NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1226

SHORT TITLE: Motor Carrier Diesel Tax Payment

SPONSOR(S): Representative Buchanan

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02
REVENUES					
Highway Fund (HF)					
Delayed Revenues	($6,695,005)	($160,680)	($171,392)	($154,596)	($165,178)
Lost Interest	(72,529)	(1,741)	(1,857)	(1,675)	(1,789)
Non-filers	(4,017,003)	(4,113,411)	(4,216,246)	(4,309,003)	(4,408,111)
Total - HF	($10,784,537)	($4,275,832)	($4,389,495)	($4,465,274)	($4,575,078)
Highway Trust Fund (HTF)					
Delayed Revenues	($2,231,668)	($53,560)	($57,131)	($51,532)	($55,059)
Lost Interest	(24,176)	(580)	(619)	(558)	(596)
Non-filers	(1,339,001)	(1,371,137)	(1,405,415)	(1,436,334)	(1,469,370)
Total - HTF	($3,594,845)	($1,425,277)	($1,463,165)	($1,488,424)	($1,525,025)
EXPENDITURES					
Department of Revenue	337,158	188,927	194,377	200,179	206,352
Division of Motor Vehicles (DMV)					
Enforcement	$661,494	$505,608	$522,145	$539,748	$558,625
Judicial Department and Department of Correction	-0-	-0-	-0-	-0-	-0-
POSITIONS:					
Department of Revenue	5	5	5	5	5
DMV Enforcement	12	12	12	12	12

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Revenue/Motor Fuels Division; Division of Motor Vehicles/Enforcement Section; Judicial Department and Department of Correction.

EFFECTIVE DATE: July 1, 1997

BILL SUMMARY: *To provide that part of the tax on diesel fuel sold to Motor Carriers shall be paid at with the Carrier's periodic report rather than at the pump.* Adds new GS 105-449.105A to allow a $.07 per gallon refund of fuel taxes paid by "seller-users" on diesel fuel sold for use in a motor carrier vehicle. Defines "seller-user" as (a) distributor who for the most recent 12-month period sold an average of more than 100,000 gallons of diesel fuel per month, or (b) bulk-end
user who acquires diesel fuel for use in its own motor carrier vehicles. Requires seller-user who sells motor carrier diesel fuel to charge for it at least $.07 per gallon less than the price charged for other diesel fuel. Specifies procedures for applying for refund, and makes conforming changes.[1]

BACKGROUND: North Carolina is a member of the International Fuel Tax Agreement (IFTA) that joins 48 states and 10 Canadian provinces in an effort of uniform collection and distribution of fuel tax revenues. In the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) , Congress mandated states join IFTA by September 30, 1996. In North Carolina, an owner of a truck with a gross vehicle weight exceeding 26,000 pounds applies for an IFTA license with the Motor Fuels Tax Division of the Department of Revenue. Each licensee reports quarterly to Revenue on the number of miles driven and the number of gallons of fuel consumed in each state or province. The Motor Fuels Tax Division processes the report and apportions the tax payments to other states according to the trucker's reported miles.

ASSUMPTIONS AND METHODOLOGY:

Department of Revenue

Revenue Estimate

HB 1226 will produce a revenue loss in the Highway Trust Fund and the Highway Fund in three ways: (1) it will delay payment of tax revenue into these funds by 2 months, (2) the delayed payments will reduce the amount of interest earned by the funds, and (3) 10% of the qualified motor carriers will not file the 7 cent surcharge on their quarterly reports.

I. DELAYED PAYMENT

Section 3 (d) of the bill reduces the tax on diesel fuel sold to qualified motor carriers by 7 cents per gallon for those distributors that sell more than 100,000 gallons of diesel per month. In Sections 7 and 8 of HB 1226, the 7 cent tax is recouped by the state when motor carriers file their quarterly reports with the Motor Fuels Tax Division of the Department of Revenue. The tax Fiscal Note

[1] "Daily Bulletin", Vol. 1997, No. 56, May 6, 1997, page 1.

reduction at the pump and the later repayment of the tax by the truckers offset each other, but it is the time lag between these two events that will cost the state $8.9 million in the FY 1997-98.

