

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
SECOND REGULAR SESSION**

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 543, L.D. 750, Bill, "An Act to Establish a Patient's Bill of Rights"

Amend the bill by inserting after section 19 the following:

**Sec. 20. 36 MRSA §5122, sub-§1, ¶K,** as amended by PL 1999, c. 520, §3 and affected by §5, is further amended to read:

K. For income tax years beginning on or after January 1, 1997, all items of loss, deduction and other expense of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. An addition may not be made under this paragraph for any losses recognized on the disposition by a taxpayer of an ownership interest in a financial institution; and

**Sec. 21. 36 MRSA §5122, sub-§1, ¶L,** as enacted by PL 1999, c. 520, §4 and affected by §5, is amended to read:

L. For income tax years beginning on or after January 1, 1999, but before January 1, 2000, an amount equal to 25% of any amount allowed to a self-employed individual as a deduction for health insurance expenses pursuant to Section 162(1) of the Code; and for income tax years beginning on or

**HOUSE AMENDMENT**

after January 1, 2000, but before January 1, 2002, an amount equal to 16.67% of any amount allowed as a deduction pursuant to Section 162(1) of the Code; and

**Sec. 22. 36 MRSA §5122, sub-§1, ¶M** is enacted to read:

M. Amounts withdrawn pursuant to section 6603, subsection 3 by the taxpayer during the taxable year from an individual medical savings account established in the taxpayer's name.

**Sec. 23. 36 MRSA §5122, sub-§2, ¶K**, as amended by PL 1999, c. 521, Pt. C, §5 and affected by §9, is further amended to read:

K. For income tax years beginning on or after January 1, 1997, all items of income, gain, interest, dividends, royalties and other income of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. A subtraction may not be made under this paragraph for:

(1) Income of the taxpayer earned on interest-bearing or similar accounts of the taxpayer at a financial institution as a customer of that financial institution;

(2) Any dividends or other distributions with respect to a taxpayer's ownership interest in a financial institution; and

(3) Any gain recognized on the disposition by the taxpayer of an ownership interest in a financial institution; and

**Sec. 24. 36 MRSA §5122, sub-§2, ¶L**, as enacted by PL 1999, c. 521, Pt. C, §6 and affected by §9, is amended to read:

L. For income tax years beginning on or after January 1, 2000, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to Section 5125; and

**Sec. 25. 36 MRSA §5122, sub-§2, ¶M** is enacted to read:

2 M. Contributions or deposits to an individual medical  
3 savings account established under chapter 914 subject to the  
4 following limitations.

6 (1) The taxpayer may subtract:

8 (a) The amount of contributions made by the  
9 taxpayer's employer during the taxable year to the  
10 taxpayer's individual medical savings account to  
11 the extent that the employer contributions are  
12 included in the taxpayer's federal adjusted gross  
13 income; and

14 (b) The amount deposited by the taxpayer in the  
15 account during the taxable year.

16 (2) The taxpayer's employer may subtract the amount of  
17 contributions made by the employer to an individual  
18 medical savings account established on the taxpayer's  
19 behalf to the extent that the contributions are not  
20 deductible under the Code.

22 **Sec. 26. 36 MRSA §5164, sub-§1, as enacted by P&SL 1969, c.**  
23 **154, §F, §1, is amended to read:**

24 **1. Fiduciary adjustment defined.** The fiduciary adjustment  
25 shall must be the net amount of the modifications described in  
26 section 5122, including subsection 3 if the estate or trust is a  
27 beneficiary of another estate or trust, which relates to items of  
28 income or deduction of an estate or trust.  
29

30 Interest income earned on a trust that is established as an  
31 individual medical savings account pursuant to chapter 914 is not  
32 included as income if the interest income is received on  
33 obligations of a state, territory or possession of the United  
34 States or a political subdivision of a state, territory or  
35 possession that is located outside of this State. Interest  
36 earned by a trust that is established as an individual medical  
37 savings account may be subtracted from the adjusted gross income  
38 to the extent that the income is included in the trust's Maine  
39 gross income during the taxable year.

