

2009 SENATE JUDICIARY

SB 2219

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2219

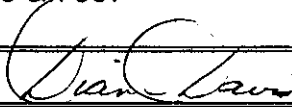
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7865 & 7867

Committee Clerk Signature



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

Relating to fees assessed for criminal violations

Senator Miller – District 16 – Introduces the bill –See written testimony.

Senator Lyson – Asks if the fee isn't mandatory are we just spinning our wheels because judges do not seem to assess it.

Senator Miller – Said a lot of programs rely on grants and they are running out of money. The judges in their area are assessing the fee.

Senator Nelson – Notes that all the sponsors are from District 16 and asks if this is a problem in his area.

Senator Miller – Said yes it is a problem in his district.

Chris Lipsh – Director of Victim Assistance, Walsh County – See written testimony.

He talks of a decrease in grant money. His program depends on the fees that are assessed for criminal violations. He talks of the different grants that he gets.

Senator Lyson – Asks if Mr. Lipsh is under the States Attorney's budget.

Lipsh – Replied he is not, he is a department of one. He speaks for his county; his program gets a line item of \$2500.00. They are not under the state's attorney's office but they have to

provide a budget to their county commissioners, do an inventory on everything in their offices.
He relies on grants and fees to fund the program.

Senator Lyson – Thinks it would be better if they were all under the state's attorney. Asks what kind of percentage does his county give for the victim's service people.

Lipsh – In some counties the fees get put into the county general and then disbursed from county general to pay for their services and supports their program.

Senator Lyson – Asks if there isn't a better way to do this.

Senator Olafson – Asks him to describe what the money is used for, how do you help the victims.

Lipsh – Said the largest part is for his salary and travel for education. He then describes what he does step by step with the victim.

Closed the hearing

Committee Work – Discussion on the Victim Assistance program, believes they do a great job. Something more permanent should be done.

Senator Olafson motions for do pass

Seconded by **Senator Schneider**

Vote – 6-0

Senator Olafson will carry

Date: 1/27
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES *SB 2219*
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Olafson Seconded By Sen. Schneider

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

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Olafson

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

REPORT OF STANDING COMMITTEE

SB 2219: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2219 was placed on the
Eleventh order on the calendar.

2009 HOUSE JUDICIARY

SB 2219

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2219

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/10/09

Recorder Job Number: 10546, 10549

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on SB 2219.

Sen. Joe Miller: Sponsor, support (attachment). Many assistance programs have been receiving grants, and those grants are going away.

Rep. Delmore: I understand those programs are something that we need. But this is quite an increase; many of the people that are coming through the court system don't have the funds.

Why the increase, other than the good of the cause; and how often the \$25 fee is taken now.

Sen. Joe Miller: In our district, the judge always assesses the fee. This is #3 on the priority list, when they get any dollars. There are probably 10 things on the list. This was enacted in 1989, with inflation that would bring this to \$50. The \$100 amount would allow the judges some flexibility to decide what the amount should be for each defendant.

Rep. Delmore: With setting up a sliding fee like this, I think we're also setting up an inequality of programs from county to county. If some counties charge \$100 and others don't charge that much this would be setting up a system of inequality.

Sen. Joe Miller: I believe this would give the program the tools they need to continue the program. If things keep going the way they are, it will be very difficult to keep these programs

at the quality that they are at now. It would be nice to have a more uniform system across the state. The judges have the authority to do as they wish.

Rep. Delmore: A \$25 is a lot to put on a defendant when there are fines and other costs.

Sen. Joe Miller: I would imagine if you are going to assess the fee, you are going to have a uniform fee that you're going to set for all defendants in that county. If they said that the fee is going to be \$50 it would be \$50 for everyone.

Rep. Delmore: Some people have a lot less ability to pay the fee.

