

2009 SENATE JUDICIARY

SB 2370

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2370

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/2/09

Recorder Job Number: 8347

Committee Clerk Signature



Minutes: **Senator D. Nething, Chairman**

Relating to mental health commitment costs

Senator Fisher – Introduces the bill and suggests giving this bill a gentle burial.

Terry Traynor – Assistant Director of ND Association of Counties – see written testimony

Would like to move the administration and the cost of providing indigent defense for civil mental health commitments to the State, and from the property tax.

Senator Nething – Mentions we would have to create a whole new indigent system. How much thought went into this to use the current lawyers in the current indigent defense program?

Traynor – He recognizes those attorney's that are hired by the commission on a full time basis, they are focused on the criminal defense. The commission also contracts with private attorneys and as he understands the counties also contract to provide for indigent defense.

Senator Fiebiger – Aren't you adding the additional responsibility for the supervising attorney to figure out how to contract with these people and to add that to their plates? He says we are expanding what is expected of staff that is already overworked.

Traynor – He shares those concerns, they need the resources that are in the fiscal note.

He said the funding has to be there or it isn't going to be successful. The counties are covering the cost of the attorney's now and the administrative burden.

Senator Fiebiger – Asked if a study would be an alternative.

Traynor – It would be an alternative.

Senator Mathern – Talks of the bill he introduced – There is a certain amount of expertise that comes with the volume of work that is being done. In general most people have become very supportive and positive regarding the work that the staff does in the indigent defense agency. This bill came up because there is a difference from county to county in terms of the mental health commitment on the defense end. The goal is to build that same expertise that is already developed in the indigent defense area by having fewer numbers of different attorneys involved in these proceedings. Right now the costs are borne by the county and we think it should be borne by the state and to increase the expertise at the same time.

Bonnie Johnson – Cass County Administrator – See written testimony.

Senator Nething – Asks what kind of tax reduction would this mean if the state were to take this over for the Cass County residents.

Johnson – The 104,000 represented in their budget would be about ½ ml.

Senator Schneider – If this case load is transferred to the state what kind of case load are asking state indigent defense to pick up.

Johnson – Case load varies from year to year, but it budget amount is roughly 525 or 585 thousand dollars.

Robin Huseby – Director of the Indigent Defense Commission – see written testimony.

Close the hearing on 2370

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2370

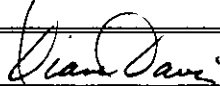
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/2/09

Recorder Job Number: 8364 forward to 43:41

Committee Clerk Signature



Minutes: **Senator D. Nething, Chairman**

Mental health commitment costs

Senator Lyson provides amendments for the committee to discuss. Senator Lyson believes this should be a study. It is more difficult for defense attorney's to defend someone that might be sentenced to the state hospital for life. There is a tremendous amount of evidence in these cases.

Senator Lyson moves the amendment

Senator Olafson seconds

Verbal do pass on the amendment, all yea

Senator Lyson – motions for a do pass as amended

Senator Olafson – seconds

Vote – 6-0

Senator Lyson will carry

FISCAL NOTE
Requested by Legislative Council
02/04/2009

Amendment to: SB 2370

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed Senate Bill No. 2370 provides for a Legislative Council study of the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the responsibility for providing legal counsel in mental health commitment cases.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact relating to this bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Allen H. Knudson	Agency:	Legislative Council
Phone Number:	328-2916	Date Prepared:	02/04/2009

FISCAL NOTE
Requested by Legislative Council
01/26/2009

Bill/Resolution No.: SB 2370

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$1,843,224		\$2,027,546	
Appropriations			\$1,843,224		\$2,027,546	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$595,908			(\$667,326)			(\$734,059)		

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Shifts responsibility of indigent defense in civil mental health commitments to commission on legal counsel for indigents instead of the county, where responsibility now lies.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill, in toto, has fiscal impact on the commission on legal counsel for indigents. All attorney fees, case costs, independent evaluations would be responsibility of the commission, as well as associated costs of commission on legal counsel for indigents assuming the duties now performed by 53 clerks and court administrators in finding attorneys, contracting with them, making assignments, and paying all bills associated with the cases. There are approximately 1300 civil commitment case filings per year. Defense providers are usually paid \$75.00 an hour by the counties.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

According to stats provided by the Supreme Court, counties spent \$333,663.00 in indigent defense costs in 2008. (some counties did not report, although their numbers may be inconsequential). We prognosticate spending \$667,326 in 2009-2011, and have added in a 15% increase for extraordinary expenses, for a total of \$767,424. Further, we anticipate expenses of \$295,800 for staffing needs and costs to our agency associated with this responsibility. We are asking for an equity increase for our criminal/juvenile defenders who are currently paid \$65.00 an hour, said increase in the amount of \$780,000 a biennium. Total biennial expenditure is \$1,843,224.00.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Our agency budget (SB 2023) does not include funding for these expenditures would therefore need an appropriation. Because we have general fund money, and special fund dollars emanating from criminal cases which are used for criminal indigent defense in our current budget, we would need a separate appropriation and budget for civil matters. We would need a deputy director to oversee all the attorneys in these civil matters and one administrative support person.

