

2013 SENATE JUDICIARY

SB 2303

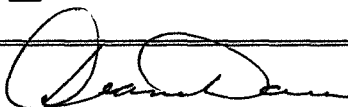
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2303
1/29/2013
Job #17922

☐ Conference Committee

Committee Clerk Signature



Minutes:

Attached testimony

Relating to the definition of human being and the application of sections in chapter 12.1-16 to certain medical procedures

Senator David Hogue - Chairman

Senator Oley Larsen - See written testimony. He submits amendments. (1)

Gualberto Garcia Jones - Attorney for Personhood USA - See written testimony (2)

Tim Lindgren - Director of ND Life League - In support of the bill

Bill Schuh - Private citizen - He comments on the definition of a human person.

Sharon Carlson - Fargo, ND - In support - She relates her personal experience with adoption.

Opposition

Renee Stromme - Executive Director of the ND Women's Network - See written testimony (3)

Janelle Moos - Written testimony handed in

Closed the hearing on 2303

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2303
2/4/2013
Job #18243

☐ Conference Committee

Committee Clerk Signature



Minutes:

Senator David Hogue - Chairman

Committee work

Senator Sitte proposes an amendment saying that it returns the bill to the way it was last session except there was a rape incest exception added to the bill. She explains the language in the amendment.

Committee will act on the amendment tomorrow during discussion.

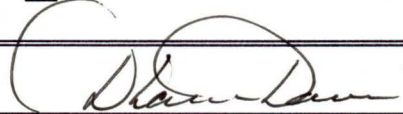
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2303
2/5/2013
Job #18329

☐ Conference Committee

Committee Clerk Signature



Minutes:

Vote

Senator David Hogue - Chairman

Committee work

Senator Sitte moves the amendment she proposed 13.8250.02001
Senator Berry seconded

Discussion

Senator Sitte said she has been asked by many Senators to vote on the bill as it was in the last session. She explains the language of the amendment and goes line by line in the bill. Senator Grabinger comments that he believes this is an area that we have no business being in. He relates his personal story dealing with IVF. He thinks this stop people from being able to have a family. Senator Sitte argues that is not true and says that last session she sat with the doctors from Fargo and they agreed that there is nothing that will affect their IVF. Senator Grabinger argues that point. Senator Lyson said he will also vote no.

Vote on the amendment (1)

5 yes, 2 no

Amendment passes

Senator Sitte moves a do pass as amended
Senator Berry seconded

Vote on the bill

3 yes, 4 no

Motion fails

Vote on the bill

Senator Grabinger moves a do not pass

Senator Nelson seconded

4 yes, 3 no

Motion passes

Senator Grabinger will carry

FISCAL NOTE
Requested by Legislative Council
02/04/2013

Bill/Resolution No.: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$60,000	\$0	\$0	\$0
Appropriations	\$0	\$0	\$60,000	\$0	\$0	\$0

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

This bill defines a person as a member of the homo sapiens species at every stage of development, making it a crime for someone to perform an abortion except in medical emergencies.

- 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.*

Since the bill defines a person as a member of the homo sapiens species at every stage of development, under NDCC 12.1-16-06, the penalty for performing an abortion, except in medical emergencies, ranges from a class AA felony to a class C felony. Under NDCC 12.1-17-01 through 12.1-17-03, the penalty for performing an abortion, except in medical emergencies, ranges from a class B misdemeanor to a class C felony. In the event this bill, if it becomes law, is challenged, the state may need to reimburse the challenging party if they prevail in the lawsuit.

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.*

Not applicable

- 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.*

If this bill is passed and legally challenged and the challenging party prevails in a lawsuit, the Office of Attorney General would need to reimburse the party for attorney's fees and costs. At this time, the Office of Attorney General estimates the general fund cost for this purpose will be \$60,000.

- 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.*

If this bill is passed and legally challenged and the challenging party prevails in a lawsuit, the Office of Attorney General would need to reimburse the party for attorney's fees and costs. At this time, the Office of Attorney General estimates the general fund cost for this purpose will be \$60,000.

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 02/05/2013

February 1, 2013

13
2-5-13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2303

Page 5, line 11, remove "A medical emergency which, in reasonable medical judgment, so complicates the"

Page 5, replace lines 12 through 19 with "Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person."

Page 5, line 20, after "b." insert "Medical treatment for life-threatening conditions of pregnancy.
c."

Page 5, line 23, replace "c." with "d."

Page 5, line 27, replace "d." with "e."

Page 5, line 30, replace "e." with "f."

Page 6, line 8, remove "A medical emergency that, in reasonable medical judgment, so complicates the"

Page 6, replace lines 9 through 16 with "Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person."

Page 6, line 17, after "b." insert "Medical treatment for life-threatening conditions of pregnancy.
c."

Page 6, line 20, replace "c." with "d."

Page 6, line 24, replace "d." with "e."

Page 6, line 27, replace "e." with "f."

Renumber accordingly

Date: 2/5/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8250.02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Sitte Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger		X
Senator Stanley Lyson	X		<u>Senator Hogue</u>	X	
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 5 No 2

Absent _____

Floor Assignment _____

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

Date: 2/5/13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S Sitte Seconded By S Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		<input checked="" type="checkbox"/>
Vice Chairman Margaret Sitte	<input checked="" type="checkbox"/>		Senator John Grabinger		<input checked="" type="checkbox"/>
Senator Stanley Lyson		<input checked="" type="checkbox"/>	<u>Senator Hogue</u>	<input checked="" type="checkbox"/>	
Senator Spencer Berry	<input checked="" type="checkbox"/>				
Senator Kelly Armstrong		<input checked="" type="checkbox"/>			

Total (Yes) 3 No 4

Absent _____

Floor Assignment Fails

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

Date: 4/5/13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Grabinger Seconded By S. Nelson

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson	<input checked="" type="checkbox"/>	
Vice Chairman Margaret Sitte		<input checked="" type="checkbox"/>	Senator John Grabinger	<input checked="" type="checkbox"/>	
Senator Stanley Lyson	<input checked="" type="checkbox"/>		<u>S. Hogue</u>		<input checked="" type="checkbox"/>
Senator Spencer Berry		<input checked="" type="checkbox"/>			
Senator Kelly Armstrong	<input checked="" type="checkbox"/>				

Total (Yes) 4 No 3

Absent _____

Floor Assignment Senator Grabinger

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

REPORT OF STANDING COMMITTEE

SB 2303: Judiciary Committee (Sen. Hogue, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2303 was placed on the Sixth order on the calendar.

Page 5, line 11, remove "A medical emergency which, in reasonable medical judgment, so complicates the"

Page 5, replace lines 12 through 19 with "Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person."

Page 5, line 20, after "b." insert "Medical treatment for life-threatening conditions of pregnancy."

c. "

Page 5, line 23, replace "c." with "d."

Page 5, line 27, replace "d." with "e."

Page 5, line 30, replace "e." with "f."

Page 6, line 8, remove "A medical emergency that, in reasonable medical judgment, so complicates the"

Page 6, replace lines 9 through 16 with "Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person."

Page 6, line 17, after "b." insert "Medical treatment for life-threatening conditions of pregnancy."

c. "

Page 6, line 20, replace "c." with "d."

Page 6, line 24, replace "d." with "e."

Page 6, line 27, replace "e." with "f."

Renumber accordingly

2013 SENATE APPROPRIATIONS

SB 2303

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2303
February 13, 2013
Job # 18886

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of human being and the application of sections in Chapter 12.1-16 to certain medical procedures; and to provide directives to the Department of Human Services regarding Medicaid and other coverage for pregnant women.

Minutes:

Testimony attached # 1-2.

Chairman Holmberg Opened the hearing on SB 2303. All committee members were present except **Senator Grindberg** who is in DC.

Chairman Holmberg: This bill was well discussed on the floor of the Senate, but in the process, they decided to amend the bill and in that process they wondered if there is a fiscal note. A fiscal note has been distributed to you. We are utilizing the 2nd Engrossment of the bill. You have all three in your book, but the 2nd one is after the Senate floor amendment. It is my hope that the committee will hear the testimony and the fiscal note and send the bill back up to the floor because anything we want to do as a committee would be redone on the floor anyway.

New Fiscal Note - attached #1

(3:10) Senator Oley Larson, District 3: Testified as prime sponsor and in favor of the bill. SB 2303 puts the definition of "human being" into the criminal code. The amendment that you have before you is kind of like picking up a burr on the way and we can do what we want. Initially, I did not support Senator Mathern's amendment to provide full health coverage for pregnant women and their unborn children because I wanted to send the amendment back to the House clean because it was tabled last session. Afterwards, I totally embraced the amendment and I believe it makes the bill even stronger. I did vote against the amendment on the floor because I wanted it clean. I think that sent a big message to North Dakota. The amendment passed 30-17. Currently, first district has optional pregnancy outcome programs with free nursing, counseling and staff. They are liaisons that help North Dakota citizens find a doctor and to help them with their pregnancies. They also help them get on Medicaid and they align them with needed services. We are already doing that. This amendment is nothing new. With Obama Care implementation, everyone is going to be covered regardless. The purpose of this amendment is to tell all women and families that the state of North Dakota is behind you if you are pregnant and that we will support a woman in all forms. It covers labor and

delivery which is the opposite of what abortion does. In short, I would like you to vote and keep the amendment of Senator Mathern so that we can say that we are protecting and caring for all pregnant women and their children. Please be sure some form of this bill passes the committee and goes to the floor so that all human life will be protected.

Maggie Anderson, Interim Director, Department of Human Services:

Explained the fiscal note and see Testimony attached # 2

(15:45) Chairman Holmberg: Made a brief comment about Maggie Anderson's testimony.

(16:45) Senator Warner: Is this an increase above the current levels or is this the total amount that we would be dedicating to pregnancy under Medicaid?

Maggie Anderson: This would be an increase to what is our appropriations bill at this time. We would need this additional authority to our bill.

Senator Warner: I recall Senator Larson in a bill dealing with surrogate pregnancies and having Medicaid cover the costs, but he specifically in his floor speech mentioned that it did not preclude coverage for fetal adoption. Under current law do we allow Medicaid to cover fetal adoption? The pregnancy expenses associated with that?

Maggie Anderson: The surrogate mother, gestational carriers bill is a department sponsored bill and the intent behind that was for Medicaid to not cover the pregnancy related cost of someone who is otherwise eligible for Medicaid. I do not know about the fetal adoption piece. I cannot speak to that.

(18:05) Senator Mathern: Is the crowd-out provision that you note part of our present Medicaid program for pregnancy coverage?

Maggie Anderson: No. The reason for that is first that Medicaid is the payer of last resort. So in the Medicaid program we have many people that have third party insurance and we process for co-insurance deductible or their cost sharing expenses. With our children's health insurance program, when that program was authorized and designed, it was set up as a private insurance coverage and even at the federal level those children do not have access to other private insurance. For that program we have to consider whether they have other private insurance, but with Medicaid we are not allowed to prohibit people who have other third party insurance from enrolling. My comment here for the crowd-out is not for the Medicaid expansion piece of the amendments, it is for the piece that would be above the Medicaid group. We do not want an incentive to drop that insurance.

Senator Mathern: The crowd-out procedure is exactly the same for this new group that will be on Medicaid as our old group; which I think is the way the amendment should read. Doesn't the amendment address the issue of crowd-out in the sense of the states that don't have insurance we have this coverage. Wouldn't that give you some ability to deal with crowd-out in a comparable manor in that you would investigate if they had insurance?

Maggie Anderson: We had not contemplated probably all of the mechanics of how we would do that. Typically when someone applies for Medicaid coverage we ask them if they

have other third party insurance. We also have a vendor in place that does monthly checks of all available insurance companies to make sure that what has been reported to us is accurate. When they come back and it shows that they did have another insurance they shoot that back to us and we update our files. We make sure we are the payer of last resort. That is for the Medicaid group. For the portion that are in here, certainly if someone comes in under that poverty line and they are pregnant and they have insurance, we would not be able to help them but they could come in the next month if they drop that insurance and be eligible. That is what we were trying to address. If that were the case then the fiscal note could likely be understated. It is based on an estimate of the uninsured today.

Chairman Holmberg: It's an interesting issue that as this bill progresses and if it passes the Senate, I'd hope the Judiciary committee in the House will explore that and explore language to cover that. I don't know if we as appropriators should be deciding that, that should be up to the policy committee.

Senator Kilzer: A few years ago when we were talking about increasing the number of eligible people for Medicaid, your department did an extensive analysis of the numbers and the costs. If this amendment becomes law, what percentage of the births in North Dakota would be Medicaid babies?

Maggie Anderson: I didn't calculate that percentage. On 2011 calendar data, we were paying 31-32% of eligibility. It was about 3000 of the births. It is around 9000 births a year. If you add the 1200 per year plus the 524 if we were doing the 185 scenario, we would be paying for another 1800 plus of those births. It would be 45% to 50%.

Senator Kilzer: What is your fee schedule for a normal pre-natal and delivery care?

Maggie Anderson: I don't have that with me. When we calculate this, we actually look at that episode of pregnancy and we look at all Medicaid claims that they have during that period. When you put them on with coverage like this, the women would have all of their services covered. Things like dentists or chiropractors. I can get that for you.

Senator Kilzer: What I am trying to point out is that from the providers, I would anticipate that the access might become a serious problem. We talked about malpractice premium rates and we talked about how a lot of hospitals and family doctors were quitting the obstetrical business and I think we would again have that problem if we were to proceed down this road.

Maggie Anderson: I won't go into the details of what CMS shared with me yesterday because it is very granular level with Medicaid eligibility, but what I can tell you is that the Affordable Care Act does have some implications on whether we could go to 185 or 200, or whether we could go even beyond that. Then it has further down the road implications of us taking whatever level that is on January 1, 2014, and then we have to make that a modified adjusted gross income equivalent. We currently do eligibility based on net income. There are a lot of other pieces that need to be considered with this if this goes forward and we will certainly share those on the House side. I just want you to be aware of that. It could increase that level and some may lose eligibility.

Senator Wanzek: I am making a presumption that these average costs that you are talking about, they are only for the services of pregnancy and the birth; once the child is born and it is healthy and if they are above the 200% and do not have insurance, there is no coverage for the child or the mother moving forward?

Maggie Anderson: The costs before you are their costs for all services they would incur during the pregnancy. It could include dental services or if they happen to fall and break their arm. Once someone is Medicaid eligible in a category, they are Medicaid eligible for all services. We ran the estimates based on that. With the Medicaid expansion piece we would have to cover those services. For the group above that, we based it on that same assumption. If you want to take a different assumption, we would need to do that. Then once the baby is born, it is based on the household income.

Chairman Holmberg: Closed the public hearing on SB 2303.

Senator Carlisle: I move we send this back up with a WCR - Without Committee Recommendation.

Vice Chairman Bowman: Seconded.

Senator Mathern: I believe there was a clear discussion by the floor already and so I am not even sure of the rational for the motion. Is the floor asking for a further recommendation?

Chairman Holmberg: The floor asked us to receive a fiscal note on a bill that had be floor amended. We have received that. It may or may not make any difference to the 47 people up there and how they actually vote on it. At least we have fulfilled our responsibility. (Explained the process that has occurred and what will happen)

A roll call vote was taken. Yea: 9 Nay: 3 Absent: 1

Senator Grabinger: Will carry the bill on the floor.

FISCAL NOTE
Requested by Legislative Council
02/08/2013

Amendment to: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0		\$5,386,643		\$5,804,138
Expenditures	\$0	\$0	\$9,705,419	\$5,386,643	\$10,519,437	\$5,804,138
Appropriations	\$0	\$0	\$9,705,419	\$5,386,643	\$10,519,437	\$5,804,138

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

SB2303 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4.

- 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.*

Section 4 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4. The Department is providing a range of potential expenditures as it is currently not known if the maximum allowed under federal law is 185% or 200% of the federal poverty level. The numbers in Section 1A above, assume 185% of poverty and represent the low end of our range, the high end assumes 200% of poverty. The Department estimates implementation of this Bill in the 13-15 biennium will range between \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department estimates that the cost of this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds. Separate from the amendment related to expanded Medicaid and Medicaid equivalent coverage, if this bill is passed, is legally challenged and the challenging party prevails in the lawsuit, it is likely that the State of North Dakota would be ordered to reimburse the prevailing party for attorney's fees and costs. The Office of Attorney General estimates the general fund cost for this purpose could be approximately \$60,000. Please note these cost have not been added to the amounts in Section 1A above.

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.*

The increase in revenues in each biennium is the additional federal funding the state will receive due to the increased expenditure relating to allowable expenditures.

- 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.*

The Department estimates expenditures for this Bill in the 13-15 biennium will range from \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department estimates expenditures for this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

- 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.*

The Department will need an appropriation for the 13-15 biennium of between \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department will need an appropriation for the 15-17 biennium of between \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

Name: Debra A. Mcdermott

Agency: Department of Human Services

Telephone: 701 328-1980

Date Prepared: 02/12/2013

FISCAL NOTE
Requested by Legislative Council
02/06/2013

Amendment to: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 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

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

The amendments do not change the fiscal impact of the bill.

- 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.*

If this bill is passed, is legally challenged and the challenging party prevails in the lawsuit, it is likely that the State of North Dakota would be ordered to reimburse the prevailing party for attorney's fees and costs. The Office of Attorney General estimates the general fund cost for this purpose could be approximately \$60,000.

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.*

Not applicable

- 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.*

Not applicable

- 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.*

Not applicable

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 02/07/2013

FISCAL NOTE
Requested by Legislative Council
02/04/2013

Bill/Resolution No.: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$60,000	\$0	\$0	\$0
Appropriations	\$0	\$0	\$60,000	\$0	\$0	\$0

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

This bill defines a person as a member of the homo sapiens species at every stage of development, making it a crime for someone to perform an abortion except in medical emergencies.

- 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.*

Since the bill defines a person as a member of the homo sapiens species at every stage of development, under NDCC 12.1-16-06, the penalty for performing an abortion, except in medical emergencies, ranges from a class AA felony to a class C felony. Under NDCC 12.1-17-01 through 12.1-17-03, the penalty for performing an abortion, except in medical emergencies, ranges from a class B misdemeanor to a class C felony. In the event this bill, if it becomes law, is challenged, the state may need to reimburse the challenging party if they prevail in the lawsuit.

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.*

Not applicable

- 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.*

If this bill is passed and legally challenged and the challenging party prevails in a lawsuit, the Office of Attorney General would need to reimburse the party for attorney's fees and costs. At this time, the Office of Attorney General estimates the general fund cost for this purpose will be \$60,000.

- 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.*

If this bill is passed and legally challenged and the challenging party prevails in a lawsuit, the Office of Attorney General would need to reimburse the party for attorney's fees and costs. At this time, the Office of Attorney General estimates the general fund cost for this purpose will be \$60,000.

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 02/05/2013

Date: 2-13-13Roll Call Vote # 12013 SENATE STANDING COMMITTEE
ROLL CALL VOTESBILL/RESOLUTION NO. 2303Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Without Committee Recommendation WCPMotion Made By Carlisle Seconded By Bowman

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern		✓
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell		✓
Co-Vice Chair Tony Grindberg			Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner		✓
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 9 No 3Absent 1Floor Assignment Grabinger

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

send a copy of FN + Worksheet
to Grabinger + Hogue.

REPORT OF STANDING COMMITTEE

SB 2303, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION**
(9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2303 was
placed on the Eleventh order on the calendar.

2013 HOUSE HUMAN SERVICES

SB 2303

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee Fort Union Room, State Capitol

SB 2303
March 13, 2013
Job #19840

☐ Conference Committee

Committee Clerk Signature

Wicky Crabtree

Explanation or reason for introduction of bill/resolution:

Definition of human being.

Minutes:

Testimony #1-11

Chairman Weisz opened the hearing on SB 2303.

Sen. Oley Larsen: Introduced and supported the bill. This comes from last session where it had been tabled in the Senate and I feel as an elected official, our job is to hear every bill and vote on it. What 2303 does is to ensure the protection of our criminal laws affords to victims of crimes extends to all human beings born and unborn. SB 2303 in Section 1.15 that is the definition that is not new to anybody. It comes from SB 2368 which is the Abortion Control Act. It is just putting that definition into the criminal code where it had not existed before. It will allow the rights to life to be protected while safeguarding maternal care and the practice of medicine and that is found in Sections 2 and 3. What this bill does not do is, it does not band emergency medical treatment for pregnant mothers. That is in Section 2.2 b and 3.2 b.

6:32

Rep. Mooney: Are we identifying an embryo as a person?

Sen. Larsen: No. We are taking the definition that is in the Abortion Act already and putting it in the criminal code where it does not exist.

Rep. Mooney: The intent of the words human being, an individual member of the species; homosapiens at every stage of development. The purpose for that line would be what?

Sen. Larsen: It is in SB 2368. We need it because it doesn't exist in the criminal code.

Rep. Mooney: We aren't talking about cats and dogs are we?

Sen. Larsen: We are talking about a definition that does not exist and putting it in the criminal code of what a human being is.

Rep. Mooney: Page 5, Section 2, 2 c, d, and e, why do those three items have to be included?

Sen. Larsen: Dr. Dahl and the committee put that in where it does not apply to encroaching on that in vitro fertilization practices that they currently have.

Rep. Oversen: Are you suggesting Dr. Dahl and the other doctors are all in favor of this bill?

Sen. Larsen: Absolutely. They are the ones that crafted this part of it.

Rep. Oversen: Did they support the amendments or the entire bill?

Sen. Larsen: I'm just speaking of the part they crafted together.

Rep. Fehr: Could you explain the fiscal note?

Sen. Larsen: Absolutely.

Chairman Weisz: The department will do that.

Dr. David Prentice: A cell biologist working for a think tank in Washington, DC testified in support of the bill. (See Testimony #1)

19:07

Rep. Mooney: What is the purpose of the bill? Is it to define when a human being becomes a human being?

Dr. Prentice: I believe it is to define a human being. It is a legal bill involving the criminal (Inaudible because Rep. Mooney spoke over him.) of the century code. But, it is not currently defined.

Rep. Oversen: In regards to the disposal of fertilized human ovum and so on. Usually multiples are produced. What happens to the other embryos?

Dr. Prentice: If these embryos are abandoned by their genetic parents is a question that hasn't been answered yet.

Rep. Mooney: Do you not have custody issues if you make this a legal issue?

Dr. Prentice: I think you are right. There have been custody battles over these embryos and there could be legal issues if this bill passes.

