

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



Cost Analysis of Housing State Inmates in Regional and Private Correctional Facilities

Senate Bill 3123, Regular Session, 2001, mandated that the PEER Committee conduct a cost analysis of the necessary per diem, per inmate cost associated with housing state inmates at the state's ten regional correctional facilities and two of the state's five private correctional facilities. SB 3123 provided daily census guarantees that were to continue until the PEER Committee could determine whether a lower census would enable these facilities to meet necessary costs resulting from housing state inmates.

For the period reviewed, PEER found \$696,364 in unnecessary costs at the regional facilities. With these unnecessary costs removed, all regional facilities open as of October 1, 2000, will break even at an average daily census of 188 state inmates, below the 230 state inmates provided for in SB 3123 and thereby making the guaranteed censuses inoperative. With these unnecessary costs removed, the average per diem rate for the operational costs of housing state inmates is \$18.69. (The state's share of debt service costs must be added to this figure to determine the total per diem rate.)

For the period reviewed, PEER found no unnecessary costs at the two private facilities reviewed. The breakeven point for the Delta Correctional Facility is 843 inmates and 871 inmates for the Marshall County Correctional Facility. Both facilities break even at levels below the 900 inmates provided for in SB 3123, thereby making the guaranteed censuses inoperative. PEER notes that these are for-profit facilities and that the computed breakeven points include no profit margin. The amount of profit allowed is a policy question beyond the scope of the review.

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The Mississippi Legislature

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July 10, 2001

Honorable Ronnie Musgrove, Governor
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Members of the Mississippi State Legislature

On July 10, 2001, the PEER Committee authorized release of the report entitled **Cost Analysis of Housing State Inmates in Regional and Private Correctional Facilities.**

A handwritten signature in cursive script, reading "Herb Frierson", written over a horizontal line.

Representative Herb Frierson, Chairman

This report does not recommend increased funding or additional staff.

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Cost Analysis of Housing State Inmates in Regional and Private Correctional Facilities

Executive Summary

Senate Bill 3123, Regular Session, 2001, mandated that the PEER Committee conduct a cost analysis of the necessary per diem, per inmate cost associated with housing state inmates at the state's ten regional correctional facilities and two of the state's five private correctional facilities. SB 3123 provided daily census guarantees that were to continue until the PEER Committee could determine whether a lower census would enable these facilities to meet necessary costs resulting from housing state inmates.

For the period reviewed, PEER found \$696,364 in unnecessary costs at the regional facilities. PEER calculated \$341,862 in excessive attorneys' salaries and fees; \$216,000 in excessive accreditation and program consultant fees; and, \$138,502 in unnecessary payments to county sheriffs. If eliminated, these excessive costs would reduce the number of state inmates required to break even at six of the seven regional facilities open as of October 1, 2000.

With these unnecessary costs removed, all regional facilities open as of October 1, 2000, will break even at an average daily census of 188 state inmates, below the 230 state inmates provided for in SB 3123 and thereby making the guaranteed censuses inoperative. (Facilities' inmate housing agreements with the Department of Corrections guarantee 200 state inmates.) With unnecessary costs removed, the average per diem rate for the operational costs of housing state inmates is \$18.69. (The state's share of debt service costs must be added to this figure to determine the total per diem rate.)

For the period reviewed, PEER found no unnecessary costs at the two private facilities reviewed. The breakeven point for the Delta Correctional Facility is 843 inmates and 871 inmates for the Marshall County Correctional Facility. Both facilities break even at levels below the 900 inmates provided for in SB 3123, thereby making the guaranteed censuses inoperative. PEER notes that these are for-profit facilities and that the computed breakeven points include no profit margin. The amount of profit allowed is a policy question beyond the scope of the review.

Recommendations

Designation of Chief Corrections Officer

The Legislature should amend MISS. CODE ANN. Section 47-5-935 to allow counties to designate a regional facility's warden as Chief Corrections Officer, without additional compensation for performing these duties. The Legislature should amend the section to delete the requirement that sheriffs receive \$15,000 compensation for duties as Chief Corrections Officer.

Cost Efficient Per Diem

The Legislature should amend MISS. CODE ANN. Section 47-5-933 to allow the Department of Corrections (MDOC) to negotiate a uniform per diem for regional correctional facilities based on efficient operation, elimination of excessive costs, and the state's portion of individual debt service costs of each regional facility.

