

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2161

2007 SENATE JUDICIARY

SB 2161

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2161

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 12, 2007

Recorder Job Number: 1129

Committee Clerk Signature

Maria A. Solberg

Minutes: Relating to registration of sex offenders, computerized sexual registration sites.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Sen. Robinson, Dist #24 – Introduced the bill (meter :08) This bill would put computerized registration in 10 sites in the 10 largest counties in ND. We have 1100 sex offenders, this includes the state hospital. Discussed fiscal impact of bill. We have 154 High risk sex offenders and the difficulty of tracking them. This bill will help with the “cracks” in the system are. The difficulty in the current verification process, this bill would put part of the burden on the offender to check in. Currently we are always trying to find them. Sited situations.

Sen. Nething asked if the only changes were in page 6? Yes that is the only new language.

Warren Emmer –Dir. Of Dept of Corrections Field Service Div. (meter 9:20) Gave Testimony – Att. # 1.

Sen. Nething questioned the location of the Kiosks. Discussion of locations being open 24 hrs/day and in a location that an officer can come out and talk to the individual if they need to.

Discussion on of statistics and the “2 week gap” the offenders. Discussion of what other states do.

Sen. Nething asked about the budget and how much was "start-up" money. 1 Million with \$800 thousand in start up fees.

Todd Dahle, Captain of Fargo Police Dept. (meter 15:14) Gave his testimony in support of the bill. The idea is to put some of the burden back on the offender. Gave details on reporting process and the difficulty they face trying to contact them. Many choose not to tell us of the forwarding address, it may be months till we find out. Another crack is people coming from another state to ND or "newly released" inmates. Discussion of finger prints and current photos.

Rick Majerus, Cass County Sheriffs office – (meter 19:00) Gave his testimony in support of the bill. Spoke of being on the "Governors Task Force" and how this bill would help with some of the major issues/concerns of the task force. His department handles 35 sex offenders.

Sen. Olafson asked how often they would have to check in (meter 21:34) – It depended on what "level" they were. He also questioned what the down side of this bill would be. Cpt. Majerus stated that if you relied on this system alone and did not do "home visits" also.

Debra Ness, Bismarck Police Chief (meter 24:46) Stated that this kiosk system also ties into the CJIS system and will enable several departments to communicate with the individuals activities.

Jonathan Byers, Attorney General's office (meter 25:28) We are in support of this bill. It is important to spend the money and do it the right way. AFIS & CJUS (finger print and criminal justice) systems combined. We do not have to depend on an office or location to "down load" the information, it is automatically done.

Keith Witt, Bismarck Police Dept. Chief spoke (meter 27:34) of his support also discussed his concerns with the homeless or the difficulties newly released individuals have finding a place.

Sen. Nelson asked how many offenders and what locations they were (meter 30:29) review of this.

Additional Testimony Submitted:

John Olson – ND Peace Officers Assoc. Att., #2

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

Sen. Nelson made the motion to Do Pass SB 2161 and refer to appropriations, **Sen. Lyson**

seconded the motion all members were in favor and the bill passes

Carrier: **Sen. Lyson**

FISCAL NOTE
Requested by Legislative Council
03/08/2007

Amendment to: Engrossed
SB 2161

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$1,046,080	\$262,236	
Appropriations				\$1,046,080	\$262,236	

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

As amended the bill provides for an appropriation for 10 kiosk sites if federal funds are available - for a study in the event federal funds are unavailable.

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

If federal funds are available for the sex offender registration kiosk project, one FTE is needed to help develop and maintain the system. Whether federal funds are available is unknown. General fund support will be needed in the 2009-11 biennium to maintain this project.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The appropriation in the bill reflects the amount of expenditures anticipated.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The bill contains the projected appropriation required to implement this bill, assuming federal funds become available.

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	03/08/2007

FISCAL NOTE
Requested by Legislative Council
02/14/2007

Amendment to: SB 2161

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The bill provides for a study in consultation with the Department of Corrections, Attorney General's office and other law enforcement agencies of computerized sex offender registration sites.

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

N/A

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	02/14/2007

FISCAL NOTE
 Requested by Legislative Council
 01/22/2007

Bill/Resolution No.: SB 2161

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$1,046,080		\$262,236	
Appropriations			\$1,046,080		\$262,236	

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The bill provides for the Attorney General to contract for and administer computerized sex offender registration kiosks at which sex offenders required to register can update their information for any name, school or address changes.

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

The bill includes a \$1,046,080 general fund appropriation to carry out the requirements of this legislation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This bill includes the anticipated appropriation needed to carry out the provisions of this bill. The bill includes the ten kiosks, kiosk software, changes to the Automated Fingerprint Identification System (AFIS) and the information repository to interact with the kiosks, Criminal Justice Improvement System (CJIS) changes needed to send messages regarding the sex offenders' registration, fingerprint device and software, one IT network position, and other related expenses.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See Expenditures for appropriation explanation.

The general fund appropriation was not included in the Executive Recommendation.

Name:	Kathy Roll	Agency:	Office of Attorney General
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Phone Number: 328-3622

Date Prepared: 01/23/2007

Date: 1-15-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2161

Senate _____ Judiciary _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass & Refer to Approp.

Motion Made By Sen. Nelson Seconded By Sen Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebigger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen Lyson

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

REPORT OF STANDING COMMITTEE (410)
January 15, 2007 2:32 p.m.

Module No: SR-09-0586
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2161: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

SB 2161

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2161

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 01/24/07

Recorder Job Number: 1765

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2161.

Senator Robinson introduced SB 2161 testifying in support of the bill. He indicated ND has 1100 sexual predators in various categories and this bill would establish ten computerized sexual predator registration sites throughout ND. The dollars in this bill would be appropriated to the Attorney General, three fourths of the initial cost would be used to purchase and set up kiosks in the major cities and the balance would be used to operate the equipment. In future bienniums we would be looking at using a different amount to continue operating the equipment. The offenders are required to register in the state and notification is to be made to the communities they reside in. Keeping track of these people is taxing on the law enforcement agencies. He described the information that would be entered into the system and the process that would be used.