Rep. Muscha: My son and daughter have embryos in storage. What would happen to these embryos if they quit paying for their storage?

Dr. Prentice: The clinics are reluctant to toss the embryos because of lawsuits from relatives. It is an area we have not really addressed.

Rep. Mooney: Do you know the cost of the first individual conceived through in vitro fertilization?

Dr. Prentice: Probably \$5,000 - \$10,000.

Rep. Mooney: What would the average IVF run a family now?

Dr. Prentice: Depends on how many cycles they have to go through.

Rep. Mooney: They are harvesting multiples so isn't that a cost savings?

Dr. Prentice: It could be. There are newer ways to do this. Singular or one or two embryos have been found more successful now. You can freeze just the eggs now.

Rep. Mooney: Each cost factor has a cost factor though, doesn't it?

Dr. Prentice: There will be some cost.

Rep. Mooney: What is the cost?

Dr. Prentice: I don't have a good idea.

Rep. Mooney: You would have to pay for each take you go in for?

Dr. Prentice: If you had to go through the super ovulation again.

Rep. Mooney: The uterine transfer.

Dr. Prentice: Yes, there would be some cost.

28:40

Christopher Dobson: Executive Director of ND Catholic Conference testified in support of the bill. (See Testimony #2)

36:04

Steve Case: Testified in support of the bill. (See Handout #3) (See Handout #4)

44:25

Rep. Mooney: Do we assume every individual will be adopted?

Chase: Of course not.

Rep. Mooney: If we are going to have every child to be born (switches thoughts) this assembly has gone through numerous bills to care for children to, but have great debate whether that is right and should happen. Are we saying now that we are expected to have every child will be born based on your definition of human hood?

Chase: I think we could expect that no children would be electively killed in ND and believe a good business practice will be to immediately move 2,000 feet east. I think we are

Rep. Mooney: Thank you Mr. Chairman.

Chase: Do I get to finish my answer? I think we are coming to a different dynamic and that is rather than a convenience by destruction we have to put in place a culture of life.

48:55

Jane Dukart: Testified in support of the bill. (See Testimony #5)

51:56

Bridget Lindgren: A lobbyist for ND Life League testified in support of the bill (See Testimony #6)

53:47

Gualberta Garcia Jones: Testified in support of the bill. (See Testimony #7)

1:04:13

Rep. Mooney: Will the IRS consider every unborn child a living breathing tax credit?

Jones: I actually think that wouldn't be a bad idea that a woman who is pregnant and often times has to quit work and has a lot of medical care, get a child tax credit. The Social Security Act actually does define a human being as (Is cut off by Rep. Mooney)

Rep. Mooney: My kids have to have their social security number so are we getting social security numbers for those children? What about a photo ID? If we are going to call them a person from the time of conception, isn't that what we are leading to?

Jones: I have a photo ID of my children and it is an ultrasound and I can tell their features and everything before they are born. I think those are questions as a society and as a legislature I think those things we could easily resolve without having to go to extreme of denying their existence or right to life.

Rep. Mooney: In your Louisiana example, how do they go about enforcing these laws?

Jones: I'm not an expert in Louisiana law, but I can tell you that I have researched and there is no shortage of in vitro fertilization in Louisiana and they have a high standard of protection of human life at the embryonic stage. Which is unique to Louisiana, but not unique in the world. Germany has provisions to balance the two interests of protecting the human life of (inaudible) and the needs of infertile couples to have children.

1:06:43

Beth Brown: Delivering the testimony of Janne Myrdal in support of the bill. (See Testimony #8)

Shannon Biwer: Testified in support of the bill. (See Testimony #9)

Chairman Weisz adjourned the hearing until the afternoon.

HANDED IN TESTIMONY IN SUPPORT

Maria Wanchic: (See Testimony #10)

William Schuh: (See Testimony #11)

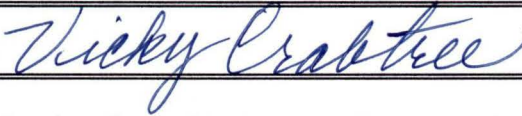
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee Fort Union Room, State Capitol

SB 2303
March 13, 2013
Job #19863

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Definition of human being.

Minutes:

See Testimonies #1-13

Chairman Weisz reopened the hearing on SB 2303.

Brianne Bowker: Student from the University of Mary: Testified in support of the bill. (See Testimony #1)

Amanda Ewinger: Testified in support of the bill. I'm 13 weeks pregnant and can assure you I have a person in my womb. I was married in 2005 and I told my husband on a Tuesday that I was pregnant even though I had no physical symptoms, I knew through a deep heart felt intuition. The presence of life was there. I had miscarriage in October and the presence of life was there and then the presence of life was gone. I grieved and I wouldn't have if it wasn't a child or a person. If it was just a hope of someday becoming a person it would not have affected me so much. I can testify that once a child is conceived at conception, there is truly the presence of something beyond our understanding. Anyone who is in touch with their pregnancy will tell you that. I encourage you to make ND the beautiful prolife state that it really can be.

4:15

LaVonne Goetsch: Testified in support of the bill. (See Testimony #2)

6:00

Carmen Collins: Testified in support of the bill. I am currently with the internship with the University of Mary. I am a business woman and developed multiple successful businesses and I am going to sell them specifically to put myself in a position to do what I can do to keep our country great. I questions today about whether or not there were children in ND that did or did not have homes and whether they were cared for. I did a little research on the ND websites and was able to find some information I want to share. On the DHS website it says "Many perspective parents seek to adopt healthy infants often backgrounds similar to their own. In the U.S. a relatively small percentage of healthy Caucasian infants are placed for adoption. In ND Caucasian infants are placed through private adoption agencies", and it goes on. 2010 was the closest statistics I could find on how many aborted

children were Caucasian. When I was seventeen I was pregnant and very much urged to have an abortion to the point of almost having one. My husband and I made a decision not to do that. Following the birth of our child, I had eleven miscarriages after that. I would not have a natural born child had I been pushed as a teenager to (have one). Being told I would never be successful, never accomplish anything, and my husband would leave me. We have a healthy 25 beautiful daughter because of that. My thirteen year old daughter is adopted within our family and she was a candidate to be aborted. My kids wouldn't be here at all if my grandmother would have had an abortion because of rape. The statistics say that 1026 Caucasians babies were aborted in ND out of the 1291 cases in 2010. Those 1026 were wanted (by those who wanted to adopt). We tried to adopt and there was a year to two year waiting period in ND at that time. I adamantly oppose the thought process that there are no homes for these babies in ND. In ND there are homes for these babies. The statistics on the website also say throughout the U.S. people come in from all over to want to adopt these babies. I encourage this House of Representatives to pass this bill. We have Justice Scalia saying do something States it is in your hands. Let's do something and do what is right. These are actual live, viable people. I'm tired of hearing it is the woman's right to choose. Finish the sentence, choose what? To choose to murder an infant in their womb when there are homes for those infants. I commend this bill for providing the health care coverage that is needed for those pregnant women and put them in a position to have a child. I had a young girl come to me at seventeen and I shared my testimony with her and told her it was going to be ok and she had made the decision to keep the baby and within a week the father of the baby's mother talked her into having an abortion. She is now an absolute mess. There are huge emotion affects and we have an awesome opportunity in the State of ND and stand up and set a precedent and I want to encourage all of you to pass both SB 4009 as well as SB 2303.

13:51

Maggie Anderson: From the DHS gave information about the bill. (See Handout #3) She went through the handout and explained it.

19:11

Chairman Weisz: How come the total numbers are different as far as recipients between the blue and peach color?

Anderson: Has to do with current population survey information and percentage of women uninsured above 185 and the percent uninsured above 200.

Chairman Weisz: If you are insuring the same group shouldn't that number up the same?

Anderson: When we pulled the current population survey information, women whose income is above 200%, the uninsured rate for that group 6.74% and the group above 185, the uninsured rate 7.39% so that begins to impact that total number. Above 185 there are about 6,637 uninsured women between the ages of 15-44. And above 200 there are 5,832.

Chairman Weisz: We are covering everyone under both scenarios that are uninsured, correct?

Anderson: The first part of expansion isn't the number that is uninsured because Medicaid can't be just for the uninsured. We have many clients that have a primary insurance and we are secondary. The first part of the amendment is not just if they are uninsured so when you move that line then you start to cover more on Medicaid.

Chairman Weisz: Okay, I'll accept that.

Rep. Mooney: If 4,000-5,000 women are currently uninsured that you are looking at as your pool of resources to draw off from for your numbers; is it reasonable to assume that the children who are born will continue on the Medicaid expansion programs?

Anderson: Not necessarily. When you are at 185-200% of poverty our children's health insurance program today is up to 160 so very likely they may not be.

Rep. Mooney: We heard that 2,000-3,000 children biennially have been aborted so it is reasonable a certain portion of those children are going to be on assistance, correct?

Anderson: It is possible, but not knowing the statistics of the income of the woman who had an abortion, it is likely they would be covered under the current Medicaid coverage.

Rep. Porter: I look at the numbers in the Affordable Care Act. Do the numbers in the fiscal note change January 1, 2014? This is a fiscal note in effect from August through January because of the Affordable Care Act?

Anderson: It goes to one of the footnotes on the handout. Because the individuals are above 100% of poverty they would be subjected to the individual mandates. What has to be weighed are the penalties that someone would pay for not having coverage versus dropping coverage to access this which would be essentially without any cost sharing.

Rep. Porter: The crowd out provision how would that change the fiscal effect of the language?

Anderson: It would depend on how you would construct the amendments for a crowd out provision.

OPPOSITION

26:27

Karla Rose Hanson: Testified in opposition. (See Testimony #4)

3:28

Rep. Kiefert: You were questioning the definition of a human being. To you, when does the question mark become a human being?

Hanson: My belief is not relevant.

Rep. Kiefert: You were attacking the definition of a human. I'm trying to understand your thoughts here. When my wife got an ultrasound were we looking at something that was non-human or what species would you call that?

Hanson: I'm not in opposition to the definition of a person as a human being. I'm opposing putting it into law and giving a person at any stage of development the same rights as I have.

Rep. Damschen: Are you aware of any human being that has not survived the stage from conception to birth?

Hanson: I don't understand your question

Rep. Damschen: Life starts someplace doesn't it? I don't know anyone alive today that has not survived the period of time from conception to birth.

Hanson: Repeat my statement of giving the same legal rights to a person at any stage of life, I'm opposed to.

Rep. Damschen: Where should we start with that?

Hanson: The current laws we have are adequate.

Rep. Looyen: I understood in your testimony that you are worried about this bill may be infringing on life threatening conditions of the mother. It says on page 5, line 10 (of the bill) Sections 12.1-16-01 through 12.1-16-03 do apply to medical treatment for life-threatening conditions of pregnancy. The doctor has that ability to make that choice.

Hanson: The ND medical association will testify will tell the details why it is affecting life threatening conditions for woman because of the wording of the bill.

Rep. Mooney: Articulate on what the end of life concerns are.

Hanson: This bill attempts to create an exception on end of life scenarios. Some are confused on this bill and could not attend today. They think it creates a confusing environment for the physicians.

Rep. Muscha: Could more specific amendments be added so that is not an issue.

Hansen: I don't want these bills to pass for many reasons.

42:00

Rebecca Matthews: Testified in opposition of bill. (See Testimony #5)

48:34

Dr. Kristen Cain: Read testimony of Dr. Steffen Christensen from Fargo opposing the bill. (See Testimony #6)

51:11

Rep. Mooney: When is life sustainable?

Cane: You can't answer that question. When the egg fertilizes, we know from science that only one out of 10 fertilized eggs actually goes on to become a living human being. To say that the 9 out of the 10 fertilized eggs that don't become human beings are human beings stretches my imagination.

Rep. Mooney: Can you share some abnormalities that are not sustainable?

Cain: Tricellame 18 and 13 can be born alive, but do not live but a short time after birth. Tricellame 15 always ends in a miscarriage. Most tricellame 21 which is down syndrome; we see well cared for functioning children who grow to adulthood and that is due to the medical advances we have.

Rep. Mooney: Is transfer of one implant a practical approach?

Cain: We are working toward that. There is benefit in implanting one embryo and we strongly encourage our patients to transfer a single embryo.

Rep. Looyen: Do you think if this bill passed as is, it would shut your clinic down in Fargo?

Cain: The wording in the bill is confusing. I would leave the state if this became the law.

Craig Meiers: Testified in opposition. (See Testimony #7)

1:05:26

Rep. Kiefert: Did you ever come up with an idea that was acceptable to what to do with the good embryos that was left over.

Meiers: We never discussed that.

Rep. Kiefert: Our concern is what would you do with the good embryos you aren't going to use?

Meiers: We talked about that with our endocrinologist on how many eggs we were going to extract. We know 50% would be gone off the bat so we took a large number. I think you should be as conservative as possible.

Rep. Looyen: Do you think this bill would really inhibit a doctor from staying away from ND?

Meiers: It depends on the doctor. The majority are on the middle ground.

Rep. Looyen: Do you think you can defend yourself from a professional point of view in a court of law if you find yourself charged with criminal offences?

Meiers: I think according to the language here if I waited until the situation demonstrated it was life threatening for the woman, then I could legitimately perform that procedure otherwise I don't know that I could.

Rep. Mooney: If you were charged with any of these Class C felonies would you get your license back if you lose it?

Meiers: I am not certain.

Rep. Mooney: If you have a woman in the emergency room and it is life threatening, is there a point where it may be too late for her life?

Meiers: If you have a car accident victim come in, that is a case where time is of the essence. You need to make quick decisions and how much will that weigh into the decisions you make?

Rep. Mooney: Let's say you lost the woman's life, is that now a Class C or worse?

Meiers: I'd consult the hospital legal team.

Chairman Weisz closed the hearing.

HANDED IN TESTIMONY IN OPPOSITION

Robin Marty: (See Testimony #8)

Janelle Moos: (See Testimony #9)

Dr. Michael Booth: (See Testimony #10)

Temple Beth El: (See Testimony #11)

Jennifer Cossette: (See Testimony #12)

American Medical Women's Association: (#13)

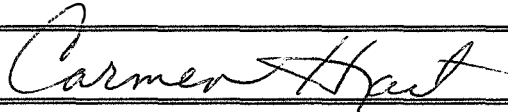
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2303
March 18, 2013
20096

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Definition of a human being.

Minutes:

Attachment #1

Chairman Weisz: Let's take up 2303. (Handed out amendment. See **Attachment #1**) If you have private insurance, you can't drop it to go on this insurance while you are pregnant and then go back to your private. He also explained the Section 6 insert which was effective date.

Rep. Oversen: Why wouldn't we want Sections 4 and 5 if Sections 1-3 are struck down?

Chairman Weisz: What happened in the Senate was that section was added from the standpoint of if we were not going to allow any abortions, then the state had a responsibility to pick up all the costs before the amendment was added. That then to me becomes a separate public policy issue if the rest of the act is declared void. The amendment was only drafted because of the bill itself, not as a separate public policy that we should provide full insurance for every pregnant woman.

Rep. Porter: He moved the amendment.

Rep. Silbernagel: Seconded the motion.

A voice vote was taken. Motion carried.

Rep. Fehr: He offered another amendment. It would start on Page 3, Line 2, where it says stage of development, strike the period and put a comma in and add the phrase beginning with intrauterine pregnancy of a woman. Page 5, Line 15, scratch the word human being and replace it with the term human ovum, zygote, or embryo. The reason for this is because as a bill against abortion, this particular bill goes beyond abortion. This bill in terms of how it is used as a term stages of development as was clearly explained in the testimony, they are looking at it being well beyond just ending a pregnancy. I think it should be limited to just limiting a pregnancy. When we talk about abortion as in a woman with medical collaboration is ending a pregnancy. I am uncomfortable with reaching beyond just ending a pregnancy. The testimony we received from people who are trying to help people

create babies was that it would impact their practice. I know there are exemptions in here. We heard testimony saying it wouldn't impact them. They said it would. I think it would. I would like us to consider the amendment to limit that section so that as an abortion bill, it only relates to abortion, not what happens prior to a woman being pregnant.

Rep. Kiefert: How do argue the embryo wasn't alive and so you implanted it?

Rep. Fehr: The argument is not when does life begin? The argument is when do we say this is a human being?

Rep. Laning: Do you feel that would release liability concerns with the external fertilization of eggs and their preservation?

Rep. Fehr: I think people feel that they are looked at as people with deep pockets. Everybody has to carry liability insurance, and there are individuals who look for how they can hit the jackpot by suing them and getting money.

Rep. Kiefert: I think the reason we are having trouble with this issue is because we have gotten to the point in time where we are trying to play God, and science has bypassed legislature. Now we are trying to find a way where we can make an excuse for destroying something that is going to turn into a human and how do we do that?

Chairman Weisz: On Page 6 starting on Line 7, would your language also need to be added in there?

Rep. Fehr: I believe you are correct. I missed that.

Chairman Weisz: Did you have a response, Rep. Fehr?

Rep. Fehr: On Line 7, you are correct that again the term human being would need to be changed to human ovum, zygote, or embryo.

Rep. Damschen: I'm going to resist the amendment. It is interesting that the very stage that is necessary for invitro to work is the fertilized egg. We can argue if it is human or not, but if it is allowed to mature, unless something interrupts it, it will become a baby.

Rep. Fehr: It needs to be in a woman's body to grow. If it doesn't get into a woman's body, it is not going to develop. The whole point is the language on development. Coming back to the statement about us being God, I think if there is something that needs to be done in terms of what takes place within this medical arena, then that should be a separate bill and we should hear testimony on it, not tack it into this one.

Rep. Muscha: My son has two fertilized eggs and he has a hard time to give them up.

Rep. Hofstad: Seconded to adopt the amendment.

ROLL CALL VOTE: 6 y 7 n 0 absent. MOTION FAILED.

Rep. Looyesen: I move a Do Pass as amended once on SB 2303.

Rep. Kiefert: Second.

Rep. Mooney: When we heard testimony, one of the first questions I asked the first couple people was if somebody was going to stand up and talk specifically to the criminal charges. I know one person did talk to us lightly on it, but I still have some real grave concerns over the criminal factors. We are talking about applying to the principal act other than the pregnant woman with respect to criminal conduct upon person who has not yet been born. Sections 12.1-17-01-12.1-17-03 refer to simple assault, aggravated assault, and reckless endangerment and presumably those would all be applied to our doctors. Having been twice in my life in the position where I had to have a physician make a decision quickly, it was paramount that they act accordingly without thought to the legal aspect. They needed to protect life, and they did that. I think this is a terrible predicament that we are putting our doctors in. Where is the fiscal note for the inevitable court battle that is going to come?

Rep. Kiefert: Why can't they take one egg at a time rather than 10 or more?

Rep. Oversen: Because of the cost.

Rep. Kiefert: They had the eggs already collected. You would think they would be able to fertilize one at a time and take a look at it. Right now they are looking at all of them that are fertilized and trying to pick the best one. It could alleviate a lot of problems if they would just take the one.

Rep. Mooney: It is an interesting observation how we see things so differently. For me after all these years where invitro has been available throughout biological technologies, it seems like they are moving as deliberately as they can in that direction. I don't see how we as legislators can legislate that to a doctor. The field has to do that on its own as time allows it to improve.

Rep. Kiefert: Where it comes into defining a human being and when life begins is when legislature comes into the play and protecting human life. That is how we got into it. I think they could alleviate a lot of problems if they would go at this thing differently.

Chairman Weisz: I struggle with this bill. This committee has passed five pieces of pro-life legislation. I think some of these may be challenged in court. I'm not going to support this one.

Rep. Oversen: The issues go far beyond anything we have even discussed in this committee and heard in testimony. There are so many problems that could be created not only for medical providers but also for law enforcement and the courts and criminal prosecutors. I will be voting against this.

A roll call vote was taken for a DO PASS AS AMENDED, 6 Y, 7 N. MOTION FAILED.

Rep. Oversen: Moved a Do not pass as amended.

Rep. Mooney: Second.

A roll call vote was taken and resulted in **DO NOT PASS AS AMENDED, 7 Y, 6 N.** Rep. **Weisz** is the carrier.

FISCAL NOTE
Requested by Legislative Council
03/20/2013

Amendment to: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0		\$4,066,387		\$5,804,138
Expenditures	\$0	\$0	\$7,326,640	\$4,066,387	\$10,519,437	\$5,804,138
Appropriations	\$0	\$0	\$7,326,640	\$4,066,387	\$10,519,437	\$5,804,138

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

SB2303 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4.

- 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.*

Section 4 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4. Section 6 provides for a January 1, 2014 effective date with exceptions. The Department is providing a range of potential expenditures as it is currently not known if the maximum allowed under federal law is 185% or 200% of the federal poverty level. The numbers in Section 1A above, assume 185% of poverty and represent the low end of our range, the high end assumes 200% of poverty. The Department estimates implementation of this Bill for 18 months of the 13-15 biennium will range between \$11,393,027 and \$13,302,332 of which between \$7,326,640 and \$8,079,073 will be general fund and between \$4,066,387 and \$5,223,259 will be federal funds. The Department estimates that the cost of this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds. Separate from the amendment related to expanded Medicaid and Medicaid equivalent coverage, if this bill is passed, is legally challenged and the challenging party prevails in the lawsuit, it is likely that the State of North Dakota would be ordered to reimburse the prevailing party for attorney's fees and costs. The Office of Attorney General estimates the general fund cost for this purpose could be approximately \$60,000. Please note these cost have not been added to the amounts in Section 1A above.

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.*

The increase in revenues in each biennium is the additional federal funding the state will receive due to the increased expenditure relating to allowable expenditures.

- 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.*

The Department estimates expenditures for this Bill in the 13-15 biennium will range from \$11,393,027 and \$13,302,332 of which between \$7,326,640 and \$8,079,073 will be general fund and between \$4,066,387 and \$5,223,259 will be federal funds. The Department estimates expenditures for this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

- 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.*

The Department will need an appropriation for the 13-15 biennium of between \$11,393,027 and \$13,302,332 of which between \$7,326,640 and \$8,079,073 will be general fund and between \$4,066,387 and \$5,223,259 will be federal funds. The Department will need an appropriation for the 15-17 biennium of between \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

Name: Debra A. Mcdermott

Agency: Department of Human Services

Telephone: 701 328-1980

Date Prepared: 03/22/2013

FISCAL NOTE
Requested by Legislative Council
02/08/2013

Amendment to: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0		\$5,386,643		\$5,804,138
Expenditures	\$0	\$0	\$9,705,419	\$5,386,643	\$10,519,437	\$5,804,138
Appropriations	\$0	\$0	\$9,705,419	\$5,386,643	\$10,519,437	\$5,804,138

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

SB2303 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4.

