

2009 HOUSE JUDICIARY

HB 1306

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1306

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/19/09

Recorder Job Number: 7205, 7227

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1306.

Rep. Bob Skarphol: Sponsor, support. This has been a pilot program in the South Central North Dakota. It has been extremely successful. The justices that worked with it in south central North Dakota find it a really useful tool. The technology that is available continues to improve. They now have bracelets that some can wear if the defendant can't get to the testing site. The defendant wears the bracelet and they monitor the individual electronically for the alcohol, body temperature, etc. They dump every 24 hours into a computer that reveals whether or not they consumed alcohol. In fact the AG in SD has had good success with the program. The cost of this program, of course, is with the AG's office, and going to need about \$550,000. I think it's a wise investment. I think the developing technology could give us the opportunity to take a number of individuals out of our prison systems. There are a number of people, in the women's and men's prison system that, conceivably if the drug testing aspect of that could be as technologically advanced as the alcohol testing portion of it. It could be a way to reduce our prison population. It has been an exciting program and I understand that justices across the state are anxious to utilize it.

Chairman DeKrey: Can you explain the fiscal note.

Rep. Bob Skarphol: The bracelets are around \$1200/piece. There are costs associated with the technology and I'm sure there will be a full explanation of the fiscal note when the time is right.

Rep. Koppelman: If we take care of the first part of this bill, you will take care of the second part.

Rep. Bob Skarphol: I guarantee that I will work very hard on it.

Rep. Zaiser: Is this happening in any other state and what kind of statistics do you have to show this has reduced the problems.

Rep. Bob Skarphol: I believe the AG's office will have the statistics available.

Chairman DeKrey: Thank you. Further testimony in support.

Wayne Stenehjem, Attorney General of ND: Support (attachment). In 2007, there were over 6,000 North Dakotans arrested for driving under the influence. Fully 1/3 of them were subsequent offenders, people who have been through the system after a DUI and still didn't get the message that this is a serious offense. In SD, the program that we have initiated here in ND started just over four years ago, and has yielded remarkable success. For years, we have been telling people that if you continue to drink and drive, we are going to stop you from driving. For people who read the court reports in the newspaper will tell you, that has not been successful. What we need to tell people is that if you continue to drink and drive, we will stop you from drinking because we have the technology and manpower to keep people from doing exactly that. The AG in SD, some years ago, he was the state's attorney for a small SD county where he noted that he continued to see the same offenders coming in year after year, month after month, with driving under the influence offenses for alcohol related offenses. It occurred to him that the program we are talking about here might be successful and he started that program in his small SD county. He went on to be elected AG and learning from the

experience he gained as a county prosecutor, he decided to commence a program that would run statewide. The concept is very simple. The concept is if you are a second or subsequent DUI offender and you are arrested again for driving under the influence, one of the conditions of bail will be you cannot use any alcohol, you will be tested twice a day, in the morning and evening, and if you do consume alcohol, you will immediately be taken into custody and you will sit until you go before a judge, who will then determine what further conditions are going to happen to you. There was opposition in SD from sheriffs, who felt this kind of a program would immediately fill up their jail and would clog the court systems. As the system got operating in SD, they determined that just the opposite was happening. People were coming in for the test, when they did the test they were blowing clean tests, they were not consuming alcohol. Last session I visited with Rep. Skarphol and others and was at this committee with the idea to start making a similar kind of program here in ND. The legislation and my appropriations bill provided that the AG may establish a pilot project around the state of ND to test individuals for use of alcohol when they've been arrested and convicted once already for a DUI offense. We started that program in the South Central Judicial District, the district that Bismarck and Mandan are in and the surrounding counties. Before that happened, we met with the judges to visit with them about whether they were interested in starting a project like this here. I was immediately met with positive feedback, all of them in the judicial district, who likewise were seeing the same offenders that were coming in time and time again for alcohol related offenses. I met with law enforcement, the sheriffs from the counties in this judicial district and likewise, they would be willing to participate in a pilot project that is modeled on what has happened in SD. That program has been up and running since January 1, 2008. We have just over a year of experience with the program, and I can tell you that the program is working very, very well. We have learned several lessons, of course, which is one of the advantages

that you have in having a pilot project. (showed the alcohol sensor and bracelet and explained how they worked). If the person shows up and blows a hot test, the person waits for 15 minutes and blows another test. If another hot test is registered, the person will sit in jail until the next day when they will go before the judge and explain what happens. The judge will determine if the person gets another chance or whether to keep the person in jail pending their trial. The results in SD, 99% of the people show up for the test, and when they take the test they pass it. For those in rural states like SD and ND who claim it is very difficult for them to get to the testing site, there is the SCRAM bracelet. This is worn around the ankle. Three times a day the individual is required to go near a telephone that has a modem on it, this device then downloads the information to tell whether there has been any alcohol consumption and it monitors every 30 minutes, then downloads it to the system in Denver. Denver will then send an electronic transmission to the sheriff to tell whether the individual is in violation and if they are in violation, the sheriff goes out and brings them back into custody. We've seen this program work. Our problems here in ND with alcohol related offenses would have DUI as a very serious problem. You have the statistics that show what's been happening in ND; 81% of the felonies that are committed in ND are alcohol or drug related. It is a serious problem indeed. ND although we often complain that we are the safest state in the Union when it comes to homicides, burglary, aggravated assault, and we are. On the other end of the spectrum, we see the offenses where we are among the worst, alcohol related, motor vehicle offenses. The program that was passed last session said, that you are out on bail, one of the conditions of bail, is that you consume no alcohol, you'll be tested twice a day, you will pay for the test yourself. The test for blowing into the Alco sensor costs \$1 per time/ \$2/day. The expense for the SCRAM bracelet is \$25 to hook it up, \$25 to disconnect it, and \$5/day for the monitoring (computer program located in Denver). We have had just over 100 people who

have participated in the test here in ND. Our statistics show that we are in the upper 90's success rate. A couple of exceptions that you need to note is that we have had about 16 people who have participated with the SCRAM bracelet and we have had 100% compliance. Nobody has violated when on the SCRAM bracelet. They are nice but they are also very pricey. They cost about \$1200/piece. Of course, the defendants can't afford that \$1200. The program has had 144 participants and over 97.6% have passed. Two things happened, they didn't show up or when they did show up they didn't pass. That is one of the lessons we have learned. The first lesson is word has gotten out that if you have consumed any alcohol don't come to the test, because if you come to the test and fail, you are going to be taken into custody immediately. If you don't show up for the test, the state's attorney will take two or three weeks before they actually get around to filing a motion for the court to issue a bench warrant. We fixed that, in the last month or so, by providing that the sheriff notifies the clerk of court, he brings a form to the judge, the judge immediately signs the bench warrant and then you go out and get someone. The reason the program works is because the consequences are certain and they are immediate. Any delay of two or three weeks in getting the bench warrant issued defeats the purpose of the program. That's the first thing that we learned. The second thing that we learned, is that even for those people who come in, take the test and fail once, that they sit overnight in jail and have to come back before the judge, they have the same kind of success rate for the second time. There isn't anything necessarily wrong with giving the respondent a possible second chance. Some judges only give one chance and then you are in jail awaiting your trial. I have urged that they consider giving them a second chance because we are seeing that people who fail once, tend not to fail again because they now understand that this really is serious and it is immediate. The program is one that was started in my office without an appropriation. So we have done everything so far based on current

staff and we are overwhelming Larry Grabowski, who is working on the program just here in this judicial district. There is a lot of training that is involved, forms and a lot of things that have to be done to get the program up and running. Since we started the program here, I can tell you that another judicial district has contacted me and they want to participate in the program. I am hearing from sheriffs in that county who are very eager to get up and running with this program. We need a couple of things before we do that. That is the reason for the fiscal note and continuing appropriation. We're going to have somebody on my staff who can devote their full attention to get this program up and running statewide. We need an appropriation to buy a large number of SCRAM bracelets because we don't have enough. SD has been very good to us. They gave us the computer program, they gave us a whole pickup load of tubes that you see for the ALCA sensors. They have helped us as much as they possibly could. I am very excited, because I think this is going to work. What are the long term ramifications of what is happening in SD and what might happen here. It's hard to say, but the sheriff in SD who was the most nervous and cautious about getting involved in the program in the first place, is the biggest supporter. In Rapid City, there are 500 people on the program in that county alone. We are watching how the program works. This program is not a substitute for treatment that many of these people need, but it is an adjunct. The treatment people tell me that they really like this program because when they are dealing with these people, they know they are dealing with somebody who comes in and they are sober. It is much easier to provide treatment to somebody who is sober, than somebody who is not. In SD, preliminarily they have seen the number of people in the prison system are declining. That's not the case here in ND, where we have seen from 1996 to present, our prison population has more than doubled. We are now dealing with the added expense of adding onto the ND prison, 80% of the people that are in prison are there because of problems with alcohol or drugs. Once we get a handle on the

addiction, we're not likely to see most of those people coming back in again. So this is a program that I think is going to work. The bill you have before you will provide for a rolling out of this system to additional judicial districts over the course of the next biennium. The other thing that we have seen, is that the SD courts are so happy with the program that they are expanding it beyond the DUI; they are expanding it to include people who are not just awaiting trial for their hearing on the DUI, but after they are convicted to provide a path to continue on the program and continue the treatment regime as well. And they are asking for this to include drugs. There are drug patches that will test for cocaine, meth, heroin, a whole variety of drugs, those are placed on the arm, a tamper evident patch that goes over the top and then you wear this for 10 days and then send it in to be tested and they will determine if you have violated the terms of your probation by using a variety of different drugs. So that's another option that is provided in the bill that will allow it to be used not just for DUI, but for domestic violence cases where alcohol has been involved as well, for aggravated assault, child abuse and neglect cases. So there is a whole range of options that I think will help make ND a lot safer. Once we use the technology that is available to provide for testing to make sure that people who should not be using alcohol or drugs, are not. I should also mention that the \$1 per test that is administered, has been taken and put into a fund in our office. The sheriff who are administering the program are not receiving any of the funds now, and the bill will change that to provide that the \$1 per test/\$2 per day goes to the sheriff or whoever administers the test so that they are not dealing with an unfunded mandate. This bill also has a provision that permits us through the highway dept. to issue a temporary restrictive drivers permit, so that the individual can get to the jail for the test, but for nothing else.

Rep. Dahl: Obviously this program has been successful in SD. Has anyone looked to see what kind of long term impact this may have.

Wayne Stenehjem: Everything that I have been able to glean and of course, four years isn't a long time to determine what kind of impact this may have. But regionally, they are the only state that I know of where the prison population is going down. I think that there is a good possibility that is the case. I also know that the law enforcement officers in SD think this is a very good program, they like it because they see fewer cases of domestic violence, people are working, they are good citizens. But the people who are involved in the program, many of them 4, 5, 6 time DUI offenders who are not drinking and who we can prove are not drinking, you have to know that is a benefit.

Rep. Koppelman: You mentioned that this may have application for drugs as well as alcohol. Does this bill give the authority to do so.

Wayne Stenehjem: Yes.

Rep. Wolf: In the pilot program, you are testing 2 times a day. How long does alcohol stay in the bloodstream. Are we testing enough times per day so that a person could come and test and be okay and then go out and get drunk and then get alcohol free by the next testing time.

Wayne Stenehjem: That is a great question. Alcohol stays in your bloodstream about an hour or a little longer. So we have had people who have tried to play the system a little bit. They came in and took the test at 7 or 8 in the morning and then think they can have a beer and then it will be gone before the next testing time this evening. They try that. We have heard rumors of that happening. If they try it once, they may try it again the next day for a couple of drinks, and eventually they will get caught. For those individuals where it is suspected that they will try to cheat the system, we would put them in the SCRAM bracelet, where it checks every 30 minutes and is downloaded 3 times a day.

Rep. Delmore: Do most states require some kind of treatment programs.

Wayne Stenehjem: People who are arrested for driving under the influence are required by statute and by the court to get an alcohol evaluation and then follow the results of that recommendation. This isn't a substitute for treatment, or participating in a program. That will be handled through the court, because you have to have the evaluation as far as that.

Rep. Delmore: Is it in the bill as far as allowing people a permit to drive, and could that not only get them in for the test, but also allow them to drive to work.

Wayne Stenehjem: The bill has some amendments that need to be added to this bill, but that temporary restricted permit to drive to the testing site for the alcohol testing is all that is allowed. It doesn't talk about the additional time for getting a work permit. We are working with the DOT to make sure that we have a program that will pass all federal requirements.

Rep. Zaiser: Are there any other states with this program.

Wayne Stenehjem: No, this is very new. The AG in SD won an Innovative Program Award, he talked to me, and now he is talking with other AG's in the region. I will be talking about it as well.

Rep. Vig: You mentioned that you were hiring one part-time employee for this program.

Wayne Stenehjem: We need one program administrator. Right now we have someone working in the program part-time, but that has only been with this one district. If it goes statewide, we will need employees. We will roll this out carefully. We are also looking at parole and probation, maybe domestic violence cases, all kinds of things. We're going to need one person who is full-time.

Rep. Vig: You said that the local sheriffs would be working the program for the state. Isn't this going to be a burden on the county. Are we supplementing the counties for the housing.

Wayne Stenehjem: We are, right now, putting the \$1/per test and putting it in a fund in the AG's office to administer the program. The bill provides that the county get that money. So

they will have that \$2/day from each person, in addition they will get the \$25 for the SCRAM bracelet connection fee and \$25 for the disconnect fee. It's not so much a problem in the smaller counties, but Burleigh County in the past year, if they had the money, they would have had about \$6,000, which would have helped them a little bit, maybe in hiring someone part-time to come in and do the tests. In Rapid City, they hired college students, who are criminal justice majors. They come in the morning and again in the afternoon to conduct the tests.

