

2011 SENATE JUDICIARY

SB 2141

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

SB2141  
1/18/11  
Job #13035

Conference Committee

Committee Clerk Signature 

**Explanation or reason for introduction of bill/resolution:**

Relating to the granting of performance based sentence reduction to offenders in a correctional facility

**Minutes:**

There is no written testimony

**Senator Nething – Chairman**

**Senator Lyson** – Introduces the bill, says it was brought forth by the county jails for allowing them to give good time to inmates. It is given now under the Department of Correction which started about 20 plus years ago. The county jails gave good time but tagged onto the Dept. of Corrections. This bill is an attempt to straighten that up and put it in law so it's proper. An example of good time would be one day of a sentence if there were no infractions during that month. It is a tool to keep inmates in a facility to not cause trouble. The way this bill is written the institution is going to have to talk to the judge about good time and see if the judge will allow that individual prisoner the good time benefit. Senator Lyson called seven judges in the state and they all thought this is a great idea.

**Senator Nething** – Asks what is done currently and what this bill will permit.

**Senator Lyson** – Says this bill will allow them to do what they are currently doing. It gives each facility to do this if they want to after they talk to their district judges.

**Senator Nething** – Expresses, so if the individual is behaving themselves the facility administrator can go to a judge and request this.

**Senator Lyson** – Said he expects the administrator will go in front of their judge and give him their rules and regulations for this and ask the judge to approve them for them. They will probably call the judge and ask if the individual can be put on good time.

**Senator Olafson** – Asks if violent offender are excluded.

**Senator Lyson** – Said violent offenders do not deserve good time.

In Support of

**Tracy Trapp** – Correctional Center Administrator for Stutsman County – Vice President of the ND Correctional Center Administrator Association. He gives the background of 54.1, 5 days of good time can be given per month. Depends on if the inmate is eligible. The bill also puts it under 44.1 which is the appropriate place for the county jails. It also goes 1 day per 6 days served which is a little easier for the usual sentences for county inmates. One of the big pluses the county jails are looking for is behavior modification. He says sometimes the inmates that are serving the shortest sentences are giving the most problems.

**Senator Sitte** – Asks if we are giving more flexibility to the jail administrators.

**Trapp** – Replies, correct and will get the county jails on-line with each other.

Opposing  
None

**Senator Nelson** – Asks if we take it out of sentence reductions in 44.1 for jails and regional correctional centers what happens in the penitentiary. She asks if we have taken away the good time for people in the penitentiary.

**Senator Lyson** – Responds that the penitentiary is under a different part of the code. There is good time in that part of the code also.

Close the hearing on SB2141

**Senator Lyson** motions for a do pass  
**Senator Sitte** seconds

Roll call vote  
6 yes, 0 no

**Senator Lyson** will carry

Date: 1/18/11  
Roll Call Vote # 2141

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2141

Senate Judiciary Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Lyson Seconded By Senator Sitte

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Senator Lyson

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

**REPORT OF STANDING COMMITTEE**

**SB 2141: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the  
Eleventh order on the calendar.

2011 HOUSE JUDICIARY

SB 2141

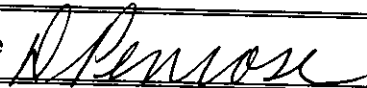
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

SB 2141  
March 8, 2011  
15086

Conference Committee

Committee Clerk Signature



## Minutes:

Chairman DeKrey: We will open the hearing on SB 2141.

Sen. Stan Lyson: Sponsor, support, explained the bill. SB 2141 is a sheriffs' bill, jail bill. When you have somebody incarcerated in the county jail, we have for years, given them good time. We use that for disciplinary purposes. We did that under the Dept. of Corrections and we found out that they didn't think was proper; the Attorney General didn't think it was proper either so that's the reason for the bill. The way the bill is written, the administrator of the jail must go to the judge and talk about good time for a person who has been sentenced by that court and say that he would like to give good time to the inmate. Good time would mean that if he had no violations of the jail rules, you could get good time for that. In some places, they give different types of good time. They may give you a day a week off your sentence for good time. Other places give a day every two weeks, some give a day every month. Under this law it would be up to the sheriff and the judge when they talk about the type of good time that they would give. The good time is really a necessary tool, especially with the larger jails and the number of inmates that they have in the jail, to be able to give the good time. We thought that the way the law is written, the judge should have some input in that situation. So that is the way the bill is written.

