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Chapter No. 87
11/SS02/A549SG
JN / CC/TB

SENATE BILL NO. 3043

Originated in Senate _____ Secretary

SENATE BILL NO. 3043

AN ACT MAKING AN APPROPRIATION FOR THE SUPPORT AND MAINTENANCE OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS FOR FISCAL YEAR 2012.

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

SECTION 1. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State General Fund not otherwise appropriated, for the support and maintenance of the Mississippi Department of Corrections for the fiscal year beginning July 1, 2011, and ending June 30, 2012 ..... $ 311,000,000.00.

SECTION 2. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the special fund in the State Treasury to the credit of the Mississippi Department of Corrections which is collected by or otherwise become available for the purpose of defraying the expenses of the Department, for the fiscal year beginning July 1, 2011, and ending June 30, 2012 ..... $ 20,737,289.00.

SECTION 3. Of the funds appropriated under the provisions of Sections 1 and 2, not more than the amounts set forth below shall be expended:

SUPPORT

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds	$ 136,034,547.00
Special Funds	17,326,284.00
Total	$ 153,360,831.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	3,279
	Part Time	16
Time-Limited:	Full Time	149
	Part Time	0

FARMING OPERATIONS

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds	$ 0.00
Special Funds	3,175,696.00
Total	$ 3,175,696.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	12
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

PAROLE BOARD

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds	$ 742,953.00
Special Funds	0.00
Total	$ 742,953.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	8
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

PRIVATE PRISONS

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds ..... $ 81,438,356.00

Special Funds 0.00

Total ..... $ 81,438,356.00

AUTHORIZED POSITIONS:

Permanent: Full Time 0

Part Time 0

Time-Limited: Full Time 0

Part Time 0

MEDICAL SERVICES

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds ..... $ 46,381,984.00

Special Funds 235,309.00

Total ..... $ 46,617,293.00

AUTHORIZED POSITIONS:

Permanent: Full Time 0

Part Time 0

Time-Limited: Full Time 2

Part Time 0

REGIONAL FACILITIES

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds ..... $ 36,535,715.00

Special Funds 0.00

Total ..... $ 36,535,715.00

AUTHORIZED POSITIONS:

Permanent: Full Time 0

Part Time 0

Time-Limited: Full Time 0

Part Time 0

LOCAL CONFINEMENT

Of the funds appropriated under the provisions of this act, the following funding and positions are authorized:

FUNDING:

General Funds	$	9,866,445.00
Special Funds		0.00
Total	$	9,866,445.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	0
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2013 do not exceed Fiscal Year 2012 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2012 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2012 appropriations for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2012 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

SECTION 4. None of the funds appropriated under the provisions of Sections 1 and 2 of this act may be expended by the Department of Corrections after September 1, 2011, until the Commissioner of Corrections, on behalf of the State of Mississippi, has submitted an application to the United States Secretary of Homeland Security to participate in the Criminal Alien Program of the United States Immigration and Customs Enforcement, in order to identify criminal aliens who are incarcerated in state correctional facilities and ensure that they are not released into the community by securing a final order of removal that deports the aliens back to their home countries before the termination of their sentences.

SECTION 5. In compliance with the "Mississippi Performance Budget and Strategic Planning Act of 1994," it is the intent of the Legislature that the funds provided herein shall be utilized in the most efficient and effective manner possible to achieve the intended mission of this agency. Based on the funding authorized, this agency shall make every effort to attain the targeted performance measures provided below:

FY2012

Performance Measures	Target
Institutions - Parchman	
Average Population (Inmates)	3,050
Participants in Programs (Inmates)	3,000
Successful Program Completion (Inmates)	1,100
Central MS Correctional Fac	
Average Population (Inmates)	3,025
Participants in Programs (Inmates)	1,800
Successful Program Completion (Inmates)	900
South MS Correctional Fac	
Average Population (Offenders)	3,000
Supportive Services	
Security Terminations	400
Security New Hires	300
Farming	
Vegetables Produced (Pounds)	3,500,000
Dozens of Eggs Sold (Dozens)	600,000
Parole Board	
Number Paroled (Offenders)	3,500
Number of Paroles Revoked (Revocations)	170
Private Prisons	
Private Prison Beds Funded (Beds)	5,211
Medical Services	
Average Population Covered (Inmates)	15,242
Regional Facilities	
Regional Prison Beds Funded (Beds)	3,426
Local Confinement	
Local Confinement Population (Inmates)	1,527

A reporting of the degree to which the performance targets set above have been or are being achieved shall be provided in the agency's budget request submitted to the Joint Legislative Budget Committee for Fiscal Year 2013.

