

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2406

2001 SENATE JUDICIARY

SB 2406

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2406

Senate Judiciary Committee

Conference Committee

Hearing Date February, 6th, 2001

Tape Number	Side A	Side B	Meter #
1	x		0-26
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2406: A BILL FOR AN ACT TO CREATE AND ENACT A NEW SUBSECTION TO SECTION 39-08-01 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO INMATE PLACEMENT FOR DRIVING WHILE UNDER THE INFLUENCE.

Senator Flakoll, representing district 44, testifies in support of SB 2406. (testimony attached)

Senator Lyson, would you have heart burn on this bill if an amendment dealing with judges was attached to this bill?. So that the courts understand.

Senator Flakoll, yes. I agree with you.

Senator Watne, do you know cost of these units?

Senator Flakoll, no, I do not, but someone does.

Senator Dever, my son was given a minor in possession and had a leg brace put on. Would this be in my house?

Senator Flakoll, there is a camera which monitors them.

Senator Trenbeath, I don't think that answers his question. A second possession of alcohol would be four days in jail.

Tom Martin, of Fargo ND, testifies in favor of SB 2406. (testimony attached)

Senator Trenbeath, you monitor the defedents?

Tom Martin, yes I do. We offer comprehensive monitoring in NW Minnesota.

Senator Trenbeath, is my county able to contract from you?

Tom Martin, yes. It doesn't matter where the defendent is.

Senator Traynor, you say offender pays for their own punishment. Can you explain?

Tom Martin, I contact the defendent. I collect personally from him. I then notify the county of the penalty. The defendent pays for the equipment as part of their sentence.

Senator Dever, how long is house arrest? And what is the cost?

Tom Martin, 5 days at 12-16 dollars a day.

Senator Dever, is there a charge for setting this thing up?

Tom Martin, yes and it varies.

Senator Nelson, miles charge for someone?

Tom Martin, in a county I live in, I would charge daily rate, plus the 35 dollar hookup fee. If they lived in Minot I would charge them .50 cents a mile and that's it.

Senator Watne, is this connected to a telephone line?

Tom Martin, yes. A computer generates the image.

Pat Bohm, Intensive Programs Coordinator Department of Corrections and Rehabilitation Field Service Division, presents proposed amendments to SB 2406. (see attachment)

Senator Traynor, if the court decided to the offender was an appropriate subject for this device your department would not be involved?

Pat Bohn, yes.

Senator Watne, there is a large fiscal note with this. Are you familiar with this?

Pat Bohn, the fiscal note under my amendment would go by the wayside for the state. We could come up with another calculation.

Senator Watne, I would like to see that.

Pat Bohn, if we had this amendment it would take off the fiscal note.

Senator Traynor, could you provide info from the counties?

Pat Bohn, yes.

John Olson, states attorney and peace officers. The question is who pays and who tests. Since they do not, I'm not sure we are apposed. I don't know if you want to be so confining., that might be a consideration with the word must. If they want to take the check for the cost of this program, there should be no costs to the county. This program seems to be designed for those who can pay. However, what about those who can't pay. This bill does have some merit.

Senator Traynor, if the bill was passed, and someone couldn't afford the bill, could that be an argument?

John Olson, yes that may be a concern.

Senator Watne, if they are under house arrest can they work?

John Olson, I don't know about house arrest.

Keith Magnusan, represents department of transportation, should look at something different on house arrest. Add house arrest and electronic monitoring.

Senator Traynor, if bill were amended would it meet your requirement.

Keith Magnusan, it would make no difference.

Senator Traynor closed the hearing on SB 2406.

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Senate Judiciary Committee
Bill/Resolution Number SB 2406
Hearing Date February 6th, 2001

SENATOR TRENBEATH MOTIONED TO PASS BOTH AMENDMENTS, SECONDED BY SENATOR WATNE. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR TRENBEATH AGAIN MOTIONED TO AMEND THE BILL, SECONDED BY SENATOR NELSON. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. A THRID MOTION WAS MADE BY SENTOR WATNE TO DO PASS AS TWICE AMENDED, SECONDED BY SENATOR NELSON. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR NELSON VOLUNTEERED TO CARRY THE BILL.

