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House of Representatives

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Bill Sutton
Representative, 43rd District

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As a legislator, I am always looking for ways to balance the budget by cutting wasteful spending. One area where legislators should look is the millions of dollars that Kansas spends on its death penalty with nothing to show for it; there hasn't been an execution in Kansas since 1965. In 2014, a Judicial Council report commissioned by the Kansas Legislature investigated and provided figures on the fiscal impact of a prosecutor deciding to seek the death penalty. This report deserves more attention this year, especially as legislators look for ways to trim the state budget. This study does not rely on questionable assumptions or complicated models to come to its conclusions. Instead, it takes the straightforward approach of comparing the costs incurred in two similar sets of cases: death-eligible cases where the death penalty is sought and death-eligible cases where the death penalty is not sought. The report's findings make clear that seeking the death penalty proves costly. Specifically, defense and district court costs in Kansas for cases where the death penalty is sought are on average three to four times more expensive than in similar cases where the death penalty is not sought. The high costs of Kansas' death penalty are hardly an outlier. Studies commissioned by state legislatures in Indiana, Nevada, and New Hampshire all found the death penalty to cost more than the alternative of life without parole. In Illinois, the state immediately saved \$4.7 million from its budget after repealing the death penalty in 2011.

Despite all this evidence, some remain incredulous that the death penalty costs more than life without parole. If attorneys were not working on capital cases, they reason, we would still be paying them just to work on different cases, right?

In reality, death penalty trials require extra attorneys and also have a separate sentencing phase, which means they last longer. The Kansas Judicial Council found that the decision to seek the death penalty more than doubles the average length of a trial (40.13 v. 16.79 days). If more attorneys are working on a case for a longer period of time, the case inevitably will be more expensive.

Thu budget request for the Board of Indigent Defense Services this year illustrates this spending. The 2018 actual was \$2.4 million doe Capital Defense. 2019 is estimated at \$3.5 million. Remember, we haven't actually carried out the death penalty since 1965.

I've covered the state expense in defending capital crimes, but what about the counties' expense in prosecuting capital crimes? Recent budget requests in counties facing capital cases illustrate this point. Franklin County had to set aside \$100,000 for an upcoming capital case in 2015. Labette County set aside \$150,000 for a capital trial in 2015, and the county was advised that the costs for the case could go up to \$350,000 or more. The Shawnee County District Attorney in 2014 requested \$150,000 from his

county to prosecute capital cases after indicating that the cases were stretching his office's resources. Back in 2010, Osage County had to raise property taxes in part to pay for an upcoming capital trial.

Given the legislative responsibility to identify cost savings, I fully expect repealing the death penalty to be part of the discussion. When we debate the death penalty, it is important that we're honest about its costs and not ignore its fiscal impact. As legislators look for cuts in the budget, it is our duty to continue to adequately fund core government functions, such as ensuring public safety. If the death penalty saved lives, that would be a compelling reason to justify its high costs. But the death penalty doesn't make us safer. The 18 states that have abandoned capital punishment actually have an average murder rate lower than the rest of the country. Today, life in prison without parole can keep dangerous individuals removed from society at a much lower cost. That cost savings, importantly, frees up more dollars for law enforcement measures that – unlike the death penalty – have a proven track record of success.

Sincerely,

A handwritten signature in black ink, appearing to read "Rep Bill Sutton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Representative Bill Sutton

43rd District

Kansas