

Regular Session, 2014

SENATE CONCURRENT RESOLUTION NO. 16

BY SENATOR MORRELL

CRIMINAL JUSTICE. Creates the Joint Capital Punishment Fiscal Impact Commission.

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A CONCURRENT RESOLUTION

To create and provide for the Joint Capital Punishment Fiscal Impact Commission to study the fiscal costs of the death penalty in Louisiana and to recommend any action or legislation that the commission deems necessary or appropriate.

WHEREAS, the determination of the appropriate sanction for criminal offenses is a legislative prerogative, to be determined with full understanding of the costs and benefits associated with the punishment; and

WHEREAS, capital punishment is authorized under the Constitution of Louisiana and state statute, including R.S. 14:30, first degree murder; and

WHEREAS, the legislative enactment of statutes authorizing capital punishment requires the provision for and funding of systems to administer the punishment appropriately and effectively; and

WHEREAS, the legislature recognizes the importance of collecting and verifying objective statistical data on the cost of capital punishment in Louisiana; and

WHEREAS, questions are frequently raised regarding the costs of the administration of a system of capital punishment; and

WHEREAS, data regarding the costs associated with the death penalty would assist the executive and legislative branches, including but not limited to district attorneys, the

1 Department of Public Safety and Corrections, the office of the attorney general, the  
2 Louisiana Public Defender Board, the House Committee on Administration of Criminal  
3 Justice, the Senate Judiciary C Committee, the Joint Legislative Committee on the Budget,  
4 victims' rights organizations, and other interested parties in the appropriate use of resources,  
5 and would also ensure an adequate service delivery system.

6 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
7 create the Joint Capital Punishment Fiscal Impact Commission to conduct a study of the  
8 fiscal impact of capital punishment in this state.

9 BE IT FURTHER RESOLVED that the commission created herein shall consist of  
10 the following eighteen members:

- 11 (1) One member of the Senate appointed by the president, or the member's  
12 designee, who shall serve as co-chairperson of the commission.
- 13 (2) One member of the House of Representatives appointed by the speaker, or  
14 the member's designee, who shall serve as co-chairperson of the commission.
- 15 (3) A district attorney appointed by the Louisiana District Attorneys Association,  
16 or his designee.
- 17 (4) A public defender appointed by the Louisiana Public Defender Board, or his  
18 designee.
- 19 (5) A person selected by the secretary of the Department of Public Safety and  
20 Corrections, or his designee.
- 21 (6) The legislative auditor, or his designee.
- 22 (7) A member of the Louisiana Sentencing Commission to be selected by the  
23 chairman of the commission, or his designee.
- 24 (8) A person appointed by the chief justice of the Louisiana Supreme Court, or  
25 his designee.
- 26 (9) A sheriff appointed by the Louisiana Sheriffs' Association, or his designee.
- 27 (10) The superintendent of state police, or his designee.
- 28 (11) A person selected by the Council for a Better Louisiana, or his designee.
- 29 (12) A person appointed by the governor, or his designee.
- 30 (13) An attorney appointed by the Louisiana Association of Criminal Defense

1                   Lawyers, or his designee.

2           (14)   A person appointed by the Public Affairs Research Council of Louisiana, or  
3                   his designee.

4           (15)   A person appointed by the Pelican Institute for Public Policy, or his designee.

5           (16)   A person appointed by Louisiana Budget Project, or his designee.

6           (17)   A person appointed by Louisiana Interchurch Conference, or his designee.

7           (18)   The warden of the Louisiana State Penitentiary, or his designee.

8           BE IT FURTHER RESOLVED that the commission study shall include an  
9           examination and analysis concerning the costs of prosecuting and adjudicating all potential  
10           capital murder cases as compared to noncapital murder cases, including the costs relating  
11           to the death penalty that are borne by the state of Louisiana and by local governments in this  
12           state at each stage of the proceedings in capital murder cases, including costs relating to:

13           (1)   Legal counsel involved in the prosecution and defense of a capital murder  
14                   case for all pretrial, trial, and post-conviction proceedings.

