

ASSEMBLY BILL NO. 444—COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 25, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Provides for an audit of the fiscal costs of the death penalty. (BDR S-817)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the death penalty; providing for an audit of the fiscal costs of the death penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill requires the Legislative Auditor to conduct an audit of the fiscal costs
2 of the death penalty in Nevada. The audit must include, without limitation, an
3 examination and analysis of the costs of prosecuting and adjudicating capital cases
4 compared to noncapital cases. The Legislative Auditor is required to present a final
5 written report of the audit to the Audit Subcommittee of the Legislative
6 Commission on or before January 31, 2015.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** 1. The Legislative Auditor shall conduct an audit
2 of the fiscal costs associated with the death penalty in this State.
3 2. The audit conducted pursuant to this section must include an
4 examination and analysis concerning the costs of prosecuting and
5 adjudicating capital murder cases as compared to noncapital murder
6 cases, including, without limitation, the costs relating to the death
7 penalty borne by the State of Nevada and by the local governments
8 in this State at each stage of the proceedings in capital murder cases,
9 including, without limitation, pretrial costs, trial costs, appellate and
10 postconviction costs and costs of incarceration such as:



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1 (a) The costs of legal counsel involved in the prosecution and
2 defense of a capital murder case for all pretrial, trial and
3 postconviction proceedings; and

4 (b) Additional procedural costs involved in capital murder cases
5 as compared to noncapital murder cases, including, without
6 limitation, costs relating to:

7 (1) The processing of bonds, including costs for investigation
8 by prosecutors, police and other staff;

9 (2) The investigation of a case before a person is charged
10 with a crime, including costs for investigation by the prosecution
11 and the defense;

12 (3) Pretrial motions;

13 (4) Extradition;

14 (5) Psychiatric and medical evaluations;

15 (6) Expert witnesses;

16 (7) Expenses for witnesses other than expert witnesses,
17 including, without limitation, expenses for witnesses during the
18 penalty phase;

19 (8) Facilities, including, without limitation, any additional
20 costs to the court, such as costs for increased security;

21 (9) Juries;

22 (10) Sentencing proceedings;

23 (11) Appellate and postconviction proceedings, including
24 motions, writs of certiorari and state and federal petitions for
25 postconviction relief;

26 (12) Requests for clemency;

27 (13) The incarceration of persons awaiting trial in capital
28 murder cases and persons sentenced to death; and

29 (14) The execution of a sentence of death, including costs of
30 facilities and staff.

31 3. The audit must also examine the fiscal costs, including,
32 without limitation, any potential cost savings, of the death penalty
33 on:

34 (a) The use of plea bargaining in death eligible cases;

35 (b) Strategic litigation choices by the prosecution and the
36 defense; and

37 (c) Sentencing.

38 4. The audit must be conducted:

39 (a) In the manner set forth in NRS 218G.010 to 218G.450,
40 inclusive, and for the purposes of the audit conducted pursuant to
41 this section, the provisions of those sections are applicable to a local
42 government in the same manner as to an agency of the State.

43 (b) In accordance with applicable auditing standards set forth by
44 the United States Government Accountability Office, including
45 standards relating to the professional qualifications of the auditors,



1 the quality of the audit work and the characteristics of professional
2 and meaningful reports.

3 5. In determining the methodologies to be used, the Legislative
4 Auditor shall review and consider audits, reports and data relating to
5 the costs of the death penalty conducted or published by other states
6 and the United States Department of Justice and the Administrative
7 Office of the United States Courts. Methodologies and data to be
8 considered must include, at a minimum, the cost estimation
9 approach, top-down accounting method, retrospective observational
10 design, independent statistical analyses, administrative databases
11 and self-reported data.

12 6. On or before January 31, 2015, the Legislative Auditor shall
13 present a final written report of the audit to the Audit Subcommittee
14 of the Legislative Commission created by NRS 218E.240.

15 **Sec. 2.** This act becomes effective upon passage and approval.

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