- 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.*

Section 4 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4. The Department is providing a range of potential expenditures as it is currently not known if the maximum allowed under federal law is 185% or 200% of the federal poverty level. The numbers in Section 1A above, assume 185% of poverty and represent the low end of our range, the high end assumes 200% of poverty. The Department estimates implementation of this Bill in the 13-15 biennium will range between \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department estimates that the cost of this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds. Separate from the amendment related to expanded Medicaid and Medicaid equivalent coverage, if this bill is passed, is legally challenged and the challenging party prevails in the lawsuit, it is likely that the State of North Dakota would be ordered to reimburse the prevailing party for attorney's fees and costs. The Office of Attorney General estimates the general fund cost for this purpose could be approximately \$60,000. Please note these cost have not been added to the amounts in Section 1A above.

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.*

The increase in revenues in each biennium is the additional federal funding the state will receive due to the increased expenditure relating to allowable expenditures.

- 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.*

The Department estimates expenditures for this Bill in the 13-15 biennium will range from \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department estimates expenditures for this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

- 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.*

The Department will need an appropriation for the 13-15 biennium of between \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department will need an appropriation for the 15-17 biennium of between \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

Name: Debra A. Mcdermott

Agency: Department of Human Services

Telephone: 701 328-1980

Date Prepared: 02/12/2013

FISCAL NOTE
Requested by Legislative Council
02/06/2013

Amendment to: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 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

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

The amendments do not change the fiscal impact of the bill.

- 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.*

If this bill is passed, is legally challenged and the challenging party prevails in the lawsuit, it is likely that the State of North Dakota would be ordered to reimburse the prevailing party for attorney's fees and costs. The Office of Attorney General estimates the general fund cost for this purpose could be approximately \$60,000.

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.*

Not applicable

- 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.*

Not applicable

- 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.*

Not applicable

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 02/07/2013

FISCAL NOTE
Requested by Legislative Council
02/04/2013

Bill/Resolution No.: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$60,000	\$0	\$0	\$0
Appropriations	\$0	\$0	\$60,000	\$0	\$0	\$0

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

This bill defines a person as a member of the homo sapiens species at every stage of development, making it a crime for someone to perform an abortion except in medical emergencies.

- 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.*

Since the bill defines a person as a member of the homo sapiens species at every stage of development, under NDCC 12.1-16-06, the penalty for performing an abortion, except in medical emergencies, ranges from a class AA felony to a class C felony. Under NDCC 12.1-17-01 through 12.1-17-03, the penalty for performing an abortion, except in medical emergencies, ranges from a class B misdemeanor to a class C felony. In the event this bill, if it becomes law, is challenged, the state may need to reimburse the challenging party if they prevail in the lawsuit.

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.*

Not applicable

- 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.*

If this bill is passed and legally challenged and the challenging party prevails in a lawsuit, the Office of Attorney General would need to reimburse the party for attorney's fees and costs. At this time, the Office of Attorney General estimates the general fund cost for this purpose will be \$60,000.

- 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.*

If this bill is passed and legally challenged and the challenging party prevails in a lawsuit, the Office of Attorney General would need to reimburse the party for attorney's fees and costs. At this time, the Office of Attorney General estimates the general fund cost for this purpose will be \$60,000.

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 02/05/2013

March 18, 2013

VK
3/18/13

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2303

Page 1, line 5, remove "and"

Page 1, line 6, after "women" insert "; and to provide an effective date"

Page 6, line 31, after "delivery" insert "and who are determined eligible according to rules adopted by the department"

Page 6, after line 31, insert:

"SECTION 6. EFFECTIVE DATE. Sections 4 and 5 of this Act become effective on January 1, 2014, unless the department of human services certifies to the governor and the legislative council before that date, that sections 1 through 3 of this Act have not become effective for any reason. If the department of human services certifies that sections 1 through 3 of this Act have not become effective, the department may certify that sections 1 through 3 of this Act subsequently have become effective and that sections 4 and 5 become effective six months after the effective date of sections 1 through 3."

Renumber accordingly

Date: 3-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Porter Seconded By Rep. Silbernagel

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. MOONEY		
VICE-CHAIRMAN HOFSTAD			REP. MUSCHA		
REP. ANDERSON			REP. OVERSEN		
REP. DAMSCHEN					
REP. FEHR					
REP. KIEFERT					
REP. LANING					
REP. LOOYSEN					
REP. PORTER					
REP. SILBERNAGEL					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
Proposed
amendment
Attachment 1*

*Motion
Carried*

Date: 3-18-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment *another (2nd)*

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Fehr

Seconded By Rep. Legutko

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	REP. MOONEY	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
VICE-CHAIRMAN HOFSTAD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	REP. MUSCHA	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
REP. ANDERSON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	REP. OVERSEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
REP. DAMSCHEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. FEHR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. KIEFERT	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. LANING	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. LOOYSEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. PORTER	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. SILBERNAGEL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			

Total (Yes) 6 No 7

Absent _____

Floor Assignment _____

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

pg 3 line 2 strike period put comma add. Failed
"intrauterine pregnancy of a woman"
pg 5 line 15 scratch line 2 "human being"
and put "human ovum, zygote or embryo!"

Date: 3-18-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Looyzen Seconded By Rep. Kiefert

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ		<input checked="" type="checkbox"/>	REP. MOONEY		<input checked="" type="checkbox"/>
VICE-CHAIRMAN HOFSTAD		<input checked="" type="checkbox"/>	REP. MUSCHA		<input checked="" type="checkbox"/>
REP. ANDERSON		<input checked="" type="checkbox"/>	REP. OVERSEN		<input checked="" type="checkbox"/>
REP. DAMSCHEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. FEHR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. KIEFERT	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. LANING	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. LOOYSEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. PORTER	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
REP. SILBERNAGEL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			

Total (Yes) 6 No 1

Absent _____

Floor Assignment _____

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

Failed

Date: 3-18-13
Roll Call Vote #: 4

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2303

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Overen Seconded By Rep. Mooney

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓	✓	REP. MOONEY	✓	✓
VICE-CHAIRMAN HOFSTAD	✓	✓	REP. MUSCHA	✓	✓
REP. ANDERSON	✓	✓	REP. OVERSEN	✓	✓
REP. DAMSCHEN	✓	✓			
REP. FEHR	✓	✓			
REP. KIEFERT		✓			
REP. LANING		✓			
REP. LOOYSEN		✓			
REP. PORTER		✓			
REP. SILBERNAGEL		✓			

Total (Yes) 7 No 6

Absent _____

Floor Assignment Rep. Weisz

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

REPORT OF STANDING COMMITTEE

SB 2303, as reengrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed SB 2303 was placed on the Sixth order on the calendar.

Page 1, line 5, remove "and"

Page 1, line 6, after "women" insert "; and to provide an effective date"

Page 6, line 31, after "delivery" insert "and who are determined eligible according to rules
adopted by the department"

Page 6, after line 31, insert:

"SECTION 6. EFFECTIVE DATE. Sections 4 and 5 of this Act become effective on January 1, 2014, unless the department of human services certifies to the governor and the legislative council before that date, that sections 1 through 3 of this Act have not become effective for any reason. If the department of human services certifies that sections 1 through 3 of this Act have not become effective, the department may certify that sections 1 through 3 of this Act subsequently have become effective and that sections 4 and 5 become effective six months after the effective date of sections 1 through 3."

Renumber accordingly

2013 TESTIMONY

SB 2303

January 29, 2013

Senate Judiciary Committee

Senate Bill 2303

1st
Chairman Hogue and members of the Judiciary Committee, I am Oley Larsen, Senator from District 3, and I am the sponsor of Senate Bill 2303.

2nd
Senate Bill 2303 is intended to define when human life begins and to protect that life from harm or death. Similar defining language is contained in the abortion control act within the North Dakota Century Code, but then, other language in that section allows the destruction of that human.

The language you see at the top of page three defines human life at every stage of development. By placing this language in the criminal code, the intent is to protect that human from assault and murder, including abortion. This isn't just my opinion but also the opinion of Walter M. Weber who is the Senior Litigation Counsel for the American Center for Law and Justice. Mr. Weber reviewed this bill and stated, "Thus, by adoption of this definition of "human being" the bill would make all abortions (other than to save the mother from a life-threatening condition) criminal homicides and assaults." By placing this definition in this one section of code, it eliminates the concerns of unintended consequences. This bill is identical to the bill on which the Senate was prepared to vote last session.

Section 2 of the bill was written to address concerns related to medical treatment of life-threatening conditions which result in the accidental or unintentional injury or death of another such as ectopic and molar pregnancies which is covered by the language in Section 2 subsection 2 paragraph a. For treatments that are not intended to harm but has the foreseeable effect of ending a person's life with paragraph b. For the creation of a new human being through in vitro fertilization in paragraph c and the use of contraception before a clinically diagnosable pregnancy with paragraph d. Subsection 3 clarifies that the mother is not to be considered the principle actor. You will notice that language repeated in Section 3 because one area pertains to the assault section and the other to the homicide section.

Mr. Chairman and members of the committee, this issue is and always has been passionate and contentious. The decision you have before you may not be easy. But please keep this in mind: protecting the lives of innocent human beings is the right thing to do. It is common in this country for doctors to partially remove babies from the uterus and perform life saving procedures on them and replace them in the womb to continue their growth and development. They are doing so because they have learned how to treat these young people at very early

stages. However, other doctors are destroying young lives at even later stages of development. How can it be a human life that we can treat, but also be one that we can kill?

and now the SB2303

House Bill 1450 recognizes that a human, which we know has its own DNA different from any other human, is protected no matter how that human is conceived. It is important to be consistent in this area and you will hear very compelling testimony later this morning that I believe will prove the sanctity of human life is precious regardless of how it is conceived.

~~and now the SB2303~~

House Bill 1450 not only has been written to address the concerns expressed last session but is the product of a collaborative effort from the North Dakota Life League, the Family Alliance, Concerned Women for America North Dakota, North Dakota Right to Life and the North Dakota Catholic Conference as well as other national groups. There are several other people here that will provide expert testimony in the areas of medicine and law so I will conclude my testimony and respectfully ask for a do pass recommendation.

Okey Larsen

SB2303

In North Dakota every bill get's its time to be heard goes through committee goes across to the other chamber and is voted on by every representative or senator. We represent our constituents of roughly 14,000 citizens of North Dakota. This bill was not allowed its day to be heard and voted on. So from the request of my constituents and myself it is back to give it the opportunity to fully be heard. And go through the process we in North Dakota take pride in to make and administer laws.

4/24 Here is a meaning of personhood that will bring further clarity to this bill.

The unborn person differs from a newborn in four ways that have disqualified them as a person

1. First, is *size* or physical appearance – the unborn doesn't look like a person.
2. Second, *level of development* – the unborn doesn't have the same abilities as real persons.
3. Third, *environment* – the unborn isn't located in the right place as real persons.
4. Fourth, *degree of dependency* – the unborn is too physically dependent on others to be a person; they are not viable and can't survive outside the womb.

I will now explain why these do not disqualify these persons or people.

1. **Size or Physical Appearance** – Do people lose value when they don't look right? Does size equal value? Men are generally larger than women. Does that mean men are more human than women? Shaquille O'Neil is larger than Hillary Clinton. Does that mean Hillary Clinton is less human than Shaq? The term used to describe the destruction of groups of people based on their physical appearance is ethnic cleansing or genocide. But human value transcends physical appearance. Therefore, "not looking right" cannot disqualify a human being from being a valuable person.

2. **Level of Development** – Is a person's value defined by thier abilities, by what they can or can't do? Do we forfeit our rights as human persons because we don't have the capabilities others have? Do stronger, more capable; more intelligent people have more rights than others? Do human beings become disposable simply because at their level of development they are helpless, defenseless, and dependent? Human value transcends abilities or the lack of abilities. Therefore, missing abilities cannot disqualify human value.

3. **Environment** – Do humans forfeit their worth when they change locations? Baby Rachel was born prematurely at 24 weeks. She weighed only 1 lb. 9 oz., but dropped to just under 1 lb. soon after. She was so small she could rest in the palm of her father's hand. She was a tiny, living, person. Heroic measures were taken to save her life. If a doctor had killed Rachel we would have recoiled in horror. However, if this same little person was inches away from the outside world, resting inside her mother's womb, she could be legally killed. Clearly, one's environment can't be the deciding factor. Changing locations is morally trivial. Environment has no bearing on who we are.

①

4. *Degree of Dependency* – Is human value determined by our degree of dependency on others? The unborn people depending on their mother for sustenance is irrelevant to the baby's value. No baby is "viable" if degree of dependency matters. All babies need their mothers for feeding whether via blood (an umbilical cord), breast, or bottle. Human beings may be dependent on others for their survival, but they aren't dependent on others for their value. All physically dependent people are at risk if degree of dependency determines their value – those dependent on kidney machines, pacemakers, and insulin would have to be declared non-persons. Dependency does not determine worth.

I would like to submit these amendments to allow even greater clarity and language that reflects more favorably on this issue.

I will introduce Roberto Garcia Jones Legal counsel for personhood USA and to follow him Anna Higgins, Director for the center of human dignity to give the specifics of this bill.

/

SECTION 2. AMENDMENT. Section 12.1-16-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-16-06. Construction.

1. Sections 12.1-16-04 through 12.1-16-06 do not preclude the use of medications or procedures necessary to relieve a person's pain or discomfort if the use of the medications or procedures is not intentionally or knowingly prescribed or administered to cause the death of ~~that~~ a person. In addition, sections 12.1-16-04 through 12.1-16-06 do not preclude the withholding or withdrawal of life-prolonging treatment pursuant to state or federal law.
2. Sections 12.1-16-01 through 12.1-16-03 do not apply to:
 - a. Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person.
 - b. Legitimate medical treatment for life-threatening conditions not intended to harm a person but which has the foreseeable effect of ending a person's life.
 - c. The creation of a new human being through in vitro fertilization, but in no case does this section excuse or justify causing the death of a human being.
 - d. Contraception administered before a clinically diagnosable pregnancy of a woman.
3. Sections 12.1-16-01 through 12.1-16-03 apply only to the principal actor, other than the pregnant woman, with respect to criminal conduct upon a person who has not yet been born.

SECTION 3. A new section to chapter 12.1-17 of the North Dakota Century Code is created and enacted as follows:

Construction.

1. Sections 12.1-17-01 through 12.1-17-03 do not apply to:
 - a. Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person.
 - b. Legitimate medical treatment for life-threatening conditions not intended to harm a person but which has the foreseeable effect of ending a person's life.

①

Sixty-third
Legislative Assembly

- 1 c. The creation of a new human being through in vitro fertilization, but in no case
- 2 does this section excuse or justify causing injury to a human being.
- 3 d. Contraception administered before a clinically diagnosable pregnancy of a
- 4 woman.
- 5 2. Sections 12.1-17-01 through 12.1-17-03 apply only to the principal actor, other than
- 6 the pregnant woman, with respect to criminal conduct upon a person who has not yet
- 7 been born.

Testimony of Gualberto Garcia Jones, J.D. on SB 2303

In order to understand how the intentional killing of innocent preborn children became a fundamental federal “right,” I believe that we have to understand how the words “person” and “human being” are used in the law. We also have to understand the proper relationship between federal and state lawmaking.

Before Roe v. Wade, preborn children were presumed to be legal persons with fundamental rights, and the protection of those fundamental rights was carried out by the states in their legislative capacity.

This is perfectly in keeping with the tenth amendment to the U.S. Constitution states that:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

For 200 years, the states protected the right to life of preborn children through their police powers; specifically, in their state criminal codes.

In 1856, the American Medical Association’s report on Criminal abortion stated that, “We should as a profession, openly and with one accord appeal to the community in words of earnest warning, setting forth the deplorable consequences of criminal abortion – the actual and independent existence, from the moment of conception, of foetal like. And that the effort should not be one of words merely; we should, as a profession, recommend to the legislative bodies of the land the revision and subsequent enforcement of all laws, statutory or otherwise pertaining to this crime, that the present slaughter of the innocents may to some

extent, at least, be made to cease.” Clearly, at the time of the passage of the 14th amendment, the child was presumed by the top medical minds in the country to be nothing less than a person.

Even after 1973, the Supreme Court recognized the state’s sovereign right under the 10th amendment to protect its citizens, but because of Roe, Doe, and Casey, the states have been prevented from protecting the preborn.

In *Pruneyard*, a Supreme Court case decided in 1980, the court stated that it is proper for “the State to exercise its police power or its sovereign right to adopt in its own Constitution individual liberties more expansive than those conferred by the Federal Constitution.” *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 81 (1980).

This view is in keeping also with Supreme Court Justice Antonin Scalia’s observations in his dissent in *Casey*, where he stated that “We should get out of this area, where we have no right to be, and where we do neither ourselves nor the country any good by remaining.” And instead resolve the question of the permissibility of abortion “like most important questions in our democracy: by citizens trying to persuade one another and then voting.”

So why is a definition of human life in the criminal code, legally speaking, a good strategy.

For one, a definition of human life in the criminal code is an unambiguous way to say North Dakota truly respects life. S.B. 2303 proposes a consistent fundamental principle to guide the state’s regulations of offenses against the person, a principle that guarantees our most precious liberties to all, without exceptions. Intentionally killing a human being will no longer be a way for sub-par doctors to make a profit, it will be a crime.

In Plyler v. Doe, Supreme Court Justice William Brennan wrote that to “identify subclasses of persons whom it would define as beyond its jurisdiction, thereby relieving itself of the obligation to assure that its laws are designed and applied equally to those persons, would undermine the principal purpose for which the Equal Protection Clause was incorporated in the Fourteenth Amendment.” The court was speaking of denying children of illegal immigrants state education funding. SB 2303 fights the creation of a subclass of persons that don’t just lack a right to an education, but the very right to life!

A definition of human life in the criminal code would speak with the greatest force possible to the issue of self-governance. The states have for too long abdicated their responsibility to protect their most vulnerable citizens. S.B. 2303 would send a clear message to the U.S. Supreme Court; there are principles higher than those of five unelected judges. With S.B. 2303, the people of North Dakota will speak in a loud and clear voice, the right to life is worth fighting for.

When Roe v. Wade was being debated before the Supreme Court, the entire debate revolved around whether the preborn child was a person with fundamental rights. Justice Potter Stewart at one point in the argument asked the attorneys, “The basic constitutional question, initially is, whether or not the unborn fetus is a person. That’s critical to this case is it not?” (Justice Potter Stewart) a little later Chief Justice Burger posed a hypothetical questions to Sarah Weddington, the proabortion attorney who fabricated Jane Roe’s rape in order to push abortion on the American people, their exchange was as follows: **“Could Texas, constitutionally in your view, declare, by statute, that a fetus is a person for all constitutional purposes?”**(Chief Justice Burger)

"The state could OBVIOUSLY adopt that kind of statute, and then it would have to be adjudicated." (Pro-abortion Attorney, Sarah Weddington)

Dear members of the committee, although we have known that the legal status of the preborn child is the key to a fundamental paradigm shift in the abortion debate, the issue has never once been revisited fundamentally by the supreme court. The reason they haven't revisited the issue of the legal status of the preborn child is not because they have turned down the cases, it is hard to believe, but not once in almost 40 years has a case and controversy surrounding the issue of the legal status of the preborn child been presented to the supreme court.

By passing S.B. 2303, you will be forcing the Supreme Court to reconsider its nefarious ruling that the most defenseless amongst us, our very own posterity, are sub-human ... are not persons. What greater legacy could a state, could a legislator, leave to posterity than to sow the legal seeds to the protection of our posterity?

I urge you to find the courage to stand up for the children in the womb, just like prior generations of Americans stood up for other groups of people who had been stripped of their fundamental rights and dignity.

**Senate Judiciary Committee
SCR 4009, SB 2302, and 2303
January 22, 2013**

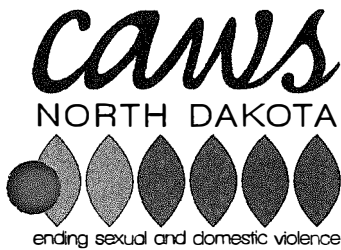
Chairman Hogue and members of the committee, my name is Renee Stromme. I am Executive Director of the North Dakota Women's Network. We are a membership organization working to improve the lives of North Dakota women. It is the position of the North Dakota Women's Network that reproductive choices for women must be ensured. The North Dakota Women's Network opposes SRC 4009, SB 2302, and SB 2303.

Proponents of prenatal personhood measures aim to severely limit women's access to reproductive health care, including all abortions, no matter the circumstances.

- Prenatal personhood measures are intended to completely and absolutely ban abortion, with no exceptions.
- Prenatal personhood measures are so extreme that voters have rejected them at every opportunity. No state has ever enacted one.
- Although prenatal personhood measures have garnered much attention from media, not a single prenatal personhood measure that would ban abortion (for other reproductive health care) has been approved by a state legislature or a state electorate.
 - In 2011, Mississippi voters rejected prenatal personhood ballot initiative by a wide margin.
 - In Colorado, voters have rejected so-called 'personhood' amendments twice- in 2010 and 2008- by overwhelming majorities.
 - And, in 2012, the Oklahoma Supreme Court refused to allow a prenatal personhood initiative to appear on the ballot in part because the measure would be 'clearly unconstitutional' under settled U.S. precedent.
 - There have been some efforts in the US Congress to enact a federal personhood measure, but those also have been unsuccessful.

For all of these reasons, NDWN is asking for a do-not-pass recommendation on SCR 4009, SB 2302 and SB 2303. Thank you for allowing my testimony.

Renee Stromme
Executive Director
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Testimony on HB 2303
Senate Judiciary Committee
January 28, 2013

Chair Hogue and Members of the Committee:

My name is Janelle Moos. I am speaking this morning on behalf of the North Dakota Council on Abused Women's Services in opposition to SB 2303.

Our Coalition is a membership based organization that consists of 21 local domestic violence and rape crisis centers located throughout the state that provide services to domestic violence, sexual assault, and stalking victims in all 53 counties and the reservations in North Dakota. Last year alone, these centers provided services to nearly 900 victims of sexual assault.

Although our Coalition does not have a policy position on abortion, we are united in our concern for victims of sexual assault and incest. HB 1450, from our perspective, would ban all abortion, even for rape and incest victims. We aren't here today to debate the issue of abortion itself; so we will limit our testimony to the specific exclusion of these exemptions for rape and incest survivors in SB 2303.

