

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - SPECIAL SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Russell Fagg, on November 30, 1993,
at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Karmen Tuttle, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: The Department of Corrections and Human
Services - Informational Meeting Only
Executive Action: None

HEARING ON THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

Tape No. 1 Side 1

Opening Statement by Sponsor:

Rick Day, Director, Department of Corrections and Human Services, stated that the department's budget is about \$153,000,000 in General Fund: 13% of the total budget; this is in comparison to K-12 education which is about 19%. Everyone is concerned about crime not only in Montana but all over the country. To put our problems into perspective, one federal solution is to have 10 new regional prisons. To run these facilities would cost around \$400 million. The department would like to put an 850 cap on the prisons. The State of Montana has about 1100 to 1200 inmates at the Montana State Prison. About 85% of the offenders inside the prison return to the community. Parole/probation supervision is somewhere in the area of \$700 per inmate compared to \$17,000 inside the institution walls. Montana has the second highest average length of sentence in the nation. People show concern in communities with expanding community corrections. The area of Billings has seen over the last four years a decline in admissions. Billings is fourth or fifth in the state for prison admissions; 60% of returns are parole and 23% are probation. The department has recommended 33 for the early parole consideration; Only 2 of those 33 were granted parole. **Exhibits 1, 2, & 3**

Women's Corrections

The department would like to expand a 24 bed facility solely for women. The department has also requested and had positive responses to incorporating innovative programming, including an emphasis on children. They would like to work with individuals who have made it outside to mentor. In January 1994 the department anticipates the state will be out of the women's prerelease program business. The department is very encouraged by the proposal and the quality of the proposals that came from the alternatives. It will be a significant part of the women's corrections system and significant to development in the community. Short term improvements for the Women's Correctional Center in Warm Springs included remodeling the center; this process would make the cost twice the amount anticipated. The Corrections Department has been negotiating with Rivendell to buy the former psychiatric hospital in Billings. The department has received its appraisal, and negotiations have begun. The department is very encouraged about the facility even though there will be some renovation needed. The department is trying to get the most value for the State of Montana. It will take 6-8 months to complete process for services like food and medical to get Rivendell up and running.

Questions From Committee Members and Responses:

Rep. Randy Vogel asked what factors are used in figuring out the crime index totals. **Mr. Day** explained it was the number of crimes in the population per 100,000 times people.

Rep. Vivian Brooke said she has invited **Greg Petesch** to come from the Legislative council to provide information about the concerns a group of legislators have had.

Greg Petesch, Director, Legal Services Division, said **Rep. Brooke** asked about the \$260,000 in proceeds at the Women's Correction Facility. The legislature wants the \$260,000 to be used for improvements at the correctional center. The Board of Examiners authorized the issuance of money for that purpose. **Rep. Brooke's** concern was that during the hearing on that portion of the bill, the majority of the testimony dealt with construction or improvement of facilities of a visitors' center and some treatment rooms. The actual revisions being done within the Pintlar Building are in the nature of housing for persons at that facility. The bonds and approval by the Board of Examiners for those projects is in compliance with the statute, but they are being used for projects that were not fully discussed by the legislature. That ought to be a concern to the committee so that in the future projects will not be dealt with in this manner.

Rep. Brooke said **Mr. Day** mentioned that the appraisal has come in from Rivendell and the State was going to reappraise it. **Mr. Day** replied that the department has obtained an appraisal that the department can use. The department is trying to analyze the benefits and security concerns.

Rep. Brooke said that two weeks ago a motion was made with regard to co-ed facilities, because there was a discussion on a prerelease center that there could possibly be co-ed facilities. There was a motion by the legislature that there should not be a co-ed facility. She asked whether Butte is a co-ed facility. **Mr. Day** answered the co-ed facilities are isolated from one another so there is not a direct problem. The new construction is not co-ed because it is not part of the same building. Co-ed not be a factor.

