

GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Fiscal Note

BILL NUMBER: Senate Bill 622 (Conference Committee Report)

SHORT TITLE: 2005 Appropriations Act.

SPONSOR(S): Senator Garrou

		FISCAL IMPACT				
		Yes (X)	No ()	No Estimate Available ()		
		<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND						
Correction	Exact amount cannot be determined. No substantial impact					
Judicial	Exact amount cannot be determined. No substantial impact					
LOCAL GOVERNMENTS						
	Exact amount cannot be determined. No substantial impact					
ADDITIONAL PRISON BEDS*	Class 3 Misdemeanor – No impact on State prison beds. Could be small impact on local jails					
POSITIONS: (cumulative)	Exact amount cannot be determined; no additional positions anticipated					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Local Governments, Judicial Branch						
EFFECTIVE DATE: Upon ratification						
<p><i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i></p>						

BILL SUMMARY: If HB 1023, the North Carolina State Lottery Act, becomes law, Section 31.1 of SB 622 (Lottery Budget Provisions) rewrites certain sections of HB 1023. Section 31.1 (o) states that no lottery retailer or applicant to be lottery retailer can pay give or make gifts, loans and other favors and gratuities to Director of Lottery Commission, to any member or employee of Commission, or to members of immediate family residing in same household as one of these individuals. Food and beverages under \$100 are excluded. Section 31.1 (p) applies same restriction to lottery vendors or applicants for vendor contract. Since a criminal penalty is not specifically stated in the provision, the penalty will be lowest level misdemeanor under common law requirements (Class 3 misdemeanor).

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Class 3 Misdemeanor

Because this bill would create new Class 3 misdemeanors, the Sentencing Commission has no historical data from which to project the impact that this legislation would have on prison population. However, since few if any Class 3 misdemeanants are sentenced to state prisons, but rather to local jails, there will be no impact on the State prison system. It is possible that a small number of violators will be sentenced to local jails. However, because so few Class 3 misdemeanants receive active sentences and because most retailers would be expected to comply with this bill in respect to giving gifts, favors etc to Commission members and family, the fiscal impact would not be substantial. Relevant data on Class 3 misdemeanors includes:

- In FY 2003-04, 77 percent of Class 3 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Correction (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.
- The remaining 23 percent of Class 1 misdemeanors resulted in active sentences and the average active sentence length was 8 days.
- Offenders with active sentences of less than ninety days are housed in county jails. The cost of housing offenders sentenced to 30 days or less is paid by the counties.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically

based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Class 3 Misdemeanor

Because this bill would create new criminal offenses and no estimate is available regarding the number of instances in which retailers would unlawfully give gifts, favors, etc to Commission members, AOC cannot estimate the number of new Class 3 misdemeanor charges that would result from this legislation. However, as most retailers and vendors would be expected to comply with the law, AOC does not anticipate a substantial number of new charges to result from this legislation.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 3 misdemeanor is \$2,314 per trial and \$267 per guilty plea. The trial cost includes an estimated \$1,365 in costs of time in court, and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 3 misdemeanor charges that are not dismissed are likely to be settled by plea.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Mills

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



DATE: August 8, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices