

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 183

SHORT TITLE: INCREASE PENALTIES/DRUG SALES

SPONSOR(S): SENATOR PARNELL

FISCAL IMPACT: Expenditures: Increase (X)- Dept. of Correction
No Impact (X)-Judicial Branch

FUNDS AFFECTED: General Fund (X) Highway Fund ()
Local Fund () Other Fund ()

BILL SUMMARY: "TO INCREASE THE PENALTIES FOR DRUG SALES."
Identical to H 150, introduced 2/9/95. Amends G.S. 90-95(b)
(penalties for violating controlled substances statutes) to
provide that sale of a controlled substance classified in
Schedules I or II is a Class G felony (now, Class H) and sale of
substance classified in Schedules III, IV, V, or VI is a Class H
felony (now, Class I).

EFFECTIVE DATE: December 1, 1995; applies to offenses committed
on and after effective date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch;
Department of Correction

FISCAL IMPACT: Judicial Branch

FY 95-96 FY 96-97 FY 97-98 FY 98-99
FY99-00

EXPENDITURES

RECURRING NO FISCAL IMPACT

NON-RECURRING

ASSUMPTIONS AND METHODOLOGY: JUDICIAL BRANCH

The bill increases the penalties for sale of controlled substances
by one felony class, thereby lengthening the possible sentences
that these defendants might serve. However, the judge in most
cases still has discretion to sentence these defendants to
intermediate sanctions. Thus, the Administrative Office of the
Courts does not anticipate that this bill would significantly
affect the defense strategy of these defendants.

Some defendants may ask for trials as a result of the increased likelihood of longer prison sentences. However, this increase in trials may be offset by an increase in defendants, who previously would have asked for a trial, who may instead be willing to plead guilty in exchange for a reduction in charge.

For the aforementioned reasons, the Administrative Office of the Courts does not anticipate that the proposed legislation would have a substantial impact on the Judicial Branch at this time.

FISCAL IMPACT: DEPARTMENT OF CORRECTION

Two alternatives are provided for the possible fiscal impact on the Department of Correction.

Alternative 1 assumes that the number of beds over the currently projected prison population could be utilized to partially fulfill the requirements of the proposed legislation. The fiscal impact of Alternative 1 shows the cost associated with constructing and operating facilities in addition to those currently available.

ALTERNATIVE 1: FISCAL IMPACT: DEPARTMENT OF CORRECTION

	RECURRING	NON-RECURRING	TOTAL
FY 95/96		\$351,684	
		\$351,684	
FY 96/97	\$204,304		
	\$204,304		
FY 97/98	\$206,655		
	\$206,655		
FY 98/99	\$209,030		
	\$209,030		
FY 99/00	\$211,434		
	\$211,434		

- Alternative 2 assumes that all of the beds required by the proposed legislation would have to be supplied through the construction and operation of new facilities or the utilization of medium and minimum security private provider beds.

ALTERNATIVE 2: FISCAL IMPACT: DEPARTMENT OF CORRECTION

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$9,122,633	\$6,952,179	\$16,074,812
FY 96/97	\$9,611,887	\$ 561,396	\$10,173,283
FY 97/98	\$9,634,529	\$1,095,572	\$10,173,283
FY 98/99	\$10,500,749	\$ 418,051	\$10,918,800
FY 99/00	\$10,714,429	\$ 693,865	\$11,408,294

Note: If funded, the Governor's proposal for constructing 2,424 new prison beds would meet and exceed the number of beds needed if SB 183 is ratified.

ASSUMPTIONS AND METHODOLOGY: DEPARTMENT OF CORRECTION

ALTERNATIVE 1 - assumes that the prison beds currently available, those over-and-above the number required under Structured Sentencing and the repeal of the prison cap, could be utilized to partially fulfill the requirements of SB 183.

The following chart shows, for the end of each fiscal year, the projected beds to be available, the number of inmates projected under Structured Sentencing effective October 1, 1994, the surplus beds, and the additional beds needed as a result of SB 183.

