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SENATE BILL 6598

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State of Washington

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By Senators Cantu, Nelson, Bluechel, Erwin, Hochstatter, Moyer, Roach, Oke, L. Smith, McDonald, Sellar, Morton, McCaslin, West and Anderson

Read first time 02/07/94. Referred to Committee on Health & Human Services.

1 AN ACT Relating to medical care savings accounts; adding new  
2 sections to chapter 43.72 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature that  
5 there be established medical care savings accounts for use by all  
6 residents. It is the legislature's intent that the governor and the  
7 Washington health services commission seek changes from the federal  
8 government that will exempt the contributions to the accounts from  
9 taxation. Until the state is successful in gaining the needed federal  
10 changes, the contributions are subject to federal income taxation.

11 NEW SECTION. **Sec. 2.** Sections 1 through 7 of this act shall be  
12 known as the medical care savings account act.

13 NEW SECTION. **Sec. 3.** As used in this chapter:

14 (1) "Account administrator" means:

15 (a) A state-chartered bank, savings and loan association, credit  
16 union, or trust company authorized to act as fiduciary and under the  
17 supervision of the department of financial institutions or a national

1 banking association or federal savings and loan association or credit  
2 union authorized to act as fiduciary in this state;

3 (b) An insurance company authorized to do business in this state  
4 pursuant to Title 48 RCW or a health care corporation;

5 (c) A broker-dealer, commodity issuer, or investment advisor  
6 regulated by the department of financial institutions or a federal  
7 investment company registered under the investment company act of 1940,  
8 Title I, chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64;

9 (d) A certified public accountant licensed to practice in this  
10 state pursuant to Title 18 RCW;

11 (e) An employer if the employer has a self-insured health plan  
12 under ERISA; or

13 (f) An employer that participates in the medical care savings  
14 account program.

15 (2) "Account holder" means the resident individual who establishes  
16 a medical care savings account or for whose benefit a medical care  
17 savings account is established.

18 (3) "Deductible" means the total deductible for an employee and all  
19 the dependents of that employee for a calendar year.

20 (4) "Dependent." For the purposes of this chapter:

21 (a) "Dependent child" means an individual's unmarried natural  
22 child, stepchild, or legally adopted child, who is either (i) younger  
23 than age nineteen, or (ii) younger than age twenty-three and (A) is a  
24 full-time student at an educational organization that normally  
25 maintains a regular faculty and curriculum and normally has a regularly  
26 enrolled body of pupils or students in attendance at the place where  
27 its educational activities are regularly carried on, or (B) is pursuing  
28 a full-time course of institutional on-farm training under the  
29 supervision of an educational organization described in (a)(ii)(A) of  
30 this subsection.

31 (b) "Family" means an individual or an individual and the  
32 individual's spouse, if not legally separated, and the individual's  
33 dependent children. For purposes of eligibility determination and  
34 enrollment in the plan, an individual cannot be a member of more than  
35 one family.

36 (c) "Family dependent" means an enrollee's legal spouse, if not  
37 legally separated, or the enrollee's dependent child, who meets all  
38 eligibility requirements, is enrolled in the plan, and for whom the  
39 applicable premium has been paid.

1 (5) "Eligible medical expense" means an expense paid by the  
2 taxpayer for medical care described in section 213(d) of the internal  
3 revenue code as in existence on the effective date of this act.

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

7 (7) "ERISA" means the employer retirement income security act of  
8 1974, P.L. 93-406, 88 Stat. 829.

9 (8) "Higher deductible" means a deductible of not less than two  
10 thousand dollars for an individual and not less than three thousand  
11 dollars for a family for 1994. This minimum and maximum shall be  
12 adjusted annually by the health services commission to reflect  
13 increases in the implicit price deflator for the United States as  
14 defined and officially reported by the United States department of  
15 labor.

16 (9) "Medical care savings account" or "account" means an interest  
17 bearing account established in this state pursuant to a medical care  
18 savings account program to pay the eligible medical expenses of an  
19 employee or account holder and the dependents of the employee or  
20 account holder, and insured by the federal deposit insurance  
21 corporation.

22 (10) "Medical care savings account program" or "program" means one  
23 of the following programs:

24 (a) A program established by an employer that previously provided  
25 a health coverage policy, certificate, or contract that includes all of  
26 the following:

27 (i) The purchase by an employer of a qualified higher deductible  
28 health plan for the benefit of an employee and his or her dependents.

