NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 232 (Fifth Edition)

SHORT TITLE: Budget Revenue Provisions

FISCAL IMPACT

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

	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06
REVENUES					
Insurance Reg. Fund	23.82				
Utilities Special Fund	10.50				
General Fund					
Cultural Resources	0.03	0.05	0.06	0.06	0.06
IRC Update	(3.37)	(3.82)	(3.40)	(3.59)	(5.13)
Withholding*					
Non Recur. Rev.	57.20				
Non Recur. Earmark	(-.08)				
Recur. Revenue	.88	1.85	2.00	2.16	2.33
Sales Tax Acc.*					
Non Recur. Rev.	9.80				
Non Recur. Earmark	(0.08)				
Recur. Revenue	0.21	0.45	0.48	0.50	0.52
Elect. & Telephone*					
Non Recur. Rev.	15.30				
Recur. Rev.	0.85	1.77	1.84	1.91	1.99
Franchise & Excise*					
Non Recur. Rev.	14.50				
Recur. Rev.	0.90	1.87	1.95	2.02	2.11
Compliance*	12.60	0	0	0	0
Schools	* No General Fund Impact *				
Fees	* See Assumptions and Methodology *				
Sales Tax on Com. Col.	* See Assumptions and Methodology *				
Dept. of Labor	* See Assumptions and Methodology *				
Sales Tax Dist. Acc.	0	0	(9.60)	(10.08)	(10.58)
Prisons	0.7	1.68	0.98	0	0
Highway Fund	(0.02)	(0.03)	(0.03)	(0.03)	(0.03)
Highway Trust Fund	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Local Government					
Schools	* See Assumptions and Methodology *				
Sales Tax Dist. Acc.	0	0	9.6	10.08	10.08

Prisons	**(0.7)**	**(1.68)**	**(0.98)**	**0**	**0**

PRINCIPAL DEPARTMENTS AFFECTED: Department of Insurance, Utilities Commission, Department of Cultural Resources, Department of Revenue, Department of Labor, all state agencies that levy fees, Department of Transportation, Community Colleges, the town of Butner, and the counties of Bertie, Chatham, Clay, Rutherford, Transylvania, and Yadkin.

EFFECTIVE DATE: *Section 1* (Insurance Regulatory Fee), when it becomes law. *Section 2* (Utilities Commission Fees), July 1, 2001. *Section 3* (Non-resident Search Fee), January 1, 2002. *Section 4* (IRC Update), subsection (b) is effective for taxable years beginning on or after January 1, 2002. The remainder of Section 4 is effective for taxable years beginning on or after January 1, 2001. *Section 5* (Withholdings), subsection (c) becomes effective when the bill becomes law. The remainder of the section becomes effective January 1, 2002 and applies to payments of withheld income taxes made on or after that date. *Section 6* (Sales and Utilities) becomes effective January 1, 2002 and applies to taxes levied on or after that date. *Section 7* (Schools) is effective when it becomes law. *Section 8* (Agency Fees) becomes effective when law. *Section 9* (Community Colleges) becomes effective January 1, 2002. *Section 10* (Foreign Corporations) becomes effective when it becomes law. *Section 11* (Labor), subsection (a) becomes effective October 1, 2001. The remainder of that section becomes effective when law. *Section 12* (Franchise Tax) becomes effective when it becomes law. *Section 13* (Sales Tax Distribution Acceleration) becomes effective July 1, 2003. *Section 14* (Prisons) becomes effective when law.