Warren R. Emmer, Director, Department of Corrections Field Services Division, presented written testimony (1) in support of SB 2161, describing some select crimes, the new sex offender specialist parole officers, what enactment of SB 2161 would allow law enforcement to do, how the registration sites would impact law enforcement and stressed that the information obtained would be invaluable to law enforcement.

Senator Grindberg asked that Mr. Emmer create an illustration as to how this equipment would be implemented and asked what would make the sexual predators comply.

Senator Christmann asked if the offender was no longer on probation or the supervision reporting time had expired, what would inspire individuals to comply with registration, and how does the computer know if the individual is lying in response to specific questions.

Senator Robinson asked how law enforcement tracks these people now.

Todd Dahli, Police Captain , Fargo, indicated he has 150 offenders to keep track of and needs to visit them three times a year, most of the offenders are not under supervision and are transient.

Senator Mathern asked about locations of kiosks.

Senator Krauter questioned the attorney generals authority to go back and get people to register and what happens when offenders come from other states.

Senator Grindberg asked if this will be part of the national data base, has there been coordination with the national data base.

Rick Majerus, Captain, Cass County Sheriff, testified in support of SB 2161, indicating that he has 35 offenders in his county and checks on them 3-4 times a year. He indicated that it is not only the people living in ND that he checks on, but those living in other states and working in North Dakota.

Senator Mathern asked if it would be easier in rural areas if the offender had something on their body that would indicate their location.

Johnathan Byers, Attorney General, testified in support of SB 2161, indicating what the process is for the offenders registering, what triggers checking on the offender , what the difference would be if the kiosks are placed in operation and responded to several concerns.

Senator Mathern asked about the next level of technology

Senator Robinson asked about using the monitoring equipment 24 hours 7 days a week and would the costs be prohibitive.

Senator Krauter asked about the fiscal note and where the kiosks would be placed and if the Attorney General's office can require different types of information without further legislation.

Senator Christman asked if there are any civil rights issues that need to be looked at and do we have access to put these on reservations.

Deborah Ness, Chief, Bismarck Police Department, testified in support of SB 2161 indicated she participated in the commission discussing the kiosks. Bismarck presently monitors 130 offenders and as a law enforcement agency Bismarck is not set up to do this type of correctional work. She further gave background information as to what led to introducing this bill. In looking at this program, if someone registers at one site the information is available statewide.

Officer Derrick Zimmel, Grand Forks, testified in support of SB 2161, indicating he chases sex offenders and this system would enable officers to know if offenders are non-compliant. The hearing on SB 2161 closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2161

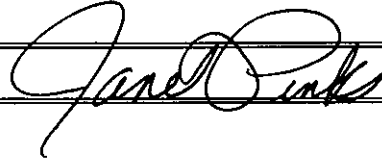
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02/12/07

Recorder Job Number: 3368

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2161 and distributed amendments to be reviewed.

Senator Wardner moved a do pass on the amendment 0101. **Senator Kilzer** seconded.

Discussion followed indicating the sex offender situation is a serious issue. An oral vote was taken resulting in a do pass.

Senator Bowman moved a do pass on SB 2161 as amended. **Senator Christmann** seconded. No discussion was held. A roll call vote was taken resulting in 8 yes 6 no 0 absent. The bill will be carried by **Senator Kilzer**.

Chairman Holmberg closed the hearing on SB 2161.

Date: 2/12
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as Amend

Motion Made By Bowman Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter		✓
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas		✓
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern		✓
Senator Randel Christmann	✓		Senator Larry J. Robinson		✓
Senator Tom Fischer	✓		Senator Tom Seymour		✓
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		✓
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 9 No 6

Absent _____

Floor Assignment Kilzer

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

REPORT OF STANDING COMMITTEE

SB 2161: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the feasibility and desirability of implementing a system of computerized registration sites for criminal offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - COMPUTERIZED REGISTRATION SITES FOR CRIMINAL OFFENDERS. The legislative council shall consider studying, during the 2007-08 interim, in consultation with the department of corrections and rehabilitation, attorney general's office, and other law enforcement agencies, the feasibility and desirability of implementing a system of computerized registration sites for certain criminal offenders."

Renumber accordingly

2007 HOUSE JUDICIARY

SB 2161

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2161

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4312

Committee Clerk Signature

Al Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2161.

Sen. Larry Robinson: Sponsor (see attached testimony).

Rep. Delmore: How did you choose the number of 10 kiosks?

Sen. Larry Robinson: The number was, perhaps, a bit arbitrary but we have 10 cities that are typically identified as the largest cities in ND, they are spread out geographically across the state and we felt that those 10 locations would provide reasonable means of access to the kiosk. Now some on the Senate side, let's just do one on a pilot. The fact is you invest the money anyway. It is an economy of scale, you need the system in place, and you're not saving much, if any money. So the proposal was 10 cities, the largest 10 cities in the state and we would go from there. Not to say that there aren't predators in rural ND, but basic employment in most cases goes to the 10 metropolitan areas across the state of ND.

Rep. Delmore: Are there any neighboring states that have these kiosks.

Sen. Larry Robinson: I don't believe we have neighboring states, but I do know that we have states that we can reference. Maryland is one and there are others. I don't have that information with me that have implemented systems such as this and frankly, have found them to be very effective. I might add that this technology opens the door for a host of other

applications, but that kind of clouds the picture right now. The emphasis here is sexual predators, but we have 5,000 folks on parole and probation. We're on the verge of breaking at the seams in that area; 5,000, that's growing by 50 or 60 every month. Down the road, that might be another application of this technology.

Rep. Delmore: Who will man the kiosks, who will pick up the cost of that?

Sen. Larry Robinson: I can't speak to that specifically, but Chief Ness from the Bismarck PD and Mr. Kimmet from BCI is here that can speak to the specifics on how the bill would work. The price tag is accurate and for that we have our installation and ability to maintain the system for the next two year time period.

Rep. Delmore: Is there a possibility of tying the kiosks also to the tracking of the sexual offenders. It is one of the things we talked about last session, as far as where their position and exact location, and so on.