Rep. Boehning: Will these bracelets work with cell phones.

Wayne Stenehjem: They do not. I am hopeful that technology will advance so that they are. The people that are on the program have to have a landline in their home or workplace for someplace for them to be for the 2-3 times that the modem will download the information.

Rep. Boehning: So what if they work out of state.

Wayne Stenehjem: Those things do happen and there will be people who can't participate in the program. That's the case now. If we have someone who comes down from Minot and is arrested in Burleigh County, they aren't able to participate in the program because Minot doesn't have the program in their district. Once we go statewide, it wouldn't matter where the monitors are, they can send it off from wherever. This is not a mandatory program, some people can't be on it. They will have to sit in jail until the trial. When that happens, they usually think of a way to make this work.

Rep. Boehning: How long would the person be on the program.

Wayne Stenehjem: Under the current program, this is for pre-trial, people who are out on bail. So from the time of arrest until trial they are on the program. Under the expanded program, it might continue for the term of your sentence or probation, that will be up to the judge to make the decision on how long the defendant will be on the program.

Rep. Zaiser: What would you do if a judge isn't going to use the program.

Wayne Stenehjem: I have not seen any judges that said they don't want to do it. I think once we have a meeting with them to make sure that they are comfortable with it, and see how it works, and also see that it is not a tremendous workload either, I think they will be happy with it. I met with judges in a couple of areas and they are in favor of the program.

Rep. Klemin: On page 3 of the bill, starting on line 7-15, the AG's office is given the authority to develop guidelines, policies, and procedures which are not subject to chapter 28-32 and also set the program fees. Why would you want to be able to do that without having to adopt administrative rules. What is the need to be able to do this outside of 28-32, or why can't you do it under 28-32.

Wayne Stenehjem: That is a very important part to the program. The current law provides as well, that we're not subject to the administrative rules process for the simple reason that, when you have fairly new programs and pilot programs, we need the immediate flexibility that is provided in the bill, so that we can make changes. We did that, when we found out that individuals were not coming and that some state's attorneys might be 2-3 weeks to do a bench warrant. We changed the procedure to provide that the clerk can get the information to the sheriff, who gives the bench warrant to the judge to sign. Changes have to be made and I absolutely think I need to have that kind of flexibility that is provided in law.

Rep. Klemin: Are the fees also something that is to be established under this section.

Wayne Stenehjem: Yes.

Rep. Klemin: What fees.

Wayne Stenehjem: The fees will continue to be what they are for the ALCA sensor, \$2/day, and the SCRAM fee is what is charged, \$5/day. That charge is a vendor fee to actually receive the information and transmit back to the sheriff. That is established by them. As we

move forward for the drug testing; the cost of patches, etc. are established by the company that do the testing.

Rep. Boehning: It says that the DUI's peaked in 2004 or 2005 for 1st time offenders, what about rates of recidivism for 2nd and 3rd offenses. Has that come down.

Wayne Stenehjem: I can get the statistics to you, I didn't want to overburden you with paperwork.

Rep. Koppelman: I have no problem with the flexibility you are talking about in regard to the administrative rules; but I'm curious, those policies don't carry the weight of the law the way the administrative rules do. If you see this program reach a level of maturity, that you would want to make them subject to the administrative rules and should that be in here.

Wayne Stenehjem: I don't need to add that in the bill now. We want to get a program that works and be flexible for our office to make changes.

Rep. Koppelman: Is there any problem with not having the policies in administrative rules.

Wayne Stenehjem: This program works because we are not mandating a lot of rules. We're working with law enforcement and judiciary on a program that will work. If they see something that needs to change, we are willing to work with them.

Chairman DeKrey: Thank you. Further testimony in support.

Bruce Haskell, South Central Judicial District Judge: Support. I was part of the committee that initially formulated the program in terms of bail conditions, the 24/7 program. I think there might have been a slight misconception as to all the judges in the South Central District buying into the program based on a comment the AG said. We are all very supportive of the program. I think what he said that one of the judges had a different philosophy with how to deal with violations than the rest of them do. Most of us, when there is a violation, which there have been very few, we like to look at resetting bond, setting more conditions, etc. or something

appropriate so that the person isn't sitting in jail. Judge Wefald is of the opinion that if they are in violation, he revokes bond and they sit in jail until their trial. The problem I have with that is that sometimes the person sits in jail longer than they would have had they just pled guilty to the underlying offense. Bail conditions are discretionary on the part of the judge, so the judge does have a considerable amount of freedom in terms of setting appropriate conditions that will address the actual problem. Each of the judges in the district are supportive of expansion of the program. In fact, that is one of the glitches to start with, is that some of the judges immediately started applying the 24/7 to offenses other than the DUI's; so we had to cut that back because we were running out of SCRAMs. We are supportive, and particularly in domestic violence situations, because drugs and alcohol are a significant factor in many of those cases. Any other areas where alcohol violations are pretrial, and also this bill discusses in terms of probation conditions. One of the questions was how long would this last, and that would be set by the judge. As far as the temporary restricted drivers license. I am in favor of that. I haven't discussed that with the other judges but I assume they will be on board. Being able to have access to transportation is a big issue in the rural areas and we don't want to prevent them from getting where they need to go if we can do it in a way that's going to keep the person from drinking but still working. The judiciary, statewide, is very supportive of the program and we certainly encourage a Do Pass.

Chairman DeKrey: Thank you. Further testimony in support.

Dave Shipman, Sheriff, Morton County: Support. I was very fortunate to be a part of the program in my county. The program has been very successful in the Bismarck/Mandan area. We used it for conditional parole and one person currently testing with the Morton Co. Sheriff's office twice a day for alcohol testing.

Rep. Delmore: How many bracelets are you using.

Wayne Stenehjem: We have 10 in the South Central district and 8 available for Grand Forks and Nelson counties. We are planning on having 82 bracelets statewide. We are looking for corporate sponsors to help defray some of the costs associated with the bracelets. We received \$10,000 from Anheiser Busch.

Chairman DeKrey: Thank you. Further testimony in support.

Ken Sorenson, AAG: These are amendments that the AG's office is seeking, and provides solely for the participation in the 24/7 program. If a person violates the conditions of the program, then the court can order the DOT to revoke the temporary license.

Rep. Klemin: Do any of the amendments impact the fiscal note prepared by the DOT, or change it.

Glenn Jackson, DOT: No it does not.

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

(Taken up in the afternoon session).

Chairman DeKrey: What are the committee's wishes in regard to HB 1306.

Rep. Koppelman: I move the AG's amendments.

Rep. Delmore: Second.

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

Rep. Koppelman: Should we put in a date that it is exempt until a certain date.

Rep. Klemin: I did look at the chapter 28-32 and it does not give a blanket exemption to the AG's office to not to have to go through the administrative rule procedure. It only gives them an exemption in a couple of cases. One has to do with the State Toxicologist and the other with sexual offenders. Otherwise, the AG is subject to 28-32. So far as this provision is concerned, without assessing the merits of what's being asked for here, it seems like the

amendment should be in 28-32 where it says that the AG is not subject to 28-32 for purposes of the 24/7 program and a couple of other exceptions there. That is hiding it in this legislation. I don't mean that he is hiding it, but it's just going to be hard for anyone to know that. If you go to 28-32 you wouldn't find it there, because it wouldn't give him any exemption there, but it gives it in this language which who knows where it will end up in the century code.

Rep. Koppelman: I see your point. I agree that some clean up might need to be done. I'm wondering if we are giving the AG the latitude or flexibility that he is looking for while this program gets up and running. It might make sense to do it for a period of time.

Rep. Delmore: The funding will go from 2009-2011, so I would assume that we will be revisiting this bill again in the next legislative session and then we'll look at it to see if it were a success, and if it saved money.

Rep. Klemin: That may all be true, but from someone who has to research in ND century code frequently, sometimes it is really hard to find things even with the aid of computer aided research.

Chairman DeKrey: On the third page of the bill, where you state that it is not subject to chapter 28-32, Rep. Klemin figures that the sentence should end at program fees. And then in chapter 28-32 there should be a statement that says the 24/7 sobriety program of the AG is exempt, so that people researching the code can find it.

Wayne Stenehjem: That's fine.

Rep. Klemin: The rationale for that is if you look in chapter 28-32, it says the following agencies are exempt, the AG with respect to the state toxicologist and the lab and sexual predators. So it seems to us that this kind of exemption should also be there so that a person can find the information.

Wayne Stenehjem: I don't have a problem with that.

Chairman DeKrey: We will take that as the Klemin amendment.

Rep. Klemin: I move that on page 3, line 14, remove the rest of the line and put this in chapter 28-32.

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. Dahl: Second.

11 YES 1 NO 1 ABSENT

DO PASS AS AMEND/REREFER TO APPROPRIATIONS

CARRIER: Rep. Delmore

FISCAL NOTE
Requested by Legislative Council
02/17/2009

Amendment to: Engrossed
 HB 1306

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$110,000		\$100,000
Expenditures			\$100,000	\$466,000	\$100,000	\$466,000
Appropriations			\$100,000	\$20,000		\$20,000

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

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

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

A statewide 24-7 Sobriety program is established in the Office of Attorney General. Second or subsequent offenders of N.D.C.C. 39-08-01 shall be issued a temporary restricted license if participating in the twenty-four seven program.

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 2007 Legislature authorized the Attorney General to establish a sobriety program pilot project called "24-7," the goal of which is to remove intoxicated drivers from the road and ultimately improve their ability to succeed in their treatment choices. This bill implements the 24-7 Sobriety program on a statewide basis.

Currently, temporary restricted licenses are denied for second or subsequent offenders of N.D.C.C. 39-08-01. Providing these could increase NDDOT workload by 30-50% creating the need for a part-time employee depending on the actual volume of requests.

The Office of the Attorney General will also incur additional costs as a result of this bill. They will need one additional FTE and will incur estimated total costs of \$546,000 for the FTE, training, and program expenses. \$100,000 of this cost is covered through a general fund appropriation provided in Section 6 of this bill. The remaining \$446,000 of expenditures to the Office of the Attorney General will be covered through a continuing special fund appropriation.

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.*

Based on available 2008 DUI data there were 4,650 first time and 1,750 second or subsequent offenders convicted. Current statute allows the 4,650 1st time offenders a temporary restricted license and of those only 1,461 were issued. This equates to 31.4% of eligible offenders requesting a temporary restricted license. Using this percentage as an estimate of second and subsequent offenders entering the Twenty-Four Seven Program and requesting a temporary restricted license is approximately 550 (1,750 x 31.4%).

DUI offenders are required to pay a reinstatement fee of \$100 and submit an application prior to being issued a temporary restricted license.

The revenue generated from issuing temporary restricted licenses to second and subsequent offenders is calculated as 550 requests x \$100 reinstatement fee = \$55,000.

2009-2011 Biennium ($\$55,000 \times 2$) = \$110,000

It is anticipated that second or subsequent offenders will be reduced as a result of this program in conjunction with other statewide efforts.

2011-2013 Biennium ($\$50,000 \times 2$) = \$100,000

The special funds revenue impact for the Office of Attorney General, cities, and counties is unknown.

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.*

NDDOT

A part-time employee may be needed to help process the additional requests, answer phone calls, and draft correspondence to requestors. The estimated additional temporary restricted license requests would account for a 37.6% increase in workload.

NDDOT Special Fund Expenditures (Part-time employee=\$10,000 per year)

2009-2011 Biennium Special Fund Expenditures = \$20,000

2011-2013 Biennium Special Fund Expenditures = \$20,000

OFFICE OF ATTORNEY GENERAL

The Office of the Attorney General will incur additional costs as a result of this bill. They will need one additional FTE and will incur estimated expenditures of \$546,000 for the FTE, training, and program expenses. \$100,000 of those expenditures will be covered through a general fund appropriation provided in Section 6 of this bill. The remaining \$446,000 of expenditures to the Office of the Attorney General will be covered through a continuing special fund appropriation.

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.*

A general fund appropriation of \$100,000 from the general fund is provided to the Office of the Attorney General for the 2009-2011 biennium. They will need on additional FTE as a result of this bill.

A special fund appropriation to the NDDOT would be needed for the additional part-time employee in the amount of \$20,000 per biennium.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/17/2009

FISCAL NOTE
Requested by Legislative Council
02/03/2009

REVISION

Amendment to: HB 1306

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$110,000		\$100,000
Expenditures			\$546,000	\$20,000	\$546,000	\$20,000
Appropriations			\$546,000	\$20,000	\$546,000	\$20,000

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

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

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

A statewide 24-7 Sobriety program is established in the Office of Attorney General. Second or subsequent offenders of N.D.C.C. 39-08-01 shall be issued a temporary restricted license if participating in the twenty-four seven program.

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 2007 Legislature authorized the Attorney General to establish a sobriety program pilot project called "24-7," the goal of which is to remove intoxicated drivers from the road and ultimately improve their ability to succeed in their treatment choices. This bill implements the 24-7 Sobriety program on a statewide basis.

Currently, temporary restricted licenses are denied for second or subsequent offenders of N.D.C.C. 39-08-01. Providing these could increase workload by 30-50% creating the need for a part-time employee depending on the actual volume of requests.

This bill has been amended. The amendments do not change the fiscal impact.

Subsequent to the amended version, a revision was made to this fiscal note to reflect expenditure and appropriation impacts that will affect the Office of the Attorney General.