BILL SUMMARY: **Section 1** of the bill sets the insurance regulatory charge at 6.5%. This rate must be set annually and is a reduction from the previous rate of 7.0%. **Section 2** sets the regulatory fee rate for the Public Utilities Commission at 0.10%. This rate must also be set annually and is an increase from the current rate of 0.09%. This section of the bill also sets the regulatory fee for the electric membership corporations at a flat $200,000. This fee has remained the same since it was first imposed in 1999. All three of these fees are used to defray the cost of regulating the industries charged. **Section 3** of the legislation increases the cap on nonresident search fees charged by the Department of Cultural Resources. The Department now charges the maximum amount allowed by law - $10.00. The bill increases this cap to $25.00. **Section 4** is the Internal Revenue Code update section of the bill. Specifically, this portion of the bill rewrites the definition of the Code to change the reference date from January 1, 2000 to January 1, 2001. This section also makes recent changes to the Code applicable to the State to the extent the State law previously tracked federal law. Since the General Assembly last updated the Code references, Congress has enacted six bills, plus the 2001 Bush tax plan, that impact the Code. Four of these will impact state revenues. **Section 5** of the bill accelerates the payment tables for income tax filings. Under current law, employers liable for less than $500 a month in employee wage withholding pay quarterly. As a result of the bill, employers with liabilities between $250 and $500 must pay monthly. **Section 6** of the bill accelerates the payment of sales and utility taxes by certain taxpayers. It specifically changes the threshold for paying sales taxes semimonthly from $20,000 a month to $10,000 a month. It also makes the payment schedule for electricity and telephone sales taxes the same as regular sales taxes and requires semi-monthly payers to pay by electronic fund transfer. Finally, this section requires that power, telephone, and piped gas franchise/excise taxes be paid on a semimonthly basis. **Section 7** of the bill authorizes six additional counties to purchase, construct, equip, expand, improve, renovate, and make available property for use by a school administrative unit within the county. This section also authorizes these same six counties to lease or sell property to the county, and enter into contracts for the erection of school buildings on sites owned by the county. These additional counties are Bertie, Chatham, Clay, Rutherford, Transylvania, and Yadkin. **Section 8** of the bill clarifies that only the General Assembly has the power to authorize an agency to establish or increase a fee. This includes any fee or charge rendering any service or fulfilling any duty to the public. It also states that the Government Operations Committee be consulted before an agency fee is established or increased. **Section 9** essentially exempts the 59 community colleges from the motor fuels tax. They would, however, now be subject to the general sales tax. **Section 10** of the bill makes it clear that foreign source dividends are treated in the same fashion as domestic dividends for corporate tax purposes. **Section 11** transfers the authority to set fees for the inspection and certification of elevators and amusement devises from the General Assembly to the Labor Commissioner. **Section 12** makes a technical change to franchise tax law. **Section 13** moves the distribution of sales tax revenue to local governments from a quarterly basis to a monthly basis. **Section 14** exempts a correctional facility that is located on state land, but constructed pursuant to a contract with the State, from local property taxes. This includes construction in progress and any leasehold interest in the land owned by the Sate upon which the correctional facility is located.

ASSUMPTIONS AND METHODOLOGY: The bill impacts state revenues in several ways.

Section 1: Insurance Regulatory Charge: The legislation sets the insurance regulatory charge for calendar year 2001 at 6.5%. This is a reduction from the current rate of 7.0%. This fee is assessed against the 1.9% premiums tax paid by insurers or against the presumed premiums tax that would be paid by HMOs and Article 65 companies (Blue Cross/Blue Shield) if taxed at 1.9%.

The premiums tax collections for 2001-2002 is estimated to be $303.98 million. The HMOs and the Article 65 companies must pay a regulatory charge based on their presumed premiums tax. The presumed premium tax for the HMOs and Article 65 companies is estimated to be $62.5 million.

With the premiums tax collections of $303.98 million and the presumed premiums tax of $62.5 million from the HMOs and Article 65 companies, the total base against which the insurance regulatory charge will be assessed is estimated to be $366.48 million. Applying the 6.5% regulatory fee to the $366.48 million base would generate $23.82 million in regulatory fee revenue.

The Department estimates that the operating expenses will be $23 million for 2001-2002 and that the reserve will have a balance of $8.84 million at the beginning of 2001-2002. The total available from the reserve fund of $8.84 million and the estimated collections of $23.82 million will be $32.66 million. The total available less the estimated operating expenditures of $23 million will leave a year-end reserve balance of $9.66 million. This reserve is above one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 6.5%, assessed against companies that pay a premiums tax as well as HMOs and Article 65 companies, is sufficient to defray the estimated cost of the operations of the Department and provide for a reserve fund.

Section 2: Utilities Fee: This section increases the utilities regulatory fee from .09% to .1% for FY 2001-02 to fund the operations of the Utilities Commission and the Public Staff. The fee will produce $10,500,000 in revenue.

The Utilities Commission estimates that combined operations for the Commission and the Public Staff in FY 2001-02 will require expenditures of not less than $11,465,833. In addition, the Utilities Commission will be asked to provide $500,000 to the Legislative Study Commission on the Future of Electric Service in North Carolina to cover the cost of consultant studies and other activities. Revenues generated by the proposed utilities regulatory fee (0.10%) are estimated to be $10,500,000. The $1,465,833 difference will be funded by the other revenues generated by Commission fees and charges ($973,000) and by withdrawals from the Accumulated Fee Margin Reserve Account ($492,833). The balance projected to be in the reserve account at the end of the current fiscal year is $4,871,167. The Commission estimates that this amount would be sufficient to support the combined operation of the Commission and the Public Staff for approximately 4 months. This is a one-year estimate, as the rate must be set by statute each year.