Funds Appropriated for Housing Inmates at Higher Levels

The Legislative Budget Committee should determine MDOC's intentions regarding any additional funds appropriated to house inmates at the higher levels provided for in Senate Bill 3123.

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Cost Analysis of Housing State Inmates in Regional and Private Correctional Facilities

Introduction

Authority

Senate Bill 3123, Regular Session, 2001, mandated that the PEER Committee conduct a cost analysis of the necessary per diem, per inmate costs associated with housing state inmates¹ at the state's ten regional correctional facilities and two of the state's five private correctional facilities.

Purpose and Scope

Prior to passage of SB 3123, MDOC's housing agreement with each regional correctional facility provided for a minimum census of 200 (i.e., the state paid the facility the per diem cost for at least 200 inmates per day). The state gave private correctional facilities no guarantees of a minimum census.

Guaranteed daily censuses provided in SB 3123 were to continue until PEER could determine whether a lower census would enable private and regional correctional facilities to meet necessary costs resulting from housing state inmates.

Senate Bill 3123, passed during the 2001 regular legislative session, provided a guaranteed daily census to both regional and private correctional facilities, which meant that beginning July 1, 2001, the state guaranteed to pay these facilities the applicable per diem for a specified number of inmates. Section 5 of SB 3123 provided a guaranteed daily census of 230 inmates to each regional facility and a guaranteed daily census of 900 inmates to private facilities specified in the bill.

The guarantees provided in SB 3123 were to continue until the PEER Committee could determine whether a lower census would enable these facilities to meet necessary costs resulting from housing state inmates. The Legislature asked PEER to provide the

¹ *State inmates* include those housed in the designated state inmate area within a correctional facility. *Non-state inmates* include city, county, and federal inmates and unclassified state inmates.

results of the cost analysis prior to the July 1, 2001, implementation date of the bill so that the state could avoid the costs of paying correctional facilities more than necessary.

All regional and private correctional facilities included in this cost analysis will be able to pay all necessary expenses associated with housing state inmates at daily censuses lower than those provided for in SB 3123. Thus the guaranteed daily censuses provided in SB 3123 do not apply.

On June 14, 2001, PEER provided the results of its analysis of the necessary per diem, per inmate costs associated with housing state inmates in a letter to the chairmen of the House and Senate Appropriations committees and the Senate Corrections and House Penitentiary committees. The PEER Committee provides this report to document the results of its review.

In the letter to the committee chairmen, PEER stated the conclusion that all regional and private correctional facilities included in the required SB 3123 review will be able to pay all necessary expenses associated with housing state inmates at daily censuses lower than those provided for in the statute. Thus the guaranteed daily censuses provided in SB 3123 do not apply. The state's payment obligations to regional and private correctional facilities return to the conditions in force prior to passage of SB 3123 (i.e., a minimum census of 200 for regional facilities and no guaranteed census for private facilities).

Method

To determine the necessary per diem, per inmate costs associated with housing state inmates and translating that cost into a daily census, PEER, with contract assistance from the accounting firm of Smith, Turner, and Reeves, conducted the analysis in three steps.

Process for Analyzing Costs of Housing State Inmates

- **Step One:** Determine the level of operations at which each regional and private correctional facility's revenues and costs are equal (i.e., *breakeven point*, discussed below) based on analysis of actual costs of housing state inmates. For the seven regional facilities open as of October 1, 2000, the beginning of the fiscal year for the facilities, PEER used actual costs for October 1, 2000, through March 31, 2001, which represents the most recent cost information and inmate population for the facilities. For the three regional facilities that opened between October 1, 2000, and December 31, 2000, PEER used actual costs for January 1, 2001, through March 31, 2001, which represents a uniform period for the three facilities and provided the most recent cost information and inmate population. For the two private facilities specified in SB 3123, Marshall County and Delta, PEER used actual costs for January 1, 2001, through March 31, 2001, which represents the most recent cost information and inmate

population for the facilities. (Because they were not included in the statutory mandate for cost analysis, PEER did not include the other three private correctional facilities in this study.)

- **Step Two:** Identify any unnecessary costs and re-compute the breakeven analysis using the adjusted values.
- **Step Three:** Compute a hypothetical per diem, per inmate rate for use in future negotiations.

Definitions Used in Cost Analysis

PEER's report of this cost analysis contains several critical definitions and assumptions, including *breakeven point* and *fixed and variable costs*.