Sen. Larry Robinson: I am going to defer that to Chief Ness. The application here, I was intrigued in visiting with folks from local law enforcement. They want to do a better job. They are limited by resources. If we're not going to provide more resources in terms of FTE's, this is a very good option that would allow us to better utilize the resources we have. Once again, now we're trying to track and make contact with all of these folks across the state. They're not going to forget about those that register and check in at the kiosk, but they can devote more of their resources to those that don't, or those that provide false information. Keep in mind that we have folks traveling through the state all the time; it is a highly mobile population. Clearly, this issue is on everyone's radar screen. We have another bill this morning, folks the time is now. I hope that we not put this off and take a look at it. We know the issue, we know the risk, we know the problem, here's the solution.

The tape could not be heard due to battery failure of microphone.

Rep. Koppelman: You're saying that we have all these people who are supposed to be registered, some are not registering, these kiosks would give them an easier option to register, is that essentially the purpose.

Sen. Larry Robinson: As I understand it, we would put ourselves in the situation where law enforcement would include that as part of the agreement for your parole and probation. It's subject to your regular contact with this kiosk. If you fail to do that, we can bring you back in under our direct control. It provides that means, we're not talking 50 or 60 here, we're talking several hundred and it's a growing population.

Rep. Koppelman: But they are required to register now, as you mentioned earlier, that those who do not register you go out and track down. Are we talking strictly about a personnel cost here in saying this is easier, but it is mechanized or something.

Sen. Larry Robinson: I follow your question. I don't have the exact answer; I am going to defer that to Mr. Kimmet and Chief Ness. They can talk about the requirements that are in place right now. I think you will find that there are some loopholes in the system, largely due to resources and realistically, how many can we track. This technology will greatly enhance our ability to keep a handle on a significantly larger percentage of that population.

Chairman DeKrey: Thank you. Further testimony in support.

Charles Placek, for Warren Emmer, DOCR: (see attached testimony).

Rep. Delmore: Who would man the kiosks?

Charles Placek: I defer to Chief Ness.

Rep. Klemin: The money, where will it come from.

Charles Placek: Recently, additional federal funding from DOJ will be coming down the line concerning the Adam Walsh federal bill, which will help in gathering information and results in a better registration. That information has been made available to us at the Interstate

Commission for Adult Offender Supervision, which is the interstate compact of offenders going across parole and probation across state lines. An independent committee of that commission took a look at sex offenders traveling across state lines. As a result of that committee, and the information that they are gathering, it is estimated that there will be funds.

Rep. Wolf: Where will the kiosks be located?

Charles Placek: It is my understanding that they will register in the sheriff or police lobbies. We want to get that automated line on the state's backbone for technology.

Chairman DeKrey: Thank you. Further testimony in support.

Chief Deborah Ness, Bismarck Police Department: The offender should be responsible to come to law enforcement and register. This system would mean real time information – law enforcement would still check on them but this would enable them to pursue the ones that don't register and track them down. We would put the kiosk in the law enforcement lobby and it was talked about to put one at the prison where the prisoners could be trained on the system before they leave the prison. This would fall under CJIS. ND would be the first state to register sex offenders in this manner.

Rep. Delmore: What is the percentage or # of people who aren't registered?

Chief Ness: That is hard to track; sex offenders usually don't have an address. Unless they come to our attention through some other means, it is hard to find them.

Rep. Delmore: Who will be monitoring the kiosks?

Chief Ness: It would be a collaborative effort, the computer would be set up to notify us when they input false information, and then we would follow up.

Rep. Koppelman: What is the primary purpose, machine vs. person?

Chief Ness: It will allow local agencies to use their manpower more efficiently, because there are 121 registered sex offenders who are low risk, we wouldn't have to put time into tracking

them, because they would come in and use the kiosk on a regular basis. This would allow us the time to be able to track the moderate and high risk offenders who don't register on a timely basis. This would also allow us to have evidence to show to the court if we have to bring them in.

Rep. Koppelman: This is required now, would the kiosk improve the efficiency.

Chief Ness: It is a burden on law enforcement now; the kiosk will be available to the community and will be linked to all cities across the state, to track them faster in real time.

Rep. Koppelman: Could this be done on line for less cost.

Chief Ness: We did look at a system where a stand alone computer would be used, but it wouldn't be capable to be hooked into CJIS system and track across the state. CJIS is the backbone. Also the offender would have to have access to a computer, and sometimes they aren't allowed to have access to a computer as part of their probation or parole.

Rep. Klemin: Are kiosks available, it was testified earlier that ND would be the first to use this system.

Chief Ness: States use the kiosks now, and they are available, ND would be the first state to use it for sex offender registration and tracking.

Rep. Klemin: With new computer programming, there is a learning curve, and what happens when they break down, will there be instruction.

Chief Ness: We are hoping that there would be a kiosk at DOCR so that they would learn the system before they leave the prison system. They would learn it under supervision. If there was equipment failure, it would be fixed.

Rep. Charging: If they aren't checking in, is there a penalty; whether it be by kiosk or not. How would this change that?

Chief Ness: It would be used as evidence for courts, for a person to be charged and revoked.

Rep. Charging: Obviously they are taking a risk now by not registering. Will these ease up?

Chief Ness: This is one more tool for us to use to track the sex offenders and use our resources more efficiently.

Rep. Delmore: How would you track more serious offenders who don't check in?

Chief Ness: We physically go out and check on the high and moderate risk offenders.

Rep. Delmore: There aren't tracking devices on people.

Chief Ness: There could be a containment group where they would be electronically monitored. There are 22 across the state now.

Rep. Delmore: So it lets you know when they leave the area.

Chief Ness: They are required to let us know if they move.

Rep. Boehning: Does registering depend on the level of risk.

Chief Ness: We would like to see it be a part of their sentencing and we make a recommendation to the court.

Rep. Boehning: Are these used around the country, what would be the timeline.

Chief Ness: We want to have this accomplished before they are released, that way they would know how to enter the information, etc. It should take less time for them to enter the information than before, when we had to interview them in person and enter the information at that time. This should cut down on that.

Rep. Boehning: What is the timeline for the kiosk?