Chairman DeKrey: This bill would be pretty consistent with the bill we sent over to you that took the electronic monitoring and put that in the hands of the courts instead of just the jail administrators. I guess it is a complementary bill.

Rep. Delmore: Will this make rules more uniform. It doesn't seem like it is changing everything. It's almost a local control issue by area.

Sen. Lyson: That's exactly what it is, a local control issue because the jails that are out there are usually county or a combined jail for several counties. The reason that we put the courts in there is that it would help in getting everything down so that it would be with that court system. This is a type of good time that they would expect the jails to give.

Rep. Delmore: Perhaps the judges would have a better handle on doing this.

Sen. Lyson: It could be different from the SW part of ND to the NE. It would still be governed by the court.

Rep. Koppelman: Looking at the language that is being struck and the language that it is being replaced with, it doesn't seem to change much in practice, but it does refer to that section differently. If I understand you correctly, you're saying that it was set before based on standards used by the penitentiary, and this changes that; in effect it doesn't really change anything, does it.

Sen. Lyson: The only thing this changes is that we used to go along with the Dept. of Corrections for everything. With the jails being spread out all over the state, we thought that it would be a good idea to have the judge be able to talk with the jail administrator to set the good times, that way the courts know what's happening with each one of the inmates that they are putting into jail.

Rep. Hogan: Are good time guidelines generally set as a broad policy and then applied to individuals, or is each case considered individually.

Sen. Lyson: I can't speak for every county jail in the state because when I was the sheriff, I ran my jail. The policy did state that there was good time, and the good time was set in black and white. I would think that this would be the same case with the way the bill is written. The administrator is going to go to the judge and say that we should give good time because it is a good thing for disciplinary purposes and what would you consider and this is what we would like to see in good time. I would say that it will be the judge and the sheriff/administrator would set that good time and it would be in the policy at that point.

Rep. Hogan: Just for the record, we used good time in Cass County a lot because that's who built sandbags, and we really need this.

Sen. Lyson: That's what really brought this bill forward.

Rep. Klemin: The sentence reduction is based on performance criteria established through the administrator. How is that going to be done?

Sen. Lyson: As I said, it is going to be established by the administrator in conjunction with consultation with the court. The administrator will go see the judge and say that we need to set up criteria for good time or reduced sentence if they want to call it that. We always called it good time. They would come up with a figure that if you were sentencing someone for a year, for instance, in the county jail, you may give them good time of 1 day for every week, or 1 day for every two weeks. You may not give them good time until it hits 30 days. Then he would get a slip saying, no good time would be awarded until after you have served 30 days. No good time would be awarded to someone in jail for a sentence of less than 30 days.



After that time, you would probably get 1 day a week if you had no violations. If you were sentenced to a year, you would probably get 1 day every two weeks; however the administrator and the court decide to set that policy. So within each institution, the inmates would get a copy of the policy and everyone would know exactly what they would be eligible for.

Chairman DeKrey: Thank you. Further testimony in support of SB 2141.

Dave Shipman, Sheriff/Jail Administrator for Morton County: Support. I think that the good time bill would help some of the jails across the state with overcrowding issues. As we know, people end up in jail because they aren't following the rules out here. It's an incentive for them to change their behavior while in jail; to follow the rules and regulations set by the Dept. of Corrections, and hopefully change their behavior so they can be allowed to return to society.

Chairman DeKrey: Thank you. Further testimony in support of SB 2141. Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to SB 2141?

Rep. Hogan: I move a Do Pass.

Rep. Beadle: Second the motion.

**13 YES 0 NO 1 ABSENT**

**DO PASS**

**CARRIER: Rep. Beadle**

Date: 3/8/11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2141

House JUDICIARY Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hogan Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin			Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Beadle

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

**REPORT OF STANDING COMMITTEE**

**SB 2141: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2141 was placed on the  
Fourteenth order on the calendar.