According to the National Victim Center and National Crime Victims Research and Treatment Center's study entitled Rape in America: A Report to the Nation (1992) "pregnancy from rape occurs with "significant frequency". Of the estimated 12% of adult women in the United States that have experienced at least one rape in their lifetime, 4.7% of these rapes resulted in pregnancy. Another study estimated that 25,000 pregnancies following the rape of adult women occur annually (Stewart & Trussell 2000).

I am not here today to tell you that all survivors should or even want to have abortions; but they should have a choice. We believe that since we cannot fully understand the path that brought them to us we cannot make that very difficult decision for them. This is about allowing a person who has had all decision making powers taken away from them as a result of the assault to make a very important and personal decision about their health, their family, and their future. This bill all but eliminates that option.

I urge you to oppose SB 2303.

Thank You.

13.8250.02001
Title.

Prepared by the Legislative Council staff for
Senator Sitte

February 1, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2303

Page 5, line 11, remove "A medical emergency which, in reasonable medical judgment, so complicates the"

Page 5, replace lines 12 through 19 with "Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person."

Page 5, line 20, after "b." insert "Medical treatment for life-threatening conditions of pregnancy.
c."

Page 5, line 23, replace "c." with "d."

Page 5, line 27, replace "d." with "e."

Page 5, line 30, replace "e." with "f."

Page 6, line 8, remove "A medical emergency that, in reasonable medical judgment, so complicates the"

Page 6, replace lines 9 through 16 with "Medical treatment for life-threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43-17 which results in the accidental or unintentional injury or death of another person."

Page 6, line 17, after "b." insert "Medical treatment for life-threatening conditions of pregnancy.
c."

Page 6, line 20, replace "c." with "d."

Page 6, line 24, replace "d." with "e."

Page 6, line 27, replace "e." with "f."

Renumber accordingly

2011

**FIRST ENGROSSMENT
with Senate Amendments****ENGROSSED HOUSE BILL NO. 1450**2303 (2)
2013
≈ SB 2303

Introduced by

Representatives Ruby, Karls, Kasper

Senators Larsen, Nodland, Sitte

- 1 A BILL for an Act to create and enact a new section to chapter 12.1-17 of the North Dakota
2 Century Code, relating to the application of sections in chapter 12.1-17 to certain medical
3 procedures; and to amend and reenact sections 12.1-01-04 and 12.1-16-06 of the North Dakota
4 Century Code, relating to the definition of human being and the application of sections in
5 chapter 12.1-16 to certain medical procedures.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 12.1-01-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12.1-01-04. General definitions.**

10 As used in this title, unless a different meaning plainly is required:

- 11 1. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
12 2. "Acted", "acts", and "actions" include, where relevant, "omitted to act" and "omissions
13 to act".
14 3. "Actor" includes, where relevant, a person guilty of an omission.
15 4. "Bodily injury" means any impairment of physical condition, including physical pain.
16 5. "Court" means any of the following courts: the supreme court, a district court, and
17 where relevant, a municipal court.
18 6. "Dangerous weapon" means, but is not limited to, any switchblade or gravity knife,
19 machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon,
20 cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or
21 spear; any weapon which will expel, or is readily capable of expelling, a projectile by
22 the action of a spring, compressed air, or compressed gas including any such weapon,
23 loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO₂ gun; and any

- 1 projector of a bomb or any object containing or capable of producing and emitting any
2 noxious liquid, gas, or substance.
- 3 7. "Destructive device" means any explosive, incendiary or poison gas bomb, grenade,
4 mine, rocket, missile, or similar device.
- 5 8. "Explosive" means gunpowders, powders used for blasting, all forms of high
6 explosives, blasting materials, fuses (other than electric circuit breakers), detonators
7 and other detonating agents, smokeless powders, and any chemical compounds,
8 mechanical mixture, or other ingredients in such proportions, quantities, or packing
9 that ignition by fire, by friction, by concussion, by percussion, or by detonation of the
10 compound, or material, or any part thereof may cause an explosion.
- 11 9. Repealed by S.L. 1975, ch. 116, § 33.
- 12 10. "Firearm" means any weapon which will expel, or is readily capable of expelling, a
13 projectile by the action of an explosive and includes any such weapon, loaded or
14 unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun,
15 bazooka, or cannon.
- 16 11. "Force" means physical action.
- 17 12. "Government" means:
- 18 a. The government of this state or any political subdivision of this state;
19 b. Any agency, subdivision, or department of the foregoing, including the executive,
20 legislative, and judicial branches;
21 c. Any corporation or other entity established by law to carry on any governmental
22 function; and
23 d. Any commission, corporation, or agency established by statute, compact, or
24 contract between or among governments for the execution of intergovernmental
25 programs.
- 26 13. "Governmental function" includes any activity which one or more public servants are
27 legally authorized to undertake on behalf of government.
- 28 14. "Harm" means loss, disadvantage, or injury to the person affected, and includes loss,
29 disadvantage, or injury to any other person in whose welfare the person affected is
30 interested.

- 1 15. "Human being" means an individual member of the species homo sapiens at every
2 stage of development.
- 3 16. "Included offense" means an offense:
- 4 a. Which is established by proof of the same or less than all the facts required to
5 establish commission of the offense charged;
- 6 b. Which consists of criminal facilitation of or an attempt or solicitation to commit the
7 offense charged; or
- 8 c. Which differed from the offense charged only in that it constitutes a less serious
9 harm or risk of harm to the same person, property, or public interest, or because
10 a lesser degree of culpability suffices to establish its commission.
- 11 ~~16-17.~~ "Includes" should be read as if the phrase "but is not limited to" were also set forth.
- 12 ~~17-18.~~ "Law enforcement officer" or "peace officer" means a public servant authorized by law
13 or by a government agency or branch to enforce the law and to conduct or engage in
14 investigations or prosecutions for violations of law.
- 15 ~~18-19.~~ "Local" means of or pertaining to any political subdivision of the state.
- 16 ~~19-20.~~ Repealed by S.L. 1975, ch. 116, § 33.
- 17 ~~20-21.~~ "Offense" means conduct for which a term of imprisonment or a fine is authorized by
18 statute after conviction.
- 19 ~~21-22.~~ "Official action" includes a decision, opinion, recommendation, vote, or other exercise
20 of discretion by any government agency.
- 21 ~~22-23.~~ "Official proceeding" means a proceeding heard or which may be heard before any
22 government agency or branch or public servant authorized to take evidence under
23 oath, including any referee, hearing examiner, commissioner, notary, or other person
24 taking testimony or a deposition in connection with any such proceeding.
- 25 ~~23-24.~~ "Omission" means a failure to act.
- 26 ~~24-25.~~ As used in this title and in sections outside this title which define offenses, "person"
27 includes, where relevant, a corporation, limited liability company, partnership,
28 unincorporated association, or other legal entity. When used to designate a party
29 whose property may be the subject of action constituting an offense, the word "person"
30 includes a government which may lawfully own property in this state. Person includes
31 all human beings.

1 ~~25-26.~~ "Political subdivision" as used in this title and in any statute outside this title which
2 defines an offense means a county, city, school district, township, and any other local
3 governmental entity created by law.

4 ~~26-27.~~ "Property" includes both real and personal property.

5 ~~27-28.~~ "Public servant" as used in this title and in any statute outside this title which defines
6 an offense means any officer or employee of government, including law enforcement
7 officers, whether elected or appointed, and any person participating in the
8 performance of a governmental function, but the term does not include witnesses.

9 ~~28-29.~~ "Risk assessment" means an initial phase with a secondary process approved by the
10 department of human services for the evaluation of the likelihood that a person who
11 committed an offense will commit another similar offense. The initial phase is an
12 assessment tool that is administered by a trained probation and parole officer. A
13 predetermined score on the initial phase initiates the secondary process that includes
14 a clinical interview, psychological testing, and verification through collateral information
15 or psychophysiological testing, or both. The department of human services shall
16 perform the secondary process of the risk assessment.

17 ~~29-30.~~ "Serious bodily injury" means bodily injury that creates a substantial risk of death or
18 which causes serious permanent disfigurement, unconsciousness, extreme pain,
19 permanent loss or impairment of the function of any bodily member or organ, a bone
20 fracture, or impediment of air flow or blood flow to the brain or lungs.

21 ~~30-31.~~ "Signature" includes any name, mark, or sign written or affixed with intent to
22 authenticate any instrument or writing.

23 ~~31-32.~~ "Substantial bodily injury" means a substantial temporary disfigurement, loss, or
24 impairment of the function of any bodily member or organ.

25 ~~32-33.~~ "Thing of value" or "thing of pecuniary value" means a thing of value in the form of
26 money, tangible or intangible property, commercial interests, or anything else the
27 primary significance of which is economic gain to the recipient.

28 ~~33-34.~~ "Writing" includes printing, typewriting, and copying.

29 Words used in the singular include the plural, and the plural the singular. Words in the
30 masculine gender include the feminine and neuter genders. Words used in the present tense
31 include the future tense, but exclude the past tense.

1 **SECTION 2. AMENDMENT.** Section 12.1-16-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **12.1-16-06. Construction.**

4 1. Sections 12.1-16-04 through 12.1-16-06 do not preclude the use of medications or
5 procedures necessary to relieve a person's pain or discomfort if the use of the
6 medications or procedures is not intentionally or knowingly prescribed or administered
7 to cause the death of ~~that~~ a person. In addition, sections 12.1-16-04 through
8 12.1-16-06 do not preclude the withholding or withdrawal of life-prolonging treatment
9 pursuant to state or federal law.

10 2. Sections 12.1-16-01 through 12.1-16-03 do not apply to:

- 11 a. Medical treatment for life-threatening conditions provided to a person by a
12 physician licensed to practice medicine under chapter 43-17 which results in the
13 accidental or unintentional injury or death of another person.
14 b. Medical treatment for life-threatening conditions in pregnancy.
15 c. The screening, collecting, preparing, transferring, or cryopreserving of a human
16 being created through in vitro fertilization for the purpose of being transferred to a
17 human uterus.
18 d. The disposal or destruction of a fertilized human ovum, zygote, or embryo,
19 created through in vitro fertilization, which has been subject to medical testing
20 and analysis, and in the reasonable judgment of a medical professional, if
21 transferred to a human uterus, would not produce a live birth.
22 e. The disposal or destruction of a fertilized human ovum, zygote, or embryo,
23 created through in vitro fertilization which has not progressed in development for
24 thirty-six hours in culture.
25 f. Contraception administered before a clinically diagnosable pregnancy of a
26 woman.
27 g. The termination of a pregnancy that resulted from gross sexual imposition, sexual
28 imposition, sexual abuse of a ward, or incest, as those offenses are defined in
29 chapter 12.1-20.

- 1 3. Sections 12.1-16-01 through 12.1-16-03 apply only to the principal actor, other than
2 the pregnant woman, with respect to criminal conduct upon a person who has not yet
3 been born.

4 **SECTION 3.** A new section to chapter 12.1-17 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Construction.**

- 7 1. Sections 12.1-17-01 through 12.1-17-03 do not apply to:
- 8 a. Medical treatment for life-threatening conditions provided to a person by a
9 physician licensed to practice medicine under chapter 43-17 which results in the
10 accidental or unintentional injury or death of another person.
 - 11 b. Medical treatment for life-threatening conditions in pregnancy.
 - 12 c. The screening, collecting, preparing, transferring, or cryopreserving of a human
13 being created through in vitro fertilization for the purpose of being transferred to a
14 human uterus.
 - 15 d. The disposal or destruction of a fertilized human ovum, zygote, or embryo,
16 created through in vitro fertilization, which has been subject to medical testing
17 and analysis, and in the reasonable judgment of a medical professional, if
18 transferred to a human uterus, would not produce a live birth.
 - 19 e. The disposal or destruction of a fertilized human ovum, zygote, or embryo,
20 created through in vitro fertilization which has not progressed in development for
21 thirty-six hours in culture.
 - 22 f. Contraception administered before a clinically diagnosable pregnancy of a
23 woman.
 - 24 g. The termination of a pregnancy that resulted from gross sexual imposition, sexual
25 imposition, sexual abuse of a ward, or incest, as those offenses are defined in
26 chapter 12.1-20.
- 27 2. Sections 12.1-17-01 through 12.1-17-03 apply only to the principal actor, other than
28 the pregnant woman, with respect to criminal conduct upon a person who has not yet
29 been born.

1

FISCAL NOTE
Requested by Legislative Council
02/08/2013

Amendment to: SB 2303

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0		\$5,386,643		\$5,804,138
Expenditures	\$0	\$0	\$9,705,419	\$5,386,643	\$10,519,437	\$5,804,138
Appropriations	\$0	\$0	\$9,705,419	\$5,386,643	\$10,519,437	\$5,804,138

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

SB2303 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4.

- 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.*

Section 4 requires the Department to expand medicaid coverage for pregnant women to the maximum allowed under federal law and requires medicaid equivalent coverage be provided to pregnant women who do not have private insurance and who exceed the maximum in Section 4. The Department is providing a range of potential expenditures as it is currently not known if the maximum allowed under federal law is 185% or 200% of the federal poverty level. The numbers in Section 1A above, assume 185% of poverty and represent the low end of our range, the high end assumes 200% of poverty. The Department estimates implementation of this Bill in the 13-15 biennium will range between \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department estimates that the cost of this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds. Separate from the amendment related to expanded Medicaid and Medicaid equivalent coverage, if this bill is passed, is legally challenged and the challenging party prevails in the lawsuit, it is likely that the State of North Dakota would be ordered to reimburse the prevailing party for attorney's fees and costs. The Office of Attorney General estimates the general fund cost for this purpose could be approximately \$60,000. Please note these cost have not been added to the amounts in Section 1A above.

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.*

The increase in revenues in each biennium is the additional federal funding the state will receive due to the increased expenditure relating to allowable expenditures.

- 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.*

The Department estimates expenditures for this Bill in the 13-15 biennium will range from \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department estimates expenditures for this Bill in the 15-17 biennium will range from \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

- 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.*

The Department will need an appropriation for the 13-15 biennium of between \$15,092,062 and \$17,621,272 of which between \$9,705,419 and \$10,702,150 will be general fund and between \$5,386,643 and 6,919,122 will be federal funds. The Department will need an appropriation for the 15-17 biennium of between \$16,323,574 and 19,059,168 of which between \$10,519,437 and \$11,603,776 will be general fund and between \$5,804,138 to \$7,455,392 will be federal funds.

Name: Debra A. Mcdermott

Agency: Department of Human Services

Telephone: 701 328-1980

Date Prepared: 02/12/2013

Maggie Anderson #2
SB 2303
2-13-13

North Dakota Department of Human Services
Engrossed Senate Bill 2303 - First Engrossment
February 13, 2013 - Senate Appropriations

Estimated Cost of Increasing the Eligibility Level for Medicaid Coverage for Pregnant Women to 185%

Average Cost	\$	4,078.32	Per Episode of Eligibility		
Estimate Number of Women		1,290	Per Year		
Total Estimated Cost	\$	10,732,502.70			
Federal Funds	\$	5,386,643.11			
General Funds	\$	5,345,859.60			

Estimated Total for 2013-2015 if 185% is the Federal Maximum = \$15,092,062. General Fund total would be \$9,705,419.

Estimated Cost of Providing Medicaid-equivalent Coverage for Uninsured Pregnant Women above 185%*

Average Cost	\$	4,078.32	Per Episode of Eligibility		
Estimate Number of Women		524	Per Year		
Total Estimated Cost	\$	4,359,559.24			
Federal Funds	\$	-			
General Funds	\$	4,359,559.24			

Estimated Cost of Increasing the Eligibility Level for Medicaid Coverage for Pregnant Women to 200%

Average Cost	\$	4,078.32	Per Episode of Eligibility		
Estimate Number of Women		1,657	Per Year		
Total Estimated Cost	\$	13,785,858.12			
Federal Funds	\$	6,919,122.19			
General Funds	\$	6,866,735.93			

Estimated Total for 2013-2015 if 200% is the Federal Maximum = \$17,621,272. General Fund total would be \$10,702,150.

Estimated Cost of Providing Medicaid-equivalent Coverage for Uninsured Pregnant Women above 200%*

Average Cost	\$	4,078.32	Per Episode of Eligibility		
Estimate Number of Women		461	Per Year		
Total Estimated Cost	\$	3,835,413.76			
Federal Funds	\$	-			
General Funds	\$	3,835,413.76			

Average Cost per Episode of Eligibility per Recipient includes all paid Medicaid claims while eligible.

Current Medicaid Income eligibility level is 133% of the Federal Poverty Level (net income)

In accordance with the Affordable Care Act, effective January 1, 2014, individuals over 100% of the Federal Poverty Level will be subject to the "individual mandate" and will have access to the federal premium subsidies.

*Consideration may want to be given to including crowd out provisions to ensure private insurance is not dropped to access this coverage.

*The Department would incur other administrative costs related to "enrolling" the uninsured women for this coverage, to issue identification cards, and to modify the Department's computer systems.

3-13-13
#1

Written Testimony of David A. Prentice, Ph.D.
Senior Fellow for Life Sciences, Family Research Council
Adjunct Professor of Molecular Genetics, John Paul II Institute, Catholic University of America
Founding Member, Do No Harm: The Coalition of Americans for Research Ethics

Human Services Committee, North Dakota House
March 2013

To the Distinguished Chair, Ranking Member and Honored Members of the Committee.

I am a cell biologist, currently working for a think tank in Washington, D.C. and as an adjunct professor at a local university. Previously I spent 20 years as Professor of Life Sciences at Indiana State University and Adjunct Professor of Medical & Molecular Genetics at Indiana University School of Medicine. Prior to that I was a faculty member in the Department of Obstetrics, Gynecology and Reproductive Sciences, University of Texas Medical School at Houston. I have done federally-funded laboratory research, lectured, and advised on these subjects extensively, in the U.S. and internationally. I've taught embryology, developmental biology, molecular biology and biochemistry for over 30 years to undergraduate and graduate students, as well as medical and nursing students.

I am testifying in **SUPPORT of SB 2303**, the bill to define the life and protections for any human being.

Let's first deal with the biology and the terminology regarding the subjects of this legislation.

"Zygote. This cell results from the union of an oocyte and a sperm during fertilization. A zygote is the beginning of a new human being (i.e., an embryo)."¹

"The development of a human begins with fertilization, a process by which the *spermatozoon* from the male and the oocyte from the female unite to give rise to a new organism, the *zygote*."²

"Almost all higher animals start their lives from a single cell, the fertilized ovum (zygote)... The time of fertilization represents the starting point in the life history, or ontogeny, of the individual."³

So, the entity in question is biologically a human being. The question before you is what respect and rights will be given this earliest stage of human life and all subsequent stages of human life; this also affects whether human life can be created in various ways and used for experiments.

Some opponents have criticized this bill under consideration as prohibiting stem cell research, but such statements are complete misconceptions of the bill. This bill does not even directly address the question of stem cell research. No stem cell research is prohibited by this bill, whether embryonic, induced (iPS), adult, or cord blood stem cells. Any ongoing stem cell research in the state can continue unabated under this bill, as well as any current stem cell treatments for patients, such as that documented at stemcellresearchfacts.org.

What the bill addresses is the human embryo, and his or her status in regards to rights and respect for life.

1 Moore, Keith L. and Persaud, T.V.N. *The Developing Human: Clinically Oriented Embryology*. 7th edition. Philadelphia: Saunders 2003, p. 2.

2 Sadler, T.W. *Langman's Medical Embryology*. 7th edition. Baltimore: Williams & Wilkins 1995, p. 3.

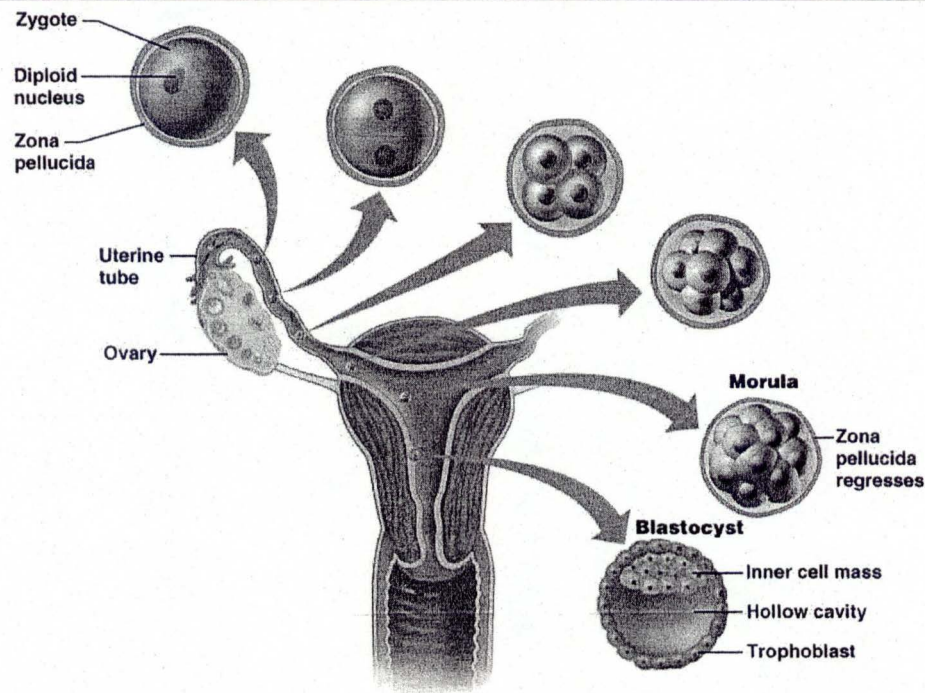
3 Carlson, Bruce M. *Patten's Foundations of Embryology*. 6th edition. New York: McGraw-Hill, 1996, p. 3.

On July 25, 1978, the world met Louise Brown, the very first “test tube baby”. Louise, born on that date in the U.K., was the first baby born using “In Vitro Fertilization”, IVF. The initial method was developed by Drs. Robert Edwards and Patrick Steptoe; Edwards had tried various aspects of IVF for years before finally getting a normal embryo, a pregnancy, and a baby that made it to birth.^{4,5} The first United States IVF baby was born in 1981. It is estimated that there are now over 5 million babies who have been born via IVF and similar techniques.⁶



Assisted Reproductive Technology (ART) has been controversial from the beginning. It involves conception and manipulation of human embryos in the laboratory. While the technique has helped some infertile couples to have children, the practice of manipulating human embryos has also opened the way to areas of ethical concern and to cavalier views of nascent human life and of women, including stockpiling of “excess” human embryos, and instrumental use of women for buying of their eggs or use of their wombs as surrogates. The controversy was not lessened, and actually intensified, when Edwards received Nobel Prize recognition in 2010 for his work in this area (Steptoe died in 1988).

