

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 727 (House Finance Committee Substitute)

SHORT TITLE: Fees to Implement State Budget

SPONSOR(S):

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	(\$Millions)				
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
REVENUES					
Insurance Regulatory Fund	18.11	(\$3.03 mil. increase over FY 1996-97)			
Utilities Special Fund	7.83	(\$.87 mil. decrease over FY 1996-97)			
General Fund					
Reduce Food Tax	(37.8)	(89.6)	(92.3)	(95.0)	(97.9)
Court Fees	15.10	15.10	15.10	15.10	15.10
Secretary of State Fees	1.74	1.74	1.74	1.74	1.74
Dept. of Revenue	<u>.313</u>	<u>1.25</u>	<u>1.25</u>	<u>1.25</u>	<u>1.25</u>
Total Gen. Fund	(20.65)	(71.51)	(74.21)	(76.91)	(79.81)
EXPENDITURES					
General Fund					
Department of Revenue	.16	.11	.11	.11	.11
Dept. of Secretary of State		<u>(.08)</u>	<u>(.08)</u>	<u>(.08)</u>	<u>(.08)</u>
Total General Fund	.16	.03	.03	.03	.03
POSITIONS					
Department of Revenue *	3	3	3	3	3
* 2 permanent full time and 1 temporary positions					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Insurance, Department of the Secretary of State, N. C. Utilities Commission, N. C. Judicial Department, Department of Revenue					
EFFECTIVE DATE: Part I (food tax reduction) becomes effective January 1, 1998. Part II (insurance regulatory surcharge) is effective when the act becomes law. Part III (public utility regulatory fee) and					

Part IV (criminal court costs) are effective July 1, 1997. The portion of Part V, section 5.1 that amends the corporation annual report in G. S. 55-1-22(a)(23) is effective January 1, 1998 and applies to corporations whose fiscal years end on or after December 31, 1997. The remainder of the fees in section 5.1 are effective July 1, 1997. Sections 5.2 (Nonprofit Corporations) and 5.3 (Limited Liability Companies) are effective July 1, 1997. Sections 5.4 through 5.7 (Uniform Commercial Code) are effective July 1, 1997. Part VI (corporate annual reports) is effective January 1, 1998, except for section 6.11 which is effective July 1, 1997.

BILL SUMMARY: Part One of the bill reduces the state sales tax on food from the current three percent rate to two percent. Parts Two and Three of the bill establish the annual tax rate for the insurance regulatory charge and the public utility regulatory fee. Part Four of the bill increases court fees in criminal cases by \$15. Parts Five and Six of the bill increase several fees paid by corporations to the Secretary of State. One of the Secretary of State fees, the corporate annual report, is transferred to the Department of Revenue. Corporations will file the report along with their corporate income tax instead of filing the report by the eve of their corporate anniversary.

ASSUMPTIONS AND METHODOLOGY:

Food Tax Reduction

The 1996 General Assembly lowered the state sales tax on food items intended for home consumption (defined as those items eligible for purchase with Food Stamps) from 4% to 3%, effective January 1, 1997. Section 1.1 of the bill reduces the tax to 2% beginning January 1, 1998. The original source of data for the estimate was a 1961 field survey conducted by field auditors of the Department of Revenue assigned to tabulate the impact of eliminating the tax exemption on food. Over the years these numbers have been updated for growth with data from the monthly "type of business establishment" reports of the Department of Revenue. As a check on the data, estimates of food tax exemptions from other states have been reviewed. Furthermore, the estimates are consistent with nationwide food consumption data compiled by the U. S. Department of Commerce (and allocated to North Carolina by FRD). Data from a special tabulation of the Department of Revenue for February and March indicates that the 1996 legislation is costing about \$6.3 million per month, or \$75.6 million on annualized basis, about 10% below the 1996 estimate. However, collections for these months are normally lower than the remainder of the year and some merchants may not have adjusted to the change. Thus, the 1996 numbers are felt to be the best estimate of the impact of the bill.

Future year estimates are based on 3% annual growth in food tax purchases. With a January 1 effective date and a lag between the retail sale and the remittance of the tax, the revenue loss in the first fiscal year is less than half of the full year impact. The full year cost of the one cent reduction will be in FY 1998-99.