15           (2)   Additional procedural costs involved in capital murder cases as compared to  
16                   noncapital murder cases.

17           (3)   The investigation of a case before a person is charged with a crime, including  
18                   costs for investigation by the prosecution and the defense.

19           (4)   Pretrial motions and any heightened costs of pretrial discovery associated  
20                   with capital cases.

21           (5)   The length of delay between offense and trial.

22           (6)   Extradition.

23           (7)   Psychiatric and medical evaluations.

24           (8)   Expert witnesses, including but not limited to the costs incurred by the  
25                   coroner, the court for the appointment of sanity commissions, and other  
26                   capital crime and punishment experts.

27           (9)   Expenses for witnesses other than expert witnesses, including expenses for  
28                   witnesses during the penalty phase.

29           (10)  Facilities, including any additional costs to the court, such as costs for  
30                   increased security.

- 1 (11) Juries, including the cost of jury selection and sequestration.
- 2 (12) Sentencing proceedings.
- 3 (13) The preparation and maintenance of records, including transcription, lodging  
4 of records, and maintaining case files.
- 5 (14) Appellate and post-conviction proceedings, including motions, writs of  
6 certiorari, and state and federal petitions for post-conviction relief.
- 7 (15) Reversal of verdict or a new trial based upon the heightened standard of  
8 review required in capital cases.
- 9 (16) Requests for clemency.
- 10 (17) The incarceration of persons awaiting trial in capital murder cases and  
11 persons awaiting execution, including the length of such incarceration and  
12 additional security costs.
- 13 (18) Law and policy prohibiting defendants under a death sentence from working  
14 at hard labor.
- 15 (19) Remuneration for wrongful conviction or sentence, or costs incurred for the  
16 prevention of wrongful conviction or sentence.
- 17 (20) Victim services.
- 18 (21) Protections to ensure the fairness of capital proceedings and the prevention  
19 of wrongful executions.
- 20 (22) Litigation of nonfrivolous civil claims associated with detention on death  
21 row, including the costs of defending and prosecuting such claims.
- 22 (23) The execution of a sentence of death, including costs of facilities and staff,  
23 medicine, licensing, and litigation concerning these functions.

24 BE IT FURTHER RESOLVED that the commission study shall include an  
25 assessment of the costs incurred as a result of the possibility of capital punishment for all  
26 violations of R.S. 14:30, identification of the agency responsible for bearing these costs, and  
27 the impact of those expenditures on the agency.

28 BE IT FURTHER RESOLVED that the commission study shall include an  
29 examination and analysis concerning any potential cost savings relative to:

- 30 (1) The appropriate use of plea bargaining in potential capital cases.

1           (2)     Strategic litigation choices by the prosecution and the defense in potential  
2                     capital cases.

3           (3)     The execution of a death sentence.

4           BE IT FURTHER RESOLVED that the commission study shall include an  
5     examination and analysis concerning whether potential cost savings can be secured through  
6     alternative measures, including but not limited to alteration of punishment schemes,  
7     internalizing of cost structures, or oversight.

8           BE IT FURTHER RESOLVED that the members of the commission shall serve  
9     without compensation, except per diem or expenses reimbursement to which they may be  
10    individually entitled as members of the constituent organizations.

11          BE IT FURTHER RESOLVED that a majority of the total membership shall  
12    constitute a quorum of the commission, and any official action by the commission shall  
13    require an affirmative vote of a majority of the quorum present and voting.

14          BE IT FURTHER RESOLVED that the commission may conduct such public  
15    meetings at such times as it may deem necessary or convenient to enable it to exercise its  
16    powers fully and effectively, perform its duties, and accomplish the objectives and purposes  
17    of this Resolution, and may receive at such public meetings testimony and other evidence  
18    relative to any of the subjects of study enumerated in this Resolution, except that evidence  
19    detailing security-related measures and costs associated therewith, and personal information  
20    concerning those individuals responsible for the administration of capital punishment, may  
21    be deemed confidential by the commission.

