


 Colorado *Legislative Council Staff Fiscal Note*
STATE
FISCAL IMPACT

Drafting Number: LLS 09-0518
Prime Sponsor(s): Rep. Waller

Date: January 19, 2009
Bill Status: House Judiciary
Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING THE DESIGNATION OF N-BENZYLPIPERAZINE AS A SCHEDULE I CONTROLLED SUBSTANCE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue			
Cash Funds - Fines Collection Cash Fund	\$0	< \$5,000	< \$5,000
State Transfers or Diversions			
Transfer from the General Fund to the Capital Construction Fund	(\$0)	(\$117,603)	\$0
State Expenditures			
General Fund	\$0	\$0	\$28,461
Cash Funds Capital Construction appropriation to the Corrections Expansion Reserve Fund	0	\$117,603	\$0
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Effective Date: July 1, 2010, unless a referendum petition is filed.			
Appropriation Summary for FY 2009-2010: None Required.			
Local Government Impact: None.			

Summary of Legislation

Beginning in FY 2010-11, this bill makes any material, compound or mixture containing the stimulant N-benzylpiperazine (BZP) as a schedule I controlled substance.

State Revenue

Fine Revenue. A person convicted of a Class 6 felony may be subject to a fine ranging from \$1,000 to \$100,000. Fine revenue is deposited into the Fines Collection Cash Fund, which is administered by the Judicial Branch. Fines are imposed at the discretion of the court, but can be difficult to collect. Given the relatively small number of offenders who are expected to be convicted of this crime, the fiscal note anticipates less than \$5,000 in fine revenue per year.

Transfers or Diversions

Pursuant to the requirements of Section 2-2-703, C.R.S., and Section 17-1-116, C.R.S., this bill transfers \$117,603 from the General Fund to the Capital Construction Fund in FY 2008-09, then appropriates the money to the Corrections Expansion Reserve Fund. Thus, this amount will not be available for General Fund appropriations. For a further explanation of this transfer and appropriation, see the section related to the five-year impact on correctional facilities.

Based on the December 2008 Legislative Council Staff revenue forecast, and assuming the General Assembly balances the state budget in FY 2008-09 and FY 2009-10 by making cumulative budget cuts below the 6 percent limit of \$1.06 billion, there will be enough revenue to partially fund the annual diversion to the Highway Users Trust Fund (HUTF) under the provisions of SB 97-1 in FY 2010-11. This bill reduces General Fund revenue, thereby reducing the SB 97-1 diversion by \$117,603 in FY 2010-11. *This projected impact is subject to future budget decisions made by the General Assembly and changes in the overall economic conditions that affect state revenue.*

State Expenditures

Department of Corrections (DOC). The bill will create additional expenditures for the DOC, estimated at \$117,603 in FY 2010-11. The 5-year expenditure impact is estimated at \$146,064.

This bill makes BZP a Schedule 1 controlled substance, punishable at the F6 level. BZP is a drug typically used in conjunction with other drugs (such as ecstasy) that are already Schedule 1 controlled substances. Thus, this fiscal note assumes only 1 offender every 5 years will be charged and incarcerated for possession of BZP.

Five-Year Fiscal Impact on Correctional Facilities

Section 2-2-703, C.R.S., specifies that no bill can be passed by the General Assembly which results in a net increase in periods of imprisonment in *state correctional* facilities unless it contains an appropriation of money sufficient to cover the increased capital construction costs and operating costs in each of the first five fiscal years of the bill. Sections 17-1-102, 104.9, and 105.5, C.R.S., authorize the department to permanently place inmates classified as medium custody and below in private contract prisons. Inmates classified higher than medium custody cannot be placed in private contract prisons, except under "correctional emergency" conditions. *The fiscal note assumes that the new inmates will be allocated between state correctional facilities and private contract prisons according to historical patterns.*

If an inmate is placed in a state correctional facility, the additional construction costs are estimated to be \$150,773 per inmate bed. Operating costs are \$83.25 per bed per day or \$30,386 per bed per year. It should be noted that the construction costs reflect the funding needed to construct inmate beds in the fiscal year prior to when additional offenders are expected to enter the system. This lag accounts for the estimated time for criminal filing, trial, disposition, and sentencing. If an

inmate is placed in a private contract prison, the state incurs no additional capital construction costs; however, the state pays private prisons at a rate of \$59.28 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$21,637 per private prison bed per year. Departmental data indicates that 22 percent of F6 inmates are housed in private prisons, and both the construction and operating costs presented in Table 1 have been prorated accordingly.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2009-10	0.0	\$0	\$0	\$0
FY 2010-11	0.0	\$117,603	\$0	\$117,603
FY 2011-12	1.0	\$0	\$28,461	\$28,461
FY 2012-13	0.3	\$0	\$0	\$0
FY 2013-14	0.0	\$0	\$0	\$0
Total		\$117,603	\$28,461	\$146,064

State Appropriations

For FY 2009-10, no additional appropriations will be required. However, an appropriation for the 5-year costs detailed in Table 1 is required.

Departments Contacted

Corrections

Judicial

Public Safety