

2009 SENATE HUMAN SERVICES

SB 2216

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 1-21-09

Recorder Job Number: 7442, 7466

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee opened the hearing on SB 2216 relating to reimbursement for medical screening examinations that precede acute forensic medical examinations.

SB 2216 has a fiscal note.

Senator J. Lee recessed the hearing until after the floor session.

Job #7466

Senator J. Lee called the committee back to order and opened the hearing on SB 2216.

Jonathan Byers appeared on behalf of the Attorney General in favor of SB 2216.

Attachment #1.

There was discussion on the FN. The dollars are what's projected for the following biennium.

When people get more used to this process, there could be some increase in the amount of reimbursements sought from the fund.

Arnold Thomas, ND Healthcare Association, spoke in support of SB 2216. Attachment #2.

Mary Dasovick, Division of Injury Prevention and Control; Domestic Violence/Rape Crisis Program, Department of Health, testified in support of SB 2216. Attachment #3.

Janelle Moos, ND Council on Abused Women's Services, spoke in support of SB 2216.

See attachment #4.

Senator Dever didn't recall there was any motivation from the federal government to pass the bill last session. He asked if the idea of screening imply that some people are refused the exam.

Ms. Moos said a lot of it was in response to their federal requirements under the VAWA statute. In regards to the screening she said they are seeing that, if victims realize they are responsible for the payment of the mandatory screening, they sometimes refuse to go through the forensic examinations.

There was more discussion and clarification on the mandatory screening process.

Senator Heckaman addressed Ms. Dasovick and wanted to know what the funds on page 1 of her testimony go.

Ms. Dasovick told her that 90% of the funds are released to various agencies in the state such as law enforcement, prosecution, courts, and others.

There was no opposing testimony.

There was no neutral testimony.

The hearing on SB 2216 was closed.

Senator J. Lee recognized Mr. Thomas.

Mr. Thomas offered additional background on this bill. It was stimulated by ER nurses in Dickinson. What they found was that there were no guidelines relative to how to expense out the rape kits. Because of how they have done this there is no ability to bill nor are they seeking to bill for medical services that might be dependent upon somebody who was subject to assault. This is strictly a legal matter.

Job #7468

Senator Dever moved a Do Pass on SB 2216 with a Rereferral to Appropriations.

Senator Pomeroy seconded the motion.

Roll call vote 6-0-0. Motion carried.

Carrier is **Senator Heckaman**.

FISCAL NOTE
 Requested by Legislative Council
 04/02/2009

Amendment to: SB 2216

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

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | \$410,000 | | \$509,000 |
| Appropriations | | | | \$410,000 | | \$509,000 |

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

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

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

This bill provides for any preliminary medical screening exams, and child preliminary and acute forensic exams, to be reimbursed by the Office of Attorney General to the health facilities which perform the exams. The bill includes the \$410,000 anticipated cost.

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

The Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. Preliminary medical screening exams are conducted before acute forensic medical exams are completed.

With the addition of child preliminary medical screening and acute forensic exams, the estimated additional cost will be \$315,000 - \$320,000 for the 2009-11 biennium.

The appropriation in this bill is \$410,000 and is funded from the Insurance Regulatory Trust fund.

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.*

N/A

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 Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams. The 2007-09 biennium forensic medical exams appropriation was \$500,000, which was reduced in the 2009-11 biennium budget to \$250,000 based on current usage, and is funded from the Insurance Regulatory Trust fund. For the period from July 1, 2007 through December 31, 2008, the office has reimbursed health

care entities and providers \$115,100 for 252 acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. If the number of acute forensic medical exams and exam costs increase by 15% (as more victims are aware of the program), the cost for the 2009-11 biennium will increase by an estimated \$91,000. Preliminary medical screening exams are conducted before acute forensic medical exams are completed.

With the addition of child preliminary medical screening and acute forensic exams, based on the same assumptions used for the acute forensic medical exams, and assuming the preliminary medical screening exam cost is \$100 per exam, based on updated information from the ND Healthcare Association, the estimated additional cost will be \$315,000 - \$320,000 for the 2009-11 biennium.

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.*

See expenditures narrative

| | | | |
|----------------------|------------|-----------------------|----------------------------|
| Name: | Kathy Roll | Agency: | Office of Attorney General |
| Phone Number: | 328-3622 | Date Prepared: | 04/02/2009 |

FISCAL NOTE
Requested by Legislative Council
03/18/2009

Amendment to: SB 2216

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

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | \$410,000 | | \$509,000 |
| Appropriations | | | | \$410,000 | | \$509,000 |

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

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

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

This bill provides for any preliminary medical screening exams conducted prior to acute forensic medical exams, and for child preliminary and acute forensic exams, to be reimbursed by the Office of Attorney General to the health facility or health care provider who performed the exams.

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

The Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. Preliminary medical screening exams are conducted before acute forensic medical exams are completed.

With the addition of child preliminary medical screening and acute forensic exams, the estimated additional cost will be \$315,000 - \$320,000 for the 2009-11 biennium. The appropriation in this bill is \$660,000 of which \$250,000 is included in the Executive

Recommendation and is funded from the Insurance Regulatory Trust fund.

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.*

N/A

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 Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams. The 2007-09 biennium forensic medical exams appropriation was \$500,000, which was reduced in the 2009-11 biennium budget to \$250,000 based on current usage, and is funded from the Insurance Regulatory Trust fund. For the period from July 1, 2007 through December 31, 2008, the office has reimbursed health

care entities and providers \$115,100 for 252 acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. If the number of acute forensic medical exams and exam costs increase by 15% (as more victims are aware of the program), the cost for the 2009-11 biennium will increase by an estimated \$91,000. Preliminary medical screening exams are conducted before acute forensic medical exams are completed.

With the addition of child preliminary medical screening and acute forensic exams, based on the same assumptions used for the acute forensic medical exams, and assuming the preliminary medical screening exam cost is \$100 per exam, based on updated information from the ND Healthcare Association, the estimated additional cost will be \$315,000 - \$320,000 for the 2009-11 biennium. The appropriation in this bill is \$660,000 of which \$250,000 is included in the Executive Recommendation and is funded from the Insurance Regulatory Trust fund.

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.*

See expenditures narrative

| | | | |
|----------------------|------------|-----------------------|----------------------------|
| Name: | Kathy Roll | Agency: | Office of Attorney General |
| Phone Number: | 328-3622 | Date Prepared: | 03/23/2009 |

FISCAL NOTE
 Requested by Legislative Council
 01/23/2009

REVISION

Bill/Resolution No.: SB 2216

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

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | \$341,208 | | \$400,000 |
| Appropriations | | | | \$341,208 | | \$400,000 |

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

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

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

This bill provides for any preliminary medical screening exams conducted prior to acute forensic medical exams to be reimbursed by the Office of Attorney General to the health facility or health care provider who performed the exams.

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

The Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams. The 2007-09 biennium forensic medical exams appropriation was \$500,000, which was reduced in the 2009-11 biennium budget to \$250,000, and is funded from the Insurance Regulatory Trust fund. For the period from July 1, 2007 through December 31, 2008, the office has reimbursed health care entities and providers \$115,100 for 252 acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. If the number of acute forensic medical exams and exam costs increase by 15% (as more victims are aware of the program), the cost for the 2009-11 biennium will increase by an estimated \$16,000. Preliminary medical screening exams are conducted before acute forensic medical exams are completed.

If preliminary medical screening exams and costs use the same assumptions used for the acute forensic medical exams, and assuming the preliminary medical screening exam cost is \$100 per exam, based on updated information from the ND Healthcare Association, the estimated additional cost will be \$75,000 for the 2009-11 biennium. The total estimated cost of this bill is \$341,208 of which \$250,000 is included in the Executive Recommendation.

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.*

N/A

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 Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams. The 2007-09 biennium forensic medical exams appropriation was \$500,000, which was reduced in the 2009-11 biennium budget to \$250,000, and is funded from the Insurance Regulatory Trust fund. For the period from July 1, 2007 through December 31, 2008, the office has reimbursed health care entities and providers \$115,100 for 252 acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. If the number of acute forensic medical exams and exam costs increase by 15% (as more victims are aware of the program), the cost for the 2009-11 biennium will increase by an estimated \$16,000.

Preliminary medical screening exams are conducted before acute forensic medical exams are completed. If preliminary medical screening exams and costs increase by 15% over the number of acute forensic medical exam estimates and assuming the preliminary medical screening exam cost is \$100 per exam, based on updated ND Healthcare Association estimated costs, the estimated additional cost will be \$25,000 for the 2009-11 biennium. The total estimated cost of this bill is \$341,208, of which \$250,000 is included in the Executive Recommendation.

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.*

See expenditures narrative

| | | | |
|----------------------|------------|-----------------------|----------------------------|
| Name: | Kathy Roll | Agency: | Office of Attorney General |
| Phone Number: | 328-3622 | Date Prepared: | 01/23/2009 |

FISCAL NOTE
Requested by Legislative Council
01/15/2009

Bill/Resolution No.: SB 2216

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

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | \$525,000 | | \$603,702 |
| Appropriations | | | | \$525,000 | | \$603,702 |

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

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

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

This bill provides for any preliminary medical screening exams conducted prior to acute forensic medical exams to be reimbursed by the Office of Attorney General to the health facility or health care provider who performed the exams.

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

The Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams. The 2007-09 biennium forensic medical exams appropriation was \$500,000, which was reduced in the 2009-11 biennium budget to \$250,000, and is funded from the Insurance Regulatory Trust fund. For the period from July 1, 2007 through December 31, 2008, the office has reimbursed health care entities and providers \$115,100 for 252 acute forensic medical exams.

Based on information provided by the ND Healthcare Association, up to 600 acute forensic medical exams are projected for the 2007-09 biennium. The addition of preliminary medical screening exams could more than double the total number of exams currently anticipated. If the number of acute forensic medical exams and exam costs increase by 15% (as more victims are aware of the program), the cost for the 2009-11 biennium will increase by an estimated \$16,000. Preliminary medical screening exams are conducted before acute forensic medical exams are completed.

If preliminary medical screening exams and costs increase by 15% over the number of acute forensic medical exam estimates and assuming the preliminary medical screening exam cost is \$345 per exam, the estimated additional cost will be \$259,000 for the 2009-11 biennium. The total estimated cost of this bill is \$525,000, of which \$250,000 is included in the Executive Recommendation.

