condition fringe. You can exclude the value of that use from your employee's income. A qualified non-personal use vehicle is any vehicle the employee IS not likely to use more than minimally for personal purposes because of its design. Qualified non-personal use vehicles include:

- Clearly marked police and fire vehicles.
- Unmarked vehicles used by law enforcement officers. The officer MUST be authorized to carry a firearm, execute search warrants and make arrests.
- An ambulance or hearse used for its specific purpose.
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- Delivery trucks with seating for the driver only *or* driver plus a folding jump seat.
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
- School buses.
- Tractors and other special purpose farm vehicles.

c) All Other Employer-Provided Vehicles

If you have an employer-provided vehicle that does not qualify as a non-personal use vehicle, and the employee uses the vehicle for personal use, which Includes commuting, the personal use of the vehicle is a non-cash taxable fringe benefit.

It is the employer's responsibility to determine *the* actual value of this fringe benefit and to include the taxable portion in the employee's income.

Examples:

A town-owned pickup truck has the name of the town marked on the vehicle. Usually the employee is allowed to take the vehicle home because he/she is "on call." The vehicle is not a qualified non-personal use vehicle, thus the commuting is a non-cash taxable fringe benefit.

An employee takes a city vehicle home in order to avoid exposing it to harm. The vehicle has a city seal on the door and is not to be used for personal use. If the vehicle is not a qualified non-personal use vehicle as discussed earlier, the employee would have a taxable commuting benefit if he/she takes a city vehicle home,

Special Valuation Rules

Employees may use one of the fallowing special valuation rules to determine the value of personal use of a vehicle:

1) Automobile Lease Rule

a) Determine the Fair Market Value of the vehicle.
b) Use annual lease values (ALV) in the table in IRS Publication 15-8, which are based on a 4-year lease term. These values will generally stay the same for each year. After four years the vehicle must be revalued and the ALV recomputed.
c) You must add the fair market value of fuel provided; you may use 55 cents per mile

2) Cents-Per-Mile Rule

The value of the personal use of a vehicle may be figured at 48 5 cents per mile for 2007 if the following conditions are met:

a) Must have regular business use: If 500/0 of the total annual mileage is for your trade or business. It meets this test.
b) Fair market value is less than threshold (check with IRS for amount).
c) Meets the mileage rule requirement (driven at least 10.000 miles)

3) Commuting Value Rule

An amount of $300 per day or $1.50 per one-way commute (home to work or work to home) is a non-cash taxable fringe benefit to the employee, includible in gross income. You can use this rule only if you meet all of the following requirements:

a) You own or lease the vehicle and provide It to an employee to use in your business,
b) For bona fide noncompensatory business reasons, you require the employee to commute in the vehicle.
c) You establish a written policy allowing no personal use other than commuting or de minimis personal use (such as stop for personal errand),
d) Your employee does not use the vehicle for personal purposes other than commuting and de minimis personal use, and
e) The employee is not a government control employee defined as follows:
    I. Elected official, or
    II. Employee whose pay IS at least Federal Government Executive Level V ($136,200 for 2007).

Record Keeping

To conform to the accountable plan rules employees using a vehicle for business purposes (regardless of which special valuation rule is used) must keep track of business miles by keeping a log containing the following information:

1) Date
2) Mileage (beginning and ending)
3) Destination
4) Business purpose
5) Personal use mileage
6) Commuting

This Information should be kept on a daily basis

d) Clothing Provided by the Employer

Work clothing provided by the employer is not taxable to the employee if:

1) The employee must wear them as a condition of employment, and
2) The clothes are not suitable for everyday wear

It is not enough that the employee wear distinctive clothing. The employer must specifically require the clothing nor is it enough that the employee does not, in fact, wear the work clothes away from work. The clothing must not be suitable for taking the place of your regular clothing.

The cost and upkeep of work clothes for firefighters, health care workers, law enforcement officers or letter carriers is nontaxable to the employee.

Similarly, the costs of buying and maintaining safety shoes or boots, safety glasses, hard hats, and work gloves are not taxable If the purchases are substantiated under the accountable plan rules.

e) Clothing Allowances for Police, Fire and Public Works

If the clothing does not qualify as a deductible expense (i.e. IS a uniform), then these payments must be treated as a taxable fringe benefit and are subject to all employment taxes. Thus, a police officer or firefighter uniform would qualify for exclusion from Income if paid under an accountable plan and meets all the requirements of an accountable plan (qualified expense, substantiation, and return of excess). A detective's suit jacket and related clothing, since they are Suitable for everyday wear, do not qualify as a uniform and are taxable to the employee

See **Publication 15-8**, Employer's Tax Guide to Fringe Benefits, for mare information.

Section 218 History

- **Before 1951** - No social security coverage for public employees.
- **1951** - Section 218 Added to Social Security Act; coverage became available for positions not under public retirement systems
- **1955** - Retirement systems allowed to participate in Section 218 coverage.
- **Beginning** April 20, **1983** - Terminations of 218 agreements are prohibited.
- **4/1/86** - Mandatory Medicare coverage for all new hires; workers hired prior to this date in continuous employment remain exempt from mandatory coverage for those positions.
- **7/2/91** - Mandatory social security If an employer has positions not covered under a Section 218 Agreement these positions will be covered by mandatory social security. For positions covered by a Section 218 Agreement, coverage continues regardless of whether these positions are covered by a qualifying public retirement system.

FORM 1099 INFORMATION

Who Must File

Any entity conducting a trade or business is required to file Form 1099 if the requirements are met. Government agencies and non-profit organizations are also required to file Form 1099.

Securing Vendor Information

Information Needed

Owner's name (it sale proprietor), legal business name, mailing address, taxpayer identification number.

When To Get Information

Obtain vendor information up front. don't wait until year-end. The requirement to file Forms 1099 IS met once payments total $600 or more.

Why Get The Information?

If you vendor fails to supply an identification number, you must withhold 28% and pay it over to the IRS on Form 945 This is called **backup withholding**. If you do not backup withhold when required, you may be liable for the tax.

How To Get The Information

Use Form W-9. Request for Taxpayer Identification Number and Certification.

Due Dates for Forms 1099

Copy is sent to the Recipient by January 31st of the following year and a copy A is sent to the IRS by February 28lh of the following year.