29 (ii) The contribution on behalf of an employee into a medical care  
30 savings account by his or her employer of the premium differential  
31 realized by the employer based on the purchase of a qualified higher  
32 deductible health plan for the benefit of the employee. The employee  
33 may contribute into the account in addition to a contribution by the  
34 employer all or part of the difference between the employer's  
35 contribution and the maximum contribution as determined pursuant to  
36 this subsection (10)(a)(ii). A contribution under this subsection  
37 (10)(a)(ii) shall not exceed three thousand six hundred dollars for  
38 1994. For each year after 1994, this maximum shall be adjusted  
39 annually by the health services commission to reflect increases in the

1 implicit price deflator for the United States as defined and officially  
2 reported by the United States department of labor.

3 (b) A program established by an employer that did not previously  
4 provide a health coverage policy, certificate, or contract that  
5 includes all of the following:

6 (i) The purchase by an employer of a qualified higher deductible  
7 health plan for the benefit of an employee and his or her dependents.

8 (ii) The contribution on behalf of an employee into a medical care  
9 savings account by his or her employer of the premium differential  
10 realized by the employer based on the purchase of a qualified higher  
11 deductible plan for the benefit of the employee. The employee may  
12 contribute into the account in addition to a contribution by the  
13 employer all or part of the difference between the employer's  
14 contribution and the maximum contribution as determined pursuant to  
15 this subsection (10)(b)(ii). A contribution under this subsection  
16 (10)(b)(ii) shall not exceed three thousand six hundred dollars for  
17 1994. For each year after 1994, this maximum shall be adjusted  
18 annually by the health services commission to reflect increases in the  
19 implicit price deflator.

20 (c) A program established by an account holder that includes all of  
21 the following:

22 (i) The purchase by the account holder of a qualified higher  
23 deductible health plan for the benefit of the account holder and his or  
24 her dependents.

25 (ii) A contribution by the account holder not to exceed three  
26 thousand six hundred dollars for 1994 into a medical care savings  
27 account. For each year after 1994, this maximum shall be adjusted by  
28 the health services commission to reflect increases in the implicit  
29 price deflator for the United States as defined and officially reported  
30 by the United States department of labor.

31 (11) "Qualified higher deductible health plan" means a health  
32 coverage policy, certificate, or contract that provides for payments  
33 for covered benefits that exceed the higher deductible and that is  
34 purchased by an employer for the benefit of an employee for whom the  
35 employer makes deposits into a medical care savings account or by an  
36 account holder.

37 NEW SECTION. **Sec. 4.** (1) For tax years beginning after 1994, both  
38 of the following apply:

1 (a) An employer, except as otherwise provided by statute, contract,  
2 or a collective bargaining agreement, may offer a medical care savings  
3 account program to the employer's employees.

4 (b) A resident individual may establish a medical care savings  
5 account program for himself or herself or for his or her dependents.

6 (2) An employer that offers a medical care savings account program  
7 shall inform before making any contributions all employees in writing  
8 of the federal tax status of contributions made pursuant to sections 1  
9 through 7 of this act.

10 (3) Upon agreement between an employer and account holder, an  
11 account holder may have his or her employer contribute either to the  
12 account holder's medical care savings account or continue to make  
13 contributions under the employer's existing health insurance policy or  
14 program.

15 NEW SECTION. **Sec. 5.** (1) An account administrator shall  
16 administer the medical care savings account from which the payment of  
17 claims is made and has a fiduciary duty to the person for whose benefit  
18 the account administrator administers an account.

19 (2) Not more than thirty days after an account administrator begins  
20 to administer an account, the account administrator shall notify in  
21 writing each employee and account holder on whose behalf the account  
22 administrator administers an account of the date of the last business  
23 day of the account administrator's business year.

24 (3) The account administrator shall utilize the funds held in a  
25 medical care savings account for the purpose of paying the medical  
26 expenses of the employee or account holder or his or her dependents or  
27 to purchase a health coverage policy, certificate, or contract. Funds  
28 held in a medical care savings account shall not be used to pay medical  
29 expenses of the employee or account holder or his or her dependents  
30 that are otherwise reimbursable including but not limited to medical  
31 expenses payable pursuant to an automobile insurance policy, worker's  
32 compensation insurance policy or self-insured plan, or another health  
33 coverage policy, certificate, or contract.

34 (4) The employee or account holder may submit documentation of  
35 medical expenses paid or withdrawn under section 6 of this act by the  
36 employee or account holder in the tax year to the account  
37 administrator, and the account administrator shall reimburse or pay the  
38 employee or account holder from the employee's or account holder's

1 account for eligible medical or other expenses under section 6 of this  
2 act.

