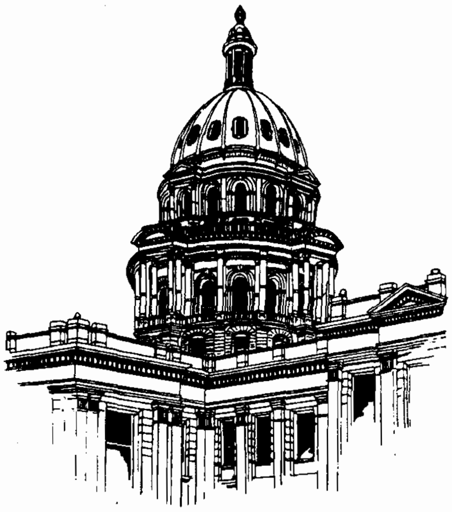
2000

0479 Health Care Task Force

Colorado Legislative Council

0479 Health Care Task Force



Health Care

Task Force

Report to the

COLORADO

GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 479
December 2000

RECOMMENDATIONS FOR 2001

HEALTH CARE TASK FORCE

Report to the
Colorado General Assembly

Research Publication No. 479
December 2000

COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

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December 2000

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Health Care Task Force. The statutory committee was created pursuant to Section 26-15-107, Colorado Revised Statutes.

At its meeting on October 16, 2000, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2001 session was approved.

Respectfully submitted,

/s/ Representative Doug Dean
Chairman
Legislative Council

DD/JH/jh

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RECOMMENDED BILLS AND FISCAL NOTES

Health Care Task Force

Members of the Committee

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Chairman
Senator John Evans
Senator Pat Pascoe
Senator Bill Thiebaut
Senator Bryan Sullivant

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Representative Steve Johnson
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EXECUTIVE SUMMARY

Committee Charge

Pursuant to Section 26-15-107, C.R.S., the Colorado Health Care Task Force must study 13 specific health-related issues over five years. The study charges include examining the ability of consumers to obtain and keep adequate and affordable health insurance, future trends for health care coverage rates, and the role of public health programs in delivering health care.

Committee Activities

The 2000 Health Care Task Force continued the 1999 Task Force's review of issues surrounding the uninsured people and prescription drug costs. The 2000 Task Force's study of the uninsured focused on community programs currently serving the uninsured, the affordability of health insurance for low-income families, and efforts to gain state-wide consensus on how to reduce the number of uninsured individuals. Testimony indicated that significant public and private sector reforms are necessary to improve the level of health care coverage in Colorado. The 1999 Task Force's examination of prescription drug costs became more focused during the 2000 interim on the disproportionate impact these costs have on the elderly. Members found that the elderly require more prescriptions than the general population and have limited options to access drug coverage through Medicare. Finally, the Task Force studied indigent care for the mentally ill and found the availability of such care is declining. Without care, many of the mentally ill are at risk for suicide and involvement in the criminal justice system.

Committee Recommendations

Bill A — Creation of a State Income Tax Credit for Employer Contributions to Medical Savings Accounts. The bill replaces the state income tax deduction for an employer that contributes to employee medical savings accounts (MSAs) with a state income tax credit.

Bill B — Savings Accounts for Prescription Medications. The bill creates a state income tax credit for employers who contribute to their employees' prescription medical savings accounts. These accounts are MSAs which specifically cover prescription medications.

Bill C — Credit Against State Income Taxes for Prescription Medications. The bill creates a credit against state income taxes to help cover prescription medication expenses. Colorado residents age 65 and older would be eligible for the credit.

STATUTORY AUTHORITY AND RESPONSIBILITIES

Pursuant to Section 26-15-107, C.R.S. (HB 99-1019), the Colorado Health Care Task Force must consider, but is not limited to, the following issues over five years:

- emerging trends in Colorado health care and their impact on consumers, including but not limited to:
  - relationships among health care providers, patients, and payors
  - restrictions in health care options available to consumers and professional liability issues arising from these restrictions
  - medical and patient record confidentiality
  - health care work force requirements
  - home care in the continuum of care;
- the effect of recent shifts in the way health care is delivered and paid for;
- the ability of consumers to obtain and keep adequate, affordable health insurance coverage, including coverage for catastrophic illnesses;
- the effect of managed care on the ability of consumers to obtain timely access to quality care;
- the operation of the Medically Indigent Program;
- future trends for health care coverage rates for employees and employers;
- the role of public health programs and services;
- the social and financial costs and benefits of mandated health care coverage; and
- the costs and benefits of providing preventive care and early treatment for people with chronic illnesses who may eventually need long-term care.

Committee Activities

During the 2000 interim, the Colorado Health Care Task Force received testimony regarding the uninsured, prescription drug costs for the elderly, and indigent care for the mentally ill. Three bills were adopted to address the issue of the uninsured and prescription costs for the elderly.