File Form 1099 for:

Payments of $600 or more for:
- Services (Form 1099-MISC)
- Rents (Form 1099-MISC)
- Retirement (Form 1099-R)
- Payments of $10 or more for Interest(1099-INT)

Payments of $600 or more to:
- Individuals
- Partnerships
- Estates
- Trusts
- Medical and Legal Service Providers

FORM 1099 INFORMATION

EXAMPLES OF REPORTABLE PAYMENTS

Non-employee (Form 1099-MISC Box 7)
Accounting services
Advertising
Appraisal services
Attorney fees
Auto repair
Construction
Consultant fees
Custodial/Maintenance
Engineering services
Landscapers, locksmiths
Photographers. printing services
Referees
Rubbish removal

Medical & Health Care Services (1099-MISC Box 6)
Ambulance services
Dentists
Doctors
For-profit hospitals
Lab services
Optometrists
Private duty nurses
Psychiatrists, psychologists
Rehabilitation centers
Therapists

Rents (Form 1099-MISC Box 1)
Office space
Parking lot space
Welfare rental assistance (to landlords)
Equipment

NOTE: Certain payments and recipients are exempt from the requirements, including:

Payments to exempt organizations and governments
Generally, payments to corporations BUT not attorneys' fees, medical and health care payments
Payments of rent to real estate agents

See the **Instructions for Form 1099-MISC** and General Instructions **for Forms 1099, 1098,** 5498, **and W-2G** for more information.

FORM 1099 AND BACKUP WITHHOLDING FACT SHEET

1. IRC 6041(a): Information at source

All persons engaged in a trade or business and making payment in the course of such trade or business to another person of rent, of $600 or more In any taxable year shall render a true and accurate return setting forth the amount of such Income and the name and address of the recipient of such payment.

2. Recipient to furnish name, address and identification number for inclusion on Return

Any person with respect to whom a return or statement is required under this section shall furnish to such other person his name, address and identification number

3. Inclusion of identification number on return

The person to whom an identification number IS furnished shall include such number on any return that such person is required to file.

4. Statements required to be furnished to persons with respect to whom information is required

Every person required to make a return shall furnish to each person a written statement. The meaning of "return or statement required" is the proper Form 1099 or Form W-2.

5. Regulation 1.6041-1: Return of information as to payment of $600 or more

Every person engaged in a trade or business shall make an Information return for each calendar year with respect to payments made by him to another person, salaries, wages, commissions for services rendered, interest. rents, royalties, annuities. pensions, and other gains, profits. and income aggregating $600 or more, The return required shall be made on Forms 1096 and 1099, The return with respect to certain payments of compensation to an employee shall be made on Forms W-2 and W-3.

6. Regulation 1.6041-3: Payments for which no return of information is required. Information returns are not required for:

a) Payments of Income required to be reported on Forms 1042, 1120-5, 941, W-3, and W-2
b) Payments by a broker to his customer.
c) Payments to a corporation, except payments to a corporation engaged in providing legal, medical AND health care services,
d) Payments of bills for merchandise, telegrams, telephone, freight, storage and Similar charges,
e) Payments of rent made to real estate agents.
f) Salaries and profits paid or distributed by a partnership to the individual partners.
g) Payments of commissions to general agents by fire insurance companies or other companies insuring property.

Payments for services not specifically excluded ABOVE require reporting on an Information return.

7. IRC 3406: Backup Withholding

Requirement to deduct and withhold, in general. In the case of any reportable payment, if the payee fails to furnish his taxpayer identification number to the payer in the manner required. then the payer shall deduct and withhold from such payment a tax equal to 28% of such payment.

Coordination with other sections: Amounts deducted and withheld under this section shall be treated as If deducted and withheld under section 3402.

8. IRC 3403: Liability for tax

The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter. and shall not be liable to any person for the amount of any such payment.

If a payer fails to deduct and withhold tax at a rate of 28% from a reportable payment, and the payee fails to furnish his TIN, the payer IS then liable for the payment of the tax.

USEFUL WEB SITES

Internal Revenue Service. Federal, State and Local Governments
www.irs.gov/govts

Internal Revenue Service, Frequently Asked Questions
(Contains answers to questions on numerous Federal tax topics, including cafeteria plans)
www.irs.gov/faqs/index.html

Social Security Administration Homepage
www.socialsecurity.gov

Social Security Administration Web Site for State and Local Government Employers
www.ssa.gov/slge

National Conference of State Social Security Administrators (NCSSSA)
www.ncsssa.org

57th Annual Conference
July 22-25, 2007
Anaheim, California

HOSPITALITY COMMITTEE REPORT
JULY 25, 2007

The 57th annual meeting of the National Conference of State Social Security Administrators was held at the Doubletree Guest Suites in Anaheim, California, July 22, through July 25, 2007.

The Hospitality Committee attempted to provide members and guests with a relaxing place to reminisce with old friends, meet new members and renew working relationships with federal officials. It is hoped that the hospitality and fellowship provided at this year's conference made each attendee's stay a pleasant one.

A special thank you is extended to Linda Yelverton (LA), Harry Wales (WY) and Kelli Aoki (CA) for serving on the Hospitality Committee. Their time and effort are greatly appreciated.

Respectfully submitted,

Dawn Evans, (CA)
Committee Chairperson

57th Annual Conference
July 22-25, 2007
Anaheim, California

Internet Committee Report
August 7, 2007

- **The NCSSSA web site has been updated for current committee assignments through July 2007.**
- **Roster changes for State Administrators and Social Security Regional contacts are current as of July 2007.**
- **All committee members have a basic understanding of how to update website. Objectives for 2008:**
    - **Upload 2007 conference presentations and committee reports.**
    - **Research the possibility of updating website from html format to Front Page.**

Respectfully submitted,

Tammy Taylor, Program Coordinator
Division of Local Government Services
Social Security Coverage & Reporting Branch
501 High St, 4th Floor - Station 11
PO Box 639
Frankfort KY 40602-0639

Committee Members:
Tammy Taylor, KY - Chairperson
Linda Yelverton, LA
Michelle Baxter, WI
Kathleen Baxter, AL
Teresa Commeau, NH (retired)
Angie Dowdy, LA

57th Annual Conference
July 22-25, 2007
Anaheim, California

Legislative Committee Report
2006-2007 Final Report
July 22, 2007

ISSUES (Relating directly to the FICA coverage of state and local government)

Federal Legislation – There was no Federal Legislation relating directly to Section 218 coverage this year. However, there was Federal Legislation relating to WEP [Windfall Elimination Provision] and GPO [Government Pension Offset] that the committee would like the conference to be aware of and watch.