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.*

N/A

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 Office of Attorney General currently reimburses health care facilities and health care providers for the cost of acute forensic medical exams. The 2007-09 biennium forensic medical exams appropriation was \$500,000, which was reduced in the 2009-11 biennium budget to \$250,000, and is funded from the Insurance Regulatory Trust fund. For the period from July 1, 2007 through December 31, 2008, the office has reimbursed health care entities and providers \$115,100 for 252 acute forensic medical exams.

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Preliminary medical screening exams are conducted before acute forensic medical exams are completed. If preliminary medical screening exams and costs increase by 15% over the number of acute forensic medical exam estimates and assuming the preliminary medical screening exam cost is \$345 per exam, the estimated additional cost will be \$259,000 for the 2009-11 biennium. The total estimated cost of this bill is \$525,000, of which \$250,000 is included in the Executive Recommendation.

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.*

See expenditures narrative

| | | | |
|----------------------|------------|-----------------------|----------------------------|
| Name: | Kathy Roll | Agency: | Office of Attorney General |
| Phone Number: | 328-3622 | Date Prepared: | 01/20/2009 |

Date: 1-21-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2216

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Rerefer to Appropriations

Adopt Amendment Reconsider

Motion Made By Sen. Dever Seconded By Sen. Pomeroy

| Senators | Yes | No | Senators | Yes | No |
|--------------------------------|-----|----|----------------------------|-----|----|
| Senator Judy Lee, Chairman | ✓ | | Senator Joan Heckaman | ✓ | |
| Senator Robert Erbele, V.Chair | ✓ | | Senator Richard Marcellais | ✓ | |
| Senator Dick Dever | ✓ | | Senator Jim Pomeroy | ✓ | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Heckaman

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

REPORT OF STANDING COMMITTEE

SB 2216: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

SB 2216

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

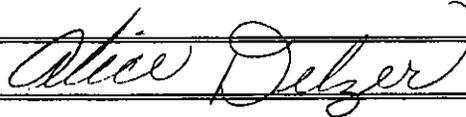
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 01-27-09

Recorder Job Number: 7890

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order at 2:30 p.m. in reference to SB 2216 in regards to reimbursement for medical screening examinations that precede acute forensic medical examinations. All committee members were present.

Senator Stanley W. Lyson, District 1 Pt. Williams stated that this bill already is federal law.

They will do a medical screening if a person comes in and says they were sexually abused.

The only difference there may be a fiscal note, if this is a federal rule and they are already doing it, maybe I'm wrong, maybe the people from attorney general's office can explain.

Chairman Holmberg: Let's have them explain the fiscal note that was partially covered and what is in the budget.

Jonathan Byers, Assistant Attorney General testified in favor of SB 2216. He provided Testimony #1. If the Legislature is going to pay for these exams, we will need a fiscal note.

During the last couple of days up till now we have not reimbursed kids' exams. Physicians can do a physical even after years of the abuse, and sometimes can determine there has been sexual abuse. If the legislature considers exams for kids as well as adults, there will be additional people.

I did testify, theoretically there is no reason we shouldn't be covering the kids one as well they didn't ask for that because they did not figure the amount. It would be a little above what was appropriated. This was asked for by the government, police, and prosecution.

Chairman Holmberg stated this is nothing to do with a part of the issue here. This bill is asking us to increase the budget liability to the AG office, but we do not have the budget of the AG. Asking us to take your amendments I would suggest tell the AG work hard on the House. We would be reluctant to add money that we will see later. They have to approve it too.

Jon Byers: stated his office will pass that on.

Senator Warner: had questions regarding acute medical exams. acute medical exams. Are we taking those definitions from federal government, the acute sexual assault prodigal? Or North Dakota. You may not have a clear picture. There has not been a problem with that program.

Senator Kilzer: Every emergency room is up to snuff on these things, as compared to clinics and physicians office.

Senator Christmann: stated looking at your testimony to be what we always have done, add screenings in, the amount was dropped if we didn't pass this bill would you have the money to be doing some of these exams now?

Jon Byers: the fiscal people dropped our budget down by half, now it won't cover the preliminary screenings exams, on top of that if you want to cover kid exams as well as acute, then you will need more funds.

Senator Christmann asked if we killed this bill, would that mean you have that smaller amount in your budget?

Jon Byers: we'll still have that amount left; if it doesn't pass we won't cover our first hurdle. It will let us do only what we have done.

Senator Krebsbach: where did that come from that you are reimbursed?

Jon Byers: That is what we spent out of our total amount. The fiscal people thought the amount was more than we needed so they cut it back.

Chairman Holmberg asked for records from last session by V. Chair Grindberg it passed unanimously last session.

15.59

Mary Dasovick, Director of the Division of Injury Prevention and Control testified in favor of SB 2216 and provided written testimony # 2. Passage of SB 2216 will allow North Dakota to continue receiving STOP Violence against Women Formula Grant Program (STOP Grant) funds from the federal government.

Senator Warner: could you elaborate on 3 sexual assault program.

Mary Dasovick: I apply for funds, we pay for on call nurse, we pay for equipment training needs; currently we are supporting Merit Care and Bismarck hospitals, Dickinson, and one in Jamestown.

Senator Warner: had questions regarding the training of nurses one of these nurses on call why limited to three.

Mary Dasovick: stated that is all that applied.

Senator Warner asked if it rotates to new hospitals.

Mary Dasovick: we have limited new hospitals that can apply for the funds. We have advocates that come in and review the grants and determine who will be funded.

Arnold Thomas, President of the North Dakota Healthcare Association testified in favor of SB 2216 and provided written testimony # 3 in support of bill. The reason there is such a disconnect in the surveys, we did this independently form AG office, the big number is 267 from facility to facility on a one year period.

V. Chair Bowman asked according to the testimony ND received, how much money does it take to do these exams?

Arnold Thomas: This issue was very narrowly focused our participation and support was very narrow and defined. The rape kits available, hospitals were the primary place this could take place. Did not want the victims, we did not want an indirect the appropriation that you authorized accommodated the costs of the kits and training.

V. Chair Bowman: How much are the kits that are distributed and how much does the exam cost, do they charge what they want, if it's federal money there must be guidelines.

Arnold Thomas: when we were supportive of the measure it was the cost of the kit only, we had no further discussion There was an assessment that was required, there was a determination of what that assessment fee was, they were billing outside of the kit, and working with AG office what would be a reasonable way we picked the lowest number of that assessment. That is the bill before you today. (28.28) What does the kit cost? We can get that information back to you.

V. Chair Bowman: we bill the AG for kits used, not all hospitals have billed the AG office. I am supportive of this issue but? (see winscribe)

Jon Byers: I think the cost is small. The amount is about \$30 for each kit. We did set a flat fee for sexual assault fee at \$400. If they use a scope with exam they get more. As you can see the kit is the small portion.

V. Chair Bowman if they use the scope, do they also charge for the exam. He asked what the total amount of reimbursement would be.

Jon Byers: It would be a flat amount. The kit is included in the total amount. He quoted the average cost.

ND has a committee that distributes them even though ND gets STOP Grant funds, they can still be billed for medical exams. This is above and beyond that to provide additional resources.

V. Chair Bowman: the STOP Funds support 3 nurse examination programs. You say that is different than what we been talking about.

Jon Byers: programs were getting that kind of funding before 2007; they still billed victims and victims' insurance.

Mary Dasovick: the STOP violence grant we are mandated to give 25% to law, 25% to prosecution, 30% to victims service programs, and 5% of the 30% must go to culture specific programs, and 5% to courts, and we have 15% which is discretionary. We fund law enforcement agencies, domestic violence programs, and so sexual assault comes out of prosecution and discretionary funds. It covers many more programs; these are just examples of current funding for sexual assault programs.

V. Chair Grindberg: Do we have any data before we enacted this legislation two years ago, regarding average costs, regardless of who paid, then after we passed the bill, what are those same costs today?

Jon Byers: Yes, through a survey that was done with hospital facilities, 16% said it was below \$500; 6% said between \$500-\$750; 19% said between \$750-\$1000, and 58% stated they didn't know how much they were billing for forensic medical tests. This would have been a survey done after the law was passed, but referring to their practices before the law was enacted.

V. Chair Grindberg: Are the costs the same?

Jon Byers: I believe the costs have gone down.

V. Chair Grindberg: Let the record show that.

Dan Ulmer on behalf of Blue Cross Blue Shield stated one of the things Jon talked about with concern about kids, we have been getting two or three claims per week and they are not covered under this bill. Within the last 96 hours, with kids don't manifest themselves over time, the sheriff brings them in, we are asking that we include how we take care of kids in this. We will take care as usual, medicinal needs after wards. This is a criminal investigation, the social worker sends the victim to the doctor to be examined. It is a crime issue, the rape victims, we sort of left kids out, it looks like the numbers are going up, how many kids, on average 2 or 3 a month but it has spiked in the last few months.

Mike Brighton, Chief of Police of West Fargo, testified in favor of SB. it is a matter of fairness. No written testimony was provided. It is required by medical facility, I feel costs of both examinations should be covered being that it is in the benefit of the state to collect this forensic evidence for law enforcement.

Linda Isakson on behalf of Janelle Moos and the North Dakota Council on Abused Women's Services, submitted testimony #4 in support of SB 2216.

Senator Christmann: This question is for Brady, I still not understanding if there is some dollar amount at the moment and how much spending would be in our budget allowance. If we pass this bill, does it increase our spending?

Brady Larson, Legislative Council stated it would not increase our total budget.

Chairman Holmberg: the additional number to bring children in is not in here.

Brady Larson stated it would be appropriate as the amount is included in status report.

Chairman Holmberg: stated that to the folks who are supporting this bill, it helps to have the money. In the end, it will work out, but they should be adding it over there in the House. Your testimony should be shared with Government Operations Division in the House. We can't add money to the budget of the AG when it's over there. We'll either pass the bill or kill the bill.

Chairman Holmberg: closed the hearing on SB 2216.

(After the hearing was held further written testimony was supplied to the committee by the AG's office.)

Written testimony # 5. SB 2216 – Acute Forensic Medical Exams.

Written testimony # 6 The Forensic Medical Exam Process.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 9050

Committee Clerk Signature

Rose Lanning

Minutes:

Chairman Holmberg opened the hearing on SB 2216 in regards to medical reimbursement for medical screening examinations.

Senator Fischer moved Do Pass on SB 2216.

