NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 593 (2nd Edition)

SHORT TITLE: Family Tax Cut/Protect AAA Rating

SPONSOR(S): Rep. Miner

FISCAL IMPACT

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

($ million)

	FY 2003-04	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
REVENUES					
Utilities Special Fund	12.95				
Insurance Reg. Fund	25.0				
Agency Receipts					
Dept. of Health & Human Services					
Div. of Facility Services	5.1	5.1	5.1	5.1	5.1
Div. of Child Development	0.8	0.8	0.8	0.9	0.9
Div. of Public Health	1.1	1.1	1.1	1.1	1.1
Dept. of Environment & Natural Resources	0.04	0.04	0.04	0.04	0.04
Highway Fund		1.0	1.0	1.0	1.0
General Fund					
Sales Tax Extension	346.5	388.2	26.5	0.0	0.0
Income Tax Extension	37.5	92.7	57.3	0.0	0.0
TOTAL G.F.	**384.0**	**480.9**	**83.8**	**0.0**	**0.0**
EXPENDITURES					
Highway Fund		*** See Assumptions and Methodology ***			
General Fund	-	21.4	20.8	20.3	19.7

PRINCIPAL DEPARTMENT(S) & PROGRAMS AFFECTED: Department of Health and Human Services, Utilities Commission, Department of Insurance, Department of Transportation, Department of Revenue, and Department of Environment and Natural Resources.

EFFECTIVE DATE: Part I, Section 3.13 and Part IV are effective July 1, 2003. The remainder of Part III becomes effective October 1, 2003. The remainder of the bill is effective when law.

BILL SUMMARY:

Part 1, Section 1(a) sets the regulatory fee rate for the Public Utilities Commission at 0.12%. This rate must be set annually and is an increase from the .1% rate in 2002. Section 1(b) 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.

Part 2 addresses the annual establishment of the insurance regulatory fee. Section 2(a) sets the insurance regulatory charge at 6.5%. The rate remains the same as in the previous year.

Part 3 addresses three sets of fees related to the Department of Health and Human Services. Sections 3.1-3.11 increase and establish a variety of fees related to the Division of Facility Services. Section 3.12 imposes a new fee on day care facilities. Section 3.13 imposes a new fee on certain pap smears.

Part 4 allows the Department of Environment and Natural Resources to adopt temporary rules to establish fees for off-highway vehicle access to the Fort Fisher Recreation Area.

Part 5 requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. The Department may establish various classes of ferry users.

Part 6 ends all hold harmless payments to locals after 2012, and expedites the payment of hold harmless payments in 2003-04 and 2004-05.

Part 7 extends the state half-cent sales tax that became effective on October 16, 2001 from July 1, 2003 to July 1, 2005.

Part 8 delays the sunset of the 8.25% income tax rate from January 1, 2004 to January 1, 2006.

Part 9 authorizes the state to incur $200 million of security interest indebtedness for the repair and renovation of State facilities. These proceeds would be used to repair and renovate State buildings in the same manner as funds allocated to the Reserve for Repair and Renovations.

ASSUMPTIONS AND METHODOLOGY:

PART 1: REGULATORY FEE FOR UTILITIES COMMISSION

Part 1 of the bill sets the fees for regulation by the North Carolina Utilities Commission ("Commission"). Section 1(a) of the bill sets the public utility regulatory fee rate at 0.12% for FY 2003-04. (The FY 2002-03 rate is .1%) Revenue from this fee, which is assessed against regulated public utilities, is used to support the operations of both the Commission and the Public Staff. The Commission estimates the .12% regulatory fee will produce $12,950,000 in FY 2003-04. For the same period, the Commission estimates that the combined operations of the Commission and Public Staff will require total expenditures of not less than $12,183,000. The estimated balance in the Commission's Accumulated Fee Margin Reserve Account as of June 30, 2003 is $4.6 million. The proposed fee would generate a surplus of $767,000 that will be added to this Reserve Account for a June 2004 balance of $5.37 million. This represents approximately 4.4 months of operating reserve.

The Commission considers this reserve balance “adequate to reasonably ensure our continuing financial integrity”.

