

**FISCAL NOTE**  
**SB 2970 - HB 3002**

March 1, 2002

**SUMMARY OF BILL:**

- Requires that the Comptroller to certify the growth in state costs attributed to the uninsurable portion of the TennCare expansion population to the Commissioner of Commerce and Insurance each year after conducting the actuarial study required by TCA 71-5-188.
- Requires the Commissioner of Insurance to divide the estimate of such costs between insurance companies subject to tax under TCA Title 56, Chapter 4 and HMOs.
  - Further requires the commissioner to develop an assessment on each HMO and health insurance company to collect the revenue needed for the proportional share of such costs to be paid by HMOs and health insurance companies. The amount of the assessment shall be developed annually at the end of each calendar year, and the assessment shall be due and payable within 30 days of the receipt of the assessment notice.
  - The proportion shall be equal to the HMO or health insurance company's proportion of its premium and subscriber contract charges written in the state during the preceding calendar year as compared to the total of all premiums and subscriber contract charges written in the state.
  - Authorizes the Commissioner of Commerce and Insurance, with the approval of the Commissioner of Finance and Administration, to abate or defer, in whole or in part, the assessment of an HMO if, in the opinion of the commissioner's payment of the assessment would endanger the ability of the HMO to fulfill its contractual obligations. In the event an assessment against an HMO is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other HMOs in a manner consistent with the basis for assessments provided in this bill. The HMO receiving such abatement or deferment shall remain liable for deficiency to the department for four years.
- Makes it unlawful for any HMO to fail or refuse to pay an assessment or to respond to an inquiry from the commissioner regarding information necessary to make assessments within 45 days of the assessment notice or request for information.
  - Authorizes the commissioner to assess a civil penalty of not less than \$100 or more than \$1,000 for each and every act or violation.
  - Makes each day in which the HMO has failed or refused to pay an assessment or to provide information necessary to make assessments or register in accordance with this provision a separate act or violation.
- Provides that the actuarial study of TennCare by the Comptroller, in addition to other information which the comptroller determines to be relevant or useful, shall determine state costs for the uninsurable portion of the TennCare expansion population apart from any premiums and any federal financial participation. The study shall also determine the growth in state costs attributable to uninsurables from the immediately prior year.
- Makes the following changes relative to taxes on alcohol and tobacco products and allocates revenue generated by the tax increases to the TennCare program:
  - Increases the wholesale tax on cigarettes from 13 cents per pack to 18 cents per pack, effective August 1, 2002.

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- Increases the wholesale tax on wine from \$1.10 per gallon to \$1.35 per gallon, effective September 1, 2002.
- Increases the wholesale tax on alcohol from \$4.00 per gallon to \$5.00 per gallon, effective September 1, 2002.
- Increases the liquor by the drink tax from 15% of the gross sales price to 17% of the gross sales price, effective September 1, 2002.
- Increases the wholesale tax on beer from \$3.90 per barrel to \$4.29 per barrel, effective September 1, 2002.
- Increases the tax on mixed drinks from 15% of gross receipts to 17% of gross receipts, effective September 1, 2002.
- Amends TCA Title 71, Chapter 5, Part 1 by adding a new section that makes it a Class C felony for any present or former official of the state of Tennessee, state employee, independent contractor, subcontractor, or advisor to the TennCare program to disclose a contractor bid, proposal information, or source selection before the award of a TennCare or medical assistance-related contract.
- Authorizes the Attorney General to bring a civil action in an appropriate court against any person who engages in conduct constituting a violation of this provision.
- An individual who engages in such conduct is subject to a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation that the individual received or offered for the prohibited conduct.
- An organization that engages in such conduct is subject to a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.
- Requires the TennCare Bureau, no later than October 1, 2002, to enter into an interagency agreement with a state agency to conduct eligibility determinations on and after January 1, 2003, for medical assistance for the expansion population of uninsured and uninsurables in the TennCare program, in accordance with any criteria set by the bureau that comply with state and federal law.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenues:**

**Alcohol and Tobacco Tax Revenues**

**\$25,896,577 FY02-03**

**\$34,702,069 FY03-04 and thereafter**

**HMO, Insurance Company Assessment - Exceeds \$25,000,000**

**Increase State Expenditures - \$60,400 Recurring**

**\$5,700 One-Time**

**\$4,767 Incarceration**

**Increase Local Govt. Revenues - \$539,255 FY02-03**

**\$726,197 FY03-04 and thereafter**

Estimate assumes:

- An increase in state revenues as follows:
  - a net increase in state revenues of \$25,896,577 in FY02-03 and \$34,702,069 in FY03-04 and thereafter resulting from increased wholesale tax rates on alcohol, wine, beer, and cigarettes, as well as increased tax rates on liquor by the drink taxes and mixing bar taxes.

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- an increase in state revenues of approximately \$25,000,000 on a recurring basis resulting from the tax assessed on HMOs and health insurance companies based on the state costs attributed to the uninsurable portion of the TennCare expansion population.
- a not significant increase in state revenues resulting from fines assessed by the commissioner of commerce and insurance on HMO's and health insurance companies who fail to comply with provisions of the bill.
- An increase in state expenditures:
  - in the Department of Commerce and Insurance from adding one insurance examiner to administer the provisions of the bill that relate to the department. Operational, payroll, and administrative costs of adding one examiner are estimated to be \$60,400 on a recurring basis and \$5,700 one-time.
  - one conviction on a Class C felony every three years. The annual cost of incarceration based on one conviction every three years is estimated to be \$4,767.
  - a not significant increase in the Comptroller's Office to certify to the Commissioner of Commerce and Insurance the state costs attributed to the unisurable portion of the TennCare expansion population.
  - a not significant increase in the TennCare Bureau to conduct eligibility determinations for the expansion population of uninsured and uninsurables in the TennCare program, in accordance with any criteria set by the bureau that comply with state and federal law. Based on information provided by the TennCare Bureau, it currently determines eligibility for this population group.
- An increase in local government revenues resulting from increased sales tax revenues generated by increasing the wholesale tax rates on alcohol, wine, beer, and cigarettes.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director