Breakeven Point

The breakeven point is the point at which a correctional facility's revenues are equal to the costs incurred to house the inmates.

The breakeven point is the level of operations at which a facility's revenues and costs are equal. At the breakeven point, the facility neither makes a profit nor incurs a loss. In this analysis, "revenues" are any funds received by a facility for the housing and care of inmates. The breakeven point is the point at which these revenues are equal to the costs incurred to house the inmates.

Fixed and Variable Costs

For the purposes of this study, a cost is classified as either fixed or variable. A fixed cost remains unchanged over a relevant range of volume. For example, debt service is a fixed cost and remains the same whether a regional facility houses 150 state inmates or 250 state inmates. However, the decision to increase the number of state inmates to 500 at a facility would require additional facilities to be constructed which would require new debt to finance the additional facilities. The new debt would represent additional fixed costs.

Variable costs change in proportion to changes in volume. For example, food costs fluctuate with the number of inmates housed at a facility.

Cost Allocation

To determine the cost per diem of housing state inmates at regional and private correctional facilities, PEER categorized costs into five components and allocated them on the basis of the ratio

of state inmate days (i.e., the sum of daily censuses for a specified period) to non-state inmate days or the ratio of square footage for state inmates and non-state inmates. The categories of cost allocation are:

- **Housing and Visitation**--includes correctional officer salaries and benefits, commodities, and occupancy costs, such as utilities. PEER allocated correctional officer salaries and benefits and commodities by inmate days and allocated occupancy costs by square footage.
- **Program and Treatment Costs**--includes the cost of providing educational, religious, and drug and alcohol rehabilitation courses to inmates. MISS. CODE ANN. §47-5-931 requires each facility to be designed, constructed, operated, and maintained in accordance with American Correctional Association (ACA) standards. This category also includes the cost of hiring consultants to help facilities obtain and maintain accreditation from the ACA. PEER assigned all educational and treatment program costs and ACA consultant costs to state inmates, because programs are not offered to non-state inmates and the state mandates compliance with ACA standards.
- **Food Service**--includes the cost of the food purchased for inmates, salaries of kitchen personnel, and kitchen supplies. PEER allocated food service costs based on inmate days.
- **Administrative Costs**--includes personnel cost other than correctional officers (e.g., personnel costs of the regional facility warden, office staff, and attorney fees). Also included are costs for supporting the administrative function such as telephone, office supplies, and duplication. PEER allocated administrative costs on the basis of inmate days.
- **Debt Service**--includes the cost of repaying bonds issued to build a facility. Each regional facility's inmate housing agreement with the Mississippi Department of Corrections (MDOC) states that the bonds are payable by the county only from the revenues of the facility. Revenues are derived from the state, counties, municipalities, and the federal government, if the facility houses federal inmates. PEER allocated debt service based on square footage.

In calculating cost per day at regional facilities, PEER did not include medical expenses for state inmates because state law requires that the state be responsible for medical care of state inmates.

In analyzing the costs of the regional facilities, PEER did not include medical expenses for state inmates in calculating the necessary cost per diem because MISS. CODE ANN. §47-5-933 requires that the state be responsible for medical care of state inmates. Therefore, MDOC reimburses each facility for the medical expenses of state inmates and pays the state's portion of the facility nurse's salary based on the ratio of state inmates to non-state inmates.

The private correctional facilities only house state inmates, with no costs allocated between state and non-state inmates; all costs are state inmate costs.

Background

In the 1990s, the Legislature authorized establishment of private and regional correctional facilities to expedite the availability of inmate beds to meet projected needs.

Historically, felons committed to the custody of the state were placed in state-owned facilities operated by MDOC. By 1994, the state had established three state correctional facilities, along with several work centers for non-violent offenders.

In response to truth-in-sentencing legislation passed in the 1990s, the Legislature authorized establishment of private and locally owned regional correctional facilities to expedite the availability of inmate beds to meet projected needs. Exhibit 1, page 7, shows the location of the three state correctional facilities, the ten regional facilities, and the five private facilities.