The Office of the Attorney General will incur additional costs as a result of this bill. They will need one additional FTE and will incur estimated total costs of \$546,000 for the FTE, training, and program expenses. These expenses are reflected in the general fund columns in part 1A of this fiscal note.

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.*

Based on available 2008 DUI date there were 4,650 first time and 1,750 second or subsequent offenders convicted. Current statute allows the 4,650 1st time offenders a temporary restricted license and of those only 1,461 were issued. This equates to 31.4% of eligible offenders requesting a temporary restricted license. Using this percentage as an estimate of second and subsequent offenders entering the Twenty-Four Seven Program and requesting a temporary restricted license is approximately 550 (1,750 x 31.4%).

DUI offenders are required to pay a reinstatement fee of \$100 and submit an application prior to being issued a

temporary restricted license.

The revenue generated from issuing temporary restricted licenses to second and subsequent offenders is calculated as 550 requests x \$100 reinstatement fee = \$55,000.

2009-2011 Biennium (\$55,000 x 2) = \$110,000

It is anticipated that second or subsequent offenders will be reduced as a result of this program in conjunction with other statewide efforts.

2011-2013 Biennium (\$50,000 x 2) = \$100,000

The special funds revenue impact for the Office of Attorney General, cities, and counties is unknown.

This bill has been amended. The amendments do not change the revenue impact as previously reported.

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.*

A part-time employee may be needed to help process the additional requests, answer phone calls, and draft correspondence to requestors. The estimated additional temporary restricted license requests would account for a 37.6% increase in workload.

Part-time employee = \$10,000 per year

2009-2011 Biennium = \$20,000

2011-2013 Biennium = \$20,000

This bill has been amended. The amendments do not change the fiscal impact as previously reported.

Subsequent to the amended version, a revision was made to this fiscal note to reflect expenditure and appropriation impacts that will affect the Office of the Attorney General. They will need one additional FTE and will incur estimated total costs of \$546,000 for the FTE, training, and program expenses. These expenses are reflected in the general fund columns in part 1A of this fiscal note.

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.*

Appropriations needed would be for the additional part-time employee in the amount of \$20,000 per biennium.

This bill has been amended. The amendments do not change the fiscal impact as previously reported.

Subsequent to the amended version, a revision was made to this fiscal note to reflect expenditure and appropriation impacts that will affect the Office of the Attorney General. They will need one additional FTE and the appropriation of \$546,000 for the FTE, training, and program expenses. This is reflected in the general fund columns in part 1A of this fiscal note and is also contained in the bill.

Name:	Shannon Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/03/2009

FISCAL NOTE
Requested by Legislative Council
01/26/2009

Amendment to: HB 1306

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$110,000		\$100,000
Expenditures				\$20,000		\$20,000
Appropriations				\$20,000		\$20,000

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

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

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

Second or subsequent offenders of N.D.C.C. 39-08-01 shall be issued a temporary restricted license if participating in the twenty-four seven program.

This bill has been amended. The amendments do not change the fiscal impact as previously reported.

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.*

Currently, temporary restricted licenses are denied for second or subsequent offenders of N.D.C.C. 39-08-01. Providing these could increase workload by 30-50% creating the need for a part-time employee depending on the actual volume of requests.

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.*

Based on available 2008 DUI date there were 4,650 first time and 1,750 second or subsequent offenders convicted. Current statute allows the 4,650 1st time offenders a temporary restricted license and of those only 1,461 were issued. This equates to 31.4% of eligible offenders requesting a temporary restricted license. Using this percentage as an estimate of second and subsequent offenders entering the Twenty-Four Seven Program and requesting a temporary restricted license is approximately 550 (1,750 x 31.4%).

DUI offenders are required to pay a reinstatement fee of \$100 and submit an application prior to being issued a temporary restricted license.

The revenue generated from issuing temporary restricted licenses to second and subsequent offenders is calculated as 550 requests x \$100 reinstatement fee = \$55,000.

2009-2011 Biennium (\$55,000 x 2) = \$110,000

It is anticipated that second or subsequent offenders will be reduced as a result of this program in conjunction with other statewide efforts.

2011-2013 Biennium (\$50,000 x 2) = \$100,000

This bill has been amended. The amendments do not change the fiscal impact as previously reported.

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.*

A part-time employee may be needed to help process the additional requests, answer phone calls, and draft correspondence to requestors. The estimated additional temporary restricted license requests would account for a 37.6% increase in workload.

Part-time employee = \$10,000 per year

2009-2011 Biennium = \$20,000

2011-2013 Biennium = \$20,000

This bill has been amended. The amendments do not change the fiscal impact as previously reported.

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.*

Appropriations needed would be for the additional part-time employee in the amount of \$20,000 per biennium.

This bill has been amended. The amendments do not change the fiscal impact as previously reported.

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	01/27/2009

FISCAL NOTE
Requested by Legislative Council
01/13/2009

Bill/Resolution No.: HB 1306

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$110,000		\$100,000
Expenditures				\$20,000		\$20,000
Appropriations				\$20,000		\$20,000

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

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

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

Second or subsequent offenders of N.D.C.C. 39-08-01 shall be issued a temporary restricted license if participating in the twenty-four seven program.

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.*

Currently, temporary restricted licenses are denied for second or subsequent offenders of N.D.C.C. 39-08-01. Providing these could increase workload by 30-50% creating the need for a part-time employee depending on the actual volume of requests.

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.*

Based on available 2008 DUI date there were 4,650 first time and 1,750 second or subsequent offenders convicted. Current statute allows the 4,650 1st time offenders a temporary restricted license and of those only 1,461 were issued. This equates to 31.4% of eligible offenders requesting a temporary restricted license. Using this percentage as an estimate of second and subsequent offenders entering the Twenty-Four Seven Program and requesting a temporary restricted license is approximately 550 (1,750 x 31.4%).

DUI offenders are required to pay a reinstatement fee of \$100 and submit an application prior to being issued a temporary restricted license.

The revenue generated from issuing temporary restricted licenses to second and subsequent offenders is calculated as 550 requests x \$100 reinstatement fee = \$55,000.

2009-2011 Biennium (\$55,000 x 2) = \$110,000

It is anticipated that second or subsequent offenders will be reduced as a result of this program in conjunction with other statewide efforts.

2011-2013 Biennium (\$50,000 x 2) = \$100,000

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.

A part-time employee may be needed to help process the additional requests, answer phone calls, and draft correspondence to requestors. The estimated additional temporary restricted license requests would account for a 37.6% increase in workload.

Part-time employee = \$10,000 per year

2009-2011 Biennium = \$20,000

2011-2013 Biennium = \$20,000

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

Appropriations needed would be for the additional part-time employee in the amount of \$20,000 per biennium.

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	01/16/2009

VR
1/20/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1306

Page 1, line 1, after the comma insert "a new subdivision to subsection 2 of section 28-32-01,"

Page 1, line 4, replace "licenses" with "permits"

Page 2, after line 17, insert:

"SECTION 3. A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The attorney general with respect to twenty-four seven sobriety program guidelines and program fees."

Page 2, line 20, replace "conviction for a" with "an offender has been charged with, or convicted of, a second or subsequent" and remove "is for a"

Page 2, line 21, remove "second or subsequent offense,"

Page 2, line 23, replace "license" with "permit", replace "an" with "the" and after "offender" insert "only"

Page 2, line 25, after "program" insert "by the offender" and replace "The director may" with "If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section."

Page 2, remove lines 26 through 28

Renumber accordingly

Date: 1/19/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ DP ☐ DNP ☒ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Dahl

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

Total (Yes) 11 No 1

Absent _____

Floor Carrier: Rep. Delmore

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

REPORT OF STANDING COMMITTEE

HB 1306: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1306 was placed on the Sixth order on the calendar.

Page 1, line 1, after the comma insert "a new subdivision to subsection 2 of section 28-32-01,"

Page 1, line 4, replace "licenses" with "permits"

Page 2, after line 17, insert:

"SECTION 3. A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The attorney general with respect to twenty-four seven sobriety program guidelines and program fees."

Page 2, line 20, replace "conviction for a" with "an offender has been charged with, or convicted of, a second or subsequent" and remove "is for a"

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Page 2, line 25, after "program" insert "by the offender" and replace "The director may" with "If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section."

Page 2, remove lines 26 through 28

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1306

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1306

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/3/09

Recorder Job Number: 8425

Committee Clerk Signature

Tonya Vaegle

Minutes:

Chairman Delzer opened the hearing on House Bill 1306. Roll was taken with all members present.

Attached Testimony

PowerPoint Presentation- 1306.2.3.09A

24/7 Estimated Expenses- 1306.2.3.09B

Tom Trenbeath, Deputy Attorney General: I am here to speak in support of the bill. For years the theory has been to take drunk drivers off of the road by taking away his privilege to drive. That has not been all that successful. The theory of 24/7 is to take the drunk driver off the road by taking away his privilege to drink. If you drink, not just drink and drive, if you drink you go to jail. If you skip or fail, you go to jail. Your breath gets tested twice a day to find out whether or not you have been drinking. This is during the course of your pretrial release conditions and they also be subsequent as part of your sentence for this crime of driving under the influence. This is a program that has been hugely successful in its initiating state of South Dakota and due primarily to the friendship of Attorney General Larry Long of South Dakota and our Attorney General Wayne Stenehjem it is now graduating into North Dakota and is proving

equally successful in the limited area which it has been rolled out. Which brings us to the financial portion of 1306.

Chairman Delzer: Before you go on, I have one question. Why do you feel you need to be exempted from administrative rules?

Tom Trenbeath, Deputy Attorney General: This is a building program. It is in its infancy. It is for the most part once it is implemented judicially driven. In other words there is nothing in the statute that dictates that this person shall be put on the program, this person shall be put on for this amount of time, this person shall be subject to either one a day or two a day or three a day or be subject to the SCRAM bracelet. It is all judicial determination. We need to be able to be, for lack of a better term, light on our feet in modifying forms and formats in order to make the program successful.

Chairman Delzer: Isn't that what the pilot project is for?

Tom Trenbeath, Deputy Attorney General: It has done that but again we are talking about one judicial district which is the South Central Judicial District. We are now moving into the Northeast Central Judicial District which is Grand Forks County and Nelson County. Their judges, they will take this in a different direction. We have developed a form that makes it just as easy as we can make it for a judge to check a box that says this person goes on the 24/7 program as part of a probation as the judge will check other boxes as conditions of probation or pretrial release. That may change from district to district depending on the proclivities of the judges that are there.

Representative Berg: Clearly it is an innovative idea. My question is about the money. I see you have an appropriation for \$546,000 which does not really make sense to me when I look at the fiscal note. These people are paying fees into the program. I show a revenue of \$100,000,

expenditures of \$20,000. My question is where is the \$546,000 go? Could this not be self funding?

Tom Trenbeath, Deputy Attorney General: It could at a particular cost. That cost is not reflected in the dollar per occasion twice a day cost that is generally been used in the program. The dollars that are generated by the program, I go in twice a day to have my breath checked, it costs me a dollar cash every time I walk in the door to do that. That money goes for the replacement supplies. If it is successful, and I hope it will be, it will also go to defray the expense of having a person there to do that testing. So it will be self sustaining in that respect. These are start up costs to get things into the field.

Representative Berg: I would really like to see the cash flow. To me it would seem that I would like to understand where you are coming up with that money in costs. Part of my thinking is of course if they are in this program, are they not taking less time in maybe another area, or not? Is there some savings from another agency like law enforcement or somewhere else?

Tom Trenbeath, Deputy Attorney General: We certainly hope so in the long run. That has proven to be the case in South Dakota. As a matter of fact there is a recent newspaper opinion that is out and I don't know whether or not you have been provided a copy or not from Sioux Falls Argus Leader. It has been so successful down there that they are actually able to decrease the cost of first of all prison or jail maintenance, and certainly defray the expense of additions to that system.

Representative Berg: What I would like to see is what is the one time money to get the program up and running and then how it would be self sustaining.

Tom Trenbeath, Deputy Attorney General: I believe we can do that. To a certain extent, that should have been in your hands with respect to the fiscal note in this matter. I was surprised to

find that the fiscal note doesn't cover the cost of the program at all. It covers the DOT and that should be at least amended. Some of that information would naturally be reflected in that and we will provide that to you. In any event you have the expense layout in front of you divided into categories. The pilot program expended funds, which are funds that have been expended to date to put the thing into effect in this judicial district. The current equipment that we are using is for the most part borrowed from South Dakota including the SCRAM bracelets. If you have any curiosity at all, Agent Grabowska has brought along a SCRAM Bracelet and other physical equipment that we use in the program. That amounts to \$29,548 worth of equipment that has been loaned to us that we would need to purchase to replace that. The state wide implementation is on the next page. I can go point by point, Memorex DVD are actually Memorex DVD players because for the SCRAM situation, the person that is going to be wearing the SCRAM bracelet or anklet needs to take instruction and that comes in the form of DVDs. The Sheriff's and law enforcement don't necessarily want these guys "behind the cage" so to speak using their equipment to instruct themselves. There would be a separate DVD player in a different area of the law enforcement center for that instruction purpose. Next is kind of the heartbeat of the whole thing. The record keeping system, which is a HP 530 Notebook and there would be nine of those. You can see at the top where those nine will be placed in the larger counties. The bond order which is purely the paper. The IT password fees are for the areas that don't have CJIS account numbers at this time which means that they would have to get nd.gov passwords at that cost from ITD. All that it is contained in number five which is Intoxilyzer SD-5 which are the hand held breath devices that would be used on through the standard solutions that are used for the purposes of analyzing the breath samples. All of this is based on a state bid for the SD-5s that are presently in use. And you see that this goes all of the way down to the mouth pieces on the bottom.

