

1 SENATE BILL NO. 55

2 INTRODUCED BY BENEDICT

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA MEDICAL CARE SAVINGS
 5 ACCOUNT ACT OF 1995 TO ALLOW ACCOUNT HOLDERS TO ADMINISTER THEIR OWN ACCOUNT;
 6 PROVIDING DEFINITIONS AND EXCEPTIONS; AMENDING SECTIONS 15-61-102, 15-61-203, AND
 7 15-61-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
 8 APPLICABILITY DATE."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12 **Section 1.** Section 15-61-102, MCA, is amended to read:

13 **"15-61-102. Definitions.** As used in this chapter, unless it clearly appears otherwise, the following
 14 definitions apply:

15 (1) "Account administrator" means:

- 16 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;
 17 (b) a health care insurer as defined in 33-22-125;
 18 (c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

19 ~~or~~

20 (d) an employer if the employer has a self-insured health plan under ERISA; or

21 (e) the account holder of or an employee for the account in question.

22 (2) "Account holder" means an individual who is a

23 resident of this state and who establishes a medical care savings account or for whose benefit the account
 24 is established.

25 (3) "Dependent" means the spouse of the employee or account holder or a child of the employee
 26 or account holder if the child is:

27 (a) under 23 years of age and enrolled as a full-time student at an accredited college or university
 28 or is under 19 years of age;

29 (b) legally entitled to the provision of proper or necessary subsistence, education, medical care,
 30 or other care necessary for the health, guidance, or well-being of the child and is not otherwise

1 emancipated, self-supporting, married, or a member of the armed forces of the United States; or

2 (c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

3 (4) "Eligible medical expense" means an expense paid by the employee or account holder for
4 medical care defined by 26 U.S.C. 213(d) for the employee or account holder or a dependent of the
5 employee or account holder.

6 (5) "Employee" means an employed individual for whose benefit or for the benefit of whose
7 dependents a medical care savings account is established. The term includes a self-employed individual.

8 (6) "ERISA" means the Employee Retirement Income Security Act of 1974, Public Law 93-406.

9 (7) "Medical care savings account" or "account" means an account established with an account
10 administrator in this state pursuant to 15-61-201."

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12 **Section 2.** Section 15-61-203, MCA, is amended to read:

13 **"15-61-203. Withdrawal of funds from account for purposes other than medical expenses and**
14 **long-term care.** (1) An employee or account holder may withdraw money from the individual's medical care
15 savings account for any purpose other than an eligible medical expense or the long-term care of the
16 employee or account holder or a dependent of the employee or account holder only on the last business
17 day of the account administrator's business year. Money withdrawn from an account pursuant to this
18 subsection must be taxed as ordinary income of the employee or account holder.

19 (2) If the employee or account holder withdraws money from the account other than for eligible
20 medical expenses or long-term care or other than on the last business day of the account administrator's
21 business year, the administrator shall withhold from the amount of the withdrawal and, on behalf of the
22 employee or account holder, pay as a penalty to the department of revenue an amount equal to 10% of
23 the amount of the withdrawal. Payments made to the department pursuant to this section must be
24 deposited in the general fund. Money withdrawn from an account pursuant to this subsection must be
25 taxed as ordinary income of the employee or account holder.

26 (3) For the purposes of this section, "last business day of the account administrator's business
27 year", as applied to an account administrator who is also the account holder or an employee, means the
28 last weekday in December."

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30 **Section 3.** Section 15-61-204, MCA, is amended to read:

1 **"15-61-204. Administration of account.** (1) An account administrator shall administer the medical
2 care savings account from which the payment of claims is made and has a fiduciary duty to the person for
3 whose benefit the account is administered.

4 (2) Not more than 30 days after an account administrator begins to administer an account, the
5 account administrator shall notify in writing each employee and account holder on whose behalf the
6 account administrator administers an account of the date of the last business day of the account
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8 (3) An account administrator may use funds held in a medical care savings account only for the
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11 long-term care of the employee or account holder or a dependent of the employee or account holder, or
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15 medical expenses payable pursuant to an automobile insurance policy, workers' compensation insurance
16 policy or self-insured plan, or another health coverage policy, certificate, or contract.

17 (4) The employee or account holder may submit documentation of eligible medical expenses paid
18 by the employee or account holder or a dependent of the employee or account holder in the tax year to the
19 account administrator, and the account administrator shall reimburse the employee or account holder from
20 the employee's or account holder's account for eligible medical expenses.

21 (5) The employee or account holder may submit documentation of the purchase of long-term care
22 insurance or a long-term care annuity for the employee or account holder or a dependent of the employee
23 or account holder to the account administrator, and the account administrator shall reimburse the employee
24 or account holder from the employee's or account holder's account for payments made for the purchase
25 of the insurance or annuity. The account administrator may also provide for a system of automatic
26 withdrawals from the account for the payment of long-term care insurance premiums or an annuity.

27 (6) If an employer makes contributions to a medical care savings account on a periodic installment
28 basis, the employer may advance to an employee, interest free, an amount necessary to cover medical
29 expenses incurred that exceeds the amount in the employee's medical care savings account at the time that
30 the expense is incurred if the employee agrees to repay the advance from future installments or when the

1 employee ceases employment with the employer.

2 (7) In the case of an account administrator who is also the account holder or an employee:

3 (a) notice by the account administrator to the account holder pursuant to subsection (2) is not
4 required;

5 (b) the account administrator may not use funds held in an account to pay expenses of
6 administering the account; and

7 (c) documentation of eligible medical expenses must be maintained but is not required to be
8 submitted to the account administrator."

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10 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the
11 meaning of 1-2-109, to medical savings accounts created prior to [the effective date of this act].