For example, a truck stop operator buys fuel from a supplier in January 1998 and pays the full diesel tax of 22.6 cents per gallon. The supplier is required to forward this tax to the Department of Revenue by February 22. Meanwhile the truck stop sells the fuel to qualified truckers (over 26,000 pounds gross vehicle weight) for 15.6 cents per gallon in January. In February, the truck stop operator files a tax refund request with the Department for 7 cents per gallon it pumped in January. The Department of Revenue will probably wait till after February 22 to refund the tax so they can match the truck stop report with that of the supplier. By the end of February or first of March, the truck stop owner receives a refund. The Department of Revenue now must wait until April 30 to receive repayment of the 7 cent tax from North Carolina based truckers that bought fuel from this station. For out-of-state motor carriers, the Department will not receive payments from other state Departments of Revenue that belong to IFTA (International Fuel Tax Agreement) until late May or early June. The state must wait two to three months before it is repaid the 7 cent that was reduced at the pump. It is this delayed repayment that produces a cash flow loss to the Highway Fund and the Highway Trust Fund.

In FY 1995-96, North Carolina received tax on 797,837,928 gallons of diesel fuel. Using consensus estimates from Fiscal Research and the Office of State Budget & Management, the number of taxable gallons will grow 2.4% in FY 1996-97 and 3.6% in FY 1997-98. Thus in FY 1997-98, the number of diesel gallons taxed in North Carolina will be 846.4 million. The Motor Fuels Tax Division estimates that 61.7% of the tax is paid by IFTA or interstate motor carriers, 28.7% is paid by intrastate motor carriers and 9.6% is paid by cars or trucks weighing less than 26,000 gross vehicle weight. Based on this estimate, 90.4% of the gallons used in the state are by motor carriers that are eligible for the 7 cent tax reduction at the pump. Two-thirds of these gallons are used by in-state motor carriers and the other one-third are used by out-of-state motor carriers. The in-state reports filed in April for the first quarter of the year repay the 7 cent diesel tax from 1 month (March) to 2 months (January /February) after the state refunded the 7 cents per gallon to the truck stop operators in late February. For out-of-state truckers, the quarterly report is received three to four months after the 7 cents is paid to the truck stops. On average, the state will wait 2 months to receive repayment of the 7 cent tax and thus in the first year of the bill's enactment the Department of Transportation will have a one-time loss of $8.9 million in estimated revenue as shown in the calculation below.

846,397,536 gallons X 90.4% = 765,143,373 gallons per year
765,143,373 gallons per year / 12 months = 63,761,948 gallons per month
63,761,948 gallons per month X 2 months delay = 127,523,896 gallons
127,523,896 gallons X 7 cents per gallon = $8,926,673

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The FY 1997-98 tax loss is divided between the Highway Fund and the Highway Trust Fund as follows:
75% Highway Fund = $6,695,005
25% Highway Trust Fund = $2,231,668

As the volume of taxable gallons grows, so will the tax loss from the delay in payments. For example, in FY 1998-99 the volume of taxable diesel fuel is expected to grow 2.4% based on Fiscal Research and Office of State Budget and Management estimates. These estimates are used both in the preparation of the budget for the Highway Fund and the Highway Trust Fund and in the Transportation Improvement Program (TIP). The tax revenues the state would have received from the increase in diesel sales will be delayed two months in FY 1998-99 and produce a cash flow loss of $214,240.

	1997-98	1998-99	1999-00	2000-01	2001-02
90.4% of Gallons	765,143,372	783,506,813	803,094,483	820,762,562	839,640,101
Growth Rate		2.4%	2.5%	2.2%	2.3%
Increase in Gallons		18,363,441	19,587,670	17,668,079	18,877,539
Increase per month		1,530,287	1,632,306	1,472,340	1,573,128
Two month delay		3,060,573	3,264,612	2,944,680	3,146,256
Tax loss					
Highway Fund		$160,680	$171,392	$154,596	$165,178
Highway Trust Fund		$53,560	$57,131	$51,532	$55,059

II. LOST INTEREST

For the two months the state awaits repayment of the 7 cent tax from motor carriers, the state is losing interest it would have earned from investing these funds with the State Treasurer. The State Treasurer's short term interest rate is currently 6.5%. Applying this rate to the cash flow losses outlined above will result in the following loss of interest earnings:

	1997-98	1998-99	1999-00	2000-01	2001-02
Highway Fund (HF)	$6,695,005	$160,680	$171,392	$154,596	$165,178
Highway Trust Fund (HTF)	2,231,668	53,560	57,131	51,532	55,059
Interest - HF	72,529	1,741	1,857	1,675	1,789
Interest - HTF	24,176	580	619	558	596

III. NON PAYMENT/ DELINQUENT PAYMENT

Until this year, Arizona had reduced its pump price for diesel fuel by 8 cents per gallon, then applied an 8 cents per gallon surcharge on truckers when they filed their quarterly fuel reports. In the March 17, 1997 issue of Transport Topics, the Arizona Motor Transport Association estimated that 25% of the motor carriers were not paying the 8 cent surcharge on fuel. Possibly because of this high rate of noncompliance, the Arizona legislature recently enacted SB 1144 to return the 8 cents tax to the pump price and end the surcharge.

