

only in the case of applications for benefits under section 202 of the Social Security Act [42 U.S.C. 402] filed after August 1952.”

EFFECTIVE DATE

Act Aug. 28, 1950, ch. 809, title I, §105, 64 Stat. 512, provided that this section is effective Sept. 1, 1950.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT OF CERTAIN INDIVIDUALS

Pub. L. 85-840, title III, §314(c)(2), Aug. 28, 1958, 72 Stat. 1037, provided that: “In the case of any individual—

“(A) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [42 U.S.C. 417(d)(2)]) wholly or partly by reason of service described in section 217(h)(1)(A) of such Act; and

“(B) who (i) became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [42 U.S.C. 402(a)] or to disability insurance benefits under section 223 of such Act [42 U.S.C. 423] prior to the first day of the month following the month in which this Act is enacted [August 1958], or (i) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted, on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act; and

“(C) any part of whose service described in section 217(h)(1)(A) of the Social Security Act was not included in the computation of his primary insurance amount under section 215 of such Act [42 U.S.C. 415] but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation,

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act, recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted [Aug. 1958], by him or (if he has died without filing such an application) by any person entitled to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [42 U.S.C. 401 et seq.] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the

application is filed, but in no case for the month in which this Act is enacted or any prior month.”

RECOMPUTATION OF SOCIAL SECURITY BENEFITS OF WIDOWS AND CHILDREN WHO WAIVE RIGHT TO ANNUITY UNDER CIVIL SERVICE RETIREMENT ACT

Act Aug. 1, 1956, ch. 837, title IV, §404(c), 70 Stat. 874, provided that: “In the case of any deceased individual—

“(1) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [42 U.S.C. 417(d)(2)]) or a veteran (as defined in section 217(e)(4) of such Act); and

“(2) whose widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended [see section 8301 et seq. of Title 5, Government Organization and Employees], to an annuity in the computation of which his active military or naval service after September 15, 1940, and before January 1, 1957, was included; and

“(3) whose widow or child is entitled under section 202 of the Social Security Act [42 U.S.C. 402], on the basis of his wages and self-employment income, to a monthly benefit in the computation of which such active military or naval service was excluded (under clause (B) of subsection (a)(1) or (e)(1) of section 217 of such Act) solely by reason of the annuity described in the preceding paragraph; and

“(4) whose widow or child is entitled by reason of section 217(f) of the Social Security Act to have such active military or naval service included in the computation of such monthly benefit,

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [42 U.S.C. 415(f)(1)], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by or on behalf of such widow or child. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [42 U.S.C. 401 et seq.] as in effect at the time of such individual's death, and as though application therefor was filed in the month in which he died. No recomputation made under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for any month before the first month with respect to which such widow or child is entitled by reason of section 217(f) of the Social Security Act to have such active military or naval service included in the computation of such monthly benefits. The terms used in this subsection shall have the same meaning as when used in title II of the Social Security Act.”

§ 418. Voluntary agreements for coverage of State and local employees

(a) Purpose of agreement

(1) The Commissioner of Social Security shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 410(a) of this title, for the purposes of this subchapter the term “employment” includes any service included under an agreement entered into under this section.

(b) Definitions

For the purposes of this section—

(1) The term “State” does not include the District of Columbia, Guam, or American Samoa.

(2) The term “political subdivision” includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term “employee” includes an officer of a State or political subdivision.

(4) The term “retirement system” means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term “coverage group” means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this chapter, be employees of the State or the Commonwealth of Puerto Rico and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 1624 of title 7 or section 499n of title 7, between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(c) Services covered

(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(B) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d)(3) of this section.

(4) The Commissioner of Social Security shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3)(B) of this subsection is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d)(3) of this section.

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 410(a) of this title other than paragraph (7) of such section and service the remuneration for which is excluded from wages by subparagraph (B) of section 409(a)(7) of this title.

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 410(k) of this title),

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 410(a) of this title other than paragraph (7) of such section,

(E) service performed by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency, and

(F) service described in section 410(a)(7)(F) of this title which is included as “employment” under section 410(a) of this title.

(7) No agreement may be made applicable (either in the original agreement or by any modi-

fication thereof) to service performed by any individual to whom paragraph (3)(B) of this subsection is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d)(3) of this section), whichever may be desired by the State.

(8)(A) Notwithstanding any other provision of this section, the agreement with any State entered into under this section may at the option of the State be modified at any time to exclude service performed by election officials or election workers if the remuneration paid in a calendar year for such service is less than \$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year. Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Commissioner of Social Security.

(B) For each year after 1999, the Commissioner of Social Security shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 415(a)(1)(B)(ii) of this title with respect to the amounts referred to in section 415(a)(1)(B)(i) of this title, except that—

(i) for purposes of this subparagraph, 1997 shall be substituted for the calendar year referred to in section 415(a)(1)(B)(ii)(II) of this title, and

(ii) such amount as so adjusted, if not a multiple of \$100, shall be rounded to the next higher multiple of \$100 where such amount is a multiple of \$50 and to the nearest multiple of \$100 in any other case.

The Commissioner of Social Security shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.

(d) Positions covered by retirement systems

(1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on September 1, 1954 (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, no longer covered by a retirement system on the date referred to in clause (A), and except in the

case of positions excluded by paragraph (5)(A) of this subsection). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5)(A) of this subsection) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1) of this subsection, an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) of this subsection but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Commissioner of Social Security that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this sub-

chapter to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this subchapter has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c)(3)(B) of this section).

(5)(A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this subchapter to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c) of this section, and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3)(B) of such subsection, such exclusion may not include any services to which such paragraph (3)(B) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6)(A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the

State may, for purposes of subsection (e) of this section only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after August 1, 1956, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become

members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

(D)(i) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this chapter.

(ii) Notwithstanding clause (i), the State may, pursuant to subsection (c)(4)(B) of this section and subject to the conditions of continuation or termination of coverage provided for in subsection (c)(7) of this section, modify its agreement under this section to include services performed by all individuals described in clause (i) other than those individuals to whose services the agreement already applies. Such individuals shall be deemed (on and after the effective date of the modification) to be in positions covered by the separate retirement system consisting of the positions of members of the division or part who desire coverage under the insurance system established under this subchapter.

(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8) of this subsection), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Commissioner of Social Security prior to 1970 or, if later, the expiration of two years after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer. Notwithstanding subsection (e)(1) of this section, any such modification or later

modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part from grants made to such State under subchapter III of this chapter, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

(i) the positions of such employees;

(ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or

(iii) employees of such State covered by such retirement system who are employed in such department of such State in positions others than those referred to in clause (i).

(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) of this subsection shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Commissioner of Social Security that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) of this subsection shall not be considered a member of the retirement system.

(8)(A) Notwithstanding paragraph (1) of this subsection, if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

(D) Except in the case of State agreements modified as provided in subsection (I) of this section and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.

(e) Effective date of agreement; retroactive coverage

(1) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is mailed or delivered by other means to the Commissioner of Social Security.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Commissioner of Social Security.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of services performed by individuals as members of any coverage group to which an agreement under this section is made applicable, and with respect to which there were timely paid in good faith to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 had such services constituted employment for purposes of chapter 21 of such Code at the time they were performed, and with respect to which refunds were not obtained, such individuals may, if so requested by the State, be deemed to be members of such coverage group on the date designated pursuant to paragraph (2).

(f) Duration of agreement

No agreement under this section may be terminated, either in its entirety or with respect to any coverage group, on or after April 20, 1983.

(g) Instrumentalities of two or more States

(1) The Commissioner of Social Security may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after August 30, 1957) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d)(6)(C) of this section apply. The position of any employee of any such instrumentality which is covered by any retirement system to which the first sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on August 30, 1957, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this subchapter. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to cov-

erage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d)(6) of this section or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this chapter may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d)(3) of this section. For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(h) Delegation of functions

The Commissioner of Social Security is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of the Commissioner's functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

(i) Wisconsin Retirement Fund

(1) Notwithstanding paragraph (1) of subsection (d) of this section, the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund or any successor system.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

(j) Certain positions no longer covered by retirement systems

Notwithstanding subsection (d) of this section, an agreement with any State entered into under

this section prior to September 1, 1954 may, prior to January 1, 1958, be modified pursuant to subsection (c)(4) of this section so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on September 1, 1954), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

(k) Certain employees of State of Utah

Notwithstanding the provisions of subsection (d) of this section, the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c)(4) of this section so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950. Coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.

(l) Policemen and firemen in certain States

Any agreement with a State entered into pursuant to this section may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, be modified pursuant to subsection (c)(4) of this section to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d)(3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(m) Positions compensated solely on a fee basis

(1) Notwithstanding any other provision in this section, an agreement entered into under this section may be made applicable to service performed after 1967 in any class or classes of positions compensated solely on a fee basis to which such agreement did not apply prior to 1968 only if the State specifically requests that its

agreement be made applicable to such service in such class or classes of positions.

