

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 965

**SHORT TITLE:** Repeal Prison Cap

**SPONSOR(S):** Representative P. Wilson

**FISCAL IMPACT:**    **Expenditures:**    **Increase (X)**        **Decrease ( )**  
                          **Revenues:**            **Increase ( )**        **Decrease ( )**  
                          **No Impact ( )**  
                          **No Estimate Available ( )**

**FUND AFFECTED:**    **General Fund (X)**    **Highway Fund ( )**    **Local Fund ( )**  
                          **Other Fund ( )**

**BILL SUMMARY:** Repeals subsections (d) through (g) of G.S. 148-4.1, thereby deleting statutory implementation of prison cap, and deletes reference to prison cap in G.S. 148-32.1. Also revises G.S. 148-4.1(c) to delay availability of early parole by three months, except when Secretary of Corrections certifies that the person poses no threat to society.

**EFFECTIVE DATE:** Upon Ratification

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Department of Correction, Division of Prisons

**FISCAL IMPACT**

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
<b>EXPENDITURES*</b>	\$646,583,881	61,279,920	14,612,904	0	27,730,931
<b>RECURRING**</b>	278,841,231	26,426,920	6,301,804	0	11,956,531
<b>NON-RECURR.</b>	367,742,650	34,853,000	8,311,100	0	15,774,400
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0
<b>RECURRING</b>					
<b>NON-RECURRING</b>					

\* See "Technical Considerations"

\*\*The recurring expenditures are shown each year as expansion needs beyond the current operating budget of the Department of Correction. By the end of FY 97-98, the total expansion needs in response to this proposed bill are \$323,526,000 which would be added to the current operating budget of approximately \$500,000,000. The capital costs are nonrecurring and would total \$426,681,150 for the five (5) years.

Cost estimates do not include salary or inflationary increases.

**POSITIONS:** 6,283 New positions by the end of FY 97-98

**ASSUMPTIONS AND METHODOLOGY:**

**N.C. Sentencing and Policy Advisory Commission**

The following projection is based on the Sentencing and Policy Advisory Commission's correctional population simulation model. The model uses a 1990 sentencing database which was constructed by the Commission from automated records maintained by the Administrative Office of the Courts, the Department of Correction, and the SBI's Division of Criminal Information.

The projection could be potentially affected by changes in sentence lengths, in the awarding of good time, in the awarding of earned time, in the rate of probation revocations, in the rate of parole revocations, in the crime rate, and in the conviction rate.

The projection assumes the volume of felony and misdemeanor convictions will grow at a graduated annual compounded rate of 6% for the next five years. That is, the projection assumes that the rate of growth will start out high in the first year and will gradually decline over the next four years (9% for FY 93-94, 8% for FY 94-95, 6% for FY 95-96, 4% for FY 96-97, and 3% for FY 97-98). The graduated growth rate is based on the consensus of the Forecasting Advisory Group which was formed by the Commission to help predict future growth in convictions. (The group included Dr. LeAnn Wallace, Thomas Havener, Richard Little, and Patrick Tamer from the Administrative Office of the Courts; Kenneth Parker and Thomas Sutton from the Department of Correction; Dr. Joel Rosch from the State Bureau of Investigation; and David Jones from the Governor's Crime Commission.)

The projection is also based on the following assumptions:

Offenders will serve, on average, 40% of their sentences before being paroled. This was the average served in 1986 prior to the cap.

There will be no change in either the rate of probation revocations or in the rate of parole revocations.

**PROJECTED PRISON POPULATIONS FOLLOWING REMOVAL OF PRISON CAP**

<u>FISCAL YEAR</u>	<u>DOC PRISON POPULATION</u>
93-94	33,501
94-95	36,502
95-96	38,006
96-97	38,974
97-98	39,816

**Department of Correction**

The Department of Correction (DOC) has also made projections and provides the following information on 1) projected prison population if the cap is lifted, 2) the prison capacity, 3) number of beds needed based upon their projections, 4) costs for constructing appropriate beds and operating them, and 5) distribution of beds by custody level. Note that the projected prison capacity estimates are based on the assumption that capacity limits imposed by settlement agreements will be revised by the courts to allow continued operation at 130 to 140% of capacity. Capacity limits currently control 60 facilities.