What percent of motor carriers will fail to pay the 7 cent surcharge resulting from HB 1226? This question may be partially answered with data from North Carolina based companies. For North
Carolina based IFTA carriers, the state has experienced a 7% failure to file rate for quarterly reports. For the 8,000 intrastate motor carriers in the state, there are currently no reporting requirements with the Department of Revenue. Under HB 1226, these intrastate carriers will again file quarterly reports just like the IFTA carriers. In 1995, the last year when intrastate carriers filed informational returns, the average delinquency rate for intrastate truck filings averaged 14.5%. The Department has no delinquency or non-payment data on interstate carriers based out-of-state.

For this fiscal note, it is assumed that 10% will be the minimum rate of non-reporting and non-payment of the 7 cent surcharge by truckers. This rate is between the7% in-state IFTA rate and the 14.5% intrastate rate of 1995. The following chart shows that 90.4% of the taxable gallons of diesel fuel is used by qualified truckers. If 10% of the gallons are not reported by the qualified carriers, then the 7 cent tax lost on each gallon totals $5.3 million in FY 1997-98 and up to $5.9 million in FY 2001-02.

	1997-98	1998-99	1999-00	2000-01	2001-02
Total Gallons	846,397,536	866,711,077	888,378,853	907,923,188	928,805,422
90.4% Qualified	765,143,373	783,506,814	803,094,483	820,762,562	839,640,101
10.0% Non-filers	$76,514,337	$78,350,681	$80,309,448	$82,076,256	$83,964,010
7cents per gal.					
Highway Fund	$4,017,003	$4,113,411	$4,216,246	$4,309,003	$4,408,111
Highway Trust Fd.	$1,339,001	$1,371,137	$1,405,415	$1,436,334	$1,469,370

Administrative Costs

As proposed, the bill requires the motor carrier whose operation is solely within North Carolina to file a tax return and pay the additional 7¢ per gallon on fuel purchased at licensed truck diesel seller-users or on fuel purchased by the motor carrier and kept in their bulk storage. This would increase the number of taxpayers filing tax due returns by approximately 8,000.
These taxpayers were removed from reporting requirements effectively January 1, 1996 when 'Tax at the Rack' became law.
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Prior to January 1, 1996, intrastate carriers were required to file a monthly or annual informational return. No tax was due on those returns. Since the majority of the intrastate carriers are small businesses with limited staff, the noncompliance rate for informational returns was high. The average delinquency rate for 1995, based on the proposed failure to file billings, was 18%. This rate did drop to 15%, based on the final failure to file billings, after taxpayers were notified of their delinquency.

To comply with the bill requirements the Department of Revenue anticipates changes in on-going operations of the Division of Motor Fuels. Specifically, the division will experience an increase in personnel; additional costs associated with providing taxpayer instructional material; changes in two computer systems, specifically, for both the ITAS and the Lockheed to update the North Carolina VISTA; and updating the PC audit program.

According to the Department of Revenue, additional office and field personnel are essential in the division to administer the requirements of this bill due to the additional tax due returns and the noncompliance history. The high rate of delinquency and potential misuse of fuel will require a higher rate of auditing for the intrastate motor carriers. It is estimated that an additional staff of three (3) auditors (or 2 auditors and an investigator) and two (2) office staff are necessary. As the division works toward implementation of the new requirements, it may be considered more expedient to substitute an investigative position for an audit position.

For the additional personnel, the first year estimate supports recurring expense for salaries, benefits, supplies, travel, taxpayer notification, and computer operation at a cost of $248,658; and non-recurring expense for computer equipment, office furnishings, and computer upgrading at a cost of $88,500. The annual estimates of continued personnel costs include an increase in salaries, only; and are based upon the general inflationary assumptions in the General Fund Financial Model. If an investigator is considered more useful than a third auditor, there would be a small savings ($2,500 to $3,500) in recurring costs each year based upon reduced salary and benefits.