Background

The Health Care Task Force was created by House Bill 99-1019 and conducted its first meetings during the 1999 legislative interim. In that year, the Task Force focused its studies on issues of the uninsured but also heard about rising pharmaceutical prices, Medicaid waivers, and the possibility of consolidating the state's health care contracts. In addition, the Task Force appointed three advisory subcommittees to examine other health care issues. These subcommittees were chaired by Task Force members and studied such issues as childhood immunization policies, health care data collection, and access to health care services. The Task Force approved one bill for the 2000 legislative session which would have created a childhood immunization tracking system within the Department of Public Health and Environment. The bill was vetoed by the Governor.

The Large Number of Uninsured People in Colorado

Scope of issue. Approximately 15 percent or 580,000 Coloradans do not currently have health insurance. Many of the uninsured are employed but earn low wages. They and their families often lack coverage because their employers do not offer health insurance benefits, coverage is not offered to employees' families, or employees cannot afford the available coverage. The cost of health insurance is a significant contributor to the lack of employer-based coverage. A comprehensive HMO plan costs an average of $6,000 per year for family coverage, and employers are reporting sharp increases in these costs. Small employers find it particularly difficult to offer employees health insurance under these circumstances.

The Health Care Task Force recommends Bill A to address access to health insurance. By replacing the employers' medical savings account income tax deduction with a tax credit, employers are given a greater incentive to contribute to these accounts. Such an incentive may lead to more employers offering MSAs and to larger employer contributions to existing accounts. Employees will therefore have another option for accessing health care coverage. They may also find the level of contribution to MSAs is more flexible than payments to a health plan and can be adjusted to be more affordable.

Prescription Drug Costs for the Elderly

Scope of issue. The Health Care Task Force continued its earlier study of rising pharmaceutical prices but focused its examination on the impact on the elderly. Testimony indicated that the elderly are the largest consumer group of prescription medications. While they make up just 13 percent of the population, they consume about 30 percent of the prescription drugs. The elderly are therefore disproportionately impacted by rising drug prices (11 percent increase expected in 2000). Testimony showed that although all individuals over 65 are covered by Medicare, enrollees have limited options with which to access drug coverage. Twenty other states have already enacted prescription assistance programs for the elderly.

Bills B and C address issues regarding the affordability of prescription drugs. Bill C creates Prescription Medical Savings Accounts and a state income tax credit to encourage employer contributions to these accounts. The availability of these accounts will give people another option to help pay prescription drug costs, and the employer contribution may help reduce the amount of personal income people currently spend on prescriptions. Bill C creates a state income tax credit to help reimburse the elderly for a portion of their prescription drug expenditures. The bill's focus on the low-income elderly who do not have other prescription drug coverage will make drugs more affordable to those individuals who are most in need.

Indigent Care for the Mentally Ill

Scope of issue. A coalition of providers presented information on the declining availability of indigent care for the mentally ill. Indigent individuals who are mentally ill often first access mental health services through hospital emergency rooms. Hospitals are offering mental health services to fewer people, however, because of funding shortages and the large percentage of psychiatric patients who do not have insurance coverage. Indigent patients who are treated often leave the hospitals without a means for continued care. Many resort to self-medicating through alcohol and drug abuse, are at risk for suicide, and end up in the criminal justice system. The Task Force learned that community mental health centers serve a large portion of the mentally ill who are indigent. The centers are struggling to serve their current patients, however, and cannot expand to reach others in need because of limited funding.

The Task Force did not recommend legislation addressing mental health. The chairman, vice-chairman, and a number of other Task Force members, however, signed a letter encouraging the executive director of the Department of Public Health and Environment to fund mental health and substance abuse pilot programs with Tobacco Settlement dollars (see Attachment A). The letter states the grants should support programs developed through collaborative partnerships of consumers, advocates, and providers. These programs would help communities organize the various components of mental health, substance abuse, and hospital services and develop more cost-effective programs for serving the medically indigent. In addition, the letter requests that the department provide updates and recommendations to the Task Force regarding improvements in access to mental health and substance abuse services for the medically indigent.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Concerning the Creation of a State Income Tax Credit for Employer Contributions to Medical Savings Accounts

The bill replaces the state income tax deduction for an employer that contributes to employee medical savings accounts (MSAs) with a state income tax credit. The amount of the credit will equal 25 percent of the aggregate amount contributed during the tax year by the employer to all employee MSAs. The maximum credit claimed by an employer cannot exceed $50,000 for any single tax year. If the amount of credit allowed exceeds the taxes owed, the amount of unused credit can be carried forward up to five years to offset future taxes. The fiscal note implies that no additional state spending authority or appropriation is required in FY 2001-02 to implement the provisions of the bill.

Bill B — Concerning Savings Accounts for Prescription Medications

The bill creates a state income tax credit for employers who contribute to their employees' prescription medical savings accounts. These accounts are MSAs which specifically cover prescription medications. The amount of the credit will equal 25 percent of the aggregate amount contributed during the tax year by the employer to all employee prescription MSAs. The maximum credit claimed by an employer cannot exceed $50,000 for any single tax year. If the amount of credit allowed exceeds the taxes owed, the amount of unused credit can be carried forward up to five years to offset future taxes. The fiscal note implies that no additional state spending authority or appropriation is required in FY 2001-02 to implement the provisions of the bill.

