

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2341

2005 SENATE HUMAN SERVICES

SB 2341

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341

Senate Human Services Committee

Conference Committee

Hearing Date February 2, 2005

Tape Number	Side A	Side B	Meter #
2	X		0.0 - 6125
Committee Clerk Signature <i>Cathy Minard</i>			

Minutes:

**Senator Judy Lee**, Chairman of the Senate Human Services opened the hearing on SB 2341 relating to drug abuse treatment for first-time felons.

All members or the committee were present.

**Wayne Stenehjem**, Attorney General of North Dakota testified in support of SB 2341 (See attachment # 6).

**Senator Carolyn Nelson** of District 21 cosponsor of SB 2341 testified in support of the bill (See attachment #1).

**Senator Stanley Lyson** of District 1, cosponsor of SB 2341 testified in support of the bill stating that as former law enforcement, thinks it is time to look outside of the box and not just lock everybody up. Treatment of these meth abusers is the only solution that will help this state deal with this problem.

**Sandy Tabor**, Deputy Attorney General of North Dakota testified in support of SB 2341 (See attachment # 2). She also presented an amendment to SB 2341 to correct a typing error (See attachment # 2A).

**Senator Richard Brown** asked that "probation" be explained.

**Sandy Tabor** explained that probation is a way for the court to keep the offender in the court system and then have them do whatever the court commands such as detox or other intense treatment. This does not mean the offender is released.

**Senator John Warner** asked if some of the funds could be used for those abusers who have not yet become offenders as a preventive course of action.

**JoAnn Hagel**, Director of the Division of the Mental Health and Substance Abuse of the Department of Human Services stated that the department is partnering with this proposed program to work with people who are not necessarily in the criminal justice system.

**Senator Dick Dever** inquired if there might be concern of lawsuits from those how are not served outside of the pilot area.

**Wayne Stenejhem** responded that there are a lot of pilot programs out there and did feel this would be a problem.

**Don Wahus**, Director of Mercy Recovery Center in Williston, North Dakota and representing the North Dakota Addiction Treatment providers Coalition testified in support of SB 2341 (See attachment #3).

**Senator Warner** asked for a percentage of success rate and if the percentage changes each time an abuser is retreated through the program.

**Don Wahus** answered that he does not care to tag a number onto the success rate and of course he would really like to see a 98% success rate, but would be happy with a one third to one half percent success rate. Of course each person is different and repeaters might need a different type of treatment to be successful. Several options of treatment are necessary in order to be effective in the treatment of drug abuse.

**Senator Lee** asked if it is true that there is a shortage of addiction counselors in the state.

**Don Wahus** being at risk in admitting such, he said that there was shortage in North Dakota. He did not think the standards were the problem but more that it is the process of being licensed.

**Senator Dever** asked how long it will take to realize the effects of the program.

**Don Wahus** answered that he would like to report the results by next biennium but it will most likely take several bienniums to fully realize the effects of the program.

**Elaine Little**, Director of the Department of Corrections and Rehabilitation (See attachment #4).

**Senator Warner** asked about the recovery of costs from non criminal cases through private insurance policies.

**Elaine Little** stated that they have a good history of collection from offenders through insurance but many cannot privately repay for services.

**Senator Brown** asked about the success level of the woman's prison in New England.

**Elaine Little** responded it was too early to evaluate the effectiveness in New England and data collected later will carefully need to be evaluated as some of these women received treatment prior to confinement there.

**Senator Lee** asked for testimony in a neutral position of SB 2341.

Page 4  
Senate Human Services Committee  
Bill/Resolution Number SB 2341  
Hearing Date 2-2-05

**JoAnne Hoesel**, Director of the Division of Mental health a Sustance Abuse for the Deaprtment of Human Services testified to provide information for SB 2341. (See attachment #5).

**Senator Lee** asked for opposing testimony of SB 2341 and hearing non closed the hearing on SB 2341.

**FISCAL NOTE**  
 Requested by Legislative Council  
 03/30/2005

Amendment to: Engrossed  
 SB 2341

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$478,296		
Expenditures			\$515,855	\$478,296		
Appropriations			\$515,855	\$478,296		

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

It is estimated that 46 individuals would be sentenced in accordance with this bill. The bill provides that a presentence investigation and a drug and alcohol evaluation will be completed for each individual. For the purpose of this fiscal note, it is estimated that 50% of the individuals sentenced in accordance with this bill will require 180 days of in-patient treatment and the remaining 50% would require 180 days of day treatment. It is anticipated that 50% of the program participants receiving in-patient treatment will access those services at the Developmental Center at Grafton and the remaining 50% will access services at a private facility. All individuals will require 20 weeks of aftercare. In addition to the assesment and treatment costs, the DOCR will hire a .5 FTE program manager to manage the program, to collect program performance data and to provide a report to the attorney general and the legislative assembly. The sources of estimated other fund revenue for this bill originate from a federal grant and from the program participants.

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.*

Estimated other fund revenues consist of federal grant revenues and program participant fees. It is anticipated that the ND Dept. of Human Services will access a federal grant to cover approximately 45% of the assesment and treatment costs of the proposed program. The estimated federal award totals \$448,471. Program participant fees are estimated at 3% of the cost of assesment and treatment. The estimated program participant fees total \$29,825 (\$648 per participant).  
 Total estimated revenues - \$478,296

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.*

Estimated program expenditures are based on 46 participants and are itemized as follows:  
 Pre-Sentence Investigation 46 @ \$100 = \$4,600  
 Chemical Dependency Evaluation 46 @ \$175 = \$8,050  
 180 Day In-Patient Treatment (Developmental Center) 12.5 @ \$140/day = \$289,800

180 Day In-Patient Treatment (Private Facility) 12.5 @ \$140/day = \$289,800  
180 Day Day Treatment 23 @ \$75/day = \$310,500  
20 Week (140 day) Aftercare 46 @ \$45/Week = \$41,400  
.5 FTE Program Manager (DOCR) = \$50,000  
Total Estimated Program Cost = \$994,150

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Necessary estimated increase to the 2005-07 DOCR appropriation is noted below:

Field services \$545,680  
Total all funds \$545,680  
Less estimated income \$29,825  
Total general fund appropriation \$515,855

In addition, the Department of Human Services' 2005-07 appropriation would have to be increased by the amount of the anticipated federal award (\$448,471) to allow for the receipt of the federal monies and the the expenditure of the federal monies.

<b>Name:</b>	Dave Krabbenhoft	<b>Agency:</b>	DOCR
<b>Phone Number:</b>	328-6135	<b>Date Prepared:</b>	03/30/2005



**FISCAL NOTE**  
**Requested by Legislative Council**  
01/24/2005

Bill/Resolution No.: SB 2341

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$507,064		
<b>Expenditures</b>			\$714,786	\$507,064		
<b>Appropriations</b>			\$714,786	\$507,064		

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

It is estimated that 46 individuals would be sentenced in accordance with this bill. The bill provides that a presentence investigation and a drug and alcohol evaluation will be completed for each individual. For the purpose of this fiscal note, it is estimated that 50% of the individuals sentenced in accordance with this bill will require 180 days of in-patient treatment and the remaining 50% would require 180 days of day treatment. It is anticipated that 50% of the program participants receiving in-patient treatment will access those services at the Developmental Center at Grafton and the remaining 50% will access services at a private facility. All individuals will require 20 weeks of aftercare. In addition to the assesment and treatment costs, the DOCR will hire a .5 FTE program manager to manage the program, to collect program performance data and to provide a report to the attorney general and the legislative assembly. The sources of estimated other fund revenue for this bill originate from a federal grant and from the program participants.

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.*

Estimated other fund revenues consist of federal grant revenues and program participant fees. It is anticipated that the ND Dept. of Human Services will access a federal grant to cover approximately 38% of the assesment and treatment costs of the proposed program. The estimated federal award totals \$448,471. Program participant fees are estimated at 5% of the cost of assesment and treatment. The estimated program participant fees total \$58,593 (\$1,274 per participant).  
Total estimated revenues - \$507,064

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.*

Estimated program expenditures are based on 46 participants and are itemized as follows:

Pre-Sentence Investigation 46 @ \$100 = \$4,600

Chemical Dependency Evaluation 46 @ \$175 = \$8,050

180 Day In-Patient Treatment (Developmental Center) 12.5 @ \$140/day = \$289,800

180 Day In-Patient Treatment (Private Facility) 12.5 @ \$250/day = \$517,500  
180 Day Day Treatment 23 @ \$75/day = \$310,500  
20 Week (140 day) Aftercare 46 @ \$45/Week = \$41,400  
.5 FTE Program Manager (DOCR) = \$50,000  
Total Estimated Program Cost = \$1,221,850

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Necessary estimated increase to the 2005-07 DOCR appropriation is noted below:

Field services \$1,221,850  
Total all funds \$1,221,850  
Less estimated income \$507,064  
Total general fund appropriation \$714,786

In addition, the Department of Human Services' 2005-07 appropriation would have to be increased by the amount of the anticipated federal award (\$448,471) to allow for the receipt of the federal monies and the transfer of those federal monies to the DOCR.

<b>Name:</b>	Dave Krabbenhoft	<b>Agency:</b>	DOCR
<b>Phone Number:</b>	328-6135	<b>Date Prepared:</b>	01/27/2005

Date: 2-2-05  
 Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. <sup>SB</sup> 2341**

Senate Human Services Committee

Check here for Conference Committee

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

Action Taken Do Pass amendment

Motion Made By Sen Lyson Seconded By Sen. Brown

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

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

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

Date: 2-2-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2341

Senate Human Services Committee

Check here for Conference Committee

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

Action Taken NO PASS

Motion Made By Sen Dever Seconded By Sen Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Lyson

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

refer to appropriation

REPORT OF STANDING COMMITTEE (410)  
February 4, 2005 9:30 a.m.

Module No: SR-23-1845  
Carrier: Lyson  
Insert LC: 58312.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

SB 2341: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2341 was placed on the Sixth order on the calendar.

Page 1, line 17, replace "that" with "than"

Renumber accordingly

2005 SENATE APPROPRIATIONS

SB 2341

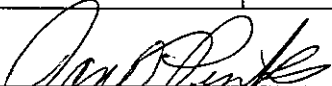
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2341

Senate Appropriations Committee

Conference Committee

Hearing Date February 9, 2005

Tape Number	Side A	Side B	Meter #
1	a		1,960
Committee Clerk Signature 			

Minutes:

**Chairman Holmberg** called the session to order on SB 2341.

**Wayne Stenehjem, Attorney General**, discussed SB 2341 regarding the methamphetamine outbreak. The problem deals with Department of Corrections, Department of Human Services, County Offices, Crime Lab and the Courts and the treatment options that are needed. He submitted for serious consideration SB 2341, a plan based on a program in Kansas, which promotes a pilot program covering three counties (Walsh, Pembina, and Grand Forks County). He described what the bill would do in providing long term care as it relates to the criminal justice system.