Senator Fischer seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1

The bill goes back to the Judiciary committee and Senator Heckaman will carry the bill.

Date: 2.9.09
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2216

Senate _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen Fischer Seconded By Sen. Grindberg

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------|-----|----|------------------|-----|----|
| Senator Krebsbach | ✓ | | Senator Seymour | ✓ | |
| Senator Fischer | ✓ | | Senator Lindaas | | |
| Senator Wardner | ✓ | | Senator Robinson | ✓ | |
| Senator Kilzer | ✓ | | Senator Warner | ✓ | |
| V. Chair Bowman | ✓ | | Senator Krauter | ✓ | |
| Senator Christmann | ✓ | | Senator Mathern | ✓ | |
| V. Chair Grindberg | ✓ | | | | |
| Chairman Holmberg | ✓ | | | | |
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Total Yes 13 No 0

Absent 1

Floor Assignment Judiciary Heckman

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

REPORT OF STANDING COMMITTEE (410)
February 10, 2009 8:34 a.m.

Module No: SR-26-2223
Carrier: Heckaman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2216: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2216 was placed on the
Eleventh order on the calendar.

2009 HOUSE HUMAN SERVICES

SB 2216

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2216

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9914

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing on SB 2216.

Jonathan Byers, appeared on behalf of the Attorney General's Office: See Testimony #1.

Chairman Weisz: This EMTALA Act, when did that to into effect?

Rep. Porter: A long time ago.

Jonathan Byers: It was in effect already.

Chairman Weisz: So why was that missed 2 years ago?

Jonathan Byers: When the issue was first brought up, we saw the examination themselves was causing the problem, for billing for the examinations themselves.

Arnold Thomas, President of ND Healthcare Association: See Testimony #2.

Rep. Potter: What bill is a flat fee of \$100 per victim? There might be people who don't have the \$100. What do you do about that?

Arnold Thomas: You are referring to the passage of 2103 last session. ER nurses saw influx of people asking to be tested, but because they had insurance they were worried about notification to their spouse or to a parent. Hospitals not permitted to bill third parties. This bill is reaffirming elimination of financial burden on person. This bill harmonizes ND.

Rep. Conrad: Can't do protection because of federal law?

Arnold Thomas: Yes.

Rep. Conrad: (Inaudible).

Arnold Thomas: The EMTALA provision says there are certain requirements a provider has to follow. And one would be, I can't waive for you a fee for requests I have to engage in.

Rep. Ulmer representing BC/BS: Testified in support. Kids have been excluded in bill. We don't pay for criminal investigations. We need to up appropriation to handle it.

Chairman Weisz: Do you have an idea of the numbers we are talking about?

Dan Ulmer: Two to four a month.

Rep. Conrad: (Inaudible).

Dan Ulmer: We are checking now.

Chairman Weisz: Have a question for Jonathan Byers.

Jonathan Byers: How many exams and what it would cost? The numbers I got from the children advocacy centers is projected to be about 565 exams on kids over a course of a biennium at an average of \$457 for exam, plus \$100 for screening exam. It comes out to be about \$314, 705.

Rep. Conrad: (Inaudible).

Jonathan Byers: We did bring it to the Senate Appropriations, but that is when the chairman in the Senate Appropriations said that your budget bill is still over in the House.

Chairman Weisz: Your original estimated \$345 for an exam and now you've dropped it to \$100. Why the shift?

Jonathan Byers: Our physical officer picked out that figure because it all happened so fast. \$400 without colposcope and \$700 with colposcope, they are agreeable to being reimbursed \$100.

Mary Dasovik, Director Division of Injury Prevention and Control and Manage Domestic Violence/Rape Crisis Program for the ND Dept. of Health: See Testimony #3.

Chairman Weisz: You mentioned \$128,000 for youth programs, what's the remaining dollar breakdown?

Mary Dasovik: To provide law enforcement with equipment and prosecutors.

Chairman Weisz: Can you get us a breakdown of that?

Mary Dasovik: Yes.

Rep. Frantsvog: Would any of these funds be available for the medical exam costs?

Mary Dasovik: No.

Rep. Frantsvog: Are there any other federal programs that might be available for (inaudible) that you are aware of?

Mary Dasovik: No, not that I'm aware of.

Janelle Moos, representing ND Council of Abused Women's Services: See Testimony #4.

Chairman Weisz: Mr. Byers I have a question for you. The figures you gave us on the children of \$457, does that take into account on average including the \$700 for the colposcope?

Jonathan Byers: \$457 is what they average right now. That average might rise because more of them may need the colposcope exam.

Chairman Weisz: That's average currently?

Jonathan Byers: Correct.

NO OPPOSITION.

Chairman Weisz closed the hearing on SB 2216.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2216

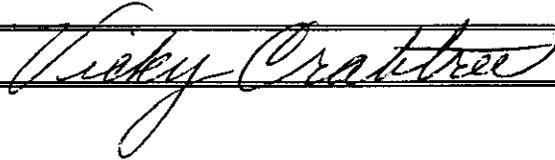
House Human Services Committee

Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9963

Committee Clerk Signature



Minutes:

Chairman Weisz: Let's look at SB 2216 we will not act on it though. Any discussion?

Rep. Porter: For an informational standpoint we could have Maggie come down and explain the current reimbursement situation on the (inaudible) and screens from the Medicaid side.

They are typically the lowest payer on record. Since we are taking over the payment, maybe good information for us to see. They are talking about a \$457 exam plus a \$100 screening for the colposcope examination on a child that if the child is on medical services, maybe more instead of a \$547 a \$200 and if there is still a way through this program to run some of those through Medicaid because of there isn't an explanation of benefits that goes out to those individuals. So there may be some things we want to tie back into the Medicaid program with this so that we aren't just assuming a 100% of the responsibility.

Chairman Weisz: The other question I had was they didn't take into account the colposcope is \$700 he said. He admitted that there was nothing in there for the colposcope cost.

Rep. Conrad: Said with children it might be higher than average number (inaudible).

Chairman Weisz: If we don't have a figure, what does the kit cost?

Rep. Conrad: (Inaudible).

Chairman Weisz: I'll get the answers to that then. We should know what the kit is and (inaudible).

Rep. Uglem: The blue square on the sheet.

Chairman Weisz: \$700 with an FME and colposcope. \$400 for the kit and \$300 for colposcope.

(Much talking amongst the representatives.)

Chairman Weisz: They were at \$457 average on the adults, but what's it going to be on the kids? \$457 plus \$100 for the screening based on the adult usage of the colposcope. I'll try to get some information on that. If this comes out of here with a Do Pass, I've got to be able to defend it.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2216

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10765 and 10768 (starts at 3 min. 53 sec.)

Committee Clerk Signature



Minutes:

Chairman Weisz: Let's take up 2216 that's that medical reimbursement for medical screeners. \$341,000 should be right; it's the latest and greatest.

Rep. Porter: Rep. Nathe was asking where the appropriation is on the bill.

Chairman Weisz: There's just a fiscal note.

Rep. Porter: Was it already inside of the attorney general's budget then?

Chairman Weisz: No, \$91,000 is outside the attorney (dropped sentence.) The Attorney General's Office budgeted for \$250,000 and the \$500,000 was cut in half. Then they added the medical screening they figured \$341,000. They want language that is not in here. They want an amendment to add the children. Do we want to add the children? It was my understanding that it added up to \$541,000.

Rep. Holman: 565 exams on kids to in the two year period. That's \$314,770 added to the cost of the bill. I got that coming down from the assistant AG. That's in my notes.

Chairman Weisz: I didn't have those in my notes. Actually we are looking at \$400,000 of new money and roughly \$650,000 total. \$250,000 in AG budget.

Rep. Porter: 11/13 is showing \$602,000 fiscal note, this was a previous fiscal note, now it is down to \$100 is exams.

Chairman Weisz: That has nothing to do with the children. That based on a screening cost of \$345 per exam and then renegotiated it back to \$100 to exam and that's why you have the adjusted fiscal note of \$341,000.

Rep. Conrad: That still isn't the children.

Chairman Weisz: That still isn't the children. Then you have to add \$314,000 for the children, so you have \$656,000 fiscal note. If we add the children. The bill as is would be \$341,000.

Rep. Conrad: Right now the exam for the child is paid for by (stops sentence).

Chairman Weisz: Either insurance companies or Medicaid, parent or guardian or potentially the hospital.

Rep. Conrad: If this \$314,000, then they wouldn't be billed or can we have them bill first and worry about second choice?

Chairman Weisz: Well they wouldn't be billed at all. They brought the bill forward because they were concerned about the EMTALA Act and that's why the bill is in front of us. If you can't charge someone for that forensic test, wouldn't that include the children?

Rep. Conrad: Yes.

Chairman Weisz: If so, why wasn't it on the original bill? They brought it up.

Rep. Holman: Give us a cost of \$557 per test.

Chairman Weisz: That's correct. They added the \$457 which is the test and \$100 for the screening.

Rep. Porter: There's absolutely nothing in the way of this bill that doesn't include the children.

Chairman Weisz: Yes there is. Well, it doesn't include children, but there's something about (everyone talking at once).

Rep. Porter: Within 96 hours (inaudible, too many voices at once), then you go to the next line, good cause is shown for the delay in performing the exam. So that would cover virtually any exam that law enforcement would say is needed.

Chairman Weisz: Based on that, if we send this out, do we have the money to cover the children?

Rep. Porter: I think we need Mr. Byers from the Attorney General's Office come back down and re-explain if this fiscal note is inclusive to (inaudible) facilities or if is not.

Chairman Weisz: We'll call Mr. Byers and see if he can come down here. We will put on hold until we can Mr. Byers down here.

Jonathan Byers from the Attorney General's Office.

Chairman Weisz: The suggestion was made in the hearing that possibly have children that I believe the estimated cost was \$314,000. The bill seems to already allow that under the standpoint unless good cause is shown for the delay in performing the examination. The question was do we need to do anything as far as changing the bill whether it is 6 months, 1 or 2 years the assumption was we would pay for that under the bill? And are we doing some of that now and how does that affect the \$314,000 is some of that part of the original \$341,000?

