Memo

To: Senator ☐ Representative ☒ Wieckert (The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unintroduced 2003 draft.

LRB Number: LRB -2280

Version: "/3"

Fiscal Estimate Prepared By: (agency abbr.) DOR

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E–Mail: 05/20/2003

* *

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> ***If redrafted*** *... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.*

> ***If introduced*** *... and the version of the attached fiscal estimate is for a* ***previous version*** *... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.*

> ***If introduced*** *... and the version of the attached fiscal estimate is for the* ***current version*** *... please write the draft's introduction number below and give to Mike (or Lynn) to process.*

THIS DRAFT WAS INTRODUCED AS: 2003 ____________________

Barman, Mike

From: Barman, Mike
Sent: Tuesday, May 20, 2003 3:52 PM
To: Rep.Wieckert
Cc: Becher, Scott
Subject: LRB 03-2280/3 (FE by DOR - attached - for your review)

FE_Wieckert.pdf

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2003 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-2280/3	Introduction Number

Subject

Tax-exempt individual medical accounts

Fiscal Effect

State:

☐ No State Fiscal Effect
☐ Indeterminate

☐ Increase Existing Appropriations
☐ Decrease Existing Appropriations
☐ Create New Appropriations

☐ Increase Existing Revenues
☒ Decrease Existing Revenues

☒ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☒ No
☐ Decrease Costs

Local:

☐ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected
   ☐ Towns ☐ Village ☐ Cities
   ☐ Counties ☐ Others
   ☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Sec. 20.566(1)(a)

Agency/Prepared By	Authorized Signature	Date
DOR/ Karyn Kriz (608) 261-8984	Dennis Collier (608) 266-5773	5/20/2003

Fiscal Estimate Narratives

DOR 5/20/2003

LRB Number **03-2280/3**	Introduction Number	Estimate Type **Original**
Subject		
Tax-exempt individual medical accounts		

Assumptions Used in Arriving at Fiscal Estimate

This bill would allow taxpayers to deduct from federal adjusted gross income up to $2,000 in deposits to an individual medical account (IMA) for deposits made on behalf of the taxpayer, up to $2,000 in deposits to the account made on behalf of the taxpayer's spouse, and up to $1,000 in deposits to the account made on behalf of each of the individual's dependents. All gains that accrue to an IMA are also tax-exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account to be used for purposes other than to pay for the medical care or long-term care expenses of the beneficiary, the account owner, unless he or she is at least 65 years old, must pay a penalty of 10% of the amount withdrawn and a penalty equal to 10% of any gain that has accrued to the account from the time the account was opened.

Under this bill, no more than 10,000 accounts could be created. If more than 10,000 individuals would like to open accounts, the Department of Revenue must establish a waiting list.

This estimate assumes 10,000 accounts are opened with a distribution of filers and an average annual contribution to the accounts similar to that for Individual Retirement Accounts. It also assumes that married joint filers and head of household filers annually contribute on average $1,000 and $500, respectively, to an IMA on behalf of dependents. Specifically, it is assumed that the number of accounts and average annual contribution by filing status would be: single, 2,690 accounts and an average contribution of $1,481; married filing jointly, 6,892 and $3,289; head of household, 369 and $1,697; and married separate, 49 and $2,000. The total amount contributed to IMAs that would be deducted is $27.37 million.

Assuming an interest rate of 1.5%, earnings on these contributions total $0.41 million. However, total earnings on funds in the accounts will be larger in future years as account balances grow and interest rates return to normal levels. Assuming an effective marginal tax rate of 5.5%, this bill would reduce state income tax revenues by about $1.53 million ($27.78 million x .055).

If all account holders claimed the maximum deduction based on filing status ($2,000 for single, head of household, and married separate filers and $4,000 for joint filers), and if married joint filers claimed an average $1,000 and head of household filers an average $500 contribution for dependents, the total annual amount of contributions would be $40.86 million, earnings on these funds would be $0.61 million, and the revenue loss would be about $2.28 million ($41.5 million x .055).

Filers with qualifying medical expenses in excess of 7.5% of adjusted gross income may claim the itemized deduction credit. The bill would not allow the credit for any expenses paid out of a tax-exempt IMA. This would reduce the revenue loss, but the reduction is not expected to be significant since only 3% of Wisconsin tax filers reported medical expenses eligible for the credit.

The Department would incur one-time costs of $235,500 and annual processing and customer service costs of $733,100.

Long-Range Fiscal Implications

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **03-2280/3**	Introduction Number
Subject Tax-exempt individual medical accounts	

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

$235,500

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$	
(FTE Position Changes)		
State Operations - Other Costs	733,100	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$733,100**	**$**
B. State Costs by Source of Funds		
GPR	733,100	
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)

	Increased Rev	Decreased Rev
GPR Taxes	$	$-1,530,000
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$-1,530,000**

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	$733,100	$
NET CHANGE IN REVENUE	$-1,530,000	$

Agency/Prepared By	**Authorized Signature**	**Date**
DOR/ Karyn Kriz (608) 261-8984	Dennis Collier (608) 266-5773	5/20/2003

Memo

To: Senator ☐ Representative ☒ Wieckert (The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unintroduced 2003 draft.

LRB Number: LRB – 2280

Version: "/3"

Fiscal Estimate Prepared By: (agency abbr.) DOR (updated)

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E–Mail: 5 / 28 / 2003

* *

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> ***If redrafted*** *... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.*

> ***If introduced*** *... and the version of the attached fiscal estimate is for a* ***previous version*** *... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.*

> ***If introduced*** *... and the version of the attached fiscal estimate is for the* ***current version*** *... please write the draft's introduction number below and give to Mike (or Lynn) to process.*

THIS DRAFT WAS INTRODUCED AS: 2003 ____________________

Emery, Lynn

From: Emery, Lynn
Sent: Wednesday, May 28, 2003 4:11 PM
To: Rep.Wieckert
Cc: Becher, Scott
Subject: LRB-2280/3 (Updated FE by DOR - attached - for your review)

03-2280feDORupd.pdf

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2003 Session

☐ Original ☒ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-2280/3	Introduction Number

Subject

Tax-exempt individual medical accounts

Fiscal Effect

State:

- ☐ No State Fiscal Effect
- ☐ Indeterminate
  - ☐ Increase Existing Appropriations
  - ☐ Decrease Existing Appropriations
  - ☐ Create New Appropriations
  - ☐ Increase Existing Revenues
  - ☒ Decrease Existing Revenues
  - ☒ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☒ No
  - ☐ Decrease Costs

Local:

- ☐ No Local Government Costs
- ☐ Indeterminate
  1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
  2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
  3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
  4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
  5. Types of Local Government Units Affected
     ☐ Towns ☐ Village ☐ Cities ☐ Counties ☐ Others ☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Sec. 20.566(1)(a)

Agency/Prepared By	Authorized Signature	Date
DOR/ Karyn Kriz (608) 261-8984	Dennis Collier (608) 266-5773	5/28/2003

Fiscal Estimate Narratives

DOR 5/28/2003

LRB Number **03-2280/3**	Introduction Number	Estimate Type **Updated**
Subject		
Tax-exempt individual medical accounts		

Assumptions Used in Arriving at Fiscal Estimate

This bill would allow taxpayers to deduct from federal adjusted gross income up to $2,000 in deposits to an individual medical account (IMA) for deposits made on behalf of the taxpayer, up to $2,000 in deposits to the account made on behalf of the taxpayer's spouse, and up to $1,000 in deposits to the account made on behalf of each of the individual's dependents. All gains that accrue to an IMA are also tax-exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account to be used for purposes other than to pay for the medical care or long-term care expenses of the beneficiary, the account owner, unless he or she is at least 65 years old, must pay a penalty of 10% of the amount withdrawn and a penalty equal to 10% of any gain that has accrued to the account from the time the account was opened.