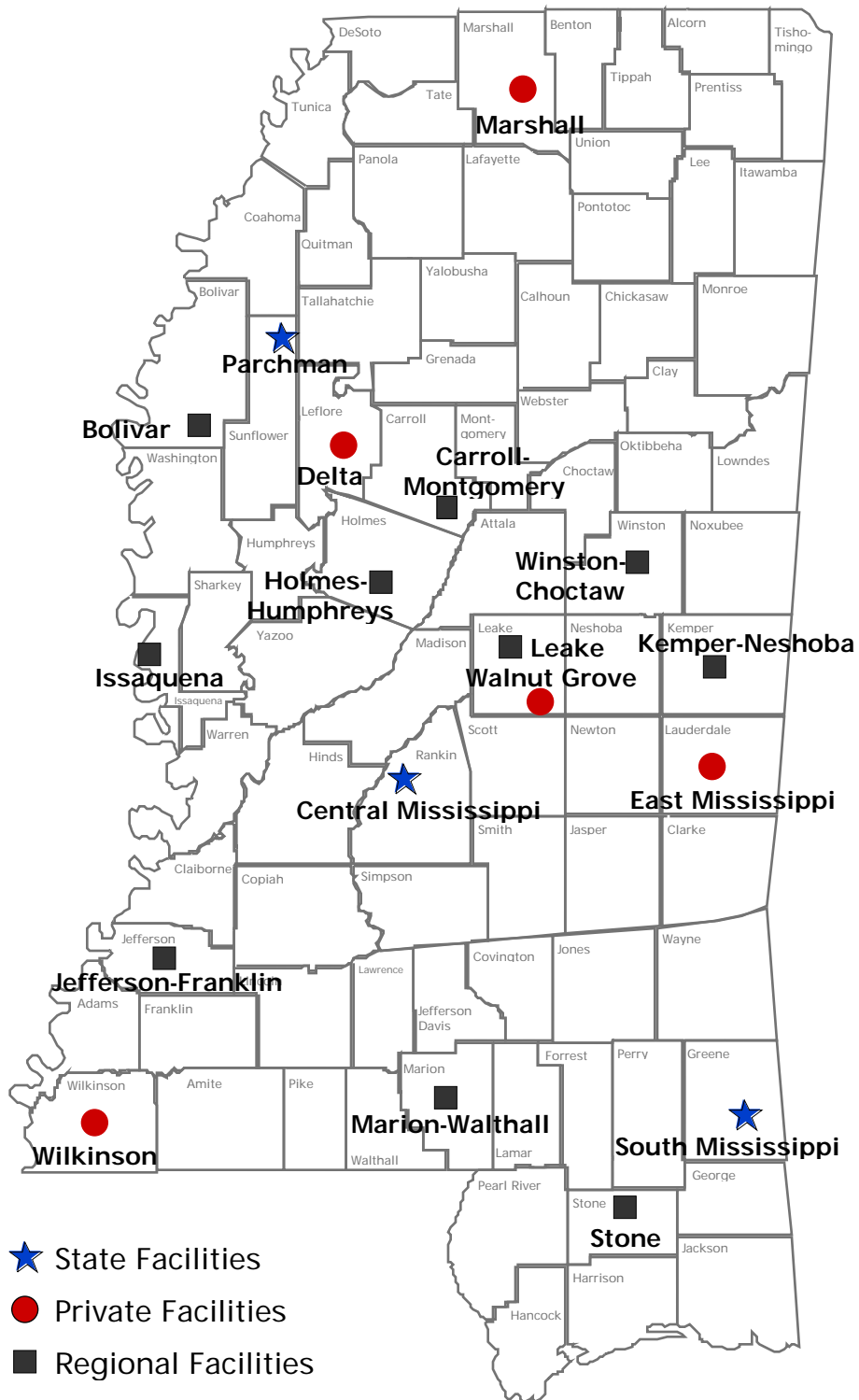
Regional Correctional Facilities

Each regional facility receives an annual per diem increase of 3%.

In 1995, the Legislature authorized the creation of county-owned regional correctional facilities, which would be allowed to house up to 250 medium-security state inmates each. MISS. CODE ANN. Sections 47-5-931 through 47-5-938 authorized selected counties to jointly establish regional correctional facilities and also established a per inmate per diem of \$24.90 to be paid to each regional facility during its first year of operation. Per MISS. CODE ANN. § 47-5-933, each regional facility receives an annual per diem increase of three percent, beginning on the first anniversary of the facility's opening and continuing on each anniversary thereafter.

In addition to state inmates, regional facilities also house inmates from cities and counties that enter into agreements with the regional facility and possibly also federal inmates through agreements with the federal government, with the number of beds available for non-state inmates ranging from 60 to 147 per regional facility. Exhibit 2, page 8, shows the ten regional facilities, their opening dates, and the individual facility per diem as of July 1, 2001, the date SB 3123 was to have taken effect.