Jonathan Byers: The original intent of the legislation wasn't to specifically not pay for the kid exam. My testimony in Judiciary during the 2007 session is that theoretically there is just as much reason to pay for the kid exams as the adult exams except for when they ran the numbers on what kind of money it would take for the people who were doing those numbers didn't take into the account the kid exams. Because of that we drafted language specifically to refer to acute sexual assault examinations. The acute ones being within 96 hours. So if there are any kid cases that is an acute case they have shown recent injury if it occurred within the

96 hours, that would be paid for. We didn't ask the funding enough to cover anything except the acute cases.

Chairman Weisz: Your rationale in '07 to leave the amount outside of the acute was strictly from the fact that you hadn't run the numbers on the funding. Was there practical reason for you to leave it out beyond the funding issue?

Jonathan Byers: I don't believe that anybody could make a good faith argument that there's anymore reason to cover the adult exams over the kids. Both of them are for the purpose of criminal prosecution. They are being done at the request of a criminal justice agency whether it's the sheriff's office or the state's attorney and they are not being done because the victim necessarily wants to be there. And so because of that I think they should have been covered and the only reason weren't, the people who were trying to decide how much money was needed didn't take those into account.

Chairman Weisz: The EMTALA Act, does that apply to the children? Are we potentially in violation of that?

Jonathan Byers: EMTALA Act would require a preliminary screening no matter who the victim is. We ask in the 2009 legislation that we pay for those adult screenings.

Chairman Weisz: That probably prohibits from charging from a federal standpoint.

Jonathan Byers: That prohibition is not from the EMTALA Act but, from the Violence Against Women Act. Either the county or medical facility will get stuck with that if the don't charge the victim with that.

Chairman Weisz: Because it is the Violence Against Women's Act, then it only applies to a female child and not a male child?

Jonathan Byers: I think because of the act itself that is what its purpose was.

Rep. Conrad: The fiscal note on this bill is how much this will cost.

Jonathan Byers: The fiscal note is for two amounts. \$250,000 which is in the executive recommendation already and an addition \$91,000 to cover the screening exams which is not in the executive recommendation.

(Many people talking at once.)

Jonathan Byers: The way I came up with the \$314,000 would be on top of that \$341,000 and it comes from a projected number of exams of 565 exams that an average cost of \$457 plus \$100 for the screening exam so that would make a total of \$557 and when you take \$557 times 565 it comes up to the \$314,705.

Rep. Conrad: That is in addition to the \$341,000 in the fiscal note.

Jonathan Byers: Right, and that \$314,000 we don't have a fiscal note on it because this was brought forward by BC/BS initially and we have said all along if the legislature sees fit to pay for the kid's exams. This is what the cost will be we will need to increase the fiscal note to add on that \$314,000.

Chairman Weisz: What is the 565 number based on? Is that the number of investigations that have occurred in a given biennium?

Jonathan Byers: We consulted the three children's advocacy centers where the place primary number of exams would be done. Ask them to give us a figure on who many exams they expect to do using current numbers over a two year period. The 565 is total of the three centers. The funding does come out of the Insurance Regulatory Trust Fund and not the out of the state general fund.

Rep. Porter: Where would we amend this? I have a little level of uncomfortableness by not having a Section 2 that actually addresses the \$91,000 and the potential of the \$314,705 coming out of that Insurance Regulatory Fund. So if the bill does have those extra dollars

needed right with the bill. The \$250,000 is still inside the AG's budget, but that over in the Senate now.

Jonathan Byers: Yes in fact when we were dealing with this in the Senate Appropriations at that time the Chairman said there are better ways to handle the money part of this is to be is to talk about it in the Attorney General's budget hearing which at that time was in the House, but it is now over in the Senate. Paying for the kid's exams, rather than taking out the 96 hours, I think it might be better to add a separate subsection that deals with the kid exams.

Rep. Porter: You would suggest we create a subsection for to take specifically about children and the examinations available to children.

Jonathan Byers: If we take out the 96 hour acute language, then the adult exams are not acute will try to be billed under this.

Rep. Porter: You have some language that would work for the kids as set forth?

Jonathan Byers: I could do that for you tomorrow morning.

Rep. Porter: My recommendation is that in that amendment you would create a section 2 and talk about the \$91,000 appropriation along with the \$314,705 so that there is an appropriation attached to this bill since they have crossed paths. When Approps gets their hands on this, then we will let them deal with it. If we do this without the appropriation attached, they are going to look at it, that it doesn't show up in the budget anywhere, where's the money suppose to come from? Our best interest to have that section 2 in there.

Chairman Weisz: Any more questions for Mr. Byers? Thanks for coming down. I'm getting the sense from the committee they would probably want to proceed with children?

(Heads nodded yes.) We will take this up on Monday.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2216

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 16, 2009

Recorder Job Number: 11043

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Weisz: Let's look at 2216.

Rep. Porter: Did everyone get the amendments from Mr. Byers?

Chairman Weisz: Yes.

Rep. Porter: After we discussed this bill last Wednesday we asked Mr. Byers to make some clarifications so we had a clear picture of what the bill was and wasn't doing. That is what the amendment does. The first part of the amendment does include children for forensic medical examination. Section 2 sets out the funds required to do Section 1 for both the adult and children forensic examinations. In the sum portion you will see \$660,000 that does include the \$250,000 in the AG's budget. The \$660,000 should be the \$250,000 in the AG's budget, the \$91,000 toward screening exams and then the \$314,705 that is required to do children. In discussion with Mr. Byers, he said there are funds that are currently available inside the AG's budget because they were doing (inaudible) they felt not to have an emergency clause because there are funds there that would be able to cover for the rest of this biennium for children.

Rep. Porter: Move the amendment.

Rep. Nathe: Second.

Voice Vote: Motion Carried.

Rep. Conrad: Motion Do Pass as Amended and re-referred to Appropriations.

Rep. Porter: Second.

Roll Call Vote: 13 yes, 0 no, 0 absent.

MOTION CARRIED.

BILL CARRIER: Rep. Porter.

VR
3/17/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 2, after "precede" insert "child forensic medical examinations and" .

Page 1, line 3, after "examinations" insert "; to provide an appropriation; and to declare an emergency"

Page 1, line 17, after the period insert "A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.

3."

Page 1, line 21, overstrike "3." and insert immediately thereafter "4."

Page 1, after line 23, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$660,000, or so much of the sum as may be necessary, to the attorney general for the purpose of reimbursing health care facilities and health care professionals for the costs of performing preliminary medical screening examinations, child forensic medical examinations, and acute medical examinations on alleged victims of criminal sexual conduct, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3-16-09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2216

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By PORTER Seconded By Nathe

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------|-----|----|-------------------------|-----|----|
| CHAIRMAN ROBIN WEISZ | | | REP. TOM CONKLIN | | |
| VICE-CHAIR VONNIE PIETSCH | | | REP. KARI L CONRAD | | |
| REP. CHUCK DAMSCHEN | | | REP. RICHARD HOLMAN | | |
| REP. ROBERT FRANTSVOG | | | REP. ROBERT KILICHOWSKI | | |
| REP. CURT HOFSTAD | | | REP. LOUISE POTTER | | |
| REP. MICHAEL R. NATHE | | | | | |
| REP. TODD PORTER | | | | | |
| REP. GERRY UGLEM | | | | | |
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Total (Yes) 13 No 0

Absent 0

Bill Carrier _____

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

More Amend.

Date: 3-16-09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2216

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Conrad Seconded By Porter

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------|-----|----|-------------------------|-----|----|
| CHAIRMAN ROBIN WEISZ | ✓ | | REP. TOM CONKLIN | ✓ | |
| VICE-CHAIR VONNIE PIETSCH | ✓ | | REP. KARI L CONRAD | ✓ | |
| REP. CHUCK DAMSCHEN | ✓ | | REP. RICHARD HOLMAN | ✓ | |
| REP. ROBERT FRANTSVOG | ✓ | | REP. ROBERT KILICHOWSKI | ✓ | |
| REP. CURT HOFSTAD | ✓ | | REP. LOUISE POTTER | ✓ | |
| REP. MICHAEL R. NATHE | ✓ | | | | |
| REP. TODD PORTER | ✓ | | | | |
| REP. GERRY UGLEM | ✓ | | | | |
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Total (Yes) 13 No 0

Absent _____

Bill Carrier Rep Porter

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

*Do Pass
AS Amended
Refer to APPROP*

REPORT OF STANDING COMMITTEE

SB 2216: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the Sixth order on the calendar.

Page 1, line 2, after "precede" insert "child forensic medical examinations and"

Page 1, line 3, after "examinations" insert "; to provide an appropriation; and to declare an emergency"

Page 1, line 17, after the period insert "A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.

3."

Page 1, line 21, overstrike "3." and insert immediately thereafter "4."

Page 1, after line 23, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$660,000, or so much of the sum as may be necessary, to the attorney general for the purpose of reimbursing health care facilities and health care professionals for the costs of performing preliminary medical screening examinations, child forensic medical examinations, and acute medical examinations on alleged victims of criminal sexual conduct, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

2009 HOUSE APPROPRIATIONS

SB 2216

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

House Appropriations Committee

Check here for Conference Committee

Hearing Date: March 23, 2009

Recorder Job Number: 11404

Committee Clerk Signature

Shirley Branning

Minutes:

Rep. Robin Weisz approached the podium to explain SB 2216. The bill originally had \$91,000 in to pay for Medical Screenings. Then it became apparent that this does not apply to children. Human Services added the youth in there. If we don't pay, the hospitals have to pay and we did not think it was something the hospitals should have to pay for. This expands what we did last session. This bill covers Medical screenings and adding children in there basically for rape examination kits.

Chm. Svedjan: The fiscal note that was just distributed, has it changed significantly.

Rep. Weisz: It's showing approximately \$650,000.

Chm. Svedjan: It's showing \$410,000 other funds and the next biennium it goes up to \$509,000.

Rep. Weisz: That is correct. It's \$660,000, of which \$250,000 is in the budget. It will add \$410,000 of cost, \$314,000 for adding the kits and \$91,000 for medical screening.

Chm. Svedjan: It shows Other Funds. What is the source? It is the Insurance Regulatory Trust Fund (IRTF).

Rep. Delzer: Your amendment is \$660,000 out of the General Fund.

Rep. Weisz: That was a mistake that was caught Friday afternoon. It is supposed to be out of the Insurance Regulatory Trust Fund. The intent of the bill is that it is supposed to come out of the Insurance Regulatory Trust fund.

Rep. Delzer: In essence it's all General Fund. The appropriation should also be \$450,000 instead of \$660,000. There's already \$250,000 in the budget. I think we passed a bill out that had an appropriation in it that also has an appropriation in the DHS budget.

