

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 1550

**SHORT TITLE:** Increase Penalty for Drug Sales

**SPONSOR(S):** Representative Redwine

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

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

**BILL SUMMARY:** "TO INCREASE THE PENALTY FOR THE SALE OF CONTROLLED SUBSTANCES." Amends GS 90-95(b) to classify sale of Schedule I or II controlled substance as Class G felony and sale of Schedule III, IV, V, or VI controlled substance as Class H felony. (Now, classified as Class H and Class I felonies, respectively.)

**EFFECTIVE DATE:** Effective to offenses committed on or after October 1, 1994.

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

**FISCAL IMPACT**

Department of Corrections  
(in millions)

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u>
98-99					
<b>TOTAL EXPENDITURES</b>	30.5	0	0	18.8	
	13.9				
<b>EXPEND. FOR BEDS</b>	16.8	0	0	18.8	0
<b>RECURRING</b>	13.7	0	0	0	
	13.9				
<b>NON-RECURRING</b>	16.8	0	0	18.8	0
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0

**POSITIONS:** Division of Prisons - Unknown

The expenditures above are shown each year as expansion needs beyond the operating budget of the Department of Correction due to the **Increase Penalty for Drug Sales** proposal.

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

The following chart shows the number of inmates projected under Structured Sentencing effective October 1, 1994, the projected number of beds available at the end of each fiscal year, the deficit of beds, and the number of additional inmates projected to be incarcerated under **Increase Penalty for Drug Sales**.

	June 30 <u>1998</u>	June 30 <u>1999</u>	June 30 <u>1995</u>	June 30 <u>1996</u>	June <u>1997</u>
No. of Inmates Under Structured Sentencing Effective 10/1/94	24,698	25,697	26,045	26,490	
	27,317				
Projected Beds Available at 50 Sq. Ft./Inmate*	23,738	27,227	27,849	27,849	
	27,849				
No. Beds Over/Under No. Inmates Due to Structured Sentencing	(960)	1,530	1,804	1,359	532
No. of Projected Additional Inmates Due to this Bill	562	928	958	1,024	
	1,106				

\* Does not include 1,000 beds contracted for in out-of-state facilities or 500 beds contracted for in local confinement facilities as authorized during the 1994 Special Session of the General Assembly.

As shown in the Fiscal Impact Table on page 1, the impact of this bill is the actual cost of providing 562 additional beds by June 30, 1995, and 544 additional beds by June 30, 1999, when the number of beds needed due to this bill exceeds beds available.

**CONSTRUCTION:** Based on information provided by the DOC on January 31, 1994, the following per bed/cell construction cost was used for the 1,106 beds needed by June 30, 1999:

FY 1994/95 - Medium Custody	\$28,500 X 562 = \$16.8 million
FY 1997/98 - Medium Custody	\$28,500 X 544 = \$18.8 million

A 5% per year inflation rate has been added to the above capital costs to determine the non-recurring costs estimated in the Fiscal Impact Table on page 1.

Costs of the additional beds required for each Fiscal Year are budgeted in prior year to allow time for construction.

**OPERATING:** Based on information provided by the DOC on January 31, 1994, the following annual operating cost was used for the 1,106 additional inmates needed by June 30, 1999:

FY 1994/95 - Medium Custody \$24,108 X 562 = \$13.7 million  
FY 1998/99 - Medium Custody \$24,108 X 544 = \$13.9 million

A 4.6% per year inflationary rate on all non-salary items has been added to these recurring costs and are shown in the Fiscal Impact Table on page 1.

**ASSUMPTIONS AND METHODOLOGY:** Judicial Branch

The Administrative Office of the Courts (AOC) does not anticipate that this legislation would have a substantial fiscal impact on the Judicial Branch.

The AOC predicts that with the changes already enacted under structured sentencing more defendants will be serving intermediate sentences within the community and that those defendants who are sentenced to active time will serve somewhat longer sentences than are currently being served for these offenses. Therefore, the AOC anticipates that under structured sentencing many more defendants would be willing to plead guilty in exchange for an intermediate sentence or a reduction in charge, while some may ask for jury trials since they are facing more actual time than before.

This bill increases the possible sentence that these defendants might serve if the judge chooses an active sentence. However, the judge still has the authority to sentence these defendants to intermediate sanctions in all but one Class H cell and two Class G cells on the sentencing grid. The AOC predicts that the penalty changes in this bill would not significantly affect the defense strategy of many defendants. They anticipate that some defendants would ask for trials as a result of the increased prison time while others who previously would have asked for a trial would instead be willing to plead guilty, thereby creating a "wash" of potential new trials.

Subsequently, based on this information, no significant fiscal impact is anticipated for the Judicial Branch at this time.

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

**FISCAL RESEARCH DIVISION**

**733-4910**

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**Official**

**Fiscal Research Division  
Publication**



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