Under this bill, no more than 10,000 accounts could be created. If more than 10,000 individuals would like to open accounts, the Department of Revenue must establish a waiting list.

This estimate assumes 10,000 accounts are opened with a distribution of filers and an average annual contribution to the accounts similar to that for Individual Retirement Accounts. It also assumes that married joint filers and head of household filers annually contribute on average $1,000 and $500, respectively, to an IMA on behalf of dependents. Specifically, it is assumed that the number of accounts and average annual contribution by filing status would be: single, 2,690 accounts and an average contribution of $1,481; married filing jointly, 6,892 and $3,289; head of household, 369 and $1,697; and married separate, 49 and $2,000. The total amount contributed to IMAs that would be deducted is $27.37 million.

Assuming an interest rate of 1.5%, earnings on these contributions total $0.41 million. However, total earnings on funds in the accounts will be larger in future years as account balances grow and interest rates return to normal levels. Assuming an effective marginal tax rate of 5.5%, this bill would reduce state income tax revenues by about $1.53 million ($27.78 million x .055).

If all account holders claimed the maximum deduction based on filing status ($2,000 for single, head of household, and married separate filers and $4,000 for joint filers), and if married joint filers claimed an average $1,000 and head of household filers an average $500 contribution for dependents, the total annual amount of contributions would be $40.86 million, earnings on these funds would be $0.61 million, and the revenue loss would be about $2.28 million ($41.5 million x .055).

Filers with qualifying medical expenses in excess of 7.5% of adjusted gross income may claim the itemized deduction credit. The bill would not allow the credit for any expenses paid out of a tax-exempt IMA. This would reduce the revenue loss, but the reduction is not expected to be significant since only 3% of Wisconsin tax filers reported medical expenses eligible for the credit.

The Department would incur one-time costs of $45,900 and annual processing and customer service costs of $50,900.

Long-Range Fiscal Implications

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

☐ Original ☒ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-2280/3	Introduction Number

Subject

Tax-exempt individual medical accounts

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

$45,900

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$	
(FTE Position Changes)		
State Operations - Other Costs	50,900	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$50,900**	**$**
B. State Costs by Source of Funds		
GPR	50,900	
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)

	Increased Rev	Decreased Rev
GPR Taxes	$	$-1,530,000
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$-1,530,000**

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	$50,900	$
NET CHANGE IN REVENUE	$-1,530,000	$

Agency/Prepared By	**Authorized Signature**	**Date**
DOR/ Karyn Kriz (608) 261-8984	Dennis Collier (608) 266-5773	5/28/2003

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2280/3 4
MES:kmg:jf

RMR

2003 BILL

D-Note

"Medical care expenses," under the bill, includes premiums, copayments, coinsurance, deductibles, and other cost-sharing charges.

gen. cat.

AN ACT *to renumber and amend* 71.83 (1) (c); *to amend* 71.83 (1) (c) (title); and *to create* 71.05 (6) (a) 21., 71.05 (6) (b) 34., 71.07 (5) (a) 9., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (c) 2. of the statutes; **relating to:** creating tax–exempt individual medical accounts and granting rule–making authority.

Analysis by the Legislative Reference Bureau

Under this bill, an individual may establish an individual medical account (account) for the person, his or her spouse, and his or her dependents (beneficiaries). The accounts may be used to pay for medical care expenses and long–term care expenses for the beneficiaries, and defines long–term care expenses as any amount that is paid for care that is provided to an individual in his or her home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. The account may be established at a financial institution, a trust company bank, an insurer, a licensed securities broker–dealer, or a licensed, certified public accountant. An account consists of deposits to an account and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, for contributions made by the individual or by the individual's employer, the bill authorizes an individual to deduct from his or her federal adjusted gross income up to $2,000 in deposits to the account made on behalf of the individual, up to $2,000 in deposits to the account made on behalf of the individual's spouse, and up to $1,000 in deposits to the account made on behalf of each of the individual's dependents if the account is used exclusively to pay the medical care expenses and long–term care expenses of the beneficiaries. All gains that accrue to such an account are also tax–exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, however, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account and is used for any purpose other than the allowed purposes, the account holder, unless he or she is at least 65 years old, must pay a penalty equal to 10% of any accumulated interest, dividends, or other gain that has accrued to the account from the time that the account was opened, and a penalty of 10% of the amount that was withdrawn, except that these provisions do not apply after the death of the account holder. In addition, the account holder must pay taxes on any principal that is withdrawn and any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs, except that this provision also does not apply after the death of the account holder.

The bill first applies to taxable years beginning on January 1, 2004, and requires the Department of Revenue (DOR) to promulgate rules for the implementation and administration of the accounts that may be created under the bill. Under the bill, no more than 10,000 accounts may be created. If more than 10,000 individuals would like to establish such an account, DOR is required to establish a waiting list.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 21. of the statutes is created to read:

71.05 **(6)** (a) 21. Any principal that is withdrawn, and any accumulated interest, dividends, or other gain that accrues, from an account described under s. 71.10 (10) during the taxable year in which a withdrawal occurs from such an account if any amount of the money or other assets in the account is withdrawn for any reason other than the payment of medical care expenses or long–term care expenses, as defined in s. 71.10 (10) (a) 3., for the account holder, his or her spouse, and his or her dependents, as defined in s. 71.10 (10) (a) 2., except that this subdivision does not apply after the death of the account holder.

SECTION 2. 71.05 (6) (b) 34. of the statutes is created to read:

71.05 **(6)** (b) 34. Any amount that is deposited by an individual, or by an individual's employer, in an account described under s. 71.10 (10), up to $2,000 each year for an individual, up to $2,000 each year for his or her spouse, and up to $1,000 each year for each dependent, as defined in s. 71.10 (10) (a) 2., and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited in the account, if the account is used exclusively to pay the medical care expenses, as defined in s. 71.10 (10) (a) 4., and long–term care expenses, as defined in s. 71.10 (10) (a) 3., of the individual, his or her spouse, and each dependent, except that no subtraction may be made under this subdivision for any amounts deposited in the account once the total value of the account exceeds $100,000.

SECTION 3. 71.07 (5) (a) 9. of the statutes is created to read:

71.07 **(5)** (a) 9. The amount claimed as a deduction for unreimbursed medical care expenses under section 213 (a) of the Internal Revenue Code to the extent that the funds used to pay for the unreimbursed expenses for which the deduction was claimed were withdrawn from an account described under s. 71.05 (6) (b) 34.