Rep. Skarphol: The emergency clause says it's effective, starting 2009. The emergency clause would take money out of what's been appropriated this biennia to cover the children.

Rep. Weisz: That's correct. The testimony was that there is enough money in the Insurance Regulatory Trust Fund to fund it through the end of the biennium.

Chairman Skarphol: Have we appropriated enough?

Rep. Weisz: They will have to come to appropriations to get that authority to the end of the biennium.

Rep. Delzer: Is this supposed to be taken care of or do we need to amend the amendment? If we need to go to IRTF I would move that.

Allen Knudson, Legislative Council Director: We'll have to check on that. We are still working on the original bill because the amendment was not adopted on the floor. We are still working with the original bill.

Chairman Svedjan: How was this not on the sixth order?

Rep. Delzer: I believe it was on the sixth but I think we have to go back to the original engrossed bill and deal from that.

Knudson: The bill wasn't engrossed, so you're still working with the original bill and we can incorporate your changes into the amendment that they adopted.

Chairman Svedjan: Then the motion is in order. The motion is to change the \$660,000 to \$410,000 and also to change the reference that this comes from the general fund to the IRTF.

Rep. Pollert: Second.

Rep. Bellew: What is the Insurance Regulatory Trust Fund?

Chm. Svedjan: It's funded through assessments or fines.

Rep. Wald: That is agent licensing fees, fines, and all other fees the insurance department collects.

Rep. Delzer: There was a report on Trust Funds. We might ask Council to provide that for us.

Knudson: We can get that.

Rep. Kerzman: I'm still seeing that we are short \$250,000.

Chm. Svedjan: We changing the \$660,000 to \$410,000. \$250,00 is from the IRTF. All \$660,000 will come from the IRTF.

Rep. Wald: I don't see where it references the Insurance Regulatory Trust Fund. Since when do Fiscal Notes become law?

Chm. Svedjan: The Fiscal Note references the IRTF. The amendments, 0200 mistakenly references two things: \$660,000 that should be \$410,000. And the other that it should be an IRTF instead of the General fund.

Rep. Wald: We get creative in finding funds. I don't see what relationship the Insurance Regulatory Trust Fund has with funding medical screening exams for forensic medical exams.

Chm. Svedjan: It was originally funded out of the IRTF.

Rep. Wald: I move a substitute motion that the fund would remain out of the General Fund and not the IRTF.

Rep. Kerzman: Second.

Rep. Hawken: I would like to know there was a rational for putting it there in the first place?

Rep. Weisz: We did not have testimony this time around as to why it was taken out of there initially.

Jonathon Meyers, Attorney General's Office: Many billings that occurred prior to this. Because the insurance companies are in favor of this, it made sense that the appropriation come out of the IRTF.

Rep. Wald: There's a difference in filing a claim and I don't see the connection in what we are trying to fund here. It's doesn't have to do anything to do with the Insurance.

Rep. Berg: Prior to making the change, individual insurance companies were footing the bill. I support taking it out of the General Fund. It's an expense of law enforcement rather than healthcare.

Rep. Pollert: We also have in the Department of Health budget there's \$1.5M that comes from the Insurance Tax Distribution Fund. And that's another way of doing that as compared to this.

Rep. Delzer: To me, I'm not going to support this for reasons Rep Pollert stated and because then we are gonna split and have part of it coming out of the Regulatory Fund and part outa the general fund and that makes it harder to track what is going on.

Rep. Meyer: Clarify for me what we are voting on.

Chairman Svedjan: The substitute motion is to change the funding source for the \$410,000 from the IRTF to the General fund.

Rep. Wald: \$4100,000 all out of the general fund.

Rep. Berg: There's \$250,000 in the Executive budget right now and that is coming from the IRTF. If we want it all to come out of the insurance fund, than the full amount needs to come from the insurance fund.

Rep. Wald: It would make sense to take \$410,000 out of the General Fund and leave the rest as is.

Knudson: The \$250,000 is in HB 1003, so you can't deal with that funding source change in this bill. The only thing you can deal with here is the \$410,000 and you want that to come out of the General Fund.

Rep. Weisz: If it is the intent to take it out of General Fund, the current bill does not need to be amended because it takes all \$660,00 out of general fund.

Chairman Svedjan: The \$250,000 resides in a bill that is in the Senate.

Rep. Kerzman: That would work if the original motion would be withdrawn.

Rep. Kaldor: Without resolution on the original motion, this basically restates what's in the bill with the exception of the money.

Chairman Svedjan: The first motion was to change the funding source from the General Fund to the IRTF and to change the \$660,000 to \$410,000. The substitute motion states that \$410,000 should come from the general fund. Voice vote on the substitute motion.

Amendment defeated.

Explaining again the original motion: Changing the General Fund to the IRTF and changing the \$660,000 to \$410,000. **Calling for a voice vote on that motion. Amendment adopted.**

Now the Amended Bill.

Rep. Hawken: Do Pass as amended.

Rep. Meyer: Second.

Roll call vote Do Pass as Amended.

Vote Taken Yes 18 No 5 Absent 2, Motion Carried. Carrier: Rep. Hawken.

Date: 3/23/09
 ★ Roll Call Vote #: 1 and 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2216

*voted on
 after subst.
 motion*

Full House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number TBD

Action Taken Change \$600,000 to \$410,000

Motion Made By Delzer Seconded By Pollert

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| Chairman Svedjan | | | | | |
| Vice Chairman Kempenich | | | | | |
| Rep. Skarphol | | | Rep. Kroeber | | |
| Rep. Wald | | | Rep. Onstad | | |
| Rep. Hawken | | | Rep. Williams | | |
| Rep. Klein | | | | | |
| Rep. Martinson | | | | | |
| Rep. Delzer | | | Rep. Glassheim | | |
| Rep. Thoreson | | | Rep. Kaldor | | |
| Rep. Berg | | | Rep. Meyer | | |
| Rep. Dosch | | | | | |
| Rep. Pollert | | | Rep. Ekstrom | | |
| Rep. Bellew | | | Rep. Kerzman | | |
| Rep. Kreidt | | | Rep. Metcalf | | |
| Rep. Nelson | | | | | |
| Rep. Wieland | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment Voice Vote - carries

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

*Changing funding source from
 \$600,000 → \$410,000*

VR
3/25/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

In lieu of the amendments adopted by the House as printed on page 962 of the House Journal, Senate Bill No. 2216 is amended as follows:

Page 1, line 2, after "precede" insert "child forensic medical examinations and"

Page 1, line 3, after "examinations" insert "; to provide an appropriation; and to declare an emergency"

Page 1, line 17, after "2." insert "A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.

3."

Page 1, line 21, overstrike "3." and insert immediately thereafter "4."

Page 1, after line 23, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the insurance regulatory trust fund in the state treasury, not otherwise appropriated, the sum of \$410,000, or so much of the sum as may be necessary, to the attorney general for the purpose of reimbursing health care facilities and health care professionals for the costs of performing preliminary medical screening examinations, child forensic medical examinations, and acute medical examinations on alleged victims of criminal sexual conduct, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3/23/09
 Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2216

Full House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number TBD

Subst. Action Taken see below

Motion Made By Wald Seconded By Kerzman

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| Chairman Svedjan | | | | | |
| Vice Chairman Kempenich | | | | | |
| Rep. Skarphol | | | Rep. Kroeber | | |
| Rep. Wald | | | Rep. Onstad | | |
| Rep. Hawken | | | Rep. Williams | | |
| Rep. Klein | | | | | |
| Rep. Martinson | | | | | |
| Rep. Delzer | | | Rep. Glassheim | | |
| Rep. Thoreson | | | Rep. Kaldor | | |
| Rep. Berg | | | Rep. Meyer | | |
| Rep. Dosch | | | | | |
| Rep. Pollert | | | Rep. Ekstrom | | |
| Rep. Bellew | | | Rep. Kerzman | | |
| Rep. Kreidt | | | Rep. Metcalf | | |
| Rep. Nelson | | | | | |
| Rep. Wieland | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment Voice Vote - fails.

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

*- Change funding source from Am. Res.
 Invest Fund to GF for \$410,000.*

Date: 3/23/09
 Roll Call Vote #: 4

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2214

Full House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number TBD

Action Taken Do Pass as Amended

Motion Made By Hunker Seconded By Meyer

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| Chairman Svedjan | ✓ | | | | |
| Vice Chairman Kempenich | | | | | |
| Rep. Skarphol | ✓ | | Rep. Kroeber | ✓ | |
| Rep. Wald | | ✓ | Rep. Onstad | ✓ | |
| Rep. Hawken | ✓ | | Rep. Williams | ✓ | |
| Rep. Klein | | ✓ | | | |
| Rep. Martinson | ✓ | | | | |
| Rep. Delzer | | ✓ | Rep. Glassheim | ✓ | |
| Rep. Thoreson | ✓ | | Rep. Kaldor | | ✓ |
| Rep. Berg | ✓ | | Rep. Meyer | ✓ | |
| Rep. Dosch | ✓ | | | | |
| Rep. Pollert | ✓ | | Rep. Ekstrom | | |
| Rep. Bellew | | ✓ | Rep. Kerzman | ✓ | |
| Rep. Kreidt | ✓ | | Rep. Metcalf | ✓ | |
| Rep. Nelson | ✓ | | | | |
| Rep. Wieland | ✓ | | | | |

Total (Yes) 18 No 5

Absent 2

Floor Assignment Hunker

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

REPORT OF STANDING COMMITTEE

SB 2216: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (18 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). SB 2216 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on page 962 of the House Journal, Senate Bill No. 2216 is amended as follows:

Page 1, line 2, after "precede" insert "child forensic medical examinations and"

Page 1, line 3, after "examinations" insert "; to provide an appropriation; and to declare an emergency"

Page 1, line 17, after "2." insert "A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.

3."

Page 1, line 21, overstrike "3." and insert immediately thereafter "4."

Page 1, after line 23, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the insurance regulatory trust fund in the state treasury, not otherwise appropriated, the sum of \$410,000, or so much of the sum as may be necessary, to the attorney general for the purpose of reimbursing health care facilities and health care professionals for the costs of performing preliminary medical screening examinations, child forensic medical examinations, and acute medical examinations on alleged victims of criminal sexual conduct, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2009 TESTIMONY

SB 2216

1

**SENATE BILL 2216 TESTIMONY
SENATE HUMAN SERVICES COMMITTEE
JANUARY 21ST, 2009
RED RIVER ROOM**

By Jonathan Byers, Assistant Attorney General

Madame Chair and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2216.