Bill C — Concerning a Credit Against State Income Taxes for Prescription Medications

The bill creates a credit against state income taxes for prescription medications. Colorado residents age 65 and older would be eligible for the credit. The credit would be for the actual amount expended up to $500 per individual or $1,000 per couple. Individuals and couples who are eligible for the full credit must have incomes of $20,000 or less and $40,000 or less, respectively. Individuals and couples whose incomes exceed these levels may claim a credit, but the amount they claim must be reduced by $2 for every $100 their income exceeds the maximum. Anyone claiming a credit cannot have health insurance, Medicare, or Medicaid coverage for prescription medications. The tax credit is tied to the state's excess revenues. The fiscal note indicates that $72,000 General Fund is needed to implement the bill in FY 2001-02. In addition, the bill creates a new TABOR refund mechanism of $92.4 million. This change will cause a reduction in the six-tier sales tax refund mechanism by $97.0 million in FY 2001-02.

Resource Materials

The resource materials listed below were provided to the Task Force or developed by Legislative Council Staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www. state.co. us/gov_dir/leg_dir/lcsstaff/2000/00interim.

Meeting Summaries	Topics Discussed
August 21, 2000	Community Programs Serving the Uninsured Small Businesses' Health Insurance Price and Affordability of Health Insurance Five Approaches for Achieving Health Insurance Coverage for All Coloradans Grant Proposal to Health Resources and Services Administration (HRSA) to Reduce the Number of Uninsured
September 7, 2000	Prescription Drugs for the Elderly Mental Health Care for Indigent Patients Small Group and Rural Access Task Force
September 27, 2000	Consideration of Draft Legislation

Memoranda and Reports

Access to Mental Health Treatment Though Primary Care Settings, National Conference of State Legislatures, August 2000.

Expanding Insurance Coverage to Working Families - State Options, National Conference of State Legislatures, June 2000.

Five Approaches to Achieving Health Insurance Coverage for All Coloradans, Colorado Coalition for the Medically Underserved, July 2000.

Medication Assistance Programs for Uninsured and Indigent Patients, Medscape.com, June 2000.

Mental Health: A Report of the Surgeon General, The Costs of Mental Illness, Office of the United States Surgeon General, December 1999.

Prescription Drugs for Seniors and Medicare Reform, National Governors' Association, July 2000.

Prices and Affordability of Health Insurance for Colorado's Uninsured Population, Colorado Coalition for the Medically Underserved, July 2000.

Self-Care Among the Uninsured: "You Do What You Can Do.", Health Affairs, July/August 2000.

State Senior Pharmaceutical Assistance Programs, National Conference of State Legislatures, August 2000.

Tax Subsidies for Health Insurance: Costs and Benefits, Health Affairs, January/February 2000.

Bill A

HOUSE SPONSORSHIP

Lawrence

SENATE SPONSORSHIP

Evans

A BILL FOR AN ACT

CONCERNING THE CREATION OF A STATE INCOME TAX CREDIT FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

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. Replaces the state income tax deduction for an employer that contributes to employee medical savings accounts with a state income tax credit. 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 a credit. Provides that an unused credit may be carried forward for a specified number of years.

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

SECTION 1. 39-22-504.7 (2) (e), Colorado Revised Statutes, is amended, and the said 39-22-504.7 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

39-22-504.7. Medical savings accounts - establishment - contributions - distributions - restrictions - taxation - tax credit - portability. (2) (e) **Employer contributions - tax deduction.** FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2002, employer contributions to employee medical savings accounts constitute a deduction from the employer's federal taxable income, pursuant to sections 39-22-104 (4) (h) and 39-22-304 (3) (k).

(f) **Tax credits - employer contributions.** (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2002, AN EMPLOYER WHO MAKES A CONTRIBUTION DURING THE TAX YEAR TO AN EMPLOYEE MEDICAL SAVINGS ACCOUNT ESTABLISHED PURSUANT TO THIS SECTION SHALL BE ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED PURSUANT TO THIS ARTICLE. THE CREDIT SHALL EQUAL TWENTY-FIVE PERCENT OF THE AGGREGATE AMOUNT CONTRIBUTED DURING THE TAX YEAR BY THE EMPLOYER TO ALL EMPLOYEE MEDICAL SAVINGS ACCOUNTS ESTABLISHED PURSUANT TO THIS SECTION; EXCEPT THAT THE AGGREGATE AMOUNT OF THE CREDIT CLAIMED BY AN EMPLOYER FOR ALL EMPLOYEES PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR ANY SINGLE TAX YEAR.

(II) IF THE AMOUNT OF A CREDIT ALLOWED PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (f) EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR MAY BE CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE. ANY CREDIT

REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR CREDITED TO THE TAXPAYER.