Chief Ness: The information would be in the computer; they come in and update it. It would take a matter of minutes, I don't foresee a problem.

Rep. Onstad: What is the percentage or numbers of sexual offenders who live in towns vs. rural areas?

Chief Ness: There is a larger population in the cities.

Rep. Onstad: How many sex offenders aren't registered, do you have any idea.

Chief Ness: Not really.

Chairman DeKrey: Thank you. Further testimony in support.

Jonathan Byers, AG's office: We have at any given time about 3% of our offenders that are delinquent, that is a pretty low percent. If we have 1,000 registered offenders at one time, we might have 30 who are not compliant with the registration obligation, they either didn't register or didn't indicate their address when they were released or gave false information. An example of why the kiosk will work, and what isn't being done right now, let's say we have an offender that lives in Mandan, and he knows that because of the fact that every time he registered before, it puts heat on him. If he decides to move to Bismarck and not going to tell anybody, so I won't have the scrutiny on me, when I do that, if anybody catches me doing that, I'll just play stupid and say that I forgot that I had to report address changes. The way the kiosk will work to prevent that, is that every month that offender has to go in and say that he's still living in Mandan, so he won't be able to play stupid and say that he forgot, because he'll have to do it every month. Let's say it takes 13 months to catch him, that will be 13 felonies to charge against him. Offenders will know I'm not going to be able to give wrong information; I'm going to have to report correct information. The reason why an on-line system won't work, is to we need to be able to identify who is providing the information. That's why we don't rely on the postal service because somebody could be still getting mail at that address, because someone is collecting their mail, such as a mother, etc. If you use an on-line system, all somebody would need is someone's password and they could report for the offender. It also

wouldn't be able to identify where that offender is registering that information from. They could live anywhere and provide a wrong address. I think having the system where there is a computerized entry of information, for a person having to enter that on the front end, it also saves time on the other end because the BCI people wouldn't have to type in the information as well. It also saves time delay. If we have a hard copy form from a defendant who filled out a form, and then there is a time delay for the information to be disseminated among the other agencies in the state.

Rep. Boehning: Will there be ongoing costs in the next biennium.

Jonathan Byers: I believe the breakdown of when we were talking about the million dollars was that about \$800,000 of that was for original start up costs; \$200,000 per biennium possibly would be the cost to keep it going. I believe that there will be federal funds available from the Adam Walsh Act that might help offset some of these costs.

Chairman DeKrey: This would free up local law enforcement and lift the burden from them having to go after all the offenders.

Jonathan Byers: I believe it would. Using a system like this would help us identify more offenders who may be non-compliant and to bring those into the system when they find out that for giving false information, they are in more trouble.

Rep. Klemin: It talks about funding from "other sources". What would that entail?

Jonathan Byers: I don't know if there was anticipation of city or county contribution.

Rep. Klemin: Well, funds not received by 9/1/07 is pretty unrealistic isn't it.

Jonathan Byers: That is pretty ambitious. Perhaps it should read "awarded" rather than received. It is unlikely that it would be received by that date, but it could be awarded. The

Adam Walsh Act was signed last summer, so by September 1 it would have been about 14

months in the works. Hopefully, by that time, they would have a better idea of what the funds are that the states could apply for.

Rep. Klemin: So this isn't automatic, you have to apply for the funds.

Jonathan Byers: Yes, it is an application process. From some of the wording in the Adam Walsh Act, it looks like it is intended to provide the awards to the states that have an organized, demonstratable project and that's why this is so important to get us first in line.

Rep. Klemin: Why is there a cutoff date?

Jonathan Byers: I don't know why they chose that date, I don't have any idea.

Rep. Koppelman: Is there a trigger date for the federal government.

Rep. Charging: October 1 is the federal government start of a new fiscal period.

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

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2161

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4374

Committee Clerk Signature

D. Penrose

Minutes:

Chairman DeKrey: We will take a look at SB 2161. What are the committee's wishes.

Rep. Delmore: I move to amend the bill with the Sen. Robinson's amendments, and to further amend on page 1, line 5, replace "received" with "awarded".

Rep. Koppelman: Second.

Chairman DeKrey: Voice vote, motion carried. We now have the bill before us as amended. What are the committee's wishes.

Rep. Delmore: I move a Do Pass as amended and rereferred to Appropriations.

Rep. Koppelman: Second.

12 YES 0 NO 2 ABSENT

CARRIER: Rep. Koppelman

DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2161

Page 1, line 1, after "provide" insert "an appropriation to the attorney general for computerized sexual offender registration kiosks and to provide"

Page 1, after line 3, insert:

"SECTION 1. APPROPRIATION. There is appropriated from special funds derived from federal funds or other sources, not otherwise appropriated, the sum of \$1,046,080, or so much of the sum as may be necessary, to the attorney general for ten computerized sexual offender registration sites, for the biennium beginning July 1, 2007, and ending June 30, 2009."

Page 1, line 5, replace "The" with "If notified by the attorney general that federal or other funds have not been ~~received~~ as of September 1, 2007, the"

awarded
Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides an appropriation to the Attorney General for computerized sex offender registration kiosks and provides for a Legislative Council study on the feasibility and desirability of the kiosks if the funding is not received by September 1, 2007.

Date: 3/5/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended + Rereferred to Approps.

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning			Rep. Meyer		
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Koppelman

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

REPORT OF STANDING COMMITTEE

SB 2161, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 1, after "provide" insert "an appropriation to the attorney general for computerized sexual offender registration kiosks; and to provide"

Page 1, after line 3, insert:

"SECTION 1. APPROPRIATION. There is appropriated from special funds derived from federal funds or other sources, not otherwise appropriated, the sum of \$1,046,080, or so much of the sum as may be necessary, to the attorney general for ten computerized sexual offender registration sites, for the biennium beginning July 1, 2007, and ending June 30, 2009."

Page 1, line 5, replace "The" with "If notified by the attorney general that federal or other funds have not been awarded as of September 1, 2007, the"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides an appropriation to the Attorney General for computerized sex offender registration kiosks and provides for a Legislative Council study on the feasibility and desirability of the kiosks if the funding is not received by September 1, 2007.