REDUCE STATE FOOD TAX TO 2%

(\$MILLIONS)

STATE FISCAL YEAR

	<u>97-98</u>	<u>98-99</u>	<u>99-00</u>	<u>00-01</u>	<u>01-02</u>
BACKGROUND INFORMATION (1) :					
CURRENT TAX YIELD (3% effective 1/1/97)	\$260.9	\$268.7	\$276.8	\$285.1	\$293.6
1 CENT	\$87.0	\$89.6	\$92.3	\$95.0	\$97.9
REDUCE TO 2.0% (1/1/98) (2)	(\$37.8)	(\$89.6)	(\$92.3)	(\$95.0)	(\$97.9)

NOTES:

- (1) Assumes annual growth of 3%
- (2) The effect is less than 50% in the first year due to a lag between the retail sale and the remittance.

Insurance Regulatory Fund

Part II of the bill sets the insurance regulatory charge at 8.75% of the gross premiums tax and is effective for the 1997 calendar year. **(This is an increase of 1.5% from the 7.25% rate in calendar year 1996.)** The revenue from this charge is used to reimburse the General Fund for money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors for medical data collection and purchasing reports of patient data from statewide data processors.

The 1.5% increase in the insurance regulatory charge will earn \$3.03 million more in FY 1997-98 than was earned in FY 1996-97. The increased revenue is calculated as follows:

	FY 1996-97	FY 1997-98
Estimated Gross Premiums Tax	\$208 million	\$207 million
Insurance Regulatory Charge	<u>X .0725</u>	<u>X .0875</u>
	\$15.08 million	\$18.11 million

Funds generated by the Insurance Regulatory Charge are used to reimburse the General Fund the amount of its appropriation to the Department of Insurance. The Department of Insurance uses the General Fund appropriation to pay for its activities, including: rate setting; regulation of insurers, bail bondsmen, and collection agencies; safety education; publications; certification and licensing; and safety grants. Even with this rate increase, the proposed insurance regulatory charge rate of 8.75% is not sufficient to fund the change enacted by the General Assembly in 1995 relating to fees charged insurance companies for audits conducted by the Department of Insurance. Prior to July 1, 1995, financial examination audits conducted by the Department were billed directly to the insurance company being audited. The Department of Insurance is required by state law to do a financial examination on each domestic insurance company every three years. Billings for these audits were approximately \$4.5 million in FY 1994-95. The General Assembly felt that a more equitable distribution of these audit costs would be to recoup them through the insurance regulatory charge rather than billing each insurance company for the audit

conducted by the Department. In this manner the insurance industry still covers the cost of the audits, but no insurance company is charged with a sizable audit expense once every three years. Because the \$4.5 million is now covered by the insurance regulatory charge and not billed directly to the individual insurance companies, the regulatory charge should be increased another 0.35% to 9.10% beginning in FY 1998-99. (Fund reserves will be used in FY 1997-98 to cover the deficit.) If audits were still billed directly to the insurance companies and not covered by the regulatory charge, the current rate of 7.25% would be adequate to sustain the Insurance Regulatory Fund.

Utilities Commission and Public Staff Fund

Part III of the bill reduces the utilities regulatory fee from .10% to 0.09% of each public utilities' North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1997. **(This is a decrease of .01% from the .10% rate in fiscal year 1996-97.)** The revenue generated from this fee supports the operations of the North Carolina Utilities Commission and Public Staff.

Per G.S. 62-302(b)(2), the percentage rate established by the General Assembly and assessed by the Commission “may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund.” Combined operations of the Commission and the Public Staff in FY 1997-98 will require expenditures of not less than \$8,791,854. Revenues generated by the utilities regulatory fee will amount to \$7,830,000. The balance will be derived from other revenues generated by Commission fees and charges, or from the Accumulated Fee Margin Reserve Account.

The Utilities Commission indicated that the status of the Accumulated Fee Margin Reserve is as follows:

Balance as of 6/30/97	\$ 9,636,995
Add: Estimated Collections and Interest for FY 1997-98	\$ 8,968,000
Total Funds Available	\$18,604,995
Less: Estimated FY 1997-98 Expenditures Reimbursable from Fees	\$(9,000,000)
Estimated Margin Reserve for Period Ending 6/30/98	\$ 9,604,995

Based on the projected Fee Margin Reserve, the fee of 0.09% should be sufficient to cover the operations of the Utilities Commission and Public Staff.

