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

SPONSOR HTRC **DATE TYPED** 3-24-2005 **HB** 1102/HTRCS/aSFl

SHORT TITLE Public Peace, Health, Safety and Welfare **SB**

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	**FY06**			
($3,300)	($6,600)	Similar	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files
Taxation and Revenue Department (TRD)
Human Services Department (HSD)

SUMMARY

The Senate Floor amendments

The Senate Floor amendments have the effect of making a $2,800 tax credit available to all tax-payers 65 years old or older with medical expenses in excess of $28,000.

Fiscal Impact of Senate Floor amendments

The Senate floor amendments increase the general fund revenue loss to $6.6 million in FY06. The estimated revenue loss is equal to the Taxation and Revenue Department’s estimate of the number of persons with medical expenses greater than 28 thousand and aged 65 or older time the $2,800 credit: $2,800 X 2,361 eligible taxpayers.

The House Taxation and Revenue Committee amendments

The House Floor amendments make the following changes to the bill:

1. A January 1, 2005 applicability date is added.
2. The section dealing with the Medical Insurance Pool Act is deleted.

Synopsis of HTRC committee substitute
The House Taxation and Revenue Committee substitute for HB 1102 provides a state income

tax credit for persons 65 years old and older. The credit is refundable and equal to 10 percent of unreimbursed, uncompensated medical care expenses greater than $28 thousand. The maximum credit allowed is $2,800.

The bill also adds a new section to the Medical Insurance Pool Act. The new provisions would allow the board to establish a long-term care insurance plan for persons 65 years old or older. The plan is prohibited from providing coverage for services provided under medicare or medicaid.

The bill does not state an applicability date. Provisions are assumed to take effect 90 days after the end of the legislative session.

Substantive Issues
The state currently provides an income tax credit for uncompensated nursing home care that the Centers for Medicare and Medicaid Services (CMS) has been found objectionable. Assuming this credit is an alternative, consideration should be given to eliminating the nursing home credit. These issues are explored further in the substantive issues section of the FIR.

The maximum credit implies uncompensated care of $56 thousand.

FISCAL IMPLICATIONS

TRD estimates that the proposed credit would reduce general fund revenues by $3.55 million in FY06, the first full year for which the credit would be available.

The TRD analysis reports an estimated 2,230 federal income tax returns and 131 state income tax returns with medical expense deductions in excess of $28 thousand. They estimate that total deductions in excess of the $28 thousand minimum threshold and below the $56 thousand maximum against which the credit may be applied is approximately $34.5 million—the tax base. Applying the 10 percent credit against this base implies a full-year revenue loss of $3.45 million. The revenue loss in FY05 results from the assumption that the credit would be available in FY05, with half of the cost accrued to FY05 and half to FY06.

ADMINISTRATIVE IMPLICATIONS

TRD reports that the bill has no administrative implications for the department.

TECHNICAL ISSUES

TRD suggest that an applicability date be added.

HSD also suggested an applicability date be added. Their comments were:

> Depending on when applicability occurs and whether the existing nursing home tax credit is repealed, there could be overlapping credits during FY05; one for the first few months of CY05, prior to the repeal of the nursing home tax credit, and one for the entire year, per HB 1102. If this overlap occurs, the FY05 fiscal impact could be higher than indicated. To avoid the problem, the legislature may want to consider making HB 1102 effective for tax year beginning on January 1, 2006.

OTHER SUBSTANTIVE ISSUES

The credit provided in this bill would cover a broad range uncompensated medical care services in excess of $28 thousand (including nursing home care) and thus might represent an alternative to the current nursing home credit that the Centers for Medicare and Medicaid (CMS) have found objectionable. Because that credit applied only to uncompensated nursing home care, CMS argued that effectively only Medicaid paid the tax. Since this credit is not targeted only on nursing home services, CMS may have less of a basis on which to object. However, in a time when the federal government is closely scrutinizing the Medicaid budget, the risk of a CMS objection needs to be acknowledged.

The Human Services Department Analysis raises points similar to the above. Their comments are reproduced here:

> This bill is unclear about eligibility requirements, benefits structures, or the overall long term care insurance plan. This would result in additional assessments to insurance companies and additional resulting tax credits for those insurance companies. The resulting cost to the state general fund is impossible to determine without further definition of what the plan would be. It is impossible to know at this time whether CMS will find the provisions of this tax impermissible resulting in additional deferrals of federal funds. If CMS does make that determination, the resulting loss of federal funds would be comparable to that of the failure to repeal the tax credit for out of pocket nursing home costs.

SUGGESTED AMMENDMENTS

HSD recommends amending two sections to prevent conflicts in the law.

Section 3. Applicability – The provisions of Section 1 of this act apply to taxable years beginning on or after January 1, 2005

Section 4. Contingent Repeal

A. Upon the certification by the secretary of human services to the taxation and revenue department that the provisions of Section 1 of this act have resulted or will result in a reduction of federal Medicaid reimbursements to the state, Section 1 is repealed and the provisions of that section shall not apply to any tax year beginning on or after the next January 1 following the certification.

B. Upon the certification by the secretary of human services to the board of directors of the medical insurance pool that the provisions of Section 2 of the act have resulted or will result in a reduction of federal Medicaid reimbursements to the state, Section 2 is repealed effective the first day of the month following the month in which the certification is made.

BT/lg