2007 HOUSE APPROPRIATIONS

SB 2161

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2161

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 3/19/07

Recorder Job Number: 5271

Committee Clerk Signature

Amya A. Voegele

Minutes:

Chairman Carlson opened discussion on Senate Bill 2161.

Representative DeKrey spoke in support of the bill.

Chairman Carlson: Where did you get the date of September 1, 2007 from?

Representative DeKrey: We asked the same question. That is the date law enforcement came to us with.

Senator Robinson spoke in support of the bill.

Chairman Carlson: Right now there is no fiscal note to the bill. It is just if they get the money they are going to use it, if not we are just granting them authority to spend basically is what we are doing.

Senator Robinson: What happened on the Senate side because of the fiscal note it was turned in to a study. Immediately local law enforcement people said "Please we need this is there some way of keeping it alive." There was some thought of well let's narrow it down lets just do two cities or what ever and have something in place. Fargo or Bismarck. The fact is to implement a system like this the economy is a scale are not there. The cost is putting a system

in place. You could implement two or three and not spend a whole lot less money. You need to spend the initial investment. Shortly thereafter, I was approached and was told that they had been in touch with folks on the federal level and because of everything that is going on in this area this is not only an issue that is high on the radar screen of North Dakota, it is across the country. He was convinced that the potential for federal funding.

Chairman Carlson: Are other states doing this?

Senator Robinson: There are states that are in this area?

Chairman Carlson: Do they have a kiosk like this?

Senator Robinson: Yes they do with a very similar application with a very high degree of success. With results that they received they realized that these folks that they collect the information from are telling the truth. It is one of those things where if you tell the truth it will keep law enforcement of your back. They might have a situation where some have to check in maybe monthly, some every other week and maybe some weekly. They come to us. We are not running them down.

Chairman Carlson: If they don't show up we run them down.

Senator Robinson: But with that they have a smaller audience. When you go out to check on these people they don't meet you at the front door.

Representative Skarphol: Can you give me a brief summary of how this works? Is the kiosk manned? Is there someone at this kiosk or can they just walk up to this kiosk and use it? If they can just walk up and use it, what is the chance that they will just give the information to someone else and having someone else enter it and they are long gone?

Senator Robinson: This kiosk not only registers your finger print, but retinol data as well so they know the person is there. You try to work the system it is not going to work. It is not manned but it does take their picture.

Chairman Carlson: We are going to stick with the money part and there really isn't any money I think our committee agrees that it is a good concept. I am not hearing anybody asking for money other than the permission to spend it if it shows up.

Senator Lyson spoke in support of the bill.

Representative Skarphol: Representative DeKrey, why would you put a September 1, 2007 deadline on it? What if the money comes in ten days later?

Representative DeKrey: We had this discussion in committee too. The people bringing us the bill were satisfied with that date so we didn't change it. If you guys change the date, that is up to you.

Representative Williams: I am looking at our docket for today. The state is not at risk here they are just asking for authorization. They are satisfied with the date. I would like to just make a motion to just pass the bill as amended.

Chairman Carlson: Before we take a second we will go to Representative Skarphol.

Representative Skarphol: I think we can do both. I think we can change the date so that if they get the money later then the study can be changed, to study the effectiveness of having these kiosks in place.

Chairman Carlson: The two of you come up with a date and we will make a motion and we will combine your motion with your date and we will have the bill down the road.

Representative Skarphol: I think that even if we do get the money I think it would be good to have a study done of the effectiveness of this. We could have the study what is suggested in the bill or the effectiveness of implementing the kiosk program so they have some follow up data as to how effective it is so we have some basis next session if the federal dollars are not

there as to whether or not we want to expand it or continue it as is or what we want to do with it.

Allen Knudson: In regard to the money, if the money is not received by September they could use it after that date too because the appropriation is for the biennium.

Chairman Carlson: So it doesn't make a difference when the money comes?

Allen Knudson: No they can still spend it.

Representative Kroeber: The alternative to incarceration section will be in session next time as it is a two year project. This could be added to that committee.

Senator Robinson: Keep in mind we are looking at sexual predators here. As we speak we have 5000 on parole and probation. That is a whole area that could be well served.

A motion was made by Representative Williams, seconded by Representative Carlisle for a DO PASS recommendation to the full committee. The committee vote was 8 Yeas, 0 Nays and 0 Absent and Not Voting. The bill will be carried by Representative Williams.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2161**

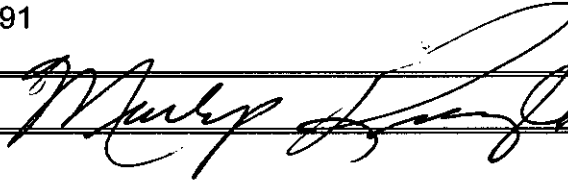
House Appropriations Committee

Check here for Conference Committee

Hearing Date: 3/21/07

Recorder Job Number: #5391

Committee Clerk Signature



Minutes:

Chairman Svedjan: The hearing for SB 2161.

Rep Williams: SB 2161 was submitted at the request of the Attorney Generals Office. In its original form it called for 10 Kiosks, 1 to be out at the State Prison and 9 others to be placed strategically at major areas around the state. The purpose is to voluntarily have sex offender check in and save a lot of time for Parole Officers. The Senate, because of the FN-about the million 49 thousand dollars, put it into a study. When it came over to the House, the Judiciary Committee amended the bill and put in the Section 1 that calls for the million forty-six be confined it in Federal Grants. It gives them the authority to provide the 10 kiosk around the state and the state prisons. If by Sept 1, 07 provided a window it would turn it into a study for the interterm. The GOP Committee gave this a do pass and we hope you will concur.

Chairman Svedjan: So you are moving a "Do Pass"?

Rep Williams: Yes

Rep Skarphol: I will second the motion

Rep Bellew: Explained the General Funds for the next biennium for me.

Rep Williams: If they do get 10 kiosks for the administration of those kiosks and setting them up and every thing, In the O9-11, there is an appropriation put in there and it came that way from the House Judiciary for that training.

Chairman Svedjan: But this bill does not commit us to that. Just a projection as to what that would cost.