Section 1(b) of the bill sets the public utility regulatory fee to be paid by the North Carolina Electric Membership Corporation for the 2003-04 fiscal year at $200,000. In 1999, the initial fee of $200,000 was developed because 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 to the General Assembly’s Fiscal Research illustrating that these fees supported approximately 4000 hours of accounting, engineering, and legal time. This fee amount must be set by the General Assembly each year.

PART 2: INSURANCE REGULATORY CHARGE

Part 2 of the bill sets the insurance regulatory charge at 6.5% for calendar year 2003. This is the same rate used in 2002 because the Department of Insurance has not submitted a rate proposal. The Department has stated that it cannot estimate the rate until early May after the April collections are known.

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% (they are taxed at 1%). The revenue is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the insurance industry and other industries and to other departments as specified in G.S. 58-6-25(d). The 6.5% rate was estimated to generate $25 million in regulatory fee revenue in 2002.

PART 3: DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

All fees generated in this part of the bill flow to the affected divisions of the Department of Health and Human Services. Corresponding reductions have been made to their General Fund appropriations in the budget bill.

SECTIONS 3.1-3.11: DIVISION OF FACILITIES SERVICES FEES

The purpose of the proposed fees for the Division of Facility Services (DFS) is to provide revenue to cover a portion of the State cost associated with the regulation and licensure of health and social care facilities and services. The proposed fees will generate $5,142,000 in revenue -- $5,100,000 will be used as departmental receipts to cover a portion of the Division of Facility Services operating budget and $42,000 will be used to pay for one position to collect the fees. Under this proposal, fees would support 33% of the General Fund budget ($15.4 million) for the Division of Facility Services. The Division of Facility Services also receives $12.5 million in federal funds. The fees fall into three categories: (1) fees for licensure and regulation of health and social care facilities and services, (2) fees for the licensure of Emergency Medical Services providers and credentialing persons who are certified by the Division of Facility Services to provide Emergency Medical Services, and (3) fees for processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspection of these facilities.

Fees for Licensure and Regulation of Health and Social Care Facilities and Services

The Division of Facility Services licenses and regulates health and social care facilities including hospitals, abortion clinics, ambulatory surgical facilities, cardiac rehabilitation facilities, nursing facilities, adult care homes, mental health group homes, intermediate care facilities for the mentally retarded, and continuing care retirement communities. DFS also regulates home care service agencies including home health and personal care service providers. The fee structure for all facilities and agencies includes a base fee that applies regardless of the size of the facility. In addition, facilities that have beds, offices, or rooms associated with their license will also be charged a per bed or room fee. Facilities with less than six beds are exempted from the per bed fees. The attached chart summarizes the base fees and per bed fees for all facilities and agencies.

Fees for Licensure and Credentialing of Emergency Medical Service Providers

The Division of Facility Services licenses all emergency medical service providers. Under this proposal, all EMS providers will pay an annual license fee based on the number of permitted EMS vehicles ($50 per vehicle) operated by the EMS provider except that emergency medical dispatch programs will pay $185 annually. All volunteer only EMS providers and volunteer EMS providers with paid personnel will be exempted from the fees.

The Division of Facility Services also offers eight levels of EMS credential for persons who are trained EMS personnel. This proposal establishes a $90 credentialing fee for all levels of EMS credentialing and will be applied for initial credentialing, recredentialing, legal recognition, and challenge applicants. The proposal will exempt persons who work as volunteers within an EMS system from paying credentialing fees. Persons who are paid to work in an EMS system or persons with no system affiliation will pay fees.

Fees for Processing and Reviewing Construction Plans for Social and Health Care Facilities

The Construction Section of the Division of Facility Services has the following responsibilities:

- Review plans for new construction, conversions, additions, and renovations of all health and social care facilities
- On-site inspection of each project's regulatory compliance with licensure standards related to physical plant systems and life safety code requirements during the building process and a final inspection once the project is completed
- Routine inspections of existing facilities to monitor continued compliance with licensure requirements
- Consultation services.

Under the proposal, fees would be assessed for processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspection of these facilities. A chart summarizing the fees is attached.

Large institutional projects for hospitals, nursing homes, ambulatory surgical facilities, and adult care homes with seven or more beds would be assessed fees based on the size of the project in square feet. The fee would range $.10 to $.20 per square foot depending on the type of facility.

