

SENATE RESOLUTION No. 70

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 4, 2020

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Urges Internal Revenue Service to grant more flexibility to users of flexible spending accounts.

CURRENT VERSION OF TEXT

As introduced.



1 **A SENATE RESOLUTION** urging the Internal Revenue Service to
2 grant more flexibility to users of flexible spending accounts.
3
4 **WHEREAS**, Millions of people in the United States utilize flexible
5 spending accounts (FSAs) to pay for certain medical expenses that
6 are not covered by health insurance plans and for other dependent
7 care services on a pre-tax basis; and
8 **WHEREAS**, FSAs can help employees pay for out-of-pocket medical,
9 dental, prescription, hearing, and vision expenses for themselves,
10 their spouses, and their eligible dependents while also helping
11 employees pay portions of their healthcare insurance premiums;
12 dependent care FSAs (DCFSA) can help participants pay for
13 various dependent care services such as pre-school, summer day
14 camp, before- and after-school programs, and child and adult day
15 care; and
16 **WHEREAS**, Participants utilizing FSAs are required to estimate
17 anticipated expenses for the upcoming year and make elections for
18 their account needs accordingly as participants are unable to make
19 changes to these elections throughout the year; these strict rules
20 prohibiting changes to participants' accounts, governed by the
21 Internal Revenue Service (IRS), are problematic during times of
22 unexpected crises such as the current COVID-19 pandemic; and
23 **WHEREAS**, COVID-19, a novel coronavirus, is a respiratory illness
24 that has spread across all major continents resulting in a worldwide
25 pandemic; the COVID-19 pandemic has caused large-scale loss of
26 life worldwide, has caused schools and many businesses to close
27 operations, and has severely impacted the global economy; and
28 **WHEREAS**, The unprecedented COVID-19 pandemic has also
29 impacted many individuals' health care and dependent care
30 expenses resulting in many over- or under-estimated elections for
31 FSAs; this is problematic for individuals who will need additional
32 financial assistance and for individuals whose excess funds will
33 likely go unused at the end of the year; and
34 **WHEREAS**, The IRS has taken steps to address these unanticipated
35 expenses as a result of the COVID-19 pandemic such as IRS Notice
36 2020-29 which will allow for certain mid-year changes to FSA
37 elections and also extend grace periods to apply unused funds
38 remaining in a health FSA or DCFSA to pay for or reimburse
39 medical care or dependent care expenses; in addition, IRS Notice
40 2020-33 will allow for an increase in the amount of carryover of
41 unused funds within health FSAs into the following year; and
42 **WHEREAS**, Despite the IRS' efforts to adapt to the constantly changing
43 needs of America's employees during the COVID-19 pandemic,
44 greater flexibility within FSAs is still required; for example, the
45 maximum unused amount in an FSA that can be carried over into
46 next year was only raised from \$500 to \$550; and
47 **WHEREAS**, In addition, the IRS' relief efforts are not mandatory and
48 employers have the discretion to allow all or any of the IRS'
49 optional changes to FSAs; this discretion may result in certain

1 employees lacking essential flexibility within their FSAs during the
2 COVID-19 pandemic; now, therefore,

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4 **BE IT RESOLVED** *by the Senate of the State of New Jersey:*

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6 1. This House urges the Internal Revenue Service to grant more
7 flexibility in regard to flexible spending accounts.

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9 2. Copies of this resolution, as filed with the Secretary of State,
10 shall be transmitted by the Secretary of the Senate to the
11 Commissioner of the Internal Revenue Service and every member
12 of Congress from the State of New Jersey.

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STATEMENT

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17 This resolution urges the Internal Revenue Service (IRS) to grant
18 more flexibility to users of flexible spending accounts (FSAs).

19 The COVID-19 pandemic has been a human tragedy that has
20 affected the lives of millions worldwide. It has also impacted many
21 individuals' health care and dependent care expenses resulting in
22 many over- or under-estimated elections for FSAs.

23 FSAs are relied upon by millions of employees within the United
24 States to pay for medical, dental, prescription, hearing, and vision
25 expenses that are not covered by health insurance plans for
26 themselves, their spouses, and their eligible dependents. FSAs can
27 also be used to pay for dependent care services. Dependent care
28 FSAs (DCFSA) can help participants pay for various dependent
29 care services such as pre-school, summer day camp, before- and
30 after-school programs, and child and adult day care. These FSAs
31 allow for funds to be used on a pre-taxed basis, however, the IRS
32 requires participants to estimate anticipated expenses for the
33 upcoming year and make FSA elections accordingly. The IRS
34 prohibits changes to participants' FSA accounts, and these strict
35 rules prohibiting changes is especially problematic during
36 unexpected crises such as the COVID-19 pandemic.

37 Although the IRS has attempted to make FSAs more flexible by
38 allowing certain changes to mid-term elections within FSAs,
39 extending grace periods to use unused FSA or DCFSA funds, and
40 increasing the amount of health FSA funds that can be carried over
41 into the next year, America's employees still require additional
42 flexibility within FSAs. In addition, these IRA relief options are
43 not mandatory, so employees can decide to implement all, some, or
44 none at their own discretion. This discretion could result in certain
45 employees not receiving necessary relief during this unprecedented
46 time.

47 For these reasons, the IRS is encouraged to further increase
48 flexibility within FSAs during the time of the COVID-19 pandemic.