Rep Wald; Has this been tried in any other state?

Rep Williams: Yes it has. It has a retinal scan and fingerprinting device on it and they would check in and would be fool proof and has been very successful.

Rep Wald: The sex offenders are coming forward voluntarily. We still are policing those who do not come forward.

Rep Williams: if they choose not to do it the parole officer is still going to have to go out in a timely fashion. It is designed to limit the number of times going out and checking on these people.

Rep Wald: So it is up to the Parole Officer to increase their sentenced if they do no show up there will be an additional penalty.

Rep Williams: No it would go to the back a judge. The judge is the one who gives out the sentence.

Rep Carlson: The further clarification on that is it part of their sentencing, probably would be that you would have to report to this kiosks once a wk or what ever time frame. If they do not report to these that is where there are problems.

It is all Federal Money if we get it and we don't even know if we will get it.

Chairman Svedjan: It is a monitoring program; it really has nothing to do with prevention of another occurrence.

Rep Williams: That is correct. That is why if they don't comply, the parole officer notifies the judge they are in violation and that is why it is effective.

Rep Kroeber: They can make it part of their parole that they have to do this. The key to this is that those that do report as they should they don't have to take the time to find them.

Chairman Svedjan: I wonder what this would do to the impact on the need for Parole Officers.

Does it have an impact on how many will be needed?

Rep Kroeber: This would help the Parole Officers and not increase amount time checking on them.

Rep Wald: I am assuming this is gender neutral?

Rep Williams: absolutely

Roll call was taken as "Do Pass on the engrossed bill" with a 24 yes, 0 no and 0 absent.

Rep Koppelman was the carrier.

Date: 3/19/07

Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

House _____ Appropriations- Government Operations _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Williams Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson	✓		Vice Chairman Ron Carlisle	✓	
Rep Keith Kempenich	✓		Rep Bob Skarphol	✓	
Rep Blair Thoreson	✓		Rep Eliot Glassheim	✓	
Rep Joe Kroeber	✓		Rep Clark Williams	✓	

Total Yes 8 No 0

Absent _____

Floor Assignment Williams

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

Date: 3/21/07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Imposed SB 2161

Motion Made By Williams Seconded By Shupler

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleon	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 24 No 0

Absent 0

Floor Assignment Williams Rep. Koppelman

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2007 4:15 p.m.

Module No: HR-53-5985
Carrier: Koppelman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2161, as engrossed and amended: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS (24 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2161, as amended, was placed on the Fourteenth order on the calendar.

2007 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2161

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2161**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: April 9, 2007

Recorder Job Number: 5836

Committee Clerk Signature

Mona L. Solbey

Minutes: Relating to registration of a sex offender, computerized sexual registration sites.

Senator Lyson, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

Sen. Lyson stated that he was told prior to the meeting that all the funds were taken away from the bill by appropriation. **Rep. Carlisle** stated that the amendment allows the Attorney

General's office if funding can come from another source this would be a window of opportunity for them to take advantage of it. If the money is not available it will turn it into a study only. They discussed this and how while they like the idea, but the bottom line was the money. They spoke of the availability of the other money and what other states are doing this.

Sen. Olafson made the motion that the Senate accedes to the House amendment and **Sen.**

Marcellais seconded the motion. All members were in favor and the motion passes.

Sen Lyson, Chairman closed the hearing.

Date: 4-9-07
Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2161

Senate _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Senate Accede to the house Amend

Motion Made By Sen. Olafson Seconded By Sen. Marcellais

Senators	Yes	No	Representative	Yes	No
Sen. Lyson	✓		Rep. Carlisle	✓	
Sen. Olafson	✓		Rep. Carlson	✓	
Sen. Marcellais	✓		Sen. Williams	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

REPORT OF CONFERENCE COMMITTEE

SB 2161, as engrossed: Your conference committee (Sens. Lyson, Olafson, Marcellais and Reps. Carlisle, Carlson, Williams) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1076 and place SB 2161 on the Seventh order.

Engrossed SB 2161 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2161

AH #1
1-15-07

**SENATE JUDICIARY COMMITTEE
SENATOR DAVE NETHING, CHAIRMAN
JANUARY 15, 2007**

**WARREN R. EMMER, DIRECTOR
DEPARTMENT OF CORRECTIONS,
FIELD SERVICES DIVISION
PRESENTING TESTIMONY RE: SB 2161**

Good morning Mr. Chairman and members of the committee. For the record, my name is Warren Emmer. I am the director of the ND Department of Corrections, Field Services Division. The Department of Corrections stands in support of Senate Bill 2161.

The tragic abduction and murder of Dru Sjodin proved to be a wake-up call for all of us. The legislature responded by enhancing criminal penalties for sex offenses. Both law enforcement and corrections responded by enhancing the resources they provide to the supervision and management of sex offenders.

In our case, corrections added seven new sex offender specialist parole officers to the supervision of sex offenders, developed a dynamic pre-sentence investigation process for the court and initiated the use of GPS electronic monitoring tool for sex offender management. Our law enforcement partners increased their surveillance of sex offenders that reside in their communities. They, along with us, also initiated the development of Sex Offender Containment Task Forces. The task forces allow us to work collaboratively on all matters concerning sex offender behavior.

Senate Bill 2161 will allow law enforcement and corrections to enhance the level of work that we do collaboratively. This legislation anticipates that automated self-registering kiosks would be made available to all sex offenders required to register with the Attorney General's Office. The kiosks would be located in all of our larger communities, across the State of North Dakota.

Individuals requiring to register on the automated kiosks would be asked a series of questions, once they have established their identity by utilizing a secure PIN number as well as having their fingerprint scanned by the kiosk device. Upon establishing the registering offender's identity, the offender would then be asked the questions established by the Attorney General's Office.

The questions asked might address issues concerning:

1. The offender's residence
2. Vehicles operated by the offender
3. Employment of the offender,
4. Offender contact with children,
5. Offender contact with law enforcement,
6. Other pertinent issues.