Rep. Klemin: I think there are two ways of reading this; I would like to know how it's been applied in the past. One way is that the governing body of the county or the city can by resolution authorize the district judge to assess a fee and then we give the city or the county in this bill, discretion to decide what that fee is going to be up to \$100. The other way of reading it, is that we authorize the city or county to allow the judge to determine what the fee should be up to \$100. I don't know how this has been applied in the past, but it seems to me that it would be better if the city or the county were the ones setting the fee in every case, so that the "up to \$25 or \$100" that was a decision that the municipality makes and then if they said it was going to be a \$75 fee, then that is what the judge is going to charge every time. It wouldn't be up to the judge to say \$25 to you, \$50 to you, \$100 to you. Do you know what the history of this is?

Sen. Joe Miller: No, I don't.

Rep. Klemin: It could be read two ways.

Sen. Joe Miller: I think the local county commission, for example, wants to assess the fee, they decide how they want to issue that authority. They can say that the judge can decide what he wants to do, and we would trust you on that and back you up. Or they can say we will set the amount and you have to assess that amount. I think we can let the local authority structure make that decision if they want. It just empowers them to be more flexible. I think we

need to recognize that this program is very important and needed; and we allow the local governing bodies and judicial process have the discretion to make the decision amongst themselves.

Rep. Klemin: I know that if you are looking at a CPI adjustment, the change from 1990 to now is 50%; so this is considerably more than that.

Sen. Joe Miller: Probably the most accurate CPI that I figured when I looked at this would be about \$50.

Rep. Klemin: That would be 100% change. I know that from another bill that I had, between 1990 and now it's been 50%, so that would make it about \$12.50 more.

Sen. Joe Miller: We want the Victim Assistance Fund to continue. This is a funding option. We need to allow them to make those decisions and part of the challenge is that these programs need the flexibility to remain viable.

Rep. Klemin: So what you're saying then is that this will allow them the latitude to decide what the fee is based on how much money they need to run the program. That sounds kind of contrary to the way we do criminal justice.

Rep. Koppelman: I can see where this kind of program helps victims in general, but I'm wondering if it does it at the expense of the victims specifically. In other words, if you have a criminal here who has committed a crime against an individual or a group of people, sometimes I assume restitution might be ordered because monetary damages can be compensated for that way. In increasing this fee to this level, would that reduce potentially the ability of that defendant to pay restitution to his or her victim.

Sen. Joe Miller: In the pecking order of how items are prioritized in the judges' order, restitution is near the top; as are fines.

Rep. Wolf: In section 3, it may authorize the district or municipal judge to determine the amount of the fee to be assessed in each case. So that could mean that each defendant could be charged a different amount depending on what the judge thought.

Sen. Joe Miller: That's part of the authority, granted. The local governing body would determine how much is charged.

Rep. Wolf: But based on this bill, they could charge differing amounts.

Sen. Joe Miller: They could, yes. I think it's fine to allow that flexibility. I don't want to say that the judge has to assess a fee in this, they should; I guess that is their prerogative.

Chairman DeKrey: Thank you. Further testimony in support.

Chris Lipsh, Director of Victim Assistance Program, Walsh County: Support (attachment). I am here representing the ND Victim Assistance Association. This fee is not a mandatory fee that judges have to charge. Our programs around the state rely on a couple of different ways of funding. One is grants, fundraisers, donations, and this fee provides some funding for these programs. This fee actually makes up different percentages of different programs from across the state, from 9-24% from what I've gathered from all the programs. I know that in my area, mine is 4% and I know in other areas it is 9%. There is a reason that this varies across the state. Certain areas are sharing how this fee is spent. In Minot, that fee is shared between the state's attorney office, which has a victim witness program, and an independent victim witness program and of course, there's Fargo, and they split it 50-50, so there percentage goes back to each of the programs. The general acceptance of this came out of the NE region, my judge actually assesses the \$25 fee on all cases, except for infractions; of course pursuant to the way the law is currently written. The judge started doing that pursuant to a resolution that was done back in 1991 by the County Commission. The resolution stated that the judge will assess \$25 for the victim assistance fee, so they asked the