SECTION 2. 39-22-104 (4) (h), Colorado Revised Statutes, is amended to read:

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

(h) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2002, any amount contributed to a medical savings account by an employer pursuant to section 39-22-504.7 (2) (e), to the extent such amount is not claimed as a deduction on the taxpayer's federal tax return;

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

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

(k) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2002, any amount contributed to a medical savings account pursuant to section 39-22-504.7 (2) (e), to the extent such amount is not claimed as a deduction on the taxpayer's federal tax return;

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

DRAFT

Bill A

Colorado Legislative Council Staff

STATE FISCAL IMPACT

Drafting Number:	LLS 01-0082	**Date:**	November 17, 2000
Prime Sponsor(s):	Rep. Lawrence Sen. Evans	**Bill Status:**	Health Care Task Force
		Fiscal Analyst:	Harry Zeid (303-866-4753)

TITLE: CONCERNING THE CREATION OF A STATE INCOME TAX CREDIT FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

Fiscal Impact Summary	FY 2001/2002	FY 2002/2003
State Revenues General Fund	Potential GF Revenue Reduction	Potential GF Revenue Reduction
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: TABOR Impact		
Effective Date: 90 days after adjournment (August 7, 2001) unless a referendum petition is filed, and would apply to income tax years commencing on or after January 1, 2002.		
Appropriation Summary for FY 2001-2002: None Required		
Local Government Impact: None		

Summary of Legislation

Under current law, any amount contributed to a medical savings account by an employer pursuant to Section 39-22-504.7 (2) (e), C.R.S., to the extent that the contribution is not claimed as a deduction on the taxpayer's federal tax return, may be subtracted from federal taxable income prior to calculating Colorado individual or corporate income tax liability. Effective for income tax years commencing on or after January 1, 2002, this bill replaces the state income tax *deduction* for employers with an income tax *credit* equal to 25 percent of the aggregate amount contributed to employee medical savings accounts during the tax year. The aggregate amount of the credit claimed by an employer may not exceed $50,000 for any single tax year. If the credit exceeds the amount of income taxes otherwise due, the credit may be carried forward and used as a credit against subsequent years' income tax liability for up to five years.

State Revenues

Under current Colorado law, employers may contribute up to $3,000 to an employee's medical savings account. However, there has been minimal use of medical savings accounts by employers since the income modification was first enacted in 1994. A study prepared by the Government Accounting Office (GAO) in December 1997 shows that while medical savings account qualified health plans were widely available across the country by June 1997, consumer demand has been lower than industry expectations. The Internal Revenue Service reports that nationally, only 22,051 individuals had opened a medical savings account during the first six months of 1997. The federal Health Insurance Portability and Accountability Act (HIPAA) provided for a cap of 525,000 accounts by June 30, 1999. In a report released in January 1999, the GAO stated that it would not conduct a full survey on medical savings accounts (as had been required by HIPAA) because so few consumers had purchased health plans with the medical savings account feature. The GAO estimated that fewer than 45,000 MSA's had been sold nationally as of June 30, 1999.

Based on this lack of data, while a state income tax credit of 25 percent of the aggregate amount contributed by an employer to all employee medical savings accounts may increase the incentive for employers to participate, the annual value of the credit to Colorado employers has not been estimated. Based on the current state income tax rate of 4.63 percent, the current law income modification is valued at 4.63 percent of the contribution to medical savings accounts. A 25 percent income tax credit is valued at 25 percent of the contribution. As a means of comparison, if 50 companies took full advantage of the 25 percent credit up to the maximum per employer of $50,000 for any single tax year (contributions in $200,000), the bill's impact would be a General Fund revenue reduction of $2,037,000 ({50 x $50,000} - {50 x $200,000 x 4.63%} = $2,037,000).

State Expenditures

Since the income tax credit for employer contributions to medical savings accounts is not refundable and is not a TABOR refund mechanism, it will not be necessary for the income tax credit to be tracked on a separate line by the Department of Revenue. The credit would be claimed on the existing tax forms 104CR and 112CR. However, as with other income tax credit bills, the department has identified the need for up to 500 hours of computer programming time to modify the computer codes related to the Netfile/Telefile system, FSEF, and the Fair Share Audit Programs. Consistent with past years, this fiscal note assumes that these costs will be absorbed within the annual programming budget of the department. It should be noted that substantial economies of scale occur annually in computer programming costs if more than one bill is passed that requires modifications to the mainframe income tax system and the other computer programs related to the income tax system.

Other State Impacts

The reduced state revenues will mean a reduction of the amount of future state funds required to be refunded to taxpayers under the terms of TABOR, and less state funds will be available in the

General Fund reserve. Also, affected Colorado taxpayers would experience an increased federal tax liability. The amount of the state General Fund revenue reduction has not been estimated.

State Appropriations

The fiscal note implies that no additional state spending authority or appropriation is required in FY 2001-02 to implement the provisions of the bill.

Departments Contacted

Legislative Council Staff   Revenue

Bill B

HOUSE SPONSORSHIP

Lawrence

SENATE SPONSORSHIP

Evans

A BILL FOR AN ACT

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.