NORMAL FERTILIZATION and EMBRYO DEVELOPMENT



Normal fertilization and commencement of human development begins in the fallopian tube, or oviduct. Usually only one egg (oocyte) is ovulated each month, from only one ovary. The egg is swept into the fallopian tube and travels toward the uterus. If fertilized by sperm that have swum into the fallopian tube,

4 Edwards RG, Ethics and moral philosophy in the initiation of IVF, preimplantation diagnosis and stem cells, Reproductive BioMedicine Online 10, Supp 1, 1, 2005

5 Biggers JD, IVF and embryo transfer: historical origin and development, Reproductive BioMedicine Online 25, 118, 2012
 6 “The world's number of IVF and ICSI babies has now reached a calculated total of 5 million”, European Society of Human Reproduction and Embryology, 2 July 2012, <http://www.eshre.eu/ESHRE/English/Press-Room/Press-Releases/Press-releases-2012/5-million-babies/page.aspx/1606>

the embryo will undergo several rounds of cell division before it reaches the uterus. Implantation into the uterine wall takes place approximately 7 days after fertilization/conception.

The standard definition of infertility means not being able to get pregnant after one year of trying. Some estimates suggest that as many as 10% of women (roughly 6 million) in the United States ages 15–44 years have difficulty getting pregnant or staying pregnant.

Assisted Reproductive Technology (ART) works by removing eggs from a woman's body. In the vast majority of cases, the woman's ovaries are first stimulated with high doses of hormones, to "superovulate" the ovaries and produce large numbers of eggs. The eggs are then mixed with sperm to create embryos, and some or all of the embryos are transferred to the woman's body. In most cases, the embryos that are not transferred to the womb are frozen in liquid nitrogen for future use. In some cases donor eggs are used, in which a young healthy woman receives the high hormone dose injections to harvest young, healthy eggs, often for compensation.

In ART, various methods are used regarding conception of embryos in the laboratory (in vitro, literally "in glass") and placement of embryos transferred to the woman's body.

VARIATIONS OF ASSISTED REPRODUCTIVE TECHNOLOGY

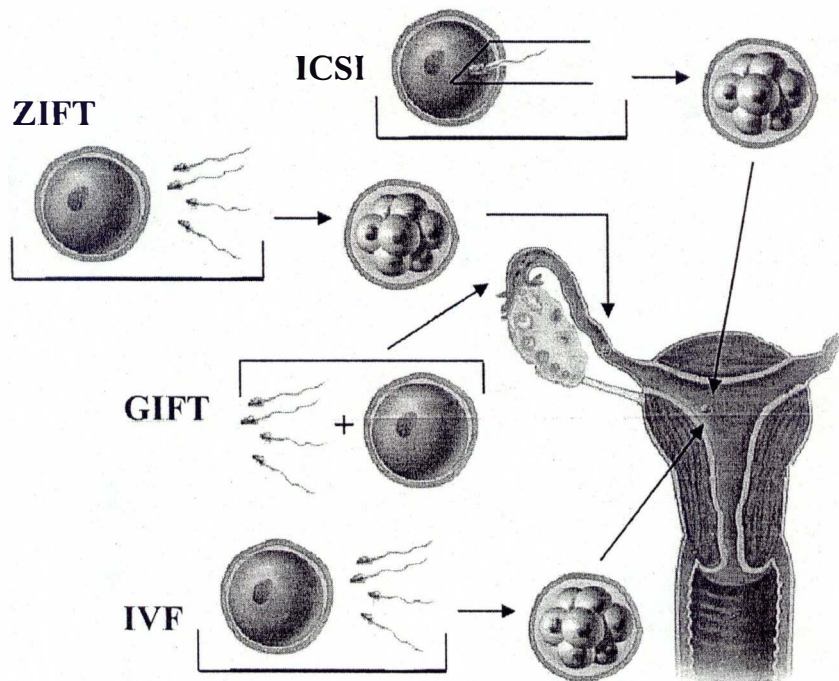
Differences in where fertilization or embryo transfer occurs

IVF—In Vitro Fertilization. Fertilization and maturation in lab, transfer to uterus

ZIFT—Zygote Intra-Fallopian Transfer. Fertilization & maturation in lab, transfer to fallopian tube

GIFT—Gamete Intra-Fallopian Transfer. Fertilization & maturation in fallopian tube, after transfer there

ICSI—IntraCyttoplasmic Sperm Injection. Artificial fertilization, maturation in lab, transfer to uterus



Most fertility clinics use the IVF technique for their patients, but there is increasing use of some of the other techniques, including use of ICSI. One concern has been that there have been few detailed studies of

health problems of children conceived via ART. While most of the over 5 million IVF babies seem healthy, there are several studies that indicate potential problems are increased in IVF children⁷ and concerns that more problems may crop up in the future.⁸

In addition, ART often is categorized according to whether the procedure used a woman's own eggs (nondonor) or eggs from another woman (donor) and according to whether the embryos used were newly fertilized (fresh) or previously fertilized, frozen, and then thawed (frozen).

There is currently almost no regulation of the fertility industry (IVF, ART) in the United States. The sole federal regulation is a reporting requirement on success rates to the Centers for Disease Control and Prevention (CDC). Congress enacted the Fertility Clinic Success Rate and Certification Act (FCSRCA, or Public Law 102-493, 42 U.S.C. 263a-1 et seq) in 1992, mandating that all ART clinics report success rate data to the federal government in a standardized manner.

Beyond the Fertility Clinic Success Rate and Certification Act, there are essentially no regulations in the United States regarding the ART industry. While fertility groups in the U.S. have guidelines for clinics to follow, the CDC notes that 80% of clinics do not follow these guidelines.⁹ Moreover, the only penalty for violating the guidelines is expulsion from some of the industry's professional organizations.

Another area of concern with ART include the transfer of multiple embryos followed by use of "selective reduction" if too many embryos implant and begin gestation. In this little-known but all-too-common procedure, some of the developing babies are selectively destroyed in the womb.¹⁰

Embryo freezing (cryopreservation) has also been a concern. Many question the ethics of freezing embryos, putting them in a sort of suspended animation, which some consider a form of stockpiling. In the U.S., there are over 400,000 human embryos frozen at fertility clinics.¹¹ Long-term freezing can also lead to some interesting societal and familial questions, including thawing and birth of siblings decades apart in their birth age.¹²

7 Wen J et al., Birth defects in children conceived by in vitro fertilization and intracytoplasmic sperm injection: a meta-analysis, *Fertility and Sterility* 97, 1331, 2012

8 Grace KS and Sinclair KD, Assisted reproductive technology, epigenetics and long-term health: a developmental time bomb still ticking, *Seminars in Reproductive Medicine* 27, 409, 2009

9 Reported at, e.g., "Most fertility clinics break rules", *USA Today*, 2/21/2009, http://usatoday30.usatoday.com/news/health/2009-02-21-fertility-clinics_N.htm; Data from Fertility Clinic Success Rates Report, Centers for Disease Control and Prevention (CDC), <http://www.cdc.gov/art/>

10 Ruth Padawer, "The Two-Minus-One Pregnancy", *New York Times*, August 20, 2011, <http://www.nytimes.com/2011/08/14/magazine/the-two-minus-one-pregnancy.html>

11 Hoffinan DI et al., Cryopreserved embryos in the United States and their availability for research, *Fertility and Sterility* 79, 1063, 2003

12 Dowling-Lacey D et al, Live birth from a frozen-thawed pronuclear stage embryo almost 20 years after its cryopreservation, *Fertility and Sterility* 95, 1120.31, 2011

A false statement that has been made regarding this bill is that it will ban fertility treatments. But in fact the bill makes specific allowance for fertility treatments via ART/IVF. Specifically, the bill allows for:

“The screening, collecting, preparing, transferring, or cryopreserving of a human being created through in vitro fertilization for the purpose of being transferred to a human uterus.”

Thus, SB 2303 allows for standard medical practice as carried out in IVF clinics. This includes the creation of human embryos in the laboratory, and also includes the freezing of human embryos for future fertility treatments, as well as the freezing of eggs for future fertility treatments.

Fertility can be preserved by freezing eggs rather than embryos. This has been done for many years now, and over 2,000 babies around the world have been born using this technology, especially in cases of young women preserving their fertility before cancer treatment.¹³ The success of freezing eggs rather than embryos has been documented, including in a recent review by Dr. Jeffrey Boldt, with whom I worked in the past. Dr. Boldt is Scientific Director of Assisted Fertility Services in Indianapolis, clinical associate professor of Medical and Molecular Genetics at Indiana University School of Medicine, and Scientific Director for The World Egg Bank. He notes in his review paper that use of freezing eggs has produced:

“pregnancy rates that rival those obtained with either frozen-embryo transfer or fresh IVF.”¹⁴

Some have claimed that embryos could not be discarded by an IVF clinic but must be preserved forever, no matter the status of the embryo. Again, such statements are not accurate, because the bill allows:

“The disposal or destruction of a fertilized human ovum, zygote, or embryo, created through in vitro fertilization, which has been subject to medical testing and analysis, and in the reasonable judgment of a medical professional, if transferred to a human uterus, would not produce a live birth.”

and

“The disposal or destruction of a fertilized human ovum, zygote, or embryo, created through in vitro fertilization which has not progressed in development for thirty-six hours in culture.”

What then does SB 2303 do in regards to in vitro human embryos?

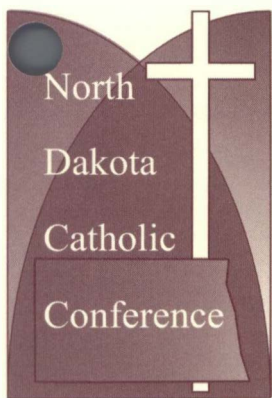
- **Require that standard medical care and medical practice be maintained for any human embryo.**
- **Prohibit harm or destruction to an in vitro human embryo through willful act, reckless endangerment, or negligent acts.**
- **Prohibit creation of human embryos for experiments.**

SB 2303 would make it clear that human embryos are not property, just as born human children are not property. This bill would provide necessary, distinct protections for the lives of human embryos.

Thank you for the opportunity to contribute to the information on this important issue.

¹³ E.g., Porcu E. *et al.*, Healthy twins delivered after oocyte cryopreservation and bilateral ovariectomy for ovarian cancer, Reproductive Biomedicine Online 17, 265, 2008.

¹⁴ Boldt J, Current results with slow freezing and vitrification of the human oocyte, Reproductive BioMedicine Online 23, 314, 2011



Representing the Diocese of Fargo
and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

#2

To: House Human Services Committee
Subject: SB 2303 Protection of Unborn Life
Date: March 13, 2013

The North Dakota Catholic Conference supports SB 2303 as a means of closing some loopholes in the protection of human life in North Dakota law.

Much of the controversy surrounding SB 2303 stems from a lack of understanding about the bill itself and existing law. Let's start with the bill itself. While it may look expansive, SB 2303 is quite limited. It basically only includes human beings within the definition of "person" in Title 12 of the North Dakota Century Code. At the outset, therefore, we can dispose of claims that this is a "personhood" bill that grants all legal rights to "fertilized eggs." Indeed, as we will see, SB 2303 is very limited in its scope.

To understand the limited scope of SB 2303 it helps to look at existing law. Existing law already makes it a crime to kill or assault an unborn human being. (Chapter 12.1-17.1) Three exceptions apply to this prohibition. They are:

- (a) If an embryo¹ is killed or harmed *in vitro*;
- (b) Abortion; and
- (c) If an embryo is killed or harmed *in utero* but before implantation.

SB 2303 closes gaps (a) and (b). The exceptions on page 5, lines 25-26, and page 6, lines 17-18, clearly leave intact any "contraception" that might kill or harm the nascent human life prior to implantation.

North Dakota law, therefore, already has protection for human life from the moment of conception. SB 2303 would merely close two gaps in that protection.

But SB 2303 is even more limited than that. The exceptions on pages 5 and 6 of the bill exempt from criminal penalties:

- Medical treatment for life-threatening conditions that resulted in the accidental or unintentional injury or death of another person;
- Medical treatment for life-threatening conditions in pregnancy;
- Standard handling of embryos created through vitro fertilization;
- The disposal or destruction of embryos that are not viable; and
- Contraception.

In addition, it does not penalize the mother in cases of abortion.

¹ The embryonic stage exists from the moment of conception, when a zygote is formed, to about eight weeks. For purposes of this testimony "embryo" refers to all the embryonic stages of development.

What, then, does SB 2303 do?

With regards to embryos existing outside the womb, SB 2303 only prevents the intentional, reckless, or negligent destruction of healthy human embryos that otherwise could come to full term. In this respect, SB 2303 mirrors what has been the law in Louisiana since the 1986 and IVF is available in that state.² IVF does not require the destruction of healthy embryos and incidental harm caused by standard medical care is protected in the bill. Practitioners of IVF, therefore, have no reason to oppose SB 2303 unless they are seeking an unfettered right to *cause* harm and destruction to healthy human embryos.

Despite this, opponents claim that SB 2303 would cripple fertility treatments in North Dakota. The bill's sponsors and now the Senate have poured over the bill and have attempted to address their concerns. At this point, it is not enough to allege that the bill would interfere with infertility practices. It is incumbent upon those with concerns to point out with specificity what, other than the non-accidental destruction of healthy human embryos, is not exempted in the bill and offer language to address those concerns.

With regards to abortion, SB 2303 would prohibit elective abortions not needed to treat life-threatening conditions. Claims have been made that the bill will not allow for treatment of ectopic pregnancies, molar pregnancies, and life-threatening conditions. Again, at this point, it is not enough to allege that the bill would interfere treating life-threatening conditions. It is incumbent upon those with concerns to point out with specificity how the exemption does not suffice and offer language to address those concerns.³

To summarize, SB 2303 would *only* (1) prohibit the non-accidental destruction of healthy human embryos and (2) prohibit abortion except when it is treatment for a life-threatening condition.

Finally, we have heard misleading statements regarding the constitutionality of SB 2303. SB 2303, as applied to abortion, certainly faces a legal hurdle. Courts, however, are not supposed to strike down statutes in the entirety. Rather, they can only prevent enforcement *as applied*. As applied to the protection of embryos outside the womb, the abortion decisions of the U.S. Supreme Court do not apply. If they did, Louisiana's statute would have been struck down long ago. Therefore, even if enforcement of SB 2303 as applied to abortion is enjoined by a court,

² Opponents of SB 2303 have claimed that Louisiana's law is not a criminal statute, but the type of penalty is irrelevant to their claim that SB 2303 would ban IVF procedures. Louisiana's law, like SB 2303, prohibits the destruction of healthy human embryos.

³ A few other claims warrant attention. Some claim that it will lead women who suffer miscarriages or pregnancy complications to be investigated for homicide, manslaughter or reckless endangerment. Another claim is that the bill would impact medical care for women who require medical intervention during a miscarriage. These claims completely ignore the fact that homicide, manslaughter, and reckless endangerment of unborn children are already crimes and have been so since 1987. SB 2303 does not change that law, which, by the way, has not unleashed a rash of investigations of miscarriages or impacted medical intervention during a miscarriage.

enforcement of the law as applied to *in vitro* embryos could still stand. Claims that SB 2303 is “blatantly unconstitutional” are unfounded and misleading.

Turning to Sections 4 and 5 of the bill, the conference expresses its support for those provisions and asks that the committee retain them.

Our approach to health care is shaped by a simple but fundamental principle:

“Every person has a right to adequate health care. This right flows from the sanctity of human life and the dignity that belongs to all human persons, who are made in the image of God.”

For this reason the Catholic bishops of the United States have since 1917 consistently and persistently called for access to quality, affordable, life-giving health care for all in a manner that respects human life and religious freedom. When it comes to ensuring health care, pregnant women are certainly among those who should receive our priority. Sections 4 and 5 of the bill are consistent with this principle.

We urge a **Do Pass** recommendation on SB 2303.

Unwanted and Adopted

Edward Franklin Albee III (pron.: /ˈɔːlbi/ *AWL-bee*; born March 12, 1928) is an American playwright who is known for works such as *The Zoo Story* (1958), *The Sandbox* (1959), *Who's Afraid of Virginia Woolf?* (1962), and a rewrite of the book for the unsuccessful musical *Breakfast at Tiffany's* an adaptation of Truman Capote's *Breakfast at Tiffany's* (1966).

Peter W. Carruthers (born July 22, 1959 in Boston, Massachusetts) is an American pair skater. He competed with his adopted sister Kitty Carruthers. They are the 1981-1984 U.S. national champions, the 1982 World bronze medalists, and the 1984 Olympic silver medalists.

Caitlin A. "Kitty" Carruthers (born May 30, 1961 in Boston, Massachusetts) is an American figure skater. She competed in pairs with her brother Peter Carruthers. They are the 1981-1984 U.S. national champions, the 1982 World bronze medalists, and the 1984 Olympic silver medalists. Following the 1984 Winter Olympics Kitty and Peter starred with "Ice Capades" and "Stars on Ice" for twelve years.

Eric Patrick Clapton, CBE, (born 30 March 1945) is an English guitarist and singer-songwriter. He is the only three-time inductee to the Rock and Roll Hall of Fame: once as a solo artist, and separately as a member of The Yardbirds and Cream. Clapton has been referred to as one of the most important and influential guitarists of all time.^[1]

Andrew Breitbart (/ˈbraɪtbart/; February 1, 1969 – March 1, 2012) was a conservative American publisher,^[1] commentator for *The Washington Times*, author,^[2] and occasional guest commentator^{[3][4][5]} on various news programs, who served as an editor for the *Drudge Report* website.^[6]

Faith Daniels (born March 9, 1957; Pittsburgh, Pennsylvania) became nationally known for her role in anchoring some of America's most popular news and talk show programs. She was conceived by rape.

Daunte Rachard Culpepper (born January 28, 1977) is a former American football quarterback. He last played for the Sacramento Mountain Lions of the United Football League (UFL). Prior to joining the UFL, Culpepper enjoyed a successful National Football League (NFL) career after being drafted 11th overall in the 1999 NFL Draft by the Minnesota Vikings.

Daniel Dion "Dan" O'Brien (born July 18, 1966, Portland, Oregon), an American athlete. Adecathlete, his 1990s achievements in the decathlon included the winning of an Olympic gold medal in 1996, and, previous to that, three consecutive titles at the World Championships in Athletics.

Gary Wayne Coleman^[4] (February 8, 1968 – May 28, 2010) was an American actor, known for his childhood role as Arnold Jackson in the American sitcom *Diff'rent Strokes* (1978–1986) and for his small stature as an adult. He was described in the 1980s as "one of television's most promising stars".

Faith Hill (born **Audrey Faith Perry**; September 21, 1967) is an American [country](#) singer. She is known both for her commercial success and her marriage to fellow country star [Tim McGraw](#). Hill has sold more than 40 million records worldwide and accumulated eight number-one singles and three number-one albums on the U.S. Country charts.

Michael Edward Reagan (born **John Flaughter**; March 18, 1945) is a former American [radio](#) host and [Republican strategist](#). His [nationally syndicated radio show](#), *The Michael Reagan Talk Show*, aired on stations throughout the United States on the [Premiere Radio Networks](#), [Radio America](#) and [American Family Radio](#). He is the adopted son of [Ronald Reagan](#) and his first wife [Jane Wyman](#).

Melissa Ellen Gilbert (born May 8, 1964) is an American [actress](#) and [television director](#). Gilbert began her career as a [child actress](#) in the late 1960s appearing in numerous commercials and guest starring roles on television. From 1974 to 1984, she starred as [Laura Ingalls Wilder](#) on the [NBC](#) series *Little House on the Prairie*. During the run of *Little House*, Gilbert appeared in several popular television films including *The Diary of Anne Frank* and *The Miracle Worker*.

Jonathan J. Gilbert (born July 10, 1968)^[1] is an [American](#) former [film](#) and [television actor](#). Gilbert is best known for his performance as Willie Oleson on the [NBC](#) TV series, *Little House on the Prairie*, from 1974 to 1983. He is the adopted son of actors Barbara Crane (née Barbara Cowan) and [Paul Gilbert](#) and the adopted brother of [Melissa Gilbert](#), who played [Laura Ingalls Wilder](#) on the series.

Lynnette Cole-O'Nan (born February 9, 1978), won the title [Miss Tennessee USA](#) in 2000. She went on to become the first woman from that state to win the [Miss USA](#) pageant,^[1] which was held in [Branson, Missouri](#) on February 4, 2000.

Steven Paul "Steve" Jobs (/ˈdʒɒbz/; February 24, 1955 – October 5, 2011)^{[5][6]} was an American [entrepreneur](#)^[7] and inventor,^[8] best known as the co-founder, chairman, and CEO of [Apple Inc.](#) Through Apple, he was widely recognized as a charismatic pioneer of the [personal computer revolution](#)^{[9][10]} and for his influential career in the computer and [consumer electronics](#) fields, transforming "one industry after another, from computers and smartphones to music and movies..."^[11].

Eartha Mae Kitt (January 17, 1927 – December 25, 2008^[1]) was an American [singer](#), [actress](#), and [cabaret](#) star. She was perhaps best known for her highly distinctive singing style and her 1953 hit recordings of "[C'est Si Bon](#)" and the enduring Christmas novelty smash "[Santa Baby](#)." [Orson Welles](#) once called her the "most exciting woman in the world."^[2] She took over the role of [Catwoman](#) for the third and final season of the 1960s [Batman television series](#), replacing [Julie Newmar](#), who was unavailable due to other commitments. **Conceived by rape.**

Matthew Laborteaux (born December 8, 1966) is an [American actor](#) who has starred in television and film. He is perhaps best known for portraying the character [Albert Quinn Ingalls](#) on the hit [NBC](#) series *Little House on the Prairie* from 1978 to 1983.

Patrick Labyorteaux (born July 22, 1965) is an American actor, television producer and television writer. He is best known for his roles of Andrew Garvey on the [NBC](#) series [Little House on the Prairie](#) as well as [Bud Roberts](#) on the [CBS](#) series [JAG](#). – considered unadoptable

Arthur Gordon "Art" Linkletter (July 17, 1912 – May 26, 2010) was a Canadian-born American [radio](#) and [television personality](#). He was the host of [House Party](#), which ran on [CBS](#) radio and television for 25 years, and [People Are Funny](#), on [NBC](#) radio and TV for 19 years. Linkletter was famous for interviewing children on [House Party](#) and [Kids Say the Darndest Things](#), which led to a series of books quoting children. He became a naturalized US citizen in 1942.