judge and the judge said yes he would charge the fee. Then they did it through this resolution. They didn't mandatorily tell him that he had to do it; it was still his choice to do it. He made a decision to do \$25 on all cases. Before that it was like \$15, but there was only six months that it was actually the \$15 fee and then it went up to the \$25 fee. The counties all differ in the amounts that are charged for this fee, some are at \$0 and others range up to and including \$25. Twenty years later we are still at a maximum of \$25. When I took over my position in 2003, there was a \$25 fee that the judge received for filling out a 2 page piece of paper that was for indigent defense. That fee took in about 3 minutes to fill out the piece of paper and he got \$25 and that comes first. That comes off the top right away. Then I was talking to him privately, and he said that our organization needs to get together and try and get your fee raised, because I get \$25 for completing paperwork for indigent defense, and you spend hours and hours working with victims from the inception of the case to the final moments. He felt that there was an inequity there, but he said I am only allowed to do the \$25 so you're going to have to do what you need to do to get that raised. This is not a mandatory fee, and it's not automatically going to go up to \$100. I can tell you right now, in discussions with my local county commission and my local city council members and judges, and have said that if we are able to get this raised, I am going to come back to you and we will work out a reasonable fee. We're not going to go with \$100, but we would look at a reasonable fee to assess. A Do Pass on this bill can give all the programs a directive or initiative to go back to their county commissions, city council, and judges like I'm doing here now, and open up the lines of communication to talk about this again. I'm hoping with the passing of this bill, and all these discussions behind us, we'll be able to get a leg up on the budgets and the decreasing grant awards.

Rep. Delmore: Do you understand the concern of the committee: a) it's a very huge increase; and b) it sets up some real inequities among the counties, who charge from \$0 to \$25. I think the committee sets a lot of those fees so that the Supreme Court, etc. are very cognizant of what it is costing somebody to file a case and go through everything. What is a reasonable fee? How do you make sure that some counties aren't so gone that they charge the full amount and be challenged in court.

Chris Lipsh: The reasonableness of the fee is the amount, and it varies from county to county, and we couldn't even come up with an agreement in our organization for an amount, because some people provides victim assistance placed on even bad checks. In another victim assistance program where all they do is provide personal crime services, they don't do the property crime, burglary crime; they don't provide services for vandalism. In my area, I spend a lot of time on the phone with those people and that's why I am asking for a higher fee; but of course, I am going to ask for a higher fee, but my commission or city councilmen and judges are going to tell me what is reasonable.

Rep. Delmore: I understand the maximum amount that is 4 times what it was. Actually it's not always set by the county commission, judge, or whoever. A four-fold increase in that amount in order to get funding for those programs. I think that is way out of line.

Chris Lipsh: I know that in the south western part of ND, Stark County area, that judge assesses \$100 now in domestic violence cases.

Rep. Griffin: What do you anticipate in Walsh County would be the amount raised.

Chris Lipsh: I can tell you right now, last year I collected \$14,486 in victim assistance fees. That made up about 24% of my program fees. I can tell you that grant funding state-wide from the VOCA (The Victims of Crime Act) over the past five years, the grant has decreased 25%. I can tell you that 24% is stable for me. It's getting close to where all the revenue that is coming

in is actually falling short of covering my whole budget. Some counties are losing money.

Let's say if I meet with the councilmen and county commissioners and judge and I say that we should charge \$35 for each defendant, it would probably take us up to about \$18,000 approx.

Rep. Griffin: Could you tell us in a check case, if we're going to raise this fee, what other fees apply to a bad check case.

Chris Lipsh: One of the other things I do is to help the state's attorney office and know what fees are assessed in those cases. Let's talk about a B misdemeanor, bad check charge.

Rep. Griffin: How about a \$500 check, which is a C felony.