Tim Kelley, SSA reported the cost of each piece of legislation at the 2007 NCSSSA conference in Anaheim, CA, as noted.

GPO and WEP

H.R.82 by Rep. Howard Berman (D-CA) introduced 1-4-2007 and S.206 by Sen. Dianne Feinstein (D-CA) introduced 1-9-2007 [Social Security Fairness Act of 2007]

Both amend title II of the Social Security Act to repeal the GPO and the WEP, effective for all Social Security Benefits paid after 2007.

H.R.82 was referred to House Ways and Means Committee 1-11-2007. Referred to Subcommittee on Social Security.

S.206 was referred to the Senate Finance Committee 1-9-2007.

Status: Read twice and referred to the Committee on Finance.

Cost: $30 billion over 10 years [H.R.82] and $32 billion over 10 years [S.206].

GPO

S.1254 by Sen. Barbara A. Milkulski (D-MD) introduces 5-1-2007 [Government Pension Offset Reform Act]

Amends title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

Referred to Senate Committee 5-1-2007.

Status: Read twice and referred to the Committee on Finance.

Cost: $10 billion over 10 years.

WEP

H.R.726 by Rep. Barney Frank (D-MD) introduced 1-30-2007 [Windfall Elimination Provision Relief Act of 2007]

Amends title II of the Social Security Act to: (1) restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds a minimum COLA-adjusted amount of $2, 500; and (2) provide for a graduated implementation of such provision amo0unts above such threshold by applying application percentages determined according to a specified formula.

Referred to House Ways and Means Committee 2-7-2007.

Status: Referred to the Subcommittee on Social Security.

Cost: $19 billion over 10 years.

H.R.2772 by Rep. Kevin Brady (R-TX) [Public Retirement Protection Act of 2007]

Amends title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants.

Referred to the House Committee 6-19-2007.

Status: Referred to the House Ways and Means Committee.

Cost: $7 billion over 10 years.

The bill text follows report.

Respectfully Submitted,

Steve J Delaney, Legislative Committee Chair
Maryann Motza
Nick Merrill
Nick Favorito

HR 82 IH

110th CONGRESS
1st Session
H. R. 82
To amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.
IN THE HOUSE OF REPRESENTATIVES
January 4, 2007

Mr. BERMAN (for himself, Mr. MCKEON, Mr. ABERCROMBIE, Mr. ALLEN, Mr. BACA, Ms. BERKLEY, Mrs. BIGGERT, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Ms. BORDALLO, Mr. BOSWELL, Mr. BOUCHER, Mr. BOYD of Florida, Mrs. CAPPS, Mr. CARDOZA, Ms. CARSON, Mr. CHANDLER, Mr. CLAY, Mr. CONYERS, Mr. CUELLAR, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. DEFAZIO, Ms. DELAURO, Mr. DINGELL, Mr. DOGGETT, Mr. DOOLITTLE, Mr. DOYLE, Mr. EDWARDS, Mr. ENGEL, Ms. ESHOO, Mr. ETHERIDGE, Mr. FARR, Mr. FATTAH, Mr. FRANK of Massachusetts, Mr. GILLMOR, Mr. GRAVES, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HINOJOSA, Mr. HOBSON, Mr. HOLDEN, Mr. HONDA, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Illinois, Ms. KAPTUR, Mr. KILDEE, Mr. KUCINICH, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSEN of Washington, Ms. LEE, Mr. LEWIS of California, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MANZULLO, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, Mr. MCHUGH, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MOORE of Kansas, Mr. MORAN of Kansas, Mr. NADLER, Mr. NORWOOD, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. PALLONE, Mr. PAUL, Mr. RAHALL, Mr. REYES, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SHERMAN, Mr. SHUSTER, Mr. SIRES, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. TERRY, Mr. TIERNEY, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Mr. VISCLOSKY, Mr. WAXMAN, Mr. WOLF, Ms. WOOLSEY, Mr. SMITH of New Jersey, Ms. WATERS, and Mr. MOLLOHAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL
To amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Social Security Fairness Act of 2007'.

SEC. 2. REPEAL OF GOVERNMENT PENSION OFFSET PROVISION.

Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by striking paragraph (5).

SEC. 3. REPEAL OF WINDFALL ELIMINATION PROVISIONS.

(a) In General- Section 215 of the Social Security Act (42 U.S.C. 415) is amended--

(1) in subsection (a), by striking paragraph (7);

(2) in subsection (d), by striking paragraph (3); and

(3) in subsection (f), by striking paragraph (9).

(b) Conforming Amendments- Subsections (e)(2) and (f)(2) of section 202 of such Act (42 U.S.C. 402) are each amended by striking `section 215(f)(5), 215(f)(6), or 215(f)(9)(B)' in subparagraphs (C) and (D)(i) and inserting `paragraph (5) or (6) of section 215(f)'.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2007. Notwithstanding section 215(f) of the Social Security Act, the Commissioner of Social Security shall adjust primary insurance amounts to the extent necessary to take into account the amendments made by section 3.

END

S 206 IS

110th CONGRESS
1st Session
S. 206

To amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

IN THE SENATE OF THE UNITED STATES

January 9, 2007

Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. LAUTENBERG, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Social Security Fairness Act of 2007'.

SEC. 2. REPEAL OF GOVERNMENT PENSION OFFSET PROVISION.

(a) In General- Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by striking paragraph (5).

(b) Conforming Amendments-

(1) Section 202(b)(2) of the Social Security Act (42 U.S.C. 402(b)(2)) is amended by striking `subsections (k)(5) and (q)' and inserting `subsection (q)'.

(2) Section 202(c)(2) of such Act (42 U.S.C. 402(c)(2)) is amended by striking `subsections (k)(5) and (q)' and inserting `subsection (q)'.

