

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE (INCARCERATION NOTE G.S. 120-36.7)

**BILL NUMBER:** SB 888

**SHORT TITLE:** Drug Law Amendments

**SPONSOR(S):** Senator Cooper

**FISCAL IMPACT**

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

No direct fiscal impact due to this bill for the Department of Correction because DOC can absorb the additional inmates within current prison bed capacity. However there is an indirect cost to add additional inmates to the prison system since otherwise funds could be used for other purposes; see pages 3 and 4 of this note for calculation of that cost.

(In millions)

	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>
<b>GENERAL FUND</b>					
<b>Correction</b>					
Recurring		No Impact			
Nonrecurring					
<b>Judicial</b>					
Recurring		No estimate available but potential	fiscal impact		
Nonrecurring					
<b>TOTAL EXPENDITURES</b>	_____	_____	_____	_____	_____

**POSITIONS:** None

**PRINCIPAL DEPARTMENT (S) & PROGRAM (S) AFFECTED:** Dept. of Correction; Judicial Branch

**EFFECTIVE DATE:** December 1, 1999 (Criminal Penalty Changes); Section 2 on restitution is effective when it becomes law.

**BILL SUMMARY:** Amends G.S. 90-95 (d) (2) to make it a Class I felony to possess any amount of amphetamine/methamphetamine (Schedule II drugs). Amends G.S.90-95(d2) to make it a Class H felony to possess or distribute an immediate precursor chemical and adds six new chemicals to the list of immediate precursor chemicals. Also amends 90-95(h) to repeal (3a), trafficking in amphetamine and then incorporate (3a)

into subsection (3b), trafficking in methamphetamine; increases sentencing classes for (3b) to: Class G Felony to Class F; Class F Felony to Class E Felony; Class D Felony to Class C.

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

The following chart shows, for the end of each fiscal year, prison beds estimated to be available, the projected inmate population, the deficit or surplus of available beds compared to population, the number of additional inmates projected to be incarcerated under this bill, and the additional beds needed as a result of this bill after considering projected prison capacity: (In the following chart, rows 4 and 5 are specific to this bill.)

	<b><u>June 30</u> <u>2000</u></b>	<b><u>June 30</u> <u>2001</u></b>	<b><u>June 30</u> <u>2002</u></b>	<b><u>June 30</u> <u>2003</u></b>	<b><u>June 30</u> <u>2004</u></b>
1. Projected No. Of Inmates Under Current Structured Sentencing Act <sup>1</sup>	31,467	31,472	31,936	32,750	33,685
2. Projected No. of Prison Beds (DOC Expanded Capacity) <sup>2</sup>	34,493	34,717	34,717	34,717	34,717
3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	+3,026	+3,245	+2,781	1,967	+1,032
<b>4. No. of Projected Additional Inmates Due to this Bill</b>	<b>3</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>
<b>5. No. of Additional Beds Needed Each Fiscal Year <u>Due to this Bill</u></b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

As shown in bold in the table above, the Sentencing Commission estimates this specific legislation will add 12 inmates to the prison system by the end of FY 2003-04. There is no direct fiscal impact resulting from the passage of this bill because these additional beds and their associated costs can be absorbed within the Department of Correction's existing budget. However, even though costs can be absorbed due to available bed capacity, there is a daily cost for each inmate added to the system that will have to be expended in lieu of using available funds for other purposes or reverting these funds. The average cost per day for one inmate was the following in 1997-98:

<sup>1</sup> The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The population projections used for incarceration fiscal notes are based on January, 1999 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rates forecast by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

<sup>2</sup> Projected number of prison beds based on Department of Correction estimates of available prison bed Expanded Operating Capacity (EOC) for beds completed or funded and under construction as of 2/19/99. The EOC is the number of beds above 100% capacity (Standard Operating Capacity). The EOC is authorized by previous court consent decrees or departmental policy. These bed capacity figures do not include any State prison beds that are contracted through local jails or any beds that would be lost to the system if any proposals to close small prisons are approved by the General Assembly during the 1999 Session.

DAILY INMATE COST

Custody Level	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (97-98)	\$51.27	\$67.44	\$78.64	\$62.41

These costs include security, inmate costs (food medical etc.) and administrative overhead costs for the Department and the Division of Prisons.

Calculation of Prison Bed Projections

1. Class I felony to possess amphetamine/methamphetamine –AOC database contains only one specific breakout for Schedule II drugs, cocaine but SBI records show one to two percent of Schedule II drugs are amphetamine/methamphetamine. Assuming 1.5 percent, there would be 33 convictions with two active convictions of 5.5 months each or one new prison bed in year one. With probation revocations, it is assumed there would be total need of seven prison beds each year for years 2 through 5.

2. Class H felony to possess or distribute an immediate precursor chemical and add six new chemicals --- Currently, there are three convictions per year for seizing clandestine laboratories, according to the SBI. Assuming adding six new chemicals would result in 10 convictions per year and three offenders receiving active sentences, the result would be two prison beds the first year and three beds in subsequent years for probation revocations for at total of five beds for years 2 through 5.

3. Increase penalties for trafficking in amphetamine and methamphetamine – The number of convictions is small so this bill would primarily affect sentence length for these offenders. There would be no impact until at least 2006-07, when it is assumed the number of beds needed would be four and eight in 2007-08 to account for longer sentences.

**NOTE:** This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly. Other criminal penalty bill enhancements being considered by the General Assembly reduce the availability of prison beds in future years. The Fiscal Research Division is monitoring the cumulative effect of all criminal penalty bills on the prison system.

**FISCAL IMPACT BEYOND FIVE YEARS** -- Fiscal Notes look at the impact of a bill through the year 2004. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

	<u>2004-5</u>	<u>2005-6</u>	<u>2006-7</u>	<u>2007-8</u>
Inmates Due to This Bill	12	12	16	24
Available Beds	117	-757	-1,708	-2,557
New Beds Needed	0	12	16	24

## Judicial Department

The Judicial Department indicates that it is likely this bill will have a fiscal impact. In each criminal penalty change outlined in the bill summary, the criminal penalty is increased over the current penalty. In the past, these increases have led to more trials and in turn, increased costs for court personnel and indigent defense. However, the Administrative Office of the Courts (AOC) is unable to accurately determine the number of amphetamines/methamphetamine related charges except for criminal trafficking.

In this case, 81 defendants were charged in 1998. However, AOC does not have the data to determine how many of these defendants would be charged with the higher level felonies based on the quantities of drugs specified in the bill.

While not likely to be significant, there will be fiscal impact on the court system due to this bill.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

### **TECHNICAL CONSIDERATIONS:**

**FISCAL RESEARCH DIVISION 733-4910**

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**Date:**Monday, April 26, 1999



**Signed Copy Located in the NCGA Principal Clerk's Offices**