SECTION 4. 71.10 (4) (k) of the statutes is created to read:

71.10 **(4)** (k) Any amount of money or other assets computed under sub. (10) (d).

SECTION 5. 71.10 (10) of the statutes is created to read:

71.10 **(10)** INDIVIDUAL MEDICAL ACCOUNTS. (a) In this subsection:

1. "Account administrator" means any of the following:

a. A financial institution, the accounts of which are insured by the Federal Deposit Insurance Corporation or the national credit union share insurance fund.

b. A trust company bank organized under ch. 223.

c. An insurer authorized to do business in this state.

d. A broker–dealer licensed under subch. III of ch. 551.

e. A certified public accountant licensed to practice in this state.

2. "Dependent" means the child of an individual who establishes an account under this subsection who is claimed as the individual's dependent under section 151 (c) of the Internal Revenue Code.

3. "Long–term care expenses" means any amount that is paid for care that is provided to an individual in an individual's home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness.

INS 4-9

(b) An individual may establish an account for medical care expenses and long–term care expenses for the individual, the individual's spouse, and the individual's dependents with an account administrator. Amounts deposited into such an account and any interest, dividends, or other gain that accrues on amounts deposited in the account may be used only to pay medical care expenses and long–term care expenses of the individual, the individual's spouse, and the individual's dependents, except that this limitation on the uses of the account does not apply after the death of the individual who establishes the account, nor does this limitation apply to an individual who is at least 65 years old.

(c) 1. The department shall promulgate rules for the implementation and administration of the accounts that are created under this subsection.

2. No more than 10,000 accounts may be established under this subsection. If more than 10,000 individuals would like to establish an account under this subsection, the department shall establish a waiting list for those individuals who are not able to establish an account.

(d) If an individual, other than an individual who is at least 65 years old, is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of any accumulated interest, dividends, or other gain that has accrued beginning on the date on which the account was opened and ending on the date on which the withdrawal from the account occurs that results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 6. 71.83 (1) (c) (title) of the statutes is amended to read:

71.83 **(1)** (c) (title) *Medical savings account<u>, individual medical account</u> withdrawals.*

SECTION 7. 71.83 (1) (c) of the statutes is renumbered 71.83 (1) (c) 1. and amended to read:

71.83 **(1)** (c) 1. Any person who is liable for a penalty for federal income tax purposes under section 220 (f) (4) of the Internal Revenue Code is liable for a penalty equal to 33% of that penalty. The department of revenue shall assess, levy, and collect the penalty under this ~~paragraph~~ <u>subdivision</u> as it assesses, levies, and collects taxes under this chapter.

SECTION 8. 71.83 (1) (c) 2. of the statutes is created to read:

71.83 **(1)** (c) 2. If a person, other than a person who is at least 65 years old, is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of the amount that is withdrawn from the account if that withdrawal results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 9. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2004.

(END)

1484 | p2
p. 4

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU – LEGAL SECTION
(608–266–3561)

LRB-2280/4

INS 4-9

4. "medical care expenses" includes ~~health insurance premiums, health insurance deductibles, and any co-payments. that are related, health insurance.~~

premiums, copayments, coinsurance, deductibles, and any other cost-sharing charges.

-2280/4

:kmg:

D-Note

This version of the bill includes the changes that Rep. Wieckert requested on June 11. Amounts paid for long-term care insurance are already deductible under s. 71.05 (6) (b) 26. of the statutes. Please let me know if you would like any other changes made to the bill.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2280/4dn
MES:kmg:rs

June 18, 2003

This version of the bill includes the changes that Rep. Wieckert requested on June 11. Amounts paid for long–term care insurance are already deductible under s. 71.05 (6) (b) 26. of the statutes. Please let me know if you would like any other changes made to the bill.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2280/5
MES:kmg:rs

RMR

2003 BILL

regen

AN ACT *to renumber and amend* 71.83 (1) (c); *to amend* 71.83 (1) (c) (title); and *to create* 71.05 (6) (a) 21., 71.05 (6) (b) 34., 71.07 (5) (a) 9., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (c) 2. of the statutes; **relating to:** creating tax–exempt individual medical accounts and granting rule–making authority.

Analysis by the Legislative Reference Bureau

Under this bill, an individual may establish an individual medical account (account) for the person, his or her spouse, and his or her dependents (beneficiaries). The accounts may be used to pay for medical care expenses and long–term care expenses for the beneficiaries, and defines long–term care expenses as any amount that is paid for care that is provided to an individual in his or her home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. "Medical care expenses," under the bill, includes premiums, copayments, coinsurance, deductibles, and other cost–sharing charges. The account may be established at a financial institution, a trust company bank, an insurer, a licensed securities broker–dealer, or a licensed, certified public accountant. An account consists of deposits to an account and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, for contributions made by the individual or by the individual's employer, the bill authorizes an individual to deduct from his or her federal adjusted gross income up to $2,000 in deposits to the account made on behalf of the individual, up to $2,000 in deposits to the account made on behalf of the individual's spouse, and up to $1,000 in deposits to the account made on behalf of each of the individual's dependents if the account is used exclusively to pay the medical care expenses and long–term care expenses of the beneficiaries. All gains that accrue to such an account are also tax–exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, however, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account and is used for any purpose other than the allowed purposes, the account holder, unless he or she is at least 65 years old, must pay a penalty equal to 10% of any accumulated interest, dividends, or other gain that has accrued to the account from the time that the account was opened, and a penalty of 10% of the amount that was withdrawn, except that these provisions do not apply after the death of the account holder. In addition, the account holder must pay taxes on any principal that is withdrawn and any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs, except that this provision also does not apply after the death of the account holder.

The bill first applies to taxable years beginning on January 1, 2004, and requires the Department of Revenue (DOR) to promulgate rules for the implementation and administration of the accounts that may be created under the bill. Under the bill, no more than 10,000 accounts may be created. ~~If more than 10,000 individuals would like to establish such an account, DOR is required to establish a waiting list.~~

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 21. of the statutes is created to read:

71.05 **(6)** (a) 21. Any principal that is withdrawn, and any accumulated interest, dividends, or other gain that accrues, from an account described under s. 71.10 (10) during the taxable year in which a withdrawal occurs from such an account if any amount of the money or other assets in the account is withdrawn for any reason other than the payment of medical care expenses or long–term care expenses, as defined in s. 71.10 (10) (a) 3., for the account holder, his or her spouse, and his or her dependents, as defined in s. 71.10 (10) (a) 2., except that this subdivision does not apply after the death of the account holder.

SECTION 2. 71.05 (6) (b) 34. of the statutes is created to read:

71.05 **(6)** (b) 34. Any amount that is deposited by an individual, or by an individual's employer, in an account described under s. 71.10 (10), up to $2,000 each year for an individual, up to $2,000 each year for his or her spouse, and up to $1,000 each year for each dependent, as defined in s. 71.10 (10) (a) 2., and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited in the account, if the account is used exclusively to pay the medical care expenses, as defined in s. 71.10 (10) (a) 4., and long–term care expenses, as defined in s. 71.10 (10) (a) 3., of the individual, his or her spouse, and each dependent, except that no subtraction may be made under this subdivision for any amounts deposited in the account once the total value of the account exceeds $100,000.