(3) Section 202(e)(2)(A) of such Act (42 U.S.C. 402(e)(2)(A)) is amended by striking `subsections (k)(5), subsection (q),' and inserting `subsection (q)'.

(4) Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking `subsections (k)(5), subsection (q)' and inserting `subsection (q)'.

SEC. 3. REPEAL OF WINDFALL ELIMINATION PROVISIONS.

(a) In General- Section 215 of the Social Security Act (42 U.S.C. 415) is amended--

(1) in subsection (a), by striking paragraph (7);

(2) in subsection (d), by striking paragraph (3); and

(3) in subsection (f), by striking paragraph (9).

(b) Conforming Amendments- Subsections (e)(2) and (f)(2) of section 202 of such Act (42 U.S.C. 402) are each amended by striking `section 215(f)(5), 215(f)(6), or 215(f)(9)(B)' in subparagraphs (C) and (D)(i) and inserting `paragraph (5) or (6) of section 215(f)'.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2007. Notwithstanding section 215(f) of the Social Security Act, the Commissioner of Social Security shall adjust primary insurance amounts to the extent necessary to take into account the amendments made by section 3.

END

S 1254 IS

110th CONGRESS
1st Session
S. 1254

To amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

IN THE SENATE OF THE UNITED STATES

May 1, 2007

Ms. MIKULSKI (for herself, Mr. VOINOVICH, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Government Pension Offset Reform Act'.

SEC. 2. LIMITATION ON REDUCTIONS IN BENEFITS FOR SPOUSES AND SURVIVING SPOUSES RECEIVING GOVERNMENT PENSIONS.

(a) Insurance Benefits- Section 202(k)(5)(A) of the Social Security Act (42 U.S.C. 402(k)(5)(A)) is amended--

(1) by inserting `the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and' after `two thirds of'; and

(2) by inserting `exceeds the amount described in paragraph (6) for such month,' before `if'.

(b) Amount Described- Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

`(6) The amount described in this paragraph is, for months in each 12-month period beginning in December of 2007, and each succeeding calendar year, the greater of--

`(A) $1,200; or

`(B) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law).'.

(c) Limitations on Reductions in Benefits- Section 202(k) of the Social Security Act (42 U.S.C. 402(k)), as amended by subsection (b), is amended by adding at the end the following:

`(7) For any month after December 2007, in no event shall an individual receive a reduction in a benefit under paragraph (5)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such paragraph as in effect for benefits payable for December 2007.'.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2007.

END

HR 726 IH

110th CONGRESS
1st Session
H. R. 726

To amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds a minimum COLA-adjusted amount of $2,500 and to provide for a graduated implementation of such provision on amounts above such minimum amount.

IN THE HOUSE OF REPRESENTATIVES

January 30, 2007

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds a minimum COLA-adjusted amount of $2,500 and to provide for a graduated implementation of such provision on amounts above such minimum amount.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Windfall Elimination Provision Relief Act of 2007'.

SEC. 2. WINDFALL ELIMINATION PROVISION RESTRICTED TO TOTAL MONTHLY AMOUNTS IN EXCESS OF COLAADJUSTED AMOUNT OF $2,500.

Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended--

(1) in subparagraph (A), by inserting after `service'),' the following: `if the sum of the individual's primary insurance amount under paragraph (1) of this subsection and the portion of the monthly periodic payment which is attributable to non-covered service performed after 1956 (with such attribution being based on the proportionate number of years of such non-covered service) is greater than 1/12 of the amount established for purposes of subparagraph (B)(iii)(I) under subparagraph (B)(iv), then';

(2) in the second sentence of subparagraph (B)(i), by striking ` (with such attribution being based on the proportionate number of years of such non-covered service)' and inserting ` (as determined under subparagraph (A))';
(3) in the last sentence of subparagraph (B)(i), by striking `the larger of' and all that follows through `subsection (i))' and inserting the following: `the primary insurance amount determined under paragraph (1), reduced (before the application of subsection (i)) by the applicable percentage determined under clause (iii) of the excess of such amount over the larger of the two amounts computed under the preceding two sentences,'; and
(4) by adding at the end of subparagraph (B) the following new clauses:

`(iii) For purposes of clause (i), the applicable percentage in connection with any individual is the product (not greater than 100 percent) derived by multiplying 2.5 percentage points by the quotient determined under this clause. The quotient determined under this clause is the quotient derived by dividing--

`(I) the excess of the sum referred to in subparagraph (A) over 1/12 of the amount established for purposes of this sub clause under clause (iv), by

`(II) 1/480 of the excess of the dollar amount established for purposes of this sub clause under clause (iv) over the dollar amount established for purposes of sub clause (I) under clause (iv),

rounded to the next higher multiple of 1 where such amount is a multiple of 0.5 and to the nearest multiple of 1 in any other case.

`(iv) For individuals whose concurrent entitlement described in subparagraph (A) commences in calendar year 2007, the dollar amounts established for purposes of subclasses (I) and (II) of clause (iii) shall be $30,000 and $40,000, respectively. For individuals whose concurrent entitlement described in subparagraph (A) commences in any calendar year after 2007, each of the amounts so established shall equal the product derived by multiplying the corresponding amount established with respect to calendar year 2007 by the quotient obtained by dividing--

`(I) the national average wage index (as defined in section 209(k)(1)) for the first of the 2 calendar years preceding the calendar year for which the determination is made, by

`(II) the national average wage index (as so defined) for 2005.

Each amount established by this clause for any calendar year shall be rounded to the nearest multiple of $1, except that any amount so

established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher multiple of $1.'.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to benefits for months after the date of the enactment of this Act. Notwithstanding section 215(f)(1) of the Social Security Act, the Commissioner of Social Security shall recompute primary insurance amounts to the extent necessary to carry out the amendments made by section 2.

END

HR 2772 IH

110th CONGRESS
1st Session
H. R. 2772

To amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants.