Rep. Bill Tash asked **Mr. Day** to tell the committee about the Boot Camp. **Mr. Day** answered that the Boot Camp Program in terms of implementation and programming at this point has been very successful. Ultimately the success will be determined on whether offenders return to society or to prison. The program has already graduated two classes. Boot Camp was made to move offenders through the system faster with more focus on self-esteem and program. There is a high level of family quality at the graduation. All of the people in the graduating class had family members present.

Sen. Mignon Waterman asked **Mr. Day** if the committee could get a copy of the review and whether it applies to just the men's or women's prison. **Mr. Day** said the review primarily covers the men's prison.

Rep. Russell Fagg asked **Mr. Day** when the department is planning to build a men's prison and whether it would include any prerelease centers. He asked when it is expected to be built, if it is expected to be built and who will be making those decisions. **Mr. Day** replied that there is no plan to build a new prison. The department would like to expand the prison. The department would also like more of a minimum security prison in order to move inmates around. They have increased existing facilities in Great Falls, Billings, and Butte with 10 beds.

Rep. Fagg asked who will make the decision in January whether the state is going to purchase Rivendell. He wondered when prisoners will be in that facility and how many will be there. If Rivendell is not purchased, he asked when and where the department will build a women's prison and how many beds it will have. **Mr. Day** answered that, if the department is successful in negotiating a contract, it will transfer the program in July-October 1994. The facility will hold about 26 inmates. The alternate site will also be in Billings; it would hold around 20-50 inmates; and it would be done in March of 1996.

Rep. Randy Vogel asked why the state wouldn't want Rivendell as it is now with some changes. **Mr. Day** answered that negotiations are holding the project up.

Rep. Vogel asked whether negotiations are ongoing and when they are going to be finalized. **Mr. Day** said the department has been in discussion and want to get the best buy.

Sen. Chris Christiaens said he would like the plan to include equal opportunity, training, keeping children with mothers. He is concerned about co-education since women's needs are different than men's. **Mr. Day** said co-education has not influenced the program. The department hopes to continue work on programming for women and to work on the child-mother relationship.

Rep. Liz Smith asked whether there was a need for a large lock down facility. **Mr. Day** answered that there is not a need for a large lock down facility.

Rep. Smith stated that there is a 850 cap and that the state has a higher crime rate. **Rep. Smith** asked where all of the jobs are. **Mr. Day** said that their committee is evaluating each position and they are moving toward efficiency.

Rep. Tim Whalen asked if boot camp is effective. **Mr. Day** said that there is no evidence whether the program is or is not effective.

Rep. Whalen asked how much was charged for the Rivendell building. **Mr. Day** answered that the building cost approximately \$3.4 million.

Rep. Johnson said the State has the opportunity to buy a building. There is \$260,000 for a women's prison which would go a long way to help remodel. The legislature is giving \$10 million to buy, relocate or build a facility. He wondered why it could not be decided. **Mr. Day** answered that they will not rush into an agreement they are not comfortable with. As a buyer, **Mr. Day** said he would do his best for the State to get the best deal.

Rep. Brooke asked if the ACLU lawsuit will have any bearing on the decision making. **Mr. Day** answered the lawsuit will not affect our decision.

Rep. Brooke asked what they are going to do with the \$260,000 if they stay on the Rivendell campus. **Mr. Day** replied that it will be used for improvements.

Rep. Angela Russell asked if there are enough parole officers to do all of the work. **Mr. Day** answered that parole officers handle about 80 inmates.

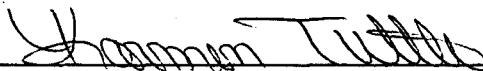
Motion/Vote: There was a motion to close the informational hearing. Motion passed unanimously.

ADJOURNMENT

Adjournment: 11:15 a.m.