Questions were raised as to why this was not in the Governor's budget.

**Sandy Tabor, Deputy Attorney General**, testified on SB 2341, indicating their department had worked closely with the Attorney General, presented the fiscal note reviewing monies involved.

Questions were asked about the outcome evaluations and the amount of money involved, the daily rates involved, the income available from insurance companies, and provisions for assessing the convicted user payback costs.

**Elaine Little, Director, Department of Corrections**, testified on SB 2341, previously distributed handouts on inmate population and the drug offenders. She indicated the Department of Corrections supports this type of approach. This bill did not get into the Governor's budget because they had been working on it past the time frame, but it is necessary to have the appropriation to support the drug programs.

Questions were raised about the funding and alternative funding, and the revocation program.

**Mark Johnson, American Dakota Association of Counties**, testified in support of SB 2341.

The counties are seriously in trouble on law enforcement issues relative to meth. He stressed the importance of supporting this bill.

**Chairman Holmberg** closed the hearing on SB 2341.



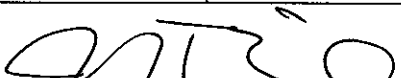
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341

Senate Appropriations Committee

Conference Committee

Hearing Date 02/14/05

Tape Number	Side A	Side B	Meter #
3		x	3448-end
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened discussion of SB 2341.

Sen. Fischer moved a **DO PASS** seconded by Sen. Schobinger.

**Sen. Fischer:** This is a pilot, from the AG's Office using a development center for fist time drug offenders to keep them out of prison, Leverage Cohesion.

**Sen. Bowman:** What are they, getting caught or seeking help.

**Sen. Andrist:** My understanding that if the judge determines guilt, they can go through the program instead of prison.

**Sen. Fischer:** It gets them on the first offense. It treats them ASAP because their addiction will get worse.

**Sen. Robinson:** The problem we have is revocation, lets get the first offenders some treatment. This will prevent them from reuse. The absence of this program will raise the costs of corrections greatly.

**Sen. Krauter:** We have an overlap in the correction area.

**Sen. Christmann:** Is there logic, if these people do not go to prison. We could save a lot of money. I was also wondering if there was a set on how much less we spend on corrections.

**Sandy Tabor, AG's Office:** They will not end back in the prison system.

**Sen. Schobinger:** Do we run in to do process and equal protection issues?

**Ms. Tabor:** The court has a deal of flexibility.

**Sen. Kringstad:** This will catch them early

**Sen. Robinson:** There is no end in sight with this meth issue, we need to be very aggressive in this area.

A **Do Pass** motion was made by Sen. Fischer, seconded by Sen. Schobinger. B 12 yeas, 3 nays, and 0 were absent and not voting.

Date 2-14-05  
 Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2341**

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Fisch Seconded By Schobinger

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	✓		SENATOR KRAUTER		-
VICE CHAIRMAN BOWMAN	✓		SENATOR LINDAAS	✓	
VICE CHAIRMAN GRINDBERG	✓	✗	SENATOR MATHERN	✓	
SENATOR ANDRIST		✓	SENATOR ROBINSON	✓	
SENATOR CHRISTMANN		✓	SEN. TALLACKSON	✓	
SENATOR FISCHER	✓				
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER	✓				
SENATOR THANE	✓				

Total (Yes) 12 No 3

Absent 0

Floor Assignment HMS Lyson

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

REPORT OF STANDING COMMITTEE (410)  
February 14, 2005 3:57 p.m.

Module No: SR-29-2825  
Carrier: Lyson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2341, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)  
recommends **DO PASS** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2341 was placed on the Eleventh order on the calendar.

2005 HOUSE JUDICIARY

SB 2341

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341

House Judiciary Committee

Conference Committee

Hearing Date 3/8/05

Tape Number	Side A	Side B	Meter #
1		xx	13.4-end
2	xx		0-21.4
2		xx	10.4-14.4

Committee Clerk Signature *Dawn Penrose*

Minutes: 12 members present, 2 members absent (Reps. Charging & Onstad).

**Chairman DeKrey:** We will open the hearing on SB 2341.

**Wayne Stenehjem, Attorney General:** For the last five years, we have been emphasizing the importance of taking a three pronged approach to dealing with the drug and alcohol problem in ND and specifically with the problem of meth. I know you are all aware of the problems and expenses, the human toll this epidemic is taking on us. We are constantly emphasizing that the solution, if there is one, lies in a three pronged approach: 1) prevention, 2) enforcement, and 3) treatment. The bill you have before you deals with that third prong. That is the treatment aspect. During the interim, the ND Commission on Drugs and Alcohol, that I chair, focused its efforts on treatment and enforcement issues. We heard from law enforcement about the importance of securing treatment for offenders, especially those using meth. This is a notable departure from what has happened in the past, because for the first time, we are starting to hear law enforcement officers say, we can't build enough prison beds out of this problem. That's unusual for cops to

be saying that. They are saying we need treatment, and at the same time, we are hearing the treatment people saying, please don't take away the consequences. We need to make sure that we have serious punishment prospects for people that they are trying to treat, so that they can be fully interested in completing their treatment program. I've heard about the frustration from law enforcement with a system where individuals are arrested and released, arrested and released, sometimes several times more before they are finally sent to the penitentiary and then perhaps to the Tompkins Unit, where they can undergo treatment. Law enforcement wants offenders to receive treatment sooner rather than later. We watch as the general fund appropriation for prisons rise at an alarming rate. I've passed out for you a chart that shows what has happened in the ND prison system just in the last 7 years. Look at the upper left corner of that chart, it shows the general fund appropriation for the penitentiary of \$45 million dollars. Look at what the recommended appropriation is for this biennium, \$101 million dollars. Far more than double. Then you add into that what's happening the special funds that are added into that, and we see an increase from a total appropriation of \$69 million dollars just 7 years ago, to \$129 million dollars. You cannot build enough prison beds out of this problem, but believe me we are trying. That is not going to be the solution. Where does it stop. That's why SB 2341 was introduced, as part of a review of mandatory sentencing. We look at a program that's been implemented in Kansas, that seems to be having a considerable amount of success. This program requires that first-time felony offenders be sentenced to a mandatory treatment program. SB 2341 requires the court to order all of these first time felony drug offenders to undergo an evaluation, and then mandate that the court sentence those offenders to the treatment program, which is recommended as a result of the evaluation. In light of the fiscal note that is attached to the bill, we're

coordinating this program with the Dept. Of Human Services, who are working on obtaining a grant and we will limit this program to just three counties in the state of ND, those are the counties of Pembina, Walsh and Grand Forks County. Why Walsh county, a couple of reasons. As Representative Kingsbury can tell you, the explosion in the meth labs in Walsh county is particularly troublesome. Grand Forks has a meth problem, Pembina County also an area with particular problems, but in addition to that the State School in Grafton has a building, which is available and which is intended to be used for this pilot program. As you have probably heard me say, we all pay for the scourge of meth addictions. SB 2341, encourages the system to get the addicted offender treatment, sooner rather than later and Sandi Tabor, my chief deputy, heads up the treatment subcommittee of the Drug and Alcohol Commission is here to go through specifics of the bill. I think one of the key features in the bill, is the requirement for an evaluation, is sentenced by the court to the treatment program, not just a commitment, but it is the actual sentence. You go and participate in this treatment program. If you are successful, you will be put on aftercare, that you are required to go, but if you're not successful, you go back to court and you run the risk of being sentenced to the original sentence that was imposable by the court without credit for the time you wasted in this treatment program. Typically when a person is sentenced by the court, and part of their sentence is to undergo treatment, as inpatient treatment they'll participate halfheartedly, and even if they come back for further consideration by the court, they will ask for and typically get, credit for the time they wasted in the treatment program. This bill doesn't provide for that, you don't get credit for the time you wasted of your own time and the time for the treatment providers. You can be sentenced to the original sentence that was imposable by the court. I am hopeful that this committee will consider this issue. It had very



strong support in the Senate and I don't mean just in the Judiciary Committee. The policy committee that looked at this bill as a solution or a partial solution, but also in the appropriations committee that looked at this bill, and then of course, will have to look at this bill if you approve it, because I think like everybody, it's becoming tiresome to come in to session after session, increasing the appropriation for the Dept. of Corrections. We have worked with the DOCR, with the Dept. of Human Services and others, in developing this program were excited about it, and I wholeheartedly recommend it to this committee. I know it has to go to Appropriations for further consideration, but I think that this will be viewed upon as an approach that makes some sense. As far as the specifics of the bill and fiscal note, Sandi Tabor will go through those.

**Representative Klemm:** Is this sort of like the drug court.

**Wayne Stenehjem, Attorney General:** Except what we're..in some degree it is like drug court because you have a program where you are monitoring people on a closer level than you are, but we are anticipating these people, unlike the drug court, will actually be, at least for some of them, in a structured setting where they are residing in an intensive inpatient program at the building in Grafton, they'll be out of the home; which is not true of the drug court.

**Representative Zaiser:** Are you familiar with any other state that has done this sort of pilot project, and what kind of successes they've had.

**Wayne Stenehjem, Attorney General:** We have, and I'll defer to Ms. Tabor on that because we modeled this after Kansas and she's been in touch with the officials down there. It seems to me that this approach really does make some sense.

**Representative Delmore:** One of the things that I think we've seen with the Drug and Alcohol commission is the problem with treating these people. I think this bill is important that we do a

plan, where we're going to go. Even nationally, have they come up with any other information for us and why this will be a good solution.

**Wayne Stenehjem, Attorney General:** While this bill deals with all controlled substances, we are focusing on the meth problem. I think it's well understood that the 30 day intensive outpatient treatment program worked pretty well for alcohol and other kinds of addictions; it just isn't worth a darn when you are dealing with meth because that's a long term treatment regime that those folks need to undergo. Thirty days isn't going to do it, you need to make sure that they're clean from the substance, and if they're not in some kind of a structured setting, they will go back to using, and you can't really get a handle on starting a serious treatment program until you're sure that they're not using the substance in the meantime. This kind of a structured setting can work.

**Representative Bernstein:** This building you speak of in Grafton, is this a secure building or will you have to do updates on this, or is it pretty well useable now.

**Wayne Stenehjem, Attorney General:** I'm going to defer to the people from the Dept of Human Services. I think the building is up and running and ready to go. It isn't necessary to have it barred and guarded like a penitentiary, because either you participate or you don't. If you aren't participating in the program, and you're not where you're supposed to be, they will take you back to court, and then you'll find yourself in a place where it is fully secure.

**Representative Koppelman:** I was going to ask why the pilot program isn't across the board, and it appears that the counties that are chosen there, are in one judicial district I would assume.

**Wayne Stenehjem, Attorney General:** It's partly in two counties, Grand Forks and Nelson Counties. It is for two reasons. First we have the building there, so we don't have to construct

something new, and we wanted to try somewhere other than a place where there is a penitentiary because at some point, if this works, we're going to see that we have programs like this around the state. Second, the money, statewide it would be an amount of money that I just don't think the legislature would have to appropriate for it, and we certainly want to see if it works. We think it will, but we want a pilot program. We want to be able to show how it works.

