GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: Senate Bill 1149 (Third Edition)

SHORT TITLE: Energy Credit Banking/Selling Program/Fund.

SPONSOR(S): Senator Jenkins

FISCAL IMPACT

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

(millions)

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
REVENUES					
Alt. Fuel Revolving Fund	**Up to $1.1 m initially/Up to $350K annually thereafter. See Assumptions and Methodology**				
Income Tax (Renewable Energy Credit)	**0**	**(0.1)**	**(1.1)**	**(2.1)**	**(3.8)**
EXPENDITURES					
Alt. Fuel Revolving Fund	**$4,947**	**$9,893**	**$9,893**	**$9,893**	**$9,893**
POSITIONS (cumulative):	**.25**	**.25**	**.25**	**.25**	**.25**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, NC Department of Administration's State Energy Office.

EFFECTIVE DATE: Sections 1-3 are effective January 1, 2006. Sections 4-5 are effective for taxable years beginning on or after January 1, 2006.

BILL SUMMARY[1]:

Sections 1 through 3 of this bill apply to a new energy credit banking and selling program and Alternative Fuel Revolving Fund.

As background, the federal Energy Policy Act of 1992 (P.L. No. 102-486, commonly referred to as EPAct) requires fleets operated by state governments and alternative fuel providers (primarily utilities) to acquire a certain percentage of alternative fuel vehicles (AFV) each year. Current

[1] Adopted from August 20, 2005 Bill Analysis prepared by Committee Counsel.

requirements are that 75% of a State's fleet new light-duty vehicle acquisitions must run on AFVs. EPAct also provides that fleets can participate in a credit program that allows them to bank credits for future use or to sell excess credits to other covered fleets. Covered fleets earn one vehicle credit for every light-duty AFV they acquired beyond their base vehicle acquisition requirements. State and fuel provider fleets must annually report compliance with EPAct to the U.S. Department of Energy.

Section 1 of this bill directs the State Energy Office within the Department of Administration (DOA) to establish and administer a banking and selling program for energy credits earned under EPAct. Section 1 also creates the Alternative Revolving Fund (Fund), which will be held by the State Treasurer. Revenues generated from the sale of credits would be deposited in the Fund and would be used to pay for the incremental fuel costs of biodiesel fuel, to purchase ethanol with a minimum octane of E-85, to pay for the incremental vehicle cost of purchasing AFVs, to develop alternative fuel refueling infrastructure, and to administer the program. To the extent possible, credits would be distributed to State institutions, departments, and agencies in proportion to the number of credits generated by the institution, department, or agency. Section 1 also directs the Secretary of DOA to adopt rules to implement the program and it directs DOA to report on expenditures from the Fund to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division no later than October 1 of each year.

Sections 2 and 3 of the bill require the Department of Transportation and DOA's Division of Motor Fleet Management to participate in the energy credit banking and selling program.

Sections 4 and 5 extend the existing tax credit for investment in renewable energy property. This tax credit currently expires at the end of 2005. The program is sunset on January 1, 2011. This portion of the bill also (1) amends GS 105-129.16A (credit for investing in renewable energy property) to increase the ceiling on the credit for nonresidential property from $250,000 to $2.5 million and to include pool heating in the residential property ceiling for solar energy equipment and (2) expands definition of renewable energy property in GS 105-129.15 to include any biomass equipment that uses renewable biomass resources for commercial thermal or electrical generation (was, for commercial thermal or electrical generation from renewable energy crops or wood waste materials). Finally it reorganizes other sunset provisions of Article 3B of GS Chapter 105, and makes a series of technical and conforming changes.

ASSUMPTIONS AND METHODOLOGY:

Energy Credit Banking & Selling Program/Alternative Fuel Revolving Fund - Revenue:

The energy credits are built into the federal Energy Policy Act of 1992 and are earned through the purchase of alternative fuel vehicles and the use of alternative transportation fuels. A credit trading system evolved as required fleets did not want to purchase the vehicles but were willing to pay for the credits themselves. This credit trading is approved by the US Department of Energy and is primarily carried out in the US by World Energy, a biodiesel distributor and credit broker.