SECTION 3. 71.07 (5) (a) 9. of the statutes is created to read:

71.07 **(5)** (a) 9. The amount claimed as a deduction for unreimbursed medical care expenses under section 213 (a) of the Internal Revenue Code to the extent that the funds used to pay for the unreimbursed expenses for which the deduction was claimed were withdrawn from an account described under s. 71.05 (6) (b) 34.

SECTION 4. 71.10 (4) (k) of the statutes is created to read:

71.10 **(4)** (k) Any amount of money or other assets computed under sub. (10) (d).

SECTION 5. 71.10 (10) of the statutes is created to read:

71.10 **(10)** INDIVIDUAL MEDICAL ACCOUNTS. (a) In this subsection:

1. "Account administrator" means any of the following:

a. A financial institution, the accounts of which are insured by the Federal Deposit Insurance Corporation or the national credit union share insurance fund.

b. A trust company bank organized under ch. 223.

c. An insurer authorized to do business in this state.

d. A broker–dealer licensed under subch. III of ch. 551.

e. A certified public accountant licensed to practice in this state.

2. "Dependent" means the child of an individual who establishes an account under this subsection who is claimed as the individual's dependent under section 151 (c) of the Internal Revenue Code.

3. "Long–term care expenses" means any amount that is paid for care that is provided to an individual in an individual's home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness.

4. "Medical care expenses" includes premiums, copayments, coinsurance, deductibles, and any other cost–sharing charges.

(b) An individual may establish an account for medical care expenses and long–term care expenses for the individual, the individual's spouse, and the individual's dependents with an account administrator. Amounts deposited into such an account and any interest, dividends, or other gain that accrues on amounts deposited in the account may be used only to pay medical care expenses and long–term care expenses of the individual, the individual's spouse, and the individual's dependents, except that this limitation on the uses of the account does not apply after the death of the individual who establishes the account, nor does this limitation apply to an individual who is at least 65 years old.

(c) 1. The department shall promulgate rules for the implementation and administration of the accounts that are created under this subsection.

2. No more than 10,000 accounts may be established under this subsection. ~~If more than 10,000 individuals would like to establish an account under this subsection, the department shall establish a waiting list for those individuals who are not able to establish an account.~~

(d) If an individual, other than an individual who is at least 65 years old, is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of any accumulated interest, dividends, or other gain that has accrued beginning on the date on which the account was opened and ending on the date on which the withdrawal from the account occurs that results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 6. 71.83 (1) (c) (title) of the statutes is amended to read:

71.83 **(1)** (c) (title) *Medical savings account, individual medical account withdrawals.*

SECTION 7. 71.83 (1) (c) of the statutes is renumbered 71.83 (1) (c) 1. and amended to read:

71.83 **(1)** (c) 1. Any person who is liable for a penalty for federal income tax purposes under section 220 (f) (4) of the Internal Revenue Code is liable for a penalty equal to 33% of that penalty. The department of revenue shall assess, levy, and collect the penalty under this ~~paragraph~~ subdivision as it assesses, levies, and collects taxes under this chapter.

SECTION 8. 71.83 (1) (c) 2. of the statutes is created to read:

71.83 **(1)** (c) 2. If a person, other than a person who is at least 65 years old, is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a)

21., the person shall pay an amount equal to 10% of the amount that is withdrawn from the account if that withdrawal results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 9. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2004.

(END)

-2280/5

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU – LEGAL SECTION
(608–266–3561)

Rep. Wieckert

D) If someone w/draws at 65 or older for non-med/health care reasons w/drawal amt is taxable -- Can con't to use w/drawals for med purposes

C) allow ~~a~~ continued ability to claim itemized deduction ~~[illegible]~~ credit even if claimants medical ~~[illegible]~~ expenses exceed 7.5% AGI

I can talk to Karen Kriz 1-8984 at DOR

11/13/03 I spoke to Karen Kriz and we decided this instruction

Must mean Rep. Wieckert wants to delete bill § 3 -- the CR; of s.71.07(5)(a)9. -- the limitation on the itemized deduction credit

Shovers, Marc

From: Kriz, Karyn I
Sent: Thursday, November 13, 2003 11:45 AM
To: Shovers, Marc
Subject: LRB 2280/5

Marc,

Under current law, filers with qualifying medical expenses in excess of 7.5% of adjusted gross income may claim the itemized deduction credit. I believe what Rep. Wieckert is looking for is to allow the itemized deduction credit for any medical expenses paid out of a tax-exempt IMA.

Karyn Kriz
Wisconsin Department of Revenue
Division of Research and Policy, MS 6-73
P.O. Box 8933
karyn.kriz@dor.state.wi.us <mailto:karyn.kriz@dor.state.wi.us>
Ph: (608) 261-8984
Fax: (608) 266-8704

Prepared on old version
draft is now a "16"
copy to Rep. Wieckert 11-17-2003

M E M O R A N D U M

October 29, 2003

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 2280/5: Tax-Exempt Individual Medical Accounts

Proposed sec. 71.05 (6)(a)21 requires an addition to federal adjusted gross income (FAGI) for any principal withdrawn and any accumulated gain that accrues during the taxable year on funds improperly withdrawn. There are no provisions for determining whether the withdrawal is principal or earnings accrued in prior years. Further, accumulated gains are already included in FAGI and do not qualify for the deduction under proposed sec. 71.05(6)(b)34, and therefore would be taxed twice if added back to FAGI. It may be preferable to provide simply that amounts improperly withdrawn are added back to income and subject to the penalties provided in proposed secs. 71.10(10)(d) and 71.83(1)(c)2.

The author may wish to specify that the deduction under sec. 71.05 (6)(b)34 for married couples filing jointly is limited to $2,000 for each spouse and $1,000 for each dependent for all accounts. The Department believes the proposed language could be interpreted to permit each spouse to open an account and each to claim a deduction of $2,000 for each spouse and $1,000 for each dependent – effectively doubling the amount of the deduction to $4,000 for each spouse and $2,000 for each dependent.

The author may wish to specify whether or not there is an annual contribution limit for the accounts. While the bill limits the deduction to $2,000, there is no limit on the amount that may be contributed.

The Department recommends that the subtractions for medical care insurance under sec. 71.05(6)(b)19 and 20 and long-term care insurance under sec. 71.05(6)(b)26 not be allowed for amounts paid by funds taken from an individual medical account. Without this restriction, some of these funds would be deducted twice.

An individual may not claim the subtraction for account contributions in the taxable year in which an improper withdrawal was made from the account. It is unclear whether the individual would be eligible for the deduction in future taxable years.

The penalties in sec. 71.10(10)(d) and 71.83(1)(c)2 affect individuals who are required to add any amount to FAGI under sec. 71.05(6)(a)21. If it is determined, from the first paragraph of this technical memo, that a person may withdraw interest and not principal and earnings should not be taxed twice, such persons would not be required to add any amount under sec. 71.05(6)(a)21 and thus would not be subject to either penalty.