Name:	Robin Huseby	Agency:	Commission on Legal Counsel for Indigents
Phone Number:	701 845-8632	Date Prepared:	01/30/2009

Date: 2/2/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

2370

Senate JUDICIARY Committee

Check here for Conference Committee

Amendment

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman			Sen. Tom Fiebiger		
Sen. Curtis Olafson - V. Chair.			Sen. Carolyn Nelson		
Sen. Stanley W. Lyson			Sen. Mac Schneider		

Total (Yes) _____ (N) _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Verbal yes

Date: 2/2/09
Roll Call Vote #: 2
2370

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Lyson Seconded By Sen. Olafson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Lyson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2370: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2370 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - MENTAL HEALTH COMMITMENT EXAMINATION AND LEGAL COUNSEL COSTS. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

2009 HOUSE POLITICAL SUBDIVISIONS

SB 2370

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2370

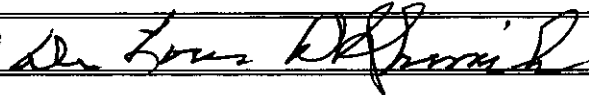
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10912

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on SB 2370.

Rep. Conrad: This is an issue that needs some studying so you have a change to understand what dynamics of the situation is the cost of the mental health commitment including the cost of housing and transportation. I understand the Association of Counties is going to fill in the details.

Aaron Birst, Association of Counties: We ask you to support this study. House bill 1497 is similar to this. These are two separate bills that the county asked for the legislature to take a look at. HB 1497 which was the bill that asked the state to pay for the examinations on the civil commission of sex offenders. That bill was turned into a study and so also been passed. This bill SB2370 asked the state to take over the consent costs in civil commitment. When someone has a mental illness or a chemical dependency right now the counties are paying for the states attorney to handle the case and also for the defense. They contract the defense attorneys to defend the case. When the state passed its Engineering Defense Network they did not include these two areas in that charge. This does deserve study. These are property tax issues and we would like to take it off the property tax air. I of the main reasons we went to the State Indigent Defense Network was that it was a perceived or possible conflict of interest

in the county has named the prosecutor to prosecute criminals and also paying the defense side to defend the cases. We think that was a really good reason to support the Indigent Defense Network. We think that same issue is involved here. This particular bill had \$1.6 million fiscal on it and I think that is what killed the bill and changed it to a study. We did ask the Indigent Defense to pick up these costs. We would like to make sure with them that we would not try to force this issue if they didn't get the money necessary to run this program so because the money wasn't there we can't shift this to them and expect them to handle it. They are right now over worked the way it is.

Opposition: None

Neutral:

Jean Delaney: ND Commission on Legal Counsel for Indigents: (see testimony #1).

Rep. Klemin: These proceedings are done in district court. Wouldn't the county auditor clerks do this?

Jean Delaney: We do have this in district court in a number of cases so other county clerk's office entered them in different ways. A new hearing might be entered as a new case versus a continuing case. I am not that familiar with mental health. They number them in different ways and they are charged to auditors in different ways. Sometimes it might be under one budget versus another budget. You have to make sure you get the right person to ask the right questions to get the right numbers.

Hearing closed.

Chairman Wrangham reopened the hearing on SB 2370.

Do Pass Motion Made By Rep. Jerry Kelsh: Seconded By Rep. Hatlestad

Vote: 12 Yes 0 No 1 Absent Carrier: Rep. Nancy Johnson

Hearing closed.

Date: 3/13/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2370

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep Kelsh Seconded By Rep Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham	✓		Rep. Conrad	✓	
Vice Chair Rep. Headland	✓		Rep. Kelsh	✓	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin	✓		Rep. Zaiser	✓	
Rep. Koppelman	✓				
Rep. Kretschmar	0				
Rep. Pietsch	✓				

Total (Yes) 12 No 0

Absent 1

Floor Carrier: Rep. Johnson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 13, 2009 1:06 p.m.

