



# Senate

General Assembly

**File No. 528**

February Session, 2010

Substitute Senate Bill No. 360

*Senate, April 13, 2010*

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING FLEXIBLE SPENDING ACCOUNTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2010*) (a) The State Comptroller  
2 shall, from time to time, transfer from the Employers Social Security  
3 Tax account (1) an amount equal to any actual or projected savings in  
4 said account resulting from employee participation in the flexible  
5 spending account programs established in sections 5-264b to 5-264e,  
6 inclusive, of the general statutes, and (2) the amount of any forfeitures  
7 in said flexible spending account programs to an account in a  
8 restrictive grant fund, for payment of the administrative and program  
9 costs of the flexible spending account programs.

10 (b) The State Comptroller may transfer from the Employers Social  
11 Security Tax account an amount equal to an employee's yearly  
12 contribution to the restrictive grant fund account described in  
13 subsection (a) of this section, provided such amount is reimbursed to  
14 the Employers Social Security Tax account from said restrictive grant  
15 fund account not later than eighteen months after such transfer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	New section

**APP**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
State Comptroller - Fringe Benefits - Employers Social Security Tax Account	GF & TF - Neutral Impact	See Below	See Below
Department of Revenue Services	GF - Revenue Loss	Indeterminate	Indeterminate

Note: GF=General Fund; TF = Transportation Fund

**Municipal Impact:** None

#### **Explanation**

The bill is anticipated to result in an overall revenue loss to the state. The bill provides a mechanism for the Comptroller to implement medical flexible spending accounts (FSA) for state employees. The funds put into an FSA are not subject to Federal and State income taxes, and FICA taxes. Reducing taxable income will result in lower FICA tax (7.65%) contributions for the state as an employer. These social security "savings" would then be transferred to a restrictive grant fund to cover administrative costs of the program, resulting in a neutral fiscal impact.

The bill will also result in a loss in state income tax revenue. The amount of the revenue loss cannot be estimated as the number of participants and the FSA minimum and maximum contributions are not known at this time. Although the bill is effective as of July 1, 2010 it is assumed enrollment in the FSA program would not begin until January 1, 2011 as payroll deductions must be made annually on a calendar year basis.

For illustrative purposes, an employee with an annual salary of \$60,000 and a \$1,500 FSA account would impact the State and the

individual employee as follows:

State FICA Savings Transferred to FSA Account	\$114.75
State Administrative Cost Paid by FSA Account	(\$46.00)
<b>FSA Account Balance</b>	<b>\$68.75*</b>
State Revenue Loss	(\$37.50)
<b>Revenue Impact</b>	<b>(37.50)</b>
<i>*This does not assume potential forfeiture of up to \$30</i>	

Individual Employee FICA Savings	\$114.75
Employee Federal Tax Savings	\$387.00
Employee State Tax Savings	\$37.50
<b>Annual Employee Savings</b>	<b>\$539.25</b>

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to FSA participation and inflation.

**OFA Bill Analysis****sSB 360*****AN ACT CONCERNING FLEXIBLE SPENDING ACCOUNTS.*****SUMMARY:**

This bill provides a mechanism for the Comptroller to implement an FSA program for state employees. The bill requires the Comptroller to pay for the administrative costs associated with the program by transferring savings from the social security account and by using any FSA forfeitures. Although Connecticut General Statutes (§ 5-264d and 5-264e) currently authorize the Comptroller to maintain a flexible health care spending account program for state employees, the program has not been implemented because there is no provision to fund its administrative costs.

EFFECTIVE DATE: July 1, 2010

**BACKGROUND**

The federal tax code makes it possible for employers to offer their employees a variety of nontaxable “qualified” benefits including flexible spending accounts (IRC § 125).

A qualified benefit is a benefit which is excludable from an employee's gross income under a specific provision of the tax code, without being subject to the principles of constructive receipt. Qualified benefits include health care, vision and dental care, group-term life insurance, disability, adoption assistance, and certain other benefits (IRC §§ 125(a), 125(f), 79, 105, 106, 129, and 137).

Flexible spending accounts (FSAs) permit employees to allocate a portion of their salaries pre-tax for certain incurred medical expenses

not covered by their health insurance policies, including health care deductibles, coinsurances, as well as dependent care expenses. Employers may also contribute to the accounts, but are not required to do so. The code includes a “use-it-or-lose-it” rule that means employees forfeit any money left in the account at the end of the year.

**COMMITTEE ACTION**

Appropriations Committee

Joint Favorable Substitute

Yea 40 Nay 14 (03/25/2010)