	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98
Projected Misdemeanant Population at Year End	7,800	8,100	8,400	8,700	9,000
Projected Felon Popu- lation at Year End	28,000	30,000	31,000	32,000	33,000
Projected Total Popu- lation at Year End	35,800	38,100	39,400	40,700	42,000
Projected Capacity at Year End (with additional \$87 million)	22,083	23,083	24,083	26,085	26,085
Capacity Shortfall - Cumulative	13,717	15,017	15,317	14,615	15,915
Capacity Needs - Annual (assuming each years' capacity shortfalls are met)	13,717	1,300	310	-0-	588

Assumptions for system capacity are:

- 1) Federal Court in *Small v. Martin* allows DOC to operate medium and minimum facilities at 125% of standard operating capacity.
- 2) Capacity is retained in dayrooms of non-litigated facilities.
- 3) Triangle Correction Center closes.
- 4) \$87.5 million bond projects increase capacity by
  - 1000 beds in FY 94-95
  - 1000 beds in FY 95-96
  - 2002 beds in FY 96-97
- 5) Offenders would serve, on average, 40% of their sentence before being paroled. (Same average served in 1986 prior to the cap.)
- 6) Admissions would increase each year but by a declining

7) Prison capacity can be expanded to accommodate the initial surge of 13,717 new beds. This is not viewed as technically possible.

Using the more detailed projections provided by the DOC, the costs shown on page 1 were calculated. An itemized cost calculation summary (also prepared by the DOC) is included as Attachment 1. An example of the calculation for cost estimates for FY 93-94 is as follows:

Capacity Needs:	= 13,717 beds total
Maximum/Close	= 13,717 x 20% = 2,743 beds
Medium	= 13,717 x 40% = 5,487 beds
Minimum	= 13,717 x 40% = 5,487 beds

Capital Costs:		
Maximum/Close	= 2,743 beds x \$47,050	= \$129,058,150
Medium	= 5,487 beds x \$28,500	= \$156,379,500
Minimum	= 5,487 beds x \$15,000	= \$ 82,305,000
Total Capital Costs	FY 1993-94	<u>\$367,742,650</u>

Operating Costs:		
Maximum/Close	= 2,743 inmates x \$27,192	= \$ 74,587,656
Medium	= 5,487 inmates x \$20,800	= \$114,129,600
Minimum	= 3,439 inmates x \$11,000	= \$ 90,123,975
Total Operating Costs	FY 1993-94	<u>\$278,841,231</u>

Positions:		
Maximum/Close	2,743 - : 2.1 (ratio)	= 1,306
Medium	5,487 - : 2.4 (ratio)	= 2,286
Minimum	5,487 - : 3.0 (ratio)	= <u>1,829</u>

**SOURCES OF DATA:** Sentencing and Policy Advisory Commission;  
Department of Correction; Office of State Budget and Management

**TECHNICAL CONSIDERATIONS:** As noted by the DOC:

"The Department of Correction will require 13,717 beds during the first year that the cap is lifted. Increased time served by inmates, increased admissions of inmates, and adherence to current legal agreements result in a prison population which vastly exceeds capacity. This fiscal note assumes that the beds are constructed and available to absorb the population increase. It is technically impossible to house a prison population of these numbers and/or construct prison facilities in a timely enough fashion to meet these projected needs."

**FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** 26-MAY-93

**[FRD#003]**

Cost Calculation Summary

Bed Distribution:

- 20% Maximum/Close
- 40% Medium
- 40% Minimum

(Actual classification distribution based on percentage of distribution proposed after completion of \$200 million bond program.)

<u>Capital Costs Per Bed:</u>	\$47,050 - Maximum/Close
(non-recurring)	\$28,500 - Medium
	\$15,000 - Minimum (add on only)

(Costs are the average of total project costs constructed under \$200 million bond program.)

<u>Operating Costs Per Bed:</u>	\$27,192 - Maximum/Close
(recurring)	\$20,800 - Medium
	\$16,425 - Minimum

(Costs are the average of FY 92-93 annual operating costs for facilities in each security level.)

Positions - Based upon the following staff to inmate ratio:

- 2.1 inmates to staff - Maximum/Close
- 2.4 inmates to staff - Medium
- 3.0 inmates to staff - Minimum