In 2007 we asked for your help in finding a solution to a long-term problem: how to provide reasonable reimbursement to health care facilities for gathering evidence in sexual assault cases, without the victim or the victim's insurance being billed for the forensic medical exam.

You came through with flying colors. \$500,000 was appropriated from the Insurance Regulatory Trust Fund to create a fund for reimbursement to the health care facilities for forensic evidence gathering in sexual assault cases. As of December 31st, the Attorney General had reimbursed health care facilities and providers \$115,100.00 for 252 acute forensic medical exams.

One issue that came up during the interim was the issue of screening examinations required by Emergency Medical Treatment and Active Labor Act (EMTALA). Under EMTALA, any patient who comes to an emergency department requesting examination or treatment for a medical condition must be provided with an

appropriate medical screening examination to determine if the patient is suffering from an emergency medical condition. Coverage of the screening examinations was not contemplated in the 2007 legislative session, and the prohibition against health care facilities billing the victim did not apply to the screening examinations.

We saw an easy fix to that problem. Since the actual expenditures for reimbursements was coming in far under the projections that established the fund at \$500,000, those of us working on the substantive issues of the screening examination figured we would request an amendment to the statute allowing for payment of the screening exams without having to ask for more money.

This is where I have to confess that the right hand was not communicating with the left hand. While Liz Brocker and I were working with the stakeholders to solve the substantive problem of the screening exams, our financial people, being the fiscally responsible souls that they are, agreed to reduce the budget request to \$250,000 for the biennium. This likely would have been sufficient for the forensic medical exams, but will not cover the additional costs of the preliminary screening examinations that are now being billed to the victim.

I'm convinced that if the appropriation from the Insurance Regulatory Trust Fund is kept at the 2007-2009 level, we can fix this problem and everyone involved will be happy. We meet with the stakeholders next week and will have all of that resolved before we go into appropriations

The Attorney General asks for a do pass. I would be happy to answer any questions.

**Vision**

The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission

The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

SB 2216 Testimony
Senate Health & Human Services Committee
January 21, 2009

Chairman Lee, Members of the Senate Health and Human Services Committee. I am Arnold Thomas, President of the North Dakota Healthcare Association. I am here today in support of SB 2216.

In 2007 SB 2103 became law. SB 2103 set policy governing provider billing practices for the acute forensic medical examination of an alleged sexual assault victim. This law prohibits a health care provider billing the alleged sexual assault victim directly or a third party payer for the costs associated with the forensic examination. Its intent and the primary reason for our support was elimination of cost and notification concerns the alleged sexual assault victim have thereby inhibiting the pursuit of justice.

I am sorry to report that since 2103's enactment, no fewer than three hundred kits have been used by hospitals. For the committee's information, ND's nine largest hospitals reported use of 267 kits in the last year. Of the remaining hospitals, 13 reported no kit usage in the last two years; sixteen reported using one to two kits in the same two year period; four hospitals used 3-4 kits over the same calendar period; and three reported using 5-6 kits.

However, because of this law, these assault victims have not had to consider matters of payment or notification concerns when these examinations were indicated.

We support the statutory changes proposed in SB 2216. Adopted, they will harmonize current law with Federal provisions.

We ask the committee for a "Do Pass" recommendation.

Chairman Lee, I would entertain questions you or the committee may have.

Testimony
Senate Bill 2216
Senate Human Services Committee
Wednesday, January 21, 2009; 11:30 a.m.
North Dakota Department of Health

*Same to
Senate log*

*Same
given to
House*

#3

Good morning, Chairman Lee and members of the Human Services Committee. My name is Mary Dasovick, and I am director of the Division of Injury Prevention and Control and manager of the Domestic Violence/Rape Crisis Program for the North Dakota Department of Health. I am here to testify in support of Senate Bill 2216.

Passage of Senate Bill 2216 will allow North Dakota to continue receiving STOP Violence Against Women Formula Grant Program (STOP Grant) funds from the federal government.

The STOP Grant is part of the federal Violence Against Women Act that was passed in 1994 and reauthorized in 2000 and 2005. The purpose of the grant is to support communities in their efforts to develop and strengthen effective law enforcement and prosecution strategies to combat violence crimes against women; to develop and strengthen victim services in cases involving violence crimes against women; and to implement comprehensive strategies that are sensitive to the needs and safety of victims.

The 2005 reauthorization of the Violence Against Women Act included a new statutory eligibility requirement. States must certify they are in compliance with this requirement to continue receiving the STOP grant funds. The new requirement reads "the State, Indian tribal government, or territorial government does not require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both." The compliance with this requirement applies to the entire state and not just agencies receiving funds through the STOP grant.

North Dakota has received an average of \$743,000 each year from 1995 through 2008. Currently, STOP funds support three Sexual Assault Nurse Examiner Programs for a total of \$128,537. Other Sexual Assault Nurse Examiner Programs, policy development, and trainings related to the forensic medical examination have been supported with STOP funds in the past.

In January 2008, the Department of Health, in collaboration with the North Dakota Council on Abused Women's Services and the North Dakota Office of Attorney General, applied for and received a technical assistance grant from the Office on Violence Against Women to assess the capacity and practices of health-care facilities throughout the state that provide acute forensic sexual assault examinations to victims who present at medical facilities. This information was gathered through a survey of all hospitals in North Dakota conducted in May and June 2008.

The results of the survey confirmed the concern that a victim of sexual assault cannot obtain a sexual assault forensic examination without being provided a required medical screening. A medical screening is an assessment of an individual who presents at a hospital emergency department to determine if there is an emergency condition. The survey also revealed that several health-care facilities are billing the victim for this fee. This raises several policy issues.

We are concerned that the practice of billing the victim for the medical screening services may be a compliance issue for the state of North Dakota. It certainly is not within the spirit of the federal statute for a victim of sexual assault to bear the cost of the examination. Although the screening is certainly essential (not to mention mandatory), the reality is that a sexual assault victim cannot receive the forensic examination without receiving the mandated screening.

NDCC 12.1-34-07 provides the acute forensic medical examination costs to be reimbursed by the funds in the Attorney General's budget. Senate Bill 2216 allows for the inclusion of the cost for the medical screening to be part of the payment for acute forensic medical examination costs and will move North Dakota into full compliance with the Violence Against Women Act of 2005.

The passage of this bill will allow North Dakota to continue receiving STOP funds to implement victim-centered strategies that encourage law enforcement, prosecution, courts, victim advocates, nonprofit victim service providers, other components of the criminal justice system, and appropriate community agencies to collaborate within and among themselves in an effort to end violence against women.

This concludes my testimony. I am happy to answer any questions you may have.

#4

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org
Testimony on SB 2216

Senate Human Services

January 21, 2009

*Same given
to Senate Appropriations*

Madame Chair and Members of the Committee:

My name is Janelle Moos and I am speaking this morning on behalf of the North Dakota Council on Abused Women's Services in support of SB 2216.

We would like to thank Senator Lyson and the co-sponsors of the bill for initiating the amendments to 12.1-34-07 relating to the inclusion of the medical screening prior to the acute forensic medical examination as an allowable cost for reimbursement through the Attorney General's Office.

In 1994, with the passage of the Violence Against Women Act as part of the Omnibus Crime Bill, the federal government implied that states should insure that sexual assault victims do not have to pay for their own exams. The law was somewhat ambiguous, not clarifying what "forensic" actually meant. And the hint was there that federal funds might be contingent on states' assurance of payment. For years, Victims' Compensation "payment of last resort" was accepted as compliance in lieu of state payment.

This payment scenario generated some very negative consequences. Young adults still covered by their parents' medical insurance have payments sent to their parents' home. A spouse with a joint insurance plan will receive a bill at the family residence. Knowing this, victims sometimes refuse medical treatment and the forensic exam.

In response in 2007, Senator Lyson initiated the bill that created NDCC 12.1-34-07 in response to this requirement under the VAWA statute. In addition to providing access to sexual assault forensic examinations for all victims of sexual assault, states are required to ensure that victims do not have the financial burden associated with the sexual assault forensic examination.

The statute, which allows hospitals to seek reimbursement for the expenses related to the provision of sexual assault forensic examinations, went into effect July 1, 2007. As of December 31st, hospitals throughout the state have requested reimbursement for *252 examinations*.

In 2008, North Dakota was one of three pilot sites in the nation selected by the Department of Justice Office on Violence Against Women (OVW) and the Maryland Coalition Against Sexual Assault to participate in the Forensic Compliance Project, a national technical assistance project. The national TA project was designed to assist states and territories as they work to implement policies and procedures ensuring all victims of sexual assault are afforded forensic examinations, without being required to cooperate with law enforcement and/or participate in the criminal justice system. The North Dakota Department of Health, Division of Injury Prevention and Control and the North Dakota Council on Abused Women's Services/Coalition Against Sexual Assault in North Dakota have been working collaboratively to resolve issues related to forensic medical exams, and, along with North Dakota Attorney General's Office are partners for purposes of the pilot project.

One of the first tasks initiated through the pilot project facilitated by Debra Bright, Project Director for the national technical assistance project, was a survey of health care facilities throughout the state. The survey was viewed as an opportunity to assess the medical response to sexual assault victims, as well as assess the reimbursement process to date. The survey, which was conducted in May and June of 2008, produced a *67% response rate*.

The survey was helpful in assessing the system's response to date, which confirmed concerns that a few facilities are, in fact, charging patients for the EMTALA medical screening. Thirteen (13%), or 4 hospitals responding to this question that they are charging patients for the screening; An additional 31%, or 10 facilities answered that they were not aware of their billing practices in this regard.

Given the fact that a victim of sexual assault cannot obtain a sexual assault forensic examination without being provided an EMTALA screening, and the fact that several health care facilities are billing the victim for this fee, the issue raised several policy issues. Obviously, it is our position

that the victim of sexual assault should not carry the financial burden associated with the EMTALA screening. We are concerned that the practice of billing the victim for the EMTALA services may be a "compliance" issue for the state of North Dakota. It certainly is not within the "spirit" of the federal statute for a victim of sexual assault to bear the cost of the examination. Although the screening is certainly essential (not to mention mandatory), the reality is that a sexual assault victim cannot receive the forensic examination without receiving the mandated screening.

