MISSISSIPPI LEGISLATURE                              REGULAR SESSION 2001

By: Representatives Formby, Barbour, Cameron, Chism, Davis, Denny, Ellington,
Howell, Janus, Jennings, Martinson, Montgomery (74th), Moore (60th), Nicholson,
Roberson, Robertson, Robinson (84th), Rotenberry, Smith (59th), Snowden, Warren, Woods

To: Penitentiary; Appropriations

HOUSE BILL NO. 1365

AN ACT TO AUTHORIZE THE COMMISSIONER OF THE MISSISSIPPI
DEPARTMENT OF CORRECTIONS TO ENTER INTO CONTRACTUAL AGREEMENTS
WITH COUNTIES AND REGIONAL CORRECTIONAL FACILITIES FOR THE PURPOSE
OF PROVIDING HOUSING FOR STATE OFFENDERS WHERE THE COUNTIES OR
REGIONAL CORRECTIONAL FACILITIES AGREE TO BUILD ADDITIONAL PRISON
FACILITIES IN EXCHANGE FOR THE DEPARTMENT'S COMMITMENT TO HOUSE
STATE INMATES IN THE NEWLY CONSTRUCTED FACILITIES; TO AMEND
SECTION 47-5-901, MISSISSIPPI CODE OF 1972, TO DELETE THE
PROVISION OF LAW WHICH REQUIRES COUNTY INMATES TO BE HOUSED IN THE
COUNTY WHERE THE OFFENDER WAS CONVICTED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1.  (1)  The Commissioner of the Mississippi
Department of Corrections may enter into contracts with the boards
of supervisors of any counties and with the governing authorities
of any regional jail facilities who so desire to enter into
contracts for the housing, care and control of offenders sentenced
to the custody of the State of Mississippi.  The contracts shall
be conditioned upon the commitment of the boards of supervisors or
governing authorities of the regional jail facilities to build
additional prison facilities to house state inmates in
consideration of the department's commitment to house state
inmates in the newly constructed facilities.  All such contracts
shall expire on July 1, 2016.

(2) The minimum number of state inmates for which each
county or regional jail facility must provide housing through new
construction in order to meet the requirements of the contracts
authorized under subsection (1) of this section shall be
determined by multiplying the population of each county, as
determined by the latest federal decennial census, or the
population of the counties that comprise the district served by
the regional jail facility, by .00445. All such contracts with
counties and regional jail facilities shall provide housing for
not more than a total of eight hundred (800) state inmates per
year for the entire state. When construction of housing for the
maximum number of state inmates that may be built by a particular
county or regional jail facility has been determined, the contract
shall require the county or regional jail facility to perform
construction for the maximum number of state inmates. The
contract shall provide that the Department of Corrections pay the
fee as prescribed in Section 47-5-901 for each day that a state
inmate is housed in the facility for a period of up to fifteen
years from the date of completion of the facility. However, no
such contracts shall be authorized for any county or regional jail
facility for any year unless such contracts are first recommended
by the Commissioner of the Department of Corrections and approved
by the Governor on or before January 1 of the year in which such
contracts are authorized.

SECTION 2. (1) Counties having existing jail facilities
which do not meet certification requirements established by the
American Correctional Association shall be given preference by the
Commissioner of the Mississippi Department of Corrections in the
awarding of state inmate housing contracts under the provisions of
subsection (1) of this section over counties whose existing jail
facilities meet certification requirements of the American
Correctional Association.

SECTION 3. (1) All facilities newly constructed under this
act shall be designed, constructed, operated and maintained in
accordance with American Correctional Association standards and
shall comply with all constitutional standards of the United
States, the State of Mississippi and all court orders that may be
applicable to the facility.

(2) Any county or regional jail facility desiring to enter
into a contractual agreement with the Mississippi Department of
Corrections under the provisions of this act must do so before
July 1, 2016.

SECTION 4. The provisions of Sections 1 through 3 of this
act shall not be construed to amend or repeal the provisions of
any other law.

SECTION 5. Sections 1, 2 and 3 of this act shall stand
repealed on July 1, 2016.

SECTION 6. Section 47-5-901, Mississippi Code of 1972, is
amended as follows:

47-5-901. (1) Any person committed, sentenced or otherwise
placed under the custody of the Department of Corrections, on
order of the sentencing court and subject to the other conditions
of this subsection, may serve all or any part of his sentence in
a county jail or in a regional jail facility if the Commissioner
of Corrections determines that physical space is not available for
confinement of such person in the state correctional institutions.
Such determination shall be promptly made by the Department of
Corrections upon receipt of notice of the conviction of such
person. The commissioner shall certify in writing that space is
not available to the sheriff or other officer having custody of
the person. Any person serving his sentence in a county or
regional jail facility shall be classified in accordance with
Section 47-5-905.

(2) If state prisoners are housed in county jails or
regional jail facilities due to a lack of capacity at state
correctional institutions, the Department of Corrections shall
determine the cost for food and medical attention for such
prisoners. The cost of feeding and housing offenders confined in
such county jails or regional jail facilities shall be based on
actual costs or contract price per prisoner not to exceed Twenty
Dollars ($20.00) per day per offender.

(3) Upon vouchers submitted by the board of supervisors of
any county housing persons due to lack of space at state
institutions, the Department of Corrections shall pay to such county or regional jail facility, out of any available funds, the actual cost of food, or contract price per prisoner, not to exceed Twenty Dollars ($20.00) per day per offender as determined under subsection (2) of this section for each day an offender is so confined beginning the fifth day following the date the offender is committed and taken into custody by the sheriff and will terminate on the date on which the offender is released or otherwise removed from the custody of the county jail or regional jail facility, and shall pay the actual cost for medical attention for prisoners unless the Commissioner of Corrections shall find that the costs of any medical services rendered are unreasonable. Such payment shall be placed in the county general fund or the general fund of the counties that comprise a regional jail facility and shall be expended only for food and medical attention for such persons.

(4) A person, on order of the sentencing court, may serve not more than twenty-four (24) months of his sentence in a county jail or regional jail facility if the person is classified in accordance with Section 47-5-905 and the county jail is an approved * * * jail for housing state inmates under federal court order. The sheriff of the county where the facility is located shall have the right to petition the Commissioner of Corrections to remove the inmate from the county jail or regional jail facility. The county or regional jail facility shall be reimbursed in accordance with subsection (2).

(5) The Attorney General of the State of Mississippi shall defend the employees of the Department of Corrections and officials and employees of political subdivisions against any action brought by any person who was committed to a county jail or regional jail facility under the provisions of this section.

(6) This section does not create in the Department of Corrections, or its employees or agents, any new liability,
express or implied, nor shall it create in the Department of Corrections any administrative authority or responsibility for the construction, funding, administration or operation of county or other local jails or other places of confinement which are not staffed and operated on a full-time basis by the Department of Corrections. The correctional system under the jurisdiction of the Department of Corrections shall include only those facilities fully staffed by the Department of Corrections and operated by it on a full-time basis.

(7) An offender returned to a county or regional jail facility for post-conviction proceedings shall be subject to the provisions of Section 99-19-42 and the county or regional jail facility shall not receive the per day allotment for such offender after the time prescribed for returning the offender to the Department of Corrections as provided in Section 99-19-42.

SECTION 7. This act shall take effect and be in force from and after its passage.