IN THE HOUSE OF REPRESENTATIVES

June 19, 2007

Mr. BRADY of Texas (for himself, Mr. SAM JOHNSON of Texas, Mr. CULBERSON, Mr. PAUL, Mr. HALL of Texas, Ms. GRANGER, Mr. MCCAUL of Texas, Mr. MEEK of Florida, Mr. BURGESS, Mr. POE, Mr. EDWARDS, Mr. MARCHANT, Mr. MCGOVERN, Mr. DELAHUNT, and Mr. HINOJOSA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Public Servant Retirement Protection Act of 2007'.

SEC. 2. REPEAL OF CURRENT WINDFALL ELIMINATION PROVISION.

Paragraph (7) of section 215(a) of the Social Security Act (42 U.S.C. 415(a)(7)) is repealed.

SEC. 3. REPLACEMENT OF THE WINDFALL ELIMINATION PROVISION WITH A FORMULA EQUALIZING BENEFITS FOR CERTAIN INDIVIDUALS WITH NON-COVERED EMPLOYMENT.

(a) Substitution of Proportional Formula for Formula Based on Covered Portion of Periodic Benefit-

(1) IN GENERAL- Section 215(a) of the Social Security Act (as amended by section 2 of this Act) is amended further by inserting after paragraph (6) the following new paragraph:

`(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who--

(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

`(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (F), but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m)) which is based in whole or in part upon his or her earnings for service which did not constitute `employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d) (3) referred to as `non-covered service'), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under this paragraph.

`(B) The primary insurance amount of an individual described in subparagraph (A), as computed or recomputed under this paragraph, shall be--

` (i) in the case of an individual who first performs non-covered service after the 12th calendar month following the date of the enactment of the Public Servant Retirement Protection Act of 2007, the primary insurance amount determined under subparagraph (C), or

` (ii) in the case of an individual who has performed non-covered service during or before the 12th calendar month following the date of the enactment of the Public Servant Retirement Protection Act of 2007, the larger of--

`(I) the primary insurance amount determined under subparagraph (C), or

`(II) the primary insurance amount determined under subparagraph (E).

`(C) An individual's primary insurance amount determined under this subparagraph shall be the product derived by multiplying--

`(i) the individual's primary insurance amount, as determined under paragraph (1) of this subsection and subparagraph (D) of this paragraph, by

`(ii) a fraction--

`(I) the numerator of which is the individual's average indexed monthly earnings (determined without regard to subparagraph (D)), and

`(II) the denominator of which is an amount equal to the individual's average indexed monthly earnings (as determined under subparagraph (D)),

rounded, if not a multiple of $0.10, to the next lower multiple of $0.10.

`(D)(i) For purposes of determining an individual's primary insurance amount pursuant to clauses (i) and (ii)(II) of subparagraph (C), the individual's average indexed monthly earnings shall be determined, subject to clause (ii), by treating all recorded non-covered earnings (as defined in clause (iii) (I)) derived by the individual from non-covered service performed in each year after 1950 as `wages' (as defined in section 209 for purposes of this title), which shall be treated as included in the individual's adjusted total covered earnings (as defined in clause (iii)(II)) for such calendar year together with amounts consisting of `wages' (as so defined without regard to this subparagraph) paid during such calendar year and self-employment income (as defined in section 211(b)) for taxable years ending with or during such calendar year.

`(ii) In any case in which some or all of the earnings derived from non-covered service performed by an individual during any calendar year after 1950 are not recorded non-covered earnings (as defined in clause (iii)(I)), for purposes of determining the individual's average indexed monthly earnings as described in clause (i), the amount of the individual's adjusted total covered earnings (as defined in clause (iii)(II)) for such calendar year shall be deemed to be, in lieu of the amount determined without regard to this clause, an amount equal to the quotient derived by dividing--

`(I) the sum of all adjusted total covered earnings (determined without regard to this clause) of the individual for all calendar years after 1950, plus all recorded non-covered earnings which are paid to the individual during such calendar years (after adjustment under subsection (b)(3) as if such earnings were wages), by

`(II) the number of calendar years after 1950 for which there are, with respect to the individual, any earnings described in sub clause (I).

`(iii) For purposes of this subparagraph--

` (I) The term `recorded non-covered earnings' means earnings derived from non-covered service (other than non-covered service as a member of a uniformed service (as defined in section 210(m)) for which satisfactory evidence is determined by the Commissioner to be available in the records of the Commissioner.

`(II) The term `adjusted total covered earnings' means, in connection with an individual for any calendar year, the sum of the wages paid to the individual during such calendar year (as adjusted under subsection (b)(3)) plus the self-employment income derived by the individual during any taxable year ending with or during such calendar year (as adjusted under subsection (b)(3)).

`(iv) The Commissioner of Social Security shall provide by regulation for methods for determining whether satisfactory evidence is available in the records of the Commissioner for earnings for non-covered service (other than non-covered service as a member of a uniformed service (as defined in section 210(m)) to be treated as recorded non-covered earnings. Such methods shall provide for reliance on earnings information which is provided to the Commissioner by employers and which, as determined by the Commissioner, constitute a reasonable basis for treatment of earnings for non-covered service as recorded non-covered earnings. In making determinations under this clause, the Commissioner shall also take into account any documentary evidence of earnings derived from non-covered service by an individual which is provided by the individual to the Commissioner and which the Commissioner considers appropriate as a reasonable basis for treatment of such earnings as recorded non-covered earnings, except that such evidence provided by the individual shall be taken into account only to the extent that such evidence does not relate to earnings for service with respect to which information regarding earnings has already been obtained by the Commissioner from the employer and only to the extent that such evidence does not result in a reduction in the individual's primary insurance amount as calculated under subparagraph (C).

`(E)(i) For purposes of determining the primary insurance amount under this subparagraph pursuant to subparagraph (B)(ii)(II)--

`(I) there shall first be computed an amount equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii), and

`(II) there shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to non-covered service performed after 1956 (with such attribution being based

on the proportionate number of years of such non-covered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits.

An individual's primary insurance amount determined under this subparagraph shall be the larger of the two amounts computed under this clause (before the application of subsection (i)).

`(ii) For purposes of clause (i), the percent specified in this clause is--

`(I) 80.0 percent with respect to individuals who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62) in 1986;

`(II) 70.0 percent with respect to individuals who so become eligible in 1987;

`(III) 60.0 percent with respect to individuals who so become eligible in 1988;

`(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

`(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

`(F)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Commissioner of Social Security), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

`(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivor's benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(3) by the amount of such reduction.