**Representative Koppelman:** If we did it statewide, would we send all meth users to the program.

**Wayne Stenehjem, Attorney General:** If it works, it might be worth it. I think what we need in North Dakota, is more treatment facilities that are more accessible, so they need to be spread out around the state, because family involvement is important, too.

**Representative Klemin:** If I understood what you're saying, is if the person who is sentenced, even though it says they are on probation or suspended sentence, they are not actually being sentenced to incarceration, but they still could be held someplace where they would have to go through this program, and not be at liberty. I'm wondering about the part where the time doesn't count as time spent in custody, even though technically I suppose they are spending time in custody.

**Wayne Stenehjem, Attorney General:** Some will be.

**Representative Klemin:** I don't know if there is some constitutional issue here, where you're actually in custody but it doesn't count as time in custody.

**Wayne Stenehjem, Attorney General:** That has not been raised as an issue, and I don't think that it is a constitutional issue, because they are court ordered to attend the treatment

program, they participate or they don't, and if they don't, they go back to court. I'm not aware of any constitutional issue that's been raised. If there is, we'll be happy to defend it.

**Representative Kretschmar:** As I read the bill, it's for, somebody gets arrested, convicted first, would it apply to someone who is a second time offender, too.

**Wayne Stenehjem, Attorney General:** The court has, of course, all the options that it has for any kind of treatment order, but this particular bill, in this program, and this treatment facility in Grafton, is only for first time felony drug offenders.

**Representative Klemin:** Since we are crossing two judicial districts, and dealing with two different sets of judges, is this going to be good for a pilot program to be crossing judicial district lines.

**Wayne Stenehjem, Attorney General:** I think it will work. The judges are aware of the bill, and I plan, if this bill is enacted, is to sit down with the judges from both of those districts and talk to them about the program, how it would work and what the legislative intent was. We didn't know how else to do it, because initially we were talking just about Walsh County and Pembina County, they're in one judicial district and I said if we're going to make it work, we need a big city involved too. We need to make sure that a small, middle and large counties are involved, so we can see how it works in the cities and in the rural areas.

**Representative Kingsbury:** I see the Dept of Human Services is seeking a grant.

**Wayne Stenehjem, Attorney General:** Yes, they've applied for it.

**Representative Kingsbury:** What kind of grant.

**Wayne Stenehjem, Attorney General:** They will cover that, they will talk about the grant.

**Representative Koppelman:** Just in reading the language here that you're talking about, I noticed that in the bill on line 12, it says that when a person located in Walsh, Pembina or Grand Forks Counties has pled guilty, could that be read to mean, that if they are located there, in other words if that's their home, but maybe they were caught in Cass or Burleigh...

**Wayne Stenehjem, Attorney General:** No, what is intended, because we say the place where the person resides or where the offense was committed, will be for those cases that are commenced and prosecuted in those counties.

**Representative Koppelman:** So if a person from Grafton was picked up in Bismarck, it wouldn't count.

**Chairman DeKrey:** Thank you. Further testimony in support of SB 2341.

**Sandi Tabor, Deputy Attorney General:** Support (see written testimony).

**Representative Meyer:** What kind of degree do you have to have to be a provider or training.

**Sandi Tabor:** I think I'll let JoAnne Hoesel answer that, because they license everybody, so I'll let her take that one.

**Chairman DeKrey:** Thank you. Further testimony in support of SB 2341.

**Sen. Stan Lyson:** Support. I would love to say, I am completely in favor of this bill, I wish it were up in the northwest, but it's still got to be done. No matter what we think about when we come to this, no matter who you are, where you live, you go outside and look at people, you can't hardly see somebody that this problem has not affected. So we have to start thinking out of the box and do something else. I think this is one of the steps that we can take, and hopefully this will lead to more treatment centers around the state, so that more people can get the benefit. It is not working to lock them up. I was in law enforcement for 39 years, and I locked a lot of people

up. This is not doing the job for that. We've got to start looking at something else. I think this bill is going to show us in the next two years, whether it's going to do the job. I would certainly hope that this committee will give this a Do Pass.

**Chairman DeKrey:** Thank you. Further testimony in support.

**JoAnne Hoesel, Director, Division of Mental Health & Substance Abuse for the Dept of**

**Human Services:** Support (see written testimony).

**Representative Kretschmar:** How long does it take for a person, who's being treated for this addiction, to get back to good health.

**JoAnne Hoesel:** It really is a really individual thing. You have to work with the individual and place them at the right level. Some people can benefit from a very high level, some from a lower level; but we do know that through research, if we can keep a person in treatment at least 90 days, the outcome significantly increases and their outcomes are better. So we are wanting to accomplish that with this bill. Our treatment providers are just full across the state, and what this will allow us to do, is to really have a residential center that we can keep them in as long as we really want to and should if we want to do treatment correctly, but are not able to do that all the time. But we do know if we can keep them in there at least 90 days, our outcomes are better.

**Representative Boehning:** Will private insurers, if the person has insurance, cover some of the costs of the treatment program, and how will that impact the fiscal note and the number of people that we can treat.

**JoAnne Hoesel:** I think Sandi addressed it a little bit. We have put some dollars of what we feel that we will be able to receive from specific clients. I can tell you that most insurance carriers in the state, do provide substance abuse treatment. This clinically managed residential

level of care is now a reimbursable level of service and so that's actually a new thing for the state. We would anticipate some revenue from that as well. I think one of the unknowns, which this pilot will provide, for future planning what is the right mix and how can we plan more accurately in terms of where the dollars will come from. There was also a question about what the requirements were. Licensed addiction counselors are licensed by the Board of Addiction Counseling Examiners, and there's a requirement of a bachelors degree, specific training in terms of education, classwork, and there's also a 9 month training requirement as well, plus an oral and written exam.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Donald Wahus, LAC, ND Addiction Treatment Providers Coalition:** Support (see written testimony).

**Representative Koppelman:** You talked about how difficult meth addiction is to treat, and we've heard that many times in the legislature; it's more addictive than crack cocaine. What is the prognosis, if somebody is addicted to meth and they come in for treatment, what is the likelihood, assuming they follow through and take the time you're talking about, is it highly treatable, is success likely.

**Donald Wahus:** If they follow through the regime, it is very effective. Therein lies the difficulty, getting them to the point where they're following through. I have an employee who is a recovering meth addict working for me. Yesterday, I sat next to a person in church, who got out of treatment 14 months ago. Does it work, yes and we can see the evidence of that. The prognosis, however, without following through the longer term, is pretty low. That's where,

trying to fit sometimes them into a program that doesn't have the resources to be able to follow through the continuum, is the difficulty we're facing.

**Representative Boehning:** Within your recovery center, how many of the people you treat, are being reimbursed by private insurers for the treatment.

**Donald Wahus:** I am in a unique situation at my facility, because I'm a private facility but I have a contract with the state, with the local Human Service Center. I do the addiction services for the human service center, as we've done in the past. Mine is a little different than a pure private facility. I have to speak from the point that I have a capitated agreement with the state, to take people that would have come to the human service center. I have approximately, these are raw figures because they fluctuate, every week it's different, three weeks ago I had about 70% of the people that were on my most intensive level of care, where we would treat the meth people, 70% were covered by insurance. Two weeks later, about 30% are covered. It fluctuates in there, depending on circumstances. There are some people, that are meth addicted, that do have BC/BS or other commercial payors. The majority, however, in my experience, do not have insurance. I would say maybe 20-25% probably have other means. Medicaid as well is available, but not everyone is eligible for Medicaid; particularly the females that we treat may be if they have children in the home, may be eligible for Medicaid. I might also add that maximum of 21 days is all they pay for. So we have limits on those reimbursable types of services.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Elaine Little, Director, DOCR:** Support (see written testimony). This bill does include an appropriation. The DOCR would provide supervision for these offenders and for 1/2 of them we would also make payment. Without this appropriation that's attached to the bill, the DOCR will



not be in a position to do this pilot project. There was a question about the ½ time FTE program manager to run this program for the DOCR. This bill, and the project that we're presenting to you, was not finalized until long after our budget had to be in to OMB, so we weren't in a position at that point, to even know what needed to be included in our bill, so the ½ time FTE is not in our budget, it's also really not included in this appropriation bill, but it's very important for us to be able to carry out the program and so I asked that the appropriation be maintained on this bill, and at some point, we need to get that ½ time FTE added in as well.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Chief Debra Ness, Bismarck Police Dept.:** Support. About 10 years ago, William Braaten decided to take a different approach to the crime problem in NYC. He decided that you have to hit it really, really hard right when you initially see the small crime, so they never have the opportunity to grow into big crimes. I see this legislative proposal as following that same philosophy. In other words, historically what we would do, is wait until we had a habitual or chronic offender before we actually offered treatment. What we really need to do is hit the treatment right from the beginning, especially with the meth problem. If we offer the treatment, and we skip to that plan and we really hold a person accountable, we probably won't have that habitual crime problem that we're seeing right now with the meth user. This legislative proposal really falls right into what we're looking at from the police perspective, try to solve the problem early and not let it grow into a major problem. It falls in line with the transitional programs, the re-entry programs, it falls right into what we've really been working towards for the last 20-30 years, that is get the treatment out there, so we can solve the problem, so that we can bring down the crime rate, which then also takes care of our prison population problem. I would really

recommend or urge this committee to follow through with this legislative proposal. When we're dealing with the meth problem, we need treatment for them. This is an approach for us to try.

We will be able to see statistically if there is any evidence to support this program and to see if it actually does work before it becomes a statewide program. One way or the other, we're going to spend the money, and I'd like to see it on the treatment side when we can actually help people get rid of the meth problem before it grows into something where treatment is no longer going to be effective.

**Representative Boehning:** What kind of a trend have you seen here in Bismarck, when you started here, what was the number of meth cases to what they are now. What kind of increases have we seen.

**Chief Debra Ness:** When I started here, we didn't have a meth problem. We had other drug problems, but we did not have any meth in the city yet. Now it's a daily thing that we are dealing with. Every single day, we have somebody that's doing meth investigation, or stopping mobile labs or dealing with people that are coming back into the community and reoffending and reusing. In our participation, especially in the program like the transitional, with the drug court, and with the re-entry program that was just started in Bismarck, I'm hoping that these are going to turn that trend around; so that the pendulum is going to swing the other way again, so that we don't see the habitual reoffending meth user coming before us and constantly dealing with more crime issues, because too often, they are very much related. Not just the fact that they are breaking law because they are using, but because there are so many other crimes that are associated with the meth user.

**Chairman DeKrey:** Thank you. Further testimony in support. We handed out a copy of the section of code that you're explaining, why we're repealing (to Bob Bennett).

