

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2370

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2370

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2370

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date February 4, 2005

Tape Number	Side A	Side B	Meter #
1		x	2385-5315
Committee Clerk Signature <i>Diane Davis</i>			

**Chairman Krebsbach** opens hearing on SB2370

**Regarding raising State's Attorney's salaries**

(meter #23850)

**Senator Harvey Tallackson** - Sponsor of this bill. See written testimony.

**Senator Nelson and Senator Syverson** - questioned some over the overstrikes on the amendment. Agreed to fix the amendments to read correctly.

**Richard Riha** - State's Attorney for Burleigh County - See written proposed amendments.

In support of this bill. Wants the minimum language reinstated. Also would like the current language with respect to who is a full time State's Attorney and who isn't. There are 16 full time

State's Attorneys from the larger cities. Current language lets everyone know who is full time and part time.

**Senator Nelson** - Asked if a part-time State's Attorney can have a practice on the side.

**Riha** - Stated yes they can.

**Wade Enget** - Mountrail County State's Attorney - Part time states attorney with private practice as well. In support of this bill. Has a concern with the salaries offered in the smaller counties and not able to recruit people because its low. After they pay their health insurance its very low.

(meter #3866)

**Sharon Martens** - State's Attorney in Walsh County. See written testimony.

**Senator Brown** - Said that we will be criticized for establishing mandates that someone else pays for. Asked if we will be criticized by the county commissioners.

**Martens** - She said she spoke with a commissioner about the raise and he said he knows they need a raise and if it happens it happens.

**Senator Brown** - Asked if it is hard to get an attorney out to a small town.

**Martens** - Replied yes it is. She had to increase the salary substantially, but she is close to Grand Forks.

**Senator Krebsbach** - Stated 2 sessions ago they had to pass special legislation because the law required each county have a State's Attorney. They passed legislation to allow them to share and reside outside.

(meter #5164)

**Senator Lee** moved to pass the amendment

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Senate Education

Bill/Resolution Number **SB 2370**

Hearing Date February 4, 2005

**Senator Brown** seconded

Pass the amendment

**Senator Brown** -Moved do pass on amended bill.

**Senator Syverson** - Seconded

Do Pass - 5 Yes, 0 NO

**Senator Syverson** will carry

## FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2370

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad  
Code Revisor

Date: 2/4  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2370

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass Amendment

Motion Made By Senator Lee Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2/4  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2370

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass on amended bill

Motion Made By Senator Brown Seconded By Senator Syverson

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Syverson

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



**REPORT OF STANDING COMMITTEE**

**SB 2370: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2370 was placed on the Sixth order on the calendar.

Page 1, line 6, remove "full-time", remove the overstrike over "~~in~~", after "~~counties~~" insert "a county", and remove the overstrike over "~~having a population exceeding~~"

Page 1, line 7, remove the overstrike over "~~thirty five thousand, or in~~", after "~~where~~" insert "a county in which", and remove the overstrike over "~~the board of county commissioners~~"

Page 1, remove the overstrike over line 8

Page 1, line 9, remove the overstrike over "~~not to be an attorney or counsel for any party except the state or county,~~"

Page 1, line 10, remove the overstrike over "~~minimum~~"

Page 1, line 12, remove the overstrike over "~~at least~~"

Renumber accordingly

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2370

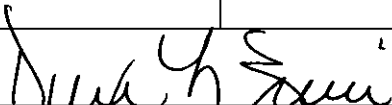
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2370

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/4/05

Tape Number	Side A	Side B	Meter #
1	x		0-17.2
Committee Clerk Signature 			

Minutes: Relating to salary of state's attorneys.

**Chairman Haas:** I would like to call the meeting of the House Government and Veterans Affairs Committee to order and ask the clerk to take the roll.

13 members present, 1 absent.

The chair declares that we have a quorum at this time I would like to open the hearing on SB 2370 and ask the clerk to read the title. Thank you. Good Morning Senator Trenbeath

**Senator Thomas Trenbeath-District 10-**Introducing the bill. This brings this statute up to date in my mind, as you can see the minimum salary for states attorneys and full time states attorney counties, they used be at 47 thousand, that certainly isn't enough to attract, this bill suggests that it be raised to a minim of 65 thousand dollars, I would like to add an amendment verbally of 29, 500, if you are going to consider this bill favorably, adding that as an amendment.

**Rep. Amerman:** In the bill where it says the states attorney in the county of population of 35,000, does it mean that a states attorney is full time.

**Senator:** To my knowledge that is correct.

**Rep. Froseth:** It looks like on the chart there are only four counties that have the population of 35 thousand.

**Senator:** That doesn't surprise any, I could probably name them.

**Rep. Sitte:** Why wouldn't let the market, why should we have a unfunded mandate from the state telling the county what they have to pay?

**Senator:** As general rule of government I couldn't agree with you more, but why do we do the same in other areas of government, the state has particular interest in such as teachers salary. We chose to meddle where we chose to meddle and offering a good council in these counties, benefits not only these counties, it benefits the state, especially through the attorney generals office.

**Rep. Froseth:** In recent years we have eliminated the mandates of setting salaries of elected county officials, let it be determined by there own counties.

**Chairman Haas:** Further questions for Senator Trenbeath, thank you very much. Additional testimony on SB 2370.

**Sharon Martens-Walsh County State's Attorney-Testimony Attached-For**

**Rep. Galvin:** The states attorney can not engage in private practice is that a local option, or under what circumstances can they not engage in private practice.

**Sharon:** Generally speaking when one comes into office, one is allowed to clean up the private practice and then we do nothing unless it is for family.

**Rep. Galvin:** How could you be a part time if you didn't engage in private practice.

**Sharon:** Those people have an arrangement with there commissioner. They do a contract.

**Chairman Haas:** Are there further questions for Sharon? If not thank you very much for your testimony. Is there additional testimony in favor of SB 2370?

**Rep. Sitte:** Could you tell us what that time was between the county judges, what percentage of the county judges salary and the states attorneys used to receive?

**Sharon:** Exactly the same.

**Rep. Sitte:** What are the judges making now.

**Sharon:** I think the base is 92 thousand dollars.

**Joel Gilbertson-State Bar Association of North Dakota-Association of the**

**State-For-Testimony Attached-** We have a criminal justice system that is becoming overburdened. The meth and other reasons are affecting both sides.

**Rep. Conrad:** Does it deter people from becoming states attorneys, because they have to run for office.

**Joel:** Getting a higher salary, you will attract a larger list of candidates.

**Chairman Haas:** Any further questions for Joel, if not thank you Joel, thank you for being here. Additional testimony in support of SB 2370, is there opposition testimony to SB 2370, if not we will close the hearing on SB 2370.