Chairman Delzer: Those are just rental units? Are you buying those or just renting them?

Tom Trenbeath, Deputy Attorney General: Those will be purchased.

Chairman Delzer: How many do you currently have?

Chief Agent Lonnie Grabowska, NDBC: The state on North Dakota crime lab has currently SD-5s in the field as they are changing out from the preexisting SD-2 unit to the SD-5. I don't know the exact numbers of how many have been implemented through. That is being given by the State Crime Lab for DUI detection for field operation.

Chairman Delzer: Please find out both the number twos and the fives that are out.

Chief Agent Lonnie Grabowska, NDBC: Yes, Mr. Chairman.

Tom Trenbeath, Deputy Attorney General: To continue, one of the more expensive items are the SCRAM bracelets. Those of course would be comparatively fewer of those compared to the number of people that will be on the breath test. Those are specifically designed for areas where a person might be forty miles away from the courthouse or sixty miles away from the law enforcement center and not be able to get there twice a day for those purposes. They would have to be that type of situation either that or a person that has fairly deep pockets because it costs five dollars per day to have one of those things on your ankle. That purely goes to the SCRAM company that analyses the results.

Chairman Delzer: That is after you bought the bracelets?

Tom Trenbeath, Deputy Attorney General: That is correct.

Chairman Delzer: You have 82 in your budget that you want to buy?

Tom Trenbeath, Deputy Attorney General: We do.

Chairman Delzer: Yet you only have 68 of the Intoxilyzers?

Tom Trenbeath, Deputy Attorney General: The Intoxilyzer is a situation where the person that is subject to it comes to it. With the SCRAM bracelet, you need one per person. Then the

associated costs with the device which included battery packs and the direct connect devices.

That is the situation as the committee may know is an anklet, and once or twice a day or whatever the person that is wearing it has to be near a modem or phone and it automatically downloads the contents and indicates, I think it is reported in Denver, whether or not that person has consumed alcohol. The office in Denver then informs the local county sheriff that that has happened.

Representative Berg: I apologize for this question because it is a little off track. Why the Attorney General's Office? Why should this program be there and should it not be run through the local courts or the local sheriff? I guess that is my question, who is taking care of these people now and why should it not just be done through them?

Tom Trenbeath, Deputy Attorney General: I guess the best answer to that is that there would have to be some law written that could be applicable to each of the judicial districts and I suppose that could be done but still with every law written that creates a program there would have to be some sort of central coordination. This is a system that although it doesn't look like it on paper, it is oddly simple for what it does. It is driven by a person's desire to keep driving and keep walking the streets. If the judge says if you are going to do that you are going to pay two dollars a day and you are going to show up every twelve hours. You develop a system and as I said it is a very simple system It is easily expandable to other areas that may be alcohol or drug offenders.

Representative Berg: Wouldn't it this be more for a parole and probation system where we have people set up around the state? I am just questioning the big picture, then would the Attorney General also be monitoring people who are drug abusers, people who are spouse abusers? If you take this further, I don't see the Attorney General monitoring everyone that has committed a crime with a solution to improve them. I appreciate the fact that you have the idea

and it is a good idea. It needs a central coordination but is it not something that we have a system in place that if those people were trained up to a certain point rather than have this run out of the Attorney General's office.

Tom Trenbeath, Deputy Attorney General: I believe I have an answer for that question if at the end of it I understand what it was. If you wanted to equate this with parole and probation of course parole and probation although it is decentralized as far as individual parole and probation officers it is centralized as far as it is run by the Department of Corrections. That is roughly the same way this would be. . Yes to the extent that the individual court systems, individual counties, individual judicial districts can be large in the operation of this, that is really very good and that is one of the reasons to get back to the making of formal rules with respect to it. We would like the individual tailoring to the individual situation and the judges are equipped to do that. We are here to initiate, train, to monitor, to facilitate replenishment of supplies. We are not going to run this program as a hands on. We need a person to take this on statewide for us and get it operational. That may be two years, that may be six years, I don't know. We have got a little over a year's experience in this judicial district that we are sitting in, see it come along very well but it has not been without its quarks.

Chairman Delzer: That is already out there in the parole and probation system. They have the personnel that are trained within these types of cases. Why would we not ship this over to Parole and Probation?

Tom Trenbeath, Deputy Attorney General: Parole and Probation, I don't believe and they can speak for themselves, are very interested in monitoring misdemeanor first and second offense or third offense DUIs. When it gets up to that fourth offense, yes, it is a possibility of a prison term, then they would start becoming involved under their mandate.

Representative Glassheim: The SCRAM bracelets are they reusable and what is their life expectancy?

Tom Trenbeath, Deputy Attorney General: They are reusable and their life expectancy I will have to refer to Agent Grabowska.

Chief Agent Lonnie Grabowska, NDBC: The company that makes them recalibrates them any time there is a problem so as you more or less pay for the unit in the field, if there are any problems we send it in to the company. The company will then fix that item and send it back to us.

Representative Glassheim: Is that a recurring cost?

Chief Agent Lonnie Grabowska, NDBC: That is the cost for one unit and then the unit comes to us. Then there is no cost associated with it for the natural breakdown of the item. If a participant breaks the item they can be held liable for fixing of that SCRAM bracelet.

Representative Glassheim: So it might last like five years?

Chief Agent Lonnie Grabowska, NDBC: Yes.

Representative Berg: What other criminals after sentencing does the Attorney General's Office follow?

Tom Trenbeath, Deputy Attorney General: After sentencing, other than we have an involvement with sexual predators, and my thinking is that is about it.

Representative Berg: My thinking is, again if this is showing tremendous results I think it is a good program. What I don't want to do long term, is set up an additional ongoing cost if in fact we are finding savings in other places. Part of my thinking for the Attorney General's Office is, get it set up, but let's not build an entity within the Attorney General's Office. Let's get it pushed off to where again we have a system already set up. You don't need to answer that it is just

kind of my thought. I think of course with Parole and Probation or whoever it might be, they general seem pretty receptive to legislative ideas.

Tom Trenbeath, Deputy Attorney General: I think you are right. Because our involvement is to get it running and running smoothly. If it were up and running smoothly at least for the purposes that it was originally designed for, the DUI offender, there is no reason why the local court system can't run this operation. We would expect that to happen. We may be back and I don't recall if this bill covers Parole and Probation I don't recall whether it covers other alcohol related offenses such as domestic violence and criminal assault and that sort of thing. Predictably if it is successful with the DUI, eventually it will involve that. As you know from testimony from law enforcement officers, if there is one problem that is common throughout all criminal activity, it is abuse of alcohol or drugs.

Representative Kaldor: Was this the program part of your optional requests to the Governor?

Tom Trenbeath, Deputy Attorney General: It was not. It is self contained in the bill.

Representative Kaldor: Why was it not requested?

Tom Trenbeath, Deputy Attorney General: That is an excellent question and usually when somebody says that they don't know the answer. I would have to say that I don't recall the discussion. The discussion may have occurred after the budget deadline.

Chairman Delzer: Why not work in conjunction with the drug courts?

Tom Trenbeath, Deputy Attorney General: Let me speculate on that and it might be a better question for the judges that are in the drug court but I believe that if you were to superimpose this on the Drug Court situation you would have to expand the drug court situation to a much larger degree. I don't know that it makes a lot of difference who administers it on the ground.

Which judge for what purpose? If it happened to be part of the drug court scenario, then all DUIs would appear before the drug court.

Chairman Delzer: Certainly the numbers of people that you are hoping to use here to monitor or whatever, probably are currently going through some of the drug court situations.

Tom Trenbeath, Deputy Attorney General: I don't think I could say that. If you look at the statistics with regard to DUIs and possible participants in this program, to an extent they will overlap people who have drug problems but I doubt if that is to a great extent.

Chairman Delzer: Is the drug court all felonies?

Tom Trenbeath, Deputy Attorney General: I expect that there are misdemeanor drug cases but whether or not those are assigned to drug court I don't know.

Representative Meyer: How many people would this effect?

Tom Trenbeath, Deputy Attorney General: The packet that has been handed out is from a PowerPoint presentation. It has the information with respect to the DUI arrests in the state for I think 2006-2007.

Chairman Delzer: Do you agree with the fiscal note as far as the people that are going to take part in the program?

Tom Trenbeath, Deputy Attorney General: Their numbers are probably based on second offense and greater because that is where their new permit would come in.

Chairman Delzer: Are you doing this on first offenders?

Tom Trenbeath, Deputy Attorney General: It could be done on first offenders.

Chairman Delzer: First offenders don't lose their license right away do they?

Tom Trenbeath, Deputy Attorney General: I believe they have thirty days to sit. The fiscal note is based on second and subsequent. The bill itself is based on DUI arrests and as you can see by the chart that is part of the packet, in 2007 there were 5463 DUI arrests in the state. Predictably out of that you are going to get a higher number of pretrial participants than you are of post conviction participants. Along with the two a day tests and the SCRAM

bracelet, there is also the availability of urinalysis kits and this could be for drugs or alcohol.

There is also the availability of the PharmaCheck patch which is a drug only situation. The packet shows the cost of those which is a comparatively small part of the budget. The part is the greatest concern for you is the addition of a person to coordinate this program. We have used a large percent of Special Agent Lonnie Grabowska time over the course of the past year plus to get this thing initiated in this district and to start initiating in the Grand Forks district.

This is not the career path that Lonnie had chosen for neither himself nor one that we had chosen for him. He was kind enough to lend his time and his boss was kind enough to insist that he do that for the purpose of the roll out phase. He has been extremely successful in coordinating the city and county law enforcement with the judicial system with regard how that will differ from county to county. Lonnie has got a master at that. Fortunately we need somebody to do that full time, unfortunately Lonnie, we hope, is not that person because he is much too valuable in the field for much more serious matters. We do need an FTE to coordinate this thing and coordinate its growth and good health. That is where that request comes from.

Representative Glassheim: It changes the idea of the program, when I go down that statistics of arrests ranked greatest to least, I see that the top nine counties consist of about 3600 of the 4200 arrests listed on that. For purposes of cost, I wonder if you could get a lot of bang for the buck by doing the top nine counties as an expansion of the pilot project. It's just a thought.

Tom Trenbeath, Deputy Attorney General: We would roll it out and expand it to the degree that this committee and the legislature would allow us to but you can see if we deal in districts as we have down here, this is one of the reasons it was a pilot in South Central District is we have a comparatively high population counties and/or cities, and we have very low population counties and cities. We have a reservation in this district. It was a real microcosm of what the

state is. We find it being used as the statistics show, in accordance with the population. The situation comes up though, is the judges represent all of them and they rotate in and out of courthouses throughout the entire district. We like to do this in one fell swoop as it were and we think it would the desired effect. Plus you may have and will have situations where a person in Dunn County happens to be arrested in Bismarck while he is here for a basketball tournament or whatever, it would be nice to be able to coordinate those two a day tests with the Dunn County Sheriff.

There was no opposition or neutral testimony.

Chairman Delzer closed the hearing on House Bill 1306.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1306

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/10/09

Recorder Job Number: End of 9146 (51:18) and 9147

Committee Clerk Signature <i>Tonya Voegeli</i>
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Minutes:

Chairman Delzer opened the discussion on House Bill 1306

Chairman Delzer: Tom, did you have some information for us on the 24/7?

Tom Trenbeath, Deputy Attorney General: You had requested information on those handheld testing devices that we had. Also I took the liberty of including a copy of the newspaper article that came out in Sioux Falls that I referenced the other day. It indicates the savings that they are having related to the 24/7 program but unrelated to people's insobriety in that they are finding the jails are emptier and they have used that money elsewhere.

Chairman Delzer: Tom, I think one of the questions that we have had for you on this is if we wanted this to be a self funding position.

Tom Trenbeath, Deputy Attorney General: I do have that information and I apologize if you don't have it. My recollection is that you would be charging right now it is \$2/day or \$1/per test. You would be raising that to \$4.89/day. So it would be \$2 for the local entity for doing the test and it would be \$2.89 that they would have to remit to the state for the expense the state would be fronting.

Chairman Delzer: That would be basically \$5/day. What would that cover or what would that purchase for you?

Tom Trenbeath, Deputy Attorney General: That would cover this budget \$546,000. It depends of course how much the program would be used.

Vice Chairman Thoreson: So it is \$5/day or jail.

Tom Trenbeath, Deputy Attorney General: Actually it is \$2/day is what covers it. As the chair of the committee well knows is not in our budget. It is generated by the legislative initiative to start the study program. The study program has been very successful and we are expanding it. In fact Lonnie is going up to Grand Forks later this week to do the training up there. Committee members what we will do is we are done with the Attorney General's we will work on 1306.

NEW RECORDER JOB 9147

Representative Glassheim: For self funding how much more is it going to be than the original proposal?

Tom Trenbeath, Deputy Attorney General: The original proposal would be \$2/day per person. If you were to cover the cost of the expenses in the bill it would be an additional \$2.89 so it would be \$4.98/day.

Representative Glassheim: I can't remember, how long will this go on?

Tom Trenbeath, Deputy Attorney General: It depends upon the person that is subject to it. If it happens to be a second offense it would be a certain length of time. If it was the third or fourth offense it may be quite a bit longer. I think the sheet that I gave the Chairman presumes an average of sixty days.

Representative Meyer: Is there jail time on a second offense?