The second sentence of sec. 71.10(b) could be eliminated because the addition modification in sec. 71.05(6)(a)21 already provides an addition to income if the account is used for anything other than medical care expenses and long-term care expenses. Proposed sec. 71.10(b) conflicts with sec. 71.05(6)(a)21 in that it implies that you can open an account even if you are 65 or older and would never have to use it for medical or long-term care expenses while sec. 71.05(6)(a)21 provides an addition if the account is used to pay for anything other than medical expenses.

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	Chapter 20	Amount	FTE
one-time	s. 20.566 (1) (a)	$33,900	
annual	s. 20.566 (1) (a)	$50,900	

If you have any questions regarding this technical memorandum, please contact Karyn Kriz at (608) 261-8984; for administrative costs contact Julie Feavel at (608) 267-9892.

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2003 Session

[X] Original [ ] Updated [ ] Corrected [ ] Supplemental

LRB Number 03-2280/5	Introduction Number

Subject

Tax-exempt individual medical accounts

Fiscal Effect

State:
- [ ] No State Fiscal Effect
- [ ] Indeterminate
  - [ ] Increase Existing Appropriations
  - [ ] Decrease Existing Appropriations
  - [ ] Create New Appropriations
  - [ ] Increase Existing Revenues
  - [X] Decrease Existing Revenues
  - [X] Increase Costs - May be possible to absorb within agency's budget [ ] Yes [X] No
  - [ ] Decrease Costs

Local:
- [ ] No Local Government Costs
- [ ] Indeterminate
  1. [ ] Increase Costs — [ ] Permissive [ ] Mandatory
  2. [ ] Decrease Costs — [ ] Permissive [ ] Mandatory
  3. [ ] Increase Revenue — [ ] Permissive [ ] Mandatory
  4. [ ] Decrease Revenue — [ ] Permissive [ ] Mandatory
  5. Types of Local Government Units Affected — [ ] Towns [ ] Village [ ] Cities [ ] Counties [ ] Others [ ] School Districts [ ] WTCS Districts

Fund Sources Affected

[X] GPR [ ] FED [ ] PRO [ ] PRS [ ] SEG [ ] SEGS

Affected Ch. 20 Appropriations

Sec. 20.566(1)(a)

Agency/Prepared By	Authorized Signature	Date
DOR/ Karyn Kriz (608) 261-8984	Dennis Collier (608) 266-5773	11/17/2003

FE is for old version... now a "16"

copy to Rep. Wieckert 11-17-2003

Fiscal Estimate Narratives
DOR 11/17/2003

LRB Number **03-2280/5**	Introduction Number	Estimate Type **Original**
Subject		
Tax-exempt individual medical accounts		

Assumptions Used in Arriving at Fiscal Estimate

This bill would allow taxpayers to deduct from federal adjusted gross income up to $2,000 in deposits to an individual medical account (IMA) for deposits made on behalf of the taxpayer, up to $2,000 in deposits to the account made on behalf of the taxpayer's spouse, and up to $1,000 in deposits to the account made on behalf of each of the individual's dependents. All gains that accrue to an IMA are also tax-exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, no deduction may be claimed for any further contributions to the account. Under this bill, no more than 10,000 accounts could be created.

If any amount is withdrawn from the account to be used for purposes other than to pay for the medical care or long-term care expenses of the beneficiary, the account owner, unless he or she is at least 65 years old, must pay a penalty of 10% of the amount withdrawn and a penalty equal to 10% of any gain that has accrued to the account from the time the account was opened.

This estimate assumes 10,000 accounts are opened with a distribution of filers and an average annual contribution to the accounts similar to that for Individual Retirement Accounts. It also assumes that married joint filers and head of household filers annually contribute on average $1,000 and $500, respectively, to an IMA on behalf of dependents. Specifically, it is assumed that the number of accounts and average annual contribution by filing status would be: single, 2,690 accounts and an average contribution of $1,481; married filing jointly, 6,892 and $3,289; head of household, 369 and $1,697; and married separate, 49 and $2,000. The total amount contributed to IMAs that would be deducted is $27.37 million.

Assuming an interest rate of 1.5%, earnings on these contributions total $0.41 million. However, total earnings on funds in the accounts will be larger in future years as account balances grow and interest rates return to normal levels. Assuming an effective marginal tax rate of 5.5%, this bill would reduce state income tax revenues by about $1.53 million ($27.78 million x .055).

If all account holders claimed the maximum deduction based on filing status ($2,000 for single, head of household, and married separate filers and $4,000 for joint filers), and if married joint filers claimed an average $1,000 and head of household filers an average $500 contribution for dependents, the total annual amount of contributions would be $40.86 million, earnings on these funds would be $0.61 million, and the revenue loss would be about $2.28 million ($41.5 million x .055).

Filers with qualifying medical expenses in excess of 7.5% of adjusted gross income may claim the itemized deduction credit. The bill would allow the credit for any expenses paid out of a tax-exempt IMA. This would increase the revenue loss, but the increase is not expected to be significant since only 3% of Wisconsin tax filers reported medical expenses eligible for the credit.

The Department would incur one-time costs of $33,900 for development, implementation and testing of programming changes and annual costs of $50,900 for limited-term employee salaries and fringe benefits, telephone and correspondence, and printing and postage.

Long-Range Fiscal Implications

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-2280/5	Introduction Number

Subject

Tax-exempt individual medical accounts

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

One-time costs of $33,900 for development, implementation and testing of programming changes.

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$6,100	
(FTE Position Changes)		
State Operations - Other Costs	44,800	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$50,900**	**$**
B. State Costs by Source of Funds		
GPR	50,900	
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)

	Increased Rev	Decreased Rev
GPR Taxes	$	$-1,530,000
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$-1,530,000**

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	$50,900	$
NET CHANGE IN REVENUE	$-1,530,000	$

Agency/Prepared By	**Authorized Signature**	**Date**
DOR/ Karyn Kriz (608) 261-8984	Dennis Collier (608) 266-5773	11/17/2003

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2280/6
MES:kmg:rs

RMR

2003 BILL

D-note

SOON

regen

AN ACT *to renumber and amend* 71.83 (1) (c); *to amend* 71.83 (1) (c) (title); and *to create* 71.05 (6) (a) 21., 71.05 (6) (b) 34., 71.07 (5) (a) 9., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (c) 2. of the statutes; **relating to:** creating tax–exempt individual medical accounts and granting rule–making authority.