REP. RUSSELL FAGG Chairman



KARMEN TUTTLE, Secretary

RF/KT

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

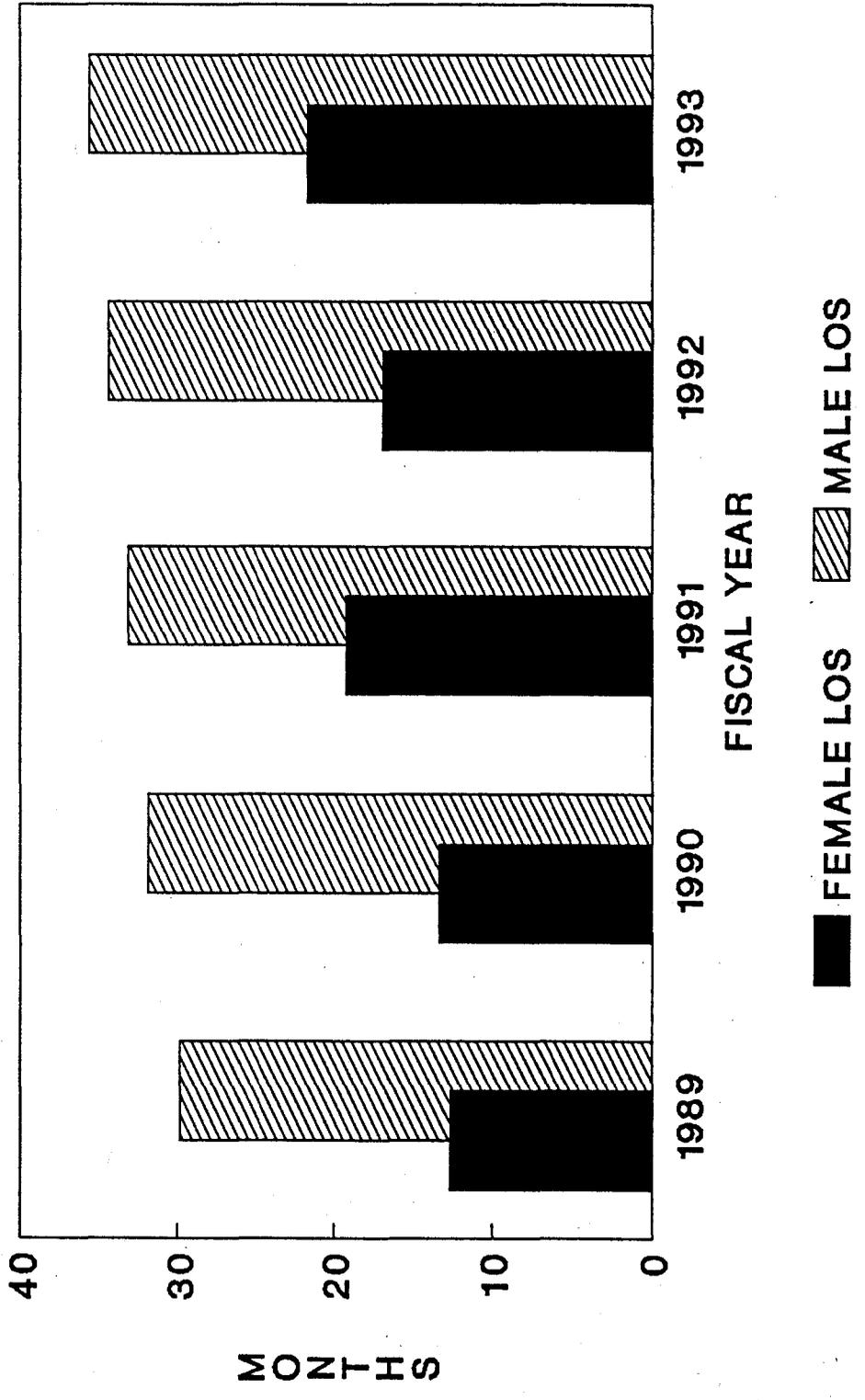
ROLL CALL

DATE November 30, 1993

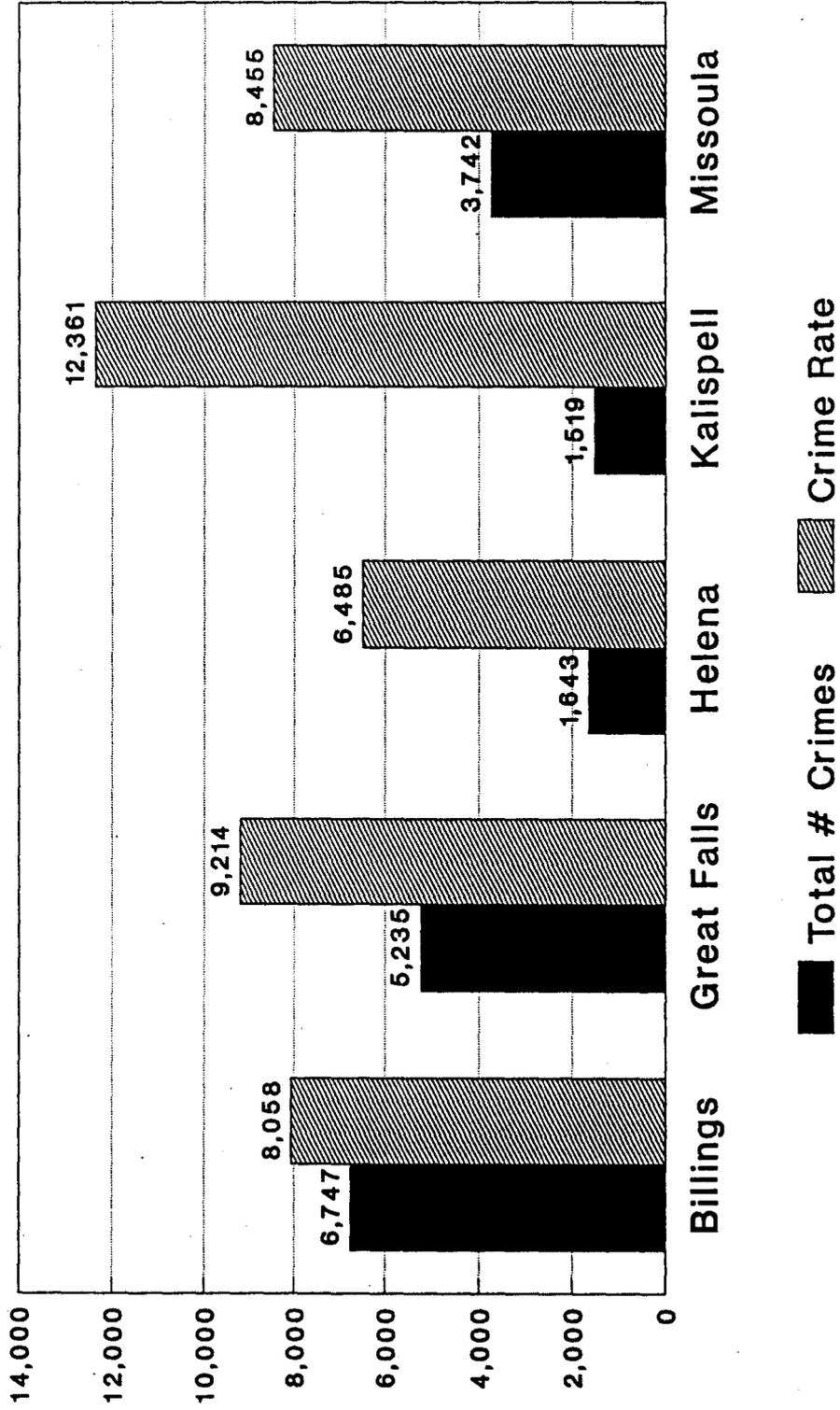
NAME	PRESENT	ABSENT	EXCUSED
REP. RUSSELL FAGG, CHAIRMAN	X		
REP. RANDY VOGEL, VICE CHAIRMAN	X		
REP. JODY BIRD	X		
REP. VIVIAN BROOKE	X		
REP. ELLEN BERGMAN	X		
REP. DIANA WYATT	X		
REP. DEBBIE SHEA	X		
REP. ROBERT CLARK	X		
REP. DUANE GRIMES	X		
REP. SCOTT MCCULLOCH	X		
REP. JIM RICE	X		
REP. ANGELA RUSSELL	X		
REP. TIM SAYLES	X		
REP. LIZ SMITH	X		
REP. HOWARD TOOLE	X		
REP. BILL TASH	X		
REP. TIM WHALEN	X		
REP. KARYL WINSLOW	X		