Tom Trenbeath, Deputy Attorney General: There is. Second offense DUI or Actual Physical Control comes with a mandatory four days minimum continuous so it can't be two weekends.

Chairman Delzer: This does not remove that at all. If you are on the 24/7 you still have to do that.

Tom Trenbeath, Deputy Attorney General: That is correct.

Chairman Delzer: We still do have some members that have reservations about this being in the Attorney General's Office compared to either Justice or Parole and Probation. Did you have any more discussions with like the Chief Justice or anything on that?

Tom Trenbeath, Deputy Attorney General: I have not had any conversation with the Chief Justice but knowing him however and knowing how he wants to keep the Judiciary the way it is, I don't expect the Chief Justice would welcome this into his program. The Department of Corrections of course is a different entity that performs a different function. If you are talking about Probation and Parole, they don't have a probation officer in every county and what you would end up with if you did have a probation officer in the counties is you would end up with just another guy that works for another person sitting in the same chair doing the same testing. So we think this makes some sense the way it is set up. It has the beauty of simplicity.

Representative Kempenich: The other states are run through the AGs office?

Chairman Delzer: South Dakota is the only other state.

Tom Trenbeath, Deputy Attorney General: And that is run through the counties by way of the AGs Office.

Chairman Delzer: On this bill and the fiscal note for the bill, do you expect this to be used fully right from the start?

Tom Trenbeath, Deputy Attorney General: The actual fiscal note is reflective of costs through the DOT so we have had nothing to do with preparing that. That has to do with the temporary permits that are issued during the time the people are on the 24/7 program. I am not able to address that directly. Our fiscal impact that is contained in the bill, has to do with there

would be a roll out period because we are not going to do all seven districts at once we are just now going in to the second district.

Chairman Delzer: The five dollars a day would be able to get the equipment and pay for it.

Tom Trenbeath, Deputy Attorney General: That is our best guess.

Representative Berg: My opinion is that there may be a more appropriate place for it long term. I can see the roll of Attorney General kind of getting it set up and organized. It seems to me that in the local communities, whether it is the sheriff or corrections or whomever, and certainly corrections doesn't have a person in every county but where the majority of our populations are they have people. Again what I am concerned of is a duplication of manpower as we move forward. Again I understand the merit of your office kind of spear heading it and getting it up but I think it would be good if it gets handed off and incorporated somewhere else.

Tom Trenbeath, Deputy Attorney General: I am not going to disagree with you. It seems to me that it will be a while before we are able to do that. There will be a continuing necessity or desire at least for someone person that can update training and update equipment and practices and respond to different judges' inquiries on how they want to tailor make their program through the course of the program. That is why we requested the one person through the BCI. There may be some day in the future where this thing can become a real boy and exist on its own. For the foreseeable future we are seeing that it would be best merged.

Representative Berg: If it works it will never leave the Attorney General's Office. If it doesn't work it will probably be part of the Racing Commission.

Chairman Delzer: With that we will move on.

Chairman Delzer closed the discussion.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1306

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/12/09

Recorder Job Number: 9893

Committee Clerk Signature

Minutes:

Chairman Delzer opened the discussion on House Bill 1306

Chairman Delzer: What the amendment does is remove the appropriation.

Vice Chairman Thoreson: Then does it provide a continuing appropriation?

Chairman Delzer: I think you have to provide the continuing appropriation because they are going to be collecting money and spending money. What this does is removes the General Fund upfront dollars.

Representative Kempenich: So it could be line seven?

Chairman Delzer: No it is line eight. All we are taking out is the words "to provide an appropriation". What this does is they came back to us the other day and said it would go from \$2/day to \$4.89/day. When I read the rest of the bill and correct me if somebody else reads it different, but they have the authority to charge up there in section five of the bill and they would have to change the amount that they charge to cover that.

Representative Kaldor: I had a little incidental visit with Mr. Stenehjem yesterday and he indicated a concern about the fees. He didn't say whether he was concerned about being able to collect them or them being able to pay them. For some reason he had a concern about the

2/12/09

fees. I guess I don't have a stake in this but I am sure it will be discussed when we get to full committee.

Chairman Delzer: I can understand his concern about that but on the same token I think it is a pretty darned good program. If they are actually keeping themselves out of jail and improving, now we don't want to get it so expensive they can't but the difference between staying out of jail and working and being in jail certainly should be worth \$5/day.

Vice Chairman Thoreson: I agree with you there. I am one of the sponsors of this bill. I think it is a good program and something that we need proceed but we are talking basically the cost of a value meal at a drive thru for them to stay out of jail.

Chairman Delzer: There is one issue, this removes it all there is the issue if we think they need some start up money. A guy could leave a hundred thousand or something there for the agency for startup money. Another thing about this, I really don't think they need the \$546,000 any way you look at it because it is not all going to start the first day of the biennium.

Representative Kaldor: I think he is going to seek some outside sources to assist with this too. Jack Daniels money and that kind of thing. There are some industries that would support assisting this and he was going to pursue that. I think it's positive.

Chairman Delzer: What are the committee's wishes?

Representative Meyer: I attended the interim committee when South Dakota presented this. My question then is the same as now is the \$5 figure whether this matters or not but like in a trucking company when you have to do the same test, it costs you \$70-110. They always promote this by saying well we can do it for \$5. After that hearing there was a big amount of discussion that these private trucking companies in our area that have to do this test they say either this is really inflated what we have to pay or else this \$5 is really trying to get this program going. I would hate to see this go to where it is \$100/day. If there is some guarantee

that they can do this for \$5 I am fine with it. We have to do this private testing and it costs us \$100 every time we have to do it.

Chairman Delzer: I think that is a different test. I don't think they are doing a urinalysis or anything that way. All they are doing here is either the blow in or the ankle bracelet where they are actually not purchasing, they are paying the cost of that is not the purchase of the machine but the connection and somebody to look at it.

Representative Kempenich: Even when we were down at the crime lab they have some new Intoxilyzers now that will stand up in court. That is my guess on what they will be using to follow this.

Chairman Delzer: This does remove the whole appropriation. If somebody wants to say if this is acceptable that is fine if somebody wants to leave a little bit of start up money that is fine too.

Vice Chairman Thoreson: To move the discussion along I would move amendment 98261.0201 but I would move to further amend for the appropriation to leave a sum of \$100,000 in there for start up for the program.

Chairman Delzer: That would be the whole amendment then. It would be to change \$546,000 to \$100,000.

Vice Chairman Thoreson: That is correct.

Representative Glassheim: Second.

Chairman Delzer: Is there any discussion?

A motion was made by Vice Chairman Thoreson, seconded by Representative Glassheim to adopt an amendment where the appropriation would change from \$546,000 to \$100,000 for start up money. The amendment was adopted by voice vote.

Chairman Delzer: Committee members, what are your wishes on the bill?

Vice Chairman Thoreson: I would move a Do Pass as Amended on House Bill 1306.

Representative Kempenich: Second.

A motion was made by Vice Chairman Thoreson, seconded by Representative Kempenich for a DO PASS AS AMENDED recommendation to the Full House Appropriations Committee. The committee's vote was 7-0-1.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1306

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9489

Committee Clerk Signature

Shirley Branning

Minutes:

Chairman Svedjan: Brought the Committee discussion to HB 1306, a bill for a 24/7 Sobriety Program.

Rep. Thoreson: This is something that the Attorney General has been working on. It has been used in South Dakota with some pretty big success. If people get an offense for DUI under circumstances, they can stay out of jail by being monitored either by going and being checked twice a day or wearing an ankle bracelet which also monitors them. In the original bill there was an amount of \$546,000. This amendment would take that amount down to \$100,000, because the original plan was to have the persons being monitored pay \$2 per day which would cover the costs of the supplies. It was brought to our attention that the cost of the actual program for them would be about \$5 a day. I believe \$4.89 was the figure. We did leave \$100,000 in for startup costs. **I move amendment .0202.**

Rep. Kempenich: seconded the motion.

Rep. Glassheim: The earlier fiscal note had revenue of \$110,000 at \$2. If you go to \$5, that is 2.5 times so the revenue would be \$275,000, but the cost is \$540,000. I don't see how we're close to covering the costs unless they are supposed to find it in their budget.

Rep. Delzer: That was not discussed in Section but we went to the Attorney General's office and asked them if they covered the cost if we made this so it was a cost initiated program, they

said it would be the \$2 for the supplies and the testing and \$2.89 a day for the equipment. We left \$100,000 to start the program. When the program starts, they will be able to use whatever that generates to buy the rest. We did not discuss what Rep. Glassheim brought up.

A voice vote was taken. Motion carries to adopt the amendment.

Rep. Thoreson moved a Do Pass as Amended on HB 1306. Rep. Skarphol seconded the motion.

Rep. Delzer: There was consternation about this being in the Attorney General's This is more on the judicial end. We did not talk to Corrections or Judicial. The Attorney General's office was adamant about having this.

DO PASS AS AMENDED. 23 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING. Rep.

Thoreson is the carrier of this bill.

98261.0201
Title.

Prepared by the Legislative Council staff for
House Appropriations - Government
Operations

February 11, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1306

Page 1, line 8, remove "to provide an appropriation;"

Page 4, remove lines 14 through 17

Renumber accordingly

February 12, 2009

YR
2/13/09

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1306

Page 4, line 15, replace "\$546,000" with "\$100,000"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces funding for the twenty-four seven sobriety program by \$446,000 to provide total program funding of \$100,000.

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

House House Appropriations- Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

☒ Voice Vote

☐ Roll Call Vote

Motion Made By Vice Chairman Thoreson: Seconded By Representative Glassheim:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Glassheim		
Vice Chairman Thoreson			Representative Meyer		
Representative Kempenich			Representative Kaldor		
Representative Berg					
Representative Dosch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Further amend to leave 100,000 for start up.

Amendment Adopted

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

House House Appropriations- Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

☐ Voice Vote

☒ Roll Call Vote

Motion Made By Vice Chairman Thoreson: Seconded By Representative Kempenich:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Glassheim	X	
Vice Chairman Thoreson	X		Representative Meyer	X	
Representative Kempenich	X		Representative Kaldor	X	
Representative Berg					
Representative Dosch	X				

Total (Yes) 7 No 0

Absent 1

Floor Assignment Vice Chairman Thoreson:

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

Date: 2/13/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98241.0202

Action Taken Adopt Amendment 0202

Motion Made By Thoreson Seconded By Kempenich

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voices - carried

Date: 2/13/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass to Amended .0202

Motion Made By Thoreson Seconded By Skarphol

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

Total (Yes) 23 No 0

Absent 2

Floor Assignment Rep. Thoreson

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

REPORT OF STANDING COMMITTEE

HB 1306, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (23 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1306
was placed on the Sixth order on the calendar.

Page 4, line 15, replace "\$546,000" with "\$100,000"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces funding for the twenty-four seven sobriety program by \$446,000 to provide total program funding of \$100,000.

2009 SENATE JUDICIARY

HB 1306

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1306

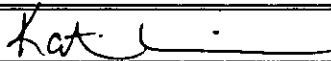
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10049

Committee Clerk Signature



Minutes:

Senator Nething opens the hearing on HB 1306, relating to supervision of probationers.

Tom Trenbeath, Assistant Attorney General, introduces the bill (see attached testimony). This bill is the state wide expansion of the Attorney General's 24-7 program. He passes around a breathalyzer and a SCRAM bracelet.

Senator Nething Can you give us an idea about the money and where it is going to come from?

Tom Trenbeath We had 546 as I recall that made that request in the House. The House Appropriations trimmed it back to \$100,000 and figured we could raise the balance through raising the cost of participation. It would raise the cost of participation somewhere around \$4.29 a day rather than the \$2.

Senator Fiebiger I understand the Sub Dakota program has been successful, but I didn't find anything in the bill itself that said what will happen if the person violates the order with respect of going back to jail. Will that be in the courts order that would be separate from this?

Tom Trenbeath that is correct. It would be the same as a violation of any other term of bond.

Senator Fiebiger in section 4 it talks about an offender who has been charged with or convicted of a second offense, does that language mirror with what South Dakota at the

present time? We really are talking about someone who has one offense and been charged with another. I am just wondering whether you are getting at the repeat offenders.

Tom Trenbeath I don't know what their current statute states. Section 4 in our bill relates to the ability to obtain a temporary driving permit during the time you are in the program per second a subject offense. We have been in discussions with the Department of Transportation who is in favor of this and they see the benefits of the program.

Senator Schneider Do any of those encompass treatment for alcoholism or anything like that? Are judges able to send someone not only to the 24/7 program but also to some form of treatment to help make the 24/7 program more successful?

Tom Trenbeath The judge is able to order treatment but only after evidence is submitted that would necessitate or indicate that treatment is warranted. As rule that occurs in DUI cases because there is an obligatory evaluation done. As a result the judge may reserve the right in the sentence to amend it to include a treatment.

Senator Schneider Do you have any idea how often that happens in DUI cases?

Tom Trenbeath It has happened almost never on the first offense in my experience and about 25-30% on the second offense.

Senator Nething Do you know whether or not there was a fee assessed in the pilot projects?

Tom Trenbeath yes there was.

Senator Nething Was that difficult to collect?

Tom Trenbeath Actually it hasn't been difficult in our experience here. The longer a person stays sober under this program, the more willing he or she is to come in and pay that dollar, because it helps them stay sober.

