TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 2262 - SB 2259

February 19, 2022

SUMMARY OF BILL: Entitles insurance companies that are subject to the medical loss ratio requirements set forth in the federal Patient Protection and Affordable Care Act to a credit against premium taxes collected on policies of insurance subject to the medical loss ratio requirements of 0.25 percent of premiums received by the company in the year for which the premiums are collected.

FISCAL IMPACT:

Decrease State Revenue - $8,119,700/FY22-23
$17,155,900/FY23-24 and Subsequent Years

Assumptions:

- According to the Department of Finance and Administration, state group insurance program (SGIP) plans are not subject to premium taxes. Additionally, SGIP plans are self-funded, and therefore the medical loss ratio requirements of the Patient Protection and Affordable Care Act do not apply.
- Pursuant to Tenn. Code Ann. § 56-4-205, premium taxes are due on a quarterly basis and based on the estimated amount of gross premiums received during the prior calendar year quarter.
- The total enrollment in CY2019 for qualified health plans (QHPs) was 192,557 individuals. However, since then enrollment in QHPs has increased at an average of approximately 18,946 per year, or 4,736.50 per quarter. Therefore, it is assumed that enrollment for CY2022, the first calendar year of the credit, will be 249,395 [192,557 + (18,946 x 3 years)].
- According to the Department of Commerce and Insurance (DCI), as of CY2020 there were 21 health insurance plans that would be subject to the medical loss ratio requirement. From these plans, $5,456,940,000 was collected in premium tax.
- The estimated enrollment for these QHPs was about 211,503 (192,557 + 18,946) in 2020. Therefore, an average of $25,801 ($5,456,940,000 / 211,503) was collected in premium tax per individual. The average quarterly collection per individual is $6,450.25 ($25,801 / 4 quarters).
- The first credit will be applied to the March 1, 2023 payment. The estimated quarterly credits through FY23-24 are as follows:

Payment Due	Average Enrollment Growth	Enrollment	Average Premium Tax Per Enrollee	Total Premium Tax to be Collected	0.25% of Premium Tax
1-Mar-23		249,395	$ 6,450.25	$ 1,608,660,099	$ 4,021,650
1-Jun-23	4736.5	254,132	$ 6,450.25	$ 1,639,211,708	$ 4,098,029
20-Aug-23	4736.5	258,868	$ 6,450.25	$ 1,669,763,317	$ 4,174,408
1-Dec-23	4736.5	263,605	$ 6,450.25	$ 1,700,314,926	$ 4,250,787
1-Mar-24	4736.5	268,341	$ 6,450.25	$ 1,730,866,535	$ 4,327,166
1-Jun-24	4736.5	273,078	$ 6,450.25	$ 1,761,418,144	$ 4,403,545

- The estimated decrease in premium tax collections in FY22-23 is estimated to be $8,119,680 ($4,021,650 + $4,098,029).
- The estimated decrease in premium tax collections in FY23-24 and subsequent years is estimated to be $17,155,907 ($4,174,408 + $4,250,787 + $4,327,166 + $4,403,545).
- It is assumed that the proposed legislation would exclude the Division of TennCare's (Division) Health Maintenance Organizations (HMOs). Therefore, it will not have a direct fiscal impact to the Division.
- The Center for Medicare and Medicaid Services may determine that the proposed legislation will result in a benefit to non-Medicaid payors of the HMO tax, resulting in either a non-uniform tax that would target Medicaid associated plans, or in holding non-Medicaid HMOs harmless by acting to offset part of the tax for non-Medicaid HMOs. This could result in an invalidation of the state's 6 percent assessment on HMOs, which would possibly result in loss in revenue for the General Fund.

IMPACT TO COMMERCE:

Decrease Business Expenditures - $8,119,700/FY22-23
$17,155,900/FY23-24 and Subsequent Years

Assumption:

- Insurers that are subject to the medical loss ratio requirement would experience a decrease in premium tax liabilities, resulting in a decrease in business expenditures of $8,119,680 in FY22-23 and $17,155,907 in FY23-24 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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