(2) Notwithstanding any other provision in this section, an agreement entered into under this section may be modified, at the option of the State, at any time after 1967, so as to exclude services performed in any class or classes of positions compensation for which is solely on a fee basis.

(3) Any modification made under this subsection shall be effective with respect to services performed after the last day of the calendar year in which the modification is mailed or delivered by other means to the Commissioner of Social Security.

(4) If any class or classes of positions have been excluded from coverage under the State agreement by a modification agreed to under this subsection, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such class or classes of positions.

(n) Optional medicare coverage of current employees

(1) The Commissioner of Social Security shall, at the request of any State, enter into or modify an agreement with such State under this section for the purpose of extending the provisions of subchapter XVIII of this chapter, and sections 426 and 426-1 of this title, to services performed by employees of such State or any political subdivision thereof who are described in paragraph (2).

(2) This subsection shall apply only with respect to employees—

(A) whose services are not treated as employment as that term applies under section 410(p) of this title by reason of paragraph (3) of such section; and

(B) who are not otherwise covered under the State's agreement under this section.

(3) For purposes of sections 426 and 426-1 of this title, services covered under an agreement pursuant to this subsection shall be treated as "medicare qualified government employment".

(4) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under the agreement pursuant to this subsection.

(Aug. 14, 1935, ch. 531, title II, § 218, as added Aug. 28, 1950, ch. 809, title I, § 106, 64 Stat. 514; amended June 28, 1952, ch. 483, 66 Stat. 285; Aug. 15, 1953, ch. 504, § 1, 67 Stat. 587; Sept. 1, 1954, ch. 1206, title I, § 101(a)(5), (6), (h)(1)-(8), (i)(1), (2), (j), 68 Stat. 1055-1059; Aug. 1, 1956, ch. 836, title I, §§ 103(f), (g), 104(e), (g), 70 Stat. 823, 825, 826; Pub. L. 85-226, Aug. 30, 1957, 71 Stat. 511; Pub. L. 85-227, § 1, Aug. 30, 1957, 71 Stat. 512; Pub. L. 85-229, Aug. 30, 1957, 71 Stat. 513; Pub. L. 85-787, §§ 1, 2, Aug. 27, 1958, 72 Stat. 939; Pub. L. 85-798, §§ 2, 3, Aug. 28, 1958, 72 Stat. 964, 965; Pub. L. 85-840, title III, § 315(a)-(c)(1), Aug. 28, 1958, 72 Stat. 1038-1040; Pub. L. 86-284, § 2, Sept. 16, 1959, 73 Stat. 566; Pub. L. 86-624, § 30(e), (f), July 12, 1960, 74 Stat. 420; Pub. L. 86-778, title I, §§ 102(a), (b)(1), (c)(1), (2), (d), (e), (f)(1), (g), (l), 103(i), (j)(2)(G), Sept. 13, 1960, 74 Stat. 928-930, 934, 936-938; Pub. L. 87-64, title I, §§ 106, 107, June 30,

1961, 75 Stat. 139, 140; Pub. L. 87-878, § 2, Oct. 24, 1962, 76 Stat. 1202; Pub. L. 88-350, § 2, July 2, 1964, 78 Stat. 240; Pub. L. 88-382, July 23, 1964, 78 Stat. 335; Pub. L. 89-97, title I, § 108(b), title III, §§ 314, 315, July 30, 1965, 79 Stat. 338, 385; Pub. L. 90-248, title I, §§ 116(a)-(b)(2), (c), (d), 117, 119(a), 120(a), 121, 122(d), Jan. 2, 1968, 81 Stat. 840-844; Pub. L. 90-486, § 7, Aug. 13, 1968, 82 Stat. 759; Pub. L. 92-603, title I, § 126, Oct. 30, 1972, 86 Stat. 1358; Priv. L. 93-107, § 2, Dec. 31, 1974, 88 Stat. 2386; Pub. L. 95-216, title III, §§ 319-321, 353(b), Dec. 20, 1977, 91 Stat. 1541, 1553; Pub. L. 96-265, title V, § 503(a), June 9, 1980, 94 Stat. 470; Pub. L. 98-21, title I, § 103(a), title III, §§ 325(a), 342(a), Apr. 20, 1983, 97 Stat. 71, 126, 136; Pub. L. 98-369, div. B, title VI, § 2663(a)(13), (j)(2)(A)(ii), (3)(A)(iii), July 18, 1984, 98 Stat. 1164, 1170; Pub. L. 99-272, title XII, § 12110(a), (b), title XIII, § 13205(c), Apr. 7, 1986, 100 Stat. 287, 317; Pub. L. 99-509, title IX, § 9002(c)(1), (2)(C)-(E), Oct. 21, 1986, 100 Stat. 1971, 1972; Pub. L. 99-514, title XVIII, § 1883(a)(8), Oct. 22, 1986, 100 Stat. 2916; Pub. L. 100-203, title IV, § 4009(j)(7), title IX, § 9023(c), Dec. 22, 1987, 101 Stat. 1330-59, 1330-296; Pub. L. 101-239, title X, § 10208(d)(2)(A)(v), Dec. 19, 1989, 103 Stat. 2481; Pub. L. 101-508, title XI, § 11332(c), Nov. 5, 1990, 104 Stat. 1388-470; Pub. L. 103-296, title I, § 107(a)(4), title III, §§ 303(c), (d), 305(a), (b), 321(a)(18), (c)(6)(I), Aug. 15, 1994, 108 Stat. 1478, 1519, 1521, 1537, 1538; Pub. L. 108-203, title IV, § 416(a), Mar. 2, 2004, 118 Stat. 530.)

REFERENCES IN TEXT

Section 6 of the National Guard Technicians Act of 1968, referred to in subsec. (b)(5), is section 6 of Pub. L. 90-486, which is set out as a note under section 709 of Title 32, National Guard.

The Internal Revenue Code of 1986, referred to in subsec. (e)(3), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2004—Subsec. (d)(6)(C). Pub. L. 108-203 inserted "Kentucky, Louisiana," after "Illinois."

1994—Subsecs. (a)(1), (c)(4). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(6)(F). Pub. L. 103-296, § 321(a)(18), realigned margin.

Subsec. (c)(8). Pub. L. 103-296, § 303(c), (d), substituted "at any time" for "on or after January 1, 1968," substituted "\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year" for "\$100", substituted "Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary." for "Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed after an effective date, specified in such modification, which shall not be earlier than the last day of the calendar quarter in which the modification is mailed or delivered by other means to the Secretary.", inserted subpar. (A) designation, and added subpar. (B).

Pub. L. 103-296, § 107(a)(4), in par. (8) as amended by Pub. L. 103-296, § 303(c), (d), substituted "Commissioner of Social Security" for "Secretary" in last sentence of subpar. (A) and in introductory and closing provisions of subpar. (B).

Subsec. (d)(3), (6)(F), (7). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (d)(8)(D). Pub. L. 103-296, §305(b), substituted "State agreements modified as provided in" for "agreements with the States named in".

Subsec. (e)(1), (2). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (e)(3). Pub. L. 103-296, §321(c)(6)(I), substituted "1986" for "1954" after "Code of".

Subsecs. (g)(1), (h). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in subsecs. (g)(1) and (h) and "the Commissioner's" for "his" in subsec. (h).

Subsec. (l). Pub. L. 103-296, §305(a), struck out par. (1) designation before "Any agreement with", substituted "a State entered into pursuant to this section" for "the State of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Mississippi, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956," and struck out par. (2) which read as follows: "A State, not otherwise listed by name in paragraph (1), shall be deemed to be a State listed in such paragraph for the purpose of extending coverage under this subchapter to service in firemen's positions covered by a retirement system, if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary that the overall benefit protection of the employees in such positions would be improved by reason of the extension of such coverage to such employees. Notwithstanding the provisions of the second sentence of such paragraph (1), such firemen's positions shall be deemed a separate retirement system and no other positions shall be included in such system."

Subsecs. (m)(3), (4), (n)(1). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

1990—Subsec. (c)(6)(F). Pub. L. 101-508 added subpar. (F).

1989—Subsec. (c)(5). Pub. L. 101-239 substituted "subparagraph (B) of section 409(a)(7)" for "paragraph (2) of section 409(h)".

1987—Subsec. (n). Pub. L. 100-203, §9023(c), redesignated subsec. (v) as (n), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which had previously been struck out of subsec. (v) by section 4009(j)(7) of Pub. L. 100-203 prior to its redesignation as subsec. (n) by Pub. L. 100-203, §9023(c)(1). See below.

Subsec. (v). Pub. L. 100-203, §9023(c)(1), redesignated subsec. (v) as (n).

Subsec. (v)(3). Pub. L. 100-203, §4009(j)(7), struck out par. (3) which read as follows: "Payments by the State required under subsection (e) of this section with respect to employees covered under this subsection shall be limited to amounts equivalent to the sum of the taxes which would be imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such services for which wages were paid to such employees constituted 'employment' as defined in section 3121 of such Code."