Section 2: Electric Membership Corp. Fee: This portion of the bill sets the public utility regulatory fee to be paid by The North Carolina Electric Membership Corporation for the 2001-2002 fiscal year at $200,000. In 1999 the initial fee of $200,000 was developed as a result of discussions between the industry and the Utilities Commission, based on what the Utilities Commission believed to be the cost associated with regulating the electric membership cooperatives. In 2001 the Utilities Commission provided information illustrating that these fees will support approximately 4000 hours of accounting, engineering, and legal time. This fee amount must be set by the General Assembly each year.

Section 3: Increase Nonresident Search Fee: This section of the bill allows the Department of Cultural Resources to increase the fee charged nonresidents for searches of archived public records from a maximum of $10 to a maximum of $25. This portion of the bill was a recommendation of the Legislative Research Commission's Committee on Digitization of Public Records by State Archives. Since 1978 the North Carolina State Archives has required the payment of a Search and Handling Fee before replying to inquiries received from researchers living in states other than North Carolina. This fee is non-refundable and G.S. 121-5(d) establishes the limits for the fee and requires the NC Historical Commission to approve adjustments in the fee requested by the North Carolina State Archives. The initial fee for out-of-state requests for each inquiry about one record or one person's record was $2.00. This was increased to $5.00 in 1984 and $8.00 on July 1, 1995. Effective January 1, 2001 the fee was increased again to $10.00, which is the maximum charge allowed under the current statutory provision.

It is projected that the search fee will remain at the current level of $10 for a portion of FY 2001-02, but increase to $15 where it will remain through FY 2005-06. It needs to be noted that each time the search fee was raised, that although receipts increased, actual numbers of requests declined (as much as 40% in 1984 when the fee went from $2-$5); then receipts gradually increased. The Archives and Records Section is taking that anticipated decline into account for the projected $15 search fee to be instituted as of January 1. It is not the department/section's intent to raise the search fee to $25 at the present time since it was just increased to the current cap ($10) on January 1, 2001. The $25 cap is needed in order to gradually, and as necessary and appropriate, raise the search fee. It is anticipated that requests for the five-year period will have a downward trend, based upon experience, and then begin to increase by FY 05-06. Revenue from search fee receipts offset the General Fund appropriation for Archives and History. The estimated fiscal impact is as follows:

	FY 01-02	**FY 02-03**	**FY 03-04**	**FY 04-05**	**FY 05-06**
Requests	2,300 (1,700)*	3,600	3,700	3,800	4,000
Search Fee Rate	$10.00 ($15.00)*	$15.00	$15.00	$15.00	$15.00
Total	$48,500	$54,000	$55,000	$57,000	$60,000

*In FY 2001-02 the search fee will increase effective January 2002 to $15.00. Therefore, for the first six months of the fiscal year the projected 2,300 requests will be charged $10.00 and the second half of the fiscal year 1,700 requests will be charged $15.00.

<u>Section 4: Update Internal Revenue Code Reference:</u> Since North Carolina individual and corporate income tax law tracks the federal income tax law, it is necessary each year to update state statutory references to the Internal Revenue Code (IRC). Congress enacted four bills in calendar year 2000 that have a potential revenue impact on the state General Fund. These changes will have a negative fiscal impact to the General Fund.

<u>Public Law 106-230</u>

HR 4762 was enacted to require 527 organizations to disclose their political activities. If an organization does not comply with the disclosure provisions of this act, then their exempt function income becomes taxable. This fiscal note assumes no fiscal impact for North Carolina from this provision.

<u>Public Law 106-554</u>

This 2001 appropriations act (HR 4577) for the Departments of Labor, Health and Human Services, and Education contains numerous tax provisions taken from other introduced legislation.

<u>Low Income Housing Tax Credit</u> - P.L. 106-554 increases the annual low-income housing tax credit amount allocated to each state from $1.25 per capita to $1.50 per capita in 2001 and $1.75 per capita in 2002. Beginning in 2003, the per capita allocation will be adjusted by the Consumer Price Index (CPI). North Carolina has a state low-income housing tax credit that is equal to 1) 75% of the federal low-income housing credit in Tier 1 and 2 counties and in counties damaged by hurricanes in 1999, and 2) 25% in all other counties. The state credit is taken over five years.