The costs in educating the taxpayer on the new law through bulletins and notices; having returns developed, printed and mailed; and mailing the appropriate refunds, proposed assessments and final assessments would be approximately $25,000.00 annually. This figure is broken down as follows:

- Cost for printing $ 1,000.00
- Cost for mailing 20,000.00
- Cost for correspondence 4,000.00

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This bill would also require additional programming costs for the department's computer systems. The motor fuels tax processing is handled by two separate computer systems: VISTA for the motor carriers, and ITAS for the motor fuels. Additional programming will be needed on the Lockheed VISTA System to process returns by intrastate truckers. The current audit program used by the Motor Fuels Tax Division auditors would also be needing additional programming to accommodate changes to the auditor's computer program in order to be able to audit the additional tax types and refunds required by this system. The estimates for these changes are:

- Cost for VISTA $25,000.00 startup cost and $40,000.00 annually for recurring costs
- Cost for ITAS $20,000.00 One time cost
- Costs for PC Audit program $ 8,000.00

Division of Motor Vehicles (DMV)

DMV's Enforcement Section and DOR have been developing the Fuel Tax Compliance System (FUEL TaCS) to create an interstate motor carrier database that would identify those interstate carriers who falsely reported or failed to report their mileage to DOR in their quarterly report. By falsely reporting their mileage, the carriers could also falsely report the amount of fuel purchased in North Carolina. Under FUEL TaCS, DMV will enter data on all trucks that it stops, for weight and motor carrier enforcement. This data will provide information on the amount of time that particular vehicles spend in North Carolina. While this system is designed to identify interstate carriers who falsely report mileage, DMV stops both interstate and intrastate vehicles. As such, the system would also be used to ensure compliance with the provisions of the proposed act.

The FUEL TaCS system is being implemented in three phases. Phase 1, completed in March 1997, involved computerization of truck weigh station operations, development of an overweight citation that would facilitate electronic recording of overweight violations and collect motor fuels tax information, and development and collection of "sighting" reports on trucks that are stopped by DMV officers but not cited for weight or safety violations. It is estimated that DMV officers will file some 250,000 sighting reports per year. During, Phase II mobile data terminals will be installed in DMV vehicles to allow electronic entry of citations and sighting reports by vehicle-based officers. Phase 3 of the system will involve the development of "intelligent highway" systems that track truck movements through electronic transponders.

The key to the success of the FUEL TaCS system is the number of reports on truck mileage made by DMV officers. The greater the number of reports in the database; the greater the likelihood of identifying vehicles that are under-reporting mileage. Because violators are likely to avoid the weigh stations, the vehicle-based officers are essential to ensure that sufficient truck reports are entered into the database.

During 1996, the Department of Transportation's Productivity Management Section performed a five-month study of DMV Enforcement operations, including the FUEL TaCS plan. The study indicated that FUEL TaCS duties will require officers to spend more time away from weight enforcement duties. In order to avoid a reduction in weight enforcement efforts, the study recommended that 8 data entry positions be added at the weigh stations, and that 12 Vehicle Enforcement Officers (VEOs) be added to compensate for the loss of officer time caused by FUEL TaCS. In response to the study DMV added temporary data entry operators to the weigh station staff, but sufficient funds were not available for the VEOs positions.

In order for the provisions of the proposed act to be adequately enforced without a reduction of weight enforcement efforts, it is essential that the VEO positions be funded. The salary and benefits costs of 12 VEO I positions under the current salary schedule is $362,634. These salary costs are adjusted for future years based on the salary inflation assumptions in the General Fund Financial Model. The first year travel, supply, and equipment costs of 12 positions is $298,860, and the recurring cost of these items is $130,644. These costs are adjusted for future years based on the general inflation assumptions in the General Fund Financial Model.

Judicial Department and /Department of Correction

Currently, the Judicial Branch does not have an offense code for offenses relating specifically to G.S.105-449. This indicates a small number of offenses since "offense codes" are established only when the number of offenses is significant. Based on this finding, the Sentencing Commission does not expect that the proposed changes would have any significant impact on prison populations. The few potential additional inmates could be absorbed within existing Department of Correction resources.

Likewise, the Judicial Department does not anticipate that this legislation would have a substantial impact on the court system as there would not be any significant changes in how cases are processed or disposed. The Department believes that the additional cases which may result from this bill could be absorbed within existing court resources.

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TECHNICAL CONSIDERATIONS:

Department of Revenue

Administrative Costs
The Department has indicated that changing the effective date of the legislation to January 1, 1998 would allow both the Department and 57 jurisdictions in IFTA to make the required programming changes to computer systems and the audit program. Additionally, the projected starting time of the clerical staff would be December 1, 1997 for one position and January 1, 1998 for the other position. The auditor/investigator staff would need to start November 1, 1997 in order to train for knowledge of the law, computer, auditing techniques and becoming familiar with the tax returns. A delay in the implementation would result in a savings of recurring funds of approximately $67,061 in FY 1997-98. Again, if an investigator is substituted for the third auditor the savings would have a slight increase, i.e. to $69,358.

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