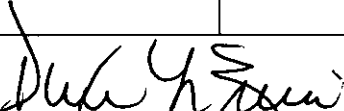
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2370

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/4/05

Tape Number	Side A	Side B	Meter #
2	x		4.1-10.6
Committee Clerk Signature 			

Minutes: SB 2370 Relating to salary of state's attorneys.

**Chairman Haas:** Committee members lets take a look at SB 2370. This has to do with salaries of state attorneys. I would like to open the floor for discussion or a motion. Rep. Klemin moves a DO PASS motion on SB 2370, is there a second, seconded by Rep. Conrad. Is there discussion.

**Rep. Froseth:** I think I would resist that, because we have a lot of small counties out there that can't afford to use more then a part time one. We have counties that don't have an attorney and they have to go to a neighboring county.

**Chairman Haas:** We changed that so the states attorney can serve two counties.

**Rep. Klemin:** I think the only discussion we about the state attorney do is on the criminal side, but we shouldn't forget that the state attorney and the county, the attorney for the counties and for the county commissioners and they do a lot of other things besides criminal work. They work on all the ordinance, the hearing that all the county commissioners have, legal counsel for the county commissioners and there is a lot of other things they do other then criminal work.

**Chairman Haas:** Further discussion, we are discussing a DO PASS motion on the engrossed version of SB 2370.

**Rep. Grande:** I guess I am a little confused on the fiscal note. If we have the set dollar amount that we are going to be charged and we know how much they are currently being paid, why can't we know what the cost is to the state. We are putting a mandate on the counties.

**Chairman Haas:** The best information we have to the information that was handed out this morning, with regards to Sharon's testimony.

**Rep. Grande:** She gave us the information, why didn't anybody compile it for us?

**Rep. Froseth:** I did some calculating and these figures aren't exactly to the dollar amount. Golden Valley township base, there are 1800 people, they pay 30 thousand dollars, Logan county, 2100 people, 24 thousand dollars, most are paying under the 30 thousand, I think the 28 thousand should be adequate.

**Chairman Haas:** You feel that the 28 thousand is adequate. Is there any further discussion.

**Rep. Sitte:** I still feel that is a huge unfunded mandate for these counties, we have wasted a lot on local tax payers this session and with all the little county mill levies and here we are doing it again. When you look at Slope county, there might be a rancher out there who has a law degree, but he loves to ranch, if he is happy with the 21 thousand, who are we to come and say that the county has to pay a minimum of 28 thousand, and raise property taxes on 774 people. If they are not happy with the services, let them go and search for someone else. Let the free market pay, we should not be subsidizing lawyers salaries.

**Chairman Haas:** If you look through the century code you will find that the state sets standards for monetary compensation for practically everything under the sun, including something as

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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2370

Hearing Date 3/4/05

small as what a county sheriff can charge when he serves papers, so this not something new as a requirement for counties to provide this service or have it available as a state function.

**Rep. Klemin:** If you don't have a statute like this and you only have one attorney in the county, at least the county commission can say well you know it says x amount of dollars.

**Chairman Haas:** Rep. Klemin will you explore that issue on other sections of the statute on how the sharing is done between counties. We will come back to this bill.



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2370

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/10/05

Tape Number	Side A	Side B	Meter #
1		x	1.8-20.4
Committee Clerk Signature <i>Duke H. H. H.</i>			

Minutes: SB 2370 Relating to salary of state's attorneys.

**Chairman Haas:** We will look at 2370. I have one thing that Rep. Klemin prepared for us, outlining the duties of states attorney, Rep. Grande has a summary relating the current status of states attorneys across the state. The first one is the duties of the states attorneys and the second is the summary. Lets open this up for discussion.

**Rep. Klemin:** You asked me to do a little research on states attorneys serving more then one county. The statue on states attorneys, officers must be qualified elector in the county in which they are being elected. With some exceptions, one is the counties are aloud to fill an office by agreement with other counties. They can have multi-subdivision office combination. Specifically with states attorneys, boards of county commissioners of two or more counties may agree by resolution to elect a multi-county jurisdiction states attorney.

**Chairman Haas:** Any further discussion.

**Rep. Grande:** How many counties is this going to affect? It broke out quite nicely and you can see where some of these counties, the full time proposal and how much they are going to have to come up with. The part time proposal. Which counties are sharing is Slope and Adams or Slope and Bowman.

**Rep. Klemin:** One of things that you have to remember hear is that it is hard to get states attorneys to do some of the work and in the larger counties you see they have to be a little more competitive, so the salaries are higher. In the smaller counties they have a problem attracting good attorneys because of the money.

**Rep. Kasper:** I believe the salary is the responsibility of the people at the local level. This is unfunded mandate.

**Chairman Haas:** If you look through the code, every single county office has a code. It goes so far as to tell a county sheriff can charge for a serving papers they serve.

**Rep. Klemin:** In subsection six, those other subsections deal with the salaries of all of these other county officials.

**Chairman Haas:** What are your wishes the bill. Rep. Klemin moves a DO PASS, seconded by Rep. Potter. Is there a discussion.

**Rep. Kasper:** I beg to differ with you that we are not doing anything with this bill. We are dictating to those counties that they pay a minimum salary. They currently do not have. This does do something that does require an increase.

**Rep. Grande:** This is setting a minimum. The counties where there is a need to pay there states attorneys more, they are doing so. The demand is already pushing that up. This is just the minimum, we shouldn't have to mess with the minimum.

Page 3  
House Government and Veterans Affairs Committee  
Bill/Resolution Number SB 2370  
Hearing Date 3/10/05

**Chairman Haas:** Further discussion on the motion. If not we will ask the clerk to take the roll on a DO PASS motion on SB 2370. The motion fails by 9-4 and 1 absent.

**Rep. Kasper:** I move a DO NOT PASS.

**Chairman Haas:** We have a DO NOT PASS motion by Rep. Kasper, is there a second, seconded by Rep. Sitte. Is there any further discussion? If not we will have the clerk take a roll call vote on a DO NOT PASS motion on SB 2370.

**VOTE: YES 9 NO 4 ABSENT 1 DO NOT PASS ON SB 2370**

**REP. KASPER WILL CARRY THE BILL.**

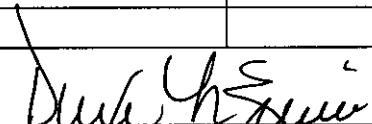
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2370

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/17/05

Tape Number	Side A	Side B	Meter #
2	x		24.5-end
3	x		0.3.1
Committee Clerk Signature 			

Minutes: SB 2370 Relating to salary of state's attorneys.