	Population	Prior Law Per Capita	Prior Law Federal Credit	Current Law Per Capita	Current Law Federal Credit	Difference
2001	8,049,313	$1.25	$10,061,641	$1.50	$12,073,970	$2,012,328
2002	8,221,568	$1.25	$10,276,960	$1.75	$14,387,745	$4,110,784
2003	8,397,510	$1.25	$10,496,887	$1.79	$14,989,555	$4,492,668
2004	8,577,217	$1.25	$10,721,521	$1.82	$15,647,159	$4,925,638
2005	8,760,769	$1.25	$10,950,961	$1.87	$16,365,576	$5,414,615
2006	8,948,249	$1.25	$11,185,312	$1.92	$17,150,410	$5,965,099

In calendar year 2000, the North Carolina Housing Finance Agency reported that 70% of the projects (25 of 36) receiving the federal low-income housing tax credit also requested the state low-income housing tax credits. All seven projects in Tier 1 and 2 counties and all six projects in Tier 3 and 4 flood relief counties utilized 100% of their 75% state tax credits. Ten of the eleven projects rejecting the state tax credit were in Tier 5 counties such as Guilford, Wake, Buncombe, and Forsyth. Officials with the North Carolina Housing Finance Agency believe the 70% participation rate in the state tax credit will not increase because the state income standards for rental units, which are more stringent than federal guidelines, are too difficult for developers to meet in the higher tiered counties.

The North Carolina credit is a percentage of the federal tax credit allocation (shown above) times ten, because the credit is granted to a taxpayer each year for ten years. This increased federal allocation will increase the General Fund revenue loss for the state credit each year until the credit sunsets in 2006. Based on recent experience with the housing credit program in North Carolina, this fiscal estimate assumes that 70% of the investors using the federal low-income housing tax credit will also utilize the NC tax credit.

	2001-02	**2002-03**	**2003-04**	**2004-05**	**2005-06**
Previous Law	$2,402,859	$5,844,993	$9,423,089	$13,077,756	$16,810,633
Current Law	$2,402,859	$6,373,229	$11,206,485	$16,400,171	$21,819,136
Additional Cost	$0	$528,236	$1,783,396	$3,322,415	$5,008,503

Renewal Communities - P.L. 106-554 allows the Secretary of Housing and Urban Development (HUD) to designate up to 40 renewal communities that will be eligible for tax incentives. There is currently no fiscal impact from this provision. If HUD chooses a site in North Carolina, then there would be a General Fund revenue loss.

Empowerment Zones - This act allows HUD to designate nine additional empowerment zones across the country. There will be no fiscal impact from this provision unless HUD selects North Carolina for an empowerment zone.

Environmental Remediation – This act expands the number of sites eligible for expensing of environmental remediation costs and extends the use of this expensing method from 2002 to 2004. Based on data from the Department of Environment and Natural Resources, there are over 1,000 potential brownfields sites across the state that are currently underutilized or idle due to real or perceived environmental contamination. Since it is unknown how many North Carolina taxpayers will take advantage of this expensing method to cleanup brownfield sites, this fiscal note uses .542% of the national estimated revenue loss. (This percentage represents North Carolina corporate tax collections as a percentage of the national tax collections.)

Corporate Donations – This act extends the enhanced corporate tax deduction for the donation of computer equipment until 2003. This provision also expands the deduction to include donations 1) to public libraries, 2) of property reacquired by a computer manufacturer, and 3) of equipment acquired up to three years before the donation is made. Since North Carolina specific data is unavailable, this fiscal note uses .542% of the national estimated revenue loss. (This percentage represents North Carolina corporate tax collections as a percentage of the national tax collections.)

Medical Savings Accounts – This act extends the Medical Savings Account program from 2000 to 2002 and renames the accounts as the Archer MSAs. There is no fiscal impact of this provision because North Carolina taxpayers have not utilized these accounts in the four years of the program's existence.

Public Law 106-573

HR 3594, the Installment Tax Correction Act of 2000, reversed a prohibition of accrual method taxpayers using the installment method for reporting income from dispositions of property. It was reported that this prohibition had a direct impact on the sale of S corporations. When the General Assembly approved the IRC update in HB 1559, the fiscal note listed a revenue gain for prohibiting the installment method for accrual method taxpayers. This fiscal note removes the anticipated gain from future year budgets.