North Dakota is a leader in the nation with the reimbursement process for sexual assault forensic examinations. Now that this situation has been brought to light, we are asking you to support SB 2216 relating to the inclusion of the medical screening prior to the acute forensic medical examination as an allowable cost for reimbursement through the Attorney General's Office to ensure that victims of sexual assault are not billed for EMTALA-related fees.

Thank you.

SENATE BILL 2216 TESTIMONY
SENATE APPROPRIATIONS COMMITTEE
JANUARY 27TH, 2009
HARVEST ROOM

By Jonathan Byers, Assistant Attorney General

Mr. Chairman and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2216.

In 2007 we asked for your help in finding a solution to a long-term problem: how to provide reasonable reimbursement to health care facilities for gathering evidence in sexual assault cases, without the victim or the victim's insurance being billed for the forensic medical exam.

You came through with flying colors. \$500,000 was appropriated from the Insurance Regulatory Trust Fund to create a fund for reimbursement to the health care facilities for forensic evidence gathering in sexual assault cases. As of December 31st, the Attorney General had reimbursed health care facilities and providers \$115,100.00 for 252 acute forensic medical exams.

One issue that came up during the interim was the issue of screening examinations required by Emergency Medical Treatment and Active Labor Act (EMTALA). Under EMTALA, any patient who comes to an emergency department requesting examination or treatment for a medical condition must be provided with an

appropriate medical screening examination to determine if the patient is suffering from an emergency medical condition. Coverage of the screening examinations was not contemplated in the 2007 legislative session, and the prohibition against health care facilities billing the victim did not apply to the screening examinations.

We saw an easy fix to that problem. Since the actual expenditures for reimbursements was coming in far under the projections that established the fund at \$500,000, those of us working on the substantive issues of the screening examination figured we would request an amendment to the statute allowing for payment of the screening exams without having to ask for more money.

This is where I have to confess that the right hand was not communicating with the left hand. While Liz Brocker and I were working with the stakeholders to solve the substantive problem of the screening exams, our financial people, being the fiscally responsible souls that they are, agreed to reduce the budget request to \$250,000 for the biennium. This likely would have been sufficient for the forensic medical exams, but will not cover the additional costs of the preliminary screening examinations that are now being billed to the victim.

With a flat fee reimbursement of \$100, which I'm told that the health care facilities will accept, the fiscal note would be able to be reduced from the amount stated in our original fiscal note, to the \$341, 208 fiscal note you now have before you.

It has come to my attention in the last few days that there will be an effort to increase the appropriation to cover non-acute exams of children. If it is the Legislature's desire to do that, then our appropriation would increase to a total of about \$650,000, and we would have to make an amendment to the bill removing the "acute" language.

The Attorney General asks for a do pass. I would be happy to answer any questions.



Vision

The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission

The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

Testimony on Senate Bill 2216
Senate Appropriations
January 27, 2009

Chairman Holmberg, Members of the Senate Appropriations. I am Arnold Thomas President of the North Dakota Healthcare Association. I am here today in support of the appropriation accompanying SB 2216, a bill supporting the medical forensic examination program administered by the Attorney General's office.

In 2007, SB 2103 was signed into law. This law set policy governing provider billing practices for acute forensic medical examination of alleged sexual assault victims. It prohibits a health care provider from billing the alleged sexual assault victim directly or an insurer for the costs associated with the forensic examination.

The purpose of this law and the primary reason for our support was elimination of cost and notification concerns preventing pursuit of justice by the alleged sexual assault victim.

We think this relief of cost and third party notification concerns is achieving its intended goal. However, I am sorry to report that since passage of this law, no fewer than three hundred rape kits have been used by hospitals. This is a conservative estimate based on two surveys we recently conducted.

The surveys indicate that North Dakota's nine (9) largest hospitals reported using 267 kits in the last year. Of the remaining hospitals, thirteen (13) reported no kit usage in the last two years; sixteen (16) reported using one to two kits in the same two year period; four (4) hospitals used between three to four kits over the same calendar period; and three (3) reported using between 5-6 kits.

We support and ask your approval of the appropriation requested in SB 2216. This request is compatible with the original purpose of SB 2103, the elimination of examination cost and third party notification concerns for assault victims in their pursuit of justice.

Mr. Chairman, I would respond to questions you or members of the committee may have.

SB 2216—Acute Forensic Medical Exams

- *An “acute forensic medical exam” is an examination for the purpose of collecting evidence of an alleged criminal act, and is performed within 96 hours of the offense.*

Prior to the passage of SB 2103 in 2007, if a woman was the victim of a sexual assault/rape, she was held financially responsible for all costs associated with the forensic medical exam needed to collect evidence of the alleged crime.

SB 2103 provided relief to the victim of a sexual assault by providing an ongoing appropriation from the Insurance Regulatory Trust Fund to the Office of Attorney General to reimburse medical providers for performing the rape exams, thus ensuring that a victim would not incur out-of-pocket expenses. The Office of Attorney General established a working group consisting of representatives of the North Dakota Healthcare Association (NDHA), BlueCross/BlueShield of ND, the State’s Attorney’s Association, Council of Abused Women’s Services, the Health Department (which receives STOP grant funds), Chiefs and Sheriffs Association, and others, to set the reimbursement rate and address ongoing issues related to reimbursement and the criminal justice process. As required by SB 2103, the flat fee reimbursement constitutes full payment of any costs related specifically to the forensic medical exam.

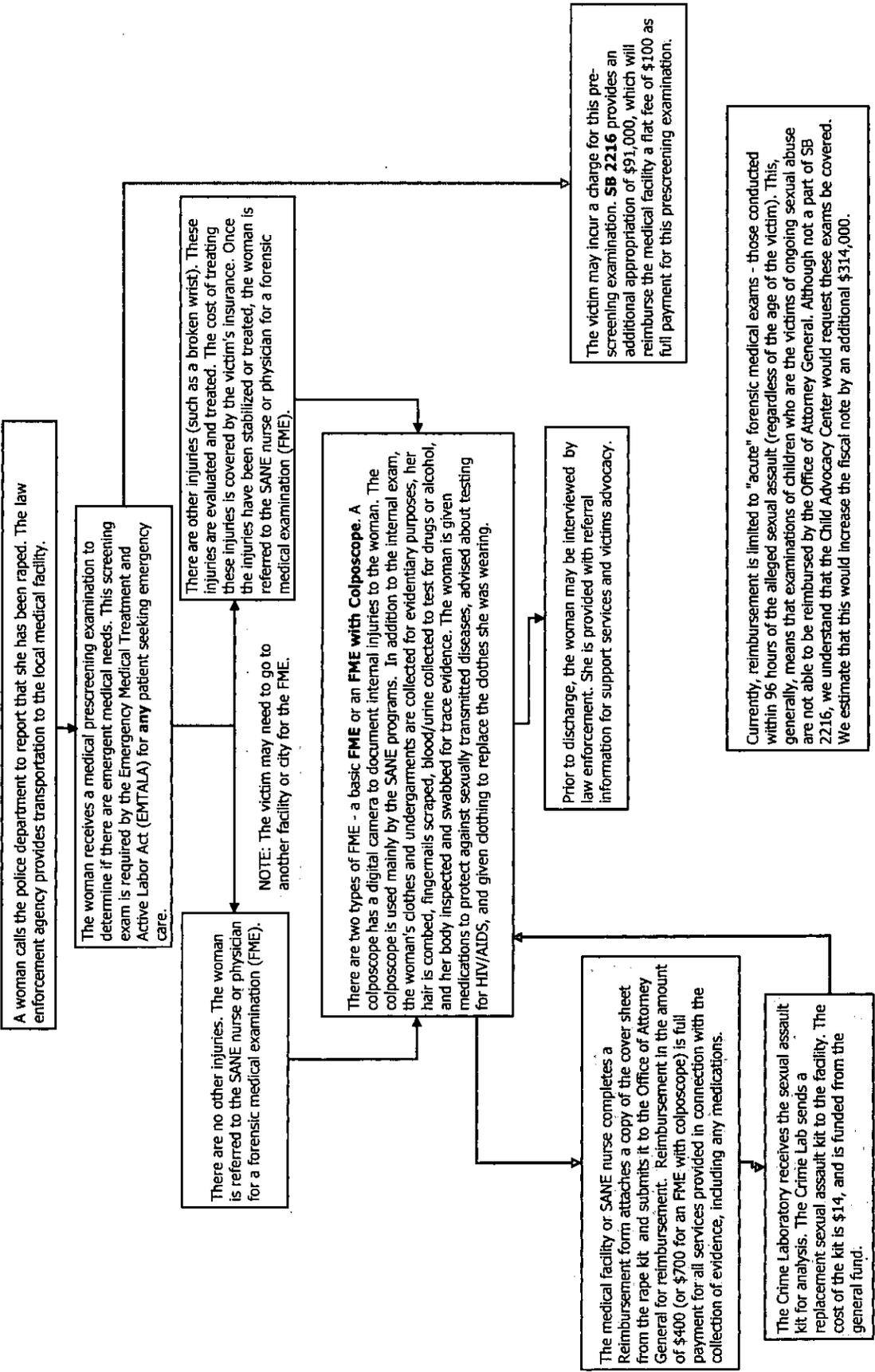
During the interim period, the working group was made aware that there is one expense remaining which is a potential barrier to a woman receiving a rape exam—the prescreening examination. The Emergency Medical Treatment and Active Labor Act (EMTALA) requires that once a patient seeks emergency care, a hospital *must* provide an appropriate medical screening exam to determine the presence or absence of an emergency medical condition. This exam is not a part of, or related to, the forensic medical exam BUT a woman cannot receive a rape exam until after this medical screening exam has been conducted. Because it is not a part of the rape exam, it is not covered by 2007 SB 2103 or our current appropriation, and therefore the victim may incur an out-of-pocket expense.

The Violence Against Women Act (VAWA) of 2005, as amended, requires that in order to receive STOP grant funds after January 2009, a state must ensure that a victims of sexual assault have access to an exam free of charge or with full reimbursement, even if the victim chooses not to report the crime to the police or otherwise cooperate with law enforcement. Although the rape exam is currently free to the victim, she first must be able to pay the costs of the prescreening exam (\$100-\$300). SB 2216 provides an additional appropriation that would enable the Office of Attorney General to provide a \$100 flat-fee reimbursement to medical providers for this prescreening exam—relieving the victim of an unexpected financial burden or the fear of a third party receiving a bill, and bringing the state into full compliance with the intent of VAWA and 2007 SB 2103.