Analysis by the Legislative Reference Bureau

Under this bill, an individual may establish an individual medical account (account) for the person, his or her spouse, and his or her dependents (beneficiaries). The accounts may be used to pay for medical care expenses and long–term care expenses for the beneficiaries, and defines long–term care expenses as any amount that is paid for care that is provided to an individual in his or her home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. "Medical care expenses," under the bill, includes premiums, copayments, coinsurance, deductibles, and other cost–sharing charges. The account may be established at a financial institution, a trust company bank, an insurer, a licensed securities broker–dealer, or a licensed, certified public accountant. An account consists of deposits to an account and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, for contributions made by the individual or by the individual's employer, the bill authorizes an individual to deduct from his or her federal adjusted gross income up to $2,000 in deposits to the account made on behalf of the individual, up to $2,000 in deposits to the account made on behalf of the individual's spouse, and up to $1,000 in deposits to the account made on behalf of each of the individual's dependents if the account is used exclusively to pay the medical care expenses and long–term care expenses of the beneficiaries. All gains that accrue to such an account are also tax–exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, however, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account and is used for any purpose other than the allowed purposes, the account holder~~, unless he or she is at least 65 years old,~~ must pay a penalty equal to 10% of any accumulated interest, dividends, or other gain that has accrued to the account from the time that the account was opened, and a penalty of 10% of the amount that was withdrawn, except that these provisions do not apply after the death of the account holder. In addition, the account holder must pay taxes on any principal that is withdrawn and any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs, except that this provision also does not apply after the death of the account holder.

The bill first applies to taxable years beginning on January 1, 2004, and requires the Department of Revenue (DOR) to promulgate rules for the implementation and administration of the accounts that may be created under the bill. Under the bill, no more than 10,000 accounts may be created.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 21. of the statutes is created to read:

71.05 **(6)** (a) 21. Any principal that is withdrawn, and any accumulated interest, dividends, or other gain that accrues, from an account described under s. 71.10 (10) during the taxable year in which a withdrawal occurs from such an account if any amount of the money or other assets in the account is withdrawn for any reason other than the payment of medical care expenses or long–term care expenses, as defined in s. 71.10 (10) (a) 3., for the account holder, his or her spouse, and his or her dependents, as defined in s. 71.10 (10) (a) 2., except that this subdivision does not apply after the death of the account holder.

SECTION 2. 71.05 (6) (b) 34. of the statutes is created to read:

71.05 **(6)** (b) 34. Any amount that is deposited by an individual, or by an individual's employer, in an account described under s. 71.10 (10), up to $2,000 each year for an individual, up to $2,000 each year for his or her spouse, and up to $1,000 each year for each dependent, as defined in s. 71.10 (10) (a) 2., and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited in the account, if the account is used exclusively to pay the medical care expenses, as defined in s. 71.10 (10) (a) 4., and long–term care expenses, as defined in s. 71.10 (10) (a) 3., of the individual, his or her spouse, and each dependent, except that no subtraction may be made under this subdivision for any amounts deposited in the account once the total value of the account exceeds $100,000.

~~**SECTION 3.** 71.07 (5) (a) 9. of the statutes is created to read:~~

~~71.07 **(5)** (a) 9. The amount claimed as a deduction for unreimbursed medical care expenses under section 213 (a) of the Internal Revenue Code to the extent that the funds used to pay for the unreimbursed expenses for which the deduction was claimed were withdrawn from an account described under s. 71.05 (6) (b) 34.~~

SECTION 4. 71.10 (4) (k) of the statutes is created to read:

71.10 **(4)** (k) Any amount of money or other assets computed under sub. (10) (d).

SECTION 5. 71.10 (10) of the statutes is created to read:

71.10 **(10)** INDIVIDUAL MEDICAL ACCOUNTS. (a) In this subsection:

1. "Account administrator" means any of the following:

a. A financial institution, the accounts of which are insured by the Federal Deposit Insurance Corporation or the national credit union share insurance fund.

b. A trust company bank organized under ch. 223.

c. An insurer authorized to do business in this state.

d. A broker–dealer licensed under subch. III of ch. 551.

e. A certified public accountant licensed to practice in this state.

2. "Dependent" means the child of an individual who establishes an account under this subsection who is claimed as the individual's dependent under section 151 (c) of the Internal Revenue Code.

3. "Long–term care expenses" means any amount that is paid for care that is provided to an individual in an individual's home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness.

4. "Medical care expenses" includes premiums, copayments, coinsurance, deductibles, and any other cost–sharing charges.

(b) An individual may establish an account for medical care expenses and long–term care expenses for the individual, the individual's spouse, and the individual's dependents with an account administrator. Amounts deposited into such an account and any interest, dividends, or other gain that accrues on amounts deposited in the account may be used only to pay medical care expenses and long–term care expenses of the individual, the individual's spouse, and the individual's dependents, except that this limitation on the uses of the account does not apply after the death of the individual who establishes the account~~, nor does this limitation apply to an individual who is at least 65 years old~~.

(c) 1. The department shall promulgate rules for the implementation and administration of the accounts that are created under this subsection.

2. No more than 10,000 accounts may be established under this subsection.

(d) If an individual ~~other than an individual who is at least 65 years old,~~ is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of any accumulated interest, dividends, or other gain that has accrued beginning on the date on which the account was opened and ending on the date on which the withdrawal from the account occurs that results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 6. 71.83 (1) (c) (title) of the statutes is amended to read:

71.83 **(1)** (c) (title) *Medical savings account, individual medical account withdrawals.*

SECTION 7. 71.83 (1) (c) of the statutes is renumbered 71.83 (1) (c) 1. and amended to read:

71.83 **(1)** (c) 1. Any person who is liable for a penalty for federal income tax purposes under section 220 (f) (4) of the Internal Revenue Code is liable for a penalty equal to 33% of that penalty. The department of revenue shall assess, levy, and collect the penalty under this ~~paragraph~~ subdivision as it assesses, levies, and collects taxes under this chapter.

SECTION 8. 71.83 (1) (c) 2. of the statutes is created to read:

71.83 **(1)** (c) 2. If a person ~~other than a person who is at least 65 years old,~~ is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of the amount that is withdrawn from the account if that withdrawal results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 9. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2004.

(END)

-2280/6dn

D-note

Rep. Wieckert:

This version of the bill deletes ~~from~~ ~~[illegible]~~ provisions that affect ~~exceptions from penalties for~~ individuals age 65 or older in ss. 71.10 (10) (b) and (d) and 71.83 (1) (c) 2. This version also deletes a limitation related to amounts that may be claimed under the itemized deductions credit; it deletes the creation of s. 71.07 (5) (a) 9.

[signature]

Drafter's Note
from the
Legislative Reference Bureau

LRB–2280/6dn
MES:kmg:pg

November 13, 2003

Rep. Wieckert:

This version of the bill deletes provisions that affect individuals age 65 or older in ss. 71.10 (10) (b) and (d) and 71.83 (1) (c) 2. This version also deletes a limitation related to amounts that may be claimed under the itemized deductions credit; it deletes the creation of s. 71.07 (5) (a) 9.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

b-3070 angela

Kreye, Joseph

section 1201 of PL 108-173

From: Shovers, Marc
Sent: Tuesday, November 25, 2003 4:50
To: Kahler, Pam; Kreye, Joseph
Subject: FW: Medicare Bill Text and Summary

In the likely event that we get questions about the new federal "Health Savings Accounts", here's the scoop. In the 681 page bill, the HSA stuff is on pages 661 to 674 and I've printed out a copy of those pages. According to her aide Janine, Bonnie Ladwig will want to do "something" about the MSA provisions in her bill, and Steve Wieckert just called and said he wants his MSA bill that I drafted (LRB -2280/6) redrafted so that WI law will incorporate the federal HSA changes into the tax code, and he would like it as soon as possible.