22          BE IT FURTHER RESOLVED that the commission shall have the authority to  
23    subpoena or request any information concerning costs, excluding confidential information  
24    concerning specific cases.

25          BE IT FURTHER RESOLVED that the commission shall report its findings and  
26    recommendations, including suggestions for proposed legislation, if any, to the governor and  
27    the legislature no later than December 31, 2014.

28          BE IT FURTHER RESOLVED that the commission shall terminate on January 1,  
29    2015.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

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## DIGEST

Morrell

SCR No. 16

Creates the Joint Capital Punishment Fiscal Impact Commission to study the fiscal costs of the death penalty in Louisiana and to recommend any action or legislation that the commission deems necessary or appropriate.

The commission consists of the following members or their designees:

- (1) One member of the Senate appointed by the president, who serves as co-chairperson of the commission.
- (2) One member of the House of Representatives appointed by the speaker, who serves as co-chairperson of the commission.
- (3) A district attorney appointed by the La. District Attorneys Association.
- (4) A public defender appointed by the La. Public Defender Board.
- (5) A person selected by the secretary of the Dept. of Public Safety and Corrections.
- (6) The legislative auditor.
- (7) A member of the La. Sentencing Commission to be selected by the chairman of the commission.
- (8) A person appointed by the chief justice of the La. Supreme Court.
- (9) A sheriff appointed by the La. Sheriffs' Association.
- (10) The superintendent of state police.
- (11) A person selected by the Council for a Better Louisiana.
- (12) A person appointed by the governor.
- (13) An attorney appointed by the La. Association of Criminal Defense Lawyers.
- (14) A person appointed by the Public Affairs Research Council.
- (15) A person appointed by the Pelican Institute for Public Policy.
- (16) A person appointed by Louisiana Budget Project.
- (17) A person appointed by Louisiana Interchurch Conference.
- (18) The warden of the La. State Penitentiary.

Further provides that the commission study is to include an examination and analysis concerning the costs of prosecuting and adjudicating all potential capital murder cases as compared to noncapital murder cases, including the costs relating to the death penalty that are borne by the state of Louisiana and by local governments in this state at each stage of the proceedings.

Further provides that the commission study is to include an assessment of the costs incurred

as a result of the possibility of capital punishment for all violations of present law relative to first degree murder, and identification of the agency responsible for bearing these costs, and the impact of those expenditures on the agency.

Further provides that the commission study is to include an examination and analysis concerning any potential cost savings relative to the appropriate use of plea bargaining in potential capital cases, strategic litigation choices by the prosecution and the defense in potential capital case, and the execution of a death sentence.

Further provides that the commission study is to include an examination and analysis concerning whether potential cost savings can be secured through alternative measures, including alteration of punishment schemes, internalizing of cost structures, or oversight.

Further provides that the members of the commission are to serve without compensation, except per diem or expenses reimbursement to which they may be entitled as members of the constituent organizations.

Specifies that a majority of the total membership constitutes a quorum of the commission, and any official action requires an affirmative vote of a majority of the quorum present and voting.

Further provides that the commission may conduct such public meetings as it deems necessary or convenient to enable it to exercise its powers fully and effectively, perform its duties, and accomplish the commission's objectives and purposes, and may receive at such public meetings testimony and other evidence relative to any of the subjects of study, except that evidence detailing security related measures and costs associated therewith, and personal information concerning those individuals responsible for the administration of capital punishment, may be deemed confidential.

Further provides that the commission has the authority to subpoena any information concerning costs, excluding confidential information concerning specific cases.

Further provides that the commission is to report its findings and recommendations to the governor and the legislature no later than December 31, 2014.

Further provides that the commission terminates on January 1, 2015.