Raymond Allen "Ray" Liotta (born December 18, 1954) is an American actor, best known for his portrayal of [Henry Hill](#) in the crime-drama [Goodfellas](#) (1990) and for his role as [Shoeless Joe Jackson](#) in [Field of Dreams](#) (1989). He has won an [Emmy Award](#) and been nominated for [Golden Globe](#) and [Screen Actors Guild](#) awards. Liotta is also known for starring as the protagonist, [Tommy Vercetti](#) in the video game [Grand Theft Auto: Vice City](#) (2002).

Gregory Efthimios "Greg" Louganis (pron.: [/luːɡeɪnɪs/](#); born January 29, 1960) is an American Olympic [diver](#) and author who won gold medals at the 1984 and 1988 Olympic Games on both the springboard and platform. He is the only male and the second diver in Olympic history to sweep the diving events in consecutive Olympic Games. In 1984, he received the [James E. Sullivan Award](#) from the [Amateur Athletic Union](#) (AAU) as the most outstanding amateur athlete in the United States.

Lady Naomi Burke ([née](#) Gordon-Lennox; born March 1962, [Kingston, Surrey](#)), known as **Nimmy March**, is a [British](#) actress. Her biological parents were a [black South African](#) father and [white English](#) mother. She was brought up and adopted by Earl and Countess of March and Kinrara, now [the Duke and Duchess of Richmond](#). She was married to Gavin Burke (Div Q4/1012), and has two children.

Frances Louise McDormand^[1] (born June 23, 1957) is an American film and stage actress. She has starred in a number of films, including her [Academy Award](#)-winning performance as Marge Gunderson in [Fargo](#), in 1996. She won the Tony Award for Best Actress in a Play in 2011 for her performance in [Good People](#) as Margie Walsh, and was nominated for the same category in 1988 for her performance in [A Streetcar Named Desire](#).

James Albert Michener (pron.: [/ˌmɪtʃənər/](#);^[1] February 3, 1907 – October 16, 1997) was an [American](#) author of more than 40 titles, the majority of which were sweeping sagas, covering the lives of many generations in particular geographic locales and incorporating historical facts into the stories. Michener was known for the meticulous research behind his work.^[2]

David Rex "Dave" Thomas (July 2, 1932 – January 8, 2002) was an American businessman and [philanthropist](#). Thomas was the founder and [chief executive officer](#) of [Wendy's](#), a [fast-food restaurant](#) chain specializing in [hamburgers](#). He is also known for appearing in more than 800 commercial advertisements for the chain from 1989 to 2002, more than any other company founder in television history.^[1]

Merriam-Webster

¹hu·man

adjective \ 'hyü-mən, 'yü-\

Definition of HUMAN

1

: of, relating to, or characteristic of humans

2

: consisting of humans

3

a : having human form or attributes

¹be·ing

noun \ 'bē(-i)ŋ\

1

a : the quality or state of having existence

b (1) : something conceivable as existing (2) : something that actually exists (3) : the totality of existing things

Geography and Access to Abortion

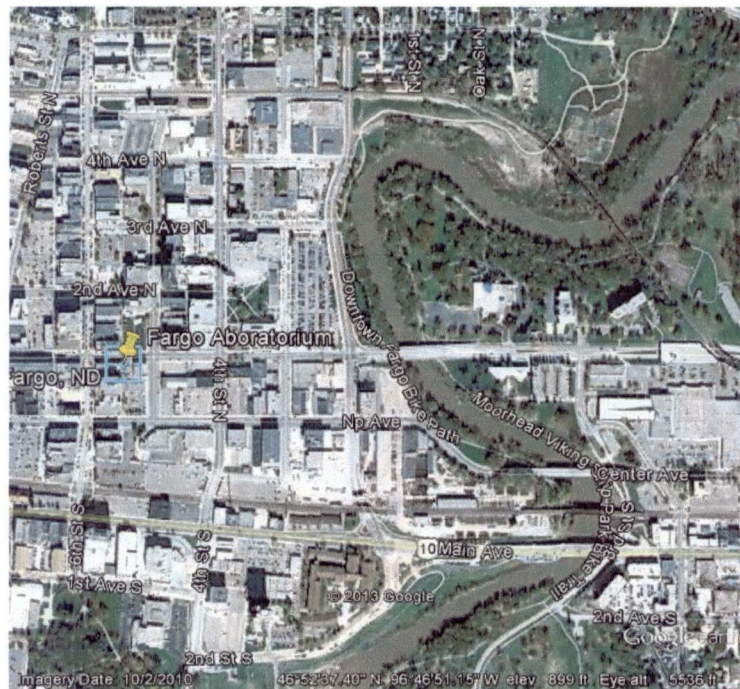
It was stated in a recent article about the Red River Women's Clinic that the clinic is "the only place within 230 miles where abortions are performed legally". I believe that this idea of loss of abortion access will emerge as a primary point of attack by the abortion industry.

The clinic's director, Tammi Kromenaker perpetrates the loss of access claim often as she did during an interview with Amanda Marcotte posted on the RH Reality Check website on February 11, 2013:

Amanda Marcotte: "What is going to happen to women if you guys are forced to stop providing abortion in North Dakota?"

Tammi Kromenaker: "Well, and that was actually asked by one of the committee members of the House and I think that it is a really important point. Uhm, it will go back to, you know, pre-Roe days. Women of means, women who have the ability to travel, and, and you know, will go to the closest provider which are about four hours away from Fargo, uhm, but that will leave, you know, the most vulnerable women in our society, uhm, rural women, poor women, and women of color unable to, uhm, get to those other abortion providers and will force them to carry pregnancies that they are neither prepared for nor emotionally, financially, uhm, and they will be forced to carry pregnancies that they don't want to continue".

It all seems a rather moot point as the laws governing abortion in Minnesota are much less stringent than those currently in effect or proposed for North Dakota. Moorhead, MN is in the Red River valley. In fact the Red River Women's Clinic is a mere 1,660 feet from Minnesota. And the real estate values are significantly lower there than in Fargo.



#5

Testimony

Good morning Chairmen, Vice-Chairman, and Committee Members. My name is Jane Dukart. I am sixteen years old and I am pro life.

I am not testifying this morning to take away anyone's job or freedom, though if someone loses their job because abortion is not allowed to be performed in North Dakota any more, I pray they will find a more pleasant job helping, not hurting people.

I'm testifying for the grandpas and grandmas who are missing out on the joy of having grandchildren, for the mothers and fathers who will spend the rest of their lives being slaves of their guilt, for the young girls who fell for the lie that abortion is the easy way out and for the babies that have no voice, who have been aborted because they were an inconvenience, the wrong color, the wrong gender, had the wrong number of chromosomes or some other type of abnormality.

I am not pro life just because my parents are I made the choice after going to talks and conventions and learning the harm abortion does to women's mind, body, and soul and how degrading it is for her. I also become pro life by having the privilege to live a normal teenager's life and hearing the lies that young girls are told by society about how to treat their bodies, we are told that if we make a bad choice and become pregnant that abortion is the easy way out. Young women fall for this lie because they do not want to be looked upon as a failer or stand out from the crowd all they want is for things to go back to normal. But what their not told is how abortion will haunt them for the rest of their lives. What young women need in this situation is compassionate support from people who care them and their baby they need to be informed of the positive aspects of adoption they also need a safe haven such as maternity homes. Please give us young people enough credit that we are able to make a responsible decision for ourselves and our babies when faced with these kinds of adversities.

I believe it is necessary for North Dakota to pass pro life legislation to safe guard our future so we will not become like China, where in 2005 , according to Therese Hasketh of UCL for health and development, the number of males under the age of 20 exceeds the number of females by 32 million. We in southwest North Dakota are already witnessing the negative impact that abnormal male to female ratios can cause. Senate bill 2303 would prevent this imbalance by stopping sex selection abortions.

It's important that you, as our governing body, are away that it is a misconception that all young people are for abortion. I thank you for listening and allowing me to share a teenager's views on abortion and I urge you to vote yes on Senate Bill 2303.

Are there any questions?

#6

**North Dakota Life League
1336 25 Ave S Ste 203
Fargo ND 58103**

Testimony in favor of Senate Bill 2303 and SCR 4009

Chairman Robin Weisz and Members of the Human Services Committee:

North Dakota Life League is a grass roots organization that supports the legal protection of all human beings from conception to natural death. We represent about 4000 families through out North Dakota.

All of these families have signed up to receive information in support of legal protection for all innocent human beings.

SB 2303 is a bill that does provide legal protection for all innocent human beings. This bill specifically requires the health care profession to care for the unborn child with equal rights as the mother but at the same time allows for necessary medical treatment intended to treat the mother's legitimate health care needs.

SB 2303 does not prohibit IVF. It simply requires that the IVF clinics treat unborn children as persons afforded the same rights as those who are born.

SB 2303 does not prohibit contraception.

SB 2303 extends Medicaid coverage to uninsured pregnant mothers and their children. This was an amendment to this bill and is one that we support. We would like to see this bill, in its current form, go to the House for a vote.

North Dakota Life League, as representatives of our supporting families from North Dakota ask you to vote yes for SB 2303 and to send this bill to the full House with a Do Pass. Thank you!

North Dakota Life League also supports the SCR 4009. This bill sends an amendment of the ND Constitution to the ballot for a vote of the ND people. The amendment will clarify the intent of North Dakota's Constitution to recognize and protect all innocent human beings.

It is important to pass this resolution in order to provide North Dakota the Constitutional standing to support, not only SB 2303, but in addition, all of the current legislation enacted since the overturning of our abortion law in 1973.

North Dakota Life League asks for a yes vote on SCR 4009. Thank you for the honor and opportunity to testify before this Committee.

S.B.2303
Testimony of Gualberto Garcia Jones, J.D.

In order to understand how the intentional killing of innocent preborn children became a fundamental federal “right,” I believe that we have to understand how the words “person” and “human being” are used in the law. We also have to understand the proper relationship between federal and state lawmaking.

Before Roe v. Wade, preborn children were presumed to be legal persons with fundamental rights, and the protection of those fundamental rights was carried out by the states in their legislative capacity.

This is not in contradiction to the US Constitution, but perfectly in keeping with it through the tenth amendment which states that:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

For 200 years, the states protected the right to life of preborn children through their police powers; specifically, in their state criminal codes. In North Dakota, the law prior to Roe v. Wade prohibited all abortions as felonies. See. 12.1-19-01 through 12.1-19-07.

Abortion apologists and abortion advocates will surely claim that recognizing that all human beings are persons is somehow a radical idea.

But if one stops to think about what SB 2303 actually states, there is nothing extreme about it. Let me quote the operative language of SB 2303:

““Human being” means an individual member of the species homo sapiens at every stage of development,” and “Person includes all human beings.” What exactly is radical about any of that?

Esteemed members of the committee, when abortion advocates describe cherishing and protecting all life as an extreme thing, I ask you to think of the reality and brutality of abortion. Even the words I would have to use to describe what an abortion does to the unborn baby are too graphic for the young people in this audience.

The fact is that equating a human being as a legal person is just common sense. A brief survey of our American jurisprudential history should suffice:

In the words of Chief Justice John Marshall, “the words ‘any person or persons’ are broad enough to comprehend every human being.” United States v. Palmer (1818)

John Bingham, the drafter of the 14th amendment to the US Constitution argued during the ratification process: “a State has not the right to deny equal protection to **any human being** under the Constitution of this country in the rights of life, liberty, and property.”

In Williams vs. Marion Rapid Transit Co., a 1949 Ohio state supreme court decision the court wrote that “if the common law protects the rights of the unborn child and if every intendment in the law is favorable to him, the inference is inevitable that such unborn child is a person and possesses the rights that inhere in a person even though he is incapable himself to assert them.”

Then came 1973 and Roe v. Wade. In order to justify abortion, the court in Roe v. Wade did the same thing that abortion proponents are still doing today. They seek to dehumanize an entire group of

people. The debate in Roe revolved around whether the unborn child was a person with fundamental rights. Justice Potter Stewart at one point in the oral argument asked the attorneys, “The basic constitutional question, initially is, whether or not the unborn fetus is a person. That’s critical to this case is it not?”

That was the basic constitutional question in 1973 and it continues to be the question today. As legislators you are vested with the awesome power to protect the most vulnerable as persons, and that is what SB 2303 does.

This view is in keeping also with current Supreme Court Justice Antonin Scalia’s observations in his dissent in Casey, where he stated that “We should get out of this area, where we have no right to be, and where we do neither ourselves nor the country any good by remaining.” And instead resolve the question of the permissibility of abortion “like most important questions in our democracy: by citizens trying to persuade one another and then voting.”

So why is a definition of human life in the North Dakota code, legally speaking, a good strategy?

For one, a definition of human life in the code provides clarity into the application and construction of the law in a way that puts to rest the arguments of abortion advocates.

Abortion advocates will say that SB 2303 will ban contraception, and yet the bill is explicitly clear that contraception administered prior to a diagnosable pregnancy will not be affected.

You will hear that this bill will put women’s health in danger in cases such as an ectopic pregnancy. Yet, here again the language

is clear that women may receive medical treatment for medical emergencies.

You will also hear that this bill will outlaw or prevent IVF. Again, the language lays out guidelines through which both the medical doctors and the developing humans at the embryonic stage will be protected.

I would like to expand on this point for one minute because the fertility industry has been specially vocal and misleading. Recognizing human beings as legal persons at every stage of development simply will not outlaw or even hamper fertility treatment. No further proof is necessary than looking at the state of Louisiana which passed a law in 1986 which stated that “An in vitro fertilized human ovum exists as a juridical person” RS 9:123 and “An in vitro fertilized human ovum is a biological human being” RS 9:126. In Louisiana, neither the cost nor the availability of fertility treatment have been affected by this law. There is no reason to believe that it would be any different in North Dakota.

S.B. 2303 proposes a consistent fundamental principle to guide the state’s interest in protecting its citizens. It does not pose any threats to the legitimate practice of medicine, and it should be no surprise that both medical doctors in the North Dakota Senate voted for SB 2303.

In Plyler v. Doe, Supreme Court Justice William Brennan wrote that to “identify subclasses of persons whom it would define as beyond its jurisdiction, thereby relieving itself of the obligation to assure that its laws are designed and applied equally to those persons, would undermine the principal purpose for which the Equal Protection Clause was incorporated in the Fourteenth Amendment.” The court was speaking of denying children of

illegal immigrants state education funding. SB 2303 fights the creation of a subclass of persons that don't just lack a right to an education, but the very right to life!

I would also like to briefly comment that I strongly support the provision of SB 2303 which extends medicaid coverage for pregnancy and delivery care to pregnant mothers who do not have insurance. For a generation, we have extended child tax credits to help parents with the costs of raising a family, I believe it is appropriate to help low income pregnant women at a time where many are alone and most vulnerable.

Dear members of the committee, by passing S.B. 2303, you will be making history in the line of William Wilberforce, and Martin Luther King.

What greater legacy could a state, could a legislator, leave to posterity than to sow the legal seeds to the protection of our posterity?

I urge you to find the courage to stand up for the children in the womb, just like prior generations of Americans stood up for other groups of people who had been stripped of their fundamental rights and dignity.



#8

March 13. 2013

Mr. Chairman and members of the committee, my name is Janne Myrdal, and I am the State Director for Concerned Women for America (CWA) of North Dakota. CWA is the nation's largest women's public policy organization. We are here today on behalf of our North Dakota members, in support of SB2303.

The advancement of science and technology now give us amazing and convincing clarity as to when life begins. It is no longer a valid debate over when life starts, but rather the debate, as it should have always been, over whether that life deserves full protection under our laws. The courts have left the State with a legitimate interest from the outset of pregnancy to protect the life, - or the potential life, of the baby. At what stage do we do this? The answer should be from conception if we want to stand with truth. Compelling testimony by experts have been heard here today; evidence of life at conception, arguments based on precedence by earlier court decisions as well as the Constitution itself. What is set before us today as a State in SB2303 is simple; "Is the human being an individual member of the species homo sapiens at every stage of development?" And does therefore this unborn child deserve the full protection under North Dakota laws regardless of gestational age? CWA believes it does. We have spent 40 years and nearly 57 million lost lives. We think it is incumbent on the lawmakers of this state to secure the rights of all human beings under the law. Since life indisputably starts at conception, no argument can withstand that argues these rights be taken away from the unborn child. To deny such rights is both morally and scientifically indefensible.

It is time we stop insulting our intelligence, stop hurting women and stop sacrificing our children on the altar of convenience. We are here today because the unborn child cannot speak for her/himself. What we are asking is that you vote a 'do pass' on SB2303 and let North Dakota laws speak for them.

CONCERNED WOMEN FOR AMERICA
OF NORTH DAKOTA

Hello, my name is Shannon Biwer and I am honored to stand before you today to address the issue that utterly demolishes the sacredness of life; abortion.

As a young woman in high school, I consistently see the pressures and expectations that are put upon women by modern day society. Many feel as if they are in a struggle that can only be won through their own will power. That is why, when a young woman becomes pregnant she feels that the world has given her only one option that will fix her so called "problem": abort her child. If I was put in this situation, I would understand completely the difficulty of a woman's decision. When young, unmarried women find out they are pregnant, they are naturally consumed by fear and their judgment can be clouded by it. Woman may feel as if they have nowhere to turn, no one to talk to, as if they are facing this decision on their own. Every human being has two options when fear is upon their heart, either one is completely enslaved and consumed by it, causing pain and suffering to themselves and others, or one can rise above the fear, face it head on, and dispel the fear in their heart and instead fill it with courage and hope. What women need during this dark time in their life is to know they have support throughout their entire pregnancy and after the birth of their baby. To know that they are supported is to know that they have a way of rising above the darkness of their fear and to realize that they are loved and accepted no matter how shameful of fearful they feel.

Modern day society has degraded the gift of a woman's fertility by telling them that the baby inside of them is not a life, rather it is a "tissue". Through the simple act of dehumanizing the child, women have completely opened themselves up to the probable option of abortion. To admit to themselves that they are taking an innocent life, is to admit their own culpability. To most, the easiest way out would be to abort the child within her womb. But, what women need to know is that the easiest choice is not always the right choice. Many women feel that when they abort their child that it is the end of their so called "problem"

Unbeknownst to them, an abortion does not solve their current problem, rather it open up the possibility of life long problems. The first of these problems are the physical medical issues [These include: bleeding, hemorrhage, laceration of the cervix, bladder or bowel perforation, serious infection, permanent infertility, increased risk of breast cancer, and in some cases, death.]

Not only could the woman experience physical infirmities, she also is threatened by psychological infirmities such as self hatred, threatened suicide and numerous other afflictions. These may include: eating disorders, drug and alcohol abuse, personal relationship disorders, sexual dysfunction, repeated abortions, communication difficulties, damaged self-esteem, attempt and success of suicide, and denial of the abortion.

Women are entrusted with the noble mission of giving life, this is why when a woman chooses to freely abort her child, it takes so long for them to recover once their eyes have been opened. Abortion is not only a tragedy against the child but also for the mother. A successful abortion does not assist the woman in any way, rather it affects the very core of her identity. It is my outsized hope that we as a community can welcome and celebrate every new life no matter the circumstances.

Handed in #10
Support

3/13/2013

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Testimony in favor of SB2303, 2305, 2368, 4009

Mr. Chairman and honorable members of the committee:

My name is Maria Wanchic and I've lived here in the Bismarck/Mandan area my whole life. I am honored to be here today testifying in support of Senate Bill 2303, 2305, 2368 and 4009. My testimony will last about 10 minutes.

I'd like to play a few short audio clips from the Roe vs Wade oral arguments. It's not my intention to construe the words of anyone in these clips but only to call attention to the number of times the question of the unborn as persons comes up. (you can listen to the entire audio clip at www.oyez.org)

(audio clip, tracks 1-7) [4]

Throughout the one hour of Roe vs. Wade oral arguments the question of personhood for the unborn is discussed over and over again. As Justice Potter Stewart says answering that question is "critical to this case". However, after the much anticipated ruling it was revealed that the Supreme Court would be silent on this critical question. In the final analysis, the Supreme Court contradicted itself, flipped a coin on the question of life and chose to make freedom of choice the law of the land completely wiping off the board decades of various state anti-abortion laws. [11]

Justices White and Rehnquist could not find a constitutional basis to allow for abortion on demand. Justice White wrote in his dissenting opinion:

"I find nothing in the language or history of the Constitution to support the Court's judgment. The Court simply fashions and announces a new constitutional right for pregnant women and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing state abortion statutes." [5]

In the Supreme Court's view state laws against abortion infringed upon the 14th amendment right to personal liberty. The court had twisted the concept of personal liberty to mean private choices. But private choices are limited when they adversely affect other people or even the individual person. This would be the case with abortion because it's a decision to end the life of another person. States restrict personal liberty all the time in the cases of suicide, drug use, smoking, underage drinking, seat belts, and speed limits. Personal liberty is trumped by the protection of human life. (see note A)

Later on in his career, Justice White made repeated attempts to overrule Roe vs Wade. In describing the right to abortion on demand he wrote,

"In so denominating that liberty, the Court engages not in constitutional interpretation, but in the unrestrained imposition of its own extraconstitutional value preferences." [6]

In other words, the Supreme Court fashioned this new so called right based on a the whim of the age and personal preference, not on the constitution or even on any prior court cases. [7]

The Ninth Amendment

Another argument for abortion on demand used the 9th amendment by stating that abortion was an unenumerated right (or a right not specifically spelled out in the constitution) retained by the American people. Under the meaning of the ninth amendment the state laws had already set the precedence that abortion was NOT a right retained by the American people. When the civil war ended in 1865, 26 out of 36 states had already banned abortion. [8] By the year 1900 every state had anti-abortion laws in place. [9] The people had spoken. The 1973 ruling nullified the strict anti-abortion laws of 20 states who defended the unborn for over a century. [10]

During the mid 1800's as medical research discovered that life begins at conception rather than at quickening (which is when the mother first feels the fetus move), it became a firm resolution in the minds of medical professionals that unborn life must be preserved and defended. [11] The American Medical Association in a declaratory statement presented to Congress in 1857 used strong language against the increasing practice of abortion on demand. I quote:

“...this body, representing, as it does, the physicians of the land, publicly express its abhorrence of the unnatural and now rapidly increasing crime of abortion; that it avow its true nature, as no simple offence against public morality and decency, no mere misdemeanor...” [12]

The Declaration of Independence

The Declaration of Independence, the foundation of the constitution, asserts that we are created equal, not born equal and nothing has to be done or accomplished to attain the right to life. Simply to be in existence is enough. **By condoning abortion on demand, the Supreme Court condoned the civil right (or privileged right guaranteed by a government) to take a human right (or God-given right bestowed by the Creator) away from those who can not speak for themselves. The right to be born is a human right.**

The 14th Amendment

The 14th amendment elaborates on the declaration's basis of human rights for persons. Mrs. Weddington, the attorney who argued the case against Texas in Roe vs. Wade admitted that if a fetus was a person with constitutional rights then she would have a very difficult case. She reasoned that fetus' have no protection under the 14th amendment because they are not yet born as citizens of the United States.