Module No: HR-46-4827
Carrier: N. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2370: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2370 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2370

Testimony To
TEAM JUDICIARY
Prepared February 2, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

CONCERNING SENATE BILL No. 2370

Chairman Nething and members of Team Judiciary, I am here on behalf of counties and county officials from across the State in support of Senate Bill 2370 – to move the administration and the cost of providing indigent defense for civil mental health commitments to the State, and from the property tax.

When court unification began in 1991, many changes were made to the duties, obligations, and revenues associated with the various aspects of the justice system. Several small (at that time) pieces of indigent defense were left (we feel inadvertently) with the counties, and county officials believe that the time has come to move at least one of them to the State.

It was interesting to examine this issue in preparation for this hearing, in particular, to review testimony prepared in our office for a February 2, 2005 hearing on this same subject. At that time the county costs addressed by this bill were estimated by the Supreme Court at \$143,966 per year. As the fiscal note clearly indicates, this cost has grown greatly in the last four years.

Obviously the bulk of the \$600,000+ in property taxes used to fund this service each biennium comes from the larger counties. However, even a few commitment cases can be quite problematic for the medium to smaller counties that often have wide variations from year to year in the number of cases – and therefore the cost. As a point of reference \$300,000 per year is 1.6 mills in property taxes statewide.

Obviously, the county interest stems from the cost, but not entirely. Just as there was an inherent conflict with the court managing criminal indigent defense – prompting the creation of the Commission four years ago – county government is placed in a somewhat inappropriate situation of providing counsel for both sides of a civil commitment issue.

You as Legislators created an indigent defense commission four years ago, and with the superb guidance of its director it has greatly improved criminal defense services throughout the State. We recognize that the Commission cannot take on this civil indigent defense function without additional resources, but we strongly urge Team Judiciary and the entire Legislature to support both the policy decision and the funding needed to take this important step.

Mr. Chairman, and members of Team Judiciary, on behalf of North Dakota's counties I thank you for the opportunity to address this issue and urge a Do Pass recommendation on Senate Bill 2370.

My name is Bonnie Johnson and I serve as the Cass County Administrator. In that capacity, I am here today to speak on behalf of the Cass County Board of Commissioners regarding indigent defense relating to mental health commitment costs.

For many years, these costs were a part of the budget belonging to the Clerk of County Court and later to the Clerk of District Court. They began at a time when counties had their own court systems...known as County Court. Those court services were merged with the State District Court and ultimately the Clerk of Court became a part of state government, tied directly to the judiciary.

During this court consolidation, the payment of indigent defense (public defenders) also became a part of the state's obligation for criminal cases. But, we forgot to change the corresponding sections of law for civil cases. Since the county government has no court system and no clerk of court, these costs became "homeless". They didn't belong in any budget for any county office. In Cass County, the 2009 budget for the public defender costs for civil cases is set at \$54,000, the Guardian Ad Litem fees for civil cases are set at \$40,000, and sexual predator defense is set at \$10,000. They are contained in the County Commissioners budget....but they are certainly not expenses of the Board of Commissioners.

Our budgeted amounts are, probably, the highest in the state. Therefore, we are not talking about a significant amount of money when addressing this issue. However, we should not overlook the fact that court costs belong with the court systems.

The state indigent defense fund has resulted from an interim study, committees and earlier legislation at which Cass County testified. This bill, as drafted, corrects some of the deficiencies which were overlooked during court consolidation, and the creation of the public defenders (indigent defense) services.

The last time counties introduced indigent defense bills to transfer costs (civil indigent defense, sexual predator and guardian ad-litem costs), from the counties to the state, where

.....they belonged, the bill was defeated because of a \$200,000 fiscal note attached. So, county government was left, once again, paying state court program expenses. In Cass County, these total costs are now \$104,000 per year.

Despite the fact, "We've always done it this way," and despite the fact that economic times are difficult for all sectors of government, the state should not balance their budget on the backs of county property tax.

While the state public defender's office will tell you they are not equipped to handle more cases or have no structure to gauge services provided to indigent defendants, I can assure you they are much more "equipped" for this work than county commissioners.

I urge you to vote "YES" on SB 2370. Thank you for the opportunity to talk with you about this issue.

Testimony-2370
Senate Judiciary February 2nd, 2009
Robin Huseby

There are approximately 1300 new mental health filings in North Dakota in one year. In about 20% of those cases there are re-openings, such as a continuing treatment order or review at which which counsel is also present, and this extra 20% is not reflected in the new filing numbers. It has been my experience that the vast majority of these cases involve indigent defense counsel. The commission and staff of the agency oppose the passage of 2370.