40 **Sec. 27. 36 MRSA §5200-A, sub-§2, ¶I, as amended by PL 1999, c.**  
41 **521, Pt. B, §4 and affected by §11, is further amended to read:**

42 **I.** For income tax years beginning on or after January 1,  
43 1997, all items of income, gain, interest, dividends,  
44 royalties and other income of a financial institution  
45 subject to the tax imposed by section 5206, to the extent  
46

that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. A subtraction may not be made under this paragraph for:

(1) Income of the taxpayer earned on interest-bearing or similar accounts of the taxpayer at a financial institution as a customer of that financial institution;

(2) Any dividends or other distributions with respect to a taxpayer's ownership interest in a financial institution; and

(3) Any gain recognized on the disposition by the taxpayer of an ownership interest in a financial institution; and

**Sec. 28. 36 MRSA §5200-A, sub-§2, ¶J**, as enacted by PL 1999, c. 521, Pt. B, §5 and affected by §11, is amended to read:

J. An amount equal to an income tax refund to the taxpayer by this State or another state of the United States that is included in that taxpayer's federal taxable income for the taxable year under the Code, but only to the extent that:

(1) Maine net income is not reduced below zero; and

(2) The amount to be refunded from this State or another state of the United States has not been previously used as a modification pursuant to this subsection.

If this modification amount results in Maine net income that is less than zero for the taxable year, the negative modification amount may be carried back or forward in the same manner as a net operating loss deduction carry-back or carry-forward to a taxable year that is within the allowable federal period for a carry-back or carry-forward, subject to the above limitations.; and

**Sec. 29. 36 MRSA §5200-A, sub-§2, ¶K** is enacted to read:

K. The amount of contributions made by the taxpayer during the taxable year to individual medical savings accounts established on behalf of the taxpayer's employees pursuant to chapter 914 to the extent that the contributions are not deductible under the Code.

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2                   Sec. 30. 36 MRSA c. 914 is enacted to read:

4                                   CHAPTER 914

6                                   INDIVIDUAL MEDICAL SAVINGS ACCOUNT

8                   §6601. Short title

10                   This chapter may be known and cited as the "Individual  
12                   Medical Savings Account Act."

14                   §6602. Definitions

16                   As used in this chapter, unless the context otherwise  
18                   indicates, the following terms have the following meanings.

20                   1. Account administrator. "Account administrator" means any  
22                   of the following entities:

24                   A. A financial institution authorized to do business in  
26                   this State as defined in Title 9-B, section 131, subsection  
28                   17-A;

30                   B. An insurance company authorized to do business in this  
32                   State pursuant to Title 24-A;

34                   C. A nonprofit hospital or medical service organization  
36                   authorized to do business in this State pursuant to Title  
38                   24; or

40                   D. An employer, if the employer has a self-insured health  
42                   plan that meets the requirements of the federal Employee  
44                   Retirement Income Security Act of 1974, 29 United States  
46                   Code, Sections 101 to 1461, as amended.

48                   2. Account holder. "Account holder" means an individual on  
50                   whose behalf an individual medical savings account is established.

3. Eligible medical expenses. "Eligible medical expenses"  
means expenses paid by or on behalf of an account holder for  
medical care that is described in the Code, Section 213(d).  
"Eligible medical expenses" includes health insurance premiums  
and deductibles.

4. Household. "Household" means the taxpayer, the  
taxpayer's spouse and any member of the taxpayer's household for  
whom the taxpayer is entitled to claim an exemption as a  
dependent under Part 8.

2 5. Individual medical savings account. "Individual medical  
savings account" or "account" means a trust created or organized  
4 to pay eligible medical expenses.

6 §6603. Establishment and procedures

8 Individual medical savings accounts may be established  
subject to the following procedures.

10 1. Health insurance coverage. Before establishing an  
individual medical savings account, the prospective account  
12 holder must obtain or have health insurance coverage.

14 2. Account establishment. A resident of this State may  
establish an individual medical savings account for taxable years  
16 beginning after December 31, 2000. The account must be  
established as a trust under the laws of this State and must be  
18 placed with an account administrator. At the time of  
establishment, the account administrator shall notify the account  
20 holder of potential federal income tax liability that may be  
associated with the account.