The North Dakota Department of Health receives approximately \$740,000 each year in STOP grant funds. These funds are required to be disbursed for certain specific purposes and programs. STOP grant funds are used to establish and maintain the Sexual Assault Nurse Examiner programs in communities across the state, including on-call costs for the Sexual Assault Nurse Examiner, training, equipment, supplies and incidentals. SANE nurses are highly trained professionals who specialize in the proper methods of collecting forensic evidence and documenting the internal and external injuries resulting from the sexual assault. Incidental costs could include, for example, underwear, sweat shirt and sweat pants to replace the clothes the victim was wearing—which are evidence.

Note: Currently, reimbursement is limited to “acute” forensic medical exams - those conducted within 96 hours of the alleged sexual assault (regardless of the age of the victim). This, generally, means that examinations of children who are the victims of ongoing sexual abuse are not able to be reimbursed by the Office of Attorney General. Although not covered in SB 2216, we understand that the Child Advocacy Center would request these non-acute forensic medical exams also be covered. We estimate that this would increase the fiscal note by an additional \$314,000.

The Forensic Medical Exam Process



A woman calls the police department to report that she has been raped. The law enforcement agency provides transportation to the local medical facility.

The woman receives a medical prescreening examination to determine if there are emergent medical needs. This screening exam is required by the Emergency Medical Treatment and Active Labor Act (EMTALA) for any patient seeking emergency care.

There are no other injuries. The woman is referred to the SANE nurse or physician for a forensic medical examination (FME).

There are other injuries (such as a broken wrist). These injuries are evaluated and treated. The cost of treating these injuries is covered by the victim's insurance. Once the injuries have been stabilized or treated, the woman is referred to the SANE nurse or physician for a forensic medical examination (FME).

NOTE: The victim may need to go to another facility or city for the FME.

There are two types of FME - a basic FME or an FME with Colposcope. A colposcope has a digital camera to document internal injuries to the woman. The colposcope is used mainly by the SANE programs. In addition to the internal exam, the woman's clothes and undergarments are collected for evidentiary purposes, her hair is combed, fingernails scraped, blood/urine collected to test for drugs or alcohol, and her body inspected and swabbed for trace evidence. The woman is given medications to protect against sexually transmitted diseases, advised about testing for HIV/AIDS, and given clothing to replace the clothes she was wearing.

Prior to discharge, the woman may be interviewed by law enforcement. She is provided with referral information for support services and victims advocacy.

The victim may incur a charge for this pre-screening examination. SB 2216 provides an additional appropriation of \$91,000, which will reimburse the medical facility a flat fee of \$100 as full payment for this prescreening examination.

The medical facility or SANE nurse completes a Reimbursement form attaches a copy of the cover sheet from the rape kit and submits it to the Office of Attorney General for reimbursement. Reimbursement in the amount of \$400 (or \$700 for an FME with colposcope) is full payment for all services provided in connection with the collection of evidence, including any medications.

The Crime Laboratory receives the sexual assault kit for analysis. The Crime Lab sends a replacement sexual assault kit to the facility. The cost of the kit is \$14, and is funded from the general fund.

Currently, reimbursement is limited to "acute" forensic medical exams - those conducted within 96 hours of the alleged sexual assault (regardless of the age of the victim). This, generally, means that examinations of children who are the victims of ongoing sexual abuse are not able to be reimbursed by the Office of Attorney General. Although not a part of SB 2216, we understand that the Child Advocacy Center would request these exams be covered. We estimate that this would increase the fiscal note by an additional \$314,000.

#1

**SENATE BILL 2216 TESTIMONY
HOUSE HUMAN SERVICES COMMITTEE
MARCH 2ND, 2009
FORT UNION ROOM**

By Jonathan Byers, Assistant Attorney General

Mr. Chairman and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2216. In 2007 we asked for your help in finding a solution to a long-term problem: how to provide reasonable reimbursement to health care facilities for gathering evidence in sexual assault cases, without the victim or the victim's insurance being billed for the forensic medical exam.

You came through with flying colors. \$500,000 was appropriated from the Insurance Regulatory Trust Fund to create a fund for reimbursement to the health care facilities for forensic evidence gathering in sexual assault cases. As of December 31st, the Attorney General had reimbursed health care facilities and providers \$115,100.00 for 252 acute forensic medical exams.

One issue that came up during the interim was the issue of screening examinations required by Emergency Medical Treatment and Active Labor Act (EMTALA). Under EMTALA, any patient who comes to an emergency department requesting examination or treatment for a medical condition must be provided with an appropriate medical screening examination to determine if the patient is suffering from an emergency medical condition. I have distributed a flow chart that outlines

the process of accessing a forensic medical examination by first undergoing a medical screening examination required by EMTALA.

Coverage of the screening examinations was not contemplated in the 2007 legislative session, and the prohibition against health care facilities billing the victim did not apply to the screening examinations. We saw an easy fix to that problem. Since the actual expenditures for reimbursements was coming in far under the projections that established the fund at \$500,000, those of us working on the substantive issues of the screening examination figured we would request an amendment to the statute allowing for payment of the screening exams without having to ask for more money.

However, while Liz Brocker and I were working with the stakeholders to solve the substantive problem of the screening exams, our financial people, being the fiscally responsible souls that they are, agreed to reduce the budget request to \$250,000 for the biennium. This likely would have been sufficient for the forensic medical exams, but will not cover the additional costs of the preliminary screening examinations that are now being billed to the victim.

The fiscal note attached to Senate Bill 2216 provides for an additional appropriation of \$91,208 to cover the medical screening exams. When combined with the \$250,000 which is in the executive recommendation, the \$341,208 is still less than the \$500,000 appropriated during the 2007-2009 biennium.

The Attorney General asks for a do pass. I would be happy to answer any questions.

NDHA

North Dakota Healthcare Association

Vision

The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission

The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

SB 2216 Testimony
House Health & Human Services Committee
March 2, 2009

Chairman Weisz, Members of the House Health and Human Services Committee. I am Arnold Thomas, President of the North Dakota Healthcare Association. I am here today in support of SB 2216.

In 2007 SB 2103 became law. SB 2103 set policy governing provider billing practices for the acute forensic medical examination of an alleged sexual assault victim. This law prohibits a health care provider billing the alleged sexual assault victim directly or a third party payer for the costs associated with the forensic examination. Its intent and the primary reason for our support was elimination of cost and notification concerns the alleged sexual assault victim have thereby inhibiting the pursuit of justice.

I am sorry to report that since 2103's enactment, no fewer than three hundred kits have been used by hospitals. For the committee's information, ND's nine largest hospitals reported use of 267 kits in the last year. Of the remaining hospitals, 13 reported no kit usage in the last two years; sixteen reported using one to two kits in the same two year period; four hospitals used 3-4 kits over the same calendar period; and three reported using 5-6 kits.

Because of this law, these assault victims have not had to consider matters of payment or notification concerns when these examinations were indicated.

We support Senate Bill 2216, understanding its provisions harmonize current law with Federal provisions.

We ask the committee for a "Do Pass" recommendation.

Chairman Weisz, I would entertain questions you or the committee may have.

#4

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Testimony on SB 2216
House Human Services
March 2, 2009

Chairman Weisz and Members of the Committee:

My name is Janelle Moos and I am speaking this morning on behalf of the North Dakota Council on Abused Women's Services in support of SB 2216.

We would like to thank Senator Lyson and the co-sponsors of the bill for initiating the amendments to 12.1-34-07 relating to the inclusion of the medical screening prior to the acute forensic medical examination as an allowable cost for reimbursement through the Attorney General's Office.

In 1994, with the passage of the Violence Against Women Act as part of the Omnibus Crime Bill, the federal government implied that states should insure that sexual assault victims do not have to pay for their own exams. The law was somewhat ambiguous, not clarifying what "forensic" actually meant. And the hint was there that federal funds might be contingent on states' assurance of payment. For years, Victims' Compensation "payment of last resort" was accepted as compliance in lieu of state payment.

This payment scenario generated some very negative consequences. Young adults still covered by their parents' medical insurance have payments sent to their parents' home. A spouse with a joint insurance plan will receive a bill at the family residence. Knowing this, victims sometimes refuse medical treatment and the forensic exam.

In response in 2007, Senator Lyson initiated the bill that created NDCC 12.1-34-07 in response to this requirement under the VAWA statute. In addition to providing access to sexual assault forensic examinations for all victims of sexual assault, states are required to ensure that victims do not have the financial burden associated with the sexual assault forensic examination.

The statute, which allows hospitals to seek reimbursement for the expenses related to the provision of sexual assault forensic examinations, went into effect July 1, 2007. As of December 31st, hospitals throughout the state have requested reimbursement for *252 examinations*.

As Ms. Dasovick mentioned, North Dakota was one of three pilot sites in the nation selected by the Department of Justice Office on Violence Against Women (OVW) and the Maryland Coalition Against Sexual Assault to participate in the Forensic Compliance Project, a national technical assistance project, and worked in partnership with our Coalition and the North Dakota Attorney General's office for purposes of the pilot project. With the help of our technical assistance provider a survey was administered to health care facilities throughout the state. The survey was viewed as an opportunity to assess the medical response to sexual assault victims, as well as assess the reimbursement process to date. The survey was helpful in assessing the system's response to date, which confirmed concerns that a few facilities are, in fact, charging patients for the EMTALA or medical screening.

Given the fact that a victim of sexual assault cannot obtain a sexual assault forensic examination without being provided an EMTALA or medical screening, and the fact that several health care facilities are billing the victim for this fee, the issue raised several policy issues. Obviously, it is our position that the victim of sexual assault should not carry the financial burden associated with the EMTALA screening. Although the screening is certainly essential (not to mention mandatory), the reality is that a sexual assault victim cannot receive the forensic examination without receiving the mandated screening.

North Dakota is a leader in the nation with the reimbursement process for sexual assault forensic examinations. Now that this situation has been brought to light, we are asking you to support SB 2216 relating to the inclusion of the medical screening prior to the acute forensic medical examination as an allowable cost for reimbursement through the Attorney General's Office to ensure that victims of sexual assault are not billed for EMTALA-related fees.

Thank you.