`(iii) For purposes of this paragraph, the term `periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

`(G)(i) In any case in which the primary insurance amount would otherwise be calculated under subparagraph (E)--

`(I) this paragraph shall not apply in the case of an individual who has 30 years or more of coverage; and

`(II) in the case of an individual who has more than 20 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (E)(ii) shall (if such percent is smaller than the applicable

percent specified in the following table) be deemed to be the applicable percent specified in the following table:

`If the number of the individual's years of coverage (as so defined) is:	**The applicable percent is:**
29	
--85	
28	
--80	
27	
--75	
26	
--70	
25	
--65	
24	
--60	
23	
--55	
22	
--50	
21	
--45.	

`(ii) For purposes of clause (i), the term `year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to `15 percent' therein shall be deemed to be a reference to `25 percent'.

`(H) An individual's primary insurance amount determined under this paragraph shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

`(I) This paragraph shall not apply in the case of an individual whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual who on January 1, 1984--

`(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983; or

`(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.'.

(2) CONFORMING AMENDMENTS-

(A) Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended--

(i) by striking `subsection (a)(7)(C)' each place it appears and inserting `subsection (a)(7)(F)';

(ii) by striking `subparagraph (E)' and inserting `subparagraph (I)'; and

(iii) by striking `subparagraph (D)' and inserting `subparagraph (G)(i)'.

(B) Section 215(f)(9)(A) of such Act (42 U.S.C. 415(f)(9)(A)) is amended by striking `(a)(7)(C)' and inserting `(a)(7)(F)'.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to monthly insurance benefits for months commencing with or after the 12th calendar month following the date of the enactment of this Act. Notwithstanding section 215(f) of the Social Security Act, the Commissioner of Social Security shall recompute primary insurance amounts to the extent necessary to carry out the amendments made by this Act.

END

57th Annual Conference
July 22-25, 2007
Anaheim, California

Membership Committee Report

July 25, 2007

Members of this Committee: James Driver (Chairperson), Ardary Taylor, Laquitta Heard, Karen Park, Linda Yelverton.

The committee recognizes the great work that the Regional Vice-Presidents did throughout the year in contacting all the states, but most especially the outreach to the inactive states saw an increase in attendance at the Anaheim Conference.

Respectively Submitted,

James Driver, State Social Security Program Manager
Division of Local Government Services
Social Security Coverage & Reporting Branch
200 Fair Oaks, 1st Floor - Station 11
PO Box 639
Frankfort KY 40602-0639

57th Annual Conference
July 22-25, 2007
Anaheim, California

Report of the Nominating Committee
2006 – 2007 Conference Year
July 25, 2007

The purpose of the NCSSSA Nominating Committee is to assess NCSSSA member's qualifications to hold elected office. Recommend a slate of nominees by placing their names before the membership at the Annual Conference. After discussing potential candidates for the upcoming vacancies, the Conference is pleased to recommend the following slate of candidates for offices of the NCSSSA Conference for 2007-2008:

OFFICE	NAME	STATE
President	James Driver	Kentucky
First Vice-President	Carolyn Fry	Texas
Secretary	Linda Yelverton	Louisiana

As chairperson of the Nominating Committee, I want to personally thank the other members of the committee for the invaluable contributions to the assessment of member qualifications for elected office.

Respectfully submitted,

Harry Wales, (WY) Chairman
Maryann Motza, (CO)
Nick Merrill, (IL)
Laquita Heard, (OK)

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Program Committee

July 22, 2007

Members of this committee were: James Driver (Chairperson), Dawn Evans, Karen Park, Carolyn Fry, Linda Yelverton, and Laquitta Heard.

The committee worked hard throughout the year, but especially in the last 4 months prior to conference. A special "thank you" goes to Marie Ziegler of CalPers who helped the NCSSSA Conference by being a local contact for the Conference. Marie worked tirelessly in preparation and during the conference to make sure everything was at our finger tips.

Respectively submitted,

James Driver, State Social Security Program Manager
Division of Local Government Services
Social Security Coverage & Reporting Branch
200 Fair Oaks, 1st Floor - Station 11
PO Box 639
Frankfort KY 40602-0639
502-564-3952 ext. 2

57th Annual Conference
July 22-25, 2007
Anaheim, California

REPORT OF THE RESOLUTION COMMITTEE
2006-2007 CONFERENCE YEAR
JULY 25, 2007

The Resolution Committee, consisting of Chairperson, Laquitta Heard (Oklahoma), Harry Wales (Wyoming), and Barry Faison (Virginia) offer the following Resolutions at the 57th NCSSSA annual conference in Anaheim California.

In Appreciation or Best Wishes to:

2007-1	**Keynote Speaker**
2007-2	**Double Tree Guest Suites**
2007-3 thru 2007-4	**Administrative Support**
2007-5	**NCSSSA President**
2007-6 thru 2007-10	**Social Security Administration**
2007-11 thru 2007-14	**Internal Revenue Service**
2007-15 thru 2007-16	**Retirements**
2007-17	**Host State**

Copies of all Resolutions have been forwarded to the Conference Secretary.

Respectfully submitted,

Laquitta Heard (Oklahoma)
Chairperson, Resolution Committee

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Report of the Time and Place AD Hoc Committee
July 25, 2007

The time and Place Ad Hoc Committee of the NCSSSA for the 2007 Conference year was comprised of the following state representatives:

Michele Williams, Arkansas Chairperson
John Vincent, Wisconsin
Nick Merrill, Illinois
Vandee DeVore, Missouri
Connie Eggen, Kentucky

The Committee is responsible for the solicitation and screening of bids for future host sites for the Annual NCSSSA Conference. The Committee is also responsible for making recommendations for future sites based on an evaluation of the bids submitted.

In November 2006, invitations to bid for future host sites for the Annual NCSSSA Conference were sent to all State Administrators. Unfortunately, 0 bids were returned. However, we did receive some interest from the following:

2011 Wisconsin John Vincent
???? Michigan Fred Doll

The Committee also received an e-mail from Kevin Goode (West Virginia) regarding the site for the 2008 Conference. A conference call was held with the NCSSSA Executive Committee to discuss Mr. Goode's concerns. Upon motion and unanimous vote, the Executive Committee decided to preserve the July 26, 2006 decision of the Conference to substitute Kentucky for West Virginia for the 2008 site.