**Chairman Haas:** We will look at SB 2370, we had considerable debate about this, we sent out and it was brought back and asked Mark Johnson from the Association of Counties, we are not going to formally open the hearing on this again, but I asked him to be hear, because he was unable to be hear for the original hearing, to give us some additional information on SB 2370.

**Mark Johnson-Association of Counties-**It would have some impacts on some small counties, to date we have no objections for county commissioners relative these changes that will occur in the counties, in a request from a member of your committee I had asked a number of counties, personally the impression of the bill and how they feel about it. The county that was most significantly impacted, which would be Williams county, I believe that was a 17,000 dollar increase, to one of the smaller counties, I had no objection of the bill. The situation in Williams county, there was an appointment to that position, they couldn't find anyone. They picked a law school graduate and asked her if she would be willing serve. They are hoping to bring that person

along and the comment was that they would like to get people that are young and then develop them into a county official that can provide some valuable services. In many of the smaller counties where we have part time states attorneys, it is possible if that attorney wants to live in that community could get as much money in one month by doing a DUI case, or a significant case of any size, there is a lot of other opportunities in those counties for a states attorney to pick additional work along the way. We are finding difficult to attract people, first of all that want to live in the community and secondly willing to accept the pay. It is high time to adjust this and I think county commissioners, are standing aside or supporting the effort. I would urge the committee to reconsider the vote that was taken earlier. I appreciate the Chairman bringing this back to the committee. I also talked to Chairman about a possible amendment that would make this bill more palpable. Basically what the amendment does is implement this over a two year period, so half of the potential increase would occur in 06 and the other half in 07. The other thing that was important, the second amendment, to relieve any concerns that county budgets, July to June. It won't have effective date January 1, 2006 and the second part of that would take place in January 1, 2007. That is the important part of the bill. It would be nice if this bill would be amended.

**Chairman Haas:** I made a procedural error. We need a motion to reconsider, before we get into the detailed debate or before we could amend it. Rep. Klemin moves to reconsider the bill, seconded by Rep. Boehning, we will do a voice vote, all in favor of reconsideration signify by say I, oppose no, motion is carried. On the amendment Mark, on page one, line 10, replace 65 with 56.

**Mark:** I believe that is half of the movement.

**Chairman Haas:** Half of the movement, OK. On line 10 that would reflect half of the movement from 47 to 65.

**Rep. Kasper:** Here is the problem I have bringing this bill back and amending it. You have an association that is very active. You have county commissioners that come to your quarterly, semiannual, annual, however you hold them. They are aware of the problems, because they are the ones that are doing the hiring and firing. It is there responsibility, in my opinion, to take care of the minimum salaries and they are not getting off a dime. That is not the legislatures responsibilities, this my guess as what is going on here. This is my guess, this is my question. I think what some of these commissioners are afraid to do, is do what they are suppose to do and they are looking for someone to blame, so what they are able to say back in there counties, you know, we really didn't want to have to raise the salaries any higher, but the legislators are making us do it, so therefore we are going to have to do it, which will raise mill levies considerable. Is that what the real nuts of the problem is.

**Mark:** No, I really don't believe that is the case. Could it be an isolated situation, where commissioners are not willing to do something like this, they didn't ask to have this done, they are willing to have this done. The situation in a court house maybe similar to a the way the legislators deal with state employees, by adjusting properly a states attorneys significantly more then 2 or 3 percent which is normally what a county is offering on a annual basis, sends ripples through the court house. There might be a hint of motivation in your comments, but I don't think you can just paint a brush across that and say that is what is happening and that you are going to get blamed for passing this bill. The legislature has maintained all of the minimum salaries for all of the elected officials, primarily the legislature and the organization recognizes that there needs

to be some protection from individuals who might be treated poorly, because they didn't want them to run for office and they got elected and so they are not going to adjust there salary to a great degree. Hopefully they will quit and somebody else will run.

**Rep. Kasper:** Mark your answer just verified my concern that the salaries of a 3 per cent raise send ripples through the court house and therefore they need the law so they can point to it as an excuse. Do county commissioners, when they take an oath of office, do they take an oath when they are elected to uphold the anything, or do they just show up and there are seated.

**Mark:** I believe they do when they are first seated to the commission.

**Rep. Kasper:** Therefore they are sworn in like we are to uphold the state constitution and so what is going on is they are not upholding the duties of there job. They are looking for a scape goat, instead of doing what they are suppose to do when they are elected by the people. If they can't find proper people, that ought to pay more, that is plain and simple. Why are we suppose to be the ones who make you enforce what you do at the county level, anyway.

**Mark:** The only reason we are here really asking for this is because this hasn't been changed for many, many, many years, it has been sitting there and does tend to allow county boards to put people to work at the minimum, if they are willing to go to work and we are also trying to adjust the quality and compensation for states attorneys, however you want to interpret that.

**Rep. Kasper:** I think you know how I interpret that.

**Rep. Conrad:** The laws that the states attorneys are prosecuting are the laws that the legislative passed.

**Mark:** Primarily.

**Rep. Conrad:** They are not county commission laws, they are state legislator laws, so if we want are laws properly prosecuted, we have an investment in making sure they are well qualified people.

**Mark:** Rep. Conrad, I think that is well put.

**Rep. Sitte:** I think one of our biggest concerns was the little county, where someone told us there are 747 people. When we are looking at your proposed increases over the next two years 6034 dollars, that is almost ten dollars per person. We have a farm family out there with three children, that is a fifty dollar increase, just for the states attorney. It is an unfunded mandate on people of slope county, when there is very little need. We want states attorney to make a living. We think it is a matter of local control.

**Rep. Klemin:** As I understand the duties of the states attorney in the counties, they have a lot of other duties that are related in advising the other county commissioners and other county officials on various things. They handle a lot of civil matters for the county, so even county with a small population you are going to have all of those things going on, regardless of the amount time spent prosecuting criminal cases, would that be correct?

**Mark:** That would be correct, they go back and forth between civil and criminal.

**Rep. Klemin:** If you have a higher floor established here, wouldn't the counties be able to maybe attract a little more qualified person, than a brand new graduate?

**Rep. Boehning:** We have counties that are sharing states attorney, do they both have to pay the states attorney a minimum salary or can they work some other type of deal.

**Mark:** They can share the states attorneys and share the salaries and still meet the requirements.

**Chairman Haas:** It could be any pro rata amount that they agree upon, based on work load.



**Rep. Galvin:** Can these attorneys have a private practice as well as doing this job?

**Mark:** The part time states attorneys can maintain private practice, that is why the salaries are half. It is a good system, because it keeps attorneys in the smaller communities.