HR:1993
 wp:rollcalls.man
 CS-10

FIG. 6: PRISON AVERAGE LENGTH OF STAY
IN MONTHS, BY SEX.



Crime Index Totals Montana - 1992



Larger Metropolitan Areas

Department of Corrections and Human Services Policies and Procedures for Corrections Division	Policy Subject: ADDITIONAL GOOD TIME CREDIT/DISCHARGE & PAROLE			
	Original Policy Yes [X] No []	Effective Date 08/01/93	Page 1	Policy No. 526
Signature of Responsible Person 	Revision Date		of	
Date 8/18/93	Revision Date		5 Pages	

OBJECTIVES:

To allow the Department of Corrections and Human Services to award additional good time credits to selected inmates when the Montana State Prison or the Montana Women's Correctional Facility exceeds the design capacity.

AUTHORITY:

Section 53-30-105 (5) MCA; A.R.M. Rule _____

POLICY:

This policy is to establish guidelines for granting of additional good time credits which allow offenders early eligibility for parole or discharge. The guidelines are to define factors which the Department must consider when providing additional good time credits.

DEFINITIONS:

- (a) "Additional good time credits" means:
 - (i) Good time days awarded to permit an inmate to become eligible for parole.
 - (ii) Good time days awarded to permit an inmate to discharge his/her sentence, not to exceed 180 days.
- (b) "Attitude" generally means an inmate's satisfactory completion of recommended programs of rehabilitation.
- (b) "Board" means the board of pardons as provided for in 2-15-2302, MCA.
- (c) "Criminal History" includes the nature, severity, frequency and circumstances of present and prior offenses and adjustment to supervision.
- (d) "Department" is the department of corrections and human services as provided for in 2-15-2301, MCA.

**ADDITIONAL GOOD TIME CREDIT/
DISCHARGE & PAROLE**

- (e) "Design Capacity" means the average daily inmate population of a correctional institution established by legislative appropriation.
- (f) "Discharge" means completion of institutional or program commitments imposed by the sentencing court.
- (g) "Good Behavior" generally means no major disciplinary violation within the most recent four-month period and an acceptable behavioral history while incarcerated.
- (h) "Inmate" means any person residing in a state adult correctional facility.
- (i) "Parole Eligibility" means the earliest possible date a person may be released from confinement on parole in accordance with Chapter 23, Title 46, MCA.

ELIGIBILITY:

Inmates of Montana's Corrections system who are nearest to parole eligibility or discharge, with the exception of those prohibited by statute, administrative rule or court order may be eligible for consideration of additional good time credits.

Inmates with demonstrated good behavior and appropriate attitude who have obtained recommended treatment relative to their criminal history may be considered for additional good time credits. Generally, an inmate with a criminal history including two or more crimes of violence will not be eligible for the award of additional good time credits. Consideration for additional good time credits is solely within the discretion of the Department.

PROCEDURAL GUIDELINES:

The Records Department of Montana State Prison will identify those inmates closest to parole eligibility/discharge.