**Bob Bennett, AG's Office:** I'll respond to the appeal of 19-03.1-30 and Representative Klemin's question relating to the temporary custody constitutional issue. 19-03.1-30, the conditional discharge for possession as a first offense was adopted in 1971 as part of the Uniform Controlled Substances Act, and it was part of the Uniform Law. We adopted the Uniform Law almost in total in ND, which complied with the federal narcotics law. In 1971, almost all of the possession offenses were felonies. If you had a small amount of marijuana, it might be a felony. This section was to ameliorate some of these sentences that were involved under the code at that time to permit the imposition of what would be equivalent to what is a deferred imposition of sentence under our current law, section 12.1-32, which allowed an individual to plead guilty or be found guilty of an offense and if the court determines that it's appropriate, we'll defer imposition of sentence, in which there is no conviction; the person would be placed on probation, if they satisfy the probation, the charge can be dismissed, they could withdraw their plea of guilty, which is virtually identical to the conditional discharge. So we do have an overlap of the law. I guess the first reason that we'd be looking at for repealing the statute is to have consistency in our sentencing laws, because of the fact that throughout chapter 19-03.1 of the controlled substances law, we rely upon chapter 12.1-32 of the sentencing code to provide, not only the sentencing terms, but also sentencing alternatives, conditions of probation, etc. That's what the courts generally use, is the deferred imposition of sentence and the other sentencing alternatives. The second reason is that this statute is going to conflict with the bill that you have before you, because it seems to say that the first time offense, we have an option between the 18

month probation and having supported treatment, whether inpatient or outpatient, or a combination of the two, or the conditional discharge. The bill you have before you is much broader than the conditional discharge and that it includes sentences to probation, includes suspended sentences in which there is no imprisonment or a sentence imposed, and the deferred. So we'll not only have consistency, but also avoid any potential conflict. So that is the reason that it's being requested to be repealed. Relating to the temporary custody, the reference to the bill relates, makes reference to subsection 2 of 12.1-32-02. The time spent in custody relates to credit for time served, in which the general rule is that when you appear in court and are sentenced for an offense, you can receive credit for time served, like for instance waiting for trial or if you spent a day in jail before you are bailed out, things such as this, served on the present charge. This is purely statutory definition, it's not a constitutional right. Just as there's no constitutional right to good time, no constitutional right to parole, this is solely a statutory definition of what the legislature has done in 12.1-32.02, to say that in certain cases, we're going to allow credit for time served, and this is what time in custody means for purpose of credit for time served. This reference in the 23-41, is going to modify that time in custody for purposes of this statute only, to say that if you are ordered for treatment you do not have time spent in custody. Now, under our current law, under subsection 2 of 12.1-32.02 and I can't give you case citations off the top of my head here, but there have been instances in which individuals have said that while I was on probation, I participated in a court ordered treatment program, but I was supposed to get, for instance, outpatient treatment or a combination of inpatient/outpatient. The courts have said that may not be time spent in custody, because you weren't in custody. You were not in a secure facility. If there is any overlap, involving this bill relating to time in

custody, it would be an involuntary court ordered commitment for treatment; however, this is basically a legislative determination on what time in custody is. You could repeal the provision related to credit for time served and give nobody that. You could repeal that entirely, you could repeal parole, repeal good time, do all kinds of things because there is no constitutional right to that, it is more of a legislative grant of some type of reduction of sentence, or assistance in the sentence. I think that one of the discussions we had with the time in custody, really, the area of constitutionality never came up, because again it is a legislative definition. But if there is such an issue that somebody may raise, again this is a legislative determination, but there are instances because this drug is so insidious, if you're looking at saying we want to make sure people have this type of treatment program, this bill is really key to the offender. We talk about all kinds of money being spent on incarceration, but if the intent is to help the offender, so he doesn't have a second offense, this is for first time offenders. It would be cheaper if you gave somebody a bus ticket and told them to never come back here, but I don't think that's what anybody here, or the AG wants to do. Part of this is an incentive to these individuals to say that, if you're ordered to undergo this treatment program, you can't say, well now if I do violate and walk out after 10 months, I'm going to get credit for 10 months that I spent; that everybody spent tons of money on and effort to try and help them out and say we're going to get credit for 10 months. This is an incentive to say, if you don't go through the program, you're facing your full potential sentence that you might get, which could a year, five years, 10 years, whatever it might be. This is an incentive to them, that yes, we're serious you're going to get treatment, given the opportunity, but here it is, but we're not going to reward you for doing something that you should be doing to help yourself. I think if there's going to be some basis for saying, why are you distinguishing

between this and another one, it's not a constitutional issue, but a strong policy grounds for it as well.

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

(Reopened later in the same session)

**Chairman DeKrey:** What are the committee's wishes in regard to SB 2341.

**Representative Kretschmar:** I move a Do Pass and rerefer to Appropriations.

**Representative Delmore:** Seconded.

**12 YES 0 NO 2 ABSENT DO PASS W/REREFER TO APPROPRIATIONS**

**CARRIER: Rep. Kingsbury**

Date: 3/8/05  
 Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2341

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

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

Action Taken Do Pass and Refer to Appropriations

Motion Made By Rep. Kretschmar Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	—		Representative Onstad	✓	
Representative Boehning	—		Representative Zaiser	A	
Representative Charging	—				
Representative Galvin	—				
Representative Kingsbury	—				
Representative Klemin	✓				
Representative Koppelman	A				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Kingsbury

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

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2005 3:49 p.m.

**Module No: HR-42-4450**  
**Carrier: Kingsbury**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2341, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2341 was rereferred to the Appropriations Committee.**



2005 HOUSE APPROPRIATIONS

SB 2341

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341  
New Code For Treatment of 1st-time Offenders

House Appropriations Committee  
Human Resources Division

Hearing Date: 3-22-05 Tuesday a.m.

Tape Number	Side A	Side B	Meter #
I		X	47.9 - End of tape
II	X*		End: 21.4
Committee Clerk Signature <i>Diane M. Overby</i>			

Minutes: **Chairman Delzer** called the meeting to order. **Rep. Joyce Kingsbury, District 16**, introduced SB 2341 which would mandate the treatment for first-time felony offenders. It establishes a pilot program.

*(Tape II Side A starts. \*Note: Problems with tape. It started to record, then faded out. Blanks in typed minutes denote where words were not recorded.)*

**Chairman Delzer:** It looks like the fiscal note is for 46 individuals.

**Rep. Kingsbury:** Yes.

**Chairman Delzer:** This is for first-time felons. The Deputy AG said these are historically not sentenced to prison, but mostly to probation and treatment.

**Elaine Little, Director of the Department of Corrections and Rehabilitation:** Correct.

**Chairman Delzer:** Does this remove anyone from the DOCR budget?

**Little:** No, the only additional staff is the data collector for the pilot program.

**Chairman Delzer:** Does subsection one change the amount of probation required?

**Little:** It is at least 18 months for probation with felony offense.

**Chairman Delzer:** This is appropriated to DOCR?

**Little:** It is really a joint project. They are expecting a grant to help \_\_\_\_\_

**Chairman Delzer:** How is it possible? Everything is full you said.

**Little:** We are assuming these guys are \_\_\_\_\_

**Chairman Delzer:** Then we should be lowering your budget. You cannot have it both ways.

**Little:** \_\_\_\_\_

**Chairman Delzer:** Why would you not do them now?

**Little:** May ask for lessor \_\_\_\_\_

**Chairman Delzer:** Well, you have in your fiscal note \_\_\_\_\_

**Little:** Sandy Tabor just corrected me. A percentage would go to Grafton. The rest would be used to pay other private facilities around the state. This bill's provider \_\_\_\_\_

**Chairman Delzer:** Why on earth would we pay \$75 per day for day treatment?

**Little:** My understanding is \_\_\_\_\_

**Chairman Delzer:** We need that. We need to know who we are contracting \_\_\_\_\_

**Dave Krabbonhoft's (Director of Finance and Administration for the DOCR)** financial breakdown was referenced.

**Sandy Tabor, Deputy Attorney General:** DOCR was asked to prepare the Fiscal Note. I helped, along with JoAnne Hoesel. Once the concept was agreed on to put it before the Legislature \_\_\_\_\_ It is directed at first-time felons, but we recognize that we do not have \_\_\_\_\_

available throughout the state. So we decided we had to start somewhere. \_\_\_\_\_ The fiscal note is broken down \_\_\_\_\_

**Chairman Delzer:** Sandy, why would that even be lowered?

**Tabor:** \_\_\_\_\_ They know they are going to have a constant customer base. Private providers do not have that. So they will not deal in the same way. We have factored in an offset cost.

**Chairman Delzer:** Is this built on 46 from day one?

**Tabor:** Yes. I do not know why.

**Chairman Delzer:** This isn't a fiscal effect. This is an appropriation.

Discussion followed on where the 12.5 goes toward (i.e. In-patient or intensive care; or day treatment) **Tabor** said evaluation would determine. **Vice Chair Pollert** said stronger community support is needed to prevent them from coming back. **Tabor** offered to show how they feathered the numbers and **Chairman Delzer** said yes.

After brief review of upcoming schedule and bills, **Chairman Delzer** said the committee would stand in recess until after the floor session tomorrow.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341 and SB 2373  
New Code For 1st-time Offenders / Methamphetamine Civil Commitment

House Appropriations Committee  
Human Resources Division

Hearing Date: 3-23-05 Wednesday p.m.

Tape Number	Side A	Side B	Meter #
I	X		1.0 - 11.9
Committee Clerk Signature <i>Deann M. O'Connell</i>			

Minutes: **Chairman Delzer** called the meeting to order at 3:45 p.m. All members present. The schedule and when amendments might be ready was reviewed. Discussed SB 2341 and SB 2373 simultaneously.

**Chairman Delzer:** After looking at the methamphetamine bill, new numbers by the Attorney General are coming on a fiscal note for SB 2341. Rep. Pollert, do you want to share any numbers you found for SB 2373?

**Vice Chair Pollert:** I got the cost of ten beds at the State Hospital. Under SB 2341, it was \$140 per day at the Grafton Development Center; the State Hospital is \$141-\$42 per day. A little over \$1 million for a biennium. No new operating cost to open a new building. I am still waiting for the numbers on what 20 beds would cost, but it will be substantially higher. Probably from \$76 per day to \$141.

**Chairman Delzer:** There is no sunset. With SB 2341, that is a pilot program. These can and should be looked at specifically in the budget process and for the next biennium.

**Rep. Bellew:** If it is a good program, we can pass the bill when it comes back before us. If it is not a good program, then we discontinue it by not considering another bill.

**Chairman Delzer:** Should we have reporting language for data collected to make sure the program is valid?

**Vice Chair Pollert:** SB 2341 and SB 2373 are similar, but treatment is different. I would like both studied and language for reporting.

**Rep. Kerzman:** Sen. Robinson said 100 days is an absolute minimum, but most will take longer.

**Chairman Delzer:** What do you think about sun-setting?

**Rep. Kerzman:** No problem.

**Chairman Delzer:** Sun-setting means someone would have to introduce a bill to continue.

**Rep. Metcalf:** I think language for reporting half-ways through is good.

**Chairman Delzer:** The second quarter of 2006. The Budget Section meets every quarter. So it would be six months into it.