As of today, the future Conference sites include:

2008 Louisville, Kentucky Region II
2009 Chicago, Illinois Region III (Tentative)
2010 Baltimore, Maryland Region II (Tentative)

The Executive Committee as well as the Time and Place Ad Hoc Committee desire to plan several years into the future so that NCSSSA members can begin planning and the IRS and SSA can coordinate potential regional meetings in the same locations. Members with recommendations and/or offers for future sites are encouraged to contact either Committee.

There were no bids received. The Conference may want to give some consideration to "rotating" the conference sites between Regions.

As requested, the Committee also reviewed "The Time and Place" Ad Hoc Committee's portion of the Standard Operating Procedure (SOP) manual and forwarded the changes to Harry Wales (Wyoming).

Respectfully Submitted,

Michele Williams (Arkansas)
Time and Place Ad Hoc Committee Chairperson

Most Recent Conference Sites:

2000	**Baltimore, MD**	**Region II**
2001	**San Diego, CA**	**Region V**
2002	**Rapid City, SD**	**Region III**
2003	**Portland, OR**	**Region V**
2004	**Merrimac, NH**	**Region I**
2005	**Denver, CO**	**Region IV**
2006	**Williamsburg, VA**	**Region II**
2007	**Anaheim, CA**	**Region V**

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TREASURER'S REPORT
July 25, 2007

Financial Reports were prepared by Harry Wales and are attached to the Audit Committee Report.

Harry Wales, Wyoming
NCSSSA-Treasurer

2006-2007

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SECRETARY'S REPORT
July 25, 2007

In 2007 Louisiana approved a position for a Social Security Program Assistant. I interviewed a lot of applicants and selected Angie Dowdy. Her first day was January 11, 2007. Last month we went to the Dallas Regional Office for training from Susan Mariano. Susan will be retiring next month and I wanted to be sure Angie attended a SSA training session with Susan before she retires!

I compiled the 56th Annual NCSSSA Proceedings Book! I distributed copies to the attendees. On May 31, 2007 Angie and I mailed the books to the states that did not register prior to the conference.

I want tot express my special thanks to Karen Parks for her hard work. She has put in many hours of work and helped make the 57th Annual NCSSSA Conference a success. I also want to thank Teresa Commeau for maintaining the NCSSSA Website.

Thank you and I look forward to serving as your Secretary for two more years or until I retire.

Linda Yelveton, Louisiana
NCSSSA-Secretary

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Regional Vice President's Report-Region 1

Region 1 held its regional caucus on Sunday, July 22, 2007

States Represented

Of the 9 states in Region 1, there were a total of two (2) representatives from two (2) states in attendance. The members in attendance included: Deb Bourbeau, New Hampshire and Cynthia Webster, Vermont.

The following states were not able to attend this year's conference: Connecticut, Maine, Massachusetts, New Jersey, New York, Puerto Rico, Rhode Island and the Virgin Islands

Topics Discussed

We were joined by Teresa Commeau, (retired), from the State of New Hampshire. Discussion centered a round referendum's, 218 agreements and current information within our State Government.

Respectfully Submitted,

Deb Bourbeau
For Nick Favorito
Region 1 Vice President
2007-2008

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Regional Vice President's Report – Region II

Region II held its regional caucus on Sunday, July 22, 2007

States Represented
Of the 13 states in Region II, there were a total of 8 representatives from 8 states in attendance. The members in attendance included:

Alabama – Kathleen D. Baxter
Georgia – Michael Nehf and Megan Schaum
Kentucky – James Driver and Tammy Taylor
Mississippi – Shirley Sessoms and Barbara Taylor
Pennsylvania – Arthur Doherty
South Carolina – Alice Copeland
Virginia – Barry Faison
West Virginia – Kevin Goode

The following states were not able to attend this year's conference:

Delaware
Florida
Maryland
North Carolina
Tennessee

Topics Discussed
We discussed the importance of getting the state's that were absent to attend next year's conference. There is concern that some states are not handling the 218 agreement correctly. James graciously offered to help any state that needs help. I also hope to do a better job of communicating with the states especially after we have had a conference call. Great group of people.

Respectfully Submitted,

Kathleen D. Baxter
Region II Vice President
2007-2008

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Regional Vice President's Report – Region III

Region III held its regional caucus on Sunday, July 22, 1007

States Represented

Of the ten (10) states in Region III, there were a total of six (6) representatives from six (6) states in attendance. The members in attendance included:

Illinois	**Nick Merrill**
Iowa	**Danielle Huffine**
	Kurt Hiatt
Minnesota	**Cheryl Keating**
Missouri	**Vandee Devore**
Ohio	**David Breckenridge**
Wisconsin	**Michelle Baxter**
	John Vincent

The following states were not able to attend this year's conference:

Indiana
Kansas
Michigan
Nebraska

Topics Discussed

General discussion took place, with charter schools being one item that were conferred on by a number of states during 2006-2007. John Vincent of Wisconsin was re-elected as the Region III Vice President for the 2007-2008 year.

Respectfully Submitted,

John J. Vincent
Region III Vice President
2007-2008

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Officers' Report for Region IV
By Maryann Motza, PhD, Regional Vice-President
Wednesday, July 25, 2007

The Region IV attendees at the 2007 Annual Conference in Anaheim, California, are listed below. Several states had two or more representatives attending the conference during 2007. Only two states out of the region were unable to attend the conference this year, the first time in many years that Region IV has been so well represented:

- **Arkansas**
- **Colorado**
- **Louisiana**
- **Montana**
- **New Mexico**
- **North Dakota (no representative was able to attend).**
- **Oklahoma**
- **South Dakota**
- **Texas**
- **Utah (no representative was able to attend).**
- **Wyoming**

Region IV elected Lee DeJabet as the new Regional Vice-President.