Public Law 106-591

With the passage of HR 4986, FSC Repeal and Extraterritorial Income Exclusion Act of 2000, Congress repealed foreign sales corporations (FSCs) due to the protest of the World Trade Organization. To provide corporations with tax benefits that mirror FSC provisions, HR 4986 enacted extraterritorial income exclusion. This act allows companies to exclude foreign trade income from their US taxable income. Both the Department of Revenue and the Internal Revenue Service feel that this change in tax policy is revenue neutral.

Summary Chart

Federal Tax Changes - Impact on NC General Fund

	Effective Date	**Fiscal Years ($ Millions) 2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06**	**2006-07**
Public Law 106-230							
Political Organizations	7/1/2000	No fiscal impact unless future violation					
Public Law 106-554							
Low income housing credit	12/31/2000	0	-.53	-1.78	-3.32	-5.01	-6.86
Renewal communities	12/15/2000	No estimate available - communities not yet established					
Empowerment zones	12/15/2000	No estimate available - new zones not yet selected					
Environmental remediation	12/15/2000	-0.53	-1.22	-0.89	-0.21	-0.01	0.03
Computer donation	12/31/2000	-0.64	-0.68	-0.34	-0.02	-	-
Medical Savings Accounts	12/15/2000			No fiscal impact			
Public Law 106-573							
Accrual method	12/28/2000	-2.20	-1.39	-0.39	-0.04	-0.11	-0.19
Public Law 106-591							
Foreign sales corporation	9/30/2000			No fiscal	impact		
Total G.F. Impact		**-3.37**	**-3.82**	**-3.40**	**-3.59**	**-5.13**	**-7.02**

Section 5: Accelerate Withholdings Tax Payments: This portion of the bill requires employers who withhold $250-$500 in state income taxes each month to remit the withheld taxes monthly instead of quarterly. The current threshold for monthly filing is $500.

The starting point for the fiscal estimate was the May 2001 General Fund revenue estimate developed by Fiscal Research Division for the Appropriations Committees. This estimate indicated that for the April-June 2001 period a total of $101.7 million will be collected from quarterly filers, or an average of $33.9 million per month. The effect of the proposal is to accelerate the April and May, 2002 withheld dollars from July and August 2002 (2002-03 fiscal year) to May and June 2002 (2001-02 fiscal year). Multiplying the $33.9 million by two would yield a one-time windfall of $67.8 million if all quarterly filers were switched over to monthly.

The Department of Revenue provided data on the taxes paid by quarterly filers who withhold less than $250 per month. This tabulation indicated that 84.4% of the receipts come from quarterly filers who withhold at least $250 per month. This adjustment would reduce the $67.8 million windfall to $57.2 million ($28.6 million per month for two months).

In addition to the one-time windfall, additional interest income would flow to the General Fund from receiving the collections earlier. A review of the tax remittance due dates indicates that for each quarter, the withheld taxes for the first month of the quarter would be received two months earlier under the proposal. The withholding for the second month of each quarter would come in one month sooner and there would be no acceleration of the withholding for the last month of each quarter.

Based on this timing, Fiscal Research took the $28.6 million of new monthly withholding under the new system and multiplied this number by an annual interest rate of 6.1%. This rate is close to the average earned by the State Treasurer in recent years on the State's cash balances. The resulting annual interest figure was then prorated for the period of time that the accelerated receipts would be earning interest.

This calculation yields $1.76 million of interest earnings on a 12-month basis. Since the effective date of the proposal is January 1, 2002 the first-year investment income amount would be 50% of the annual total, or $.88 million.

There are 115,000 employers who now remit quarterly. This change would require 39,000 to shift to monthly filing, leaving 76,000 employers to file quarterly.

Finally, the bill allows the Department of Revenue to retain up to $75,000 from income tax collections to administer this change.

Section 6: Accelerate Tax Payments for Sales: Requires retail merchants whose monthly state and local sales tax collections amount to $10,000 or more to remit taxes on a semi-monthly basis. The current threshold is $20,000. The budgetary effect of the provision is to shift some July, 2002 receipts (2002-03 fiscal year) into June, 2002 (2001-02 fiscal year), creating a one-time windfall for 2001-02. The estimates for recurring and non-recurring revenue were provided by the Tax Research Division of the Department of Revenue based on the actual experience of June receipts and a bracket distribution of sales tax remittance by taxpayer size for the most recent fiscal year. The recurring revenue comes from the investment earnings on the receipt of tax collections on a quicker basis. The assumed interest rate for this part of the analysis is 6.1%. The first-year number is adjusted for the January 1, 2002 effective date. The bill also allows the Department of Revenue to earmark up to $75,000 from income tax collections to administer this provision and the following two changes.