Chris Lipsh: On a \$500 check, there would be \$125.00 bad check fee to the court, \$100 facility improvement/indigent defense fund fee, there is the \$25 victim witness fee, and restitution of the \$500, there's a fine/forfeiture depending on the area of the crime. In our county, we look at the fines on that. I don't believe there was a fine on the check, but that is something that the judge assesses, we don't get to have input on the fine. There is also the \$400 court administration fee, and community service fee if put on supervision, but I believe that fee is being repealed. And then the indigent defense recoupment, if they have an attorney under the indigent defense contract attorney, who make \$65/hr to provide legal assistance. That's a list of the fees, and I just ran through the priority with you.

Rep. Griffin: I guess my point is, you wrote a \$500 bad check, you're looking currently at \$1300 in fines and fees. Do you think, given that amount of fees to be paid already, that we should raise the fee?

Chris Lipsh: The only response I have to that is, I understand that there are some accounting issues and the person who did the crime can request the fee be waived. The judge does not have to assess the fee; the judge can actually use his discretion to waive some or all of those

fees. I think only one is non-debatable. I know in our county, the state's attorney has worked with getting the technical assistance fee waived for defendants.

Rep. Koppelman: The last list you just read was the prioritization and this fee comes ahead of restitution, so in a particular case if that's true, the victim of that individual's crime is not compensated until this is satisfied. First, is that correct; secondly, do you think that's appropriate; and thirdly, who determines that. Is that a court rule or is there somewhere in law that tells us the order.

Chris Lipsh: I can tell you, no; it is not fair. I can tell you right now, I think the victim's restitution should come first. It wasn't that victim's fault that the offender did that to them, in any crime. To answer that question, HB 1088 in 2003 actually assessed the indigent defense funds and facility improvement fees; all those fees. Then, what happened was the court administration I believe, and presiding judges' council established this priority list. I can tell you that our organization has talked with each individual judge on their own, in their own areas and they wish that we could get this changed. Our victims should be coming first because we all know how much the first few fees add up to. We all agree that restitution should come first.

Rep. Koppelman: Are they amenable to that, the Supreme Court is willing to settle this priority, I assume.

Chris Lipsh: I can't answer for them. I can say that we're strongly urging them.

Rep. Wolf: Does your salary come out of this fund.

Chris Lipsh: From the victim's assistance fee.

Rep. Wolf: Yes.

Chris Lipsh: That victim's assistance monies that come in are actually used for salary and program needs such as office supplies, telecommunications, travel, etc. I have a line item in the county general budget because all revenues that come in whether by grant or whatever, it

comes into that fund and I'm paid from that fund. None of this money goes into county general funds in my county.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

(Reopened in the afternoon session.)

Ch. DeKrey: We will take a look at SB 2219.

Rep. Dahl: I think we should raise the amount to a maximum of \$50.00.

Rep. Griffin: My personal opinion is that we shouldn't be raising these fees at all. I understand the crime victim witness fee is a good fee, if it goes to their cause. I would rather see money from the court improvement and facility fees be diverted to the crime witness area than increasing the fines. All that ends up happening is that the defendants don't pay it, then we put out a warrant, then they get arrested, come before the judge, assessed additional fines and fees, and then they can't pay those fees either.

Rep. Boehning: I move a Do Not Pass.

Rep. Wolf: Second.

Chairman DeKrey: We no longer have debtor's prisons, but not all prisons have bars. We have moved to is we're taking all these people who don't have any money and get into legal trouble, and now we're slapping them so hard with fees that they are going to get into a hole that they can never get out of; \$1300 on a \$500 debt, that is absolutely unconscionable.

Rep. Wolf: Then you can sue for treble damages on that debt, if you wanted. You can go after them in a civil action for triple the amount of the check.

Chairman DeKrey: I think he made his own point on what needs to happen here. The Supreme Court, in their rules, has to readjust that schedule to get their money first. That's the problem.

Rep. Griffin: In reality, a lot of the judges will say you owe this much restitution, pay that amount to the state's attorney's office first before starting to pay fines. So in reality, in some districts that may be happening now.

