DEPARTMENT OF TAXATION
2006 Fiscal Impact Statement

1. Patron R. Steven Landes

2. Bill Number HB 786

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
__X__ **Enrolled**

3. Committee Passed House and Senate

4. Title Individual Income Tax: Tax Credit for the Purchase of Long-Term Health Care Insurance

5. Summary/Purpose:

This bill would create an individual income tax credit for certain long-term care insurance premiums. The credit would be granted to an individual taxpayer who enters into such an insurance policy on or after January 1, 2006. The amount of the credit would be fifteen percent of the amount paid by an individual during the taxable year for premiums for long-term care coverage for himself. The total credits over the life of any policy would not be allowed to exceed fifteen percent of the amount of premiums paid for the first twelve months of coverage. Unused amounts of the credit could be carried over for the next five taxable years.

The bill would be effective for taxable years beginning on or after January 1, 2006.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

6b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2005-06	$0	GF
2006-07	($4.7 million)	GF
2007-08	($5.2 million)	GF
2008-09	($5.7 million)	GF
2009-10	($6.2 million)	GF
2010-11	($6.9 million)	GF
2011-12	($7.5 million)	GF

7. Budget amendment necessary: No.

8. Fiscal implications:

TAX considers implementation of this bill as "routine," and does not require additional funding.

This bill would result in a maximum negative revenue impact of $4.7 million for FY 2007, $5.2 million for FY 2008, $5.7 million for FY 2009, $6.2 million for FY 2010, $6.9 million for FY 2011, and $7.5 million for FY 2012. These amounts represent the maximum revenue loss net of the effect of the loss of the current deduction; the actual amount of the revenue loss is difficult to determine because the credit would be limited to insurance premiums that the taxpayer paid for coverage for himself. Information regarding the relationship of the person covered by a long-term care policy to the person paying the premiums for the policy is not available to TAX.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

General

Under the Internal Revenue Code, a qualified long-term care insurance contract is defined as an insurance contract that provides only coverage of qualified long-term care services. The contract must be guaranteed renewable, not provide for a cash surrender, refunds and dividends must be used only to reduce future premiums, and generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare.

Long-term health care insurance provides coverage for the costs of nursing home care and in home care that can last over extended periods of time. This type of insurance is promoted as a way to provide asset protection against the exorbitant costs of long term care. Most traditional health insurance plans do not cover long-term care.

Federal Treatment of Long Term Care Insurance

Federal law allows an itemized deduction for long term care insurance premiums. An individual can deduct only the part of the medical and dental expenses, including long-term care insurance, which is more than 7.5% of the individual's adjusted gross income. An individual can deduct long-term care insurance premiums paid for himself, a spouse or dependent(s). In order to deduct long-term care insurance premiums for a spouse or dependent, the individual must have been a spouse or dependent either at the time the insurance was purchased or at the time the long-term care insurance benefits are received.

The amount of qualified long-term care premiums that can be deducted is limited. The amount of allowable premium is based on age. For 2005, if the individual for whom the policy was purchased is under the age of 40 the maximum allowable deduction is $270, age 41 to 50 the maximum is $510, age 51 to 60 the maximum is $1,020, age 61 to 70 the maximum is $2,720 and individuals age 71 and over the maximum is $3,400.

In general, benefits from long-term care insurance policies are excludable from federal gross income. Thus, Virginia would not tax the benefits, either. However, if the amount received from periodic payments exceeds a per diem limitation, the excess is includible in gross income, and would thus also be taxed by Virginia. For 2005, the per diem limitation consists of the greater of $240 per day or the costs incurred for qualified long-term care services provided for the insured, minus the payments received as reimbursements, through insurance or otherwise, for qualified long-term care services provided for the insured during such period.

Virginia Treatment of Long Term Care Insurance

Currently, Virginia allows taxpayers to deduct the amount paid annually in premiums for long term health care insurance, to the extent that the individual has not deducted the premiums for federal income tax purposes. The law does not specify who must be insured by the policy.

Proposal

This bill would create an individual income tax credit for certain long-term care insurance premiums. The credit would be granted to an individual taxpayer who enters into such an insurance policy on or after January 1, 2006. The amount of the credit would be fifteen percent of the amount paid by an individual during the taxable year for premiums for long-term care coverage for himself. The total credits over the life of any policy, however, would not be allowed to exceed fifteen percent of the amount of premiums paid for the first twelve months of coverage. Unused amounts of the credit could be carried over for the next five taxable years.

Under the provisions of this bill, individuals who claimed this proposed credit would not also be allowed to utilize the long-term care insurance deduction that is currently available.

This bill states that individuals claiming the deduction for long-term health care insurance premiums on the federal income tax return would not also be allowed to take this proposed credit for the same insurance premiums. Because of the limitations on the federal deduction, many taxpayers will receive a federal deduction for only a portion of the premiums they pay. The Department would have regulatory authority to clarify any ambiguity arising in determining the amount of premiums for which the taxpayer has claimed a federal deduction.

This bill would define “long-term care insurance premium” to mean the amount paid during the taxable year for any qualified long-term care insurance contract as defined by the Internal Revenue Code which covers an individual.

This bill would be effective for taxable years beginning on or after January 1, 2006.

Other Legislation

Senate Bill 287 is identical to this bill.

cc : Secretary of Finance

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