Upon completing the kiosk reporting, the computer-driven system would provide the offender with additional instructions. Examples of instructions to the offender might include:

1. Requiring the sex offender for an updated picture of him or herself.
2. Asking that the offender meet personally with a law enforcement official.
3. Notifying the offender of future reporting dates.

The information provided to law enforcement and corrections through the process noted above will prove invaluable. We will have real-time information concerning sex offenders. We urge your support for this very important piece of legislation.



John M.
Olson, P.C.
Lawyer

Att #2
1-15-07

418 East Broadway, Suite 9 • Bismarck, ND 58501
Phone: 701-222-3485 • Fax: 701-222-3091
Email: olsonpc@midconetwork.com

January 14, 2007

Senator Dave Nething
Chairman, Senate Judiciary Committee
North Dakota State Capitol
600 East Boulevard Avenue
Bismarck ND 58505

Re: Senate Bill 2161

Dear Senator Nething

Be advised that I represent the North Dakota Peace Officers Association. Senate Bill 2161 provides for computerized sexual offender registration at various North Dakota sites, and also provides for a corresponding appropriation for a sum of money to fund this endeavor. As you and the Committee members are aware, sexual offender registration has significantly increased over the years and this bill will utilize information technology so that law enforcement and public safety purposes can be enhanced in tracking individuals who are required to register.

The Committee's favorable consideration of this bill is greatly appreciated. If you have any questions, please do not hesitate to contact me.

Sincerely,

John M. Olson
Lobbyist #256

cc: Senate Judiciary Committee members

AH #1
1-23-07

TESTIMONY OF
ROBERT BENNETT, ASSISTANT ATTORNEY GENERAL,
REGARDING SENATE BILL NO. 2261

Mr. Chairman and members of the Senate Judiciary Committee, I am Robert Bennett, assistant attorney general, appearing in favor of adoption of Senate Bill No. 2261.

Senate Bill No. 2261 allows a local governing body or the Attorney General to obtain reimbursement of some costs of administrative license proceedings against an alcoholic beverage licensee found to have violated the alcoholic beverage laws of the State of North Dakota.

Two retail alcoholic beverage licenses are required before a person may engage in the retail sale of alcoholic beverages in this state. These licenses consist of a "local" license issued by the local governing body, and a "state" license issued by the Attorney General. A "local governing body" is the governing entity of a city, a county, or a federally recognized Indian tribe in this state.

N.D.C.C. § 5-02-10 authorizes a proceeding to be commenced against a retail alcoholic beverage licensee for violation of the state alcoholic beverage laws. This proceeding is initiated by an affidavit upon which the local governing body or the Attorney General may issue a complaint to suspend, revoke, or take other action against a retail alcoholic beverage license.

An administrative license proceeding by the local governing body would concern the local license issued by that governing body. Any action pursued by the Attorney General would relate to the state, and not the local, license.

Tonight, I will be discussing the procedures that have been followed by the Attorney General regarding the suspension or revocation of a state retail alcoholic beverage license.

The Attorney General may receive an affidavit, with attached investigation reports, from a city or county attorney setting forth a violation of the state alcoholic beverage laws by a current holder of a state retail alcoholic beverage license. Once the affidavit has been received, it will be reviewed to determine whether it meets the requirements of law and supports an administrative action against the license.

An administrative complaint will then be prepared and served upon the licensee. A proposed order and a waiver of hearing is also served with the administrative complaint providing the licensee with notice that if a hearing as provided in N.D.C.C. § 5-02-10 is waived, the Attorney General will impose the suspension or revocation of the state retail alcoholic beverage license as specifically described in the proposed order.

If the state licensee agrees to the provisions of the proposed order, the licensee will then return a signed waiver of hearing with an agreement that the proposed order may be entered. Upon receipt of the hearing waiver, the Attorney General, or the Deputy Attorney General, will issue the order.

If the licensee does not waive a hearing on the complaint, the licensee will provide an answer to the complaint and a hearing will be scheduled before an administrative law judge in the county in which the licensee is licensed to do business.

The administrative law judge, an assistant attorney general, and any witnesses necessary to establish the violation set forth in the administrative complaint will appear at

the hearing. The licensee and the licensee's legal counsel may also appear, call witnesses, and present evidence to oppose the complaint.

After the hearing, the administrative law judge will then make a written recommendation to the Attorney General regarding an order to be entered. The hearing exhibits and an audiotape of the testimony will be submitted to the Attorney General for the Attorney General's review prior to issuance of an order. The Attorney General issues the final order.

The administrative law judge presides at the administrative hearing at a cost to the Attorney General. The Attorney General must pay an hourly rate for the services of the Office of Administrative Hearings from the initial request for hearing until the recommended order is submitted to the Attorney General. That rate is now \$95.25 per hour.

The Office of Administrative Hearings costs, depending upon the location of the hearing, may be in excess of \$1000 for a single hearing.

Senate Bill No. 2261 allows a local governing body or the Attorney General to receive reimbursement for some of the costs incurred in holding an administrative hearing conducted pursuant to N.D.C.C. § 5-02-10 if the licensee has been found to have violated the state alcoholic beverage laws. These costs would include witness fees and expenses and the cost incurred by participation of the Office of Administrative Hearings, but the expenses would not include attorney fees.

In the case of proceedings conducted by the Attorney General, the assessment of out-of-pockets costs would not be automatic. However, this would be a five step process:

1. The Attorney General would determine if, and what, out-of-pocket costs will be assessed against the licensee;
2. An itemized list of the costs will be provided to the licensee before assessment;
3. The licensee may object to the assessment of the costs, in whole or in part;
4. The Attorney General will review the objections to the assessment of costs before assessment; and
5. The Attorney General may then assess the out-of-pocket cost to the licensee.

The assessment of costs incurred by an agency or board in an administrative proceeding brought against one of its licensees is not uncommon. Among the many licensees that are subject to reimbursement for administrative costs by their licensing boards are peace officers (N.D.C.C. § 12-63-16), podiatrists (N.D.C.C. § 43-05-16.7), funeral service practitioners (N.D.C.C. § 43-10-16), pharmacists (N.D.C.C. § 43-15-45), physicians (N.D.C.C. § 43-17-31.1), veterinarians (N.D.C.C. § 43-29-16), private investigators or persons providing private security services (N.D.C.C. § 43-30-12), occupational therapists (N.D.C.C. § 43-40-16.2), respiratory therapists (N.D.C.C. § 43-42-03), and counselors (N.D.C.C. § 43-47-07.1).