Tomorrow maybe the 3 of us should sit down and see what needs to be done.

Marc

-----Original Message-----
From: Sweet, Richard
Sent: Tuesday, November 25, 2003 4:37 PM
To: Shovers, Marc
Subject: FW: Medicare Bill Text and Summary

-----Original Message-----
From: Joy Wilson [mailto:joy.wilson@ncsl.org]
Sent: Friday, November 21, 2003 10:31 AM
To: NALFO; medicaid-l@ncsl.org; humserv-l@ncsl.org; Healthpolicy-l
Subject: Medicare Bill Text and Summary

11/21/03

Friends:

Available on the House Ways and Means Committee webpage is the text of the Medicare legislation (681 pages) and the conferees joint explanatory statement (408 pages). These are pdf files. The link is:
http://waysandmeans.house.gov/Special.asp?section=43

Attached for your information is information from the Congressional Budget Office (CBO) regarding the cost of the legislation. These are also pdf files.

A note: The Medicaid "claw-back" provision has been revised. Instead of starting at 97.5% in 2006, it will start at 90% and will phase-down in increments of 1.66% to 75% in 2015.

As always I hope you find this information helpful.

Joy Johnson Wilson
Federal Affairs Counsel
Director, Health Policy
Office of State-Federal Relations
NCSL
Washington, D.C.
202-624-8689

RM not R

2003 ASSEMBLY BILL

adopting federal law as it relates to health savings accounts for state income and franchise tax purposes

WANTED THURS.

Gen. Cat.

AN ACT *to renumber and amend* 71.83 (1) (c); *to amend* 71.83 (1) (c) (title); and *to create* 71.05 (6) (a) 21., 71.05 (6) (b) 34., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (c) 2. of the statutes; **relating to:** ~~creating tax–exempt individual medical accounts and granting rule–making authority.~~

Analysis by the Legislative Reference Bureau

Under this bill, an individual may establish an individual medical account (account) for the person, his or her spouse, and his or her dependents (beneficiaries). The accounts may be used to pay for medical care expenses and long–term care expenses for the beneficiaries, and defines long–term care expenses as any amount that is paid for care that is provided to an individual in his or her home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. "Medical care expenses," under the bill, includes premiums, copayments, coinsurance, deductibles, and other cost–sharing charges. The account may be established at a financial institution, a trust company bank, an insurer, a licensed securities broker–dealer, or a licensed, certified public accountant. An account consists of deposits to an account and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, for contributions made by the individual or by the individual's employer, the bill authorizes an individual to deduct from his or her federal adjusted gross income up to $2,000 in deposits to the account made on behalf of the individual, up to $2,000 in deposits to the account made on behalf of the individual's spouse, and up to $1,000 in deposits to the account

This bill adopts, for state income and franchise tax purposes, Public Law 108-173 as it relates to claiming a deduction for an amount that a person pays into a health savings account.

~~made on behalf of each of the individual's dependents if the account is used~~ exclusively to pay the medical care expenses and long–term care expenses of the beneficiaries. All gains that accrue to such an account are also tax–exempt if the gains are redeposited into the account. After the value of the account exceeds $100,000, however, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account and is used for any purpose other than the allowed purposes, the account holder must pay a penalty equal to 10% of any accumulated interest, dividends, or other gain that has accrued to the account from the time that the account was opened, and a penalty of 10% of the amount that was withdrawn, except that these provisions do not apply after the death of the account holder. In addition, the account holder must pay taxes on any principal that is withdrawn and any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs, except that this provision also does not apply after the death of the account holder.

The bill first applies to taxable years beginning on January 1, 2004, and requires the Department of Revenue (DOR) to promulgate rules for the implementation and administration of the accounts that may be created under the ~~bill. Under the bill, no more than 10,000 accounts may be created.~~

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 21. of the statutes is created to read:

71.05 (6) (a) 21. Any principal that is withdrawn, and any accumulated interest, dividends, or other gain that accrues, from an account described under s. 71.10 (10) during the taxable year in which a withdrawal occurs from such an account if any amount of the money or other assets in the account is withdrawn for any reason other than the payment of medical care expenses or long–term care expenses, as defined in s. 71.10 (10) (a) 3., for the account holder, his or her spouse, and his or her dependents, as defined in s. 71.10 (10) (a) 2., except that this subdivision does not apply after the death of the account holder.

SECTION 2. 71.05 (6) (b) 34. of the statutes is created to read:

71.05 **(6)** (b) 34. Any amount that is deposited by an individual, or by an individual's employer, in an account described under s. 71.10 (10), up to $2,000 each year for an individual, up to $2,000 each year for his or her spouse, and up to $1,000 each year for each dependent, as defined in s. 71.10 (10) (a) 2., and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited in the account, if the account is used exclusively to pay the medical care expenses, as defined in s. 71.10 (10) (a) 4., and long–term care expenses, as defined in s. 71.10 (10) (a) 3., of the individual, his or her spouse, and each dependent, except that no subtraction may be made under this subdivision for any amounts deposited in the account once the total value of the account exceeds $100,000.

SECTION 3. 71.10 (4) (k) of the statutes is created to read:

71.10 **(4)** (k) Any amount of money or other assets computed under sub. (10) (d).

SECTION 4. 71.10 (10) of the statutes is created to read:

71.10 **(10)** INDIVIDUAL MEDICAL ACCOUNTS. (a) In this subsection:

1. "Account administrator" means any of the following:

a. A financial institution, the accounts of which are insured by the Federal Deposit Insurance Corporation or the national credit union share insurance fund.

b. A trust company bank organized under ch. 223.

c. An insurer authorized to do business in this state.

d. A broker–dealer licensed under subch. III of ch. 551.

e. A certified public accountant licensed to practice in this state.

2. "Dependent" means the child of an individual who establishes an account under this subsection who is claimed as the individual's dependent under section 151 (c) of the Internal Revenue Code.

3. "Long–term care expenses" means any amount that is paid for care that is provided to an individual in an individual's home or in institutional or community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness.

4. "Medical care expenses" includes premiums, copayments, coinsurance, deductibles, and any other cost–sharing charges.

(b) An individual may establish an account for medical care expenses and long–term care expenses for the individual, the individual's spouse, and the individual's dependents with an account administrator. Amounts deposited into such an account and any interest, dividends, or other gain that accrues on amounts deposited in the account may be used only to pay medical care expenses and long–term care expenses of the individual, the individual's spouse, and the individual's dependents, except that this limitation on the uses of the account does not apply after the death of the individual who establishes the account.

(c) 1. The department shall promulgate rules for the implementation and administration of the accounts that are created under this subsection.