1986—Subsec. (d)(6). Pub. L. 99-509, §9002(c)(2)(C), substituted "subsection (e)" for "subsection (f)" in subpar. (A), and "subsection (e)(1)" for "subsection (f)(1)" in subpar. (F).

Subsec. (d)(8)(D). Pub. L. 99-509, §9002(c)(2)(D), substituted "subsection (l)" for "subsection (p)".

Subsec. (e). Pub. L. 99-509, §9002(c)(1), (2)(E), redesignated subsec. (f) as (e), substituted "Any agreement" for "Except as provided in subsection (e)(2) of this section, any agreement", and struck out former subsec. (e) which required that agreements under this section include certain provisions relating to payments and reports by States and allowed inclusion of certain provisions relating to employees employed by two or more political subdivisions of a State.

Subsec. (f). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 99-272, §12110(a), substituted "is mailed or delivered by other means to the Secretary" for "is agreed to by the Secretary and the State".

Subsec. (g). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (k) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (l) as (h) and struck out former subsec. (h) which required that amounts received by the Secretary of the Treasury under an agreement made under this section be deposited in the Trust Funds and the Federal Hospital Insurance Trust Fund in certain ratio and provided for adjustment of amount due if more or less than correct amount due is paid.

Subsec. (i). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (m) as (i) and struck out former subsec. (i), relating to regulations of the Secretary.

Subsec. (j). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (n) as (j) and struck out former subsec. (j) which read as follows: "In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this chapter. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this chapter. Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h)(1) of this section."

Subsec. (k). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (o) as (k). Former subsec. (k) redesignated (g).

Subsec. (l). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (p) as (l). Former subsec. (l) redesignated (h).

Subsec. (m). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (u) as (m). Former subsec. (m) redesignated (i).

Pub. L. 99-514 substituted "Retirement Fund" for "retirement fund" in heading.

Subsec. (n) to (p). Pub. L. 99-509, §9002(c)(1), redesignated subsecs. (n) to (p) as (j) to (l), respectively.

Subsec. (q). Pub. L. 99-509, §9002(c)(1), struck out subsec. (q) which provided time limitations on liability of States for amounts due under agreements under this section.

Subsec. (r). Pub. L. 99-509, §9002(c)(1), struck out subsec. (r) which provided time limitations on credits and refunds of overpayments by States under agreements under this section.

Subsec. (s). Pub. L. 99-509, §9002(c)(1), struck out subsec. (s) which related to review by Secretary.

Subsec. (t). Pub. L. 99-509, §9002(c)(1), struck out subsec. (t) which provided for judicial review of decisions by Secretary of Health and Human Services under former subsec. (s) of this section.

Subsec. (u). Pub. L. 99-509, §9002(c)(1), redesignated subsec. (u) as (m).

Subsec. (u)(3). Pub. L. 99-272, §12110(b), substituted "is mailed or delivered by other means to the Secretary" for "is agreed to by the Secretary and the State".

Subsec. (v). Pub. L. 99-272, §13205(c), added subsec. (v).

Subsec. (w). Pub. L. 99-509, §9002(c)(1), struck out subsec. (w) which read as follows: "Notwithstanding sections 3125(a), 6205(a)(5), 6413(a)(5), and 6413(c)(2)(G) of the Internal Revenue Code of 1954, any State shall make payments of the taxes imposed with respect to services of employees of such State and of a political subdivision thereof under sections 3101(b) and 3111(b) of such Code, and reports of such services, under the same procedures as apply to payments and reports under subsection (e) of this section, but only if any employees of such State or of such political subdivision thereof respectively are covered under an agreement pursuant to this section."

Pub. L. 99-272, §13205(c), added subsec. (w).

1984—Subsecs. (a)(1), (c)(4), (d)(3), (7), (h)(2), (3). Pub. L. 98-369, §2663(j)(3)(A)(iii), struck out “of Health, Education, and Welfare” after “Secretary” wherever appearing.

Subsec. (i). Pub. L. 98-369, §2663(j)(3)(A)(iii), struck out “of Health, Education, and Welfare” after “Secretary”.

Pub. L. 98-369, §2663(a)(13), substituted “chapter 21 and subtitle F of the Internal Revenue Code of 1954” for “subchapter A or E of chapter 9 of the Internal Revenue Code of 1939”.

Subsecs. (j), (k)(1), (l), (p)(2). Pub. L. 98-369, §2663(j)(3)(A)(iii), struck out “of Health, Education, and Welfare” after “Secretary” wherever appearing.

Subsecs. (q)(4)(B), (6)(B), (r)(1). Pub. L. 98-369, §2663(j)(2)(A)(ii), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” wherever appearing.

1983—Subsec. (e)(1)(A). Pub. L. 98-21, §342(a), amended subpar. (A) generally, designating existing provisions as cl. (i), and in (i) as so designated, substituting “on the last day of each calendar month” for “within the thirty-day period immediately following the last day of each calendar month” and inserting “with respect to the period which includes the first fifteen days of such calendar month” before “if the services”, and adding cl. (ii).

Subsec. (g). Pub. L. 98-21, §103(a), amended subsec. (g) generally, substituting provision that no agreement under this section may be terminated on or after April 20, 1983, for provision that had authorized the termination of agreements of States with the Secretary conditioned upon the giving of advance notice.

Subsec. (o). Pub. L. 98-21, §325(a), inserted provision that coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.

1980—Subsec. (e)(1)(A). Pub. L. 96-265, §503(a), substituted “(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code” for “(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939, if the services of employees covered by the agreement constituted employment as defined in section 1426 of the Internal Revenue Code of 1939”.

1977—Subsec. (c)(8). Pub. L. 95-216, §353(b)(1), substituted “year” for “quarter” and “\$100” for “\$50”.

Subsec. (d)(6)(C). Pub. L. 95-216, §320, inserted reference to New Jersey.

Subsec. (g)(1). Pub. L. 95-216, §353(b)(2), substituted “year” for “quarter”.

Subsec. (m)(1). Pub. L. 95-216, §321, inserted “or any successor system” after “Wisconsin retirement fund”.

Subsec. (p)(1). Pub. L. 95-216, §319, inserted reference to Mississippi.

Subsec. (q)(4)(B). Pub. L. 95-216, §353(b)(3), substituted references to calendar years for references to calendar quarters wherever appearing.

Subsec. (q)(6)(B). Pub. L. 95-216, §353(b)(4), substituted “period or periods designated by the State in such wage reports as the period or” for “calendar quarters designated by the State in such wage reports as the”.

Subsec. (r)(1). Pub. L. 95-216, §353(b)(5), in provisions preceding cl. (A) and in cl. (B) substituted “year” for “quarter”, and in cl. (A) struck out “in which occurred the calendar quarter” after “year”.

1974—Subsec. (p)(1). Priv. L. 93-107 inserted “Montana,” after “Maryland.”.

1972—Subsec. (p)(1). Pub. L. 92-603 inserted “Idaho,” after “Hawaii.”.

1968—Subsec. (b)(5). Pub. L. 90-486 substituted provisions pertaining to the coverage of persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a state or the Commonwealth of Puerto Rico, such persons, for the purposes of this chapter, to be considered employees of the state or the Commonwealth of Puerto Rico, for provisions pertaining to the coverage of civilian employees of National Guard units of a state who are employed pursuant to section 42 of title 32, and who are paid from funds allotted to such units by the Department of the Defense, such persons, for the purposes of this section, to be deemed employees of the state.

Subsec. (c)(3). Pub. L. 90-248, §116(b)(1)(A), struck out subpar. (A) which provided for the exclusion of any service of an emergency nature and redesignated subpar. (B) and (C) as (A) and (B), respectively.

Subsec. (c)(4). Pub. L. 90-248, §116(b)(1)(B), substituted “(3)(B)” for “(3)(C)”.

Subsec. (c)(6)(E). Pub. L. 90-248, §116(b)(2), added subpar. (E).

Subsec. (c)(7). Pub. L. 90-248, §116(b)(1)(B), substituted “(3)(B)” for “(3)(C)”.

Subsec. (c)(8). Pub. L. 90-248, §116(c), added par. (8).

Subsec. (d)(4)(C). Pub. L. 90-248, §116(b)(1)(C), substituted “(c)(3)(B)” for “(c)(3)(C)”.

Subsec. (d)(5)(B). Pub. L. 90-248, §116(b)(1)(B), substituted “(3)(B)” for “(3)(C)” wherever appearing.

Subsec. (d)(6)(C). Pub. L. 90-248, §117, inserted “Illinois,” after “Georgia.”.

Subsec. (d)(6)(D). Pub. L. 90-248, §116(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (d)(6)(F). Pub. L. 90-248, §116(d), substituted “1970” for “1967”.

Subsec. (f)(3). Pub. L. 90-248, §121, added par. (3).

Subsec. (p). Pub. L. 90-248, §§119(a), 120(a), designated existing provisions as par. (1), inserted “Puerto Rico,” after “Oregon,” and added par. (2).