Respectfully submitted,

Maryann Motza, PhD

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Regional Vice President's Report – Region V

Region V held its regional caucus on Sunday, July 22, 2007

States Represented

Of the 8 states in Region V, there were a total of 11 representatives from 3 states in attendance. The members in attendance included:

Cynthia Alameda, Kelli Aoki, Yolanda Clive, Karen Defrank, Dawn Evans, Jeralyn Flores, Eva Hwang, Marion Montez, Barbara Patterson and Marie Ziegler from California and Michele Briggs, Arizona and Karen Park, Oregon.

The following states were not able to attend this year's conference:

Alaska, Hawaii, Idaho, Nevada, Washington

Topics Discussed

Region V was represented by three states this year. As Regional Vice President for 2006-2007 I reported at our meeting on Wednesday, July 25, 2007 that Alaska will be returning to active NCSSSA participation this coming year. Washington State is in a period of transition and is having difficulty getting support to participate. As Regional VP I will be working with the Government Affairs committee and if necessary the IRS and SSA to promote Washington to participate in the conference. I will also be working with Idaho, Nevada and Hawaii.

Respectfully Submitted,

Karen Park
Region V Vice President
2006-2007

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PAST PRESIDENTS

1952-53 William Farris, Tennessee
1953-54 Charles H. Smith. Virginia
1954-55 Donald M. O'Hara, Michigan
1955-56 Bruce Parkinson, Arizona
1956-57 Tatum W. Gressette, South Carolina
1957-58 Steven E. Schanes, New Jersey
1958-59 James B. Atlee, Texas
1959-60 Edward W. Bush, Illinois

1960-61 W. Frank DeLamar, Georgia
1961-62 Frederick N. MacMillin, Wisconsin
1962-63 John F. Sasek, Montana
1963-64 B. E. "Bus" Friday, Arkansas
1964-65 William J. Cudding, Pennsylvania
1965-66 Carl J. Blechinger, California
1966-67 Lawrence L. Farrell, Michigan
1967-68 Murray L. Biegalle, Kentucky
1968-69 Robert A. Healy, Delaware
1969-70 Arnold W. Jaeger, North Dakota

1970-71 Sidney M. VanDeventer, Oklahoma
1971-72 Abe Domain, Georgia
1972-73 Fred E. Henne, Arkansas
1973-74 Alta E. Moore, Wisconsin
1974-75 Edward A. Baublits, Colorado
1975-76 William J. Joseph, New Jersey
1976-77 Harold G. Purser, Oklahoma
1977-78 Gerald P. Slaybaugh, Kansas
1978-79 Edwin C. Gallison, Vermont
1979-80 Purvis W. Collins, South Carolina
1980-81 Starlene Mitchell, South Dakota
1981-82 David I. Herbert, Pennsylvania
1982-83 Carlos A. Gallegos, New Mexico
1983-84 Jim Larche, Georgia
1984-85 Daniel J. McAuley, New York
1985-86 Gary R. King, Maine
1986-87 Dennis B. Snodgrass, Missouri
1987-88 Michael K. Blankenship, Illinois
1988-89 Patrick L. Doyle, Kentucky
1989-90 Bobby J. Malley, Mississippi

1990-91 James A. Correll, North Carolina
1991-92 Nicholas C. Merrill, Jr., Illinois
1992-93 Nicholas C. Merrill, Jr., Illinois
1993-94 Daryl Dunagan, Kentucky
1994-95 Steve Lortz, Nebraska
1995-96 Dawn Evans, California
1996-97 Johnnie Morales Sr., Texas
1997-98 Russell Graves, Oklahoma
1998-99 Charles R. Severn, Idaho
1999-00 Donald C. Rohan, Arizona

2000-01 Doug Peterson, South Dakota
2001-02 Maryann Motza, Colorado
2002-03 Steve Delaney, Oregon
2003-04 Teresa Commeau, New Hampshire
2004-05 Barry Faison, Virginia
2005-06 Dean Conder, Colorado
2006-07 Dean Conder, Colorado
2007-08 James Driver, Kentucky

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PREVIOUS 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

ROSTER
NATIONAL CONFERENCE OF STATE SOCIAL SECURITY ADMINISTRATORS

Choose the link to the page that contains the state or territory you are looking for.

A-F

G-L

M-S

T-Z

NCSSSA

National Conference of
State Social Security Administrators

June 6, 2007

Ms. Sunita Lough, Esq.
Director of Federal, State & Local Governments
Internal Revenue Service
TEGF: FSLG
1111 Constitution Avenue NW
Washington DC 20224

Dear Ms. Lough:

The National Conference of State Social Security Administrators (NCSSSA) has recently reviewed the Internal Revenue Service publication, *Public Employer Tax Guide*, and wanted to provide you with some feedback. First, thank you for encouraging public employers through this publication to contact their State Social Security Administrator. Such inclusions greatly aid our mission of outreach to our local government employers. Next, we have concerns that some of the wording of this publication may, from our perspective, cause confusion among employers of state and local governments.

One concern is the verbiage used on page 11 of the *Public Employers Tax Guide* for the entry for 7/2/91 in the Section 218 History explaining Mandatory Social Security. We are apprehensive in that this language may be misinterpreted and cause an employer, who has covered positions under Section 218 of the Social Security Act; to infer that if an employer covers such positions with a qualifying retirement system, that it is legal to stop withholding Social Security taxes for those positions.

We would like to request that the verbiage he revised as follows:

07/02/91: Mandatory Social Security. If an employer has positions not covered under a Section 218 Agreement these positions will be covered by Mandatory Social Security, OHRA 1990. For positions covered under a Section 2] 8 Agreement, Social Security withholding will continue regardless of whether these positions are covered by a qualifying retirement plan.

Lastly, the pension coverage section starting on page 2 might be a little confusing to the uninitiated. It seems to mix two different concepts of qualified plans qualified for tax-deferral and qualified to replace FICA. Our suggestions would he to have separate sections that make it clear that qualifying for tax-deferrals is different than a plan meeting the minimum standards to replace FICA.

Your consideration of these recommendations is greatly appreciated. If you would like to discuss further, please do not hesitate to contact me at (303) 318-8060 or Carolyn J. Fry, NCSSSA, Chair, Government Affairs Committee, at (512) 867-7379.

Respectfully,
Dean J. Conder, President
National Conference of State Social Security Administrators

Enclosure: Public Employers Outreach Guide

cc: File
Carolyn J, fry