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

SECTION 1. 39-22-504.7 (2) (e), Colorado Revised Statutes, is amended, and the said 39-22-504.7 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

39-22-504.7. Medical savings accounts - prescription medical savings accounts - establishment - contributions - distributions - restrictions - taxation - tax credit - portability. (2) (e) (I) **Employer contributions - tax deduction.** Employer contributions to employee medical savings accounts constitute a deduction from the employer's federal taxable income, pursuant to sections 39-22-104 (4) (h) and 39-22-304 (3) (k).

(II) FOR INCOME TAX YEARS COMMENCING AFTER JANUARY 1, 2001, EMPLOYER CONTRIBUTIONS TO PRESCRIPTION MEDICAL SAVINGS ACCOUNTS SHALL NOT CONSTITUTE A DEDUCTION FROM THE EMPLOYER'S FEDERAL TAXABLE INCOME. FOR THE PURPOSES OF THIS SUBSECTION (2), "PRESCRIPTION MEDICAL SAVINGS ACCOUNT" MEANS A MEDICAL SAVINGS ACCOUNT USED FOR PRESCRIPTION MEDICATIONS. IF THE EMPLOYEE IS INSURED BY A HEALTH BENEFIT PLAN AND THE HEALTH BENEFIT PLAN OFFERS COVERAGE FOR PRESCRIPTION MEDICATIONS, THE POLICY PROVISIONS REGARDING COVERAGE, DEDUCTIBLES, OR COPAYMENTS SHALL APPLY TO THE PRESCRIPTION MEDICAL SAVINGS ACCOUNT.

(f) **Employer contributions - tax credits.** (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2002, AN EMPLOYER WHO MAKES A CONTRIBUTION DURING THE TAX YEAR TO AN EMPLOYEE PRESCRIPTION MEDICAL SAVINGS ACCOUNT ESTABLISHED PURSUANT TO THIS SECTION SHALL BE ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED PURSUANT TO THIS ARTICLE. THE CREDIT SHALL EQUAL TWENTY-FIVE PERCENT OF THE AGGREGATE AMOUNT CONTRIBUTED DURING THE TAX YEAR BY THE EMPLOYER TO ALL EMPLOYEE PRESCRIPTION MEDICAL SAVINGS ACCOUNTS ESTABLISHED PURSUANT TO THIS SECTION; EXCEPT THAT THE AGGREGATE AMOUNT OF THE CREDIT CLAIMED BY AN EMPLOYER FOR ALL

EMPLOYEES PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR ANY SINGLE TAX YEAR.

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

SECTION 2. 39-22-104 (4) (h), Colorado Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

DRAFT

Bill B

Colorado Legislative Council Staff

STATE FISCAL IMPACT

Drafting Number:	LLS 01-0083	**Date:**	November 17, 2000
Prime Sponsor(s):	Rep. Lawrence Sen. Evans	**Bill Status:**	Health Care Task Force
		Fiscal Analyst:	Will Meyer (303-866-4976)

TITLE: CONCERNING SAVINGS ACCOUNTS FOR PRESCRIPTION MEDICATIONS

Fiscal Impact Summary	FY 2001/2002	FY 2002/2003
State Revenues General Fund	Potential GF Revenue Reduction	Potential GF Revenue Reduction
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: TABOR Impact		
Effective Date: 90 days after adjournment (August 7, 2001) unless a referendum petition is filed, and would apply to income tax years commencing on or after January 1, 2002.		
Appropriation Summary for FY 2001-2002: None Required		
Local Government Impact: None		

Summary of Legislation

This bill adds "prescription medical savings accounts" to current law provisions for medical savings accounts. Under current law, any amount contributed to a medical savings account by an employer pursuant to Section 39-22-504.7 (2) (e), C.R.S., to the extent that the contribution is not claimed as a deduction on the taxpayer's federal tax return, may be subtracted from federal taxable income prior to calculating Colorado individual or corporate income tax liability. Effective for income tax years commencing on or after January 1, 2002, this bill replaces the state income tax *deduction* for employers with an income tax *credit* equal to 25 percent of the aggregate amount contributed to employee prescription medical savings accounts during the tax year. The aggregate amount of the credit claimed by an employer may not exceed $50,000 for any single tax year. If the credit exceeds the amount of income taxes otherwise due, the credit may be carried forward and used as a credit against subsequent years' income tax liability for up to five years.

State Revenues

Key Assumption. Prescription medical savings accounts are not defined in the bill or in statute. For purposes of this fiscal note, it is assumed that the eligibility requirements for individuals to participate in prescription medical savings accounts would be similar to those for medical savings accounts.

Under current Colorado law, employers may contribute up to $3,000 to an employee's medical savings account. However, there has been minimal use of medical savings accounts by employers since the income modification was first enacted in 1994. A study prepared by the Government Accounting Office (GAO) in December 1997 shows that while medical savings account qualified health plans were widely available across the country by June 1997, consumer demand has been lower than industry expectations. The Internal Revenue Service reports that nationally, only 22,051 individuals had opened a medical savings account during the first six months of 1997. The federal Health Insurance Portability and Accountability Act (HIPAA) provided for a cap of 525,000 accounts by June 30, 1999. In a report released in January 1999, the GAO stated that it would not conduct a full survey on medical savings accounts (as had been required by HIPAA) because so few consumers had purchased health plans with the medical savings account feature. As of June 30, 1999, the IRS reported that less than 45,000 accounts had been created nationally.