Residential construction projects for family care homes, intermediate care facilities for the mentally retarded, group homes, and mental health group homes would be assessed a flat fee ranging from $100 to $275 per project depending on the type and size of the facility.

The revenues generated by the new and increased Division of Facility Services fees are as follows:

FACILITY TYPE	# FACILITIES, REVIEWS or EXAMS	BASE FEE	ADDTL FEE if applicable	# OF BEDS/ OFFICES/ ROOMS	TOTAL REVENUE
GENERAL ACUTE HOSPITALS					
1 - 49 beds	25	$ 250	$ 12.50	736	**$ 15,450**
50 - 99 beds	29	$ 350	$ 12.50	1,993	**$ 35,063**
100 - 199 beds	36	$ 450	$ 12.50	4,918	**$ 77,675**
200 - 399 beds	18	$ 550	$ 12.50	5,093	**$ 73,563**
400 - 699 beds	8	$ 750	$ 12.50	4,789	**$ 65,863**
700 + beds	4	$ 950	$ 12.50	3,273	**$ 44,713**
OTHER HOSPITALS	12	$ 500	$ 12.50	614	**$ 13,675**
ABORTION CLINICS	**16**	**$ 700**	$ 0.00	**NA**	**$ 11,200**
ADULT CARE HOMES <6 BEDS	**690**	$ 250	$ 0.00	**0**	**$ 172,500**
ADULT CARE HOMES >6 BEDS	**628**	$ 350	$ 12.50	**34,801**	**$ 654,813**
AMBULATORY SURGERY	**51**	**$ 700**	$ 50.00	**167**	**$ 44,050**
CARDIAC REHABILITATION	**81**	**$ 250**	$ 0.00	**NA**	**$ 20,250**
CCRC's	47	$ 450	$ 12.50	4,958	**$ 83,125**
HOME HEALTH AGENCIES	**162**	**$ 350**	$ 0.00	**NA**	**$ 56,700**
LICENSED-ONLY HOME CARE AGENCIES	**1,199**	**$ 350**	$ 0.00	**NA**	**$ 419,650**
MH FACILITIES (excluding ICF-MR)<6 BEDS	**3,070**	$ 250	$ 0.00	**10,892**	**$ 767,500**
MH FACILITIES (ICF-MR only)<6 BEDS	**281**	$ 650	$ 0.00	**5,247**	**$ 182,650**
MH FACILITIES (excluding ICF-MR)>6 BEDS	**138**	$ 250	$ 12.50	**2,591**	**$ 66,888**
MH FACILITIES (ICF/MR only)>6 beds	**43**	$ 650	$ 12.50	**1,016**	**$ 40,650**
NURSING HOMES	**430**	**$ 450**	$ 12.50	**42,928**	**$ 730,100**
CONSTRUCTION PROJECTS--LARGE	**386**	**Varies**	$ 0.00	**NA**	**$ 821,875**
CONSTRUCTION PROJECTS--RESIDENTIAL	**1,576**	**Varies**	$ 0.00	**NA**	**$ 115,925**
EMS CREDENTIALING FEES	6,297	$ 90	$ 0.00	**NA**	**$ 566,730**
EMS PROVIDER FEE (Vehicles)	1,025	$ 50	$ 0.00	**NA**	**$ 51,250**
EMERGENCY DISPATCH PROGRAM	57	$ 185	$ 0.00	**NA**	**$ 10,545**
TOTAL	**15,910**			**124,016**	**$ 5,142,400**

NOTES

Column (4) ADDTL FEE is the additional fee that will be based on the number of beds, offices or rooms as shown in Column (5).

OTHER HOSPITALS excludes all State-owned facilities which are exempt from licensure.

TOTAL # FACILITIES does not include emergency medical vehicles.

SECTION 3.12 CHILD CARE LICENSING FEES

This section of the bill adds a new licensing fee for child care centers. The fee will be annual and will cover a portion of the departmental cost of licensing and monitoring these centers. The annual fee will be based on the number of children in the center. The following fees will apply: Centers with 12 or fewer children -$35.00; 13-50 children - $125.00; 51-100 children - $250.00; 101 or more children - $400.