Chairman DeKrey: I know that when we put on the indigent defense fee on there, there were a lot of judges that had heartburn about it, because we were putting it on people who couldn't afford it. Then we found out how much money was collected and we couldn't believe it. Now we are hooked on it. But everybody else now is trying to get in on that good system, and we are getting this list of fees that keeps going higher.

Rep. Koppelman: I agree that the value of this program is worthwhile, but sometimes people are more interested in the program continuing than they are in the good it does. Something like the victims assistance program sounds great and you assume the money is going to victims. In fact, a lot of it may be going to salaries, office expenses, etc. I don't know how much is left for the victims.

Rep. Kingsbury: I will have to resist the DNP for the very reason that there is a problem here.

Ch. DeKrey: I don't disagree, it just seems like we keep adding costs for these different programs.

Rep. Griffin: Where does the court improvement fee go to, do we retain some of that fee in the general fund.

Rep. Kretschmar: We put an addition on the courthouse in Williston and it was paid for by some of that fee.

Rep. Griffin: That is the court facility improvement fee. What about the court administrative fee.

Rep. Kretschmar: I don't know.

Chairman DeKrey: We are repealing that one fee (community service supervision fee) because it was not applied universally. Well none of these fees are applied universally and we've got judges out there that will assign an attorney to someone who is indigent and never look at the form again to see if the person has the means to pay for the attorney later. Then we've got some judges who are very good about that. Justice may be blind but it's not equal. Clerk will call the roll on a DNP motion.

8 YES 3 NO 2 ABSENT

DO NOT PASS

CARRIER: Rep. Griffin

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2219

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/16/09

Recorder Job Number: 11027

Committee Clerk Signature



Minutes:

Chairman DeKrey: We put this out with a DNP, and Rep. Kingsbury wanted us to reconsider our action to offer an amendment.

Rep. Kingsbury: I want to offer an amendment that would change the \$100 down to \$50.

Chairman DeKrey: We will need a motion to reconsider our actions.

Rep. Dahl: I move to reconsider our actions.

Rep. Kingsbury: Second.

Chairman DeKrey: Voice vote, motion carried. We now have the bill before us in committee.

Rep. Kingsbury: I move to amend the bill to replace the \$100 with \$50 on page 1, line 9 and line 14.

Rep. Vig: Second.

Chairman DeKrey: Voice vote. Motion carried. We now have the bill before as amended.

What are the committee's wishes?

Rep. Koppelman: I know that one of the things we talked in this bill was the concern that sometimes these fees are being placed ahead of restitution in the case. I think we could place the restitution ahead of the other court fees and fines, and put it in statute.

Chairman DeKrey: We didn't have discussion of that during the hearing.

Rep. Koppelman: I did ask the question of one of the testifiers. We got back differing information. The person first asked said it was a lower priority, and then with the second person, in some places they don't do it. It sounds like it's a mixed bag depending on what the judge thinks, and I think we can certainly give them a little nudge in that direction.

Rep. Griffin: I hate not supporting a bill like this because I do think that the crime victim assistance programs do a great job, but I think it's absolutely the wrong place to get it, by putting more fees on the defendants. Actually I got some information from LC regarding court administrative fees, facility improvement fees, and to see if any of it went to the general fund. It does, but it's not generating enough to where the general fund is getting any money off of it. Even with the change to \$50, I would still hope that we could defeat it, but maybe come up with something else.

Rep. Dahl: I don't really see it that way. I just see this as enabling legislation for political subdivisions to make that decision as to whether they want to go up to \$50 and they can assess what is going on in their judicial district and look at whether the people are keeping up with their fines and make that determination.

Rep. Koppelman: I think I could support the bill with the amendment I was describing, but not without it.

Rep. Vig: I think this is a good program and I think we could look at funding it in some other way, from the special fund or something.

Rep. Boehning: I move a Do Not Pass as amended.

Rep. Wolf: Second.