- (a) The institution will prepare a report and recommendation regarding the awarding of additional good time credits. The report will be submitted to the Director, Department of Corrections and Human Services or his designee, along with the attached form for the approval/disapproval of additional good time credits by the Director or his designee.
- (b) The signed authorization form will be returned to the Records Department for the appropriate action.

ADDITIONAL GOOD TIME CREDITS FOR PAROLE ELIGIBILITY:

Generally, only one award of additional good time credit may be granted per sentence for purposes of parole eligibility.

- (a) When an inmate becomes eligible for parole through the award of additional good time credits, he/she then becomes subject to the laws, rules, and policies of the Board of Pardons.
- (b) The award of additional good time credits to enable an inmate to become parole eligible are conditional upon the inmate's parole. If an inmate is not granted a parole, or if he waives his appearance before the date on which the inmate becomes parole eligible with-out the additional good time credits, the additional good time credits are automatically forfeited.

ADDITIONAL GOOD TIME CREDITS TO DISCHARGE:

An award of additional good time credits to allow the discharge of a sentence may not exceed 180 days per sentence.

APPROVAL OF AWARD OF ADDITIONAL GOOD TIME CREDITS:

Upon award of additional good time credits, the Records Department shall schedule the inmate for parole hearing within the two months following the date an inmate becomes eligible, or place the inmate on a waiting list to be discharged as needed to meet the design capacity.

FORFEITURE OF ADDITIONAL GOOD TIME CREDITS:

In the event an inmate violates the rules prescribed by the Department or the Board of Pardons, the Department may order forfeiture of all or any portion of additional good time credits.

DISAPPROVAL OF AWARD OF ADDITIONAL GOOD TIME CREDITS:

Should the Director of the Department of Corrections and Human Services or his designee disapprove consideration of the award of additional good time credits, the institution may apply for reconsideration when the inmate has successfully complied with the requirements set forth by the institution or program.

CLOSING:

Questions concerning this policy and procedure can be directed to the

Corrections Administrator
Department of Corrections and Human Services
1539 11th Avenue
PO BOX 201301
Helena, MT 59620-1301
Telephone: 444-3902

ADDITIONAL GOOD TIME CREDIT/
DISCHARGE & PAROLE

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GRANTING ADDITIONAL GOOD TIME CREDIT
PAROLE ELIGIBILITY

Name: _____ MSP #: _____ Location: _____

In accordance with Section 53-30-105 (5), MCA, and the Department of Corrections and Human Services' Policy No. 526 the Records Department has determined a projected parole eligibility date of _____ for the above named individual.

Upon approval of the Director of Department of Corrections and Human Services or his designee, additional good time credit will be granted in the necessary amount to allow for the inmate's parole eligibility.

Any misconduct may result in forfeiture of additional good time.

I hereby _____ approve _____ disapprove
the granting of additional good time credit to allow for parole eligibility.

Date Director, Department of Corrections and Human Services

ADDITIONAL GOOD TIME CREDIT AWARDED _____
years months days

ADDITIONAL GOOD TIME CREDIT/
DISCHARGE & PAROLE

GRANTING ADDITIONAL GOOD TIME CREDIT
DISCHARGE

Name: _____ MSP #: _____ Location: _____

In accordance with Section 53-30-105 (5), MCA, and the Department of Corrections and Human Services' Policy No. 526 the Records Department has determined a projected discharge date of _____ for the above named individual.

Upon approval of the Director of Department of Corrections and Human Services or his designee, additional good time credit will be granted in the necessary amount to allow for the inmate's discharge, not to exceed 180 days.

Any misconduct may result in forfeiture of additional good time.

I hereby _____ approve _____ disapprove
the granting of additional good time credit to allow for discharge.

Date Director, Department of Corrections and Human Services

ADDITIONAL GOOD TIME CREDIT _____
months days

DATE RELEASED _____