While a state income tax credit of 25 percent of the aggregate amount contributed by an employer to all employee prescription medical savings accounts may increase the incentive for employers to participate, the annual value of the credit to Colorado employers has not been estimated. However, according to the Division of Insurance, there appears to be little evidence that this credit would provide enough of an incentive for small business employers to establish medical savings accounts and prescription medical savings accounts for their employees.

State Expenditures

Since the income tax credit for employer contributions to prescription medical savings accounts is not refundable and is not a TABOR refund mechanism, it will not be necessary for the income tax credit to be tracked on a separate line by the Department of Revenue. The credit would be claimed on the existing tax forms 104CR and 112CR. However, as with other income tax credit bills, the department has identified the need for up to 500 hours of computer programming time to modify the computer codes related to the Netfile/Telefile system, FSEF, and the Fair Share Audit Programs. Consistent with past years, this fiscal note assumes that these costs will be absorbed within the annual programming budget of the department. It should be noted that substantial economies of scale occur annually in computer programming costs if more than one bill is passed that requires modifications to the mainframe income tax system and the other computer programs related to the income tax system.

Other State Impacts

The reduced state revenues will mean a reduction of the amount of future state funds required to be refunded to taxpayers under the terms of TABOR, and less state funds will be available in the General Fund reserve. Also, affected Colorado taxpayers would experience an increased federal tax liability. The amount of the state General Fund revenue reduction has not been estimated.

State Appropriations

The fiscal note implies that no additional state spending authority or appropriation is required in FY 2001-02 to implement the provisions of the bill.

Departments Contacted

Legislative Council Staff   Revenue

Bill C

HOUSE SPONSORSHIP

Mace and Lawrence

SENATE SPONSORSHIP

Evans

A BILL FOR AN ACT

CONCERNING A CREDIT AGAINST STATE INCOME TAXES 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. Creates a credit against state income taxes for prescription medications in the actual amount expended up to $500 per individual or $1,000 per couple who have a Colorado adjusted income level of $20,000 or less for an individual or $40,000 for a couple and who do not have health insurance, medicare, or medicaid assistance for prescription medications. Allows individuals who have a Colorado adjusted income level of greater than $20,000 or $40,000 per couple to claim the credit, but requires the amount that may be claimed to be reduced by $2 for every $100 the person's income exceeds $20,000 or $40,000 respectively. Ties the tax credit to the excess revenues of the state.

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

SECTION 1. Part 1 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-127. Prescription medication credit. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (1) AND IN SUBSECTION (3) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2001, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE LIMITATIONS ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE HAVE EITHER NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, THERE SHALL BE ALLOWED TO ANY RESIDENT WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER AND WHO INCURS AN EXPENSE THAT IS NOT REIMBURSED OR COVERED THROUGH A HEALTH BENEFIT PLAN AS DEFINED IN SECTION 10-16-102, C.R.S., OR IS A QUALIFIED MEDICARE BENEFICIARY WHO IS A MEDICARE-ELIGIBLE INDIVIDUAL WITH INCOME AND RESOURCES AT A LEVEL THAT QUALIFIES SUCH INDIVIDUAL AS ELIGIBLE UNDER SECTION 301 OF TITLE III OF THE FEDERAL "MEDICARE CATASTROPHIC COVERAGE ACT OF 1988", AS AMENDED, OR SUBSEQUENT AMENDING FEDERAL LEGISLATION, OR IS A QUALIFIED MEDICAID BENEFICIARY WHO IS MEDICAID-ELIGIBLE, THE INDIVIDUAL SHALL BE ALLOWED A CREDIT AGAINST THE INCOME TAXES DUE ON THE INDIVIDUAL'S INCOME UNDER THIS ARTICLE. THE CREDIT SHALL BE AN AMOUNT EQUAL TO THE AMOUNT EXPENDED FOR SUCH PRESCRIPTION MEDICATION DURING THE TAXABLE YEAR

FOR WHICH THE CREDIT IS CLAIMED UP TO FIVE HUNDRED DOLLARS FOR AN INDIVIDUAL. THE CREDIT SHALL BE IN THE AMOUNT EQUAL TO THE AMOUNT EXPENDED FOR SUCH PRESCRIPTION MEDICATIONS DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED UP TO ONE THOUSAND DOLLARS FOR A MARRIED COUPLE FILING A JOINT TAX RETURN.

(b) THE AGGREGATE AMOUNT OF THE CREDIT CLAIMED BY A TAXPAYER PURSUANT TO THIS SECTION IN ANY INCOME TAX YEAR MAY NOT EXCEED FIVE HUNDRED DOLLARS FOR EACH INDIVIDUAL OR ONE THOUSAND DOLLARS PER COUPLE FILING JOINT TAX RETURNS.