Subsec. (u). Pub. L. 90-248, §122(d), added subsec. (u). 1965—Subsec. (d)(6)(C). Pub. L. 89-97, §314, inserted “Alaska,” before “California”.

Subsec. (d)(6)(F). Pub. L. 89-97, §315, substituted “1967” for “1963”.

Subsec. (h)(1). Pub. L. 89-97, §108(b), substituted “Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a)(3) of section 401 of this title, subsection (b)(1) of such section, and subsection (a)(1) of section 1395i of this title, respectively” for “Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to subsections (a)(3) and (b)(1) of section 401 of this title”.

1964—Subsec. (d)(6)(C). Pub. L. 88-382 included retirement systems established by Nevada.

Subsec. (p). Pub. L. 88-350 inserted reference to Texas.

1962—Subsec. (p). Pub. L. 87-878 inserted reference to Maine.

1961—Subsec. (d)(6)(C). Pub. L. 87-64, §107, included retirement system established by the State of New Mexico.

Subsec. (d)(6)(F). Pub. L. 87-64, §106, substituted “prior to 1963 or, if later, the expiration of two years after the date” for “prior to 1960 or, if later the expiration of one year after the date”, and inserted sentence providing that any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subpar. (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

1960—Subsec. (b)(1). Pub. L. 86-778, §103(i), excluded Guam and American Samoa from definition of “State”.

Subsec. (c)(6)(C). Pub. L. 86-778, §103(j)(2)(G), substituted “section 410(k)” for “section 410(l)”.

Subsec. (d)(3). Pub. L. 86-778, §102(a)(1), authorized certification by an official of the State designated by the Governor for that purpose.

Subsec. (d)(6). Pub. L. 86-624, §30(e), substituted "Hawaii" for "the Territory of Hawaii" in cl. (C) and (G), and struck out "or Territory" after "State" in two places in cl. (C) and in seven places in cl. (G).

Subsec. (d)(6)(A). Pub. L. 86-778, §102(c)(2), authorized a State, where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems, to deem the system, for purposes of subsec. (f) of this section, to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or any one or more of the political subdivisions concerned.

Subsec. (d)(6)(B). Pub. L. 86-778, §102(g), inserted sentences providing that if a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

Subsec. (d)(6)(C). Pub. L. 86-778, §102(b)(1), (l), inserted sentence requiring the positions of individuals, who become members of a separate retirement system which has been divided into two divisions or parts by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, to be included in the division or part of such system composed of positions of members who do not desire such coverage if such individuals, on the day before becoming such members, were in the division or part of another separate retirement system composed of positions of members who do not desire coverage under an agreement and all of the positions in the system of which such individuals so become members and all of the positions in the separate retirement system would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems, and included retirement systems established by the State of Texas.

Subsec. (d)(7). Pub. L. 86-778, §102(a)(2), included certifications made by an official of the State designated by the Governor for that purpose.

Subsec. (e). Pub. L. 86-778, §102(e)(1), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), and added par. (2).

Subsec. (f)(1). Pub. L. 86-778, §102(c)(1), (e)(2), inserted exception to subsection (e)(2) of this section, and substituted provisions restricting the effective date of any agreement of modification to a date not earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State for provisions which specified the effective date of agreements or modifications entered into prior to 1960 and which limited the effective date of agreements or modifications entered into after 1959 to a date not earlier than the last day of the calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State.

Subsec. (p). Pub. L. 86-778, §102(d), inserted reference to Virginia.

Pub. L. 86-624, §30(f), substituted "Hawaii" for "Territory of Hawaii".

Subsecs. (q) to (t). Pub. L. 86-778, §102(f)(1), added subsecs. (q) to (t).

1959—Subsec. (p). Pub. L. 86-284 inserted reference to California, Kansas, North Dakota, and Vermont.

1958—Subsec. (d)(6). Pub. L. 85-840, §315(a)(1), designated first sentence as subpar. (A), second and third sentences as subpar. (B), fourth sentence as subpar. (C), fifth sentence as subpar. (D), and sixth sentence as subpar. (G), added subpars. (E) and (F), and amended subpar. (C) to include retirement systems established by the States of Massachusetts and Vermont.

Pub. L. 85-787 added Massachusetts and Vermont to States authorized to divide their retirement systems into two parts, and inserted sentence permitting transfer, in cases of divided retirement system, of members not desiring coverage to system of members desiring coverage.

Subsec. (d)(7). Pub. L. 85-840, §315(a)(2), substituted "(created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law)" for "(created under the fourth sentence of paragraph (6) of this subsection)", and "subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law" for "the fourth and fifth sentences of paragraph (6) of this subsection".

Subsec. (d)(8). Pub. L. 85-840, §315(b), added par. (8).

Subsec. (f). Pub. L. 85-840, §315(c)(1), designated existing provisions as par. (1), redesignated cls. (1) to (4) of par. (1) as cls. (A) to (D), and added par. (2).

Subsec. (k)(2). Pub. L. 85-840, §315(a)(3), inserted provisions requiring an individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof to be regarded, for the purposes of this subsection, as a member of such system, and providing for coverage under the agreement of any such individual.

Subsec. (k)(3). Pub. L. 85-798, §2, added par. (3).

Subsec. (p). Pub. L. 85-798, §3, included agreements with the State of Washington.

1957—Subsec. (d)(6). Pub. L. 85-227 authorized the States of California, Connecticut, Minnesota, and Rhode Island, or any political subdivisions thereof, to divide their retirement system into two divisions or parts.

Subsec. (d)(7). Pub. L. 85-229 added par. (7).

Subsec. (f)(3). Pub. L. 85-226, §3, added par. (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 85-226, §3, redesignated former par. (3) as (4), and substituted "1959" for "1957".

Subsec. (k). Pub. L. 85-226, §1, redesignated existing provisions as par. (1) and added par. (2).

Subsec. (p). Pub. L. 85-226, §2, included agreements with the States of Alabama, Georgia, Maryland, New York, and Tennessee, or the Territory of Hawaii.

1956—Subsec. (d)(6). Act Aug. 1, 1956, §104(e), authorized the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision thereof, to divide their retirement system into two divisions or parts, and provided for a separate retirement system with respect to employees of the States of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii who are compensated in whole or in part from grants under subchapter III of this chapter.

Subsec. (h)(1). Act Aug. 1, 1956, §103(f), required amounts to be deposited in the Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to section 401(a)(3), (b)(1), of this title.

Subsec. (j). Act Aug. 1, 1956, §103(g), substituted "Secretary of Health, Education, and Welfare" for "Administrator", and provided for appropriation of amounts in the ratio in which amounts are deposited in the Trust Funds pursuant to subsection (h)(1) of this section.

Subsec. (p). Act Aug. 1, 1956, §104(g), added subsec. (p).

1954—Subsec. (b)(5). Act Sept. 1, 1954, §101(i)(1), (2), inserted sentence at end relating to civilian employees of State National Guard units and a sentence relating to certain State inspectors of agricultural products.

Subsec. (c)(3). Act Sept. 1, 1954, §101(h)(3), inserted an additional optional exclusion with respect to all services performed by individuals as members of any coverage group who are in positions covered by a retirement system on the date when the group is brought under the agreement if these individuals are not eligible to become members of the system on that date, or on any later date when they first occupy the positions, and if they have not already been included under the agreement by means of a referendum.

Subsec. (c)(4). Act Sept. 1, 1954, §101(h)(4), inserted sentence at end.

Subsec. (c)(5). Act Sept. 1, 1954, §101(a)(5), (6), substituted “paragraph (7)” for “paragraph (8),” and inserted at end “and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h)”.

Subsec. (c)(6)(D). Act Sept. 1, 1954, §101(a)(5), substituted “paragraph (7)” for “paragraph (8)”.

Subsec. (c)(7). Act Sept. 1, 1954, §101(h)(5), added par. (7).

Subsec. (d). Act Sept. 1, 1954, §101(h)(1)(A), struck out “Exclusion of” in heading, redesignated the subsection as (d)(1), and inserted sentence at end.

Subsec. (d)(1). Act Sept. 1, 1954, §101(h)(1)(B), inserted provision in first sentence making the prohibition inapplicable to service in positions which though covered by a retirement system on the enactment date, were, by reason of action taken prior to the enactment date by the appropriate governmental unit, no longer covered by a retirement system when the coverage group which included employees in such positions was brought under an agreement.

Subsec. (d)(2) to (6). Act Sept. 1, 1954, §101(h)(2), added pars. (2) to (6).

Subsec. (f). Act Sept. 1, 1954, §101(h)(6), permitted agreements or modifications entered into during 1955, 1956, and 1957 to be made retroactive to a date not earlier than December 31, 1954.

Subsec. (m)(1). Act Sept. 1, 1954, §101(h)(7), substituted “paragraph (1) of subsection (d)” for “subsection (d)”.