1. TIMELINESS OF FILING BILLS:

This bill was filed after the legislative session had commenced. The proposed recipient of these services, the commission on legal counsel for indigents, has only had a week to gather facts and figures. We have submitted a fiscal note in which we did our best to provide fair and accurate numbers based upon what we know at this time. It is disconcerting that this bill was not discussed months prior to the session in an attempt to work on a coherent plan for such a shift of responsibilities.

2. THE PURPOSE OF THE COMMISSION ON LEGAL COUNSEL FOR INDIGENTS:

The commission on legal counsel for indigents formed by legislation in 2005 was meant to provide indigent counsel in criminal and juvenile matters. Part of our appropriations comes from fees collected in criminal court. The Task Forces and drafters of the legislation didn't pass on civil commitment cases as an "oversight"; civil commitment were never contemplated to be part of the agency, nor did the agency commissioners or staff contemplate they were be part of their mission. While the governing commission has opposed the assumption of indigent defense for civil mental commitment or the civil commitment of sexual offenders, we will certainly do what is mandated of us as long as we have the proper support; both financially and administratively. None of our public defenders will take mental civil commitment cases, and most of our 43 private contractors do not take any.

3. CONFLICT OF INTEREST:

If the commission on legal counsel for indigents is mandated by the legislature to take on civil mental health commitments, we would have to set up a separate division; separate from the assignments currently handled in criminal matters. The budget would need to be separated so that the special funds (paid out of criminal def. fees) would not be utilized for civil cases and that the money appropriated for our agency in the criminal area be used just for that. Some of the mental health cases involve clients who also have been criminally charged, and vica verca, and there could be conflicts of interests between the attorneys representing the same client. Both have their own issues with confidentiality. That is why we would keep criminal separate from civil.

3. ASSUMPTION OF A DELIVERY SYSTEM TAKES TIME

When an agency takes over for all the clerks of court in appointing counsel, that agency needs time to gather information from the counties as to how they now make the appointments, gather the information of who has contracts, who is on a case by case basis, and just how much are they getting paid per case. We know from experience this takes time; if we were going to take over the indigent services for mental health defense, we would want an appropriate period in which to get staff in place to set up the system. That staff would not only handle the contracts, make the assignments, but also receive and pay bills. The staff would have to be able to act in a matter of hours, not days, when the clerks would send to them a mental health indigency finding; there are strict time lines in mental health law. There is no point in setting an agency up to fail by forcing a program on it when it is not ready to assume it.

4. FISCAL IMPACT ON AGENCY

We have put in a fiscal note of **\$1,843,224** According to statistics gathered by the ND Supreme Court, and thank you to Don Wolf and Jody Bachmeier of the Supreme Court who gathered information from county auditors. **\$667,326** (using 2008 numbers) are for indigent defense fees and costs the counties now pay. I'm hoping all the numbers from the auditors are correct, but sometimes getting accurate numbers from them is not a precise science, so to speak

. I included an extra **100,000.00** (15%) for increases and/or extraordinary expenses of the attorneys. I have included the fiscal impact on our office and would be asking for **\$295,800.00**. This would be for two extra staff, and the costs associated with extra office space. I have listed as a fiscal impact the sum of **\$780,000.00**, which would continue every year, to equalize the reimbursement of our criminal/juvenile attorneys, who are now paid \$65.00 an hour, to the mental health attorneys, who are primarily paid \$75.00 an hour. I don't see how else to do it; we can't pay some \$65.00 an hour and some \$75.00 an hour.

The commission on legal counsel for indigents is opposed to the passage of this bill.

