

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2439

2001 SENATE JUDICIARY

SB 2439

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2439

Senate Judiciary Committee

Conference Committee

Hearing Date February 12th, 2001

Tape Number	Side A	Side B	Meter #
1	x		0-39
Committee Clerk Signature			

Minutes: **Senator Watne**, opened the hearing on SB 2439: A BILL FOR AN ACT TO AMEND AND REENACT SUBSECTION 1 OF SECTION 12-54.1-01 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO PERFORMANCE-BASED SENTENCE REDUCTION.

**Senator Nething**, representing district 48. This is a bill to find a way to give credit to inmates in penitentiary.

**Elaine Little**, Director of the Department of Corrections, (testimony attached).

**Senator Nelson**, I have constituents who believe if you are sentenced for three years you stay in prison for 3 years. How will I explain this bill to them if I vote yes.

**Elaine Little**, the judge sentences accordingly knowing about this law.

**Senator Bercler**, how do you distinguish between criminals?

**Elaine Little**, good time law for violent criminals don't apply the same as those for a criminal with a lesser sentence.

**Senator Lyson**, if a person gets 10 years, he's committed a serious crime in ND and it's probably not his first offense. Is that true?

**Elaine Little**, yes.

**Senator Lyson**, now we want to reduce the sentence?

**Elaine Little**, they still must serve 85% of the time sentenced.

**Senator Lyson**, if we look at page 1, line 17. Starting at the word it. If you have consecutive sentences. If a person was sentenced to 10 years, on three different counts consecutively. Two for two years, and one for six years, they'll get the good time from the six year sentence?

**Elaine Little**, yes, if it is a concurrent sentence.

**Senator Lyson**, sentence of 4 years, is reduced to 24 months.

**Elaine Little**, yes.

**Senator Bercler**, give me a few examples who gets time off?

**Elaine Little**, under this law any inmate could get good time law.

**Senator Trenbeath**, this is a budget bill. Sentence inflation, wouldn't the judges still sentence accordingly to accommodate for the good time law. So how are you saving money? Have you talked to the judges about this bill?

**Elaine Little**, no.

**Senator Nelson**, don't sex offenders need to finish their treatment before getting the good time?

**Elaine Little**, when they come in, we put them in a plan.

**Senator Nelson**, can an inmate lose good time?

**Elaine Little**, yes.

**Senator Dever**, 2 questions. First one is what happened in 1991 that we're changing law? Second is, are there objective standards which good time is acquired? Third question is, is this reviewed by the parole board?

**Elaine Little**, first question is a sensitive one introduced by the warden. Second answer is no there are not. Answer to the third ? is the parole does not look at this.

**Senator Lyson**, Have you checked to see how much reoffenders have cost their victims and the court costs are?

**Elaine Little**, no I don't know the cost.

**Bob Harns**, council for Governor Hoeven, a budget bill and a prison management bill. In '89-'91 the biennium the general fund was 18 millior dollars, we are now looking at a budget of 84 million dollars. Growth in the prison population has caused this. This bill is a way to get a hold of this problem.

**Senator Watne**, have other states used this approach?

**Bob Harns**, I don't know what other states are doing. We want public safety, policy and resource management.

**Senator Trenbeath**, this is an emotional issue, not a fiscal issue.

**Bob Harns**, there is no silver bullet in this area.

**Senator Trenbeath**, one twentieth of 1 %, how much heat are we going to get from our districts for giving more free time?

**Senator Lyson**, justice is to deter crime.

**Bob Benette**, Assistant Attorney General, the Attorney General has taken a neutral position on this bill. If a change is made on line 20 he will then oppose it.

**Senator Trenbeath**, is this the position of the Attorney General of 1991?

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Senate Judiciary Committee  
Bill/Resolution Number SB 2439  
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**Bob Benette**, I don't know.

**John Olson**, representing peace officers and states attorneys, opposes the bill. Truth in sentencing should apply.

**Johnathan Byers**, from the Attorney General's office, is neutral. Prosecutors do calculate good time law in. Calculates about \$167,000 to fiscal note.