Subsec. (n). Act Sept. 1, 1954, §101(h)(8), added subsec. (n).

Subsec. (o). Act Sept. 1, 1954, §101(j), added subsec. (l). 1953—Subsec. (m). Act Aug. 15, 1953, added subsec. (m).

1952—Subsec. (f). Act June 28, 1952, substituted “January 1, 1954” for “January 1, 1953”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, §416(b), Mar. 2, 2004, 118 Stat. 530, provided that: “The amendment made by subsection (a) [amending this section] takes effect on January 1, 2003.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Amendment by section 303(c) of Pub. L. 103-296 applicable with respect to service performed on or after Jan. 1, 1995, see section 303(e) of Pub. L. 103-296, set out as a note under section 410 of this title.

Pub. L. 103-296, title III, §305(c), Aug. 15, 1994, 108 Stat. 1521, provided that: “The amendments made by this section [amending this section] shall apply with respect to modifications filed by States after the date of the enactment of this Act [Aug. 15, 1994].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to service performed after July 1, 1991, see section 11332(d) of Pub. L. 101-508, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1883(a)(8) of Pub. L. 99-514 effective Oct. 22, 1986, see section 1883(f) of Pub. L. 99-514, set out as a note under section 402 of this title.

Pub. L. 99-509, title IX, §9002(d), Oct. 21, 1986, 100 Stat. 1972, provided that: “The amendments made by this section [enacting section 3126 of Title 26, Internal Revenue Code, amending this section and sections 405 and 424a of this title and sections 1402, 3121, and 3306 of Title 26, and renumbering former section 3126 of Title 26 as section 3127] are effective with respect to payments due with respect to wages paid after December 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to the provisions of section 218(e)(2) of the So-

cial Security Act [subsec. (e)(2) of this section] prior to the date of the enactment of this Act [Oct. 21, 1986]; except that in cases where, in accordance with the currently applicable schedule, deposits of taxes due under an agreement entered into pursuant to section 218 of the Social Security Act would be required within 3 days after the close of an eighth-monthly period, such 3-day requirement shall be changed to a 7-day requirement for wages paid prior to October 1, 1987, and to a 5-day requirement for wages paid after September 30, 1987, and prior to October 1, 1988. For wages paid prior to October 1, 1988, the deposit schedule for taxes imposed under sections 3101 and 3111 shall be determined separately from the deposit schedule for taxes withheld under section 3402 [26 U.S.C. 3402] if the taxes imposed under sections 3101 and 3111 are due with respect to service included under an agreement entered into pursuant to section 218 of the Social Security Act.”

Pub. L. 99-272, title XII, §12110(c), Apr. 7, 1986, 100 Stat. 287, provided that: “The amendments made by this section [amending this section] shall apply with respect to agreements and modifications of agreements which are mailed or delivered to the Secretary of Health and Human Services (under section 218 of the Social Security Act [this section]) on or after the date of the enactment of this Act [Apr. 7, 1986].”

Pub. L. 99-272, title XIII, §13205(d)(3), Apr. 7, 1986, 100 Stat. 318, provided that: “The amendment made by subsection (c) [amending this section] shall apply to services performed after March 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-21, title I, §103(b), Apr. 20, 1983, 97 Stat. 72, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any agreement in effect under section 218 of the Social Security Act [42 U.S.C. 418] on the date of the enactment of this Act [Apr. 20, 1983], without regard to whether a notice of termination is in effect on such date, and to any agreement or modification thereof which may become effective under such section 218 after that date.”

Pub. L. 98-21, title III, §325(b), Apr. 20, 1983, 97 Stat. 126, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to name changes made before, on, or after the date of the enactment of this section [Apr. 20, 1983].”

Pub. L. 98-21, title III, §342(b), Apr. 20, 1983, 97 Stat. 136, provided that: “The amendments made by this section [amending this section] shall apply to calendar months beginning after December 31, 1983.”

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-265, title V, §503(b), June 9, 1980, 94 Stat. 471, provided that: “The amendment made by subsection (a) [amending this section] shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act [42 U.S.C. 418(e)(1)(A)]), as amended by subsection (a)) on account of wages paid on or after July 1, 1980.”

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-216, title III, §353(g), Dec. 20, 1977, 91 Stat. 1555, provided that: “The amendments made by subsection (b) of this section [amending this section] shall apply with respect to remuneration paid after December 31, 1977, except that the amendment made by subsection (b)(2) shall apply with respect to notices submitted by the States to the Secretary after the date of the enactment of this Act [Dec. 20, 1977]. The amendments made by subsections (d) and (f)(2) [amending sections 405 and 429 of this title] shall be effective January

1, 1978. Except as otherwise specifically provided, the remaining amendments made by this section [amending sections 403, 424a, and 430 of this title] shall be effective January 1, 1979."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before first day of first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

Pub. L. 90-248, title I, §116(b)(3), Jan. 2, 1968, 81 Stat. 840, provided that: "The amendments made by this subsection [amending this section] shall be effective with respect to services performed on or after January 1, 1968."

Pub. L. 90-248, title I, §120(c), Jan. 2, 1968, 81 Stat. 843, provided that: "The amendment made by this section [amending this section] shall apply in the case of any State with respect to modifications of such State agreement under section 218 of the Social Security Act [42 U.S.C. 418] made after the date of enactment of this Act [Jan. 2, 1968]."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-64 effective Aug. 1, 1961, see section 109 of Pub. L. 87-64, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-778, title I, §102(b)(2), Sept. 13, 1960, 74 Stat. 929, provided that: "The amendment made by paragraph (1) [amending this section] shall apply in the case of transfers of positions (as described therein) which occur on or after the date of enactment of this Act [Sept. 13, 1960]. Such amendment shall also apply in the case of such transfers in any State which occurred prior to such date, but only upon request of the Governor (or other official designated by him for the purpose) filed with the Secretary of Health, Education, and Welfare [now Health and Human Services] before July 1, 1961; and, in the case of any such request, such amendment shall apply only with respect to wages paid on and after the date on which such request is filed."

Pub. L. 86-778, title I, §102(c)(3), Sept. 13, 1960, 74 Stat. 929, provided that: "The amendment made by paragraph (1) [amending this section] shall apply in the case of any agreement or modification of an agreement under section 218 of the Social Security Act [42 U.S.C. 418] which is agreed to on or after January 1, 1960; except that in the case of any such agreement or modification agreed to before January 1, 1961, the effective date specified therein shall not be earlier than December 31, 1955. The amendment made by paragraph (2) [amending this section] shall apply in the case of any such agreement or modification which is agreed to on or after the date of the enactment of this Act [Sept. 13, 1960]."

Pub. L. 86-778, title I, §102(f)(3), Sept. 13, 1960, 74 Stat. 934, provided that:

"(A) The amendments made by paragraphs (1) and (2) [amending this section and section 405 of this title] shall become effective on the first day of the second calendar year following the year in which this Act is enacted [1960].

"(B) In any case in which the Secretary of Health, Education, and Welfare [now Health and Human Services] has notified a State prior to the beginning of such second calendar year that there is an amount due by such State, that such State's claim for a credit or refund of an overpayment is disallowed, or that such State has been allowed a credit or refund of an overpayment, under an agreement pursuant to section 218 of the Social Security Act [42 U.S.C. 418], then the Secretary shall be deemed to have made an assessment of such amount due as provided in section 218(q) of such Act or notified the State of such allowance or disallowance, as the case may be, on the first day of such sec-

ond calendar year. In such a case the 90-day limitation in section 218(s) of such Act shall not be applicable with respect to the assessment so deemed to have been made or the notification of allowance or disallowance so deemed to have been given the State. However, the preceding sentences of this subparagraph shall not apply if the Secretary makes an assessment of such amount due or notifies the State of such allowance or disallowance on or after the first day of the second calendar year following the year in which this Act is enacted [1960] and within the period specified in section 218(q) of the Social Security Act or the period specified in section 218(r) of such Act, as the case may be."

Amendments by section 103(i) of Pub. L. 86-778 applicable only with respect to service performed after 1960, and amendment by section 103(j)(2)(G) of Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-840, title III, §315(c)(2), Aug. 28, 1958, 72 Stat. 1040, provided that: "The amendment made by this subsection [amending this section] shall apply in the case of any agreement, or modification of an agreement, under section 218 of the Social Security Act [42 U.S.C. 418], which is executed after the date of enactment of this Act [Aug. 28, 1958]."

EFFECTIVE DATE OF 1954 AMENDMENT

Act Sept. 1, 1954, ch. 1206, title I, §101(h)(9), 68 Stat. 1059, provided that: "The amendments made by this subsection, other than paragraph (1)(B) [amending this section], shall take effect January 1, 1955."

Act Sept. 1, 1954, ch. 1206, title I, §101(i)(1), 68 Stat. 1059, provided that the amendment made by that section is effective as of January 1, 1951.