General Court of Justice Fees

Part IV of the bill raises the General Court of Justice fees on all criminal cases in the superior or district court where the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness. The fee in the Superior Court Criminal Division is raised from \$53 to \$68 and the fee in the District Court Criminal Division is raised

from \$46 to \$61. Each dollar increase in these Criminal Division fees raises \$1,007,521 in revenue. The \$15 increase will produce \$15.1 million in revenue that will be deposited into the General Fund. These fees were increased \$5 in 1996.

Secretary of State Fees

Section 5.1 and Part VI - General Business Corporations (G.S. 55-1-22)

The filing fee for articles of incorporation with the Secretary of State is increased from \$100.00 to \$125.00. The expected revenue from the \$25.00 increase is \$460,750 annually.

In 1996, there were 17,145 corporations subject to this fee authorized under G.S. 55-1-22(1).

The Secretary of State projects 18,430 corporations will be subject to this fee in 1997.

The filing fee for an application of reinstatement of the articles of incorporation for failure to file the annual report is increased from \$25.00 to \$100.00. This filing fee applies to general business corporations, non-profit corporations, and limited liability corporations authorized under General Statutes 55-1-22(16), 55A-1-22(17), and 57C-1-22(16a) respectively. The expected revenue, from the \$75.00 increase in this filing fee, is \$243,000 annually. In 1996, there were 3,240 corporations subject to this fee. The Office did not provide a projection for 1997 because it is not known how many corporations will be deterred by the increase in the fee and pay on time. It is also expected that fewer corporations will be late because the annual report will be filed with the annual income tax returns.

The filing fee for a certificate of authority of an out-of-state corporation is increase from \$200.00 to \$250.00. The expected revenue, from the \$50.00 increase in this filing fee, is \$235,600 annually. In 1996, 3,816 out-of-state corporations were subject to this fee authorized under G.S. 55-1-22(19). The Secretary of State projects 4,712 corporations will be subject to this fee in 1997.

The filing fee for a corporation's annual report is increased from \$10.00 to \$20.00 beginning with tax year 1998. The expected annual revenue, from the \$10.00 increase in this fee, is \$1,250,000 annually. In 1996, there were 125,000 corporations subject to this fee authorized under G.S. 55-1-22(23). In FY 1997-98 it is estimated that 75% of the companies will file their annual reports with the Office of the Secretary of State before December 31, 1997 (on the anniversary date of their corporation) and pay the current \$10 fee. The other 25% will pay the increased \$20 fee after January 1, 1998 to the Department of Revenue with their income tax return.

Section 5.2 - Nonprofit Corporations (G.S. 55A-1-22)

The filing fee for articles of incorporation of a non-profit corporation with the Secretary of State is increased from \$50.00 to \$60.00. The annual revenue expected from the \$10.00 increase is \$25,030 annually. In 1996, there were 2,430 non-profit corporations subject to this fee authorized under G.S. 55A-1-22(1). The Secretary of State projects 2,503 corporations could be subject to this fee in 1997.

The filing fee for a certificate of authority of an out-of-state non-profit corporation is increase from \$100.00 to \$125.00. The expected revenue, from the \$25.00 increase in this filing fee, is

\$2,300 annually. In 1996, 84 out-of-state non-profit corporations were subject to this fee authorized under G.S. 55A-1-22(20). The Secretary of State projects 92 corporations subject to this fee in 1997.

Section 5.3 - Limited Liability Corporations (G.S. 57C-1-22)

The filing fee for articles of organization of a limited liability corporation with the Secretary of State is increased from \$100.00 to \$125.00. The annual revenue expected from the \$25.00 increase is \$113,400 annually. In 1996, there were 4,200 limited liability corporations subject to this fee authorized under G.S. 55C-1-22(1). The Secretary of State projects 4,536 corporation could be subject to this fee in 1997.

The filing fee for a certificate of authority of an out-of-state limited liability corporation is increase from \$200.00 to \$250.00. The expected revenue, from the \$50.00 increase in this filing fee, is \$40,400 annually. In 1996, 330 out-of-state limited liability corporations were subject to this fee authorized under G.S. 55C-1-22(19). The Secretary of State projects 808 corporations could be subject to this fee in 1997.

