Department of Planning and Budget
2004 Fiscal Impact Statement

1. **Bill Number** SB 266

House of Origin	☐ Introduced	☒ Substitute	☐ Engrossed
Second House	☐ In Committee	☐ Substitute	☐ Enrolled

2. **Patron** Edwards

3. **Committee** Education and Health

4. **Title** Establish a long-term care partnership plan

5. **Summary/Purpose:**

This bill requires the Board of Medical Assistance Services, once federal law would permit, to establish a long-term care partnership plan based on federal law and regulations that were in effect prior to May 14, 1993. The partnership plan is to encourage the purchase of long-term care insurance by allowing the amount of the benefits paid for the policy to be disregarded as resources when determining an individual's Medicaid eligibility.

6. **Fiscal Impact is Indeterminate** (see Sections 8 and 11)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Prior to May 14, 1993, the federal Medicaid statute allowed states to establish provisions in their Medicaid plans for determining Medicaid eligibility that permitted the disregard of an individual's resources if the individual purchased a long-term care insurance policy. The amount disregarded in the Medicaid eligibility determination was at least equal to the value of benefits paid for by the long-term care policy. Due to congressional concern over the abuse of this provision, changes were made in the Omnibus Budget Reconciliation Act (OBRA) of 1993 to specify that any state plans submitted after May 14, 1993 could continue to utilize this provision to exempt resources at the time of the eligibility determination. However, it required the state's Estate Recovery program to recover at the time of the recipient's death the total amount of the assets that had been disregarded at the time of the eligibility determination. As a result of the OBRA 1993, there was no longer any incentive for individuals to purchase long-term care insurance policies for the protection of their resources.

The Department of Medical Assistance Services (DMAS) believes that this bill would not have an immediate fiscal impact, due to its provisions being contingent on changes to the federal law.

If federal law and regulations were changed so that this program could be implemented, a program would be implemented that would permit individuals to protect more of their assets. Theoretically, this should not result in an increase in Medicaid expenditures because the program would require individuals to have purchased and used the value of their long-term care policies prior to DMAS disregarding their assets when determining Medicaid eligibility. The agency estimates that whether these individuals were reducing their assets to qualify for Medicaid eligibility or using long-term care insurance, the net amount of time before DMAS would begin reimbursing for nursing facility services should be approximately the same.

The agency performed an analysis of Medicaid eligible individuals who had a nursing facility stay that ended in the two-year period from January 2001 to December 2003. This analysis included 16,398 enrollees with nursing facility stays. The average length of stay was 2.7 years and the median was 1.4 years.

The following table shows the distribution of recipients and an estimated cost per stay based upon the length of stay in a nursing facility. The estimates are based upon an assumed $95 per day cost for the nursing facility, which is the current average not including patient pay, and do not include other medical expenditures, especially pharmacy expenditures.

Amount of Time Spent in Skilled Nursing Facility	**Number of Recipients**	**% of Total**	**Estimated Expenditures Per Person**
6 months	3,725	22.72	$8,558
6-12 months	2,911	17.75	$25,673
12-18 months	1,780	10.85	$42,788
18-24 months	1,413	8.62	$59,904
24-30 months	1.029	6.28	$77,019
30-36 months	874	5.33	$94,134
36-42 months	637	3.88	$111,249
42-48 months	523	3.19	$128,365
48-54 months	445	2.71	$145,480
54-60 months	405	2.47	$162,595
More than 5 yrs	2,656	16.20	$171,153*

* Estimate assumes five years of nursing facility costs.

Federal legislation has been introduced to repeal the OBRA 1993 restriction, which would enable the Commonwealth to implement a long-term care partnership plan without being required to recover the assets at the time of the recipient's death. However, the question remains as to whether this legislation will actually be enacted.

Assuming the legislation were enacted, DMAS feels confident that a long-term care partnership plan could be designed in such a manner to ensure that the value of long-term care insurance would be at equal or greater value to the assets that would be disregarded. The agency believes such a program would either be budget neutral or could possibly result in some savings to Virginia's Medicaid program.

9. Specific agency or political subdivisions affected: DMAS

10. Technical amendment necessary: No.

11. Other comments: A fiscal impact is possible if several variables were to come into play in ways that cannot be anticipated at this time. These variables include: the likelihood of the federal legislation being enacted, the types of long-term care policies created by the insurance industry in response to the partnership plan, and whether individuals would feel motivated to choose the purchasing of long-term care insurance over waiting for the natural depletion of their resources before turning to Medicaid to cover their long-term care needs.

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cc: Secretary of Health and Human Resources