The State Energy Office reported that between 1995 and 2004, North Carolina has earned approximately 1,110 EPAct credits that could be sold. Motor Fleet Management earned approximately 65% of these credits. The Department of Transportation earned the remaining 35% of the credits. EPAct credits generally range in value between $750 and $1,000 and can be sold directly by the State or through a third-party broker (such as World Energy). World Energy charges a 10% brokerage fee. Utilities and some universities are the largest buyers of these credits. Based on this information, Fiscal Research estimates that the revenue to the Alternative Fuel Revolving Fund from the sale of the existing energy credits would range from $832,500 to $1,110,000, assuming the State sells the credits directly or from $749,250 to $999,000, assuming the State uses a third-party broker and pays a 10% brokerage fee.

The State Energy Office also reported that the projected acquisition of credits over the next 5 years is approximately 350 credits per year. The total number of alternative fuel vehicles within the fleet will increase annually as existing vehicles are replaced with new alternative-fueled vehicles. Increased amounts of biodiesel and ethanol fuel will be purchased for these vehicles. Both actions will result in more credits. NC state universities are now reporting their alternative-fueled vehicles as well as all state agencies, regardless of whether the vehicles were purchased with state funds or other resources. Fiscal Research estimates that the potential revenue to the Alternative Fuel Revolving Fund from the sale of additional credits that the State is expected to earn is $262,500 to $350,000 annually.

Energy Credit Banking & Selling Program/Alternative Fuel Revolving Fund – Admin. Cost:
The bill directs the Secretary of DOA to adopt rules as necessary to implement Section 1 of the bill. The State Energy Office within DOA reported that it would require approximately 60 hours of staff time to develop the administrative rules at a cost of $2,250. The Department of Administration has an attorney on staff whose responsibilities include drafting rules. The Fiscal Research Division believes that the Department can factor the drafting of the rules into the workload priority for the attorney and would, therefore, not need any additional resources to fulfill this requirement of the bill.

The State Energy Office estimates that it would require 500 hours of staff time on an annual basis to administer the energy credit banking and selling program and the Alternative Fuel Revolving Fund at an annual cost of approximately $18,750. The 500-hour time requirement for administering the program and the Fund is approximately 25% of the time and effort of a full-time position assuming 1,800 is the standard number of governmental work hours for a full-time position per year. The estimate by the State Energy Office appears to be based on the prorated salary for a grade 85 level position. Fiscal Research believes that a grade 69 level position would be a more appropriate position for administering the program and the Fund. Therefore, we estimate the salaries and benefits for a .25 position to be $9,893 annually ((31,852 salary for grade 69 position * 1.13465 rate for SS and Retirement) + $3,432 medical * .25 part-time position). The cost for the 2005-2006 fiscal year would be $4,947 assuming an effective date of January 1, 2006.

Renewable Energy Tax Credit:

The Tax Research Division of the Department of Revenue estimates the following revenue loss associated with this portion of the bill:

(millions)

Year	Business*	Individuals	Total
2005-06	0	0	0
2006-07	$0.02	$0.08	$0.10
2007-08	$0.92	$0.13	$1.05
2008-09	$1.95	$0.18	$2.13
2009-10	$3.53	$0.27	$3.80
2010-11	$5.36	$0.29	$5.65

NOTE: The category "business" includes non-profit organizations with participating private entitles.

The estimate is based on project activity levels projected by the State Energy Office, and assumes that 90% of new business credits are taken in the year of eligibility. It also assumes that 90% of individual credits are taken in the tax year projects are completed, and that the remainders of these individual credits are taken in the following year. While the bill has changed some since this initial estimate, Fiscal Research believes the alterations will have a limited net impact on the cost of this portion of the legislation.

SOURCES OF DATA: NC Department of Revenue, Department of Administration's State Energy Office.

TECHNICAL CONSIDERATIONS: None

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