DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron T. Scott Garrett

2. Bill Number HB 1050

House of Origin:
X **Introduced**
___ **Substitute**
___ **Engrossed**

Second House:
___ **In Committee**
___ **Substitute**
___ **Enrolled**

3. Committee House Finance

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

5. Summary/Purpose:

This bill would increase the amount of the long-term insurance tax credit from 15 percent to 30 percent of a taxpayer's long-term care premiums for taxable years beginning on or after January 1, 2010.

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

6b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2009-10	$0	GF
2010-11	($1.2 million)	GF
2011-12	($1.2 million)	GF
2012-13	($1.2 million)	GF
2013-14	($1.2 million)	GF
2014-15	($1.2 million)	GF
2015-16	($1.2 million)	GF

7. Budget amendment necessary: Yes.
Page 1, Revenue Estimate

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would reduce General Fund revenue by $1.2 million annually beginning in FY 2011. The estimate is based on an average of the amount of credits claimed over the three years of the existence of the credit.

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 2010, if the individual for whom the policy was purchased is under the age of 40 the maximum allowable deduction is $330, age 41 to 50 the maximum is $620, age 51 to 60 the maximum is $1,230, age 61 to 70 the maximum is $3,290 and individuals age 71 and over the maximum is $4,110.

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 2010, the per diem limitation consists of the greater of $290 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.

Federal Healthcare Legislation

Congress is currently reconciling the House and Senate versions of the federal healthcare legislation. One possibility that would affect the federal tax treatment of long-term care insurance premiums would be a modification to the medical expenses deduction. Currently, an increase in the 7.5% level to 10% is being discussed. At this time, however, it is unknown what will be in the final bill or, if enacted, what effect the changes will have on long-term care insurance.

Virginia Long-term Care Credit

Under Virginia law, an individual is entitled to a credit against the tax levied on certain long-term care insurance premiums paid by the individual during a taxable year. The amount of the credit for each taxable year is equal to 15% of the amount paid by the individual during the taxable year in long-term care insurance premiums for long-term care insurance coverage for himself, but the total credits over the life of any policy cannot exceed 15% of the amount of premiums paid for the first 12 months of coverage. In addition, a taxpayer may not base the credit on the same premiums that were used for either the federal deduction or the Virginia deduction.

This can become complicated, however, because of the limitations placed on the federal deduction. First, the amount of premiums that may be deducted is limited according to the age of the person for whom the policy was purchased, and then the taxpayer must overcome the 7.5% floor. In such a situation, taxpayers may base the credit on the amount of premiums that were not actually deducted.

Virginia Long-term Care Deduction

Virginia law also allows an individual may deduct the amount he pays annually in premiums for long-term health care insurance. The taxpayer may claim the Virginia deduction for premiums that have not previously been used as the basis of the federal deduction or the Virginia credit.

The use of the Virginia deduction in conjunction with the federal deduction will operate in the same manner as the credit. The taxpayer will only be allowed to deduct premiums on his Virginia income tax return that he has not already actually deducted on his federal return.

Proposed Legislation

This bill would increase the amount of the long-term insurance tax credit from 15 percent to 30 percent of a taxpayer's long-term care premiums for taxable years beginning on or after January 1, 2010.

Other Legislation

Senate Bill 310 is similar to this bill, but does not contain an effective date.

cc : Secretary of Finance

Date: 1/17/2010 TG
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