Judge Gail Hagerty we were thrilled to have the pilot project here. The biggest problem that we have had is judges wanting to use 24/7 for everything. We have to keep reminding them that it

 is for the repeat DUI offenders. We think it is helpful and we are able to set bonds in reasonable amount if we feel like people are going to stay sober. When people fail their tests they are taken into custody and we usually see them at 3:30 the next day. Generally I think the bond is increased so they have to post more in able to get out and they have to continue testing when they fail. We have had a few incidences where people don't show up and we would immediately to get a bench warrant to bring them back to court. We think it would be very helpful in domestic violence cases and other cases where alcohol plays a role. We support the expansion of this program.

Senator Fiebiger do you have any sense of what the percentage is of people who fail the program?

Judge Hagerty it is very low. My work in drug course has convinced me that regular testing is one of the best ways to keep people sober.

Senator Nething closed the hearing on HB 1306.



2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1306

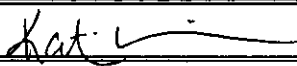
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10049

Committee Clerk Signature



Minutes:

Senator Nething opens discussion on HB 1306, relating to supervision of probationers.

Senator Lyson moves a Do Pass on HB 1306 and re-referred to appropriations.

Senator Nelson seconds the motion.

The bill received a Do Pass on a vote of 6 to 0.

Roll Call Vote #: /

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

Senate **JUDICIARY** Committee

☐ Check here for Conference Committee

Re Refer to appr.

Legislative Council Amendment Number

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen. Lyson Seconded By Sen. Nelson

[illegible]

Total (Yes) 6 (N) 0

Absent

Floor Assignment Den Tyson

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

REPORT OF STANDING COMMITTEE

HB 1306, as reengrossed: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1306 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

HB 1306

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1306

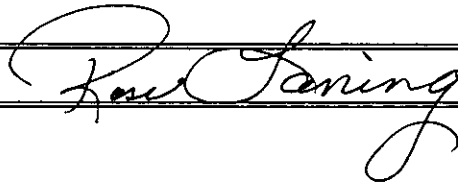
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10780

Committee Clerk Signature



Minutes:

V. Chair Grindberg called the committee hearing to order on HB 1306 relating to the authority of the parole board to use the 24/7 sobriety program as an intermediate sanction or condition of parole and also the temporary restricted driver's permits.

Robert Skarpohl: Representative District 2 introduced and testified in support of HB 1306.

Two years ago we put money into AGs budget to do a pilot program and we want to take it state wide. The House took out the money and AG would like to have it back. It could reduce prison populations.

Senator Mathern: Lets' say we fully fund this, how many beds could we take off the prison?

Robert Skarpohl: I am not sure we could today, but with the developing technology I believe there is that potential.

Senator Mathern: Why wouldn't there be an immediate impact?

Robert Skarpohl: There is a drug patch, but that patch doesn't dump into a computer system. Once it dumps into a computer, it could be immediate notification of a violation and the potential would there to pick.

Senator Krebsbach: I don't have the initial dollar amount that was included. Do you know what the original request was?

Robert Skarpohl: \$546,000

Wayne Stenehjem: Attorney General, State of North Dakota

Handed out Power Point Presentation – see attached # 1.

And 24/7 Estimated Expenses – ND Statewide Expansion – see attached # 2

The idea was developed because they were seeing the same people in courts all the time. If you continue to drink and drive, the manpower is not there to keep people from drinking. He approached law enforcement

Condition of bail when arrested for 2nd time, they will have to show up at sheriff's office twice a day and if there is alcohol on breath, they immediately have results, but first there was a lot of resistance.

Humor me and let's see what happens. They found the exact opposite. Some of the people DUI who were multiple offenders showed 98-99% success. Started this program 4 years ago.

Last year, House & Senate Interim committees said let's see if it will work up here. There was no money put into the program. Met with people in Bismarck/Mandan (judges in this district and 12 surrounding counties) I'm telling you about the program. We're tired of seeing same offenders in court room month after month. They were happy to do that. Then I met with sheriffs' since they do testing. They were willing, so were prosecutors. If offender does not show up then have to get a bench warrant.

Gave them all protocol and check off list. All very happy. Some of defendants weren't happy because now I can't drive. If they have difficulty getting there. They have SCRAM (Secure Continuous Remote Alcohol Monitoring) bracelet. TGO to telephone and it will transfer. Want to make this condition of sentence. For domestic violence,

Senator Mathern: Does it have to be against skin (with bracelet).

Wayne Stenehjem: If you snip it off, there is alarm. Also if tried something like plastic, chicken skin. Judge Wefald put ND poster child for DUI's, whose name is Craig Irwin— who had 15 DUI's, on the programs, and he went for 8 weeks without a drink when he wasn't in jail.

Senator Robinson: I had contact with individual in his district. He can't work and wants to work in the worst way. Is there application retroactively so as to help this man appeal and work with the court to help him get a work permit?

Wayne Stenehjem: There is temporary permit. The highway department says it's worth it. SD is expanding their program to not just cover alcohol, they have urine analysis screenings, and they can use a patch, breathalyzer and other devices. Can it tell if you're using controlled substances? People have addictions to alcohol drugs; they aren't arresting the same people for crimes.

Senator Krauter: These are all anecdotal. Do you have documentation to provide any backup to what you are saying?

Wayne Stenehjem: The state of SD was more than generous. The bracelets loaned us 12 bracelets, gave us the software program. I also went to Century Council and got \$10,000. I also went to the Insurance Council Reserve Fund and got \$10,000 grant.

The House cut the appropriation and we can't do it statewide with one person. There are no mandates so you have to ask the judges to do this. The appropriation is for person to take it statewide and the other thing we need to do is buy SCRAM bracelets. The House cut everything but \$100,000 out of budget and that won't allow program to work. If we have to make up the remainder costs, either the judges will not want to participate or we will get to a point where we will be billing the defendants who already have to pay legal fees, fines, and everything else; that they won't be able to afford to participate. I took up challenge set forth by you the Legislators, because you told me I should — and its working.

Senator Krauter: Why would the Burn grants not qualify?

Wayne Stenehjem: One of the things is the Cops grant.

There is a reduction in SD

Senator Mathern: One of the concerns that I have is in communities where there is in fact a higher incident of alcoholism being related to on ones' genetics. Have you addressed that in terms of difficulty? For some it's more difficult than others.

Wayne Stenehjem: This is not a substitute for treatment. This will not give them all the tools you need.

Senator Krebsbach: Are the bracelets re-usable?

Wayne Stenehjem: Yes, cost \$1200 up front. We may be able to get a reduced rate if we purchase a bunch. We have 100 in budget. Maybe we could have more insurance companies involved to get more money.

Senator Christmann: I just want to clarify this is for 2nd & subsequent offenses? What counties were in test area?

Wayne Stenehjem: Burleigh and Morton all on the same page.

Senator Christmann: Is this a county option? If the county officials say no, are they exempted?

Wayne Stenehjem: The judge could say, yes you will participate.

Senator Christmann: Do some counties really drag their feet. Bottineau County

Senator Christmann: What about mouth wash or communion.

Wayne Stenehjem: Yes there is. We provide a list of things not do before you take test.

Senator Christmann: Is there an option for an alternative place – for large counties.

Wayne Stenehjem: Yes, In Morton County they use the jail. Flexibility is essential.

Senator Christmann: The 466,000 in special funds that is the moneys coming in from the offenders?

Wayne Stenehjem: I don't know why they cut that amount of money, nor do I know where they expect that money to come from because they didn't have that discussion with me.

Senator Christmann: What is original request?

Wayne Stenehjem: \$546,000 in general fund.

Senator Robinson: I sat on the committee. This program has tremendous prospects. Those types of initiatives cost. We can make significant strides and make best better.

Wayne Stenehjem: The NE judicial district – asked if they could set up program there in their area. Most of the judges I have addressed this issue with are very receptive and would welcome this kind of programs.

Senator Christmann: How long does it usually take between arrest and their acceptance into this type of program?

Wayne Stenehjem: 2-3 months. The pilot programs are doing it, plus this bill anticipates that everyone will be on it while on bail. If convicted they have to have an evaluation, then a judge can decide.

V. Chair Grindberg: Closed the hearing on HB 1306

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1306

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 2, 2009

Recorder Job Number: 11635

Committee Clerk Signature

Minutes:

Chairman Holmberg opened discussion on HB 1306.

Senator Krebsbach moved Do Pass on HB 1306.

Senator Kilzer seconded.

A discussion between **Senator Krauter**, **Tom Trenbeath**, **Chief Deputy Attorney General**, **State of North Dakota**, and **Kathy Roll**, **Financial Advisor**, **Attorney General's Office** took place about maybe using the Bryne grants.

Senator Mathern reminded the committee that this piece of legislation was initiated by the legislature. It was requested of the legislature by the Attorney General last biennium. We did not initiate it.

Senator Christmann: Question on the fiscal note, other funds and the requested FTE.

Where would we be at if we had a new fiscal note on this? How much will it cost us in general funds, general funds, and special funds.

Kathy Roll: The bill as it stands now has \$270,000 in general fund money. In addition to that, in HB 1003, it included an additional \$229,000 of general fund money for support of the

program. The FTE and about \$216,000 is included in 1003 also for the federal stimulus money.

Senator Christmann: We've already committed about \$450,000 in the other bill, so to finish it out, we need another \$110.000?

Kathy Roll: Yes.

Chairman Holmberg: There have been a whole series of fiscal notes in this bill starting when the bill was introduced at an appropriation of \$20,000 of other funds. The bill has been amended somewhat and there is a fiscal note dated 1/16, fiscal note dated 1/27, fiscal note dated 2/03, fiscal note dated 2/17. So the bill is morphing.

Chairman Holmberg: Call the roll on a Do Pass on 1306.

A Roll Call vote was taken. Yea: 12 Nay: 2 Absent: 0

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

Chairman Holmberg closed the hearing.

Date: 4-1-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Krebsbach Seconded By Kilzer

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	☒		Senator Robinson	☒	
Senator Fischer	☒		Senator Lindaas	☒	
V. Chair Bowman	☒		Senator Warner	☒	
Senator Krebsbach	☒		Senator Krauter	☒	
Senator Christmann		☒	Senator Seymour	☒	
Chairman Holmberg		☒	Senator Mathern	☒	
Senator Kilzer	☒				
V. Chair Grindberg	☒				

Total Yes 12 No 2

Absent 0

Floor Assignment Lysen Kilzer Judiciary

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

REPORT OF STANDING COMMITTEE (410)
April 2, 2009 8:56 a.m.

Module No: SR-56-5949
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1306, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed HB 1306 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1306

North Dakota
Attorney General's Office

24/7

Attorney General Wayne Stenehjem

DUI Laws

- Misdemeanor Offenses
 - First DUI/APC = class B misdemeanor
 - Second DUI/APC = class B misdemeanor
 - Third DUI/APC = class A misdemeanor
 - Third offense w/in five years
 - Fourth DUI/APC = class A misdemeanor
 - Fourth offense w/in seven years
- Felony Offenses
 - Fifth and subsequent (w/in 7 yrs) = class C felony

DUI ARRESTS AND CONVICTIONS 2002-2007

	Arrests	Convictions
2002	4114	3993
2003	4982	4673
2004	5985	5182
2005	6101	5118
2006	5463	4601
2007	5463	4288

AGE GROUPS AND BAC OF DUIS IN NORTH DAKOTA FOR 2007

Age	Number	Percent
14-17	33	0%
18-20	459	8.5%
21-25	1609	29.0%
26-34	1397	25.1%
35+	2042	37.0%
Total	5535	100%
BAC	Number	Percent
0.07	725	13%
0.08	1126	20%
0.09	742	13%
0.10	1238	22%
Refused		
Not On File (NOF)		
(Admin. Hearing Skipped)		

	2000	2001	2002	2003	2004	2005	2006	2007	2008 (YTD)
Alcohol Related Fatalities/ Total Fatalities	47/119	52/105	49/97	53/105	58/100	57/112	57/111	57/111	57/94
Total	32,734	49,528	49,486	50,486	38K	45,336	42,344	56,468	48K

	2000	2001	2002	2003	2004	2005	2006	2007	2008 (YTD)
Alcohol Related Fatalities/ Total Fatalities	47/119	52/105	49/97	53/105	58/100	57/112	57/111	57/111	57/94
Total	32,734	49,528	49,486	50,486	38K	45,336	42,344	56,468	48K

OTHER FELONIES						
	ND CC 12.1.17-02 Aggravated Assault	ND CC 12.1.22-02 Burglary	ND CC 39.08-01 Driving Under the Influence (DUI)	ND CC 12.1.24-01 False/ Counterfeiting	ND CC 19.03.1-21(6) Possession Controlled Substance	
8-2000-2008 (YTD)	21,150	2,877	20,835	2,021	10,207	
Percentage	4%	7.6%	54.8%	5.3%	26.8%	

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THE BIG PICTURE: ALCOHOL AND CRIME

THE NATIONAL PROBLEM

1.5 million DUI arrests each year
\$2.5 billion in economic damage from lost work time
\$900 cost per arrestee
700,000 DUI cases annually
168,000 alcohol-related fatalities (OSHA)
\$300 of total traffic deaths involved alcohol
75% of all commercial vehicle offenses
\$225 billion a year lost spent on alcohol-related crime



	1st DUI	2nd DUI	3rd DUI (felony offense)
2003	3,119	1,101	45, 1% overall
2004	3,461	1,225	50, 1% overall
2005*	2,211	2,478	75, 1% overall
2006	1,685	1,390	35, 1% overall
2007	2,379	1,398	41, 1% overall

THE BIG PICTURE: ALCOHOL AND CRIME

THE NATIONAL PROBLEM

1.5 million DUI arrests each year
\$20 billion in economic damage
686 first-time
\$94 repeat offenses
710,000 DUI
1,000 lives lost per year
1,000 alcohol-related fatalities (OS)
\$300 of car traffic deaths involved alcohol
7% of all commercial vehicle offenses
\$225 billion a year lost spent on alcohol-related crime



	1st DUI	2nd DUI	3rd DUI (felony offense)
2003	3,119	1,101	45.1% overall
2004	3,461	1,225	50.1% overall
2005*	2,211	2,478	75.1% overall
2006	1,685	1,390	35.1% overall
2007	2,379	1,398	41.1% overall

THE BIG PICTURE: ALCOHOL AND CRIME

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1.5 million DUI arrests each year
\$20 billion in economic damage
686 first-time offenders
\$94 repeat offenses
710,000 DUI cases
1,000 lives lost per year
1,000 alcohol-related fatalities (OS)
\$300 of real traffic deaths involved alcohol
7% of all commercial vehicle offenses
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THE BIG PICTURE: ALCOHOL AND CRIME

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2007	2,379	1,398	41.1% overall

Guidelines for Pilot Program

3 conditions of bond:

1. If a defendant is charged with a second or subsequent offense in violation of NDCC 39-08-01 or equivalent ordinance, a Court may condition any bond or pre-trial release that the defendant not consume any alcoholic beverages and may also order the defendant to participate in a sobriety program in which the defendant will submit to twice-per-day breath testing seven days per week through an on-site breath test, or if the defendant is eligible for electronic alcohol monitoring.