8 YES 5 NO 0 ABSENT

DO NOT PASS AS AMENDED CARRIER: Rep. Griffin

Date: 3/10/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2219

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee LC Amendment # _____

Action: DP DP / As Amended & Rerefer to Approp.
 DNP DNP / As Amended

Motion Made By Rep. Boehning Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin			Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig		✓
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser		
Rep. Kingsbury		✓			
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 8 (No) 3 (Absent) 2

Floor Carrier: Rep. Griffin

Vote is amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 10, 2009 11:00 a.m.

Module No: HR-43-4426
Carrier: Griffin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2219: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS
(8 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SB 2219 was placed on the
Fourteenth order on the calendar.

VR
3/17/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2219

Page 1, line 9, replace "one hundred" with "fifty"

Page 1, line 14, replace "one hundred" with "fifty"

Renumber accordingly

Date: 3/16/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2219

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee LC Amendment # _____

Action: DP DP / As Amended & Rerefer to Approp.
 DNP DNP / As Amended

Motion Made By Rep. Boehning Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig		✓
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury		✓			
Rep. Koppelman	✓				
Rep. Kretschmar		✓			

Total (Yes) 8 (No) 5 (Absent) 0

Floor Carrier: Rep. Griffin

Vote is amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2219: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). SB 2219 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "one hundred" with "fifty"

Page 1, line 14, replace "one hundred" with "fifty"

Renumber accordingly

2009 TESTIMONY

SB 2219

Testimony before the Judiciary Committee

SB 2219 Victim Assistance Program

Senator Joe Miller

District 16, Park River

January 27, 2009

*Same given
to House.*

Mr. Chairman and members of the Committee, I am Senator Joe Miller of District 16. The Victim Assistance program is the primary program that assists witnesses and victims of crimes with the legal challenges that they find themselves throw into against their will. This program relies on dedicated individuals that work to connect and inform the various parties involved with the conviction of a criminal.

The context of the bill is very simple and straight forward. We are proposing an increase of the fee assessed to crimes or other violations from \$25 to a maximum of \$100. This will allow the local municipalities and/or the Judge to make a determination of what the proper fee based upon the needs of the local victim assistance program is and the ability of the violator to pay.

I know that there is a reluctance to raise fees being we have seen bills to remove fees. I would urge you to take in consideration that this fee is greatly helping the victim assistance program. This bill will allow those closest to the program have the needed flexibility so that they can make the best decision as to what will bring the most positive effect.

It is vitally important that we give this flexibility to the program. The funding of the program is growingly becoming dependent on the fee. I urge a DO PASS on 2219 and hope you agree.

Thank you and I will happily answer any questions.

Priority Schedule of Fees for District Court

1. Indigent defense application fee (\$25)
2. Indigent defense / facility improvement fee (\$100) – This was enacted in 2003 HB1088.
3. Victim/Witness fee (\$25) – Effected by SB 2219 (2009)
4. Restitution to victims
5. Fines/Forfeitures
6. Court Administration fee
7. Check collection fee
8. Community Service supervision fee – This fee has a bill to repeal this fee, see SB2028.
9. Indigent defense recoupment
10. City transfers and other county ordinance violations

Attachment 2
2219

SB2219

Chris Lipsh

Director of Victim Assistance, Walsh County

Lobbyist # 372 – North Dakota Victims Assistance Association

NDVAA is in FAVOR of SB2219

History of Victim Services

1982 – Ronald Regan appointed a Task Force on Victims of Crime. This task force published 68 recommendations to improve the treatment of crime victims. It also recommended a constitutional amendment for crime victims' rights.

1982 – Later that year Congress passed the Federal Victim and Witness Protection Act which was the first laws addressing victim-witness issues.

1984 – The single greatest movement in victim services was passed - the Victims of Crime Act (VOCA). This act provided grant funds for local victim assistance programs, state compensation and discretionary funding in behalf of victims' needs.

1987 – North Dakota enacted North Dakota Century Code Section 12.1-34 – The Fair Treatment of Victims and Witnesses. It was essentially a Victims Bill of Rights.