This reasoning assumes that because a person does not become a citizen until after birth that they have no rights guaranteed by the Constitution. However the framers of our constitution used both the words, citizen and person in the 14th amendment to describe who's life specifically is protected. You do not need to be a citizen to have your right to life protected. (see note B) Legal and even illegal immigrants to the US still have the same basic protection under the constitution. [13] If you are a person (born or unborn) and if you are within the borders of the US then your right to life specifically is protected by the 14th amendment.

An Appeal to Objective, (Self-evident) Truths

Over the last 20 years I have become grateful to those individuals who were pro-choice who were calm and respectful enough to have good dialogues. And what I've learned from those conversations is this: although there are many out there who believe abortion to be a right, when it comes down to it, the vast majority believe abortion to be a necessary wrong-doing or a necessary evil. I have heard over and over again a laundry list of social issues that make abortion on demand necessary in their eyes.

But this is my point: death should never ever be the answer to any social problem. Abortion on demand is not the way to deal with unwanted human beings. When a society sees death as a solution to any issue then that society has lost its wisdom and when a society raises death on a pedestal as a constitutional right, under the guise of personal liberty, indeed it has lost its hope and when a people are pitted against their own future generation they are truly under some form of slavery.

George Washington said, liberty has an ordering to it. [14] We see this in the Declaration of Independence and the Constitution. Life is the first right mentioned, followed by liberty. Mr. Chairman, Committee Members, and fellow citizens, true freedom, true liberty, begins inside the heart of a person who chooses responsible citizenship which keeps the common good in mind and does not raise individual free will up as the highest moral good. Many in our current culture think free will is equal to freedom. Free will is only a tool that can be used for good and evil. A very very powerful tool that carries with it an awesome responsibility to act in truth and self-sacrifice. I think most North Dakota's understand this concept.

Through these pro-life bills we have a momentous opportunity to raise the dignity of the unborn to persons in North Dakota. We can become the first state in the nation to reclaim our true pro-life heritage. Although these bills are big step forward to ending abortion we also need to (both publicly and privately) always encourage an environment that supports family, community and personal responsibility.

Lastly I'd like to make an appeal to the same God that our founders constantly referred to. John Adams said,

"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe."

The right to life is a human right which surpasses all jurisdictions and national boundaries. It is given by God himself. It is our very soul, bequeathed by the Creator, that raises the dignity of life to that of God himself. It is this sacred gift which warrants the right to live and experience life on earth. It is a God-given right for each and every human being to be born into this world and to live out their own unique story within it.

I ask you once again to vote a DO PASS on these historic bills. Thank you for your time and attention.

Notes

A. In the case of assisted suicide personal liberty has been given a higher status then protecting life. Only three states allow assisted suicide: Washington, Oregon, Montana. I also believe this to be unconstitutional.

B. The rights protected by the constitution of foreign nationals have been abused in my opinion since the attacks of 9/11. In the pre-9/11 days immigrants were given much more freedom then they do now.

References

[1] <http://www.onelook.com/> "person"

[2] <http://www.onelook.com/> "human being"

[3] <http://www.princeton.edu/~prolife/articles/embryoquotes2.html>

[4] http://www.oyez.org/cases/1970-1979/1971/1971_70_18#reargument

Track 1:

Justice Byron R. White: Well, what if-- would you lose your case if the fetus was a person?

Track 2:

Ms Weddington: If the state could show that the fetus was a person under the Fourteenth Amendment or under some other amendment or part of the constitution, then you would have the situation of trying-- you would have a state compelling interest which, in some instances, can outweigh a fundamental right.

Track 3:

Justice Harry A. Blackmun: Well, do I get from this then that your case depends primarily on the proposition that the fetus has no constitutional rights?

Track 4:

Justice Potter Stewart: ... if you're correct in your basic submission that an unborn fetus is a person, then abortion law such as that which New York has is grossly unconstitutional, isn't it?

Mr. Flowers: That's right.

Yes, sir.

Justice Potter Stewart: Allowing the killing of people.

Mr. Flowers: Yes, sir.

Justice Potter Stewart: Of persons.

Track 5:

Justice Potter Stewart: Well, if it were established that an unborn fetus is a person within the protection of the Fourteenth Amendment, you would have almost an impossible case here, would you not?

Ms Weddington: I would have a very difficult case. [Laughter]

Justice Potter Stewart: You certainly would because you'd have the same kind of thing you'd have to say that this would be the equivalent to after the child was born.

Ms Weddington: That's right.

Justice Potter Stewart: If the mother thought that it bothered her health having the child around, she could have it killed.

Isn't that correct?

Ms Weddington: That's correct.

Track 6:

Justice Potter Stewart: How should we-- how should that question be decided?

Is it a legal question, a constitutional question, a medical question, a philosophical question, a religious question, what is it?

Track 7:

Justice Potter Stewart: And the basic constitutional question initially is whether or not an unborn fetus is a person, isn't it?

Mr. Flowers: Yes, and entirely to the constitutional perspective.

Justice Potter Stewart: It's critical to this case, is it not?

Mr. Flowers: Yes, sir, it is...

[5] Wikipedia "Roe v. Wade", http://en.wikipedia.org/wiki/Roe_vs._Wade

[6] <http://www.endroe.org/dissentswhite.aspx>

And again, the fact that many men and women of good will and high commitment to constitutional government place themselves on both sides of the abortion controversy strengthens my own conviction that the values animating the Constitution do not compel recognition of the abortion liberty as fundamental. In so denominating that liberty, the Court engages not in constitutional interpretation, but in the unrestrained imposition of its own extraconstitutional value preferences.

[7] http://scholar.google.com/scholar_case?case=7628572659420117309&hl=en&as_sdt=2&as_vis=1&oi=scholar

[8] https://bearspace.baylor.edu/Francis_Beckwith/www/Sites/RoeLiberty.pdf (pg. 52)

[9] http://en.wikipedia.org/wiki/Abortion_in_the_United_States

[10] <http://supreme.justia.com/cases/federal/us/410/113/case.html> (see footnote 3/2)

[10] <http://supreme.justia.com/cases/federal/us/410/113/case.html> (see footnote 3/2)

[11,12] www.ama-assn.org, click on About AMA, click on Our History, click on AMA Digital Collection, [The Transactions of the American Medical Association](#), Author: American Medical Association, Publication Date: 1859, Page 76

[13] <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1302&context=facpub>

For more than a century, the Court has recognized that the Equal Protection Clause is "universal in [its] application, to all persons within the territorial jurisdiction, without regard to differences of ... nationality." The Court has repeatedly stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."

[14] <http://www.acton.org/pub/religion-liberty/volume-8-number-5/renewing-our-experiment-ordered-liberty>

The Founding Fathers, he noted, "asserted their claim to freedom and independence on the basis of certain 'self-evident' truths about the human person: truths which could be discerned in human nature, built into it by 'nature's God.' Thus, they meant to bring into being, not just an independent territory but a great experiment in what George Washington called 'ordered liberty': an experiment in which men and women would enjoy equality of rights and opportunities in the pursuit of happiness and in service to the common good."

Handed in #11
Support

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES CONCERNING SB 2303

March 13, 2013

by William M. Schuh

Chairman Weisz and honorable members of the House Human Services Committee. My name is Bill Schuh, and I am testifying as a private citizen in favor of Senate Bill 2303.

In 1859 The U.S. Supreme Court ruled that Dred Scott, a slave who had been abiding in a free territory, Minnesota, did not have standing as a citizen, under Congress's Missouri Compromise, to appeal his freedom before U.S. Courts, based partially and rhetorically on a congressional apportionment provision in Subsection 3.3 of the U.S. Constitution which allowed states a weight of 3/5 representation for each slave. The court, absurdly, construed this provision as defining black people as 3/5 human. Among the multiplicity of justifications for the decision was what some have termed a "*parade of horrors*," enumerating the "*terrible impacts*" that allowing black people to have citizen standing in free states would have on the nation. In other words, it was a pragmatic argument. Slaves could not be accorded full human dignity because there would be cost involved.

The history of this horrific institution and its final elimination in our Nation, and the agonies after 90 years - and the subsequent conflicts and struggles in implementing true racial equality in the twentieth century - and even to our own time are well known. The pragmatic argument revolved around the cost of human dignity in terms of economic dislocation. But looking back, how can anyone argue that the need and the accomplishment were not worth the cost? **There are principles, not many, but some that simply defy the limitations of pragmatic balance. The first two of these listed in the Constitution are those of Life and Liberty.**

It is ironic, therefore, that it was as this nation first began to emerge from segregation and complete its defense of the principle of Liberty in the 1970s, that it simultaneously slid backward, for the first time, into a rationalization that denied the lives of millions of defenseless unborn children - sometimes by measures as heinous as any torture chamber the world has ever devised.

There is not a single point, after conception, in which the beginning of human life can be rationally defined, as all stages are merely a succession of a determined developmental pattern. Certainly the mere passage through the cervix in birth is an absurd boundary to define the humanity of a fully developed baby. But earlier and earlier survival, and indeed the advent of in vitro fertilization, have confirmed that it is really a matter of protecting and nurturing that unborn child. And the existence of dependency for survival extends far beyond the womb into the post natal development of the child. Only the nature of dependency changes.

The language of SB 2303 does not explicitly forbid anything. It merely places in the State criminal code a definition of human being that corresponds to the realities of child development. As one physician testified in this Committee two sessions ago, to paraphrase, *"I have no position on this bill, but I've delivered a lot of babies in my life, and that's a baby in there."*

It would be disingenuous, however, to pretend that the bill has no implications for abortion. What it does, is place in criminal code a clear acknowledgement that human life is being extinguished when a child is destroyed in its mother's womb. And it exposes the fact that all arguments to the contrary are based on the *"parade of horrors"* argument - the cost to others in terms of support, the responsibility of the mother - and the father, and of society at large to nurture and respect the human dignity of that child - the legal costs of defending the principle of human life - the inconvenience of it all. It exposes the hollow pragmatic justification of abortion, and forces us to weigh it, in thought and in law, against the principle of human dignity enumerated in the ideals of our own Nation's Constitution. As with race and Liberty, infancy and Life poses a principle that overweighs the pragmatic justifications and places them in the proper light. If this State is going to allow killing, let it do so facing it square if it dares and if it can. But let's stop hiding what we're doing.

Opponents of SB 2303 argue that it threatens the practice of in vitro fertilization. It explicitly does not. Under Section 2 (2a-2) merely requires limiting the number of embryos created and implanting those created - a standard already adopted in several European countries. The in vitro arguments against it are merely related to cost and are therefore pragmatic.

Opponents of SB 2303 claim that it will prohibit contraception. It does not. 2 (2f) it would not even forbid the morning after pill, as it only applies after the event of a clinically diagnosable pregnancy. And again, the argument is merely one of cost and convenience - a pragmatic argument.

The issue of mass murder of the unborn is the human dignity challenge of our time. Its proponents have spun and obfuscated its true nature long enough. This state, which has the resources to do so, should proudly and fearlessly take the lead with its banner.

Please Vote Do Pass on Senate Bill 2303.

Mr Chairman and members of the committee Hello my name is Brianne Bowker I am a nursing student from the University of Mary. I am in favor of this bill. Thank you for allowing me the opportunity to speak today. Our declaration of independence states that there are certain inalienable rights, and among those are life, liberty and pursuit of happiness. The right to life is more basic than the right to liberty, pursuit of happiness and any other right for that matter, for without life nothing else means anything. I believe that here, today the rights of women, and the damage and pain an abortion can cause, have been well represented and voiced. However I feel as if the rights of the child have not. As someone who has been in a situation to choose between life and death and chose wrongly, I understand the fear and misconceptions concerning the issue of abortion and all related topics. Put in that situation it is hard to think about the future and good of another. Rather in that situation immediate solutions and desires seem to be the only thing on one's mind. That is why I believe it is important to have leaders and government officials who are capable of choosing the good when one may not be able to make this choice for his or herself. The fact is that life begins at conception, for the embryo could not become human if not human from the beginning. If this would happen to me again I would choose differently, I would choose life, the life of a child, because NOTHING is more important.

I support SB 2303

#2

May 10th 1940 a healthy baby girl was born at St. Joseph's Hospital in Dickinson, ND. While there was rejoicing about the birth of this little girl, her mother lay dying while a search was made for a blood donor as the mother was hemorrhaging to death. The frantic young father could only think about losing the wife that he adored. The mother had been warned by her doctor at the very beginning of this pregnancy that she would more than likely die if she chose to have this baby. The father given the choice chose the wife over the child. She refused to have an abortion. Now as they searched for a matching blood donor his worst nightmare was realized. God had other plans for this young family. A donor was found. With three pints of blood and many prayers at last the bleeding stopped and life started returning to the mother.

I was the little girl that was born that day. For many years I did not know the entire story of my birth. I knew that my mother nearly died and that my godfather had saved my mother's life that day. What I did know that while I grew up in a very loving home and five more siblings followed me without the problems of my birth, something was different in my relationship with my parents then those of my siblings. My sister put it this way, "Your response to life was like you grew up in a different family." I was terrified of so many things, my siblings always felt safe and secure.

When I was thirty-six years old everything in my life changed. My father told me about the fears he lived with during my mother's pregnancy. How he was so afraid of losing her and she would not listen or give him a choice when he wanted her to have an abortion. When they got married my mother had been warned never to have children because of injuries she had received in an accident shortly before their marriage. It was nearly six years before I was born.

I did some very intense counseling during that period of my life. I always felt that I grew up in a Pollyanna world. North Dakota offered a very safe and secure life on the farm during the forties and fifties. We had good neighbors and friends. Our families all had the same economic backgrounds and most of us kids grew up learning how to be respectful and responsible. We knew our parents loved us and would take care of us. I did the counseling so that I would know myself, where my fears came from. I learned so much about how the brain develops in the womb. How the fears of my parents could be a factor during that period in the womb, and could be transferred to my brain. We live in a very exciting age. We have so much technology to help us understand why we are wired the way we are.

Years later as my father's health declined because of an untreated brain injury he received in an accident I was able to understand his behavior toward me that was different then towards other family and friends. The fears he had during the time of my mother's pregnancy came back to haunt him. I was able to hang on to the memories of all the wonderful things he gave me in life and truly appreciate how much fear and pain he lived in during those months of that pregnancy. I became very grateful to my mother for the courage she had to want me at any cost.

Abortion affected my life. It affected my father's life in a way he never fully understood. We often live in the moment and want the path of least resistance but if my mother had chosen that, I would not be here today. My parents wanted me to not be afraid and stood by me when I needed to learn to understand who I was and why I am the way I am. That also took courage on their part. It was hard for

#3
checked by DAC

**North Dakota Department of Human Services
Engrossed Senate Bill 2303 - First Engrossment
February 13, 2013 - Senate Appropriations**

Estimated Cost of Increasing the Eligibility Level for Medicaid Coverage for Pregnant Women to 185%

Average Cost		\$ 4,078.32	Per Episode of Eligibility		
Estimate Number of Women		1,290	Per Year		
Total Estimated Cost		\$ 10,732,502.70		Estimated Total for 2013-2015 if 185% is the Federal Maximum = \$15,092,062. General Fund total would be \$9,705,419.	
Federal Funds		\$ 5,386,643.11			
General Funds		\$ 5,345,859.60			

Estimated Cost of Providing Medicaid-equivalent Coverage for Uninsured Pregnant Women above 185%*

Average Cost		\$ 4,078.32	Per Episode of Eligibility		
Estimate Number of Women		524	Per Year		
Total Estimated Cost		\$ 4,359,559.24			
Federal Funds		\$ -			
General Funds		\$ 4,359,559.24			

Estimated Cost of Increasing the Eligibility Level for Medicaid Coverage for Pregnant Women to 200%

Average Cost		\$ 4,078.32	Per Episode of Eligibility		
Estimate Number of Women		1,657	Per Year		
Total Estimated Cost		\$ 13,785,858.12		Estimated Total for 2013-2015 if 200% is the Federal Maximum = \$17,621,272. General Fund total would be \$10,702,150.	
Federal Funds		\$ 6,919,122.19			
General Funds		\$ 6,866,735.93			

Estimated Cost of Providing Medicaid-equivalent Coverage for Uninsured Pregnant Women above 200%*

Average Cost		\$ 4,078.32	Per Episode of Eligibility		
Estimate Number of Women		461	Per Year		
Total Estimated Cost		\$ 3,835,413.76			
Federal Funds		\$ -			
General Funds		\$ 3,835,413.76			

Average Cost per Episode of Eligibility per Recipient includes all paid Medicaid claims while eligible.					
Current Medicaid Income eligibility level is 133% of the Federal Poverty Level (net income)					
In accordance with the Affordable Care Act, effective January 1, 2014, individuals over 100% of the Federal Poverty Level will be subject to the "individual mandate" and will have access to the federal premium subsidies.					
*Consideration may want to be given to including crowd out provisions to ensure private insurance is not dropped to access this coverage.					
*The Department would incur other administrative costs related to "enrolling" the uninsured women for this coverage, to issue identification cards, and to modify the Department's computer systems.					

#4

**Testimony to the House Human Services Committee
from Karla Rose Hanson of Fargo, N.D.
3/13/2013**

SCR 4009 and SB 2303

Mr. Chairman and members of the House Human Services Committee, thank you for the opportunity to speak to you. My name is Karla Rose Hanson and I live in Fargo.

I am testifying in opposition to any legislation that defines a person as a human at any or every stage of development, including Senate Concurrent Resolution 4009 and Senate Bill 2303. Such "personhood" laws have a narrow intent – to ban all abortion – but a very broad, very negative impact. While all North Dakotans may not agree on abortion, **we should uphold the right to privacy in our health care.**

I am a co-founder of the North Dakota Coalition for Privacy in Health Care – a grassroots group of citizens and national, state and local organizations who oppose 'personhood' legislation. The members of this coalition believe that lawmakers should not interfere in the private relationship between patients and health care providers. Laws that directly or indirectly dictate or limit how my doctor interacts with me puts my health at risk and infringes on my right for privacy in health care.

Both of these personhood laws will **restrict treatment for infertility, life-threatening ectopic pregnancies and incomplete miscarriages.** Additionally, SCR 4009 could **impact access to birth control**, which reduces unintended pregnancies and abortions and treats many medical conditions, and SCR 4009 could **impact end-of-life care by nullifying living wills and advance directives** since life must be protected at every stage.

I worry that these laws will create an **environment of confusion and fear** for medical professionals. As a result, they will avoid particular procedures and medications out of worry that they will be sued or face jail time – limiting reproductive health care in our state even further. When my life or health is on the line, I don't want my doctor to have to check the North Dakota Century Code to see what procedures the legislature has allowed.

Personally, I've used in vitro fertilization, I required the use of birth control products in order to conceive, and I had incomplete miscarriages which could have caused serious health complications. Because of these experiences, I strongly believe that all of today's reproductive health care options should continue to be available to North Dakota's citizens. **Health care decisions should be between patients and health care providers, without oversight by the legislature.**

A personhood law also would have a negative impact beyond health care. It would infringe on our **religious freedom.** Not every religion believes life begins at conception, so this law would impose one religious view on all citizens.

A personhood law also prompts questions about how this new legal definition of a person **affects other laws**, resulting in review of all laws that will be costly to this state. For example, if either or

both of these laws pass, should our state start issuing conception certificates instead of birth certificates since our legal rights will be recognized and protected starting at conception?

Because of the broad impact and dangerous consequences, **no other state** has passed the concept of personhood into law. Voters and courts have rejected it in every state where it's been attempted. Even Mississippi rejected a personhood amendment at the ballot with a margin of 58% against it.

Finally, please consider that passing a personhood bill would be **fiscally irresponsible**. The intention of this legislation is to challenge Roe v. Wade, but it's not likely that such a challenge would be successful based on what happened last year. In April 2012, the Oklahoma Supreme Court ruled that a proposed personhood amendment was unconstitutional under the federal Constitution. In October 2012 the U.S. Supreme Court declined to hear an appeal of that case, upholding the lower court's decision that personhood was unconstitutional. If North Dakota becomes the first state in the country to pass personhood into law, it will likely result in litigation and cost the state millions to defend the law. I do not want to waste taxpayer dollars attempting to defend an extreme law that was found unconstitutional last year. Those dollars should go to other priorities.

The Coalition for Privacy in Health Care is talking to voters across our state. **Nearly 1,300 North Dakota residents signed on in opposition to these bills.** As part of my testimony, I'm including copies of their statements against personhood in North Dakota. *Behind each piece of paper is a constituent – a person in North Dakota who is concerned about the impact of these bills.*

In conclusion, please leave the private and personal health care decisions to patients and their health care providers and recommend "do not pass" on SCR 4009 and SB 2303. Thank you and I'll stand for questions.

Respectfully submitted,

Karla Rose Hanson
Fargo, ND

#5

Testimony from

Rebecca Matthews

Senate Bills 4009, 2303, and 2368

March 13, 2013

Chairman Weisz and members of the House Human Service Committee, I am Rebecca Matthews. I am a mother here to share my family's story in opposition of SB 4009, 2303, and 2368.