Sections 5.4 through 5.7 - Uniform Commercial Code fee (G.S. 25-9-405)

The uniform filing fee for filing, indexing, and furnishing financing statements is increased from \$8.00 to \$15.00. The expected revenue from the \$7.00 increase in this filing fee is \$706,472 annually. In 1996, 87,204 financing statements were subject to this fee authorized under G.S. 25-9-405. The Secretary of State projects 88,309 corporations could be subject to this fee in 1997.

Expenditures - Department of Revenue

Transferring the collection of the corporate annual report from the Office of the Secretary of State to the Department of Revenue on January 1, 1998 will increase the operating costs of Revenue by \$161,273 in FY 97-98 and \$112,144 in the following years. Approximately 190,000 corporations would file annual reports each year with the Department, excluding insurance companies. Annual reports of limited liability companies and certain other corporations would continue to be filed with the Secretary of State. The \$200 LLC fee would be collected by the Secretary of State. Corporations filing the report with the Department, would pay Revenue the \$20 annual report fee, and these fees would be considered collections of franchise tax revenues. The following divisions in Revenue will be affected:

I. Management Information Systems Division

- Creation of a shared data base between DOR and SOS to exchange information on tax due dates, extensions processed, number of returns filed, and number of corporations registered.
- Modifications to ITAS to establish a new tax type to accept the \$200 LLC payment.
- Annual file transfers and maintenance.

Applications Development	\$59,200(NR)
SIPS Development Costs	15,000(NR)
SIPS Computer Charges	12,000(R)

II. Corporate Tax Division

- Design and printing of annual report form with instructions, and inclusion in corporate booklet to be mailed to taxpayers.

Tax Forms and Postage \$20,000 (R)

III. Accounting Division

- Deposit the \$20 annual report fees remitted by corporations.
- Screen approximately 190,000 tax returns to separate the annual reports from corporate tax returns. (Locating the report in a typical 10-50 page return will require additional resources since the annual reports will be filed during the annual tax rush period).
- Sort the tax returns and annual reports. Prepare annual reports with remittances for the deposit process.
- Red ring, write substitute documents or perform tasks associated with manual deposit or the remittance.
- Reconcile the bundles of reports to the funds deposited from this fee.
- Perform research of remittances upon request of taxpayers and the Secretary of State’s Office.

(1) Processing Assistant III \$22,325 (R); Eff 1.1.98
 (1) Clerk III - Temporary 30,000 (R)

IV. Office Examinations & Office Services Division

- Coordinate the content of data transferred between the two agencies.
- Perform an ongoing reconciliation of the number of corporations on file with the Secretary of State’s Office to the number of corporations filing tax returns with the Dept. of Revenue.
- Transport annual report forms to Secretary of State’s Office.
- Assisting with requests for letters of good standing, delinquent returns, and the process of recommendation for dissolution.
- Research files to ascertain that the annual report was or was not attached to the tax return.
- Follow up with companies that do not remit payment with the annual report.
- Answer telephone calls from taxpayers regarding the annual report.
- Resolve any issues with Secretary of State’s Office regarding the annual report.

Tax Technician \$27,819 (R); Eff. 1.1.98

Expenditures - Secretary of State

Under the bill, the Secretary of State will continue to maintain annual report records, and administer the annual report program. However, the Secretary of State will no longer be required to remind corporations to file the annual report, send out blank annual report forms, or collect and deposit annual report fees for business corporations. The Secretary of State estimates it would save \$77,000 per year from the elimination of correspondence and other paperwork associated with these responsibilities. These savings are chiefly in envelopes, postage, and SIPS data processing charges.

The Secretary of State also estimates that it would be able to eliminate salaries and benefits for one full-time cash management position. However, the Secretary of State believes it will also need additional temporary labor to manage the peak work load associated with the new filing deadlines, and to help coordinate the flow of information with the Department of Revenue. The Secretary of State believes that these additional demands will require the equivalent of one full time employee. In other words, the Secretary of State believes that the new responsibilities under the bill would completely offset the reduced cash management demands.

Because the changes in administration would not be effective until the last half of the 1997-98 fiscal year, we assume that only half of the recurring savings discussed above would be realized in FY 1997-98.

The Secretary of State will need to modify its annual reports and corporations databases so that these databases can include new information and interact with data from the Department of Revenue. The Secretary of State estimates one-time costs of computer programming to be around \$39,000. We assume that this cost would be incurred in 1997-98.

FISCAL RESEARCH DIVISION

733-4910

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