

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 01-0083.01 Julie Hoerner

HOUSE BILL 01-1109

HOUSE SPONSORSHIP

Lawrence

SENATE SPONSORSHIP

Evans

House Committees

Health, Environment, Welfare, & Institutions
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING SAVINGS ACCOUNTS FOR PRESCRIPTION MEDICATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Health Care Task Force. Clarifies that there is no state income tax deduction for an employer that contributes to employee medical savings accounts used for prescription medication. Creates a state income tax credit for prescription medical savings accounts. Provides that the amount of the credit equals a specified percentage of the amount contributed by the employer to such accounts.

Specifies a maximum aggregate amount that may be claimed for this credit. Provides that an unused credit may be carried forward for a specified number of years.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 39-22-504.7 (1) and (2), Colorado Revised Statutes,
3 are amended to read:

4 **39-22-504.7. Medical savings accounts - prescription medical**
5 **savings accounts - establishment - contributions - distributions -**
6 **restrictions - taxation - tax credit - portability.** (1) (a) **Establishment**
7 **of accounts.** On and after January 1, 1995, an employer may offer to
8 establish medical OR PRESCRIPTION savings accounts.

9 (b) An employee on whose behalf a medical OR PRESCRIPTION
10 savings account has not been established by his or her employer may
11 establish ~~by his or her employer may establish~~ such an account on his or
12 her own behalf.

13 (2) (a) Each year an employer may contribute to an employee's
14 medical OR PRESCRIPTION savings account an amount that does not exceed
15 three thousand dollars.

16 (b) If an employer establishes a medical OR PRESCRIPTION savings
17 account for an employee but contributes less than the maximum set forth
18 in paragraph (a) of this subsection (2), the employee may contribute the
19 difference in accordance with the provisions of paragraph (d) of this
20 subsection (2).

21 (c) An employee who establishes his or her own medical OR
22 PRESCRIPTION savings account may contribute to such account an amount
23 that does not exceed the maximum set forth in paragraph (a) of this
24 subsection (2). Any such contribution is to be made in accordance with
25 the provisions of paragraph (d) of this subsection (2).

26 (d) **Employee contributions - pretax.** (I) All employee

1 contributions to medical OR PRESCRIPTION savings accounts are made on
2 a pretax basis, pursuant to section 39-22-104.6. Such contributions are
3 subject to the same limitations as employer contributions.

4 (II) An employee shall elect to make contributions to his or her
5 medical OR PRESCRIPTION savings account by signing a written election.
6 Such election is to be in the form prescribed by the executive director of
7 the department of revenue and is to be signed prior to the date the
8 employer withholds the first contribution.

9 (e) (I) **Employer contributions - tax deduction.** Employer
10 contributions to employee medical savings accounts constitute a deduction
11 from the employer's federal taxable income, pursuant to sections
12 39-22-104 (4) (h) and 39-22-304 (3) (k).

13 (II) FOR INCOME TAX YEARS COMMENCING AFTER JANUARY 1, 2001,
14 EMPLOYER CONTRIBUTIONS TO PRESCRIPTION SAVINGS ACCOUNTS
15 SHALL NOT CONSTITUTE A DEDUCTION FROM THE EMPLOYER'S FEDERAL
16 TAXABLE INCOME. FOR THE PURPOSES OF THIS SUBSECTION (2),
17 "PRESCRIPTION SAVINGS ACCOUNT" MEANS A SAVINGS ACCOUNT USED FOR
18 PRESCRIPTION MEDICATIONS. SUCH ACCOUNT SHALL BE USED TO
19 REIMBURSE THE EMPLOYEE FOR ANY OUT-OF-POCKET EXPENSES RELATED
20 TO PRESCRIPTION MEDICATION FOR THE EMPLOYEE OR THE EMPLOYEE'S
21 DEPENDENT. THE PRESCRIPTION SAVINGS ACCOUNT MAY ROLLOVER.

22 (f) **Employer contributions - tax credits.** (I) FOR INCOME TAX
23 YEARS COMMENCING ON OR AFTER JANUARY 1, 2002, AN EMPLOYER WHO
24 MAKES A CONTRIBUTION DURING THE TAX YEAR TO AN EMPLOYEE
25 PRESCRIPTION SAVINGS ACCOUNT ESTABLISHED PURSUANT TO THIS
26 SECTION SHALL BE ALLOWED A CREDIT WITH RESPECT TO THE INCOME
27 TAXES IMPOSED PURSUANT TO THIS ARTICLE. THE CREDIT SHALL EQUAL

1 TWENTY-FIVE PERCENT OF THE AGGREGATE AMOUNT CONTRIBUTED DURING
2 THE TAX YEAR BY THE EMPLOYER TO ALL EMPLOYEE PRESCRIPTION
3 SAVINGS ACCOUNTS ESTABLISHED PURSUANT TO THIS SECTION; EXCEPT
4 THAT THE AGGREGATE AMOUNT OF THE CREDIT CLAIMED BY AN EMPLOYER
5 FOR ALL EMPLOYEES PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY
6 THOUSAND DOLLARS FOR ANY SINGLE TAX YEAR.

