LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 19, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1779** by Creighton (Relating to premium and maintenance tax credits related to certain fees paid under the Patient Protection and Affordable Care Act.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1779, As Introduced: a negative impact of ($63,909,876) through the biennium ending August 31, 2019.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	($44,983,000)
2019	($18,926,876)
2020	($19,648,566)
2021	($20,438,521)
2022	($21,259,205)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable Savings from *GR Match For Medicaid* 758	Probable Savings from *Tobacco Receipts Match For Chip* 8025
2018	($33,737,000)	($11,246,000)	$0	$0
2019	($15,766,000)	($5,255,000)	$2,083,311	$10,813
2020	($16,396,000)	($5,465,000)	$2,163,394	$49,040
2021	($17,052,000)	($5,684,000)	$2,246,554	$50,925
2022	($17,734,000)	($5,911,000)	$2,332,912	$52,883

Fiscal Year	Probable Savings from *Federal Funds* 555
2018	$0
2019	$2,952,296
2020	$3,027,970
2021	$3,144,366
2022	$3,265,235

Fiscal Analysis

The bill would amend Chapters 222 (life, health, and accident insurance premium tax) and 257 (life, health, and accident insurance maintenance tax) of the Insurance Code.

The bill would define "recoupment amount" as the amount of health insurer provider fees due under Section 9010 of the Patient Protection and Affordable Care Act (PPACA), as amended by the Health Care and Education Reconciliation Act of 2010, that the insurer or health maintenance organization recoups from insureds.

The bill would allow insurers and health maintenance organizations to take premium tax credits in an amount equal to the premium taxes imposed on the recoupment amount. The Commissioner of Insurance would establish formulas to calculate the amount.

The bill would allow insurers and health maintenance organizations to take maintenance tax credits in an amount equal to the premium taxes imposed on the recoupment amount. The Commissioner of Insurance would establish formulas to calculate the amount.

The bill would apply to premium taxes paid on or after January 1, 2014.

The Comptroller and Commissioner would develop rules to implement the provisions of the bill.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2017.

Methodology

The PPACA requires U.S. health insurance providers to pay, in aggregate, $8 billion in fees in 2014, $11.3 billion in 2015 and in 2016, $13.9 billion in 2017, and $14.3 billion in 2018. After 2018, fee revenue will grow at the rate of premium growth in the preceding year (assumed to be 4 percent in this analysis).

Under the provisions of the bill, an insurer would be entitled to a credit on the amount of maintenance tax due in a taxable year equal to the amount of the premium tax imposed in that year on the insurer's recoupment amount for that year. In fiscal 2016, health insurers and HMOs paid $16 million in maintenance taxes and $777 million in premium taxes. It is likely that the maintenance tax credits that they would receive under the provisions of the bill would be sufficient to fully cover any maintenance tax due over the timeframe of this analysis. Insurance maintenance taxes are allocated to GR Account 0036 - Texas Department of Insurance Operating to fund the operations of the Texas Department of Insurance. As this is a self-leveling account, any decrease in maintenance taxes paid by health insurance providers would result in an equivalent increase in maintenance tax paid by other insurers. The bill, therefore, would have no effect on insurance maintenance tax revenue collected.

This analysis assumes health insurers offering coverage in Texas will pay 8.4 percent of the PPACA fee, based on data from the Kaiser Family Foundation, and that the full amount of the fee will be passed on to Texas insureds through higher rates (recouped).

This analysis assumes premium tax credits for fees paid in accordance with the PPACA in calendar 2014, 2015 and 2016 will be recovered in fiscal 2018, and thereafter premium tax credits for fees paid in any calendar year will be recovered in the succeeding state fiscal year. Current law states that 75 percent of the insurance premium tax revenue is deposited to the General Revenue Fund and 25 percent of the tax revenue is deposited to the Foundation School Fund.

The Consolidated Appropriations Act of 2016, Title II, Section 201, Moratorium on Annual Fee on Health Insurance Providers, suspends collection of the health insurance provider fee for the 2017 calendar year. Thus, health insurance issuers are not required to pay these fees for 2017.

The Health and Human Services Commission reimburses managed care organizations participating in Medicaid and the Children's Health Insurance Program (CHIP) for the cost of paying the Health Insurance Provider Fee and associated state and federal taxes. It is assumed managed care premiums would be reduced if the insurers received a premium tax credit, resulting in a savings to the state. It is assumed the credit would only be for premium tax paid based on the fee amount and not any premium tax paid related to federal taxes associated with the fee that are also reimbursed by the state. Estimated savings is based on the amount of reimbursement for the Health Insurance Provider Fee in fiscal year 2017, projected growth in the nationwide applicable amount, and estimates of federal matching rates for each program. Savings are estimated to be $4.9 million in All Funds, including $2.1 million in General Revenue Funds, in fiscal year 2019 increasing each fiscal year to $5.5 million in All Funds, including $2.4 million in General Revenue Funds, by fiscal year 2022. No savings are assumed in fiscal year 2018 due to the moratorium on the fee pursuant to the federal Consolidated Appropriations Act of 2016. It is further assumed that the state will not recoup any funds paid in prior fiscal years.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 529 Health and Human Services Commission

LBB Staff: UP, CL, KK, CP, AG, SD, LR