The revenue estimates are based on the current number of childcare centers – licensed and operating under a letter of compliance - and the estimated increase in the number of new centers as historical data indicates. There has been an approximate 2.75% annual increase in the number of centers starting up annually over the past seven (7) years and is the amount used to project additional revenues for future years.

Size of facility (number of children)	2003-04		2004-05		2005-06		2006-07		2007-08	
	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue
Up to 12	343	12,005	352	12,335	362	12,674	372	13,023	382	13,381
13-50	1583	197,875	1,627	203,317	1,671	208,908	1,717	214,653	1,764	220,556
51-100	1168	292,000	1,200	300,030	1,233	308,281	1,267	316,759	1,302	325,469
More than 100	946	378,400	972	388,806	999	399,498	1,026	410,484	1,054	421,773
TOTAL	4040	880,280	4,151	904,488	4,265	929,361	4,383	954,919	4,503	981,179

The Department indicates that approximately 400 of the facilities noted above are operated under a letter of compliance. These are facilities operated by a religious organization that chooses not to be formally licensed. Because the bill clarifies that these facilities will not be charged, the revenue associated with the centers must be deducted from the estimate. The Department believes that the approximately 400 religious facilities would have generated $101,000 in fees each year. This amount is deducted from the estimate in the fiscal impact box.

All revenue generated will remain with the Division of Child Development. Corresponding reductions have been made to that division's General Fund appropriation in the budget bill.

SECTION 3.13: PAP SMEAR FEE

This section adds a $7 fee for analyzing clinical Pap smear specimens by the Cancer Cytology Program of the NC State Laboratory of Public Health. This processing fee is in addition to the $7.44 charge for the Pap smear kit already required. This new fee will be charged to the local health departments and other state facilities that utilize the NC State Lab for cytology lab work. This proposal increases receipts by $1,050,000. This revenue estimate is based on a minimum of 150,000 specimens reviewed each year for the next five years. The estimation for lab utilization for cytology work for FY 2003-04 represents a slight decrease from FY 2000-01 (the latest year of data) and remains unchanged for the following years through FY 2007-08, since behavior is unknown of whether local entities will seek their lab work through private labs. While the new fee in conjunction with the cost of the kit is cheaper in most cases for these state facilities and local health departments than private labs, the response time of the private labs may prompt some locals to consider contracting with a private lab in lieu of continuing to utilize the state lab.

All revenue generated will remain with the Division of Public Health. Corresponding reductions have been made to that division's General Fund appropriation in the budget bill.

PART 4: DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FEES

Part IV of the bill relates to the Fort Fisher State Recreation Area. The bill authorizes the Department of Environment and Natural Resources to levy a fee and establish rules related to the use of off-highway vehicle access to the recreation area. According to Department officials, the annual fee would be approximately $40 per year. No information has been provided on offering a daily fee. The fee is expected to generate $36,857. Revenues from this fee flow to the Department of Environment and Natural Resources.

PART 5: DEPARTMENT OF TRANSPORTATION FEES

Section 5.1(a) requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. Currently, three of the State's seven ferries (Cedar Island-Ocracoke, Swan Quarter-Ocracoke, and Southport-Fort Fisher) are toll operations. Four ferries are free (Hatteras-Ocracoke, Bayview-Aurora, Cherry Branch-Minnesott, and Currituck-Knotts Island). DOT estimates that a fee structure for the now free ferries similar to the one currently in place on the other ferries would raise approximately $1,000,000 more per year, after expenses. (A one-year delay is assumed to clear the rule making process). This fee change affects the Highway Fund. No General Fund impact is expected.