3 (5) If an employer makes contributions to a medical care savings  
4 account program on a periodic installment basis, the employer may  
5 advance to an employee, interest free, an amount necessary to cover  
6 medical expenses incurred that exceed the amount in the employee's  
7 medical care savings account at the time the expense is incurred if the  
8 employee agrees to repay the advance from future installments or when  
9 he or she ceases to be an employee of the employer.

10 NEW SECTION. **Sec. 6.** (1) Funds in an individual medical care  
11 savings account may only be used to pay medical expenses for the  
12 individual and dependents, except for the following circumstances:

13 (a) Tuition at a two-year or four-year accredited college or  
14 university for the individual or the individual's dependents; or

15 (b) The purchase of the individual's first home.

16 (2) Withdrawals made under subsection (1) (a) or (b) of this  
17 section shall not reduce the account balance below a sum equal to the  
18 individual's deductible and may not exceed fifty percent of the  
19 remaining funds.

20 (3) Withdrawals made under subsection (1) (a) or (b) of this  
21 section are not subject to section 7(2)(a) of this act.

22 (4) Withdrawals made under subsection (1) (a) or (b) of this  
23 section must be repaid to the account with interest equal to the amount  
24 earned on the account within ten years.

25 NEW SECTION. **Sec. 7.** (1) Subject to subsection (3) of this  
26 section, if an employee or account holder withdraws money from his or  
27 her medical care savings account for any purpose other than a purpose  
28 in section 5(3) or 6 of this act only on the last business day of the  
29 account administrator's business year, the withdrawal is subject to  
30 subsection (2) of this section.

31 (2) Subject to subsection (3) of this section, if the employee or  
32 account holder withdraws money for any purpose at any time other than  
33 the last business day of the account administrator's business year, the  
34 following applies:

35 (a) The administrator shall withhold from the amount of the  
36 withdrawal and on behalf of the employee or account holder shall pay a

1 penalty to the internal revenue service equal to ten percent of the  
2 amount of the withdrawal; and

3 (b) Interest earned on the account during the tax year in which a  
4 withdrawal under this subsection is made is income for purposes of  
5 federal income tax until federal law changes to permit account funds to  
6 accrue tax free.

7 (3) The amount of a disbursement of any assets of a medical care  
8 savings account pursuant to a filing for protection under Title 11 of  
9 the United States Code, 11 U.S.C. 101 to 1330 by an employee, account  
10 holder, or person for whose benefit the account was established is not  
11 considered a withdrawal for purposes of this section and subsection (2)  
12 of this section does not apply.

13 (4) Upon the death of the employee or account holder, the account  
14 administrator shall distribute the principal and accumulated interest  
15 of the medical care savings account to the estate of the employee or  
16 account holder.

17 (5) If an employee is no longer employed by an employer that  
18 participates in a medical care savings account program and the  
19 employee, not more than sixty days after his or her final day of  
20 employment, transfers the account to a new account administrator or  
21 requests in writing to the former employer's account administrator that  
22 the account remain with that administrator and that account  
23 administrator agrees to retain the account, the money in the medical  
24 care savings account may be utilized for the benefit of the employee or  
25 his or her dependents subject to sections 1 through 7 of this act and  
26 remains exempt from taxation pursuant to sections 1 through 7 of this  
27 act. Not more than thirty days after the expiration of the sixty days,  
28 if an account administrator has not accepted the former employee's  
29 account, the employer shall mail a check to the former employee at the  
30 employee's last known address equal to the amount in the account on  
31 that day and that amount is not subject to the penalties under  
32 subsection (2) of this section. If an employee becomes employed with  
33 a different employer that participates in a medical care savings  
34 account program, the employee may transfer his or her medical care  
35 savings account to that new employer's account administrator. If an  
36 account holder becomes an employee of an employer that participates in  
37 the medical care savings account program, the account holder may  
38 transfer his or her account to the employer's account administrator.

1        NEW SECTION.    **Sec. 8.**    The health services commission shall report  
2 on or before January 1, 1998, to the appropriate committees of the  
3 house of representatives and senate on the following:

4        (1) The availability of health care coverage under and market share  
5 of medical care savings account programs;

6        (2) Results of a survey of employer and employee satisfaction with  
7 medical care savings account programs;

8        (3) The results of a loss ratio study relative to medical care  
9 savings account programs.

10       NEW SECTION.    **Sec. 9.**    Sections 1 through 7 of this act are each  
11 added to chapter 43.72 RCW.

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