**Rep. Kerzman:** It takes a minimum of 100 days, so we need the biennium.

**Chairman Delzer:** Can you sunset a change, Joe (OMB) or Stephanie (LC)? We will need one for 10 beds and would not have to redo anything, or 20 beds which I see no reason for, or 50 beds which we might as well go with.

**Rep. Kerzman:** I agree.

**Chairman Delzer:** Stephanie (LC), there is no reason to do an amendment. We can do a voice vote here. You can have it ready for full committee.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341  
New Code for 1st-time Offenders' Treatment

House Appropriations Committee  
Human Resources Division

Hearing Date: 3-24-05 Thursday p.m.

Tape Number	Side A	Side B	Meter #
III	X		1.0 - 9.8
Committee Clerk Signature <i>Diana M. Overley</i>			

Minutes: **Chairman Delzer** called the meeting to order on SB 2341 (see one-page handout from Deputy Attorney General Sandy Tabor on 2005-2007 Estimated Program Costs). She was part of a working group.

**Chairman Delzer:** There are two things to think about: the 23 individuals going through the system in 180 days; also completed by the end of the biennium is the 23 individuals in day treatment. No savings because of aftercare. This is a bill outside of Corrections, but deals with pre-sentencing. Wouldn't there be money somewhere else for chemical dependency evaluations for presentence situations? The bill states it is in the DOCR. I am not sure how I feel about that. I think they want to hire parole or probation officers to keep statistics. In Human Services, that is where the federal dollars come.

**Vice Chair Pollert:** I was told by the head person at the State Hospital that because it is run through the mental health center, it is going to be run through the Northeast Human Service Center.

**Chairman Delzer:** She thought they had to be in charge in order to collect the data. If it is not valid, then we have a half-FTE we need to deal with. At the very least, I would want to change the 717 to 5,855. On page 5 of bill the General Fund appropriation in section 5, change from \$714,787 to \$515,855.

**Rep. Bellew:** I would move that.

**Vice Chair Pollert:** I second it.

**Chairman Delzer:** Motion passes 6-0. Peggy, that amendment needs to get drawn up for us. Committee members, make a change on the language that says the department shall hire a program manager to manage the pilot project, collect statistics regarding operation, tap participants and give provider reports to the department, AG and Legislative Assembly. We need "60th" added and delete June 30, 2007.

**Vice Chair Pollert:** If it goes through Human Services, you will need the .5 FTE?

**Chairman Delzer:** I do not think either one would need the .5 FTE. That is the idea if you have a full-time position or contract.

**Rep. Wieland:** How about the through the Attorney General?

**Chairman Delzer:** The AG receives one of the reports. They are not interested in them having the extra position. The question is who is responsible for these people. They are not going through the prison.

**Rep. Kerzman:** It reads "first-time felon" so the Department of Corrections and Rehabilitation should be involved.



Page 3

Human Resources Division

Bill/Resolution Number SB 2341

Hearing Date: 3-24-05

**Chairman Delzer:** One problem, and guess I will say on record, is when we deal with both Human Services and DOCR, which one's data do we consider valid? It is not a nice thing to say, but it is honest.

**Vice Chair Pollert:** We will not get done now. Will they need a program manager?

**Chairman Delzer:** They have not said anything to me about it, including Brenda Weisz.

**Rep. Kerzman:** It is over and above the realm of a social worker and I could see contracting with the county or sheriff department or something.

**Chairman Delzer:** I am not sure how close the case manager needs to be to the patients or clients. But the Department of Human Services has to answer to this on the federal side. On the General Fund money, there is no doubt about it.. I know what you are saying, but do not know if it is worth changing.

**Rep. Bellew:** Contract with the local sheriff?

**Chairman Delzer:** It is up to the Department of Human Services. We will stand in recess until who knows when!

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341  
New Code 1st-time Offender Treatment

House Appropriations Committee  
Human Resources Division

Hearing Date: 3-25-05 Friday a.m.

Tape Number	Side A	Side B	Meter #
I	X		9.4 - 26.6
Committee Clerk Signature <i>Diane M. O'Neale</i>			

Minutes: **Chairman Delzer** called the meeting to order on SB 2341 to review amendments (see one-page 58312.0202). He explained what it does before asking for comments on the pilot program and reporting.

**Chairman Delzer:** Do we need to define what we want for statistics better than that? Elaine, do you know what you will collect for statistics? Do you have a list?

**Elaine Little, Director for the Department of Corrections and Rehabilitation:** I don't. But I know there are specific requirements under that grant that Human Services is getting. That is basically our statistics.

**Chairman Delzer:** Are relapses part of that?

**Little:** I believe so. They are trying to provide how successful methamphetamine treatment is in a rural area.

**Chairman Delzer:** Can you get a list of that?

**Little:** I will contact JoAnne Hoesel, who is dealing with that grant.

**Chairman Delzer:** Committee members, if that bill (i.e. 2373) goes ahead, we need report requirements to see if it is a valid program or not.

**Rep. Wieland:** In section 1 - report to the AG, we have taken out the date. Is there a specific time they have to know?

**Chairman Delzer:** Between January 4 and the last day of the session. If we want the appropriation we can, but it would not be in the budget hearing otherwise.

**Joe/OMB:** Practically speaking, they will present it to the standing committee.

**Chairman Delzer:** Is Legislative Session legally over at sine die?

**Joe/OMB:** Yes, otherwise it is interim committee.

**Vice Chair Pollert:** There will be one year in which 46 people will have gone through the program. The second batch of 46 will not have gone through aftercare. The first batch is done July 1, 2006.

**Chairman Delzer:** It would start July 1, 2005, I think. The next legislative assembly would divide if it is to go forward.

**Rep. Wieland:** It is almost too late for when these bills come through. It should be ready when the report is given to the Legislative Council.

**Chairman Delzer:** Committee members, we could say "provide report to AG, Legislative Council meeting and the 60th Legislative Assembly in November '06."

**Rep. Wieland:** That would be fine. Just so statistics are available.

**Chairman Delzer:** Okay, so the motion should include "protect participants in the program and provide report to Attorney General, Legislative Council meeting and the 60th Legislative Assembly in November 2006."

**Rep. Wieland:** I make that motion.

**Rep. Bellew:** I second it.

**Vice Chair Pollert:** During Legislative Council, where they give all the internal reports, is it just a progress report given?

**Chairman Delzer:** I would guess it is just a handed-out report.

**Joe/OMB:** You could have one report given to interim committee.

**Chairman Delzer:** But that is September or October.

**Don/LC:** There is also the December Budget Section.

**Chairman Delzer:** Change to the Legislative Council at December 2006. Then it is in the 60th Legislative Assembly.

**Rep. Wieland:** Fine. I amend my motion.

**Rep. Bellew:** My second is amended.

**Chairman Delzer:** We will take a voice vote. Amended motion passes 6-0. Anything further?

**Vice Chair Pollert:** I move the amendment .0202 for SB 2341.

**Rep. Bellew:** I second it.

**Chairman Delzer:** We will do a voice vote. Amendment adopted 6-0.

**Rep. Kerzman:** I move a Do Pass As Amended on SB 2341.

**Rep. Wieland:** I second it.

**Rep. Bellew** asked clarification on how appropriation is figured into budget and **Chairman Delzer** referred to Budget Status Summary.

**Chairman Delzer:** The clerk will call the roll. Motion carries 6-0.

Page 4

Human Resources Division

Bill/Resolution Number SB 2341

Hearing Date 3-25-05

**Rep. Kerzman** will carry the bill.

**Little** said JoAnne Hoesel will fax a list of requirements to Yvonne Smith.

**Chairman Delzer** called a recess.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2341  
Meth Treatment for First Time Felons

House Appropriations Full Committee

Conference Committee

Hearing Date March 25, 2005

Tape Number	Side A	Side B	Meter #
1	X		#0 - #10.5
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the discussion on SB2341.

**Rep. James Kerzman** explained that this bill is a pilot project in Grand Forks and Walsh counties. This is a Meth treatment program for first time felons and it works with 46 individuals. This treatment includes investigation and drug and alcohol evaluation and they are sentenced to 180 days of inpatient treatment and 180 days day treatment. The final amendment on this is not in yet but the changes made by the committee include a reduction of \$200,000 on line 2 on page 5 so this treatment can be done for \$515,855. We also added language to page 3 starting on line 3 of the bill regarding the report to the Attorney General and the legislative council and the 60th legislative assembly. We also changed the reporting date so that it could be presented before the next session. This fund is based on a federal grant through the Department of Human Services for \$488,000 and they will require a report, so there should be good tracking on this project so

we can see the results. The total funding for this program is close to \$1 million. The general Fund portion is \$515,855. Rep Kerzman moved to adopt amendment #0203 to SB2341.

**Rep. Jeff Delzer** seconded

**Rep. Mike Timm, Vice Chairman** asked if this was a new program

**Rep. James Kerzman** answered that this is a pilot program

**Rep. Ken Svedjan, Chairman** commented that there was a great deal of uncertainty concerning the treatment of Meth. This is a good start to see what can be accomplished. The report on this will help in a number of ways.

**Rep. Jeff Delzer** supports this bill. This is 180 day treatment plus after care so it is long enough to do some good.

**Rep. Francis J. Wald** asked why the need for section 3 pertaining to firearms.

**Rep. James Kerzman** answered that it was a section of code

**Rep. Jeff Delzer** commented that the committee failed to ask the Attorney General this question concerning the firearms but from what legislative council or OMB has explained, this section is for someone who is granted conditional release for this program and it says that they cannot possess a firearm.

**Ms Roxanne Woeste** from legislative council explained that this is to clean up a cross reference in the bill that refers to a section that was repealed.

**Rep. Jeff Delzer** asked what the repealer was

**Rep. Francis J. Wald** asked why the treatment center was in Grand Forks and Walsh Counties.

**Rep. Jeff Delzer** answered that the proximity to the people who do this treatment. Some of the treatment will be done at the DD centers and the Northeast Human Service center.

**Ms Roxanne Woeste** explained the repealer was the section pertaining to conditional discharges.

(Tape #1, side A, #9.0)

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to adopt amendment #0203 to SB2341. Motion carried.

**Rep. James Kerzman** moved a Do Pass As Amended motion for SB2341

**Rep. Jeff Delzer** seconded

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion for SB2341. Motion carried with a vote of 20 yeas, 0 neas and 3 absences. Rep Kerzman will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed the discussion on SB2341.



PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2341

Page 3, line 3, after the second "and" insert "the sixtieth" and remove "by June 30."

Page 3, line 4, remove "2007."

Page 5, line 2, replace "\$714,787" with "\$515,855"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment changes the general fund appropriation to the Department of Corrections and Rehabilitation from \$714,787 to \$515,855.