PART 6: ADJUST LOCAL GOVERNMENT HOLD HARMLESS

During the 2001 session, the General Assembly agreed to what was termed a "sales tax swap". As a part of this swap, the State portion of the sales tax was increased by ½ cent for the period October 16, 2001 to July 1, 2003. The local units were also granted authority to increase their own sales tax rate by ½ cent, effective July 1, 2003. This additional authority to levy local sales taxes was viewed as a "swap" for the repeal of the state reimbursements to local governments for losses related to several tax repeals. These repeals included the repeal of property taxes on inventories and intangibles, some of the tax loss associated with the homestead exemption, and repeal of the reimbursement for sales taxes that are no longer paid on items purchased with food stamps. The repeal of these reimbursements was to be effective July 1, 2003. The legislation also required that hold harmless payments be made to those local governments whose gain from a half cent local sales tax increase is less than 100% of their loss from the repealed state tax reimbursements. In 2002, the General Assembly chose to move forward the date local units could start levying the additional ½ cent of sales tax by 7 months to December 1, 2002. At the same time, the General Assembly accelerated the repeal of the reimbursements, effective July 1, 2002. No hold harmless payments were made for the 2002-03 fiscal year.

Because of the recent slow down in sales tax revenues, the amount of the calculated hold harmless payments to locals increased over the original estimates. New preliminary estimates created by a model agreed to by the Tax Research Division of the Department of Revenue and Fiscal Research indicate the following hold harmless liability under the current statute:

FY 2003-04	$36.1 million
FY 2004-05	$31.2 million
FY 2005-06	$26.4 million
FY 2006-07	$22.0 million
FY 2007-08	$18.0 million

The bill assumes these payments will be made. The bill makes two additional changes to the hold harmless provision. First, it sunsets the hold harmless payment after 10 years so no hold harmless payments would be made after 2012-13. It also requires that for fiscal years 2003-04 and 2004-05 the hold harmless payment be made by August 15.

PART 7: TEMPORARILY MAINTAIN STATE SALES TAX RATE

As noted in previous sections of this document, in 2001 the General Assembly increased the State portion of the sales tax to 4.5%. Under current law, this increase in the State sales tax will expire July 1, 2003. The bill extends this sunset date by two years to July 1, 2005. Joint estimates provided by Fiscal Research and the Office of State Management and Budget suggest the following revenue stream from this tax extension.

FY 2003-04	$346.5 million
FY 2004-05	$388.2 million
FY 2005-06	$ 26.5 million

Note: While the tax expires June 30, 2005, many retailers will not submit their payments to the Department of Revenue for the month of June until the following fiscal year. Thus, a revenue increase is shown for 2005-06 as well. This timing issue also plays a role in reducing the 2003-04 to the amount above.

PART 8: TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

Section 8.1 of the bill extends the 8.25% tax bracket from January 1, 2004 to January 1, 2006 for taxable incomes that are shown in the chart below.

8.25% for taxable incomes over:	
$200,000	Married filing jointly
$160,000	Head of household
$120,000	Single
$100,000	Married filing separately

The additional revenue from this extension is calculated using the North Carolina Individual Income Tax Model. The model estimates that $83.3 million in individual income tax payments will be generated in Tax Year 2004 and $104.2 million in revenue in Tax Year 2005. This revenue is divided into fiscal years as follows:

FY 2003-04	$37.5 mil.
FY 2004-05	$92.7 mil.
FY 2005-06	$57.3 mil.

FY 2003-04 will receive 45% of Tax Year 2004 revenue because of withholding from January through June 2004 and two quarterly estimated payments. High-income taxpayers avoid a penalty if estimated payments during the tax year equal at least 90% of actual liability. In the FY 2004-05, taxpayers will pay the remaining 55% of the tax due in tax year 2004 and again pay 45% in estimated payments for tax year 2005. FY 2005-06 is equal to the remaining 55% of tax year 2005.

PART 9: REPAIR AND RENOVATION

Last July the Department of State Treasurer prepared an estimate of debt service requirements analysis for a $200 million repairs and renovation security interest financing that would take place in March 2003. We took this schedule and backed the issuance to March 2004. The average interest rate used in the projections was 5.70% and the maturity was 20 years. Based on this analysis the total interest payments would amount to $119.7 million. If the interest payments were added to the $200 million of debt repayment, the total debt service requirements over the period would be $319.7 million. The 5.70% interest rate assumption is very conservative in light of the fact that if the debt were issued today, the interest would be under 5%.

SOURCES OF DATA: February 14, 2003 Memorandum to Governor Easley from Utilities Commission chair Jo Anne Sanford and Executive Director Robert Gruber; Individual Income Tax Model, Tax Research Division of the Department of Revenue, Office of State Budget and Management, and the Treasurer's Debt Service Report.

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