Section 6: Accelerate Sales Tax Payments on Electricity and Telephone: This portion of the bill requires some of the state's largest utilities to shift from monthly to semi-monthly payments of sales taxes owed on electricity and telephone by moving these taxpayers to the same tax payment schedule as regular merchants. The budgetary effect of the provision is to shift some July, 2002 receipts (2002-03 fiscal year) into June, 2002 (2001-02 fiscal year), creating a one-time windfall for 2001-02. The estimates for the windfall were provided by the Tax Research Division of the Department of Revenue based on the actual June tax collection experience from utilities. The recurring revenue comes from the investment earnings on the receipt of tax collections on a quicker basis. The assumed interest rate for this part of the analysis is 6.1%. The first-year recurring estimate is adjusted for the January 1, 2002 effective date.

Section 6: Accelerate Utility Franchise and Excise Tax Payments: This provision requires that the utilities franchise and excise taxes be paid on a semi-monthly basis. These taxes are now generally paid monthly. The budgetary effect of the provision is to shift some July, 2002 receipts (2002-03 fiscal year) into June, 2002 (2001-02 fiscal year), creating a one-time windfall for 2001-02. The estimates for the windfall were provided by the Department of Revenue based on the actual June tax collection experience from utilities. This estimate of $16.0 million was reduced by Fiscal Research to $14.5 million to reflect the FRD estimate of June franchise tax receipts. The recurring revenue comes from the investment earnings on the receipt of tax collections on a quicker basis. The assumed interest rate for this part of the analysis is 6.1%. The first-year recurring estimate is adjusted for the January 1, 2002 effective date.

Section 6: Enforce Compliance of Current Accelerated Withholding Schedule: Some employers who are required to remit withheld state income taxes on an accelerated basis (within 3 days after the payroll date) are continuing to send the money in monthly. The bill indicates that the Department of Revenue shall review the problem, take action to enforce the law, and report on the noncompliance. The additional one-time revenue gain results from the receipt of some withholding revenue during June 2002 (2001-02 fiscal year) instead of July 2002 (2002-03 fiscal year). This impact is estimated by the Department of Revenue, based on a review of the withholding amounts of non-compliance taxpayers. These dollars were allocated into three different payroll schedules, using the assumption that 20% belonged to weekly payrolls, 20% to monthly, and the remaining 60% to bimonthly or twice-monthly payrolls. For the weekly payroll allocation, the enforcement action will mean that for 3 weekly payroll periods the funds will be received in June 2002 instead of July 2002. For the bimonthly and twice-monthly payroll period, one of the two payments would be accelerated into June. For monthly payrolls, there would be no windfall. In addition, there would be some recurring revenue due to the accelerated timing of the payments but there is insufficient data at this time to include an estimate.

Section 7: Certain Counties May Acquire Property for Public Schools: This provision expands the list of counties granted the authorities of G.S. 153A-158.1(e) to include Bertie, Clay, Chatham, Rutherford, Transylvania, and Yadkin. These are generally referred to as a certificate of participation or COPs. The provision merely increases the options available to counties and schools to construct and improve schools. This authority has already been granted to eighty-one (81) other counties. Because the use of this authority is permissive, no local fiscal estimate is possible. There is no General Fund impact.

Section 8: Set and Increase Fees: This provision clarifies that only the General Assembly has the power to authorize an agency to establish or increase fees or charges for service. It also clarifies that agencies cannot raise fees through the rulemaking process without expressed authorization by the

General Assembly. It also requires that the Joint Legislative Commission on Governmental Operations be consulted whenever an agency fee is established or increased. Although this could impact some state agencies in the future, at this point Fiscal Research is not aware of any way this will have a fiscal impact on the General Fund or other major state funds.

Section 9: Community College Fuel Tax Refund: This section allows community colleges to buy non-tax-paid fuel directly from suppliers. The Department of Revenue will keep a list of exempt community colleges. Fuel suppliers will be able to check that list and then issue an "exempt card" to the college. The fuel supplier can then sell non-tax-paid fuel to the college, either directly or through a contractor. If the college buys fuel on which the tax has been paid, it can obtain a refund from the Department of Revenue.