(2) (a) ANY STATE INCOME TAX CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL BE PUBLISHED IN RULES PROMULGATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE INCLUDED IN INCOME TAX FORMS FOR THAT TAXABLE YEAR.

(b) IF ONE OR MORE BALLOT QUESTIONS THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE IMMEDIATELY PRECEDING FISCAL YEAR ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD ON OR AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOT PUBLISH RULES CONTAINING ANY STATE INCOME TAX CREDIT ALLOWED PURSUANT TO THIS SECTION UNTIL SUCH RULES ARE ABLE TO REFLECT THE IMPACT OF THE RESULTS OF SUCH ELECTION ON THE STATE INCOME TAX CREDIT ALLOWED PURSUANT TO THIS SECTION.

(c) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE TAX CREDIT CREATED IN THIS SECTION IS A REASONABLE METHOD OF REFUNDING EXCESS STATE REVENUES.

(3) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2001, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN __________ DOLLARS, THEN THE CREDIT AUTHORIZED BY SUBSECTION (1) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2003.

(b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2002, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN __________ DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3), THEN THE CREDIT AUTHORIZED BY SUBSECTION (1) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH THE STATE FISCAL YEAR ENDED.

(c) (I) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE DIRECTOR

SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (3) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS SUBPARAGRAPH (I), THE "RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENTLY PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE, FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENTLY PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE, FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(II) UPON CALCULATING THE ADJUSTMENT OF THE DOLLAR AMOUNT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(III) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE THE ADJUSTMENT OF THE DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PARAGRAPH (c) WITHIN TWENTY DAYS AFTER RECEIPT OF THE WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN THE TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT WITHIN THE TWENTY-DAY PERIOD, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF THE WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (c).

(IV) (A) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY ADJUSTMENT OF THE DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PARAGRAPH (c), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS

SUB-SUBPARAGRAPH (A) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH (c).

(B) FOR THE PURPOSE OF DETERMINING WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (1) OF THIS SECTION IS TO BE ALLOWED FOR ANY GIVEN INCOME TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) OR OTHERWISE SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IV).

(V) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SUCH CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (1) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING SUCH CREDIT UNTIL THE IMPACT OF THE RESULTS OF THE ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(4) (a) (I) AN INDIVIDUAL SHALL BE ENTITLED TO THE MAXIMUM CREDIT ALLOWED PURSUANT TO THIS SECTION IF THE INDIVIDUAL HAS A COLORADO ADJUSTED GROSS INCOME OF TWENTY THOUSAND DOLLARS OR LESS.

(II) A MARRIED COUPLE SHALL BE ENTITLED TO THE MAXIMUM CREDIT ALLOWED PURSUANT TO THIS SECTION IF THE COUPLE HAS A COLORADO ADJUSTED GROSS INCOME OF FORTY THOUSAND DOLLARS OR LESS.

(b) (I) AN INDIVIDUAL WHO HAS A COLORADO ADJUSTED GROSS INCOME OF MORE THAN TWENTY THOUSAND DOLLARS SHALL BE ENTITLED TO A CREDIT EQUAL TO THE MAXIMUM CREDIT ALLOWED BY THIS SECTION REDUCED BY TWO DOLLARS FOR EVERY HUNDRED DOLLARS SUCH INDIVIDUAL'S INCOME EXCEEDS TWENTY THOUSAND DOLLARS.

(II) A MARRIED COUPLE WHO HAS A COLORADO ADJUSTED GROSS INCOME OF MORE THAN FORTY THOUSAND DOLLARS SHALL BE ENTITLED TO A CREDIT EQUAL TO THE MAXIMUM CREDIT ALLOWED BY THIS SECTION REDUCED BY TWO DOLLARS FOR EVERY HUNDRED DOLLARS SUCH COUPLE'S INCOME EXCEEDS FORTY THOUSAND DOLLARS.

(5) IF THE CREDIT ALLOWED UNDER SUBSECTION (1) OF THIS SECTION EXCEEDS THE INCOME TAXES DUE ON THE RESIDENT INDIVIDUAL'S OR RESIDENT COUPLE'S INCOME, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAXES SHALL NOT BE CARRIED FORWARD AS TAX CREDITS AGAINST THE RESIDENT INDIVIDUAL'S OR RESIDENT COUPLE'S SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL BE REFUNDED TO THE INDIVIDUAL OR COUPLE.