Date: 3/25/05  
Roll Call Vote #: ①

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 5B 2341

House Appropriations - Human Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number (Amendment 58312.0202)

Action Taken DO Pass As Amended

Motion Made By Rep. Kerzman Seconded By Rep. Wieland

Representatives	Yes	No	Representatives	Yes	No
Chairman Jeff Delzer	✓		Rep. James Kerzman	✓	
Vice Chairman Chet Pollert	✓		Rep. Ralph Metcalf	✓	
Rep. Larry Bellew	✓				
Rep. Alon C. Wieland	✓				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Rep. Kerzman

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

Date: March 25, 2005  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2341**

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number 58312.0203

Action Taken DO PASS AS AMENDED

Motion Made By Rep Kerzman Seconded By Rep Delzer

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleson	AB		Rep. James Kerzman	AB	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	AB				

Total Yes 20 No 0

Absent 3

Floor Assignment Rep Kerzman

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

**REPORT OF STANDING COMMITTEE**

SB 2341, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2341 was placed on the Sixth order on the calendar.

Page 3, line 3, after "general" insert ", the legislative council for distribution during the November 2006 legislative council meeting,", after the second "and" insert "the sixtieth", and remove "by June 30,"

Page 3, line 4, remove "2007,"

Page 5, line 2, replace "\$714,787" with "\$515,855"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment requires the Department of Corrections and Rehabilitation to provide a report to the Legislative Council and changes the general fund appropriation to the Department of Corrections and Rehabilitation from \$714,787 to \$515,855.

2005 SENATE HUMAN SERVICES

CONFERENCE COMMITTEE

SB 2341

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341

Senate Human Services Committee

Conference Committee

Hearing Date April 6, 2005

Tape Number	Side A	Side B	Meter #
1	x		00-265
Committee Clerk Signature <i>Cathy Minard</i>			

Minutes:

Chairman Lyson opened the conference committee meeting. Present were Senators Brown, Representatives Pollert, Wieland and Kerzman.

Chairman Lyson: Can you tell us about the fiscal note and amount of appropriation.

Rep. Pollert: We liked the bill but on closer examination we wanted to look at the fiscal note.

The attorney general's office and the DOT came together and that's where the amendment came from. The committee wanted to have a reporting structure in place. If we wanted to have a lot of these numbers in front of us for next session: this program is working, to see how Teen Challenge is going, we want to have reports on how all these different programs are working. That's why the amendments were put before legislative council.

Chairman Lyson: We did not concur immediately because we saw the fiscal note and was wondering what happened. But since we've got it, we thought about pulling it back, but after looking at it, think it's okay.

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2341

Hearing Date April 6, 2005

Sen. Brown: I want to make a motion but I'm not sure what the motion is.

Senator Brown moved that the Senate will accede to the House amendments, seconded by Rep.

Wieland.

VOTE: Senate: 2 yeas 0 nay 1 absent House: 3 yeas, 0 nays Motion passed.

Date: 4-6-05  
Roll Call Vote #: \_\_\_\_\_

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. *SB 234/***

Senate Human Services Committee

Check here for Conference Committee

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

Action Taken Motion Sen Accord to

Motion Made By Sen Brown Seconded By Sen. Wieland

Senators	Yes	No	Representatives	Yes	No
<i>Chairman Lyson</i>	<i>✓</i>		<i>Rep. Pollert</i>	<i>✓</i>	
<i>Sen Brown</i>	<i>✓</i>		<i>Wieland</i>	<i>✓</i>	
<i>Sen. Warner</i>	<i>A</i>		<i>Kernzman</i>	<i>✓</i>	

Total (Yes) 5 No 0

Absent 1

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

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



Insert LC: .

**REPORT OF CONFERENCE COMMITTEE**

**SB 2341, as engrossed:** Your conference committee (Sens. Lyson, Brown, Warner and Reps. Pollert, Wieland, Kerzman) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1172 and place SB 2341 on the Seventh order.

Engrossed SB 2341 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2341

Attachment 6

**From:** Little, Elaine  
**Sent:** Thursday, December 02, 2004 12:45 PM  
**To:** Brocker, Liz  
**Cc:** Stenehjem, Wayne K.; Tabor, Sandi (Attorney General's Office)  
**Subject:** Meth info  
Hi Liz,

Following is the information on meth that we could readily gather for you:

1. During the 2001-2003 biennium the DOCR spent \$6.5 million on medical; for the 2005-2007 biennium our medical request is \$8.9 million. This is a 37% increase. Much of the increase in medical costs can be pointed to the increase in the abuse of meth. (dental costs, pharmaceuticals, increase of Hep C because of needle sharing, etc. )
2. During 2004, through October, statistics show that 60% of all the male inmate admissions admitted to meth use. This number was just 10% about 5-6 years ago.
3. In 1997, the DOCR had 142 offenders admitted for drug crimes; that number increased to 435 in 2003 (a 206% increase). The Dec. 31st inmate population increased from 770 in 1997 to 1261 in 2003, a 64% increase. Obviously the increase in drug admissions has been the driving factor behind the increase in the overall population increase. In 2002, for the first time the number of drug admissions (351) was higher than the number of property crime admissions (290). This was also true in 2003.

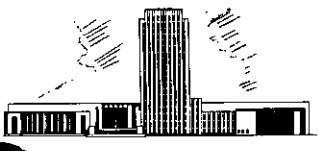
*[Handwritten signatures and initials]*

**Talking Points on SB 2341**

PROP

- For the last <sup>5</sup> years I have emphasized the importance of taking a 3-pronged approach to dealing with the drug and alcohol problem in our state. We must continue to emphasize the importance of prevention, enforcement and treatment.
- During the interim, the ND Commission on Drugs and Alcohol focus<sup>es</sup> its efforts on treatment and enforcement issues. We heard from law enforcement about the importance of securing treatment for offenders, especially those using methamphetamine. <sup>LAST SESS →</sup>  
<sub>LE saying "TX needed"</sub>  
<sub>TX</sub>
- We heard about the frustration of law enforcement with a system where individuals are arrested and released ... arrested and released ... sometimes several more times before they are finally sent to the penitentiary and then perhaps to the Tomkims unit. <sup>we want</sup> Law enforcement want offenders to receive treatment sooner rather than later.
- As part of a review of mandatory sentencing programs, we found a new program implemented in Kansas in 2003. This program requires 1<sup>st</sup> time felony offenders to be sentenced to a mandatory treatment program.
- Following the lead of Kansas, SB 2341 requires the court to order first-time felony drug offenders to undergo an evaluation and mandates the court to sentence the offender to the treatment program recommended as a result of the evaluation.
- In light of the <sup>long-term</sup> fiscal note attached to the bill, we are coordinating this program with a grant being sought by the Department of Human Services, and suggesting a pilot project in the NE corner of the state. Representatives from the Department are here to discuss the specifics of the grant.
- As you have probably heard me say, we all pay for the scourge of meth addiction ... SB 2341 encourages the system to get the addicted offender to treatment sooner rather than later.
- I encourage you to support SB 2341.

Attachment 1



# NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



Senator Carolyn Nelson  
District 21  
One 2nd Street South, #5-109  
Fargo, ND 58103-1921  
cnelson@state.nd.us

COMMITTEES:  
Democratic Caucus Leader  
Judiciary  
Government and Veterans Affairs

## SB 2341

Chairman Lee and committee members, I'm Carolyn Nelson, D21 Senator, member of the Governor's Commission on Drugs and Alcohol and a co-sponsor of this bill. I served on the prevention subcommittee of the Commission but the entire Commission met regularly during the last interim and is in support of the package of bills being presented to the Legislature. There were four legislators on the Commission.

This bill is part of the overall package presented by the Commission to refine our fight against the use of drugs and in particular, methamphetamine.

At our Commission meetings, we heard an overwhelming cry from law enforcement that this type of legislation is necessary. Law enforcement recognizes that we, as a society, can not continue to simply jail offenders with drug addiction issues.

SB 2341 provides treatment earlier in the offender's life, and hopefully, it will provide an opportunity to end the cycle of addiction before the individual is so far gone that little will help.

I am very aware that there is a fiscal note. However, I encourage you to think about the fiscal note to our society if we continue to treat meth abuse in the same way we are doing now. The current fiscal note is human and monetary loss.

I urge a do pass recommendation for SB 2341.

**Testimony on SB 2341**  
**Sandi Tabor**  
**Deputy Attorney General**  
February 2, 2005

As the Attorney General stated Senate Bill 2341 requires the court to mandate treatment for first-time felony offenders. The bill establishes a pilot project in Walsh, Pembina and Grand Forks Counties for the next biennium. The bill is the result of work done by the ND Commission on Drugs and Alcohol.

The proposal is modeled after a program adopted in Kansas in November 2003. While still in its infancy, the Kansas program is geared to reach offenders before they become harden criminals. Through use of an evaluation process, the program identifies the offender's treatment needs. This may include intensive residential or out-patient treatment ... it depends upon the outcome of drug and alcohol evaluation ordered by the court. Senate Bill 2341 recognizes another key component to a successful treatment plan – aftercare. Too often individuals complete a treatment program and have no follow-up care or support mechanism. This bill allows the court to include aftercare as part of the sentence.

The Commission struggled with how to structure the program to controlled costs. We discussed placing individuals in a Tompkins-like program in Jamestown, or perhaps, using the Rugby facility after it is built. In light of the need to encourage the development of local treatment capabilities, however, we resisted the temptation and decided to run a pilot project. Fortunately, the Department of Human Services decided to seek a federal grant to offer treatment utilizing existing facilities in Grafton. This presented an opportunity for us to conduct the pilot in the northeast corner of the state, while at the same time controlling costs to some extent.

With this overview, let me now review each section of the bill.

**Section 1** of the bill requires the court to sentence a first-time drug offender to not less than 18 months of probation in conjunction with a suspended execution of sentence or an order deferring imposition of sentence.

The bill requires the court, upon a plea or finding of guilt, to order the Department of Corrections to conduct a presentence investigation. This investigation shall include a drug and alcohol evaluation conducted by a licensed addiction counselor. If the counselor recommends treatment, the court must require the offender to participate in an addiction program licensed by the Department of Human Services. The offender will be committed to the treatment program until the person is determined suitable for discharge, but participation in the program may not exceed 18 months, and may include an aftercare plan. While participating in the program, the offender is under the supervision of the Department of Corrections. The bill provides that DOCR will collect statistics and manage the program.

If the offender fails to participate or a judge finds that the offender has a pattern of intentional conduct demonstrating a refusal to comply or participate in the treatment program, the offender will be subject to a revocation of the probation. The hammer to the offender for failing to participate is that the time spent in the treatment program is not considered time spent in custody. Consequently, when the judge revokes the probation, the offender will serve a full sentence with no credit for the time spent in treatment.

Costs for the program will be paid by the DOCR, but the offender will be ordered to reimburse the department for the assessment and treatment expenses.