Act Sept. 1, 1954, ch. 1206, title I, §101(i)(2), 68 Stat. 1059, provided that the amendment made by that section is effective January 1, 1955.

Act Sept. 1, 1954, ch. 1206, title I, §101(i)(3), 68 Stat. 1059, provided that: "In the case of any coverage group to which the amendment made by paragraph (1) [amending this section] is applicable, any agreement or modification of an agreement agreed to prior to January 1, 1956, may, notwithstanding section 218(f) of the Social Security Act [42 U.S.C. 418(f)], be made effective with respect to services performed by employees as members of such coverage group after any effective date specified therein, but in no case may such effective date be earlier than December 31, 1950."

Act Sept. 1, 1954, ch. 1206, title I, §101(j), 68 Stat. 1059, provided that the amendment made by that section is effective as of January 1, 1951.

Amendment by section 101(a)(5), (6) of act Sept. 1, 1954, shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954, see section 101(n) of act Sept. 1, 1954, set out as a note under section 405 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT

Act Aug. 15, 1953, ch. 504, §2, 67 Stat. 588, provided that: "For the purposes of section 418(f) of the Social Security Act (relating to effective date of agreements) [42 U.S.C. 418(f)], the amendment made by the first section of this Act [amending this section] shall take effect as of January 1, 1951."

EXEMPTION FOR STUDENTS EMPLOYED BY STATE SCHOOLS, COLLEGES, OR UNIVERSITIES

Pub. L. 105-277, div. J, title II, §2023, Oct. 21, 1998, 112 Stat. 2681-904, provided that:

"(a) IN GENERAL.—Notwithstanding section 218 of the Social Security Act [42 U.S.C. 418], any agreement with a State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time on or after January 1, 1999, and on or before March 31, 1999, so as to exclude service per-

formed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

“(b) EFFECTIVE DATE OF MODIFICATION.—Any modification of an agreement pursuant to subsection (a) shall be effective with respect to services performed after June 30, 2000.

“(c) IRREVOCABILITY OF MODIFICATION.—If any modification of an agreement pursuant to subsection (a) terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.”

TREATMENT OF CERTAIN CREDITS AS AMOUNTS DEPOSITED IN SOCIAL SECURITY TRUST FUNDS PURSUANT TO AGREEMENT

Pub. L. 98-21, title I, §123(b)(4), Apr. 20, 1983, 97 Stat. 89, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of subsection (h) of section 218 of the Social Security Act [42 U.S.C. 418(h)] (relating to deposits in social security trust funds of amounts received under section 218 agreements), amounts allowed as a credit pursuant to subsection (d) of section 3510 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 3510(d)] (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.”

MODIFICATION OF AGREEMENT WITH STATE OF IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN

Pub. L. 100-203, title IX, §9008, Dec. 22, 1987, 101 Stat. 1330-292, provided that:

“(a) IN GENERAL.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act [42 U.S.C. 418(d)(5)(A)] and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act [Dec. 22, 1987] paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

“(b) SERVICE TO BE COVERED.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

“(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

“(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

“(A) no refund of the sums so paid has been obtained, or

“(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.”

MODIFICATION OF AGREEMENT WITH STATE OF CONNECTICUT TO PROVIDE COVERAGE FOR CONNECTICUT STATE POLICE

Pub. L. 99-272, title XII, §12114, Apr. 7, 1986, 100 Stat. 289, provided that: “Notwithstanding any provision of section 218 of the Social Security Act [42 U.S.C. 418], the Secretary of Health and Human Services shall, upon the request of the Governor of Connecticut, modify the agreement under such section between the Secretary and the State of Connecticut to provide that service performed after the date of the enactment of this Act [Apr. 7, 1986] by members of the Division of the State Police within the Connecticut Department of Public Safety, who are hired on or after May 8, 1984, and who are members of the tier II plan of the Connecticut State Employees Retirement System, shall be covered under such agreement.”

MODIFICATION OF AGREEMENT WITH STATE OF ILLINOIS TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN

Pub. L. 95-216, title III, §318, Dec. 20, 1977, 91 Stat. 1540, provided that the agreement with the State of Illinois entered into pursuant to this section could, at any time prior to Jan. 1, 1979, be modified pursuant to subsection (c)(4) of this section so as to apply to services performed in the policemen's or firemen's positions covered by the Illinois Municipal Retirement Fund on Dec. 20, 1977, if the State of Illinois had prior to such date paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of this section.

MODIFICATION OF REPORTING PROCEDURES IN EFFECT DECEMBER 1, 1975, UNDER FEDERAL-STATE AGREEMENTS

Pub. L. 94-202, §8(k), Jan. 2, 1976, 89 Stat. 1140, provided that: “Notwithstanding the provisions of section 218(i) of the Social Security Act [42 U.S.C. 418(i)], nothing contained in the amendments made by the preceding provisions of this section [enacting section 432 of this title and amending sections 401, 403, 424a, and 430 of this title and section 6103 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 401 and 432 of this title] shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218(i), substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act [42 U.S.C. 418].”

MODIFICATION OF AGREEMENT WITH STATE OF WEST VIRGINIA WITH RESPECT TO CERTAIN POLICEMEN AND FIREMEN

Pub. L. 94-202, §6, Jan. 2, 1976, 89 Stat. 1136, provided that:

“(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [42 U.S.C. 418(d)(5)(A)] and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 [42 U.S.C. 418] may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Jan. 2, 1976] by individuals as

employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

“(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

“(1) all services performed by such individual, in any policemen’s or firemen’s position to which the modification relates, on or after the date of the enactment of this Act; and

“(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1) if and to the extent that—

“(A) no refund of the sums so paid has been obtained, or

“(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare [now Health and Human Services].”

Pub. L. 92-603, title I, §143, Oct. 30, 1972, 86 Stat. 1369, provided that:

“(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsection (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 [42 U.S.C. 418] may, at any time prior to 1974, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen’s or firemen’s positions covered by a retirement system on the date of the enactment of this Act [Oct. 30, 1972] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

“(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

“(1) all services performed by such individual, in any policeman’s or fireman’s position to which the modification relates, on or after the date of the enactment of this Act; and

“(2) all services performed by such individual in such a position before such date of enactment with

respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

“(A) no refund of the sums so paid has been obtained, or

“(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare [now Health and Human Services].”

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF NEW MEXICO TO COVER CERTAIN HOSPITAL EMPLOYEES

Pub. L. 92-603, title I, §127, Oct. 30, 1972, 86 Stat. 1358, provided that: “Notwithstanding any provisions of section 218 of the Social Security Act [42 U.S.C. 418], the Agreement with the State of New Mexico heretofore entered into pursuant to such section may at the option of such State be modified at any time prior to the first day of the fourth month after the month in which this Act is enacted [October 1972], so as to apply to the services of employees of a hospital which is an integral part of a political subdivision to which an agreement under this section has not been made applicable, as a separate coverage group within the meaning of section 218(b)(5) of such Act [42 U.S.C. 418(b)(5)], but only if such hospital has prior to 1966 withdrawn from a retirement system which had been applicable to the employees of such hospital.”

MODIFICATION OF AGREEMENT WITH STATE OF LOUISIANA WITH RESPECT TO VOTER REGISTRARS

Pub. L. 92-603, title I, §139, Oct. 30, 1972, 86 Stat. 1366, provided that:

“(a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act [42 U.S.C. 418(g)(1)], the Secretary may, under such conditions as he deems appropriate, permit the State of Louisiana to modify its agreement entered into under section 218 of such Act [42 U.S.C. 418] so as to terminate the coverage of all employees who are in positions under the Registrars of Voters Employees’ Retirement System, effective after December 1975, but only if such State files with him notice of termination on or before December 31, 1973.

“(b) If the coverage of such employees in positions under such retirement system is terminated pursuant to subsection (a), coverage cannot later be extended to employees in positions under such retirement system.”

MODIFICATION OF AGREEMENTS WITH STATES WITH RESPECT TO CERTAIN STUDENTS AND PART-TIME EMPLOYEES

Pub. L. 92-603, title I, §141, Oct. 30, 1972, 86 Stat. 1366, provided that:

“(a) Notwithstanding any provision of section 218 of the Social Security Act [42 U.S.C. 418], the agreement with any State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time prior to January 1, 1974, so as to exclude either or both of the following:

“(1) service in any class or classes of part-time positions; or

“(2) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

“(b) Any modification of such agreement pursuant to this section shall be effective with respect to services performed after the end of the calendar quarter following the calendar quarter in which such agreement is modified.

“(c) If any such modification terminates coverage with respect to service in any class or classes of part-time positions in any coverage group, the Secretary of Health, Education, and Welfare [now Health and

Human Services] and the State may not thereafter modify such agreement so as to again make the agreement applicable to service in such positions in such coverage group; if such modification terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Secretary of Health, Education, and Welfare [now Health and Human Services] and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.”