(6) FOR PURPOSES OF THIS SECTION "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

DRAFT

Bill C

Colorado Legislative Council Staff

STATE FISCAL IMPACT

Drafting Number:	LLS 01-0156	**Date:**	November 17, 2000
Prime Sponsor(s):	Rep. Mace Sen. Evans	**Bill Status:**	Health Care Task Force
		Fiscal Analyst:	Harry Zeid (303-866-4753)

TITLE: CONCERNING A CREDIT AGAINST STATE INCOME TAXES FOR PRESCRIPTION MEDICATIONS

Fiscal Impact Summary	FY 2001/2002	FY 2002/2003
State Revenues General Fund		
State Expenditures General Fund	$72,000	
FTE Position Change	0.0 FTE	0.0 FTE
New TABOR Refund Mechanism **Six-Tier Sales Tax Refund Mechanism***	$92,418,966 ($97,039,914)	$93,061,423 ($97,714,494)
Effective Date: 90 days after adjournment (August 7, 2001) unless a referendum petition is filed, and would apply to income tax years commencing on or after January 1, 2001.		
Appropriation Summary for FY 2001/2002: $72,000 General Fund appropriation required for the Department of Revenue		
Local Government Impact: None Identified		

**The six-tier sales tax refund mechanism would be reduced by 105 percent of the increase in the value of any new TABOR refund mechanism, as per the provisions of HB99-1001.*

Summary of Legislation

This bill establishes a *refundable* tax credit for prescription medications against state income taxes for income tax years commencing on or after January 1, 2001, for years in which the state is required to refund excess TABOR revenue. In order to qualify for the credit an individual must be a Colorado resident who is 65 years of age or older, and either:

- incurs an expense that is not reimbursed or covered through a health benefit plan, as defined in Section 10-16-102, C.R.S.;
- is a qualified medicare beneficiary who is a medicare-eligible individual; or
- is a qualified medicaid beneficiary who is medicaid-eligible.

The amount of the credit is equal to the amount expended for prescription medication during the taxable year, not to exceed $500 for a single individual, or $1,000 for a married couple filing a joint tax return. The maximum credit amount would be adjusted annually to reflect the rate of growth of Colorado personal income for the preceding calendar year. An individual would be entitled to the maximum credit if the individual's Colorado adjusted gross income (AGI)(see the Omissions and Technical or Mechanical Defects section of the Fiscal Note) is $20,000 or less ($40,000 or less for married couples). For income above this amount, the value of the credit would be reduced by two dollars for every $100 of additional income. The credit would be eliminated for individuals with Colorado AGI above $45,000 ($90,000 for married couples).

State Revenues

An April 2000 report prepared by the U.S. Department of Health and Human Services (HHS) on prescription drug coverage, spending, and utilization and prices, provides background data on the amount of out-of-pocket prescription drug costs for individuals 65 years of age and older by Federal Adjusted Gross Income in increments of $5,000. Based on an analysis of this national study, the Department of Revenue has estimated the number of single individuals and married couples filing joint income tax returns that would qualify for the prescription medication income tax credit, and the amount of the qualified income tax credit by income class. The results of the analysis for income tax year 2001 are summarized in Table 1 below.

Table 1. Estimated Value of the Prescription Drug Tax Credit for Income Tax Year 2001

	Number of Single Filers	Number of Joint Filers	Total Eligible Returns	Credit Value for Single Filers	Credit Value for Joint Filers	Total Credit Value
Full Credit Eligibility	72,972	79,564	152,536	$27,846,919	$47,280,873	$75,127,792
Partial Credit Eligibility	23,548	30,814	54,362	5,525,555	11,765,619	17,291,174
Total	96,520	110,378	206,898	$33,372,474	$59,046,492	$92,418,966

The analysis shows that the average income tax credit for qualified single filers with Federal AGI of $20,000 or less is $382 ($594 for married couples filing jointly with Federal AGI less than $40,000). This is due to the fact that some seniors who qualify for the credit will not have out-of-pocket expenses greater than $500. As the credit phases out for higher income seniors, the average credit claimed will be $235 for qualified single filers with Federal AGI greater than $20,000 but less than $45,000 ($382 for married couples filing jointly with Federal AGI greater than $40,000 but less than $$90,000).

State Expenditures

The Department of Revenue has identified the one-time need for **$72,000 General Fund in FY 2001-02** in order to implement the provisions of the bill. As a TABOR refund mechanism, the amount of the income tax credit must be tracked separately by the Department of Revenue. In order to add a new line and key to the income tax system, 900 hours of contract computer programming at $80 per hour is necessary. An additional 500 hours of computer programming time will be necessary to modify the department's netfile/telefile, FSEF, and Fairshare systems. Consistent with past years, this fiscal note assumes that these costs will be absorbed within the programming budget of the department at the time that other modifications to these systems are conducted. It should be noted that historically, substantial economies of scale occur annually in computer programming costs when more than one bill is passed that requires modifications to the mainframe income tax system and the other computer programs related to the income tax system.

State Appropriations

The fiscal note implies that the Department of Revenue requires a General Fund appropriation in the amount of $72,000 in FY 2001-02 to implement the provisions of the bill.

Departments Contacted

Revenue Legislative Council Staff

Omissions and Technical or Mechanical Defects

The credit in the bill is income-tested based on the term "Colorado Adjusted Gross Income". This term is not defined in the bill or in current statute. Colorado individual income tax returns identify "Federal Adjusted Gross Income" and "Colorado Taxable Income". Since Colorado excludes the first $24,000 of pension income for individuals 65 years of age or older from Colorado Taxable Income, the actual value of the credit may be higher than the amount identified in this fiscal note, depending on how "Colorado Adjusted Gross Income" is later defined.