As I mentioned earlier, to soften the fiscal note, the program will run in conjunction a separate program proposed by the Department of Human Services under a federal grant for methamphetamine treatment. The department applied for the grant and will know later this year if they will be awarded federal money. If the grant is not received, we will not be able to conduct the pilot project. If the grant is awarded, Human Services will be able to provide treatment services to ½ of the offenders mandated to participate in treatment, not to exceed 23 individuals.

**Section 2** of the bill clarifies existing language regarding mandatory drug addiction evaluations by referencing the process outlined in Section 1. The section also deletes a reference to § 19-03.1-30 which is repealed in Section 4.

**Section 3** of the bill deletes another reference to §19-03.1-30, and as I mentioned **Section 4** repeals §19-03.1-30 which deals with conditional discharges for first-time offenders. Conditional discharges will not work in light of the changes being recommended in SB 2341. In addition the court already has the ability to issue deferred imposition of sentence under a different section of the code. Consequently this section is no longer needed.

**Sections 5 and 6** of the bill deal with money. The pilot project will need \$714,787 from the general fund appropriated to DOCR, and \$448,471 in federal fund appropriation authority granted to DHS. In a nutshell, the bill establishes a mechanism to fund treatment for first-time offenders using general fund and federal grant money. The receipt of the federal grant money by the Department of Human Services triggers the effective date of the program. If the federal money is not received, the program will not be implemented.

**Amendment to SB 2341**  
Provided by: Sandi Tabor  
Office of Attorney General  
February 2, 2005

Page 1, line 17, delete "that" and insert "than"



TESTIMONY ON SB2341

Madame Chairperson and Members of the Senate Human Services Committee;

My name is Don Wahus. I am a Licensed Addiction Counselor and Manager of Mercy Recovery Center at Williston, ND. I am also representing, as a Registered Lobbyist, the ND Addiction Treatment Providers Coalition, made up of Public and Private treatment providers across the state. I have also had the privilege of serving on the Governors Commission on Drugs and Alcohol which has studied and reviewed the problems we face and is responsible for working on this and other pieces of legislation to more efficiently and effectively deal with the many Alcohol and Drug issues facing the citizens of this state.

The proposed changes to chapter 19-03.1 of the NDCC with this bill would allow treatment intervention for first time convictions of drug related crime; provide long term involvement ( up to 18 months); provide a very effective means of monitoring compliance with immediate consequences for failure to comply; reduces the need for expansion of our overloaded correction facilities; and requires effectiveness outcomes before investing in future financial outlays. This bill provides the comprehensive accountability and commitment requirements so vital for a successful outcome. It also utilizes qualified and licensed personnel and facilities to provide the services.

SB2341 bill has a fiscal note which shows that treatment for addiction is a costly endeavor. On the other hand the cost for jail space, court time, recidivism of drug related crime

and untreated addiction is vastly more expensive and much less effective in deterring future usage.

Having spent my whole career working in the field of Chemical Dependency and Treatment, and having seen many different trends, types and varieties of drugs of abuse, I can verify that while by no means perfect, treatment does work ,even with Methamphetamine addicts, and does allow many people an opportunity to again regain self respect and become contributing members of our society. This bill helps coordinate all the resources necessary to effectively deal with this multifaceted illness.

This legislation allows one more innovative effort to intervene in the spreading drug usage issues of our state. On behalf of the ND Addiction Treatment Providers Coalition , we strongly urge you to support this SB2341.



## DEPARTMENT OF CORRECTIONS AND REHABILITATION

3100 Railroad Avenue, PO Box 1898 • Bismarck, ND 58502-1898  
(701) 328-6390 • FAX (701) 328-6651 • TDD 1-800-366-6888  
Website: [www.discovernd.com/docr](http://www.discovernd.com/docr)

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Testimony on Senate Bill No. 2341  
Senate Human Services Committee  
Senator Judy Lee, Chairperson  
February 2, 2005

The Department of Corrections and Rehabilitation supports SB.2341 and believes this pilot program for drug treatment, rather than incarceration, for first-time felon drug offenders will be effective for both the offenders and cost effective for the state.

The prison population continues to increase in North Dakota and the single greatest factor driving the increase is the number of drug offender admissions. The number of drug and alcohol prison admissions has increased from 252 in year 2000 to 459 in 2004, an 82 percent increase in five years. Also, in the past five years the number of the offenders admitted to prison that name methamphetamine as their drug of choice has increased from approximately ten percent of all admissions to sixty percent of all admissions. If the State hopes to see the number of drug offender admissions to prison level off, it needs to utilize a different approach to dealing with drug offenders. I believe the pilot project proposed in SB 2341 could be one of these approaches. This pilot project could also demonstrate that drug treatment for individuals with methamphetamine addictions can be provided in rural North Dakota.

This bill provides that the Department of Corrections and Rehabilitation provide the supervision of the offenders. The bill also provides that the Department pay for the pre-sentence investigations, alcohol and drug evaluations, and for the alcohol and drug treatment mandated for the offenders. The appropriation included in this bill will be necessary in order for the Department to be able to manage this offender population in the community and to pay for the evaluations and treatment they will receive as directed in the bill.

Submitted by Elaine Little  
Director, DOCR

TESTIMONY

SB 2341 – SENATE HUMAN SERVICES COMMITTEE

SENATOR JUDY LEE, CHAIRMAN

FEBRUARY 2, 2005

*Same given  
to House*

Chairman Lee, members of the Senate Human Services Committee, I am JoAnne Hoesel, Director of the Division of Mental Health & Substance Abuse for the Department of Human Services. I am here today to provide information regarding the Drug & Alcohol Commission's Mandatory Treatment bill.

The Department of Human Services supports the concept of this legislation but takes a neutral position on the bill, as the funding is not contained in the executive budget.

This bill is a result of collaboration within the Drug and Alcohol commission. This pilot will direct people who have first time felony drug offenses to treatment and uses leveraged coercion. Leveraged coercion provides the offender the choice to engage in treatment or face loss of freedom and can be an extremely effective way to jump start the process of illness management and recovery.

The combination of mandated treatment through this bill and anticipated grant funding obtained through the Substance Abuse/Mental Health Services Administration's (SAMHSA) Targeted Capacity methamphetamine treatment grant submitted last week by the Department of Human Services provides an opportunity to develop a robust treatment continuum. The grant's treatment concept is based on research and will wrap services around clients to address the issues bringing them to treatment. This includes structured living, vocational support, childcare, and parent training as examples. The approach places strong emphasis on

decreasing medical and social costs of methamphetamine/amphetamine use. The grant will increase residential treatment bed capacity which provides a safe environment prior to treatment during the detoxification stage and after primary treatment to assist in adopting a drug free lifestyle. This grant's efforts plus the additional judiciary and legislative tools available through this bill will support implementation of a flexible treatment continuum positioned to provide elements of effective treatment: right time, right place, right intensity, right length. The opportunity at hand will maximize state dollars and grant efforts. Outcomes captured in the effort will provide guidance for future treatment direction.

I am available to answer any questions. Thank you.

Attorney General's  
Chart

COMPARISON OF DEPARTMENT OF CORRECTIONS & REHABILITATIONS APPROPRIATIONS  
FOR THE 1997-99 THROUGH 2005-07 (RECOMMENDED) BIENNIA

	GF	SF	TOTAL	DIFFERENCE	PERCENT CHANGE	GF CHANGE
1997-99	45,229,992	24,725,026	69,955,018			
1999-01	61,909,369	20,704,926	82,614,295	12,659,277	18%	37%
2001-03	77,048,031	25,133,099	102,181,130	19,566,835	24%	24%
2003-05	81,736,611	32,580,087	114,316,698	12,135,568	12%	6%
2005-07 RECOMMENDED	101,188,393	28,150,416	129,338,809	15,022,111	13%	24%

## Testimony on SB 2341

Sandi Tabor

Deputy Attorney General

March 8, 2005

As the Attorney General stated Senate Bill 2341 requires the court to mandate treatment for first-time felony offenders. The bill establishes a pilot project in Walsh, Pembina and Grand Forks Counties for the next biennium. The bill is the result of work done by the ND Commission on Drugs and Alcohol.

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The Commission struggled with how to structure the program to controlled costs. We discussed placing individuals in a Tompkins-like program in Jamestown, or perhaps, using the Rugby facility after it is built. In light of the need to encourage the development of local treatment capabilities, however, we resisted the temptation and decided to run a pilot project. Fortunately, the Department of Human Services decided to seek a federal grant to offer treatment utilizing existing facilities in Grafton. This presented an opportunity for us to conduct the pilot in the northeast corner of the state, while at the same time controlling costs to some extent.

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**Section 1** of the bill requires the court to sentence a first-time drug offender to not less than 18 months of probation in conjunction with a suspended execution of sentence or an order deferring imposition of sentence.

The bill requires the court, upon a plea or finding of guilt, to order the Department of Corrections to conduct a presentence investigation. This investigation shall include a drug and alcohol evaluation conducted by a licensed addiction counselor. If the counselor recommends treatment, the court must require the offender to participate in an addiction program licensed by the Department of Human Services. The offender will be committed to the treatment program until the person is determined suitable for discharge, but participation in the program may not exceed 18 months, and may include an aftercare plan. While participating in the program, the offender is under the supervision of the Department of Corrections. The bill provides that DOCR will collect statistics and manage the program.

If the offender fails to participate or a judge finds that the offender has a pattern of intentional conduct demonstrating a refusal to comply or participate in the treatment program, the offender will be subject to a revocation of the probation. The hammer to the offender for failing to participate is that the time spent in the treatment program is not considered time spent in custody. Consequently, when the judge revokes the probation, the offender will serve a full sentence with no credit for the time spent in treatment.

Costs for the program will be paid by the DOCR, but the offender will be ordered to reimburse the department for the assessment and treatment expenses.

As I mentioned earlier, to soften the fiscal note, the program will run in conjunction a separate program proposed by the Department of Human Services under a federal grant for methamphetamine treatment. The department applied for the grant and will know later this year if they will be awarded federal money. If the grant is not received, we will not be able to conduct the pilot project. If the grant is awarded, Human Services will be able to provide treatment services to ½ of the offenders mandated to participate in treatment, not to exceed 23 individuals.

The Senate adopted an amendment correcting a typo in the bill, and thus we have an engrossed bill.

**Section 2** of the bill clarifies existing language regarding mandatory drug addiction evaluations by referencing the process outlined in Section 1. The section also deletes a reference to § 19-03.1-30 which is repealed in Section 4.

**Section 3** of the bill deletes another reference to §19-03.1-30, and as I mentioned **Section 4** repeals §19-03.1-30 which deals with conditional discharges for first-time offenders. Conditional discharges will not work in light of the changes being recommended in SB 2341. In addition the court already has the ability to issue deferred imposition of sentence under a different section of the code. Consequently this section is no longer needed.