SECTION 6. Of the funds appropriated in Sections 1 and 2, none shall be expended for personnel housing under the jurisdiction of the Department of Corrections unless the department shall collect a reasonable rent, after a finding of fact as to what is a reasonable rent, and/or the cost of utilities furnished to said housing. The Department of Corrections shall not pay for the installation or monthly service of any telephone installed in a staff residence under its jurisdiction.

It is further the intention of the Legislature that none of the funds provided herein shall be used to pay certain utilities for state furnished housing for any employees. Such utilities shall include electricity, natural gas, butane, propane and cable services. Where actual cost cannot be determined, the agency shall be required to provide meters to be in compliance with legislative intent. Such state furnished housing shall include single-family and multifamily residences but shall not include any dormitory residences. Allowances for such utilities shall be prohibited.

SECTION 7. Of the funds appropriated in Sections 1 and 2, and authorized for expenditure in Section 3, payment may be authorized for court ordered attorney fees and any accrued interest subject to the approval of the Office of the Attorney General.

SECTION 8. None of the money herein appropriated shall be paid to any person who by the provision of Section 47-5-47, Mississippi Code of 1972, as amended, is prohibited from being an employee of the Mississippi Department of Corrections. The State Department of Finance and Administration shall at least annually make a report to the Joint Legislative Committee on Performance Evaluation and Expenditure Review and to the Attorney General stating the name of any person prohibited under the provisions of Section 47-5-47, Mississippi Code of 1972, as amended, from being an employee of the Mississippi Department of Corrections who has

during the preceding year received any money herein appropriated. In the event that any such person prohibited as herein above provided from receiving funds herein appropriated should receive any of said funds, the Attorney General shall immediately commence action to recover the monies so paid to said person and to enjoin the further employment of said person at the Mississippi Department of Corrections.

SECTION 9. It is the intent of the Legislature that all prisoners at Parchman shall work a minimum of eight (8) hours per day, excluding prisoners with a physical disability or those incarcerated in maximum security.

SECTION 10. It is the intention of the Legislature that the Department of Corrections shall have the authority to accept, budget and expend any special funds collected or otherwise available, through the sell of scrap or recycled material, for the purpose of providing recycling equipment, supplies or services for use within the department.

SECTION 11. It is the intention of the Legislature that the per diem rates paid to regional facilities shall not exceed Twenty-nine Dollars and Seventy-four Cents ($29.74) per inmate. All regional facilities shall continue to receive the annual three percent (3%) increase in the per diem rate as authorized in Section 47-5-933, Mississippi Code of 1972, however, in no event shall any regional facility's per diem rate exceed Twenty-nine Dollars and Seventy-four Cents ($29.74) per inmate.

SECTION 12. The department or its contracted medical provider will pay to a provider of a medical service for any and all incarcerated persons from a correctional or detention facility an amount based upon negotiated fees as agreed to by the medical care service providers and the department and/or its contracted medical provider. In the absence of negotiated discounted fee schedule, medical care service providers will be paid by the department or its contracted medical service provider an amount no

greater than the reimbursement rate applicable based on the Mississippi Medicaid reimbursement rate. This limitation applies to all medical care services, durable and nondurable goods, prescription drugs and medications provided to any and all incarcerated persons outside of the correctional or detention facility. None of the monies appropriated herein may be used to pay for cosmetic medical procedures for any prisoner. Cosmetic medical procedure means any medical procedure performed in order to change an individual's appearance without significantly serving to prevent or treat illness or disease or to promote proper functioning of the body.

SECTION 13. It is the intention of the Legislature that the Commissioner of the Mississippi Department of Corrections shall have the authority to transfer cash from one special fund treasury fund to another special fund treasury fund under the control of the Department of Corrections. The purpose of this authority is to more efficiently use available cash reserves. It is further the intention of the Legislature that the Department of Corrections shall submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and Administration on or before the fifteenth of the month prior to the effective date of the transfer.