7 (II) (A) IF THE AMOUNT OF A CREDIT ALLOWED PURSUANT TO THE
8 PROVISIONS OF THIS PARAGRAPH (f) EXCEEDS THE AMOUNT OF INCOME
9 TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX
10 YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE
11 CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME
12 TAX YEAR MAY BE CARRIED FORWARD AND USED AS A CREDIT AGAINST
13 SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED
14 FIVE YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX
15 YEARS POSSIBLE. ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT
16 BE REFUNDED OR CREDITED TO THE TAXPAYER.

17 (B) THE LIMITATION OF THIS SUBPARAGRAPH (II) SHALL APPLY IN
18 THE CASE OF A CONTROLLED GROUP OF C CORPORATIONS, AS DEFINED IN
19 SECTION 1563 OF THE INTERNAL REVENUE CODE; QUALIFIED SUBCHAPTER
20 S SUBSIDIARIES AND PARENT CORPORATIONS THEREOF AND FOR ALL
21 RELATED LIMITED LIABILITY COMPANIES; AND ALL ENTITIES ELECTING
22 PASS-THROUGH ENTITY STATUS FOR FEDERAL INCOME TAX PURPOSES
23 SUBJECT TO INCOME TAX TO BE SHARED BY THE TAXPAYER OWNERS ON THE
24 SAME BASIS AS PROFITS AND LOSSES ARE SHARED.

25 **SECTION 2.** 39-22-504.7 (3) (a) and the introductory portion to
26 39-22-504.7 (3) (b), Colorado Revised Statutes, are amended, and the said
27 39-22-504.7 (3) (b), is further amended BY THE ADDITION OF A NEW

1 SUBPARAGRAPH to read:

2 **39-22-504.7. Medical savings accounts - establishment -**
3 **contributions - distributions - restrictions - taxation - portability.**

4 (3) **Distributions.** (a) An account holder shall submit documentation of
5 eligible medical OR PRESCRIPTION expenses paid during the tax year to the
6 account administrator, and the account administrator shall reimburse the
7 account holder for such expenses.

8 (b) Moneys may be distributed from a medical OR PRESCRIPTION
9 savings account only for the purpose of:

10 (I.5) REIMBURSING THE ELIGIBLE PRESCRIPTION EXPENSES OF THE
11 ACCOUNT HOLDER OR HIS OR HER SPOUSE OR DEPENDENT CHILD;

12 **SECTION 3.** 39-22-104 (4) (h), Colorado Revised Statutes, is
13 amended to read:

14 **39-22-104. Income tax imposed on individuals, estates, and**
15 **trusts - single rate - definitions.** (4) There shall be subtracted from
16 federal taxable income:

17 (h) (I) Any amount contributed to a medical savings account by an
18 employer pursuant to section 39-22-504.7 (2) (e), to the extent such
19 amount is not claimed as a deduction on the taxpayer's federal tax return;

20 (II) ANY AMOUNT CONTRIBUTED TO A PRESCRIPTION SAVINGS
21 ACCOUNT SHALL NOT BE SUBTRACTED FROM FEDERAL TAXABLE INCOME.

22 **SECTION 4.** 39-22-304 (3) (k), Colorado Revised Statutes, is
23 amended to read:

24 **39-22-304. Net income of corporation - repeal.** (3) There shall
25 be subtracted from federal taxable income:

26 (k) (I) Any amount contributed to a medical savings account
27 pursuant to section 39-22-504.7 (2) (e), to the extent such amount is not

1 claimed as a deduction on the taxpayer's federal tax return;

2 (II) ANY AMOUNT CONTRIBUTED TO A PRESCRIPTION SAVINGS
3 ACCOUNT SHALL NOT BE SUBTRACTED FROM FEDERAL TAXABLE INCOME.

4 **SECTION 5. Effective date.** This act shall take effect at 12:01
5 a.m. on the day following the expiration of the ninety-day period after
6 final adjournment of the general assembly that is allowed for submitting
7 a referendum petition pursuant to article V, section 1 (3) of the state
8 constitution; except that, if a referendum petition is filed against this act
9 or an item, section, or part of this act within such period, then the act,
10 item, section, or part, if approved by the people, shall take effect on the
11 date of the official declaration of the vote thereon by proclamation of the
12 governor.