**Sections 5 and 6** of the bill deal with money. The pilot project will need \$714,787 from the general fund appropriated to DOCR, and \$448,471 in federal fund appropriation authority granted to DHS. Included in the fiscal note is \$58,592 of revenue generated by the program participant reimbursement.

In a nutshell, the bill establishes a mechanism to fund treatment for first-time offenders using general fund and federal grant money. The receipt of the federal grant money by the Department of Human Services triggers the effective date of the program. If the federal money is not received, the program will not be implemented.





# DEPARTMENT OF CORRECTIONS AND REHABILITATION

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Testimony on Senate Bill No. 2341  
House Judiciary Committee  
Representative Duane DeKrey, Chaiman  
March 8, 2005

The Department of Corrections and Rehabilitation supports SB.2341 and believes this pilot program for drug treatment, rather than incarceration, for first-time felon drug offenders will be effective for both the offenders and cost effective for the state.

The prison population continues to increase in North Dakota and the single greatest factor driving the increase is the number of drug offender admissions. The number of drug and alcohol prison admissions has increased from 252 in year 2000 to 459 in 2004, an 82 percent increase in five years. Also, in the past five years the number of the offenders admitted to prison that name methamphetamine as their drug of choice has increased from approximately ten percent of all admissions to sixty percent of all admissions. If the State hopes to see the number of drug offender admissions to prison level off, it needs to utilize a different approach to dealing with drug offenders. I believe the pilot project proposed in SB 2341 could be one of these approaches. This pilot project could also demonstrate that drug treatment for individuals with methamphetamine addictions can be provided in rural North Dakota.

This bill provides that the Department of Corrections and Rehabilitation provide the supervision of the offenders. The bill also provides that the Department pay for the pre-sentence investigations, alcohol and drug evaluations, and for the alcohol and drug treatment mandated for the offenders. The appropriation included in this bill will be necessary in order for the Department to be able to manage this offender population in the community and to pay for the evaluations and treatment they will receive as directed in the bill.

Submitted by Elaine Little  
Director, DOCR

UNIFORM CONTROLLED SUBSTANCES ACT

19-03.1-31

Source: S.L. 1971, ch. 235, § 27.

state laws imposing tax or license fee on possession, sale, or the like, of illegal narcotics, 12 A.L.R.5th 89.

Collateral References.

Validity, construction, and application of

19-03.1-28. Bar to prosecution. If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

Source: S.L. 1971, ch. 235, § 28.

related conspiracy charge in another state; this section is inapplicable to a charge of conspiracy. State v. Mayer, 356 N.W.2d 149 (N.D. 1984).

Conspiracy.

This section does not bar prosecution in this state of one who has been convicted of a

19-03.1-29. Distribution to persons under age eighteen. Repealed by S.L. 1975, ch. 106, § 673.

19-03.1-30. Conditional discharge for possession as first offense. Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs pleads guilty to or is found guilty of possession of a controlled substance under subsection 6 of section 19-03.1-23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the person on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the extended sentence which may be imposed under section 12.1-32-09, except those disqualifications or disabilities pertaining to the possession of firearms imposed by section 62.1-02-01. There may be only one discharge and dismissal under this section with respect to any person.

Source: S.L. 1971, ch. 235, § 30; 1975, ch. 106, § 172; 1985, ch. 258, § 22; 1987, ch. 265, § 1; 2001, ch. 55, § 7.

25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 191, 206.

28A C.J.S. Drugs and Narcotics, §§ 268-275.

Collateral References.

Drugs and Narcotics ⇌ 133.

19-03.1-31. Second or subsequent offenses. Repealed by S.L. 1975, ch. 106, § 673.

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lty imposed by of, any civil law.

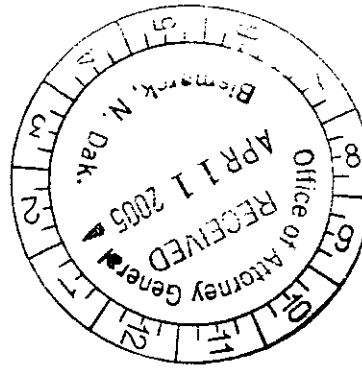
**SENATE BILL NO. 2341**  
**2005 - 2007 ESTIMATED PROGRAM COSTS**

	Cost Per Day	2005-07 Cost
In-Patient Treatment (180 Day - 23 individuals)	\$ 140.00	\$ 579,600
Day Treatment (180 Day - 23 individuals)	\$ 75.00	310,500
Aftercare (20 weeks - 46 individuals)	\$ 6.43	41,400
Pre-Sentence Investigation (\$100 / per)		4,600
Chemical Dependency Evaluation (\$175 per)		8,050
Program Manager		50,000
Total 2005-07 Program Costs		<u>\$ 994,150</u>
Program Participant Fees \1		29,825
Federal Grant		448,471
Necessary General Funds		<u>\$ 515,855</u>
\1 - Estimated 60% of participants will pay 5% of total program costs		

### **Data Requirements of the SAMHSA Targeted Capacity Grant – Adult Rural Methamphetamine Users**

- Data are collected at intake, again in 6 and then in 12 months. Data are used to evaluate the programs, for planning and to ensure adequate services. Client satisfaction surveys are done on a yearly basis.
- Data methods are done according to SAMHSA and specifically Center for Substance Abuse Treatment (CSAT) guidelines. Tools that are used are only those recommended by CSAT.
- Process evaluation will include a review of proposed project with the implementation steps and the actual project
- A work plan outlining who provided what service at what time and place with what outcome (including costs), will also be done to ensure the project is on track and within practice guidelines and budget.
- Evaluation outcomes will also address the effect of treatment on participants, context of the outcomes and steps leading up to the outcomes, any milestones, benchmarks and enduring changes. Over time the effects of the project will demonstrate durability of changes. Clearly, cultural factors may affect outcomes. The evaluators will be sensitive to cultural differences among clients.
- The program will provide integrated mental health and substance abuse treatment that is aimed at the unique problems facing methamphetamine abusers during their recovery. Intensive case management will provide support and linkages to specific resources unique to the client's needs.
- Evaluation will need to explicate specific features of the program in order to identify what elements were most effective.
- Both summative evaluations, looking at client data and success or challenges within the project and formative evaluations, looking at weekly issues, concerns or trends will be done. Funds will be used to support data collection, analysis and reporting.
- These are some examples of data that will be collected.
  - Employment Status
  - Living Status
  - Criminal Justice Involvement
  - Alcohol Use/Abstinence
  - Other Drug Use
  - Infectious Diseases
  - Social Support of Recovery
  - Retention

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740-335-3810  
Fax: 740-335-6133



#1 H.App 6.0.  
Cm. Comm.  
4115105  
**Royster Clark**  
A. Honen Gen  
Stenehjem  
April 8.2005

Dear Wayne Stenehjem,

The State of North Dakota brings illegal drug use to the forefront with the introduction of Senate Bill 2341. Royster Clark commends initiative that brings Communities and Law Enforcement Agencies together to create a campaign to prevent illegal drug use and production.

Anhydrous Ammonia available at many farms and Agricultural Retail locations has experienced increased threats of theft and vandalism as part of this drug epidemic. As you know Anhydrous Ammonia is used as an ingredient in the production of Methamphetamine.

GloTell, an Anhydrous Ammonia additive, formulated to be introduced into the Ammonia to serve not only as a theft deterrent but also as a leak detector and marking agent. GloTell, when injected into the Anhydrous Ammonia, stains exposed surfaces pink. This pink color is detectable by ultraviolet light affording Law Enforcement personnel a method to detect persons that have encountered the product while producing the illegal drug. An additional benefit of GloTell is the way in which it reduces the quality of the methamphetamine. The deterrent qualities of GloTell have proven to be a successful security tool in protecting Anhydrous Ammonia from theft by individuals utilizing this ingredient for the production of the drug, Methamphetamine.

GloTell is marketed and distributed by Royster Clark Inc., a leading supplier of fertilizers, seeds and crop protection products with 270 retail outlets and numerous production and distribution points serving the agriculture industry. GloTell's marketing effort includes the labeling of treated tanks, local media coverage for the retailers, and extensive product training. Please visit our website, [www.glotell.com](http://www.glotell.com) or call 1-866-STOPMETH for more information.

It is our hope, as concerned members of the Agriculture industry, that you will consider adding GloTell to your legislation. We look forward to assisting your staff and your fellow colleagues to ensure the safety of our families and communities.

Sincerely,

Scott Spelman  
Director of Sales - GloTell  
740-335-3810 ext 264

Scott Spelman  
Director-Sales

Royster-Clark, Inc.  
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**GLOTELL™**  
1-866-STOP METH

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## NEWS RELEASE

From: Lori Ann Peters, Director of Shared Services  
(757) 222-9602

March 17, 2005  
For Immediate Release

### **GloTell™ Receiving Positive Assessments In The Fight Against Meth**

**Norfolk, VA, March 17, 2005**—Surveys were recently conducted to determine customer satisfaction with GloTell, an anhydrous ammonia additive, in categories ranging from reduction in theft attempts to ease of use. Compiled results showed a very positive assessment of the product and its usability. Respondents using GloTell for more than 60 days have seen major reductions in theft attempts. According to Scott Spelman, the Director of Sales for GloTell, "Experiences over the winter months have proven that the longer the GloTell is in the Anhydrous, the more effective the results. Locations are seeing the thieves try to make methamphetamine with GloTell and when they discover the end result that GloTell creates they do not come back".

Law enforcement officials are also very pleased with the results according to Capt. Larry Belen of the CCCCAT in Kalamazoo Michigan. "Consistent use of GloTell by Dealers in Southwestern Michigan will significantly put a dent in the number of meth labs in the area" stated Belen. States such as Illinois, Indiana, Michigan, Missouri, and Oregon have put forth legislation to offer incentives for the use of additives such as GloTell to deter the theft of anhydrous ammonia from agricultural retailers.

Additional results showed that 96% of respondents said that they would use GloTell again as well as recommending it to others. For further information regarding GloTell and its applications visit [www.glotell.com](http://www.glotell.com) or contact 1-866-STOP-METH.

In further news, testing at Southern Illinois University Carbondale in 2004 and 2005 has indicated that the products GloTell and N Serve are fully chemically compatible. GloTell is formulated to be an anhydrous ammonia theft deterrent, and N Serve is a nitrogen stabilizer for anhydrous ammonia. Both products are very soluble in anhydrous, and are very insoluble when combined; no chemical reaction occurs between the two materials when introduced into anhydrous ammonia. Testing also indicates that when concentrations of GloTell and N Serve are combined, no chemical interactions take place in the concentrate mixture.

SIUC's Vice Chancellor for Research, Dr. John A. Koropchak, said "SIUC is very pleased to have assisted GloTell and Royster-Clark in the research and development of these products that promise to significantly address the serious social problems created by illegal methamphetamine production."

COPY OF TANK WA

LABEL

**WARNING!**

Treated with

**GALOTELL<sup>TM</sup>**

**1-866-STOPMETH**

Illustrated by Reyster-Clark