This provision essentially exempts the 59 community colleges from the motor fuels tax. By default they would now be subject to the general sales tax. In 1999-2000 the community colleges paid a total of $46,238 in motor fuels tax. Current inflation rate estimates for motor fuel show a decrease in the first two years, followed by a minimal increase from 2003-2006. Given the current volatility of the motor fuel market, it was determined that the five year cost estimate should show no increase or decrease. Sixteen (16) of the colleges have been purchasing motor fuel directly from DOT. These colleges did not pay a tax on those purchases, and are not included in the cost estimate. Therefore, the annual expected cost for this provision is $46,238. Of this amount $34,678 is a loss to the Highway Fund and $11,560 is the loss to the Highway Trust Fund. The amount shown in the fiscal impact box is adjusted for the January 1, 2002 effective date.

State law requires agencies that are exempt from the fuel tax to pay sales tax on fuel purchases. Therefore, while a fuel tax exemption for the community colleges will result in a loss of revenue for the Highway Fund and the Highway Trust Fund, it will also result in an increase to General Fund revenues. No estimate is available for that increase.

Section 10: Foreign Corporations: This section clarifies that the calculation of federal taxable income, as it relates to subsidiary dividends, is the same for a foreign national organization as it is for a United States business. This change is considered technical and will have no fiscal impact.

Section 11: Labor Commissioner Fee Authority: This Section of the bill transfers authority for setting fees for inspection and certification of elevators, amusement devices, and other similar equipment and devices from the General Assembly to the Commissioner of Labor. It also repeals the statute that currently delineates fees for such services, and vests authority for setting reasonable fees with the Commissioner. Finally, it specifies that the fees will be used exclusively for inspection and certification purposes. The bill caps these fees at $200 and $250 respectively.

While the bill does not indicate fee amounts, other than the maximum caps, the Department of Labor has provided a list of potential fee amounts. This list was presented to the Joint Appropriations Subcommittee on Natural and Economic Resources.

The Department of Labor estimates that the proposed inspection and certification fees will generate $2,252,002 in annual collections. The difference between the estimated collections from the proposed fees and the current collections results in the net annual difference in fee collections. The annual estimated increase in fee collections from this legislation is **$1,614,656**.

Due to the October 1, 2001 effective date, the Department estimates that the proposed fees will generate $1,362,318 in collections in FY 2001-02. This FY 2001-02 estimate is based on the number of elevators that the Department anticipates to inspect between October 1, 2001 and June 30, 2002. The Department estimates that prior to the effective date of the legislation, they will collect $136,170 (July 1, 2001 to September 30, 2001) using the existing fee schedule. These two prorated estimates are combined to supply the FY 2001-02 collection estimate of $1,498,488. Similarly, the typical annual collections generated under the current fee schedule have been prorated to reflect the October 1, 2001 effective date. These prorated estimates are derived using the Department of Labor's computer program that maintains inspection and certification schedules. For FY 2001-02, the estimated increase in collections from the proposed fee schedule is **$997,312**. The proposed fee collections, current collections, and net difference are outlined in the chart below.

NORTH CAROLINA DEPARTMENT OF LABOR						
PROPOSED ELEVATOR AND AMUSEMENT DEVICE FEE SCHEDULE						
Effective - October 1, 2001						
		Frequency	2001-2002		2002-2003	
Type of Equipment	Proposed	of	No. of	Total	No. of	Total
	Fee	Inspection	Units	Revenue	Units	Revenue
Traction Elevators						
1 - 10 Floors	$155	Annual	2,092	$ 330,150	3,804	$ 589,620
10 Floors and over	$200	Annual	395	$ 80,600	719	$ 143,800
Hydraulic Elevators, Belt Lifts, Escalators,						
Specials, Units not						

identified as traction or hydraulic.	$118	Annual	5,766	$ 692,778	10,484	$ 1,237,112
Dumbwaiters, Handicap Lifts	$35	Annual	810	$ 28,840	1,472	$ 51,520
Inflatable	$100	Annual	431	$ 43,100	431	$ 43,100
Kiddie Rides	$30	Each set up	3,083	$ 92,490	3,083	$ 92,490
Major Rides	$60	Each set up	1,531	$ 91,860	1,531	$ 91,860
Roller Coaster	$250	Each set up	10	$ 2,500	10	$ 2,500
Total Estimated Collections from Proposed Fees				$ 1,362,318 (Prorated for Oct 1, 2001 - June 30, 2002)		$ 2,252,002
		Plus Estimated Collections for July 1, 2001 – October 1, 2001using existing fees		$ 136,170		$ (637,346)
Minus Current Collections				$ (501,176) (Prorated for Oct. 1, 2001- June 30, 2002)		
Net Estimated Increase in Collections				**$ 997,312**		**$ 1,614,656**

Since the Department did not propose new fees for elevator installation or alteration nor for the inspection of rope tows, gondolas, chairlifts and T-bars, it is assumed they will charge the amounts listed in the current statutes.