Guidelines for Pilot Program

3 conditions of bond cont.

1 - cont.

The Court may also condition any bond or pre-trial release on payment of the associated costs and expenses of the sobriety program.

Guidelines for Pilot Program

3 conditions of bond cont.

2. The Court may also order as a condition of bond for a defendant charged with a first offense of NDCC 39-08-01 or equivalent ordinance that the defendant participate in the sobriety program if in the Court's discretion, participation is appropriate.

Guidelines for Pilot Program

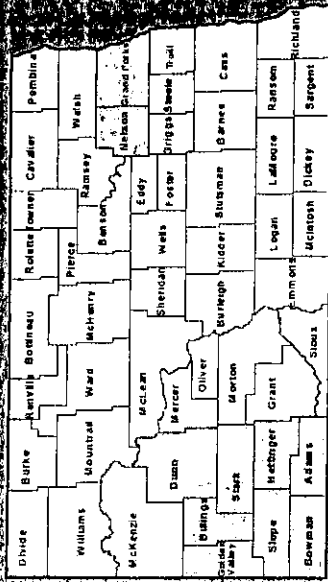
3 conditions of bond cont.

3. The Court may also order participation in the sobriety program as a condition of probation under a sentence for conviction of a violation of NDCC 39-08-01 or equivalent ordinance.

ABOUT THE PROGRAM

Pilot Program

12 Counties in the South Central Judicial District



1/1/08 - Present COUNTY/LOCATION OF TESTING

Testing County	Participants	Percent
Burleigh	59	52.5%
Emmons	0	0.0%
Grant	10	0.0%
Judd	7	1.2%
Logan	2	0.1%
McIntosh	0	0.0%
McLean	3	0.2%
Mercer	6	0.1%
Morton	39	27.5%
Oliver	0	0.0%
Sheridan	2	1.3%
Sioux	0	0.0%
Total	144	100%

Includes both current and discharged participants

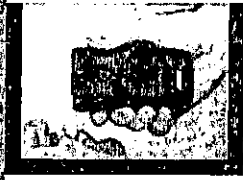
BOND CONDITIONS

- No alcohol
- No bars
- Breath test 7 a.m. and 7 p.m.
- If you skip or fail, you go to jail

BENEFITS

- Parents, Spouses, and Children are safer
- Public is safer
- Defendant will spend less time in jail
- Treatment prospects improve
- Defendant's employer happy
- ALMOST NO COST TO TAXPAYER

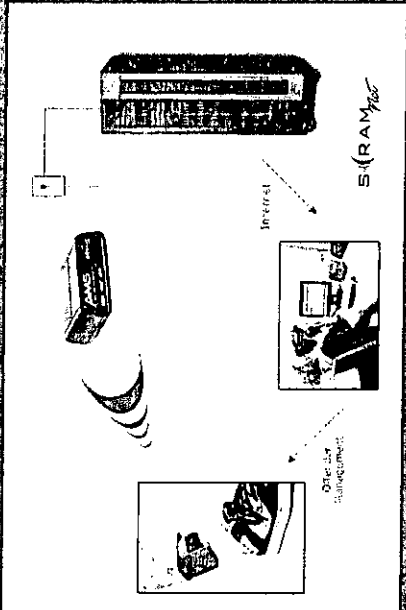
The Alco Senses FT and/or GMI S-D-5 are the newest instruments in their companies' product lines. Offering both direct and passive sampling, these instruments produce fast, reliable, accurate results in a package that is designed so that the operator has maximum control over the subject during sample collection.



S-D5



Alcohol Monitoring System (AMS) Secure Continuous Remote Alcohol Monitoring (SCRAM)



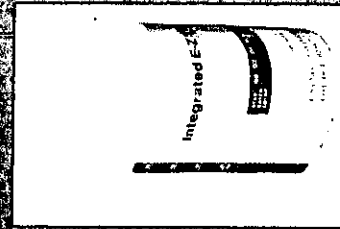
SCRAM STATS

January 1, 2008 through Present

- 16 participants
- 1022 total monitoring days for an average of 64 days per participant
- 40 participants had some type of violation
- 16 (or 100%) participants had no violation

DRUG URINALYSIS (Redwood Toxicology)

- Detection of drugs through urine test
- Detectable drugs
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - Oxycodone
 - PCP
 - Antidepressants
 - Ecstasy



DRUG PATCH (Pharmacheck)

- Detection of drugs through sweat test
- Detectable drugs
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - Oxycodone
 - PCP
 - Anilidepresants
 - Ecstasy



SERVICES AVAILABLE

Small counties
Ease and Test

Small counties
No jail
Defendant has odd situation

FUTURE SERVICE

Drug Patch
Small counties
Counties with high female staff

Drug Urinalysis
Counties with high volume
Need both male and female staff

SCRAMS
\$5.00 per day

Drug Patch
\$40.00 per patch

Drug Urinalysis
\$5.00 per test
\$12.50 for Laboratory Confirmation

Small counties
Ease and Test

Small counties
No jail
Defendant has odd situation

FUTURE SERVICE

Drug Patch
Small counties
Counties with high female staff

Drug Urinalysis
Counties with high volume
Need both male and female staff

DOC Prison Population

FY	Inmate population	Change
FY 1996	701	
FY 2006	1403	702 more inmates
FY 2007	1440	37 more inmates
FY 2008	1467	27 more inmates

70 of 71 annually

Current Numbers/Statistics

- As of 1/19/09:
 - 144 total participants
 - 25 active
 - 94 graduated
 - 24 failed
 - 1 re-offended

Current Numbers/Statistics

- Present and Successful PBT tests versus No shows and failed PBT tests
- 97.6% Success rate

Total PBT tests: 10,190

Present and Successful PBT tests: 9948

No Shows and Failed PBT tests: 242

24 failed tests, 168 no shows

Current Numbers/Statistics

- Electronic Monitoring Devices: (10 total)
- As of 01/19/09

All (10) ten SCRAM bracelets are in use

Burleigh Co SD and Morton Co SD

24/7 CONTACT INFORMATION

Chief Agent Lonnie Grabowska
NDBC

(701) 328-5530 office

(701) 220-7025 cell

DRUG PATCH (PharmaCheck)

- Detection of drugs through sweat test
- Detectable drugs:
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - Oxycodone
 - PCP
 - Antidepressants
 - Ecstasy



SERVICES AVAILABLE

- \$1.00 per day
 - PBT
 - Small counties
 - Ease and Test
- \$5.00 per day
 - SCRAM
 - Small counties
 - No jail
 - Defendant has odd situation
- FUTURE SERVICE
 - Drug Patch
 - Small counties
 - Counties without female staff
- \$40.00 per patch
 - Drug Urinalysis
 - Counties with high volume*
 - Need both male and female staff
- \$5.00 per test \$12.50 for Laboratory Confirmation
 - Counties with high volume*
 - Need both male and female staff

DOC Prison Population

- FY 1996
 - Inmate population 701
 - FY 2006
 - Inmate population 1403
 - FY 2007
 - Inmate population 1440
 - FY 2008
 - Inmate population 1457
- 70 or 71 annually
37 more inmates
27 more inmates

Current Numbers/Statistics

- As of 02/03/09:
 - 156 total participants
 - 24 active
 - 102 graduated
 - 28 failed
 - 2 re-offended

2-3-09

2-3-09

Current Numbers/Statistics

- Present and Successful PBT tests versus No shows and failed PBT tests
- 97.8 % Success rate

Total PBT tests: 11,055

- Present and Successful PBT tests: 10,349
- No Shows and Failed PBT tests: 245
 - 77 failed tests; 168 no shows

Current Numbers/Statistics

- Electronic Monitoring Devices: (10 total)
- As of 02/03/09:
 - All (10) ten SCRAM bracelets are in use.
 - Burlington Co SD and Morton Co SD

24/7 CONTACT INFORMATION

Chief Agent Lonnie Grabowska

NDBC

(701) 328-5530-office

(701) 220-7025-cell

24/7 Estimated Expenses ND Statewide Expansion

24/7 Expenses: (Current bills, repay, expansion)	\$351,864.48
---	--------------

Special Agent/Trainer Position:	\$194,246.00
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Estimated Total:	\$546,110.48
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Attachment
1306.2309B

24/7 Expenses:

Pilot Program-Expended Funds (current):

(12 Counties - *(3)-Burleigh, Morton and Mercer)

<u>Item:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Total Cost:</u>
1. Casio PCR-T265 Cash Register	\$129.99	*3	\$389.97
2. Memorex MVDP1078 7" DVD	\$89.99	*3	\$269.97
3. Thermal Paper Rolls 2'1/4" x 165' (6 pk)	\$14.83	*3	\$44.49
4. HP 530 Notebook w/Office Standard	\$808.00	*3	\$2424.00
5. Bond Order forms from Central Dup. Municipal and District			\$176.40
6. IT password fees (as of 12/08) (22 CJIS)	\$1.20/mnth (\$35.00/mnth)		\$440.40
7. Repair to Intoximeter			\$241.50
8. Rental for Training Space-24/7			\$297.26
9. Travel IT-reimbursement			\$2.48
10. Ordered new calibration tanks	\$173.50	2	\$347.00
	(As of 11/08)		<u>\$4633.47</u>

Current Equipment-Owed to SD or SCRAM (Due 12/31/09):

<u>Item:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Total Cost:</u>
1. Intoximeter FST (SD)	\$525.00	20	\$10,500.00
FST Calibration Tank	\$145.00	12	\$1740.00
FST Cal. Tank Regulator	\$109.00	12	\$1308.00
2. SCRAM Bracelets (SCRAM)	\$1200.00	10	\$12,000.00
SCRAM Modems	\$400.00	10	\$4000.00
			<u>\$29,548.00</u>

Statewide Implementation: (41 counties remaining) (53 counties total)
 (*9- Cass; Barnes; Grand Forks; Ramsey; Richland; Stutsman; Stark; Ward;
 Williams Counties)

<u>Item:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Total Cost:</u>
1. Memorex MVDP1078 7" DVD	\$89.99	*9	\$809.91
2. HP 530 Notebook w/Office Standard	\$808.00	*9	\$7272.00
3. Bond Order forms from Central Dup. (200) Municipal; (400) District	\$60.00	6	\$360.00
4. IT password fees	\$216.00	24 mnths	\$5184.00
*30 per Judicial District @ \$1.20/mnth = \$36.00 x 6 JD = \$216.00			
5. Intoxilyzer SD-5	\$285.00	68	\$19,380.00
*(2007 DUI Stats)			
*(4 for AG replacement)			
*(GF and Nelson County completed)			
Tank 0.080% BAC Calibration Gas	\$142.95	53	\$7576.35
(105L)			
*(2 for AG replacement)			
Regulator for Gas Cylinder	\$125.00	53	\$6625.00
(w/tubing for outlet port)			
*(2 for AG replacement)			
Calibration Adapter for SD-5	\$3.00	53	\$159.00
(Part # SA10040)			
*(2 for AG replacement)			
Training CD for SD-5	\$25.00	53	\$1325.00
Mouthpieces (order of 250 per bag)	\$38.50	808	\$31,108.00
*10,000/L.A. (12); 2000/S.A. (41) = (202,000 mouth pieces)			
*45.00 per bag if up to 10 bags ordered			
*42.50 per bag if between 11 – 15 bags ordered			
*40.00 per bag if between 16 – 20 bags ordered			
*38.50 per bag if 30 + bags ordered			
6. SCRAM II Bracelets	\$1500.00	82	\$123,000.00
(Includes Modem, phone cords			
and battery pack)			
(8 per major county-*8-GF County completed)			
(6 for BCSD and MCSD-3 each)			
(12 for AG replacement/exchange)			

SCRAM battery packs	\$8.00	300	\$2400.00
SCRAM Direct Connect Devices (1 per major county)	\$600.00	12	\$7200.00

7. Redwood Toxicology:

<u>Item:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Total Cost:</u>
4-10 drug EZ cup Unit price: \$3.59 (25 per box)	\$89.75	65	\$5833.75
Positive test analysis (\$12.50 per/test)			
(2 boxes for the large 12 counties, 1 box for the remaining 41) (\$5.00 participant + possible cost of analysis)			