SECTION 14. The Commissioner of the Mississippi Department of Corrections is hereby authorized to transfer spending authority between and within budgets, both positions and funds, in an amount not to exceed twenty-five percent (25%) of the authorized budgets in the aggregate. It is further the intention of the Legislature that the Department of Corrections shall submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and Administration on or before the fifteenth of the month prior to the effective date of the transfer. However, no transfers shall be authorized which increase the major object of expenditure "Salaries, Wages and

Fringe Benefits" in any budget authorized in Section 3 of this act.

SECTION 15. It is the intention of the Legislature that the Mississippi Department of Corrections shall have the authority to receive, budget, and expend funds from any source, including beginning cash in excess of beginning cash when spending authority was initially appropriated, that may become available to the department in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

SECTION 16. It is the intention of the Legislature that the Department of Corrections shall have the authority to accept, budget and expend any portion of confiscated funds received in conjunction with its participating in investigations of illegal activities of any offender under the supervision of the agency. These funds shall be used to provide security enhancement within the Department of Corrections.

SECTION 17. It is the intention of the Legislature that whenever two (2) or more bids are received by this agency for the purchase of commodities or equipment, and whenever all things stated in such received bids are equal with respect to price, quality and service, the Mississippi Industries for the Blind shall be given preference. A similar preference shall be given to the Mississippi Industries for the Blind whenever purchases are made without competitive bids.

SECTION 18. It is legislative intent to ensure beneficial information reaches as many Mississippians as possible. Further, it is legislative intent that the expenditure of public funds for this purpose be accomplished in an efficient and effective manner.

Therefore, state agencies as standard procedure, will observe the following criteria:

(a) Develop goals and desired result for a campaign.

(b) Evaluate effectiveness through respected advertising standards, including market reach and cost-effectiveness.

(c) Seek public service announcements, which would be aired by media without cost.

(d) Itemize and justify professional assistance and related expenses for creative and production costs outside of the actual media expenditures.

(e) Utilize Mississippi-owned media companies when feasible.

SECTION 19. The department is authorized to expend available funds on technology or equipment upgrades or replacements when it will generate savings through efficiency or when the savings generated from such upgrades or replacements exceed expenditures thereof.

SECTION 20. Of the funds appropriated under the provisions of Section 2 and allocated in Section 3, within the private prisons' budget, Two Hundred Sixty-two Thousand Nine Hundred Nine Dollars ($262,909.00) shall be used for educational efforts at the Walnut Grove Youthful Correctional Facility.

SECTION 21. It is the intention of the Legislature that the agency shall compile cell phone usage records of any cellular phone (wireless communication device) that is assigned, issued or made available to any officer or employee in accordance with Section 25-53-191, Mississippi Code of 1972, and these records shall be made publicly available at the expense of the agency.

SECTION 22. It is the intention of the Legislature that the Mississippi Department of Corrections shall maintain complete accounting and personnel records related to the expenditure of all funds appropriated under this act and that such records shall be in the same format and level of detail as maintained for Fiscal Year 2011. It is further the intention of the Legislature that the agency's budget request for Fiscal Year 2013 shall be

submitted to the Joint Legislative Budget Committee in a format and level of detail comparable to the format and level of detail provided during the Fiscal Year 2012 budget request process.

SECTION 23. Of the funds provided within this act, no former employee who is receiving State of Mississippi retirement benefits shall be hired under contract for an amount exceeding Twenty Thousand Dollars ($20,000.00) a year without prior approval by an agency's proper governing board or authority. Upon approval of such contracts a written report shall be submitted detailing the cost and need of contract services to the Chairmen and members of the Senate and House Appropriations Committees.

SECTION 24. It is the intention of the Legislature for the Mississippi Department of Corrections to manage funds budgeted and allocated. In so doing, the commissioner of the department shall have the authority to amend, extend and/or renew the term of any lease agreement or any inmate housing agreement in connection with a correctional facility. Notwithstanding any statutory limits to the contrary, such amendment, extension and/or renewal may be for a length of time up to and including ten (10) years as is necessary for the continued operations of such facilities and implementation of the Department's duties and responsibilities in accordance with Title 47 of the Mississippi Code of 1972, as amended.

SECTION 25. Of the funds appropriated herein, not more than Four Million Dollars ($4,000,000.00) may be used to pay invoices from fiscal years 2010 and 2011.

SECTION 26. The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.

SECTION 27. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE SENATE
April 4, 2011

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 4, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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