NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 25 – Senate Finance Committee Substitute

SHORT TITLE: Lease-Purchase Up to Three Prisons

SPONSOR(S): Senator Jordan

FISCAL IMPACT

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

	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06
GENERAL FUND REVENUES*	**0**	**0**	**$800,000 to $2,981,250**	**0**	**0**
GENERAL FUND EXPENDITURES*	0	0	$2,008,700 to $6,010,20	$6,236,980 to $18,664,538	$6,237,827 to $18,663,007

POSITIONS: **None**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction

EFFECTIVE DATE: Upon ratification

* Revenues are investment earnings from the unspent "bond" proceeds in the year of issuance. (certificates of participation). Expenditures are based on the price range of leasing one to three prisons; See budget detail on page 3 of this Note

BILL SUMMARY:
SB 25 authorizes the Secretary of Correction to enter into contracts for the construction of "up to" three close custody prisons with private vendors, pursuant to a lease purchase schedule for the facilities over a 20-year period. SB 25 requires that the Council of State must approve any construction contract award after consultation with Governmental Operations. SB 25 also authorizes the State to set up a Special Non-Profit Corporation (SNC) with authority limited to facilitating financing for up to three prisons; authorizes the SNC to sell Certificates of Participation and to use the proceeds to purchase the prison(s) from the vendor upon completion and acceptance by the State. SB 25 also allows the SNC to lease the prisons back to the State upon the completion and approval of a lease purchase agreement by the General Assembly, State Treasurer, and Council of State. (Senate Finance amendment added General Assembly to approval of lease). Senate Finance also exempted

the SNC from paying property taxes to the counties where the prison(s) would be located during the lease period.

ASSUMPTIONS AND METHODOLOGY:

The Office of the State Treasurer estimated the annual lease costs for twenty years based on the following assumptions:

1. The State's payments will be reduced by approximately 20% over the payment required if the prisons were financed on a taxable basis.

2. If the State enters into this financing arrangement, the State is not pledging its full faith and credit (taxing power). The security for the transaction is the prison or prisons leased. Even though the full faith and credit is not pledged, the State's reputation in the credit markets and its AAA rating is dependent on the State honoring the lease agreement and making all payments on a timely basis.

3. 3. Certificates of Participation will be issued September 1, 2003 to finance the purchase and lease of either one, two, or three prisons. Estimated prison completion dates are September 1, 2003 for prison # 1; January 1, 2004 for prison # 2; and, May 1, 2004 for prison # 3, according to the Department of Correction.

4. The anticipated yearly lease payments are based on the cost of $75 million for each facility -- $75 million for one; $150 million for two; and $225 million for three. Fiscal Research believes these are reasonable assumptions based on previous and current bids on the prison projects and DOC projected construction costs. *Actual cost cannot be determined until contracts are awarded and signed.*

5. The anticipated annual lease payment costs for one, two, or three $75 million dollar facilities would be $6.24 million, $12.45 million, or $18.66 million, respectively. (Partial payments in Year One and Year 20). This payment estimate is based on a 5.3% interest rate on a 20-year lease contract. The 5.3% rate of interest is the current expected rate on an AA+ Certificates of Participation issue. This interest rate could be higher or lower based on market conditions at the time of sale.

6. The lease payments are based on a debt schedule with level principal and interest. Principal would be payable annually on September 1 beginning September 1, 2005 and Interest will be payable semiannually on March 1 and September 1 of each year beginning March 1, 2004.

7. The estimated annual payment costs include estimated administrative costs of issuing the Certificates; estimated State Treasurer issuance costs are $800,000 for one prison, $1,300,000 for two and $1,800,000 for three.

8. *Revenues:* Investment earnings on unspent bond proceeds may be available to make debt service payments in FY 2003-04 only. Investment earnings are estimated using an investment rate of 5.3% (subject to change) based on equal monthly spend down amounts and the prison completion dates listed in # 3 above.

9. The long term (20 year) estimate of cost -- *$369,798,240 for three prisons*; *$246,674,030 for two and $$123,594,075 for one*—assumes the State/SNC will not exercise an option to purchase the prisons at an earlier date.

LEASE PAYMENT DETAIL

*Lease One Prison – Total Lease Expenditures will **be $123,594,075** through 2023-4*

Year	*2001-02*	*2002-03*	*2003-04*	*2004-05*	*2005-06*
Lease Payment	0	0	$2,008,700	$6,236,980	$6,237,828
Revenue (investment earnings)	0	0	0	0	0
Total Expenditures	**0**	**0**	**$2,008,700**	**$6,236,980**	**$6,237,828**

*Lease Two Prisons – Total Lease Expenditures will be **$246,674,030** through 2023-24*

Year	*2001-02*	*2002-03*	*2003-04*	*2004-05*	*2005-06*
Lease Payment	0	0	$4,009,450	$12,453,193	12,450,285
Revenue (investment earnings)	0	0	$ 828,125	0	0
Total Expenditures	**0**	**0**	**$3,181,325**	**$12,453,193**	**$12,450,285**

*Lease Three Prisons – Total Lease Expenditures will be **$369,798,240 through 2023-24***

Year	*2001-02*	*2002-03*	*2003-04*	*2004-05*	*2005-06*
Lease Payment	0	0	$6,010,200	$18,664,537	$18,663,008
Revenue (investment proceeds)	0	0	$2,981,250	0	0
Total Expenditures	**0**	**0**	**$3,028,950**	**$18,664,537**	**$18,663,008**

OTHER ASSUMPTIONS

1. SB 25 does not directly authorize the operation of prisons or the construction contract award for one, two, or three prisons*; SB 25 authorizes the financing and ultimately the lease payments for the prisons if various approvals of the construction contracts and lease schedule are obtained.* Therefore, Fiscal Research did not include operating costs of the prisons in the SB 25 fiscal impact statement on Page 1 of this Note. However, the following is the estimated operating budget and total costs for the prison(s), using February 21, 2001 DOC figures.

   - Since the first prison would not be complete until September 1, 2003, there would be no operating cost in the first year of the next biennium – FY 2001-02 and only startup costs of $4,685,537 in 2002-03 for one prison.

   - *Annual operating cost for each facility would be $17,515,351* (408 positions) or $52,546,053 for three prisons and 1,223 positions. First full year would be FY 2004-05.

   - ***Total operating and lease costs in first full year of operation of one prison (2004-05) would be $23,752,211. Full cost of three prisons would be $71,210,591.***

1. The fiscal note does not include anticipated costs to pay property taxes during construction to the three counties where the prisons would be located. (SB 25 exempts SNC from paying property tax during the lease period) The Note also does not include an estimated $231,000 in insurance. It is assumed that the estimated $3.4 million in property taxes (for three prisons) would be paid by DOC through available funds.

2. The fiscal note does not include anticipated costs due to construction change orders. It is assumed DOC would need to use available State funds or use federal construction funds currently available to the Department.

SOURCES OF DATA: Office of the State Treasurer and Department of Correction

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