8. PharmaCheck:

<u>Item:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Total Cost:</u>
Sweat Patch (N218)	\$10.05	50	\$502.50
Screen and Confirm	\$20.00/patch		
Overlay Protection	\$0.55	50	\$27.50
	\$30.60		

(\$40.00 participant)

*(Kit cost: 50 patches and 50 overlays cost \$530.00) + \$20.00 per test (x 50)
= \$1530.00

*(2 kits for the large 12 counties, 1 kit for the remaining 41)

(530.00 x 65 kits = \$34,450.00)

+

(50 patches per kit x \$20.00 = \$1000.00 x 65 = \$65,000.00)

(\$34,450.00 + \$65,000.00) = \$99,450.00

\$317,683.01

Overall-Current; SD; Statewide: (\$351,864.48)

*Cass (3); Burleigh (3); Ward (3); Grand Forks (3); Morton (3); Ramsey (3);
((Total: 18))

Stark (2); Richland (2); Stutsman (2)
((Total: 6))

Barnes; Williams; Walsh; Mercer; McLean; Rollette; Traill; Pembina; McKenzie;
Dunn; Eddy; Pierce; McHenry; Dickey; Foster; Sargent; Adams; Montrail; Ransom;
Griggs; Emmons; McIntosh; Nelson; Renville; Wells; Cavalier; Kidder; Burke;
Hettinger; Oliver; Logan; Sheriden; Towner; Bottineau; Bowman; LaMoure; Grant;
Slope; Benson; Billings; Divide; Golden Valley; Sioux; Steele (1).
((Total: 44))

((Grand Total: 68))

**200+ DUI Arrests:	(3) Intoximeters
100-200 DUI Arrests:	(2) Intoximeters
100 and below DUI Arrests:	(1) Intoximeter

Counties by DUI arrest-2007

County	DUI Arrest	County	DUI Arrest
1. Adams	8	28. McLean	48
2. Barnes	79	29. Mercer	55
3. Benson	*DNR	30. Morton	282
4. Billings	*DNR	31. Montrail	8
5. Bottineau	0	32. Nelson	5
6. Bowman	0	33. Oliver	1
7. Burke	1	34. Pembina	31
8. Burleigh	655	35. Pierce	15
9. Cass	1168	36. Ramsey	201
10. Cavalier	3	37. Ransom	8
11. Dickey	11	38. Renville	4
12. Divide	*DNR	39. Richland	143
13. Dunn	16	40. Rolette	40
14. Eddy	15	41. Sargent	9
15. Emmons	6	42. Sheriden	1
16. Foster	9	43. Sioux	*DNR
17. Golden Valley	*DNR	44. Slope	0
18. Grand Forks	446	45. Stark	194
19. Grant	0	46. Steele	*DNR
20. Griggs	7	47. Stutsman	101
21. Hettinger	1	48. Towner	1
22. Kidder	2	49. Traill	38
23. LaMoure	0	50. Walsh	57
24. Logan	1	51. Ward	471
25. McHenry	13	52. Wells	4
26. McIntosh	6	53. Williams	70
27. McKenzie	19		

*DNR- Did Not Report

2007 Total DUI/ Arrests: 4253

Counties by DUI arrest-2007-Ranked greatest to least

County	DUI Arrest	County	DUI Arrest
1. Cass	1168	28. Ransom	8
2. Burleigh	655	29. Griggs	7
3. Ward	471	30. Emmons	6
4. Grand Forks	446	31. McIntosh	6
5. Morton	282	32. Nelson	5
6. Ramsey	201	33. Renville	4
7. Stark	194	34. Wells	4
8. Richland	143	35. Cavalier	3
9. Stutsman	101	36. Kidder	2
10. Barnes	79	37. Burke	1
11. Williams	70	38. Hettinger	1
12. Walsh	57	39. Oliver	1
13. Mercer	55	40. Logan	1
14. McLean	48	41. Sheriden	1
15. Rollette	40	42. Towner	1
16. Traill	38	43. Bottineau	0
17. Pembina	31	44. Bowman	0
18. McKenzie	19	45. LaMoure	0
19. Dunn	16	46. Grant	0
20. Eddy	15	47. Slope	0
21. Pierce	15	48. Benson	*DNR
22. McHenry	13	49. Billings	*DNR
23. Dickey	11	50. Divide	*DNR
24. Foster	9	51. Golden Valley	*DNR
25. Sargent	9	52. Sioux	*DNR
26. Adams	8	53. Steele	*DNR
27. Montrail	8		

*DNR- Did Not Report

2007 Total DUI/ Arrests: 4253

Counties by DUI arrest-2006

County	DUI Arrest	County	DUI Arrest
1. Adams	6	28. McLean	22
2. Barnes	91	29. Mercer	41
3. Benson	0	30. Morton	300
4. Billings	0	31. Montrail	18
5. Bottineau	36	32. Nelson	5
6. Bowman	0	33. Oliver	*DNR
7. Burke	1	34. Pembina	53
8. Burleigh	713	35. Pierce	34
9. Cass	1319	36. Ramsey	195
10. Cavalier	2	37. Ransom	11
11. Dickey	11	38. Renville	5
12. Divide	*DNR	39. Richland	129
13. Dunn	19	40. Rolette	26
14. Eddy	23	41. Sargent	9
15. Emmons	4	42. Sheriden	1
16. Foster	15	43. Sioux	*DNR
17. Golden Valley	*DNR	44. Slope	*DNR
18. Grand Forks	610	45. Stark	201
19. Grant	0	46. Steele	*DNR
20. Griggs	2	47. Stutsman	116
21. Hettinger	4	48. Towner	3
22. Kidder	4	49. Traill	57
23. LaMoure	3	50. Walsh	68
24. Logan	0	51. Ward	404
25. McHenry	13	52. Wells	6
26. McIntosh	*DNR	53. Williams	85
27. McKenzie	27		

*DNR- Did Not Report

2006 Total DUI/ Arrests: 4692

Counties by DUI arrest-2006-Ranked greatest to least

County	DUI Arrest	County	DUI Arrest
1. Cass	1319	28. Sargent	9
2. Burleigh	713	29. Adams	6
3. Grand Forks	610	30. Wells	6
4. Ward	404	31. Nelson	5
5. Morton	300	32. Renville	5
6. Stark	201	33. Emmons	4
7. Ramsey	195	34. Hettinger	4
8. Richland	129	35. Kidder	4
9. Stutsman	116	36. LaMoure	3
10. Barnes	91	37. Towner	3
11. Williams	85	38. Cavalier	2
12. Walsh	68	39. Griggs	2
13. Traill	57	40. Burke	1
14. Pembina	53	41. Sheriden	1
15. Mercer	41	42. Benson	0
16. Bottineau	36	43. Billings	0
17. Pierce	34	44. Bowman	0
18. McKenzie	27	45. Grant	0
19. Rolette	26	46. Logan	0
20. Eddy	23	47. Divide	*DNR
21. McLean	22	48. Golden Valley	*DNR
22. Dunn	19	49. McIntosh	*DNR
23. Montrail	18	50. Oliver	*DNR
24. Foster	15	51. Sioux	*DNR
25. McHenry	13	52. Slope	*DNR
26. Dickey	11	53. Steele	*DNR
27. Ransom	11		

*DNR- Did Not Report

2006 Total DUI/ Arrests: 4692

Special Agent/Trainer

The Bureau of Criminal Investigation (BCI) has been tasked with coordinating the Attorney General's 24/7 Sobriety Program. The 24/7 program has quickly developed into an effective means to deter repeat alcohol violations within the pilot area of the South Central Judicial District. The pilot program currently involves twelve (12) participating counties and is being reviewed for possible expansion into other districts across the state. Currently, the 24/7 pilot program is being coordinated by a BCI chief agent with computer assistance from the Attorney General's Information Technology Division. With the concept of statewide implementation at hand, a full-time employee will be required to take over as state coordinator for the program as it moves from the pilot phase into other judicial districts.

The 24/7 program coordinator will be required to expand the current pilot program into a statewide process, the success of which will depend upon the ability of the coordinator to plan, implement, monitor and oversee the sobriety programs during the different phases of development. In addition to organizing and conducting training for local and state law enforcement agencies, and municipal and district judges, the coordinator will address issues and identify solutions throughout expansion of the program.

The coordinator will be the expert contact for any perceived problems and will interact with other state sobriety programs, vendors that supply the necessary equipment, and various public and private professional entities. Extensive travel will be required to implement new programs and monitor local procedures and financial practices.

These requirements have resulted in a workload beyond the current capability of one individual and the status of the sobriety program as a collateral duty. We are requesting general fund support for a full-time employee to be assigned in Bismarck to coordinate the sobriety program and its future expansion.

Funding Source: 100% General Fund

Salary	126,464
Operating	47,782
Equipment	20,000
TOTAL	\$194,246

DRUG PATCH (PharmaCheck)

- Detection of drugs through sweat test
- Detectable drugs
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - OxyCodone
 - PCP
 - Antidepressants
 - Ecstasy



SERVICES AVAILABLE

- \$1.00 per day
 - PBT
 - Small counties
 - Case and Test
- \$5.00 per day
 - SCRAM
 - Small counties
 - No jail
 - Defendant has odd situation
- \$40.00 per patch
 - Drug Patch
 - Small counties
 - Counties without female staff
- \$5.00 per test
\$12.50 for Laboratory Confirmation
 - Drug Urinalysis
 - Counties with high volume
 - Need both male and female staff

FUTURE SERVICE

DOC Prison Population

- FY 1996
 - Inmate population 701
 - FY 2006
 - Inmate population 1403
 - FY 2007
 - Inmate population 1440
 - FY 2008
 - Inmate population 1467
- 70 or 71 annually
37 more inmates
27 more inmates

Current Numbers/Statistics

- As of 03/03/09:
 - 166 total participants
 - 24 active
 - 111 graduated
 - 28 failed
 - 3 re-offended

Current Numbers/Statistics

- Present and Successful PBT tests versus No shows and failed PBT tests
- 97.8 % Success rate

Total PBT tests: 11,816

- Present and Successful PBT tests: 11,565
- No Shows and Failed PBT tests: 251
 - 79 failed tests; 172 no shows

Current Numbers/Statistics

- Electronic Monitoring Devices: (10 total)
- As of 03/03/09:
 - All (10) ten SCRAM bracelets are in use
 - Burleigh Co SD and Morton Co SD
 - Grand Forks and Nelson County started on 03/02/09 with (8) eight bracelets

24/7 CONTACT INFORMATION

Chief Agent Lonnie Grabowska

NDBCI

(701) 328-5530-office

(701) 220-7025-cell

DRUG PATCH (PharmaCheck)

- Detection of drugs through sweat test
- Detectable drugs
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - OxyCodone
 - PCP
 - Antidepressants
 - Ecstasy



SERVICES AVAILABLE

\$1.00 per day	→	PBT	• Small counties • Ease and Test
\$5.00 per day	→	SCRAM	• Small counties • No jail • Defendant has odd situation
<u>FUTURE SERVICE</u>			
\$40.00 per patch	→	Drug Patch	• Small counties • Counties without female staff
\$5.00 per test \$12.50 for Laboratory Confirmation	→	Drug Urinalysis	• Counties with high volume • Need both male and female staff

DOC Prison Population

• FY 1996	– Inmate population	<u>701</u>	
• FY 2006	– Inmate population	<u>1403</u>	70 or 71 annually
• FY 2007	– Inmate population	<u>1440</u>	37 more inmates
• FY 2008	– Inmate population	<u>1467</u>	27 more inmates

Current Numbers/Statistics

- As of 03/12/09:
 - 169 total participants
 - 24 active
 - 113 graduated
 - 29 failed
 - 3 re-offended

3-12-09

3-12-09

Current Numbers/Statistics

- Present and Successful PBT tests versus No shows and failed PBT tests
- 97.9 % Success rate

Total PBT tests: 12,111

- Present and Successful PBT tests: 11,860
- No Shows and Failed PBT tests: 251
 - 79 failed tests; 172 no shows

Current Numbers/Statistics

- Electronic Monitoring Devices: (10 total)
- As of 03/12/09:
 - All (10) ten SCRAM bracelets are in use
 - Burleigh Co SD and Morton Co SD
 - Grand Forks and Nelson County started on 03/02/09 with (8) eight bracelets

24/7 CONTACT INFORMATION

Chief Agent Lonnie Grabowska

NDBC

(701) 328-5530-office

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PROPOSED AMENDMENT TO HOUSE BILL 1306

Page 1, Line 4, replace "licenses" with "permits"

Page 2, Line 20, replace "conviction for a" with "an offender has been charged with, or convicted of, a second or subsequent" and remove "is for a"

Page 2, line 21, remove "second or subsequent offense,"

Page 2, Line 23, replace "license" with "permit", replace "an" with "the" and after "offender" insert "only"

Page 2, Line 25, after "program" insert "by the offender" and replace "The director may" with "If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted drivers permit be revoked and take possession of the temporary restricted drivers permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted drivers permit. Revocation of a temporary restricted drivers permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted drivers license under any other provisions of this section."

Page 2, remove lines 26 through 28.

Renumber accordingly

NOTE: This will be how the subsection will read with the proposed amendment.

If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 and the offender's drivers license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender only for the purpose of participation in

the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted drivers permit be revoked and take possession of the temporary restricted drivers permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted drivers permit. Revocation of a temporary restricted drivers permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted drivers license under any other provisions of this section."