Because the above fees are only suggestions and have not been reviewed by the rule making process, the impact of this section cannot be guaranteed. Therefore, no estimate is included in the fiscal impact statement.

Section 12: Franchise Tax: In 1996 the General Assembly repealed the corporate income tax credit for qualified business investments. Section 13 makes conforming changes required by the 1996 change that were inadvertently excluded from the earlier bill. Since it makes only technical and clarifying changes to the existing law, no fiscal impact is expected.

Section 13: Sales Tax Distribution Acceleration: Currently state and local tax receipts are remitted to the Department of Revenue on either a bi-weekly, monthly, or quarterly basis, depending on the size of the retail merchant. The local tax is then distributed to local governments on a quarterly basis. **The bill shifts the distribution to a monthly basis, effective for distributions occurring on or after July 1, 2003.** This change would substantially reduce the interest income ("float") the State receives on the use of the dollars between the time the tax is collected and the funds are distributed to local units.

The actual quarterly distribution now takes place about 45 days after the end of the calendar quarter. This analysis assumes that the monthly distribution would occur 45 days following the end of each month. The practical effect of the change on State General Fund nontax revenue (investment income) is that for taxes collected the first month of the quarter, two months of interest income would be eliminated. For the second month, the State would no longer receive one month of interest earnings. For the final month of each quarter, the timing change will have no effect since the distribution would take place 45 days after the end of that month under either system.

The interest rate assumption for this calculation is 6.1%, the same rate used in the estimate of the additional investment income from the provisions of this bill that accelerate state tax payments. The assumed tax collection base for the local 2% sales tax is the amount used in the fiscal note for proposals to increase the local sales tax. These numbers are tied directly to the specific sales tax forecast of Fiscal Research that is part of the overall budget revenue forecast. These projections assume 3.3% sales tax growth for the 2001-02 fiscal year, 4.2% for 2002-03, and 5.0% for future years.

Section 14: Prison Property Tax Exemption: SB 25 (RATIFIED) authorized the Department of Administration and Department of Correction to award a contract for the construction of up to three new close custody prisons with the consultation of Governmental Operations and the approval of the Council of State. Governmental Operations recommended two prisons, but did not designate sites. The House Budget recommended locating the two prisons in Alexander and Scotland while the Senate Budget did not designate sites. SB 34, a continuing budget resolution ratified July 30, 2001, authorized DOC to award a contract for three prisons to be located in Alexander, Scotland, and Anson.

Under SB 25, the vendor will finance prison construction. SB 25 directs that the State set up a Special Non-Profit Corporation to issue certificates of participation in order to purchase the prisons upon completion. The SNPC will then lease the prisons to the State. DOC will operate the prisons.

SB 25 also exempts the State from paying property tax during the period the State is leasing the prisons from the SNPC. The property tax exemption in Senate 232 exempts the State or vendor from paying property tax during the period of construction. The Request for Proposal issued by DOC indicated that the State would be responsible for the property tax during construction, rather than the vendor.

For purposes of this fiscal analysis it is assumed the period of construction for the three prisons would begin approximately September 1, 2001 and end December 31st 2003. (Final start and end dates to be determined). Estimated ad valorem tax rate is .95 per $100 assessed value in Alexander and Scotland and .90 per $100 in Anson. The estimated value of improvements in each county would be $25 million in year one (e.g. .95 per $100 @25 million dollars = $237,500 each in Alexander and Scotland and .90 per $100 in Anson at $225,000. Total year one would be $700,000. It is assumed for years two and three that assessed value would be $60 million in year two and $70 million in year 3 (year 3 assumes taxes would only be paid for 6 months)

The overall estimated loss to local governments (gain to State) is as follows:

2001-02	2002-03	2003-04	2004-05	2005-06
$700,000	$1,680,000	$980,000	$0	$0

Total is $3, 360,000 over three years.

The difference between the estimated figures for HB 1430 ($2,280,000 over three years) and the new figures is the addition of a third prison.

NOTE: The order in which each facility is to be constructed and the start and end dates are still to be finalized and will affect the final tax figures.

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