**Rep. Froseth:** Under the tool chest, they can hire an attorney from an attorney pool. Are any counties using that and if they are, how are they paying them, on a retainer or how?

**Mark:** I don't know any counties that are doing that.

**Chairman Haas:** Are there further questions for Mark, if there are no further questions, thank you very much Mark. Senator Tollefson welcome, we haven't reopened the hearing, but I will give you a very brief comment.

**Senator Ben Tollefson-District 38-**I feel bad about not being at your first hearing, I was out of state. We haven't looked at the states attorneys wage since 1980, that is where this proposal came from. I think it is about time we look at this.

**Chairman Haas:** Thank you Senator Tollefson. We have the amendment before us, what is the committees wishes? Rep. Klemin moves the amendment, seconded my Rep. Potter. Any further discussion on the amendment, if not I am going to ask the clerk to take a roll call vote.

**VOTE: 11 NO 3 ABSENT 0 The amendment passes by a vote of 11-3-0**

Rep. Klemin moves a DO PASS AS AMENDED, is there a second, seconded by Rep. Potter, is there any further discussion on a DO PASS as AMENDED on SB 2370, if not we will ask the clerk to take a roll call vote on that DO PASS motion.

**VOTE: YES 8 NO 6 ABSENT 0 DO PASS AS AMENDED ON SB 2370**

**REP. KLEMIN WILL CARRY THE BILL.**

FAILS

Date: 3/10/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2370

House House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do Pass

Motion Made By

Rep. Klemin

Seconded By

Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman		✓	Rep. Kari Conrad		AB
Rep. Randy Boehning		✓	Rep. Louise Potter	✓	
Rep. Glen Froseth		✓	Rep. Sally M. Sandvig		✓
Rep. Pat Galvin		✓			
Rep. Stacey Horter		✓			
Rep. Jim Kasper		✓			
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier		✓			
Rep. Margaret Sitte		✓			

Total

(Yes)

9

No

4

Absent

1

Floor Assignment \_\_\_\_\_

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

Date: 3/10/05  
Roll Call Vote #: 2

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2370**

House House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do Not Pass

Motion Made By

Rep. Kasper

Seconded By

Rep. Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas		✓	Rep. Bill Amerman		✓
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad		AB
Rep. Randy Boehning	✓		Rep. Louise Potter		✓
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin		✓			
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total

(Yes)

9

No

4

Absent

1

Floor Assignment

Rep. Kasper

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

**REPORT OF STANDING COMMITTEE (410)**  
March 10, 2005 10:51 a.m.

**Module No: HR-44-4615**  
**Carrier: Kasper**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2370, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2370 was placed on the Fourteenth order on the calendar.**

Date: 3/17/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2370

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken \_\_\_\_\_

Motion Made By Rep. Klemin Seconded By Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman		✓	Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper		✓			
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier		✓			
Rep. Margaret Sitte	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment \_\_\_\_\_

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

Reconsider the bill  
Klemin moved to hear SB2370  
Boehning - seconded  
voice vote PASSED

Klemin moves the amendment  
Potter - seconded

Date: 3/17/05  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2370

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50801.0201

Action Taken Do Pass As Amended

Motion Made By Rep. Klemin Seconded By Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman		✓	Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth		✓	Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter		✓			
Rep. Jim Kasper		✓			
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier		✓			
Rep. Margaret Sitte		✓			

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Klemin

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

**REPORT OF STANDING COMMITTEE**

SB 2370, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2370 was placed on the Sixth order on the calendar.

Page 1, line 2, after "attorneys" insert "; and to provide an effective date"

Page 1, line 10, replace "sixty-five" with "fifty-six"

Page 1, line 13, replace "twenty-eight" with "twenty-four" and after "thousand" insert "five hundred seventy-five"

Page 1, after line 13, insert:

**"SECTION 2. AMENDMENT.** Subsection 6 of section 11-10-10 of the North Dakota Century Code is amended and reenacted as follows:

6. A state's attorney in a county having a population exceeding thirty-five thousand, or in a county in which the board of county commissioners has determined by resolution that the state's attorney must be full time and may not be an attorney or counsel for any party except the state or county, is entitled to receive a minimum salary of ~~thirty-six~~ sixty-five thousand dollars. A state's attorney not considered full time is entitled to an annual salary of at least ~~twenty-four~~ twenty-eight thousand ~~five hundred seventy-five~~ dollars.

**SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on January 1, 2006, and section 2 of this Act becomes effective on January 1, 2007."

Renumber accordingly

TESTIMONY

SB 2370



Testimony SB 2370  
Senator Harvey Tallackson

MADAM ~~Mr.~~ Chairman, members of the Government and Veterans Affairs  
Committee,

SB 2370 changes the minimum salary of county full-time state's  
attorneys from the present \$47,000 to \$65,000.

It's been nearly 20 years since this was looked at. As I recall, the  
state's attorneys' salaries were considered along with district  
judges'. Along the way this was separated, and the judges were  
considered with the Supreme Court.

We have continued to increase the salaries of district judges each  
session but have neglected to increase the minimum salary of a  
full-time state's attorney. It's difficult to get full-time attorneys to  
give up their practice for a full-time state's attorney job and not be  
compensated at a fair rate.

I ask the committee to set a realistic minimum salary for full-time  
state's attorneys.

Please give SB 2370 a "do pass".

- a. Twenty-one thousand nine hundred dollars in counties having a population of less than eight thousand.
  - b. Twenty-two thousand nine hundred dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for in this subsection within the limitations contained in this subdivision.
6. An elected state's attorney in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney must be full time and may not be an attorney or counsel for any party except the state or county, is entitled to receive a minimum salary of forty-seven thousand dollars. State's attorneys not considered full time are entitled to an annual salary of at least forty-five percent of the minimum salary paid to a full-time state's attorney.