12

13 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

14

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0055, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act amending the Montana Medical Care Savings Account Act of 1995 to allow account holders to administer their own account; providing definitions and exceptions; and providing an immediate effective date and retroactive applicability date.

ASSUMPTIONS:

1. This proposal is effective on passage and approval and applies retroactively to medical savings accounts created prior to the effective date.
2. Retirees and households with little income will not establish medical savings accounts. Low-income households are single filers with gross income less than \$15,000, married filers with gross income less than \$21,000, and head of household filers with gross income less than \$18,000 (DOR).
3. The ratio of Montana household expenditures on health care to U.S. household expenditures on health care is equivalent to the ratio of Montana personal income per capita to U.S. personal income per capita ($\$18,445/\$23208 = 0.795$; Bureau of Economic Analysis, U.S. Department of Commerce).
4. Out-of-pocket household expenditures on health care by income group are available for the United States (Consumer Expenditures Survey, U.S. Department of Labor, 1994). Adjusting those figures to Montana gives household expenditures on health care of \$1,324 for household income between \$15,000 and \$20,000; \$1,255 for income \$20,000 to \$30,000; \$1,401 for income \$30,000 to \$40,000; \$1,596 for income \$40,000 to \$50,000; \$1,757 for income \$50,000 to \$70,000; and \$2,142 for income over \$70,000.
5. Annual household expenditures on health care are a close approximation of the contributions that would be made to medical savings accounts.
6. If all Montana households (excluding retiree and low-income households) established medical savings accounts, the full-year negative revenue impact would be approximately \$15.3 million. However, not all households will establish medical savings accounts due to varying health levels and economic factors.
7. The number of medical savings accounts established is expected to gradually increase over time as more people learn about the Medical Savings Account Act of 1995 and this proposal. Approximately 2% of Montana households (excluding retiree and low-income households) are expected to establish medical savings accounts in 1997; 4% of Montana households will have medical savings account in 1998; 8% of Montana households will have medical savings accounts in 1999 and following years.
8. The fiscal impact in FY98 will be \$306,000 (2% of \$15.3 million); \$612,000 (4% of \$15.3 million) in FY99; \$1.225 million (8% of \$15.3 million) in FY 2000 and beyond.
9. The Department of Revenue is aware of 19 fiduciary institutions that have already come forth as administrators of medical savings accounts under HB 560, the Montana Medical Care Savings Account Act of 1995. The impacts provided here are in addition to the revenue impacts stemming from accounts currently being administered by these.
10. There is already a line on the income tax form, so no additional administrative expenses are expected.

FISCAL IMPACT:

	<u>FY 98</u>	<u>FY 99</u>
<u>Revenues:</u>		
Income Tax (General Fund)	(\$306,000)	(\$612,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The negative revenue impact is expected to be \$1.225 million in FY 2000 and beyond (see assumption 8).

Dave Lewis 1-15-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 STEVE BENEDICT, PRIMARY SPONSOR DATE

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19 (c) documentation of eligible medical expenses must be maintained but is not required to be
 20 submitted to the account administrator;

21 (D) CONTRIBUTIONS TO A MEDICAL SAVINGS ACCOUNT MUST BE ESTABLISHED IN A
 22 SEPARATE ACCOUNT AND BE SEGREGATED FROM OTHER FUNDS;

23 (E) THE ACCOUNT HOLDER IS SUBJECT TO THE SAME YEAREND REPORTING REQUIREMENTS
 24 AS ALL OTHER ACCOUNT ADMINISTRATORS; AND

25 (F) THE ACCOUNT HOLDER IS REQUIRED TO FORWARD THE 10% PENALTY ON FUNDS
 26 WITHDRAWN FOR NONELIGIBLE MEDICAL EXPENSES TO THE STATE."

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28 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the
 29 meaning of 1-2-109, to medical savings accounts created prior to [the effective date of this act].

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OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

March 31, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return Senate Bill 55, **"AN ACT AMENDING THE MONTANA MEDICAL CARE SAVINGS ACCOUNT ACT OF 1995 TO ALLOW ACCOUNT HOLDERS TO ADMINISTER THEIR OWN ACCOUNT; PROVIDING DEFINITIONS AND EXCEPTIONS; AMENDING SECTIONS 15-61-102, 15-61-203, AND 15-61-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."**

Senate Bill 55, which allows Medical Care Savings Account holders to administer their own accounts, is effective immediately upon passage and approval and applies retroactively to accounts created prior to the effective date. Current law provides an income tax deduction for certain contributions to these accounts.

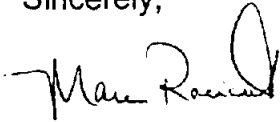
Estimates of the fiscal impact of Senate Bill 55 on income tax revenues for the State are \$306,000 for fiscal year 1998 and \$612,000 for fiscal year 1999.

Due to the projected increase in expenditures for juvenile and adult corrections that are essential to the preservation of public safety and the prevention of crime, education costs in the next biennium that have not been provided for, the decrease in estimated

revenues reflected in House Joint Resolution 2, and a higher ending fund balance than was maintained in previous bienniums, it is not possible at this time to conclude that there are sufficient revenues to both provide for the tax reduction proposed by Senate Bill 55 and fund necessary state services at a proper level. Therefore, I am returning Senate Bill 55 with a proposed amendment that it not become effective until January 1, 1999, so that there is no diminution of revenues in the coming biennium.

Senator Benedict, the bill's sponsor, has been informed of the need for this amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Racicot". The signature is fluid and cursive, with a large, stylized initial "M" and "R".

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
SENATE BILL NO. 55
(REFERENCE COPY)
March 31, 1997

1. Title, line 7.

Strike: "IMMEDIATE"

2. Page 5, line 1.

Strike: "passage and approval"

Insert: "January 1, 1999"

SB55