

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 197

**SHORT TITLE:** Repeal Sunset on FICA Saving Use

**SPONSOR(S):** Senator Wellons

**FISCAL IMPACT**

Yes ( )      No (X)      No Estimate Available ( )

FY 1997-98   FY 1998-99   FY 1999-00   FY 2000-01   FY 2001-02

**REVENUES**

**EXPENDITURES**

**No fiscal impact**

**POSITIONS:** NA

**PRINCIPAL DEPARTMENT(S) &  
PROGRAM(S) AFFECTED:** NA

**EFFECTIVE DATE:** Upon Passage.

**BILL SUMMARY:** Makes permanent a provision allowing the use of FICA savings resulting from state-employee participation in flexible spending accounts to be used for costs associated with administering flexible compensation programs.

**BACKGROUND:**

In 1989, the General Assembly authorized the establishment of four dependent care assistance programs (public school system, community college system, University of North Carolina, and other departments of State government). IRS Section 1129 made the establishment of dependent care assistance programs possible. Under IRS Section 1129, employees are able to pay for dependent care expenses on a pre-tax basis, thereby reducing their tax burden.

In 1990, the General Assembly authorized the establishment of four flexible compensation plans under IRS Section 125. These flexible compensation plans involve the establishment of health care spending accounts which work similarly to the dependent care spending accounts.

Specifically, the health care spending accounts allow participants to pay for certain health-care benefits (not provided by the State Health Plan) with pre-tax dollars.

In 1991, the General Assembly placed a December 31, 1993 sunset on the use of FICA savings to pay for the administrative costs of the flexible compensation plans. The 1994 Short Session of the General Assembly made the provision authorizing the use of FICA savings to pay for administrative expenses permanent until December 31, 1997.

Coopers and Lybrand conducted a feasibility study in 1993 which recommended a single, statewide flexible benefits program. This recommendation received support from the State Attorney General's Office which also recommended consolidating the four programs. The Governor issued Executive Order No. 66 on December 5, 1994. The order formalized a statewide flexible benefits coordination effort, designated the Office of State Personnel as the lead agency in the effort, and established the Statewide Flexible Benefits Advisory Committee to assist the State Personnel Director in the development and maintenance of the program.

The State Controller's Office handled the financial and payroll aspects of the Dependent Care Assistance Program from 1989 through 1995. The Dependent Care Assistance Program was administered by The Fringe Benefits Management Company, a third-party administrator (TPA) from 1989 to 1995. The Fringe Benefits Management Company's contract expired December 31, 1995. In 1995, Aon Consulting (formerly, Godwins Booke and Dickinson) was chosen to administer the Dependent Care Assistance Program and the Health Care Assistance Program through a competitive bid process which included bids from eleven firms. Aon began its TPA responsibilities as of January 1, 1996.

**ASSUMPTIONS AND METHODOLOGY:**

Repealing the sunset clause on the use of FICA savings would provide for the continuous payment of the administrative expenses associated with the flexible compensation programs from FICA savings. The following tables illustrate the Administrative Costs for 1996, and the Participation Levels for 1995-1997:

<u>1996 Administrative Cost:</u>	<u>1996</u>
• TPA Cost to administer accounts and pay claims	\$276,415
• State administrative cost	<u>\$115,846</u>
<b>Total Administrative Cost</b>	<b>\$392,261</b>
• Anticipated FICA Savings	\$674,115
• Total Administrative Cost	<u>\$392,261</u>
<b>Projected Net FICA Savings</b>	<b>\$281,854</b>

<u>1996 Participation Level and Amounts</u>	<u>1996 # of Participants</u>	<u>Annual Election</u>
• Health Care Participants	4,447	\$2,969,598
• Dependent Care	1,177	\$3,980,504
• Pre-Tax Dental Plan	5,246	Prem. <u>\$1,936,413</u>
<b>Total Spending Accounts &amp; Prem.</b>		<b>\$8,886,515</b>

<u>Annual Participation Levels</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
• Health Care Spending Account	0	4,447	5,300
• Dependent Care Spending Account	727	1,177	1,300
• Pre-Tax Dental Plan	0	5,246	10,400
• Vision Discount Plan (No Premium)	0	0	10,458
<b>Total Participants in NCFLEX</b>	727	10,870	27,458

The administrative cost-to-participant ratio for the Health Care Spending Account and the Dependent Care Spending Account is roughly \$50 to every one participant. The Annual Election-to-participant ratio for the Health Care Spending Account and the Dependent Care Spending Account is \$1,236 to every one participant. Assuming no significant changes in these ratios, the FICA savings generated from state employee participation in these flexible compensation programs should continue to adequately cover the administrative expenses associated with these programs.

**TECHNICAL CONSIDERATIONS:** None

**SOURCES:**

1996 NCFLEX Annual Report, Office of State Personnel

**FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** April 15, 1997



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