2. No more than 10,000 accounts may be established under this subsection.

(d) If an individual is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of any accumulated interest, dividends, or other gain that has accrued beginning on the date on which the account was opened and ending on the date on which the withdrawal from the account occurs that results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 5. 71.83 (1) (c) (title) of the statutes is amended to read:

71.83 **(1)** (c) (title) *Medical savings account, individual medical account withdrawals.*

SECTION 6. 71.83 (1) (c) of the statutes is renumbered 71.83 (1) (c) 1. and amended to read:

71.83 **(1)** (c) 1. Any person who is liable for a penalty for federal income tax purposes under section 220 (f) (4) of the Internal Revenue Code is liable for a penalty equal to 33% of that penalty. The department of revenue shall assess, levy, and collect the penalty under this ~~paragraph~~ subdivision as it assesses, levies, and collects taxes under this chapter.

SECTION 7. 71.83 (1) (c) 2. of the statutes is created to read:

71.83 **(1)** (c) 2. If a person is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of the amount that is withdrawn from the account if that withdrawal results in a person adding an amount under s. 71.05 (6) (a) 21.

SECTION 8. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2004.

INSERT 5-19

(END)

Insert 5 – 19

71.98

SECTION 1. Subchapter XVI of chapter 71 [precedes] of the statutes is created to read: caps; No B SUBCHAPTER XVI

CHAPTER 71 ~~**INCOME AND FRANCHISE TAXES FOR STATE AND LOCAL REVENUES**~~

INTERNAL REVENUE CODE UPDATE

SECTION 2. 71.98 of the statutes is created to read:

B Internal Revenue Code

71.98 IRC update. The following federal laws, to the extent that they apply to the Internal Revenue Code, apply to this chapter:

(1) HEALTH SAVINGS ACCOUNTS. Public Law 108–173, to the extent that it relates to health savings accounts.

SECTION 3. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31, this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

Reports Required: FE-STATE, TAX

2003 ASSEMBLY BILL ______

LRB -2280

ASSEMBLY ______

relating to: creating tax-exempt individual medical accounts and granting rule-making authority.

"/6"
Jacket
Destroyed
12-18-2003

Introduced by Representative WIECKERT (PRINCIPAL AUTHOR) Cosponsored by Senator STEPP

(BY REQUEST OF)

(CONTINUE HERE FOR ADDITIONAL REPRESENTATIVES) (CONTINUE HERE FOR ADDITIONAL SENATORS)

AINSWORTH		REYNOLDS	
M. LEHMAN		HARSDORF	
NISCHKE		ROESSLER	
KREIBICH			
MUSSER			
HINES			
VRAKAS			
TOWNS			
ALBERS			
PETROWSKI			
RIES			
TOWNSEND			
LASEE			
VAN ROY			
GUNDERSON			
HUNDERTMARK			

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2280/~~7~~ 8
JK&MES:kmg:rs

KMG

2003 ASSEMBLY BILL

By 12:30 Today

D-NOTE

Sen. Cat.

AN ACT *to create* subchapter XVI of chapter 71 [precedes 71.98] and 71.98 of the statutes; **relating to:** adopting federal law as it relates to health savings accounts for state income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

This bill adopts, for state income and franchise tax purposes, Public Law 108–173 as it relates to claiming a deduction for an amount that a person pays into a health savings account.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is created to read:

CHAPTER 71

SUBCHAPTER XVI

join next component

INTERNAL REVENUE CODE UPDATE

~~SECTION 2. 71.98 of the statutes is created to read:~~

71.98 Internal Revenue Code update. The following federal laws, to the extent that they apply to the Internal Revenue Code, apply to this chapter:

(1) HEALTH SAVINGS ACCOUNTS. Public Law 108–173, to the extent that it relates to health savings accounts.

SECTION 3. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)

D-NOTE: This /8 draft makes only technical corrections.

JK

~~MES~~

Drafter's Note
from the
Legislative Reference Bureau

December 18, 2003

This /8 draft makes only technical corrections.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266–2263
E–mail: joseph.kreye@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, January 06, 2004 3:20 PM
To: Becher, Scott
Subject: LRB-2280/8 & 8dn (attached as requested)

03-2280/8 03-2280/8dn

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

January 13, 2004

MEMORANDUM

To: Representative Wieckert

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **(un-introduced)** (LRB 03-2280/8)

NOTE: This Tehhnical Memo was prepared for a early version of this draft. Draft is now a "/9" so some details may have changed.

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

January 12, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 2280/8: Tax-Exempt Individual Medical Accounts

The language of the bill states that Public Law 108-173 would be adopted to the extent that it relates to health savings accounts. For clarity, it may be better to be more specific and refer to sec. 1201 of Public Law 108-173.

For clarity, instead of having an initial applicability date, the statute itself should provide "For taxable years beginning after December 31, 2003." The Wisconsin provision would then apply at the same time as the federal health savings accounts.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2280/8 9
JK&MES:~~kmg:rs~~

RMR

2003 ASSEMBLY BILL

Today

regen

AN ACT *to create* subchapter XVI of chapter 71 [precedes 71.98] of the statutes; **relating to:** adopting federal law as it relates to health savings accounts for state income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

This bill adopts, for state income and franchise tax purposes, section 1201 of Public Law 108–173 as it relates to claiming a deduction for an amount that a person pays into a health savings account.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is created to read:

CHAPTER 71

6 LPS: change props to not allow a break "after".

SUBCHAPTER XVI

INTERNAL REVENUE CODE UPDATE

71.98 Internal Revenue Code update. The following federal laws, to the extent that they apply to the Internal Revenue Code, apply to this chapter:

(1) HEALTH SAVINGS ACCOUNTS. Section 1201 of P.L. ~~Public Law~~ 108–173, to the extent that it relates to health savings accounts.

SECTION 2. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)

LRB

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

January 13, 2004

MEMORANDUM

To: Representative Wieckert

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to LRB (**un-introduced**) 03-2280/9

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

LRB

MEMORANDUM

January 12, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 2280/9: Tax-Exempt Individual Medical Accounts

The language of the bill states that Section 1201 of Public Law 108-173 would be adopted to the extent that it relates to health savings accounts. For clarity, it may be better to say, "Section 1201 of P.L. 108-173 relating to health savings accounts." This would leave no doubt that the entire section applies. Using "to the extent that it relates to health savings accounts" appears to limit the applicability.

For clarity, instead of having an initial applicability date, the statue itself should provide "For taxable years beginning after December 31, 2003." The Wisconsin provision would then apply at the same time as the federal health savings accounts.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.

Memo

To: Senator ☐ Representative ☒ Wieckert (The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unintroduced 2003 draft.

LRB Number: LRB – 2280

Version: "/ 9 "

Fiscal Estimate Prepared By: (agency abbr.) DOR

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 1 / 13 / 2004

* *

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> ***If redrafted*** *... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.*

> ***If introduced*** *... and the version of the attached fiscal estimate is for a* ***previous version ...*** *please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.*

> ***If introduced*** *... and the version of the attached fiscal estimate is for the* ***current version*** *... please write the draft's introduction number below and give to Mike (or Lynn) to process.*

THIS DRAFT WAS INTRODUCED AS: 2003 AB 775

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, January 13, 2004 11:57 AM
To: Rep.Wieckert
Cc: Becher, Scott
Subject: LRB-2280/9 (FE by DOR - attached - for your review)

03-2280feDOR.pdf

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us