	June 30 <u>1996</u>	June 30 <u>1997</u>	June 30 <u>1998</u>	June 30 <u>1999</u>	June <u>2000</u>
Prison Population Projected Under	25,822 27,694	25,936	26,143	26,738	
Structured Sentencing					
Projected Beds Available at 130% Capacity of	29,198 31,214	31,214	31,214	31,214	
50 Sq. Ft./Inmate*					
Impact from Repeal of Prison Cap 1/1/96	5,553 3,547	6,093	5,244	4,395	
Additional Projected Beds In-State	360 0	0	0	0	
Additional Projected Beds Out-of-State	1,425 0	0	0	0	
Additional Projected Double Beds in Single Cells	656 656	656	656	656	
Projected Beds by Outside Providers	578 578	578	578	578	

TOTAL BEDS	32,217 32,448	32,448	32,448	32,448
No. Beds Over Projected Population 1,207	842	419	1,061	1,315
No. of Projected Additional Inmates 470 Due to this Bill	408	428	429	463
No. of Additional Beds 0 Needed Due to this Bill	0	9	0	0

* The projected prison bed capacity also includes 827 beds gained through the most recent modification of Small v. Martin.

Other Assumptions:

Alternatives 1 and 2 do not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget at a cost of \$86,000,000 in 1995-96 and \$14,000,000 in 1996-97. The estimated annualized operating costs for these beds is \$50,000,000.

See Appendix A for the detailed cost analysis for Alternative 1.

ALTERNATIVE 2 - assumes that all of the beds required by the proposed legislation would have to be provided through the construction and operation of new facilities. The following table shows the prison bed needs by custody level for Alternative 2 for FY 95/96 through FY 99/00.

ALTERNATIVE 2: THE NUMBER OF ADDITIONAL BEDS NEEDED DUE TO THIS BILL

	FY 95/96	FY 96/97	FY 97/98	FY 98/99	FY 99/00
CLOSE	98	103	103	111	113
MEDIUM	188	197	197	213	216
MINIMUM	122	128	129	139	141
TOTAL	408	428	429	463	470

See Appendix B for the detailed cost analysis for Alternative 2.

SOURCES OF DATA: Administrative Office of the Courts; North
Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION (733-4910)

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DATE: June 7, 1996

[FRD#003]

APPENDIX A: ALTERNATIVE 1 - COST ANALYSIS

After analyzing the proposed legislation thoroughly, the Department of Correction estimates the following distribution of beds as needed under the proposed legislation:

Close Custody - 24%
 Medium Custody - 46%
 Minimum Custody - 30%

The time required for the State to find a site, draw up the plans, and construct each of the custody level prisons is as follows:

Close Custody - 30 months
 Medium Custody - 24 months
 Minimum Custody - 21 months

The construction and operating costs for the 9 beds needed by June 30, 1997 are detailed below:

FY 96/97: 9 Additional Beds Required: 2 Close Security Beds
 4 Medium Security Beds
 3 Minimum Security Beds

MINIMUM:

Construction: FY 95/96: \$27,566 X 3 = \$ 82,698
 Operating: FY 96/97: \$18,698 X 3 = \$ 56,094
 FY 97/98: \$18,913 X 3 = \$ 56,739
 FY 98/99: \$19,130 X 3 = \$ 57,390
 FY 99/00: \$19,350 X 3 = \$ 58,050

MEDIUM:

Construction: FY 95/96: \$35,868 X 4 = \$143,472
 Operating: FY 96/97: \$23,545 X 4 = \$ 94,180
 FY 97/98: \$23,816 X 4 = \$ 95,264
 FY 98/99: \$24,090 X 4 = \$ 96,360
 FY 99/00: \$24,367 X 4 = \$ 97,468

CLOSE:

Hypothetical Construction: FY 95/96: \$62,757 X 2 = \$125,514
 Operating: FY 96/97: \$27,015 X 2 = \$ 54,030
 FY 97/98: \$27,326 X 2 = \$ 54,652
 FY 98/99: \$27,640 X 2 = \$ 55,280
 FY 99/00: \$27,958 X 2 = \$ 55,916

APPENDIX B: ALTERNATIVE 2 - COST ANALYSIS

The state would be unable to meet the immediate demand for beds resulting from the proposed legislation if all of the beds required by the proposed legislation had to be supplied through additional resources. Thus, it is assumed that minimum and medium security private provider beds would be needed at the rate of \$54.46 per inmate/per day and \$59.46 per day/inmate, respectively. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95-96 would remain in private facilities throughout the time-period covered by this fiscal note.

In addition, the costs associated with the construction and operation of the close security facilities in FY 95/96 and FY 96/97 are only hypothetical in nature. These numbers are included so as to encompass the full cost of the legislation. However, it would not be possible to construct and begin operation of close security facilities within this time-frame.