**Source:** Pol. C. 1877, ch. 39, § 24; S.L. 1890, ch. 50, § 1; 1890, ch. 63, § 33; 1891, ch. 52, §§ 1, 3; 1891, ch. 53, § 1; 1893, ch. 58, § 1; R.C. 1895, §§ 652, 2058, 2060, 2061, 2068, 2073, 2075, 2080, 2095; S.L. 1897, ch. 75; 1899, ch. 56, § 1; 1899, ch. 64, § 1; 1899, ch. 67, § 1; 1899, ch. 68, § 1; 1899, ch. 132, § 1; 1899, ch. 149, § 1; R.C. 1899, §§ 652, 2058, 2060, 2061, 2068, 2073, 2075, 2080, 2095; S.L. 1901, ch. 53, § 1; 1903, ch. 88, § 1; 1905, ch. 100, § 2; R.C. 1905, §§ 777, 2578 to 2580, 2586, 2592, 2594, 2598, 2613; S.L. 1907, ch. 70, § 1; 1907, ch. 74, § 1; 1907, ch. 75, § 1; 1907, ch. 105, § 1; 1909, ch. 68, § 1; 1909, ch. 104, § 1; 1911, ch. 119, § 1; 1911, ch. 218, § 1; 1911, ch. 266, § 34; 1911, ch. 275, § 1; C.L. 1913, §§ 1137, 3492 to 3494, 3500, 3506, 3508, 3512, 3520, 3533; S.L. 1915, ch. 104, § 1; 1915, ch. 112, §§ 1 to 7; 1919, ch. 105, § 1; 1921, ch. 48, § 1; 1921, ch. 52, §§ 1, 2; 1925 Supp., §§ 1137, 3533, 3551a1, 3551a2; S.L. 1927, ch. 114, § 1; 1927, ch. 115, §§ 1, 2; 1929, ch. 108, §§ 1 to 3; 1931, ch. 117, § 1; I.M. June 29, 1932, §§ 1 to 6, S.L. 1933, p. 497; 1943, ch. 113, §§ 1 to 4; R.C. 1943, § 11-1010; S.L. 1945, ch. 159, § 1; 1947, ch. 127, § 1; 1953, ch. 111, § 1; 1955, ch. 110, §§ 1, 2; 1955, ch. 111, § 1; 1957, ch. 108, § 1; 1957 Supp., § 11-1010; S.L. 1959, ch. 121, § 1; 1961, ch. 123, § 1; 1965, ch. 99, § 1; 1967, ch. 99, § 1; 1969, ch. 129, § 1; 1971, ch. 118, § 1; 1971, ch. 119, § 1; 1973, ch. 87, § 2; 1975, ch. 87, §§ 1, 2; 1975, ch. 88, § 1; 1975, ch. 89, § 1; 1977, ch. 88, §§ 1 to 3; 1977, ch. 100, § 1; 1979, ch. 157, § 1; 1979, ch. 158,

§§ 1, 2; 1979, ch. 159, § 1; 1981, ch. 137, § 1; 1981, ch. 138, § 1; 1981, ch. 139, § 1; 1981, ch. 320, § 14; 1983, ch. 82, § 9; 1985, ch. 154, § 1; 1985, ch. 155 § 1; 1985, ch. 156, § 1; 1989, ch. 69, § 4; 1989, ch. 138, § 3; 1989, ch. 139, § 1; 1991, ch. 104, § 1; 1991, ch. 326, § 13; 1999, ch. 99, § 1; 1999, ch. 278, §§ 10, 11; 2001, ch. 120, § 1.

#### Effective Date.

The 1999 amendment of this section by section 1 of chapter 99, S.L. 1999 became effective January 1, 2000, pursuant to section 4 of chapter 99, S.L. 1999.

The 1999 amendment of this section by section 10 of chapter 278, S.L. 1999 became effective August 1, 1999.

The 1999 amendment of this section by section 11 of chapter 278, S.L. 1999 became effective August 1, 1999.

#### Cross-References.

Coroner, fees to be charged, see § 11-19-23.

County surveyor, compensation, see § 11-10-02.1.

Public administrator, compensation, see § 11-21-08.

#### Clerk of District Court.

Fee collected from each applicant for a driver's license may be retained by clerk of district court. In re Peschel, 72 N.D. 14, 4 N.W.2d 194 (1942).

#### County Auditor.

Fees for certifying to abstracts or deeds are required to be accounted for by the county

2370  
Richard  
Rich

PROPOSED AMENDMENTS TO SENATE BILL NO. 2370

Page 1, line 6, remove "full-time" and remove the overstrike over "~~in counties having a population exceeding~~"

Page 1 remove the overstrike over line 7 and 8

Page 1, line 9, remove the overstrike "~~not to be an attorney or counsel for any party except the state or county,~~"

Page 1, line 9, overstrike "is entitled to" and insert immediately thereafter "shall"

Page 1, line 10, overstrike "a" and insert immediately thereafter "an annual" and after "of" insert "at least"

Page 1, line 11, remove "is" overstrike "entitled to" and insert immediately thereafter "shall receive"

Page 1, line 12, remove the overstrike over "~~at least~~"

Renumber accordingly

---

Engrossed with the amendment above, subsection 6 of section 11-10-10 would read as follows:

6. ~~An elected~~ A state's attorney in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney must be full time and may not be an attorney or counsel for any party except the state or county, ~~is entitled to~~ shall receive ~~a minimum~~ an annual salary of ~~at least forty-seven~~ at least sixty-five thousand dollars. ~~State's attorneys~~ A state's attorney not considered full time are ~~entitled to~~ shall receive an annual salary of at least ~~forty-five percent of the~~ minimum salary paid to a full-time state's attorney twenty-eight thousand dollars.

**Fiscal Effect of Legislation to Update State's Attorney Salary Minimums  
Based on 2004 Survey Data**

County	Full Time Salary 2004	Difference from Proposed	Part-Time Salary 2004	Difference from Proposed
Adams			\$26,600	\$1,400
Barnes	\$61,788	\$3,212		
Benson			\$28,384	\$0
Billings			\$35,355	\$0
Bottineau			\$33,225	\$0
Bowman			\$26,196	\$1,804
Burke			\$27,309	\$691
Burleigh	\$74,556	\$0		
Cass	\$90,780	\$0		
Cavalier			\$32,376	\$0
Dickey			\$32,724	\$0
Divide			\$30,179	\$0
Dunn			\$32,004	\$0
Eddy			\$29,580	\$0
Emmons			\$33,140	\$0
Foster			\$24,840	\$3,160
Golden Valley			\$30,156	\$0
Grand Forks	\$79,848	\$0		
Grant			\$30,000	\$0
Hettinger			\$32,098	\$0
Kidder			\$24,330	\$3,670
LaMoure			\$33,582	\$0
Logan			\$24,924	\$3,076
McHenry			\$27,900	\$100
McIntosh			\$27,794	\$206
McKenzie			\$31,150	\$0
McLean	\$54,389	\$10,611		
Mercer	\$63,182	\$1,818		
Morton	\$68,920	\$0		
Mountrail			\$38,208	\$0
Nelson			\$29,602	\$0
Oliver			\$31,322	\$0
Pembina	\$53,358	\$11,642		
Pierce			\$27,192	\$808
Ramsey	\$57,303	\$7,697		
Ransom			\$24,000	\$4,000
Renville			\$29,304	\$0
Richland	\$72,654	\$0		
Rolette	\$54,960	\$10,040		
Sargent			\$42,804	\$0
Sheridan			\$22,850	\$5,150
Sioux			\$24,105	\$3,895
Slope			\$21,996	\$6,004
Stark	\$60,228	\$4,772		
Steele			\$22,800	\$5,200
Stutsman	\$59,652	\$5,348		
Towner			\$25,742	\$2,258
Trail			\$33,207	\$0
Walsh	\$50,208	\$14,792		
Ward	\$70,200	\$0		
Wells			\$35,250	\$0
Williams	\$47,700	\$17,300		
Est. Statewide Impact of Bill *		\$87,232	\$41,423	

Statutory Minimum	\$47,000	\$21,150
Current Lowest	\$47,700	\$21,996
Current Highest	\$90,780	\$42,804
Current Average	\$63,733	\$29,506
Proposed Minimum	\$65,000	\$28,000

\* Undoubtedly some salaries have changed since January 2004 - making the impact somewhat less.