At 17 weeks pregnant I found out our hopes of having our third child turned into having our third and fourth child. They were identical twin girls. Immediately we were watched for twin to twin transfusion syndrome (TTTS). This is a syndrome where the twins share a placenta and share blood flow. At a little over 19 weeks it was critical we needed to address the TTTS. We chose to fly to Cincinnati OH for evaluation and possible laser surgery to address the shared blood supply between our twins. Before leaving Bismarck my husband and I named our twins Anna and Emily. At the Fetal Care Center in Ohio we received extensive assessments of both girls. TTTS was not our greatest worry. Emily was much smaller and only had a small percentage of the placenta and a vementus cord insertion. Anna was much bigger and had a larger percentage of the placenta. Anna had mild to moderate pulmonary valve stenosis of her heart. Emily had changes in blood flow to her brain. They then gave us our treatment options:

1. To go on bed rest with weekly visits to a MFM (a doctor that specializes in high risk pregnancies) in Minneapolis to monitor Anna's heart, Emily's blood flow, and to watch for progression of TTTS. "Mortality rates approach 80-100 percent if (TTTS) left untreated, especially when it presents prior than 20 weeks gestation" From Fetal Care Center information.
2. We could go ahead with the laser procedure to cut the shared blood vessels to hopefully protect Anna if Emily died. Due to our issue being more of a placental share issue then a clear cut TTTS they were unsure the morbidity/mortality of this procedure for our twins.
3. We could have a fetoscopic cord coagulations. This would end Emily's life that was already affected by her inability to get adequate blood supply. On the other hand it would protect Anna. Because of the shared blood vessels in the placenta if Emily died it could end Anna's life or cause major neurological deficits. We could revisit this option at our future appointments in Minneapolis if Emily's blood flow changed. The doctors told us we would have warning of her demise to make this decision.

The treatment team then told my husband and I what I hold most dear. To go back to our hotel and talk about what treatment option WE wanted. We could not believe our choices were to have premature babies with health issues, one baby with neurological issues, or saving only one twin.

My husband and I decided with the medical information and our backgrounds as an Occupational Therapist and a Nurse Anesthetist we wanted take a wait and see approach. When and if Emily had blood flow changes we would terminate to save Anna. Prior to leaving the Fetal Care center we had another ultrasound and an amniocentesis and nothing had changed. We flew home with a planned trip to Minneapolis in a week.

I remember returning home so afraid of what bed rest, micro-preemies, and the babies needing to be in Minneapolis would do to our then 4 and 6 year old. How were we going to afford all the trips and medical care even before they were born? With me being a stay at home mom who would do my job of caring for children while I was on bed rest or long stays in Minneapolis? I was scared of all the health complications that may be ahead. Would they need to come home on oxygen? Would they have cerebral palsy? Would they need a feeding tube?

My husband and I prepared for our first trip to Minneapolis.

I never made that appointment to Minneapolis. 4 days after returning home and not feeling the babies move I called my OB. On June 19' 2007 I found out my girls no longer had heart beats. I was induced and delivered my still born babies Anna and Emily on June 21' 2007, days shy from 21 weeks gestation.

My husband and I made the best decision we could with the medical information we had at the time. It was OUR decision to make. I do not know if our decision would be the same now, five years later. All I know is that no decision is right or wrong, but is different given the medical information and the family's decisions.

I wish we lived in a perfect world where pregnancies were always happy and healthy. We do not live in that world. These medical decisions are for families to decide with consultation with their medical team, not for government to make. If we lived in a perfect world Anna and Emily would have been healthy and thriving at 21 weeks gestation but in this imperfect world we lived the nightmare of losing our precious twins.

6

I am Steffen Christensen a reproductive endocrinologist in Fargo. I am here to urge you to oppose SCR 2303. I am a graduate of the UND school of Medicine and after my residency in Obstetrics and Gynecology I returned to Fargo and practice for 15 years. I then did a fellowship in Reproductive Endocrinology and returned to Fargo in 1994 and established an In Vitro Fertilization program in Fargo. This is the only facility in North Dakota and we have over one thousand babies as a result of our efforts.

This bill would severely hinder our efforts to help couples with their infertility issues. It is also a concern for physicians treating medical complications of pregnancy such as ectopic pregnancy.

We prefer to treat medical conditions before they become life threatening. An ectopic pregnancy needs to be treated early and not waiting until it becomes a medical emergency.

Early complications of pregnancy such as rupture of membranes prior to viability needs to be treated before complications of sepsis threaten the life of the mother.

It does not define what medical testing of the embryo needs to be performed prior to disposal.

It is of great concern to our embryologist that they could be charged with homicide if an embryo does not survive in our laboratory environment. How is it going to be monitored?

This bill will hinder our efforts to recruit physicians and other health care providers because of their concerns regarding prosecution for treatment of patients.

Future Physicians in opposition of SB 2303

February 18, 2013

7

Honorable Members of the North Dakota Senate:

This letter is sent on behalf of the undersigned members of the first and second year classes of M.D. students at the University of North Dakota School of Medicine. This petition was developed entirely independently of faculty or administration involvement and solely reflects the opinions of the undersigned and is not to be taken as the stance of the UNDSOM nor its administration.

We have congregated and submitted this petition in request that you do not pass SB 2303 when it comes for a final vote. Those who have signed have done so for many different reasons including personal and/or professional concerns regarding both IVF and maintaining the best possible health care for women, concerns over the very narrow scope of exemptions offered in the bill which do not exhaustively cover every medical scenario that prevents maternal morbidity although may risk loss of pregnancy, and some have signed solely based upon opposition to Government taking control of the personal healthcare decisions of its citizens.

Finally and also of great concern it would make it extremely difficult for many of us to choose to return home to practice medicine in North Dakota over some other state that does not carry the risk of criminal charges every time a woman of childbearing age and potentially pregnant steps into your emergency room, operating room, or even your clinic. North Dakota is currently short of physicians in many of its communities and it is our strong belief that legislation such as this will greatly aggravate that problem.

Please Vote No on SB 2303

Future Physicians in opposition of SB2303

As a physician in training I oppose the passage of SB 2303. I oppose the criminalization of standard medical practice. I oppose legislation that prohibits physicians from safely and appropriately treating female patients who are pregnant or seeking to become pregnant. Legislation such as this makes the choice to practice medicine in North Dakota a harder one to make.

Signature

Date

- *Craig Merriam*
- *Thompson*
- *Christopher Fishaw*
- *Andrew Elsdon*
- *Wm M. M.*
- *Timothy*
- *Andrew Carlson*
- *Andrew Miller*
- *David Harst*
- *Scholar*
- *Dan Fink*
- *Amara*
- *Kayla Q Cagle*
- *TURNER FISHPAW*
- *James Fishaw*
- *A. J.*
- *Nancy*
- *Andrew M. Miller*
- *James Morrell Joshua Morrell*

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As a physician in training I oppose the passage of SB 2303. I oppose the criminalization of standard medical practice. I oppose legislation that prohibits physicians from safely and appropriately treating female patients who are pregnant or seeking to become pregnant. Legislation such as this makes the choice to practice medicine in North Dakota a harder one to make.

Date _____

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Opposition #8

Bill to Grant Legal Rights to Fertilized Eggs Passes North Dakota Senate, Heads for House



by Robin Marty, Senior Political Reporter, RH Reality Check

February 18, 2013 - 6:51 pm

"SB 2303 will restrict a doctor's ability to treat doomed pregnancies, putting women's lives at risk, said Siri Fiebiger, a physician from Fargo who practices obstetrics and gynecology, in a written statement released by The North Dakota Coalition for Privacy in Health Care.

"Ectopic pregnancies and miscarriages can be life-threatening if not treated in a timely fashion. Complications during pregnancy should be managed by physicians according to the patient's needs and values, without involvement by politicians. Health care providers will be confused by this law and they will fear litigation. It is impossible to legislate for every medical scenario."

There is a strong possibility that a "personhood" ballot amendment in 2014 would have failed. Now, with a legislature bent on putting it into action, it will become law even against the desires of the voters on whom it will be imposed.

<http://www.ndforprivacy.com/Documents/Coalition%20press%20release%202.18.13.pdf>

<http://rhrealitycheck.org/article/2013/02/18/bill-to-grant-legal-rights-to-fertilized-eggs-passes-north-dakota-senate-heads-for-house/>

SECTION 1. AMENDMENT. Section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-01-04. General definitions

15. "Human being" means an individual member of the species homo sapiens at every stage of development.

CHAPTER 12.1-16

HOMICIDE

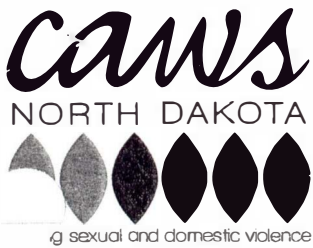
12.1-16-01. Murder.

12.1-16-02. Manslaughter.

12.1-16-03. Negligent homicide.

2. Sections 12.1 - 16 - 01 through 12.1 - 16 - 03 do not apply to:

- a. Medical treatment for life - threatening conditions provided to a person by a physician licensed to practice medicine under chapter 43 - 17 which results in the accidental or unintentional injury or death of another person.
- b. Medical treatment for life - threatening conditions of pregnancy.



Handwritten signature

OPPOSITION #9

525 N. 4th St. Bismarck, N.D. 58501
(P) 701.255.6240 (TF) 1.888.255.6240 (F) 701.255.1904
www.ndcaws.org • facebook.com/NDCAWS • Twitter @NDCAWS

Testimony on SB 2303
House Human Services
March 13, 2013

Chair Weisz and Members of the Committee:

My name is Janelle Moos. I am speaking this morning on behalf of the North Dakota Council on Abused Women's Services in opposition to SB 2303.

Our Coalition is a membership based organization that consists of 21 local domestic violence and rape crisis centers located throughout the state that provide services to domestic violence, sexual assault, and stalking victims in all 53 counties and the reservations in North Dakota. Last year alone, these centers provided services to nearly 900 victims of sexual assault.

Although our Coalition does not have a policy position on abortion, we are united in our concern for victims of sexual assault and incest. SB 2303, from our perspective, would ban all abortion, even for rape and incest victims. We aren't here today to debate the issue of abortion itself; so we will limit our testimony to the specific exclusion of these exemptions for rape and incest survivors in SB 2303.

According to the National Victim Center and National Crime Victims Research and Treatment Center's study entitled Rape in America: A Report to the Nation (1992) "pregnancy from rape occurs with "significant frequency". Of the estimated 12% of adult women in the United States that have experienced at least one rape in their lifetime, 4.7% of these rapes resulted in pregnancy. Another study estimated that 25,000 pregnancies following the rape of adult women occur annually (Stewart & Trussell 2000).

I am not here today to tell you that all survivors should or even want to have abortions; but they should have a choice. We believe that since we cannot fully understand the path that brought them to us we cannot make that very difficult decision for them. This is about allowing a person who has had all decision making powers taken away from them as a result of the assault to make a very important and personal decision about their health, their family, and their future. This bill all but eliminates that option.

I urge you to oppose SB 2303.

Thank You.



opposition #10

House Human Services Committee

March 13, 2013

My name is A. Michael Booth, MD, Ph.D. I am a cardiac surgeon testifying in my capacity as president of the North Dakota Medical Association.

The NDMA Council's Executive Committee made the decision to come out against all six anti-abortion bills remaining in front of the Legislature. This document will focus on the 4 bills being heard today by the House Human Services Committee. We had attempted to maintain a passive and neutral position on these bills, intervening only when it appeared that the unintended consequences of these bills would have a significantly negative impact on the doctor-patient relationship and the practice of medicine in general. After reviewing these bills in depth, and taking comments from many concerned members, it became clear to us that all of these bills create problems using the criteria.

Regarding the specific bills before this committee, here are our concerns:

SB 2303:

This bill allows physicians to be prosecuted for murder, manslaughter, or negligent homicide for the performance of abortions. It also appears to allow such prosecutions for the destruction of otherwise viable embryos not covered under several conditions outlined in the bill, all related to the establishment of embryo non-viability or the unlikelihood of a successful pregnancy. The only exception is the existence of a life-threatening condition in the mother. The definition of life-threatening itself could lead to confusion among physicians who may not truly understand when they may or may not intervene and face criminal charges if others may disagree with their decision.

The bill makes no exception for rape, incest and serious genetic or congenital conditions. The bill incredibly exempts the woman from prosecution in spite of the fact that the woman almost invariably is complicit in the performance of the abortion.

The measure's language granting developing embryos and fetuses rights as human beings are problematic. In the case of in vitro fertilizations, embryos created in a vitro cannot always be implanted immediately without an excessive risk of a dangerous multiple birth pregnancy. These embryos are usually frozen and stored for later use. Also, women who may be undergoing chemotherapy (which can both damage oocytes genetically and /or destroy the ability to ovulate) may have their eggs harvested and embryos created to be

implanted once they have completed their chemotherapy safely. If the woman cannot, or will not, have another pregnancy, how does one find a safe harbor for these “persons” to develop in? Would the state be required to find a uterus to carry these embryos? And if they are destroyed, is this an act of homicide? In vitro techniques have the potential for human error including dropped catheters. Physicians and embryologists could be charged with negligent manslaughter if an embryo is damaged and dies. It is not clear how the proposed laws would treat these cases. In spite of several attempts to address this language, we find SB 2303 is still unclear in its language concerning the preservation of embryos.

This bill, if passed, will undoubtedly face a federal court challenge. Nevertheless, as a practical matter, we believe that the threat of a prosecution for homicide would have a very chilling effect on our abilities to recruit and retain physicians in our state. This is already a struggle in North Dakota as referenced by a recent article in the Fargo Forum on Monday.

Most objectionable, however, is its definition of an abortion provider as a murderer. This, to us as physicians, is unwarranted. This bill would also create problems with the day to day management of ectopic pregnancies, placental abruptions, and prolonged premature rupture of the membranes, which we believe make this a totally unacceptable law.

SB 2305

This bill puts in place an unprecedented requirement that a physician must have hospital privileges to practice in a clinic that is not affiliated with a hospital. Nowhere else in North Dakota does this requirement exist, nor should it exist. Hospitals in this day and age in North Dakota increasingly employ their own physicians. Credentialing is a costly and time consuming process for both the hospitals and the physicians and is intended to screen physicians thoroughly who intend to practice within that hospital’s facilities. When there is little likelihood that a physician would directly admit and care for a patient at a given hospital, the granting of privileges is a wasted effort for everybody and in our view unlikely to improve patient safety. As a practical matter, this bill would place the existence of Fargo’s only abortion provider in the likely unwilling hands of its two hospitals. This is an abuse of the credentialing system that does not deserve to become law. It will also provide a precedent that threatens to undermine the credibility of the credentialing system itself, which is of no good for our patients and providers in general.

SB 2368

This bill asserts that the state has a compelling interest to protect unborn human life from the time the unborn child is capable of feeling pain, and then uses that pretext to limit abortions for elective reasons to 20 weeks gestation, rather than the current 24 weeks established under Roe v Wade. It does contain requirements to document gestational ages,

and makes an exception for situations that threaten the mother's life or threaten serious bodily harm to her. No exceptions for rape, incest, or serious genetic or congenital conditions are made.

The premise on which this bill is based, feeling pain, lacks scientific proof, and in any event, is as much a philosophical issue as it is a matter of neurophysiology. It serves only to provide very thin cover for an arbitrary roll back of Roe v. Wade's protections to 24 weeks. As a practical matter, it would affect late second term abortions, which in any event are not commonly done in North Dakota, due to a lack of access.

The language of this bill would also create problems for physicians managing women who experience prolonged premature rupture of the placental membranes at this point in a pregnancy.

SCR 4009. This is a proposed constitutional amendment stating "The inalienable right to life of any human being at any stage of development must be recognized and protected." It would be presented to the public for approval in the 2014 general election.

This is a direct challenge to Roe v. Wade, which established that the point of viability of a pregnancy – 24 weeks gestation – not conception – was the point at which the state could begin to assert its authority to protect the life of the unborn. (The state, however, is still obligated to first protect the life of the mother throughout the remainder of the pregnancy.) During this first 24 weeks, the decision was left to the mother, not the state, under her right to privacy deriving from the 14th Amendment to the US Constitution.

This is women's rights issue, as much as anything. From our standpoint, it is a direct insertion of the state into the patient-physician relationship which has no potential for a good outcome. It also creates a potential for problems in managing patients at the end of life. This could even prohibit procurement of organs for people who are awaiting organ transplants.

As was noted previously, the issue of abortion is controversial within our organization as it is within our society at large. We do not as an organization advocate that abortions must be performed under any circumstances, and as good physicians, would remain fully supportive of women who choose to carry their pregnancies to term under conditions, especially genetic, that others might choose to terminate.

Thank you for the opportunity to address these issues.

TEMPLE BETH EL

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March 8, 2013

Dear House Human Services Committee,

Thank you for this opportunity to allow Temple Beth El congregation to weigh in on the legislation regarding reproductive rights and a woman's ability to obtain a safe and legal abortion in the state of North Dakota. If you are not familiar with our congregation, we are a Reform Jewish synagogue serving Fargo and surrounding communities. We feel strongly that the legislation being considered here would damage the health and safety of the women and families of North Dakota and would significantly strip away the rights of members of the Jewish community to practice our faith and make health decisions consistent with our religious texts and precepts.

The issue of abortion has been debated and discussed for centuries amongst rabbis and Jewish scholars. Halacha (Jewish law) states that a baby becomes a full-fledged human being when the head emerges from the womb, or, in the case of a "feet first" birth, when most of the fetal body is outside the body. Orthodox, Conservative, and Reform Jewish traditions have all found abortion to be the moral choice under certain circumstances. Although Judaism views an unborn fetus as precious and to be protected, our faith teaches us that the life and well-being of the mother is paramount, placing a higher value on existing life than on potential life. Women are commanded to care for their own health and well-being above all else. Therefore, there are several instances when Judaism not only condones abortions, but they are mandated.

Mishnah Ohaloth 7:6, for example, forbids a woman from sacrificing her own life for that of the fetus, and if her life is threatened, the text permits her no other option but abortion. In addition, if the mental health, sanity, or self-esteem of the woman (e.g., in the case of rape or incest) is at risk due to the pregnancy itself, the *Mishnah* permits the woman to terminate the pregnancy. It is due to the fundamental Jewish belief in the sanctity of life that abortion is viewed as both a moral and correct decision under some circumstances.

The legislation being considered here today places at risk the rights of Jewish citizens of North Dakota from drawing on their own faith and religious teachings when making what can only be a terribly difficult and heart-wrenching decision – indeed during a time when many women and their families may be in greatest need to call on their rabbis and faith for moral guidance. We ask that you reject the bills considered here today and to trust the women of North Dakota to make healthy reproductive choices consistent with their faith and relationship with G-d.

Respectfully submitted,

Temple Beth El Board of Directors

Max Goldberg, *Founder & First President*

Bev Jacobson, *President*

Dinah Goldenberg, *First Vice President*

Jim Shaw, *Second Vice President*

Abby Gold, *Treasurer*

Wendy Gordon, *Secretary*

Ted Kleiman, *Immediate Past President*

Janeen Kobrinsky, *Lay Rabbi*

Joanne Kaeding, *Administrative Assistant*

#10
Hank
and

**Testimony to the House Human Services Committee
SCR 4009 and SB 2303
March 13, 2013**

My name is Jennifer Cossette and I live in West Fargo. I recommend Do Not Pass. Here are two wonderful reasons why:

Zoey Ryan and Khloe Dawn, born January 11, 2012.

My husband and I tried for 4 years to get pregnant. It finally happened thru IVF. This is not a process you enter into lightly. There are a lot of things to consider and emotions to go thru-and that is just to make the initial appointment. The process of going thru fertility is not an easy one either. It is a big commitment; a lot of doctor appointments, lifestyle changes, different kinds of medications to take, and also some pain. But it is all worth it when you get to hold your child in your arms. Couples going thru infertility issues deserve the chance to make their dreams of having a family come true. There should not be ANY limitations on that. More and more couples are going thru this....more than likely someone you all know. Please do not shatter their dreams of having a family of their own. I am very glad and thankful there is the technology to assist in this. Please Do Not Pass SCR 4009 and SB 2303- leave the healthcare decisions to patients and doctors. Thank you for your time.

Jennifer Cossette





American Medical Women's Association
The Vision and Voice of Women in Medicine since 1915

Handed in #13

Opposition to Senate Bill 2303 and SCR 4009 (Personhood Measures)

The American Medical Women's Association opposes SB 2303 and SCR 4009 and urges the North Dakota Senate, House and Governor to reject these harmful proposals.

The American Medical Women's Association is an organization which functions at the local, national, and international level to advance women in medicine and improve women's health. Founded in 1915, AMWA has always been a strong proponent of women's reproductive health care, the access to contraception, and a women's right to safe and legal abortion.

The need for better reproductive health care in the United States and throughout the world is acute. Women face limited and unsatisfactory contraceptive choices, difficulty obtaining safe abortions, missed diagnoses of sexually transmitted diseases, pregnancies treated as illness, and inferior primary care for infertility. The availability of high quality, comprehensive reproductive health care for women have been shown to have a dramatically positive impact on the health of people in general, and in particular in reducing the rates of maternal and infant mortality.

The bills under consideration by the North Dakota legislature threaten the basic reproductive healthcare services that all women need access to during the course of their reproductive lives, from contraception to fertility treatments to abortion. If enacted, these measures would have profound, harmful, far-reaching consequences for women's reproductive health care in North Dakota.

These bills threaten doctors with criminal prosecution for providing necessary medical treatments that are the standard of care. By linking criminal penalties with the provision of reproductive healthcare services, these bills would undermine physicians' ability to provide the best care to their patients and could have a chilling effect on their willingness to provide certain types of health care altogether. These bills could even deter doctors from performing life-saving procedures, such as those required to treat ectopic or molar pregnancies. And women seeking abortion and experiencing pregnancy loss could be subjected to criminal investigation for accessing essential health care.

Further, while advances in scientific research and medicine allow physicians to help women and their families experiencing fertility challenges to expand their families, these bills would directly interfere with physician's ability to provide fertility treatment to their patients.

The American Medical Women's Association opposes both of these measures, which would harm women's health and interfere with the practice of medicine. We call upon the North Dakota Senate, House and Governor to reject these harmful measures.

#1

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2303

Page 1, line 5, remove "and"

Page 1, line 6, after "women" insert "; and to provide an effective date"

Page 6, line 31, after "delivery" insert "and who are determined eligible according to rules adopted by the department"

Page 6, after line 31, insert:

"SECTION 6. EFFECTIVE DATE. Sections 4 and 5 of this Act become effective on January 1, 2014, unless the department of human services certifies to the Governor and the Legislative Council before that date, that sections 1 through 3 of this Act have not become effective for any reason. If the department of human services certifies that sections 1 through 3 of this Act have not become effective, the department may certify that sections 1 through 3 of this Act subsequently have become effective and that sections 4 and 5 become effective six months after the effective date of sections 1 through 3."

Renumber accordingly