Fiscal Year	Total Beds Minimum	Annual Bed Increase	Close	Medium
FY 95-96 122	408	408	98	188
FY 96-97 6	428	20	5	9
FY 97-98 1	429	1		
FY 98-99 10	463	34	8	16
FY 99-00 2	470	7	2	3

PRIVATE PROVIDER RATES (*)

Minimum Security:	Medium Security
\$45.00 per day/inmate	\$50.00 per day/inmate
\$ 3.56 administrative cost	\$ 3.56 administrative cost
\$ 4.84 extraordinary medical medical	\$ 4.84 extraordinary
\$.88 day/clothing	\$.88 day/clothing
\$.18 SIPs for employees/ office supplies	\$.18 SIPs for employees/ office supplies
\$54.46 Total per day	\$59.46 Total per day

(*) - There is not an inflation factor included in the private provider rates.

MINIMUM SECURITY BEDS

FY 95/96: 122 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS
\$54.46 X 122 X 365 = \$2,425,104

FY 96/97: 122 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS
\$54.46 X 122 X 365 = \$2,425,104

6 MINIMUM SECURITY BEDS - STATE FACILITIES
Construction (FY 95/96): 6 X \$27,566 = \$165,396
Operation: 6 X \$18,698 = \$112,188

FY 97/98: 122 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS
\$54.46 X 122 X 365 = \$2,425,104

7 MINIMUM SECURITY BED - STATE FACILITIES
Construction (FY 96/97): 1 X \$29,220 = \$ 29,220
Operation: 7 X \$18,913 = \$132,391

FY 98/99: 122 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS
\$54.46 X 122 X 365 = \$2,425,104

17 MINIMUM SECURITY BEDS - STATE FACILITIES
Construction (FY 97/98): 10 X \$30,973 = \$309,730
Operation: 17 X \$19,130 = \$325,210

FY 99/00: 122 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS
\$54.46 X 122 X 365 = \$2,425,104

19 MINIMUM SECURITY BEDS - STATE FACILITIES
Construction (FY 98/99): 2 X \$32,831 = \$ 65,662
Operation: 19 X \$19,350 = \$367,650

FY 00/01: 23 MINIMUM SECURITY BEDS - STATE FACILITIES
Construction (FY 99/00): 4 X \$34,801 = \$139,204

MEDIUM SECURITY BEDS

FY 95/96: 188 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS
\$59.46 X 188 X 365 = \$4,080,145

FY 96/97: 188 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS
\$59.46 X 188 X 365 = \$4,080,145

9 MEDIUM SECURITY BEDS - STATE FACILITIES
Construction (FY 95/96): 9 X \$35,868 = \$322,812
Operation: 9 X \$23,545 = \$211,905

FY 97/98: 188 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS
\$59.46 X 188 X 365 = \$4,080,145

9 MEDIUM SECURITY BEDS - STATE FACILITIES
Operation: 9 X \$23,816 = \$214,344

FY 98/99: 188 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS
\$59.46 X 188 X 365 = \$4,080,145

25 MEDIUM SECURITY BEDS - STATE FACILITIES
Construction (FY 97/98): 16 X \$40,301 = \$644,816
Operation: 25 X \$24,090 = \$602,250

FY 99/00: 188 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS
\$59.46 X 188 X 365 = \$4,080,145

28 MEDIUM SECURITY BEDS - STATE FACILITIES
Construction (FY 98/99): 3 X \$42,719 = \$128,157
Operation: 28 X \$24,367 = \$682,276

FY 00/01: 7 MEDIUM SECURITY BEDS - STATE FACILITIES
Construction (FY 99/00): 7 X \$45,282 = \$316,974

CLOSE SECURITY BEDS

FY 95/96: 98 CLOSE SECURITY BEDS - STATE FACILITIES -
HYPOTHETICAL

Construction (FY 95/96): 98 X \$62,757 =
\$6,150,186

Operation: 98 X \$26,708 =
\$2,617,384

FY 96/97: 103 CLOSE SECURITY BEDS - STATE FACILITIES -
HYPOTHETICAL

Construction (FY 95/96): 5 X \$62,757 = \$
313,785

Operation: 103 X \$27,015 =
\$2,782,545

FY 97/98: 103 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 103 X \$27,015 =
\$2,782,545

FY 98/99: 111 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 96/97): 8 X \$66,522 = \$
532,176

Operation: 111 X \$27,640 =
\$3,068,040

FY 99/00: 113 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 97/98): 2 X \$70,513 = \$
141,026

Operation: 113 X \$27,958 =
\$3,159,254

FY 00/01: 116 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 3 X \$74,744 = \$
224,232

FY 01/02: 119 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 3 X \$79,229 = \$
237,687

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