

<Font=9>

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 455

**SHORT TITLE:** Drug-Free Public Housing Zone

**SPONSOR(S):** Representative McMahan

<b>FISCAL IMPACT:</b>	<b>Expenditures:</b>	<b>Increase ( )</b>	<b>Decrease ( )</b>
	<b>Revenues:</b>	<b>Increase ( )</b>	<b>Decrease ( )</b>
	<b>No Estimate Available (X)</b>		

**BILL SUMMARY:** "TO CREATE A DRUG-FREE PUBLIC HOUSING ZONE BY PROVIDING AN ENHANCED PENALTY FOR DRUG OFFENSES NEAR PUBLIC HOUSING." Amends G.S. 90-95(e) to provide that persons 21 years of age or older who are convicted of manufacturing, selling, or delivering a controlled substance (excluding transfer of less than five grams of marijuana for no remuneration) on or within 300 feet of public housing and who are not residents of that housing shall be punished as a Class E felon.

**EFFECTIVE DATE:** Effective December 1, 1995, and applies to acts committed on or after that date.

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

**FISCAL IMPACT**

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

**EXPENDITURES**  
**NON-RECURRING**

**RECURRING NO ESTIMATE AVAILABLE**

**ASSUMPTIONS AND METHODOLOGY:**

The proposed legislation amends G.S. 90-95(e) by adding a new subdivision, which provides that persons 21 years of age or older who commit an offense under G.S. 90-95(a)(1) (the manufacture, sale, or delivery of a controlled substance, or possession with intent to manufacture, sell, or deliver a controlled substance) on, or within 300 feet of property owned, leased, or managed by a housing authority when they themselves are not lawful residents, shall be punished as Class E felons.

The Administrative Office of the Courts would expect very few additional felony defendants as a result of the proposed bill, since the defendants charged under these provisions would already be charged with an offense under G.S. 90-95(a)(1). Rather, the proposed bill would provide prosecutors with an additional offense to charge. Currently, most offenses under G.S. 90-95(a)(1) are punished as Class H or I felonies. Thus, there is a possibility of increased jury trials since defendants may want to avoid a Class E felony conviction, with its longer sentence and its contribution to a potential violent habitual offender status.

The Administrative Office of the Courts Is unable to estimate the fiscal impact of the proposed bill for two reasons: (1) the number of non-residents who sell drugs in or near public housing is unknown, and (2) defendants' probable response, in terms of defense strategy, to facing a Class E instead of a Class H felony cannot be determined. The Administrative Office of the Courts anticipates that a large proportion of defendants charged with this offense may request a jury trial given that any Class E felony conviction counts as one strike under the violent habitual felon statutes.

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

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION (733-4910)**

**PREPARED BY:** Whitney A. Obrig  
Charles E. Perusse

**APPROVED BY:** Tom Covington tOMc

**DATE:** May 1, 1995

**[FRD#003]**



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