**Senator Watne** closed the hearing on SB 2439.

**SENATOR NELSON MOTIONED TO DO NOT PASS, SECONDED BY SENATOR LYSON. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR LYSON VOLUNTEERED TO CARRY THE BILL.**

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/30/2001

Bill/Resolution No.: SB 2439

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
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	(\$270,363)	\$0	(\$270,363)	\$0
<b>Appropriations</b>	\$0	\$0	(\$270,363)	\$0	(\$270,363)	\$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.*

Senate Bill No. 2439 provides that inmates can earn good-time (performance based sentence reduction) based on the length of their sentence. Under current statute inmates can earn five days good time per month regardless the length of sentence. Under SB 2439 good time can be earned on the same schedule ( based on length of sentence) that existed prior to 1991. This change would not significantly affect any one inmate's length of sentence but cammulatively would begin to affect the number of prison beds needed towards the end of the first year of the next biennium. The number of prison beds saved per day average 5 during the first year of the biennium and 17 during the second year of the biennium. During the second year of the next biennium the average number of days sooner that inmates would be released would be approximately 20.

**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.*

There will be no effect on revenue.

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

The increase in good time earned would result in inmates being released somewhat earlier throughout the biennium. Therefore, the need for the Department of Corrections to board inmates in local jails and the private prison in Appleton, MN would be reduced. It is estimated that net savings in boarding costs would

be \$270,363 for each of the next two biennia.

**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.*

The DOCR appropriation could be reduced by \$270,363 to reflect the savings described above.

<b>Name:</b>	Elaine Little	<b>Agency:</b>	Dept. of Corrections and Rehabilitation
<b>Phone Number:</b>	328-6390	<b>Date Prepared:</b>	02/09/2001

meter # <sup>211.0 - 21.0 = 23.0 - 33.0</sup> TAPE 2 - Side A

Date: 2/12/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 211.0

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

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

Action Taken Do Not Pass

Motion Made By Nelson Seconded By ~~Lyson~~ Lyson

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Lyson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 12, 2001 4:49 p.m.

Module No: SR-25-3135  
Carrier: Lyson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2439: Judiciary Committee (Sen. Trenbeath, Chairman) recommends DO NOT PASS**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2439 was placed on the  
Eleventh order on the calendar.

2001 TESTIMONY

SB 2439



# DEPARTMENT OF CORRECTIONS AND REHABILITATION

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## Testimony on SB No. 2439 Senate Judiciary Committee February 12, 2001

Good morning Chairman Traynor and members of the Senate Judiciary Committee. The Department of Corrections and Rehabilitation supports SB No. 2439. This bill would be an excellent management tool for the prison system and would begin to limit the growth in the inmate population.

Senate Bill No. 2439 provides that inmates can earn good time (performance based sentence reduction) based on the length of their sentence. Under current statute inmates can earn five days of good time per month regardless the length of sentence. Under SB 2439 good time can be earned on the same schedule (based on length of sentence) that existed prior to 1991. Pursuant to SB 2439 an inmate with a sentence of three months but less than one year could earn 5 days good time per month whereas currently inmates who receive sentences up to 6 months do not earn any good time. An inmate with a sentence of one to three years could earn 6 days per month, at most an additional 12 days good time per year. The greatest impact of SB 2439 is for inmates with a sentence of over ten years. These inmates could at most earn an additional 60 days good time per year, ten days instead of the five days per month that they can earn under the current good time law.

Cumulatively the additional good time earned by both new inmates coming into the system and those currently incarcerated would begin to impact the number of prison beds needed by September 2001. From September 2001 through January 2002 the number of fewer beds needed on a daily basis would range from 1 to 3 beds. Then from February 2002 through December 2002 the number fewer beds needed daily would vary from 6 to 16. From January 2003 through June 3003 the number fewer beds needed would vary from 18 to 31. The average number of days that inmates would be released sooner by the second year of the next biennium would be approximately 20 days. Since the Department of Corrections and Rehabilitation would need to contract for the boarding out of fewer inmates we estimate there would be approximately \$270,363 saved over a biennium's time.

This bill would certainly save dollars for the state, however even more important to the Department is the importance of this bill as a good management tool. Most

inmates now work hard to earn good time. Since most inmates could earn even a bit more good time under this bill, we believe that the prison would see even fewer incidents of misconduct by inmates in order that they not jeopardize their ability to earn good time. Also, under current statute, inmates who do not comply with all treatment, education and work that is recommended for them by staff do not earn any good time. Inmates who would not follow the individual program plan established for them by staff also would not earn any good time under SB 2439.

The Department of Corrections and Rehabilitation strongly supports SB 2439. It would cumulatively have a positive impact on stabilizing the inmate population growth and would make the good time law an even stronger management tool than it is presently. Thank you.

Submitted by  
Elaine Little, Director