F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 02/06/15
SPONSOR Trujillo, CH **LAST UPDATED** 02/23/15 **HB** 72/HHCS

SHORT TITLE Long-Term Care Insurance Tax Credit **SB**

ANALYST Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
$0.0	($55,600.0)	($57,450.0)	($59,400.0)	($61,550.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$3.0	$0.0	$0.0	$3.0	Nonrecurring	Taxation and Revenue Department
Total	$65.0	$65.0	$65.0	$195.0	Recurring	Human Services Department

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Human Services Department (HSD) Medical Assistance Division
Office of the Superintendent of Insurance (OSI)
Office of the State Auditor (OSA)

SUMMARY

Synopsis of Bill HHC Substitute

House Health Committee substitute of House Bill 72 adds a new section of the Income Tax Act to create the long-term insurance tax credit. The bill provides that a taxpayer that files a New Mexico individual income tax return may claim a non-refundable credit against the taxpayer's tax liability in the amount of the lesser of a certain percentage of the premium paid for a long-term care insurance policy or a fixed dollar amount. Table 1 shows the proposed criteria of the bill to determine the amount of the credit based on taxpayer's federal taxable income. The credit may not be carried forward or transferred to another taxpayer. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only half of the credit that would have been claimed on a joint return.

Table 1.

Taxpayer Group	Federal Taxable Income	Credit Amount	Federal Taxable Income	Credit Amount
Married individuals filing separately, single individuals, estates, and trusts	$50,000 or less	50% of premium or $1,000 (whatever is less)	More than $50,000	25% of premium or $500 (whatever is less)
Heads of household, suriving spouses, and married couples filing jountly	$100,000 or less		More than $100,000	

The purpose of the credit is to encourage an individual to purchase long-term care insurance.

The bill defines "long-term care insurance policy" as an insurance product that helps provide for the cost of long-term care beyond a predetermined period, paying for costs generally not covered by health insurance, Medicare or Medicaid. A long-term care insurance policy aims at providing long-term care for individuals who are generally not sick in the traditional sense but are unable to perform the basic activities of daily living.

Taxpayers may claim the credit in the taxable year or within one year following the end of the calendar year in which the long-term care insurance premium is paid.

The bill provides for reporting requirements. Taxpayers must submit an application to TRD for qualification of the credit. TRD will adopt rules establishing procedures to certify a taxpayer for the purpose of obtaining the tax credit to ensure taxpayer claims the tax credit in an amount commensurate to the rules in the bill. TRD will compile and an annual report that includes:

- The number of taxpayers approved to receive the credit;
- The aggregate amount of tax credits approved; and,
- Other information necessary to evaluate the effectiveness of the credit.

Beginning in 2020 and every three years, TRD will present an annual cost/benefit analysis to RSTP and the LFC.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends. The provisions of the bill apply to taxable years beginning on or after January 1, 2015.

FISCAL IMPLICATIONS

TRD estimates there are about 53,500 private long-term care insurance (LTCI) buyers in the state with an average insurance premium amount of $2,241 (weighted average annual premium for LTCI in 2010). Also, TRD assumes between seven and nine million Americans, about 2.6 percent of the total U.S. population according to the most recent decennial census, currently own LTCI.

According to the American Health Insurance Plans (AHIP) report "Who Buys Long-Term Care Insurance in 2010-2011?" between calendar years 2000 and 2009, total long-term care expenditures grew by about 92 percent (7.5 percent per year).

To estimate the fiscal impact for FY13, TRD took into account historical distributions of total Personal Income Tax PIT (PIT) returns[1] per income bracket and applied those percentages to distribute the estimated population of LTCI owners in the state (53,500). Based on the average insurance premium amount of $2,241, the lesser amount of the credit would always be $1,000 or $500 as indicated by the bill. To estimate the fiscal impact for FY16 through FY19, TRD assumed an annual growth rate of 7.5 percent and applied it to the number of New Mexicans with LTCI for each income bracket; then added up the total for each bracket to produce an annual estimate.

TRD notes it is highly likely that the number of households buying LTCI will grow faster than the estimate, as awareness of the tax credit increases.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

Without private insurance or public program coverage, the high cost of long-term care is unaffordable for many Americans. By purchasing long-term care insurance, taxpayers prevent imposing financial burdens on family members and other taxpayers.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

TRD reports the bill causes a moderate administrative impact (400 hours). It also requires changes to the GenTax and Taxpayer Access Point documents, and configuration changes to the business credit module tables. These can be done as part of regular year-end changes. TRD employees and taxpayers will need to be educated regarding this new credit. Coordination between HSD and TRD will be necessary.

A claim form and instructions will need to be developed at a cost of $3,000. The forms, instructions and modifications to the income tax forms and publications can be performed with existing resources as part of the annual revision of the tax forms and publications. Also, TRD will need to record and monitor the credits and to audit the records of HSD and to compile the

[1] 2012 data.

reports to provide to legislative committees.

TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

OTHER SUBSTANTIVE ISSUES

The bill assigns new responsibilities to TRD; compiling an annual report regarding this new tax credit, and on a three year basis presenting these reports to the legislative finance committee. TRD reports no allocation has been made to the department to cover these costs.

A claimant may take multiple tax credits, deductions, or exemptions for the same expenditures, including the medical expense deduction, exemption and credit.

TRD notes confidentiality issues may arise when reporting to the legislative committees depending upon the information needed to report the effectiveness of the credits, per Section 7-1-8 NMSA 1978. Further, the bill does not specify who the recipient of the long-term care insurance will be. It also does not specify how many insurance policies can be claimed. Additional regulations may be needed to clarify this.

ALTERNATIVE

The Superintendent of Insurance could be designated as the agency to determine if a long-term care insurance policy meets the requirements to qualify for the credit. The office could publish a list of carriers and policies to meet minimum requirements and provide it to TRD.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

HD/je