

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 141 and Senate Bill 9
SHORT TITLE: Embezzlement/Increase Penalty
SPONSOR(S): Senator Miller and Representative Justus

FISCAL IMPACT					
Yes ()	No (X)	No Estimate Available (X)			
(in millions)					
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
GENERAL FUND					
Correction			<u>No Fiscal Impact</u>		
Recurring					
Nonrecurring					
Judicial			<u>No Reliable Estimate Available</u>		
Recurring					
Nonrecurring					
TOTAL EXPENDITURES	_____	_____	_____	_____	_____
POSITIONS: It is anticipated that approximately 0 positions would be needed to supervise the additional inmates housed under this bill. This is based on inmate to employee ratios, provided by the Division of Prisons, for close, medium, and minimum custody facilities (These position totals include security, program, and administrative personnel.).					
		Close – 2 to 1			
		Medium – 3 to 1			
		Minimum – 4 to 1			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch					
EFFECTIVE DATE: Applies to offenses committed on or after December 1, 1997.					

BILL SUMMARY: EMBEZZLEMENT/INCREASE PENALTY. *TO IMPLEMENT THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION'S RECOMMENDATION TO INCREASE THE CRIMINAL PENALTY FOR CERTAIN EMBEZZLEMENT OFFENSES.* Amends various statutes to make embezzlement of money, goods or property with a value of \$100,000 or more a class C felony. Makes embezzlement of money, goods, or property with a value of less than \$100,000 a class F felony (with respect to violations of GS 14-91, 14-92, and 14-99 or a class H felony (with respect to violations of GS 14-74, 14-90, 14-

93, 14-94, 14-97, 14-98, 53-129, 58-2-162, and 90-210.70(a)). Applies to offenses committed on or after Dec. 1, 1997.¹

ASSUMPTIONS AND METHODOLOGY: Department of Correction

The following chart shows, for the end of each fiscal year, beds projected to be available, the number of inmates projected under the present Structured Sentencing Act, the deficit or surplus beds, 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: (The following information is specific to each individual bill.)

	<u>June 30</u> <u>1998</u>	<u>June 30</u> <u>1999</u>	<u>June 30</u> <u>2000</u>	<u>June 30</u> <u>2001</u>	<u>June 30</u> <u>2002</u>
Projected No. of Inmates Under Current Structured Sentencing Act ²	31,762	30,371	30,060	30,610	31,259
Projected No. of Prison Beds (DOC Expanded Capacity) ³	34,133	35,599	35,599	35,599	35,599
No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	+2,371	+5,228	+5,539	+4,989	+4,430
No. of Projected Additional Inmates Due to this Bill	0	13	42	77	113
No. of Additional Beds Need Each Fiscal Year Due to this Bill	0	0	0	0	0

As shown in bold in the table above, the Sentencing Commission estimates this specific legislation will add 113 inmates to the prison system by 2001-02. There is no additional 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. This analysis is based on the following assumptions and methodology:

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill: Vol. 1997, No. 2 & No. 10.

² The Sentencing Commission's revised prison population projections (dated December 1996) were estimated under three scenarios: High, Best, and Low. The differences in these scenarios reflect varying assumptions on incarceration rates under Structured Sentencing, probation and revocation rates, and the decline of the stock population. The projections outlined above are included in the "Best scenario" since the Sentencing Commission and the Department of Correction believe this scenario is most likely to occur.

³ Projected number of prison beds based on Department of Correction estimates of expanded bed capacity as of 1/11/97. These numbers do not include the number of beds requested in the Governor's 1997-99 Capital Improvement budget.

1. There will be an estimated surplus of 4,430 beds by FY 2001-02 , based on current prison population projections by the Sentencing Commission and the estimated expanded prison bed capacity (see table above);
2. The expanded prison capacity includes all beds available when currently funded prison construction is completed, as well operating funds for food, clothing, health, and security of prisoners as the units begin housing inmates;
3. The Department of Correction will continue operating most dormitory units at 130% of capacity, as allowed by court consent decrees; and,
4. The expanded prison capacity numbers do not include out-of-state beds, jail contract beds, or the 2,000 net new beds which would be established if the projects receiving planning and design funds in the 1996 Session were fully funded.

Note: The number of additional inmates projected to be incarcerated if the 17 Sentencing Commission recommendations are approved by the 1997 General Assembly is 2,044 inmates by FY 2001-02 and 2,944 inmates by FY 2006-07. If all of the Sentencing Commission recommendations are approved, the estimated surplus of prison beds will be 2,296 by the end of FY 2001-02. These recommendations, along with other criminal penalty bill enhancements, 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.

ASSUMPTIONS AND METHODOLOGY: Judicial Department

In 1996, over 8,300 defendants were charged with offenses covered under this bill. The Judicial Branch has no data on the value of property involved. They estimate that only a small percentage of these cases involve amounts of \$100,000 or more. The Financial Crimes Unit of the State Bureau of Investigation (SBI) estimates that 10% to 15% of the cases they handle involve amounts of \$100,000 or more. However, the Financial Crimes Unit receives - from the eight field units across the state - referral on only the most complex financial cases. The field units, themselves, may handle some less complex cases involving amounts over \$100,000. Since the field units' financial crimes data are not organized by dollar amount, the Judicial Branch is unable to obtain an estimate of the actual incidence of financial crimes of \$100,000 or more. Although the numbers may be small, even a few new Class C trials may have a fiscal impact on the Judicial Branch. Based on the information provided by the Judicial Branch, Fiscal Research staff cannot reliably estimate the fiscal impact of this bill on the Court System.

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

FISCAL RESEARCH DIVISION

733-4910

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Signed Copy Located in the NCGA Principal Clerk's Offices