#2370  
SB2370

Senate Government and Veteran Affairs Committee  
Sharon W. Martens, Walsh County State's Attorney  
February 4, 2005

---

I am Sharon Martens. I was elected State's Attorney in Walsh County in 2002. In Walsh County (Grafton), that is a full-time position. I graduated from law school later in life and worked in a firm in Park River, ND for a couple of years and then joined a Grafton firm where I was a partner when I left. I worked primarily in the areas of family law and criminal defense. I have been a licensed attorney in North Dakota for 17+ years.

I am here because of §11-10-10 (6) of the N.D.C.C. enacted a number of years ago (on or about 1987) which sets out a salary for State's Attorneys. The gentlemen ahead of me have proposed an appropriate amendment which would establish a base of \$65,000 for full-time State's Attorneys and \$28,000 for part-time State's Attorneys. At present, using 2003 data, there were fourteen counties which by themselves maintained a full-time State's Attorney. Of the fourteen counties, again using 2003 data, ten counties were paying their State's Attorney less than \$65,000 per year. Walsh County is one of them.

There are reasons why you should raise that number:

1. The base in the statute is used as just that---a base. Many counties do not have a Human Relations Department and depend on the statute for guidance. If the guidance is out-of-date, then it follows that commissioners will be misled and the pay inequity just continues. Commissioners in some counties have had the opportunity to make changes and have chosen not to do so because the statute is there and they can, in the phraseology of my Norwegian mother, "just get by."

2. There is a push in the legislature this year to address indigent defense. State's Attorneys work closely with defense attorneys whether they are contract public

defenders or privately retained lawyers. It is appropriate that indigent defense be examined, addressed, and revised. Likewise, the situation of State's Attorneys should also be looked at or we will fall even farther behind than we are now.

3. The workload of the office has grown since 1987. All of you have heard about what is sometimes called "the methamphetamine epidemic." It is real and it is here. Walsh County has a population of about 12,000. In 2002 Walsh County had a total of five meth related cases including possession, possession with intent to distribute, and possession of meth related drug paraphernalia. In 2003 that number increased to fifty-eight cases. This past year, 2004, the number was one hundred five cases. Half of those were possession or possession with intent to distribute. In addition, the office dealt with over one hundred additional felony cases as well as five hundred misdemeanor cases. The office also handles juvenile deprivation and unruliness matters, mental health commitments, parental terminations, a small number of child support claims, and civil work for the county. We do that with one and three-fourths full-time equivalent attorneys.

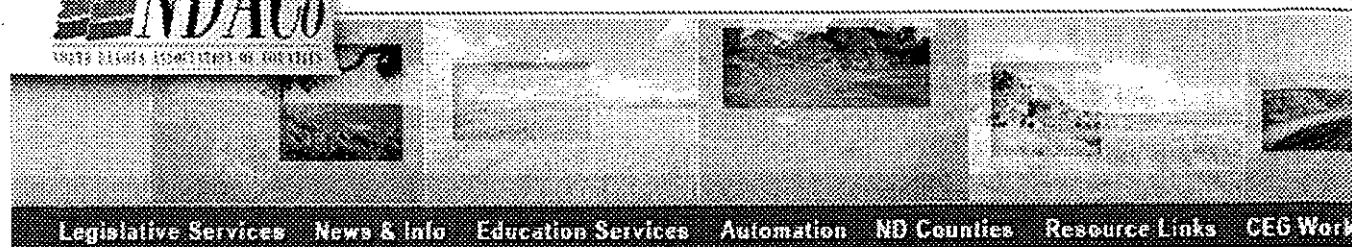
The question has to arise: "So, if you don't like the pay, why are you doing the job?" That's a fair question. The response that someone has to do it begs the question. Instead the answer probably comes closer to the fact that there area number of attorneys who believe in the legal system and want to make it work. Many of those attorneys are prosecutors. Making a lot of money is not a priority, but making a living salary is.

It all boils down to an issue of fairness which is many times sacrificed on the altar of saving money. We do not save by allowing an out-of date salary to be paid to State's Attorneys. Ultimately, we will lose. It is hard to keep attorneys in the system now with many offices being a mere training ground for larger offices. If the base now in place

remains, that trend will continue because the base sets the pay for most of the assistant state's attorneys as well.

It is hard to ask for help, but I am. I am also asking for your support to amend §11-10-10(6) and bring it up-to-date to provide a living wage for state's attorneys in North Dakota.

Thank you.



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## County Salary Survey Reports

### 04 Salary & Staffing Survey - Salary and Position Information

Please choose one of the following display options:

1. ☐ View data for all positions in **Walsh** County.

2. ☒ View data for the **State's Attorney**  
Department in all counties by **State's Attorney** Position.

Sort the data ☒ alphabetically or by ☐ population?