22 3. Payment of eligible medical expenses. The account  
24 administrator may use the funds in an account solely to pay  
eligible medical expenses of the account holder and members of  
26 the account holder's household who are not otherwise covered  
under the account holder's existing medical coverage. Funds held  
28 in an account may not be used to cover medical expenses of the  
account holder or members of the account holder's household who  
30 are otherwise covered by, including, but not limited to, medical  
expenses covered pursuant to an automobile insurance policy,  
32 workers' compensation insurance policy or self-insured plan. If  
the account holder submits appropriate documentation to the  
34 account administrator, the account administrator may reimburse  
the account holder from account funds for eligible medical  
36 expenses paid directly by the account holder during the taxable  
year.

38 4. Withdrawals for other purposes. The account holder may  
40 withdraw funds from the account for purposes other than those  
expenses allowed under subsection 3 on the last business day of  
42 the calendar year without incurring a withdrawal penalty. If an  
account holder withdraws funds at any other time, other than for  
44 those purposes allowed under subsection 3, the account holder  
must pay a penalty equal to 10% of the amount withdrawn. The  
46 penalty must be paid to the bureau at the time the account holder  
files an income tax return under this Title for the taxable year  
48 in which the funds were withdrawn. The State Tax Assessor shall  
credit all penalties received to the General Fund.

2 5. Employer accounts. Upon agreement between an employer  
3 and an employee, an employer may:

4 A. Contribute to the employee's individual medical savings  
5 account;

6 B. Make or continue to make contributions to the employee's  
7 medical coverage; or

8 C. Contribute to both the employee's individual medical  
9 savings account and the employee's medical coverage.

10 6. No limit. In each taxable year, there is no limit to  
11 the total deposits that may be made to an account by or on behalf  
12 of an account holder.

13 7. Death of an account holder. Upon the death of an  
14 account holder, the account administrator shall distribute the  
15 principal and accumulated interest of the individual medical  
16 savings account to the estate of the account holder.

17 8. Tax consequences. Any amount deposited into an account  
18 established under this chapter may be subtracted from taxable  
19 income of the account holder during the same tax year. Funds  
20 withdrawn pursuant to subsection 4 must be considered income to  
21 the account holder for the purpose of computing adjusted gross  
22 income.'

23 Further amend the amendment by relettering or renumbering  
24 any nonconsecutive Part letter or section number to read  
25 consecutively.

### FISCAL NOTE

26 This amendment, establishing medical savings accounts, will  
27 decrease individual and corporate income tax collections by a  
28 combined total of \$2,675,912 in fiscal year 2000-01, \$5,201,059  
29 in fiscal year 2001-02 and \$5,483,011 in fiscal year 2002-03.  
30 The reduction of these tax collections will decrease the amounts  
31 transferred to the Local Government Fund for state-municipal  
32 revenue sharing in those years by \$136,472, \$265,254 and  
33 \$279,634, respectively. The resulting net reductions of General  
34 Fund revenue will be \$2,539,440 in fiscal year 2000-01,  
35 \$4,935,805 in fiscal year 2001-02 and \$5,203,377 in fiscal year  
36 2002-03.

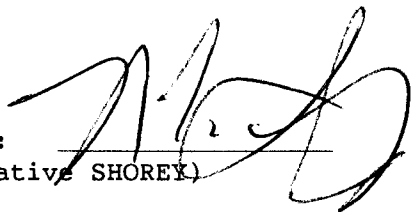
37 The Bureau of Revenue Services will incur additional costs  
38 estimated to be \$22,000 annually beginning in fiscal year 2001-02



for 2 part-time positions, a Tax Examiner position and a Clerk II position, and computer programming costs to implement this new tax program. This bureau will request future General Fund appropriations to fund these additional costs.

SUMMARY

This amendment allows residents of the State to establish medical savings accounts for payment of eligible medical expenses, including the payment of health insurance premiums and deductibles. Contributions to, interest earned on and qualified withdrawals from medical savings accounts are exempt from Maine state income tax.



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