FISCAL NOTE
 Requested by Legislative Council
 02/13/2001

Bill/Resolution No.:

Amendment to: SB 2406

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

As amended SB 2406 has no fiscal impact on state revenues, expenditures or appropriations.

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.*

No fiscal impact.

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.*

No fiscal impact.

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

No fiscal impact.

Name:	Elaine Little	Agency:	Dept. of Corrections & Rehabilitation
Phone Number:	328-6390	Date Prepared:	02/13/2001

FISCAL NOTE

Requested by Legislative Council
02/07/2001

REVISION

Bill/Resolution No.: SB 2406

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The fiscal impact of SB 2406 as revised, is the potential savings to the municipalities and counties for not having to incarcerate those sentenced to the minimum mandatory for a 2nd DUI conviction in 5 years, which is 5 days. The Department of Corrections & Rehabilitation is unable, however, to calculate the potential savings. The unknown factor that impacts this potential cost savings is the availability of beds within the jail. If, for example, there are 20 beds in the jail and only 10 are occupied, leaving 10 vacant, the savings would not be as great as if all 20 beds in the jail were occupied, in which case, the county or city would have to contract to incarcerate the offender elsewhere.

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.*

No impact.

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.*

DUI OFFENSES BY CLASS AND YEAR

DUI Offenses by Class Calendar Year Calendar Year Two Year Average

1998 1999

2nd in 5 years 1128 1051 1091

* Statistics obtained from the North Dakota Drivers License Division and represents all 53 counties and municipalities.

Assuming that 50% of all DUI offenders would be eligible for this program:

DUI Offenses by Class Calendar Year Calendar Year Two Year Average

1998 1999

2nd in 5 years 564 526 545

We would assume, using a 50% eligibility basis, that there would be 545 people in the program during the course of a calendar year.

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

Not applicable.

Name: Warren Emmer	Agency: Department of Corrections and Rehabilitation
Phone Number: 701-328-6193	Date Prepared: 02/08/2001

FISCAL NOTE
 Requested by Legislative Council
 01/30/2001

Bill/Resolution No.: SB 2406

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$235,296		\$235,296
Expenditures			\$631,572	\$235,296	\$631,572	\$235,296
Appropriations			\$631,572	\$235,296	\$631,572	\$235,296

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Pursuant to Senate Bill 2406, the Department of Corrections and Rehabilitation would be responsible for supervising DUI offenders in the community, on house arrest. The bill requires that these offenders be placed on electronic monitoring and to be tested twice daily for alcohol. The estimated fiscal impact on the Department of Corrections and Rehabilitation, Field Services Division is explained below.

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.*

Assuming participant rates as identified in the expenditures summary we would see approximately 817 people in this program per year. The per day rate assessed to offenders on electronic monitoring by the DOCR is \$6. Assuming that the collection rate is approximately 40% the total revenue for the biennium would be as follows

$(817 \text{ Offenders} \times 60 \text{ days}) \times \$6/\text{Day} \times 40\%$
Collection Rate = \$117,648 year
or \$235,296 per Biennium.

- 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.*

DUI Offenses by Class and Year

**DUI Offenses by Class Calendar Year 1998 Calendar Year 1999
Two Year Average**
2nd in 5 years 1128 1051 1090

3rd in 7 years 362 347 355
4th in 7 years 133 114 124
5th in 7 years 63 69 66
Total 1686 1581 1634

*Statistics Obtained from the North Dakota Drivers License
Division and Represent all 53 Counties and Municipalities

**Assuming that 50% off all DUI offenders would be eligible for this
program.**

**DUI Offenses by Class Calendar Year 1998 Calendar Year 1999
Two Year Average**

2nd in 5 years 564 526 545
3rd in 7 years 181 174 177
4th in 7 years 67 57 62
5th in 7 years 32 35 33
Total 843 791 817

**Assuming an average of 60 days per offender the following are
projected costs by offense**

Monitoring Expense Monitoring Cost

2nd in 5 years: (\$4.50/day EMS costs X 60 Days) X 545 Offenders =
\$147,150

3rd in 7 years: (\$4.50/day EMS costs X 60 Days) X 177 Offenders =
47,790

4th in 7 years: (\$4.50/day EMS costs X 60 Days) X 62 Offenders =
16,740

5th in 7 years: (\$4.50/day EMS costs X 60 Days) X 33 Offenders =

