

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 273 (Second Edition)

SHORT TITLE: Adverse Reactions to Smallpox Vaccination

SPONSOR(S): Representatives Glazier, Warner, Lucas, and Goodwin

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
REVENUES					
EXPENDITURES					
NC Industrial Commission					
-The Commission estimates the impact of the proposed legislation to be negligible.					
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
North Carolina Industrial Commission					
EFFECTIVE DATE:					
This act is effective when it becomes law.					

BILL SUMMARY: The proposed legislation would cover the necessary medical services for employees infected with smallpox, infected from the smallpox vaccinia, or suffering any adverse medical reaction resulting from smallpox countermeasures under Section 304 of the federal Homeland Security Act of 2002. Household members living in the homes of vaccinated employees will also be covered for adverse reactions due to the vaccination. **Section 3** of the proposed legislation gives the North Carolina Industrial Commission jurisdiction to hear and determine claims made against the state by people who are temporarily or permanently living in the home of a State employee who receives the smallpox vaccination. If the federal government provides compensation and benefits for adverse reactions, employees are required to seek compensation and benefits under the federal provisions before seeking recovery under this state act.

ASSUMPTIONS AND METHODOLOGY: This fiscal note analyzes the impact of Section 3 of the proposed legislation only. A corresponding actuarial note addresses the remaining portions of the bill.

Historical background on Smallpox – In the past, about 1,000 people for every one million people vaccinated for the first time experienced reactions that, while not life-threatening, were serious. Between 14 and 52 people per one million people vaccinated for the first time experienced potentially life-threatening reactions. It is estimated that between one and two people out of every one million people vaccinated may die as a result of life-threatening reactions to the vaccine.

North Carolina ordered approximately 7,500 doses of the smallpox vaccination for Phase 1, which includes mainly healthcare professionals and local government health officials. If Phase 2 vaccinations were to take effect (currently there is not a planned date for this step to occur) approximately 250,000 doses of the vaccine would be ordered. As of April 4, 2003, **1,183** individuals in North Carolina have been vaccinated. Only nine people in the State have been reported to experience a mild adverse reaction.

The Center for Disease Control (CDC) reports that 31,297 individuals in the United States have received the smallpox vaccination as of April 4, 2003. No potentially life-threatening events have been reported, and 68 moderate to severe events have been reported. No cases of transmission from civilian vaccines have been reported. Seven cases of transmission from military personnel to civilian contacts have been reported.

The North Carolina Industrial Commission (Commission) would handle claims resulting from adverse reactions to the smallpox vaccinations as they do any other claims within their normal policies and procedures. Vaccinated employees who experience adverse reactions would file claims following normal workers' compensation procedures. Workers' compensation will cover damages and medical treatments. The State will be responsible for employee salaries for the first 480 hours of lost time, after which workers' compensation will pick up all costs. The corresponding actuarial note analyzes the impact on the state health system.

Non-vaccinated employees and household members living in the homes of vaccinated employees who experience adverse reactions would file claims under this section of the new legislation. Because the burden of proof is on the parties submitting the claim, the Commission would not see an increase in research and time spent on investigating claims. Rather, the parties would allege damages, and the Commission would proceed with normal subsequent communications. Depending on the type of litigation required, the State may choose to settle the claim or proceed with a hearing before a deputy where testimony would be heard and a decision issued. The normal appeals process would also be in effect. The Commission cannot provide a "typical" cost of one hearing because of the different variables associated with individual issues that may come before them. **The Commission estimates the impact of the proposed legislation to be negligible.** The Attorney General's office would coordinate any settlement activities that may be required. Tort claims would be paid out of the budget of the State unit where the vaccinated employee is employed up to \$150,000. Damages beyond \$150,000, but no greater than the maximum of \$500,000, are handled through the Office of State Budget and Management pursuant to G.S. 143-299.4. **Because it is not possible to estimate the number of adverse reactions to the smallpox vaccination, there is no way to determine the number of tort claims or settlements that may impact North Carolina.**

SOURCES OF DATA: North Carolina Industrial Commission; North Carolina Department of Health and Human Services; Center for Disease Control

TECHNICAL CONSIDERATIONS: Most of the statistical information about smallpox vaccine adverse reactions is based on data from two studies conducted in 1968. Adverse event rates in the United States today may be higher because there may be more people at risk from immune suppression (from cancer, cancer therapy, organ transplants, and illnesses such as HIV/AIDS) and eczema or atopic dermatitis. The outcome associated with adverse events may be less severe than previously reported because of advances in medical care and the strict screening process involved prior to allowing individuals to receive the vaccination. Rates may be lower for persons previously vaccinated.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Stephanie Schmitt

APPROVED BY: James D. Johnson, Director Fiscal Research Division

DATE: April 17, 2003



Signed Copy Located in the NCGA Principal Clerk's Offices