[View Data](#)

### State's Attorney 2003 data

✓ = county with FT  
State's Attorney

⊗ = county paying  
less than \$65,000  
per year

County	Population	FT Salary	FT Paid	PT Salary	PT Paid	Combined With
Adams	2,476	\$0.00		\$2,216.66	M	
Barnes	11,245	\$5,149.00	M	\$0.00		
Benson	6,899	\$0.00		\$2,365.32	M	
Billings	842	\$2,946.29	M	\$0.00		
Bottineau	6,880	\$0.00		\$2,768.75	M	
Bowman	3,130	\$0.00		\$2,183.00	M	
Burke	2,143	\$2,275.75	M	\$0.00		
✓ Burleigh	71,080	\$6,213.00	M	\$0.00		
✓ Cass	125,117	\$7,565.00	M	\$0.00		
Cavalier	4,559	\$0.00		\$2,698.00	M	
Dickey	5,515	\$0.00		\$2,727.00	M	
Divide	2,183	\$0.00		\$2,514.92	M	
Dunn	3,542	\$0.00		\$2,667.00	M	



	<b>Eddy</b>	2,629	\$0.00		\$2,465.00	M	
	<b>Emmons</b>	4,105	\$0.00		\$2,761.67	M	
	<b>Foster</b>	3,604	\$0.00		\$2,070.00	M	
	<b>Golden Valley</b>	1,834	\$0.00		\$2,513.00	M	
✓	<b>Grand Forks</b>	64,920	\$6,654.00	M	\$0.00		
	<b>Grant</b>	2,695	\$2,500.00	M	\$0.00		
	<b>Hettinger</b>	2,600	\$2,674.83	M	\$0.00		
	<b>Kidder</b>	2,579	\$0.00		\$2,027.50	M	
	<b>LaMoure</b>	4,511	\$0.00		\$2,798.54	M	
	<b>Logan</b>	2,181	\$2,077.50	M	\$0.00		
	<b>McHenry</b>	5,694	\$0.00		\$2,325.00	M	
	<b>McIntosh</b>	3,258	\$0.00		\$2,316.15	M	
	<b>McKenzie</b>	5,708	\$0.00		\$2,595.84	M	
⊗	<b>McLean</b>	9,007	\$4,532.43	M	\$0.00		
⊗	<b>Mercer</b>	8,542	\$5,265.17	M	\$0.00		
✓	<b>Morton</b>	25,269	\$5,743.33	M	\$0.00		
	<b>Mountrail</b>	6,522	\$3,184.00	M	\$0.00		
	<b>Nelson</b>	3,399	\$2,466.83	M	\$0.00		
	<b>Oliver</b>	1,911	\$2,610.17	M	\$0.00		
⊗	<b>Pembina</b>	8,270	\$4,446.51	M	\$0.00		
	<b>Pierce</b>	4,531	\$0.00		\$2,265.97	M	
⊗	<b>Ramsey</b>	11,754	\$4,775.22	M	\$0.00		
	<b>Ransom</b>	5,794	\$2,000.00	M	\$0.00		
	<b>Renville</b>	2,546	\$2,442.00	M	\$0.00		
✓	<b>Richland</b>	17,569	\$6,054.54	M	\$0.00		
⊗	<b>Rolette</b>	13,802	\$4,580.00	M	\$0.00		
	<b>Sargent</b>	4,250	\$0.00		\$3,567.00	M	
	<b>Sheridan</b>	1,561	\$0.00		\$1,904.17	M	
	<b>Sioux</b>	4,152	\$0.00		\$2,008.72	M	
	<b>Slope</b>	747	\$1,833.00	M	\$0.00		
⊗	<b>Stark</b>	22,147	\$5,018.97	M	\$0.00		
	<b>Steele</b>	2,093	\$0.00		\$1,900.00	M	
⊗	<b>Stutsman</b>	21,249	\$4,971.00	M	\$0.00		
	<b>Towner</b>	2,728	\$0.00		\$2,145.19	M	
	<b>Traill</b>	8,259	\$0.00		\$2,767.27	M	
⊗	<b>Walsh</b>	11,979	\$4,184.00	M	\$0.00		

✓	<b>Ward</b>	57,128	\$5,850.00	M	\$0.00		
	<b>Wells</b>	4,826	\$0.00		\$2,937.50	M	
✓	<b>Williams</b>	19,545	\$3,975.00	M	\$0.00		
Population data is as of July 2000 estimates.							
H=hourly M=monthly							
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SB2370

House Government and Veteran Affairs Committee  
Sharon W. Martens, Walsh County State's Attorney  
March 4, 2005

---

I am Sharon Martens. I was elected State's Attorney in Walsh County in 2002. In Walsh County (Grafton), that is a full-time position. I graduated from law school later in life and worked in a firm in Park River, ND for a couple of years and then joined a Grafton firm where I was a partner when I left. I worked primarily in the areas of family law and criminal defense. I have been a licensed attorney in North Dakota for 17+ years.

I am here because of §11-10-10 (6) of the N.D.C.C. enacted a number of years ago (on or about 1987) which sets out a salary for State's Attorneys. The Senate Government and Veteran Affairs Committee amended the originally submitted bill to conform with the current statute but for the salary amount. The whole Senate approved the bill which would establish a base of \$65,000 for full-time State's Attorneys and \$28,000 for part-time State's Attorneys. At present, using 2003 data, there were fourteen counties which by themselves maintained a full-time State's Attorney. Of the fourteen counties, again using 2003 data, ten counties were paying their State's Attorney less than \$65,000 per year. Walsh County is one of them.

There are reasons why you should raise that number:

1. The base in the statute is used as just that—a base. Many counties do not have a Human Relations Department and depend on the statute for guidance. If the guidance is out-of-date, then it follows that commissioners will be misled and the pay inequity just continues. Commissioners in some counties have had the opportunity to make changes and have chosen not to do so because the statute is there and they can, in the phraseology of my Norwegian mother, "just get by."

2. There is a push in the legislature this year to address indigent defense. State's Attorneys work closely with defense attorneys whether they are contract public defenders or privately retained lawyers. It is appropriate that indigent defense be examined, addressed, and revised. Likewise, the situation of State's Attorneys should also be looked at or we will fall even farther behind than we are now.

3. The workload of the office has grown since 1987. All of you have heard about what is sometimes called "the methamphetamine epidemic." It is real and it is here. Walsh County has a population of about 12,000. In 2002 Walsh County had a total of five meth related cases including possession, possession with intent to distribute, and possession of meth related drug paraphernalia. In 2003 that number increased to fifty-eight cases. This past year, 2004, the number was one hundred five cases. Half of those were possession or possession with intent to distribute. In addition, the office dealt with over one hundred additional felony cases as well as five hundred misdemeanor cases. The office also handles juvenile deprivation and unruliness matters, mental health commitments, parental terminations, a small number of child support claims, and civil work for the county. We do that with one and three-fourths full-time equivalent attorneys.

The question has to arise: "So, if you don't like the pay, why are you doing the job?" That's a fair question. The response that someone has to do it begs the question. Instead the answer probably comes closer to the fact that there area number of attorneys who believe in the legal system and want to make it work. Many of those attorneys are prosecutors. Making a lot of money is not a priority, but making a living salary is.

It all boils down to an issue of fairness which is many times sacrificed on the altar of saving money. We do not save by allowing an out-of date salary to be paid to State's

Attorneys. Ultimately, we will lose. It is hard to keep attorneys in the system now with many offices being a mere training ground for larger offices. If the base now in place remains, that trend will continue because the base sets the pay for most of the assistant state's attorneys as well.