MODIFICATION OF AGREEMENT WITH STATE OF MASSACHUSETTS WITH RESPECT TO EMPLOYEES OF THE MASSACHUSETTS TURNPIKE AUTHORITY

Pub. L. 90-248, title I, §124, Jan. 2, 1968, 81 Stat. 845, provided that:

“(a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act [42 U.S.C. 418(g)(1)] the Secretary may, under such conditions as he deems appropriate, permit the State of Massachusetts to modify its agreement entered into under section 218 of such Act [42 U.S.C. 418] so as to terminate the coverage of the employees of the Massachusetts Turnpike Authority effective at the end of any calendar quarter within the two years next following the date on which such agreement is so modified.

“(b) If the coverage of employees of the Massachusetts Turnpike Authority is terminated pursuant to subsection (a), coverage cannot later be extended to the employees of such Authority.”

MODIFICATION OF AGREEMENTS WITH STATES OF NORTH DAKOTA AND IOWA WITH RESPECT TO CERTAIN STUDENTS

Pub. L. 89-97, title III, §338, July 30, 1965, 79 Stat. 409, provided that: “Notwithstanding any provision of section 218 of the Social Security Act [42 U.S.C. 418], the agreements with the States of North Dakota and Iowa entered into pursuant to such section may, at the option of the State, be modified so as to exclude service performed in any calendar quarter in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university and if the remuneration for such service is less than \$50. Any modification of either of such agreements pursuant to this Act shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [July 30, 1965].”

MODIFICATION OF AGREEMENT WITH STATE OF NEBRASKA FOR EXCLUSION OF SERVICES PERFORMED BY JUSTICES OF THE PEACE AND CONSTABLES

Pub. L. 86-778, title I, §102(i), Sept. 13, 1960, 74 Stat. 935, provided that: “Notwithstanding any provision of section 218 of the Social Security Act [42 U.S.C. 418], the agreement with the State of Nebraska entered into pursuant to such section may, at the option of such State, be modified so as to exclude services performed within such State by individuals as justices of the peace or constables, if such individuals are compensated for such services on a fee basis. Any modification of such agreement pursuant to this subsection shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [Sept. 13, 1960].”

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF CALIFORNIA PRIOR TO FEBRUARY 1966

Pub. L. 86-778, title I, §102(k), Sept. 13, 1960, 74 Stat. 935, as amended by Pub. L. 89-97, title III, §318, July 30, 1965, 79 Stat. 390; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) Notwithstanding any provision of section 218 of the Social Security Act [42 U.S.C. 418], the agreement

with the State of California heretofore entered into pursuant to such section may at the option of such State be modified, at any time prior to 1962, pursuant to subsection (c)(4) of such section 218 [42 U.S.C. 418(c)(4)], so as to apply to services performed by any individual who, on or after January 1, 1957, and on or before December 31, 1959, was employed by such State (or any political subdivision thereof) in any hospital employee's position which, on September 1, 1954, was covered by a retirement system, but which, prior to 1960, was removed from coverage by such retirement system if, prior to July 1, 1960, there have been paid in good faith to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 3101, 3111] if such services had constituted employment for purposes of chapter 21 of such Code [26 U.S.C. 3101 et seq.] at the time they were performed. Notwithstanding the provisions of subsection (f) of such section 218 such modification shall be effective with respect to (1) all services performed by such individual in any such position on or after January 1, 1960, and (2) all such services, performed before such date, with respect to which amounts equivalent to such taxes have, prior to the date of enactment of this subsection [Sept. 13, 1960], been paid.

“(2) Such agreement, as modified pursuant to paragraph (1), may at the option of such State be further modified, at any time prior to the seventh month after the month [July 1965] in which this paragraph is enacted, so as to apply to services performed for any hospital affected by such earlier modification by any individual who after December 31, 1959, is or was employed by such State (or any political subdivision thereof) in any position described in paragraph (1). Such modification shall be effective with respect to (A) all services performed by such individual in any such position on or after January 1, 1962, and (B) all such services, performed before such date, with respect to which amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 [26 U.S.C. 3101, 3111] if such services had constituted employment for purposes of chapter 21 of such Code at the time they were performed have, prior to the date of the enactment of this paragraph [July 30, 1965], been paid.”

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF OKLAHOMA PRIOR TO 1962

Pub. L. 86-284, §3, Sept. 16, 1959, 73 Stat. 566, provided that: “Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [42 U.S.C. 418(d)(5)(A)] and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Oklahoma heretofore entered into pursuant to such section 218 [42 U.S.C. 418] may, at any time prior to 1962, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed by any individual employed by such State (or any political subdivision thereof) in any policeman's position covered by a retirement system in effect on the date of enactment of this Act [Sept. 16, 1959] if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e)(1) of such section 218. Notwithstanding the provisions of subsection (f) of such section 218, such modification shall be effective with respect to (i) all services performed by such individual in any such position on or after the date of enactment

of this Act, and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218, at the time or times established pursuant to such subsection."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF MAINE PRIOR TO JULY 1, 1967

Pub. L. 85-840, title III, §316, Aug. 28, 1958, 72 Stat. 1040, as amended by Pub. L. 86-778, title I, §102(j), Sept. 13, 1960, 74 Stat. 935; Pub. L. 88-350, §1, July 2, 1964, 78 Stat. 240; Pub. L. 89-97, title III, §337, July 30, 1965, 79 Stat. 409, eff. July 1, 1965, provided that: "For the purposes of any modification which might be made after the date of enactment of this Act [Aug. 28, 1958] and prior to July 1, 1967, by the State of Maine of its existing agreement made under section 218 of the Social Security Act [42 U.S.C. 418], any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (d) of such section) to consist of a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees; and for the purposes of this sentence, the term 'teacher' shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory."

MODIFICATION OF EXISTING AGREEMENTS WITH STATES OF CALIFORNIA, CONNECTICUT, MINNESOTA, OR RHODE ISLAND PRIOR TO 1960

Pub. L. 85-227, §2, Aug. 30, 1957, 71 Stat. 512, provided that: "Notwithstanding subsection (f) of section 218 of the Social Security Act [42 U.S.C. 418(f)], any modification of the agreement with the State of California, Connecticut, Minnesota, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d)(6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1960, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955."

MODIFICATION OF EXISTING AGREEMENTS WITH STATES OF FLORIDA, NEVADA, NEW MEXICO, MINNESOTA, OKLAHOMA, PENNSYLVANIA, TEXAS, WASHINGTON, OR HAWAII PRIOR TO JULY 1, 1962

Act Aug. 1, 1956, ch. 836, title I, §104(f), 70 Stat. 826, as amended by Pub. L. 86-284, §1, provided that: "Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act [42 U.S.C. 418(d)], any agreement under such section entered into prior to the date of enactment of this Act [Aug. 1, 1956] by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified prior to July 1, 1962, so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF ARIZONA PRIOR TO JANUARY 1, 1956

Act Sept. 1, 1954, ch. 1206, title I, §101(k), 68 Stat. 1060, provided that: "If, prior to January 1, 1956, the agree-

ment with the State of Arizona entered into pursuant to section 218 of the Social Security Act [42 U.S.C. 418] is modified pursuant to subsection (d)(3) of such section so as to apply to service performed by employees in positions covered by the Arizona Teachers' Retirement System the modification may, notwithstanding section 218(f) of the Social Security Act, be made effective with respect to service performed in such positions after an effective date specified in the modification, but in no case may such effective date be earlier than December 31, 1950. For the purposes of any such modification, all employees in positions covered by the Arizona Teachers' Retirement System shall be deemed, notwithstanding the provisions of section 218(d)(6) of such Act, to constitute a separate coverage group."

EXTENSION OF COVERAGE TO SERVICE IN FIREMEN'S POSITION

Pub. L. 90-248, title I, §120(b), Jan. 2, 1968, 81 Stat. 842, provided that: "Nothing in the amendments made by subsection (a) [amending this section] shall authorize the extension of the insurance system established by title II of the Social Security Act [42 U.S.C. 401 et seq.] under the provisions of section 218(d)(6)(C) of such Act [42 U.S.C. 418(d)(6)(C)] to service in any fireman's position."

VALIDATION OF COVERAGE FOR CERTAIN FIREMEN IN THE STATE OF NEBRASKA

Pub. L. 90-248, title I, §119(b), Jan. 2, 1968, 81 Stat. 842, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "In any case in which—

"(1) an individual has performed services prior to the enactment of this Act [Jan. 2, 1968] in the employ of a political subdivision of the State of Nebraska in a fireman's position, and

"(2) amounts, equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 3101, 3111] had such services constituted employment for purposes of section 21 of such Code [26 U.S.C. 21] at the time they were performed, were timely paid in good faith to the Secretary of the Treasury, and

"(3) no refunds of such amounts paid in lieu of taxes have been obtained,

the amount of the remuneration for such services with respect to which such amounts have been paid shall be deemed to constitute remuneration for employment as defined in section 209 of the Social Security Act [42 U.S.C. 409]."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ALASKA

Pub. L. 89-97, title III, §342, July 30, 1965, 79 Stat. 412, provided that: "For purposes of the agreement under section 218 of the Social Security Act [42 U.S.C. 418] entered into by the State of Alaska, or its predecessor the Territory of Alaska, where employees of an integral unit of a political subdivision of the State or Territory of Alaska have in good faith been included under the State or Territory's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act, be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [1965]."