The impact that Senate Bill No. 2261 will have upon state alcoholic beverage licensees may be minimal. Few complaints issued by the Attorney General against state alcoholic beverage licensees for violation of the state alcoholic beverage laws proceed to a formal administrative hearing. Since I became personally involved with handling alcoholic beverage license complaints in the late summer of 1999, the Attorney General has issued

119 administrative complaints. Of these 119 complaints, six administrative hearings have been held in which the administrative license action was contested. The remaining complaints have been resolved without a formal hearing. Most local governing bodies will initiate their own administrative actions against the local retail alcoholic beverage license or resolve the local licensing issues without involvement of the Attorney General.

Senate Bill No. 2261 provides an opportunity for the Attorney General and a local governing body to obtain reimbursement for certain costs of administrative license proceedings brought against their respective licensees who have violated the state alcoholic beverage laws. Senate Bill No. 2261 does not deprive or prevent a licensee from requesting and obtaining a hearing from the local governing body or the Attorney General. Rather, this bill authorizes a local governing body or the Attorney General to obtain reimbursement of a portion of the costs expended in the administrative license proceeding from a licensee who has been found to have violated the state alcoholic beverage laws, just as is permitted by other licensing agencies or boards.

The Attorney General requests your favorable consideration of Senate Bill No. 2261.

Sen. Robinson

Senate Bill 2161 Kiosks

The bill before you today is a result of discussions that I have had with several members of the law enforcement community in North Dakota. The proposal embedded in Senate Bill 2161 would be to establish 10 computerized sexual offender registration sites across the state. The bill has a fiscal impact of \$1,046,080. for the 2007-2009 biennium. The dollars would be appropriated to the Office of Attorney General. Approximately $\frac{3}{4}$ of the initial cost would be used for the purchase and set up of the "kiosks" in our state's major cities. The balance would be for the operation of the equipment.

Mr. Chairman and members of the committee. It is my understanding that North Dakota has over 1,100 sexual predators. They are in various classifications. Some are incarcerated at the State Hospital in Jamestown. Others are located across the state. Of the total number outside of the State Hospital, there are 154 that are classified as high risk. Needless to say, we have serious challenges trying to "track" these individuals.

The statute governing registration of offenders requires the offender to register with the law enforcement agency where he/she is living, working, or attending school. This information is subsequently forwarded to the Office of Attorney General for inclusion into the statewide data base of offenders. In addition, the law enforcement agency is required to do public notification of high risk offenders and also to do notification to certain persons or groups of moderate risk offenders.

Needless to say, the verification and tracking of our sexual offender population is taxing on our law enforcement community. The verification process is very time consuming and a serious drain on the already stretched resources of our law enforcement community.

Senate Bill 2161 is intended to place some of the burden of verification on the offender themselves. It is my understanding that special technology would be used to verify an offenders fingerprint or retinal identification. Additionally, a variety of other information would be recorded including employment status, residence, vehicle identification, etc. This information would all be entered into the data base to provide "real time" availability of information.

Mr. Chairperson and members of the committee. There are a number of individuals here today who are professionals in law enforcement. They will address the technical aspects of the bill and answer your questions. I believe SB2161 is a giant step in our ability to better track this population of offenders in North Dakota. Given the incidents of crime involving sexual predators that we have experienced in North Dakota and the region in the last couple of years, we need this bill. I urge your support.

HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE DUANE DEKREY, CHAIRMAN
MARCH 5, 2007

*Same from to
Senate
on
1-24-07*

WARREN R. EMMER, DIRECTOR
DEPARTMENT OF CORRECTIONS,
FIELD SERVICES DIVISION
PRESENTING TESTIMONY RE: SB 2161

Good morning Mr. Chairman and members of the committee. For the record, my name is Warren Emmer. I am the director of the ND Department of Corrections, Field Services Division. The Department of Corrections stands in support of Senate Bill 2161.

The tragic abduction and murder of Dru Sjodin proved to be a wake-up call for all of us. The legislature responded by enhancing criminal penalties for sex offenses. Both law enforcement and corrections responded by enhancing the resources they provide to the supervision and management of sex offenders.

In our case, corrections added seven new sex offender specialist parole officers to the supervision of sex offenders, developed a dynamic pre-sentence investigation process for the court and initiated the use of GPS electronic monitoring tool for sex offender management. The department of corrections manages about 300 sex-offenders in communities across the state.

Our law enforcement partners have increased their surveillance of sex offenders that reside in their communities. They, along with us, also initiated the development of Sex Offender Containment Task Forces. The task forces enable corrections and law enforcement to work more effectively on all matters concerning sex offender behavior.

Enactment of ^{Amended} Senate Bill 2161 will allow law enforcement and corrections to enhance the level of work that we do collaboratively. This legislation anticipates that automated self-registering kiosks would be made available to all sex offenders required to register with the Attorney General's Office (keep in mind; most sex-offenders that are registering in North Dakota are not under the supervision of the department of corrections!). The kiosks would, initially, be located in all of our larger communities, across the State of North Dakota.

Individuals registering on the automated kiosks would be asked a series of questions, after establishing their identity by having their fingerprint scanned by the kiosk device.

The questions asked might address issues concerning:

1. The offender's residence
2. Vehicles operated by the offender
3. Employment of the offender,
4. Offender contact with children,
5. Offender contact with law enforcement,
6. Other pertinent issues.

Upon completing the kiosk reporting, the computer-driven system would provide the offender with additional instructions. Examples of instructions to the offender might include:

1. Requiring the sex offender for an updated picture of him or herself.
2. Asking that the offender meet personally with a law enforcement official.
3. Notifying the offender of future reporting dates.

The information provided to law enforcement and corrections through the process noted above will prove invaluable. The information obtained from this automated system will enhance the good work already being done by law enforcement.

We urge your support for this very important piece of legislation.