

FISCAL NOTE

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Bill/Resolution No.: SB 2097

Amendment to: \_\_\_\_\_

Requested by Legislative Council

Date of Request: 12/30/94

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative:

In review of ND State Penitentiary records, there were five persons in the past 25 years incarcerated for murders in North Dakota that could have been considered for imposition of the death penalty under the guidelines of this bill. These murders took place in 1969, 1977, 1979, 1981, and 1989. Also, there was a murder of a North Dakota citizen in 1994 that would qualify under this bill although the offenders have not yet been brought to trial in North Dakota.

(NARRATIVE CONTINUED ON FOLLOWING PAGE)

2. State fiscal effect in dollar amounts:

	<u>1993-95</u> <u>Biennium</u>		<u>1995-1997</u> <u>Biennium</u>		<u>1997-99</u> <u>Biennium</u>	
	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	\$500,000	0	\$200,000	0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:
- a. For rest of 1993-95 biennium: None
- b. For the 1995-97 biennium: None
- c. For the 1997-99 biennium: None

4. County and City fiscal effect in dollar amounts:

	<u>1993-95</u> <u>Biennium</u>		<u>1995-1997</u> <u>Biennium</u>		<u>1997-99</u> <u>Biennium</u>	
	<u>Counties</u>	<u>Cities</u>	<u>Counties</u>	<u>Cities</u>	<u>Counties</u>	<u>Cities</u>
	0	0	\$9,000	0	0	0

If additional space is needed,  
attach a supplemental sheet.

Date Prepared: 1/9/95

Signed Elaine Little

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There have been a number of studies completed in the past few years to determine the cost of the death penalty. Experts estimate the cost to be between \$1 million to \$3 million per case. In a federally funded study conducted at Duke University, two years was spent on comparing the costs of adjudicating capital and noncapital cases in North Carolina. The study concluded that capital cases cost at least \$2.16 million more per execution compared to a life in prison case. The bulk of these costs occur at the trial level. Other studies have found that in California capital trials are six times more costly than other trials. In Texas, the average cost is \$2.3 million per execution, three times the cost of imprisoning someone in a single cell at the highest security level for 40 years. In Florida, each execution is costing the state \$3.2 million. Mr. Kenneth Pankey, specialist in court costs for the National Center for State Courts, indicates that generally both the time spent and the cost of a death penalty case are overall five times greater than for a life imprisonment case. Also, typically a death penalty case comes before an appellate court three times. After conviction, there are constitutionally mandated appeals which involve both prosecution and defense costs. The average time frame for the appeals process in a death penalty case is six to eight years.

In death penalty cases the increased costs are incurred because of the lengthy trials which create an increase in prosecution costs, indigent defense fees, increased juror fees, high expert witness fees, etc. Data in other states indicates that the trial alone is at least two-thirds longer and the cost of legal fees triple because the prosecutors must counter the experts presented by the defense attorneys in a capital case. There is rarely a guilty plea in a death penalty case.

There are also additional costs incurred by a county correctional center for the extended time that the offender spends in jail until the trial is completed. Also, at some point prior to the first execution there would be a cost to the Department of Corrections to renovate a room to create an execution room and payment of fees to medical personnel for administering the lethal injection. A 1994 Kansas study estimated the renovation cost to create an execution room and an adjacent room to allow for those viewing the execution at \$40,000.

For the purposes of this fiscal note we are estimating that at least one murder may be committed during the next biennium that could be prosecuted under this bill. Based on other states' experience we estimate the cost of a death penalty case in North Dakota to be at least \$1 million. Since the majority of the costs are in the early years of the case, we estimate a cost of \$500,000 in the 1995-97 biennium, \$200,000 in the 1997-99 biennium, and an additional \$300,000 in costs carried forward to future biennia.

An extended time of six months in jail for the offender at \$50 per day would cost a county correctional center \$9,000.