VALIDATION OF COVERAGE FOR DISTRICT ENGINEERING AIDES OF SOIL AND WATER CONSERVATION DISTRICTS OF OKLAHOMA

Pub. L. 88-650, §3, Oct. 13, 1964, 78 Stat. 1077, provided that: "For purposes of the agreement under section 218

of the Social Security Act [42 U.S.C. 418] entered into by the State of Oklahoma, remuneration paid to district engineering aides of soil and water conservation districts of the State of Oklahoma which was reported by the State as amounts paid to such aides as employees of the State for services performed by them during the period beginning January 1, 1951, and ending with the close of June 30, 1962, shall be deemed to have been paid to such aides for services performed by them in the employ of the State."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ARKANSAS

Pub. L. 87-878, § 1, Oct. 24, 1962, 76 Stat. 1202, provided: "That, for purposes of the agreement under section 218 of the Social Security Act [42 U.S.C. 418] entered into by the State of Arkansas, where employees of an integral unit of a political subdivision of the State of Arkansas have in good faith been included under the State's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act, be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [1962]."

VALIDATION OF COVERAGE FOR CERTAIN MISSISSIPPI TEACHERS

Pub. L. 86-778, title I, § 102(h), Sept. 13, 1960, 74 Stat. 934, provided that: "For purposes of the agreement under section 218 of the Social Security Act [42 U.S.C. 418] entered into by the State of Mississippi, services of teachers in such State performed after February 28, 1951, and prior to October 1, 1959, shall be deemed to have been performed by such teachers as employees of the State. The term 'teacher' as used in the preceding sentence means—

"(1) any individual who is licensed to serve in the capacity of teacher, librarian, registrar, supervisor, principal, or superintendent and who is principally engaged in the public elementary or secondary school system of the State in any one or more of such capacities;

"(2) any employee in the office of the county superintendent of education or the county school supervisor, or in the office of the principal of any county or municipal public elementary or secondary school in the State; and

"(3) any individual licensed to serve in the capacity of teacher who is engaged in any educational capacity in any day or night school conducted under the supervision of the State department of education as a part of the adult education program provided for under the laws of Mississippi or under the laws of the United States."

PRESUMPTION OF WORK DEDUCTIONS FOR SERVICES PERFORMED PRIOR TO 1955 IN CASE OF CERTAIN RETROACTIVE STATE AGREEMENTS; RECOMPUTATION

Act Sept. 1, 1954, ch. 1206, title I, § 101(l), 68 Stat. 1060, provided that:

"(1) In the case of any services performed prior to 1955 to which an agreement under section 218 of the Social Security Act [42 U.S.C. 418] was made applicable, deductions which—

"(A) were not imposed under section 203 of such Act [section 403 of this title] with respect to such services performed prior to the date the agreement was agreed to or, if the original agreement was not applicable to such services, performed prior to the date the modification making such agreement applicable to such services was agreed to, and

"(B) would have been imposed under such section 203 had such agreement, or modification, as the case

may be, been agreed to on the date it became effective,

shall be deemed to have been imposed, but only for purposes of section 215(f)(2)(A) or section 215(f)(4)(A) of such Act [42 U.S.C. 415(f)(2)(A), (4)(A)] as in effect prior to the enactment of this Act [Sept. 1, 1954]. An individual with respect to whose services the preceding sentence is applicable, or in the case of his death, his survivors entitled to monthly benefits under section 202 of the Social Security Act [42 U.S.C. 402] on the basis of his wages and self-employment income, shall be entitled to a recomputation of his primary insurance amount under such section 215(f)(2)(A) or section 215(f)(4)(A), as the case may be, if the conditions specified therein are met and if, with respect to a recomputation under such section 215(f)(2)(A), such individual files the application referred to in such section after August 1954 and prior to January 1956 or, with respect to a recomputation under such section 215(f)(4)(A), such individual died prior to January 1956 and any of such survivors entitled to monthly benefits files an application, in addition to the application filed for such monthly benefits, for a recomputation under such section 215(f)(4)(A).

"(2) For purposes of a recomputation made by reason of paragraph (1) of this subsection, the primary insurance amount of the individual who performed the services referred to in such paragraph shall be computed under subsection (a)(2) of section 215 of the Social Security Act, as amended by this Act (but, for such purposes, without application of subsection (d)(4) of such section, as in effect prior to the enactment of this Act or as amended by this Act) and as though he became entitled to old-age insurance benefits in whichever of the following months yields the highest primary insurance amount:

"(A) the month following the last month for which deductions are deemed, pursuant to paragraph (1) of this subsection, to have been made; or

"(B) the first month after the month determined under subparagraph (A) (and prior to September 1954) in which his benefits under section 202(a) of the Social Security Act [42 U.S.C. 402(a)] were no longer subject to deductions under section 203(b) of such Act [42 U.S.C. 403(b)]; or

"(C) the first month after the last month (and prior to September 1954) in which his benefits under section 202(a) of the Social Security Act were subject to deductions under section 203(b) of such Act; or

"(D) the month in which such individual filed his application for recomputation referred to in paragraph (1) of this subsection or, if he died without filing such application and prior to January 1, 1956, the month in which he died, and in any such case (but, if the individual is deceased, only if death occurred after August 1954) the amendments made by subsections (b)(1), (e)(1) and (e)(3)(B) of section 102 of this Act [amending section 415 of this title] shall be applicable.

Such recomputation shall be effective for and after the month in which the application required by paragraph (1) of this subsection is filed. The provisions of this subsection shall not be applicable in the case of any individual if his primary insurance amount has been recomputed under section 215(f)(2) of the Social Security Act on the basis of an application filed prior to September 1954.

"(3) If any recomputation under section 215(f) of the Social Security Act is made by reason of deductions deemed pursuant to paragraph (1) of this subsection to have been imposed with respect to benefits based on the wages and self-employment income of any individual, the total of the benefits based on such wages and self-employment income for months for which such deductions are so deemed to have been imposed shall be recovered by making, in addition to any other deductions under section 203 of such Act, deductions from any increase in benefits, based on such wages and self-employment income, resulting from such recomputation."

§ 419. Repealed. Pub. L. 86-778, title I, § 103(j)(1), Sept. 13, 1960, 74 Stat. 937

Section, act Aug. 14, 1935, ch. 531, title II, § 219, as added Aug. 28, 1950, ch. 809, title I, § 107, 64 Stat. 517, prescribed the effective date of this subchapter in Puerto Rico as January 1 of the first calendar year which begins more than 90 days after the date on which the President received a certification from the Governor of Puerto Rico.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 13, 1960, see section 103(v)(1), (3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

§ 420. Disability provisions inapplicable if benefit rights impaired

None of the provisions of this subchapter relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this subchapter; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this subchapter if such benefit or payment would be greater without their application.

(Aug. 14, 1935, ch. 531, title II, § 220, as added Sept. 1, 1954, ch. 1206, title I, § 106(g), 68 Stat. 1081.)

PRIOR PROVISIONS

A prior section 420, act Aug. 14, 1935, ch. 531, title II, § 220, as added July 18, 1952, ch. 945, § 3(e), 66 Stat. 772, relating to inapplicability of disability provisions if benefits were reduced, ceased to be in effect at the close of June 30, 1953. See Effective and Termination Date of 1952 Amendment note set out under section 413 of this title.

§ 421. Disability determinations

(a) State agencies

(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 416(i) or 423(d) of this title) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Commissioner of Social Security in writing that it wishes to make such disability determinations commencing with such month as the Commissioner of Social Security and the State agree upon, but only if (A) the Commissioner of Social Security has not found, under subsection (b)(1) of this section, that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Commissioner of Social Security, under subsection (b)(2) of this section, that it does not wish to make such determinations. If the Commissioner of Social Security once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Commissioner of Social Security may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this subchapter and the standards and criteria contained in regulations or other written guidelines of the Commissioner of Social Security pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Commissioner of Social Security shall promulgate regulations specifying, in such detail as the Commissioner deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Commissioner of Social Security, and, as the Commissioner finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

(D) fiscal control procedures that the State agency may be required to adopt, and

(E) the submission of reports and other data, in such form and at such time as the Commissioner of Social Security may require, concerning the State agency's activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Commissioner of Social Security to take any action except pursuant to law or to regulations promulgated pursuant to law.

(b) Determinations by Commissioner

(1) If the Commissioner of Social Security finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with the Commissioner's regulations and other written guidelines, the Commissioner of Social Security shall, not earlier than 180 days following the Commissioner's finding, and after the Commissioner has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1) of this section.

(2) If a State, having notified the Commissioner of Social Security of its intent to make