1989 – North Dakota legislature passed HB1061, which was an Interim Law Enforcement Committee study. This bill gave county commissions and city councils the option to request a judge to assess a fee to offenders. This fee was to be allocated to a domestic violence or sexual assault program or a victim and witness advocacy program.

Victim Witness Programs from across the state

9 – State's Attorney / Prosecution based programs which receive Victim Assistance Fees

7 - Community based programs which receive Victim Assistance Fees

6 – Other programs which could receive Victim Assistance Fees

This all depends on whether the Judges in their areas assess these fees. But this legislation gives them the option to assess more in cases where they see it appropriate or if the county commission or city council requests them to assess more.

Current Funding issues

Many of the Victim Service Programs across the state rely on grant money to primarily fund their programs. It is no surprise this grant money is slowly dwindling. In Walsh County, grant awards have decreased 42% since 2004. The Victim Assistance Fees collected in Walsh County make up 24% of the program's budget. These numbers in Walsh County are emulated across the state in each of the Victim Service Programs. They are seeing grant awards being cut and Victim Assistance Fees not increasing, or even decreasing in some instances.

Essence of this Bill

This bill is not a request for funding from the state. It is in essence a common sense bill by which victim service programs are funded by the proximal cause of their existence. If the offenders would not offend, there would not be a victim. So when they do offend they should pay a fee to provide services to their victim. This fee has been minimal since 1989; it is about time it catches up and is welcomed into the 21st century.

SB2219

Chris Lipsh

Director of Victim Assistance, Walsh County

Lobbyist # 372 – North Dakota Victims Assistance Association

NDVAA is in FAVOR of SB2219

History of Victim Services

1982 – Ronald Regan appointed a Task Force on Victims of Crime. This task force published 68 recommendations to improve the treatment of crime victims. It also recommended a constitutional amendment for crime victims' rights.

Later that year Congress passed the Federal Victim and Witness Protection Act which was the first laws addressing victim-witness issues.

1984 – The single greatest movement in victim services was passed - the Victims of Crime Act (VOCA). This act provided grant funds for local victim assistance programs, state compensation and discretionary funding on behalf of victims' needs.

1987 – North Dakota enacted North Dakota Century Code Section 12.1-34 – The Fair Treatment of Victims and Witnesses. It was essentially a Victims Bill of Rights.

1989 – North Dakota legislature passed HB1061, which was an Interim Law Enforcement Committee study. This bill gave county commissions and city councils the option to request a judge to assess a fee to offenders. This fee was to be allocated to a domestic violence program, sexual assault program or a victim and witness advocacy program.

Victim Witness Programs from across the state

9 – State's Attorney / Prosecution based programs which receive Victim Assistance Fees

7 - Community based programs which receive Victim Assistance Fees

6 – Other programs which could receive Victim Assistance Fees

This all depends on whether the Judges in their areas assess these fees. But this legislation gives them the option to assess more in cases where they see it appropriate or if the county commission or city council requests them to assess more.

Current Funding issues

Many of the Victim Service Programs across the state rely on grant money to primarily fund their programs. It is no surprise this grant money is slowly dwindling. In Walsh County, grant awards have decreased 42% since 2004. The Victim Assistance Fees collected in Walsh County make up 24% of the program's budget. These numbers in Walsh County are emulated across the state in each of the Victim Service Programs. They are seeing grant awards being cut and Victim Assistance Fees not increasing, or even decreasing in some instances.

Essence of this Bill

This bill is not a request for funding from the state. It is in essence a common sense bill by which victim service programs are funded by the offenders which cause the victim service programs existence. If the offenders would not offend, there would not be a victim. So when they do offend the offender should pay a reasonable fee to provide services to their victim. This fee has been minimal since 1989; it is about time it catches up with inflation and current fee structures.

A DO PASS ON SB2219 WILL GIVE COUNTY COMMISSIONERS & CITY COUNCILS THE ABILITY TO ASK A JUDGE TO ASSESS A REASONABLE FEE THAT WILL FINANCIALLY SUPPORT A VICTIM ASSISTANCE PROGRAMS IN THEIR AREA.