.. It is hard to ask for help, but I am. I am also asking for your support to amend §11-10-10(6) and bring it up-to-date to provide a living wage for state's attorneys in North Dakota.

Thank you.

**Testimony To The  
HOUSE GOVERNMENT & VETERAN AFFAIRS COMMITTEE  
Prepared March 17, 2005 by the  
Mark A. Johnson, CAE  
NDACo Executive Director**

**CONCERNING ENGROSSED SENATE BILL 2370**

Thank you Mr. Chairman for the request to provide additional information on the salaries of County State's Attorneys. Information provided to the committee earlier was based on CY2004 salaries. A quick survey was conducted to update the salaries, particularly in those counties that had an apparent impact. It was found that 14 of the "impacted" counties had granted some sort of raise in 2005, reducing the statewide impact of the new proposed minimums by about \$10,000 overall.

Proposed amendments to the bill eliminate the impact of the bill in the middle of the counties' budget year, and further spread out the impact over two years. The attached table contrasts the current salaries with the minimums proposed by those amendments.

As requested by committee members, individual commissioners from most of the counties with the larger impacts were contacted about this bill at the recent county officials' "prep" school. Particularly, commissioners from Stutsman, McLean, Walsh, Benson, and Williams Counties were polled. Collectively, they agreed that attracting and retaining qualified State's Attorneys was important, and the adjustments proposed is not something that they would oppose.

Mr. Chairman, I would be pleased to try to answer any questions that you may have.

**State's Attorney Salary Analysis**  
**CY2005 Annual Salaries and Proposed Amendments to SB2370**

<u>County</u>	<u>Annual</u>	<u>2006</u>	<u>2007</u>
<u>Classified as Full-Time</u>	<u>Salary</u>	<u>Increase</u>	<u>Increase</u>
Grand Forks County	93,480	-	-
Cass County *	90,780	-	-
Burleigh County	78,288	-	-
Richland County *	72,654	-	-
Ward County *	70,200	-	-
Morton County *	68,920	-	-
Mercer County	65,078	-	-
Barnes County	63,088	-	1,912
Stutsman County	60,840	-	4,160
Stark County	60,000	-	5,000
Ramsey County	57,780	-	7,220
Rolette County	55,860	140	9,000
McLean County	55,000	1,000	9,000
Pembina County	53,958	2,042	9,000
Walsh County	51,714	4,286	9,000
Williams County	48,400	7,600	9,000
<b>Classified as Part-Time</b>			
Steele County	Use Law Firm by Contract		
Sargent County	40,000	-	-
Mountrail County	39,000	-	-
Billings County	36,273	-	-
Wells County	35,925	-	-
Hettinger County	35,700	-	-
LaMoure County	34,900	-	-
Bottineau County	34,793	-	-
Cavalier County	33,672	-	-
Traill County *	33,207	-	-
Emmons County *	33,140	-	-
Dickey County *	32,724	-	-
Dunn County *	32,004	-	-
Oliver County *	31,322	-	-
McKenzie County *	31,150	-	-
Grant County	30,500	-	-
Renville County	30,192	-	-
Eddy County	30,180	-	-
Divide County *	30,179	-	-
McIntosh County	30,000	-	-
Nelson County *	29,602	-	-
Golden Valley County	28,356	-	-
Pierce County	28,204	-	-
Adams County	27,800	-	200
Bowman County	27,400	-	600
Griggs County	26,928	-	1,072
Burke County	26,400	-	1,600
Towner County	26,042	-	1,958
Foster County	25,585	-	2,415
Logan County	25,530	-	2,470
Benson County	25,000	-	3,000
Ransom County	24,898	-	3,102
Sioux County*	24,105	470	3,425
McHenry County	24,060	515	3,425
Sheridan County	23,150	1,425	3,425
Slope County	21,966	2,609	3,425
Kidder County	21,220	3,355	3,425

\* 2004 Salary used where 2005 was unavailable

**Fiscal Effect of Legislation to Update State's Attorney Salary Minimums**  
Based on 2004 Survey Data

SB 2370

County	Full Time Salary 2004	Difference from Proposed (Annual)	Part-Time Salary 2004	Difference from Proposed (Annual)
Adams			\$26,600	\$1,400
Barnes	\$61,788	\$3,212		
Benson			\$28,384	\$0
Billings			\$35,355	\$0
Bottineau			\$33,225	\$0
Bowman			\$26,196	\$1,804
Burke			\$27,309	\$691
Burleigh	\$74,556	\$0		
Cass	\$90,780	\$0		
Cavalier			\$32,376	\$0
Dickey			\$32,724	\$0
Divide			\$30,179	\$0
Dunn			\$32,004	\$0
Eddy			\$29,580	\$0
Emmons			\$33,140	\$0
Foster			\$24,840	\$3,160
Golden Valley			\$30,156	\$0
Grand Forks	\$79,848	\$0		
Grant			\$30,000	\$0
Hettinger			\$32,098	\$0
Kidder			\$24,330	\$3,670
LaMoure			\$33,582	\$0
Logan			\$24,924	\$3,076
McHenry			\$27,900	\$100
McIntosh			\$27,794	\$206
McKenzie			\$31,150	\$0
McLean	\$54,389	\$10,611		
Mercer	\$63,182	\$1,818		
Morton	\$68,920	\$0		
Mountrail			\$38,208	\$0
Nelson			\$29,602	\$0
Oliver			\$31,322	\$0
Pembina	\$53,358	\$11,642		
Pierce			\$27,192	\$808
Ramsey	\$57,303	\$7,697		
Ransom			\$24,000	\$4,000
Renville			\$29,304	\$0
Richland	\$72,654	\$0		
Rolette	\$54,960	\$10,040		
Sargent			\$42,804	\$0
Sheridan			\$22,850	\$5,150
Sioux			\$24,105	\$3,895
Slope			\$21,996	\$6,004
Stark	\$60,228	\$4,772		
Steele			\$22,800	\$5,200
Stutsman	\$59,652	\$5,348		
Towner			\$25,742	\$2,258
Traill			\$33,207	\$0
Walsh	\$50,208	\$14,792		
Ward	\$70,200	\$0		
Wells			\$35,250	\$0
Williams	\$47,700	\$17,300		
Est. Statewide Impact of Bill *		\$87,232	\$41,423	

Statutory Minimum	\$47,000	\$21,150
Current Lowest	\$47,700	\$21,996
Current Highest	\$90,780	\$42,804
Current Average	\$63,733	\$29,506
Proposed Minimum	\$65,000	\$28,000

\* Undoubtedly some salaries have changed since January 2004 - making the impact somewhat less.