**ND Supreme Court
Indigent Defense Costs Paid by Counties - 2007 and 2008**

19 of 30 →

County	Sexual Predator Commitment Proceedings		Mental Illness Commitment Proceedings		Guardians ad Litem		Custody Investigations	
	2007	2008	2007	2008	2007	2008	2007	2008
Burleigh	8,166.78	2,235.79	24,297.55	21,744.82		6,569.12	-	-
Cass	3,508.65	7,838.94	48,568.38	38,121.31	130,800		16,066.99	16,561.17
Grand Forks	28,807.25	21,538.32	5,903.85	19,306.36	22,682.48	13,057.01	-	-
Morton	14,868.70	3,998.01	4,837.50	5,551.00				
Ramsey			6,635.42	8,112.20				
Richland	5,931.06	1,185.00	1,957.47	1,099.50	436.00			
Rolette			698.50	1,803.50		126.10		
Stark			9,642.36	26,271.80				
Stutsman			50,602.30	42,064.68			15,351.75	26,277.04
Walsh	1,000.00	1,000.00	3,000.00	3,500.00	2,500.00	3,000.00	7,500.00	7,500.00
Ward			45,861.92	66,974.37				
Williams	818.50	300.00	27,324.74	21,301.01				
SUBTOTAL	62,398.94	38,094.06	229,327.99	255,849.55	25,618.48	22,752.23	38,907.74	50,338.21
Adams			640.25	558.75				
Barnes			8,029.27	9,715.72			1,266.85	943.15
Benson			4,167.97	671.90				
Billings								
Bottineau			1,206.50	1,681.66	17.50	256.45		
Bowman			5,035.50	1,381.63				
Burke				1,283.68				
Cavalier			2,292.35	825.75				
Dickey			125.00	1,480.00	84.63			
Divide			454.89	608.75				
Dunn			387.00	153.00				
Eddy			300.00	500.00	945.00	2,055.00		3,432.34
Emmons			75.00					
Foster			760.00	780.00				
Golden Valley				360.00				
Grant								
Giggs			337.50	3,358.41				
Hettinger			205.00	893.47				
Kidder								
LaMoure			396.25	1,112.07				4,037.75
Logan			765.80	415.00				
McHenry	871.50	1,300.50	1,456.15	1,552.38		111,475.00	3,474.10	
McIntosh			895.46	467.50				
McKenzie			97.50	240.00				
McLean				4,200.00		13,600.00		
Mercer			1,069.16	778.80				
McIntosh				2,244.38				
Nelson				2,076.55			1,500.00	
Oliver				52.50				
Pembina			2,550.57	2,115.00				
Rice			233.00	328.00	745.80			
Ransom			82.50		1,230.25		630.44	
Renville				738.00				
Sargent			917.12	184.00				
Sheldon				1,750.00				
Sioux								
Slope								
Steele								
Towner			301.02	97.50				
Traill		7,011.97	2,359.62	3,105.50				
Wells			746.61	1,754.25	3,910.68	3,867.00		942.50
SUBTOTAL	87,150.00	8,312.47	32,915.99	47,814.15	6,933.86	131,253.45	6,871.39	9,365.74
TOTAL	\$63,270.44	\$46,406.53	\$262,243.98	\$303,663.70	\$32,552.34	\$154,005.68	\$45,779.13	\$59,693.95

\$333,663

Averages/year	State Counties	Contract Counties	Estimated Total/yr
Sexual Predator	\$350,248.50	\$4,591.99	\$54,838.49
Mental Illness	\$242,588.77	40,365.07	282,953.84
Guardians ad Litem	\$241,863.68	69,093.66	93,279.01
Custody Investigators	\$44,822.98	8,113.57	52,736.54
Total State	\$661,643.60	\$122,164.28	783,807.88
Total Estimate/Year	483,807.88		
Total Estimate/Bl	1967,615.75		
Total Estimate	1968,000		

Averages/year contract counties:
 Sexual Predator: 4,591.99
 Mental Illness 984.51
 Guardians ad Litem 1,685.21
 Custody Investigators 197.89
 Total 7,459.60

Contract Counties 42
 Total per year 313,303.28

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SB 2370
House Political Subdivisions Committee
March 13, 2009
Testimony of H. Jean Delaney
North Dakota Commission on Legal Counsel for Indigents

Senate Bill 2370 provides for a legislative study of the feasibility and desirability of transferring from the counties to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases.

As this Bill first was presented to the Senate Judiciary, it named the commission on legal counsel for indigents as the provider of indigent defense attorneys in civil commitments. The Commission's Executive Director, Robin Huseby, spoke against the bill and cited, in part, the fiscal impact upon the agency of assuming indigent defense for mental health cases state-wide. The fiscal note attached was in the amount of approximately \$1.8 million for the biennium. The agency currently provides criminal and juvenile indigent defense attorneys state-wide. The addition of the mental health cases (approximately 1500 a year) would mean the agency would have to have a separate division.

At this time, the commission on legal counsel for indigents has no particular objection to a possible study of the matter. One concern voiced by Director Huseby, is the fact that in order to properly assess any fiscal impact of one state agency assuming this responsibility is that it is sometimes difficult to get accurate numbers from county auditors and a concerted effort to survey them would be necessary.