Exhibit 1: Mississippi's State, Regional and Private Correctional Facilities (As of July 1, 2001)



SOURCE: MDOC, regional, and private facility information.

Exhibit 2: Regional Correctional Facilities in Operation and Per Diem as of July 2001

<u>Facility Name</u>	<u>Date Opened</u>	<u>Per Diem (July 2001)</u>
Issaquena County Correctional Facility	March 1997	\$28.03
Jefferson-Franklin County Correctional Facility	May 1997	\$28.03
Leake County Correctional Facility	October 1998	\$26.42
Marion-Walthall County Correctional Facility	March 1999	\$26.42
Winston-Choctaw County Correctional Facility	March 1999	\$26.42
Carroll-Montgomery County Correctional Facility	May 1999	\$26.42
Bolivar County Correctional Facility	December 1999	\$25.65
Kemper-Neshoba County Correctional Facility	October 2000	\$24.90
Holmes-Humphreys County Correctional Facility	November 2000	\$24.90
Stone County Correctional Facility	December 2000	\$24.90

SOURCE: PEER analysis of regional facility information.

Private Correctional Facilities

In 1994, the Legislature enacted Senate Bill 2005, First Extraordinary Session, 1994, to authorize the establishment of a private correctional facility in Marshall County. This legislation also authorized MDOC to contract with a private correctional facility constructed in Leflore County by the Delta Correctional Authority, an entity authorized and empowered by Chapter 852, *Local and Private Laws of 1992*.

State law requires compensation for private facility operators to be no more than 90% of PEER's annually certified cost per inmate day at a comparable MDOC facility. Lower charges could be obtained through negotiation.

The Legislature established private correctional facilities to provide medium-security incarceration for up to approximately 1,000 inmates at each facility. Compensation for the operators was to be based on each annual PEER certification of costs at a comparable MDOC facility. Private facility costs could not exceed 90% of the state costs at a comparable facility.

While this method effectively set a ceiling on the cost MDOC could incur in paying for private incarceration, it did not mandate that private correctional facilities be paid 90% of the MDOC costs. Lower charges could be obtained through negotiation. In subsequent years, three additional private correctional facilities were authorized, including one in Wilkinson County, a special needs facility in Lauderdale County, and a juvenile facility in Leake County. These three facilities were not specified in SB 3123 for cost analysis and PEER did not include them in this study.

Exhibit 3, below, shows the opening date and per diem as of July 1, 2001, for the two private correctional facilities specified in SB 3123.

Exhibit 3: Opening Dates and July 2001 Per Diem Rates for the Private Correctional Facilities Specified in SB 3123

<u>Facility Name</u>	<u>Date Opened</u>	<u>Per Diem (July 2001)</u>
Marshall County Correctional Facility	June 1995	\$28.26
Delta Correctional Facility	October 1996	\$28.29

SOURCE: PEER analysis of private facility information.

Analysis of Cost of Housing State Inmates in Regional Correctional Facilities

All regional facilities break even for housing state inmates at less than the guaranteed daily census stated in Senate Bill 3123, Regular Session, 2001. Thus the guaranteed daily census provided in SB 3123 for regional facilities (230) does not apply. MDOC will pay each regional facility based on the facility's daily census, guaranteed in each facility's inmate housing agreement with MDOC to be at least 200.

Step 1: Determine the required daily census for each regional facility to break even, using weighted average per diem rates and actual costs

Using the assumptions that regional facilities would receive their weighted average per diem rates and that all current actual costs are necessary, all regional facilities have a breakeven point lower than the 230 guaranteed daily census provided by SB 3123.

The daily census required to break even at each of the regional facilities is less than the 230 inmates called for in SB 3123, with the census required to break even more closely approximating the 200 inmates per day called for in the facilities' inmate housing agreements.

The daily census needed for each regional correctional facility to break even using weighted average² per diem rates and actual costs is presented as Exhibit 4, page 11. The exhibit shows that the daily census required to break even at each of the regional facilities is less than the 230 inmates called for in SB 3123, with the census required to break even more closely approximating the 200 inmates per day called for in the facilities' inmate housing agreements. Based on this analysis of actual cost, three facilities (Bolivar, Jefferson-Franklin, and Kemper-Neshoba) need a daily census higher than 200 to break even.

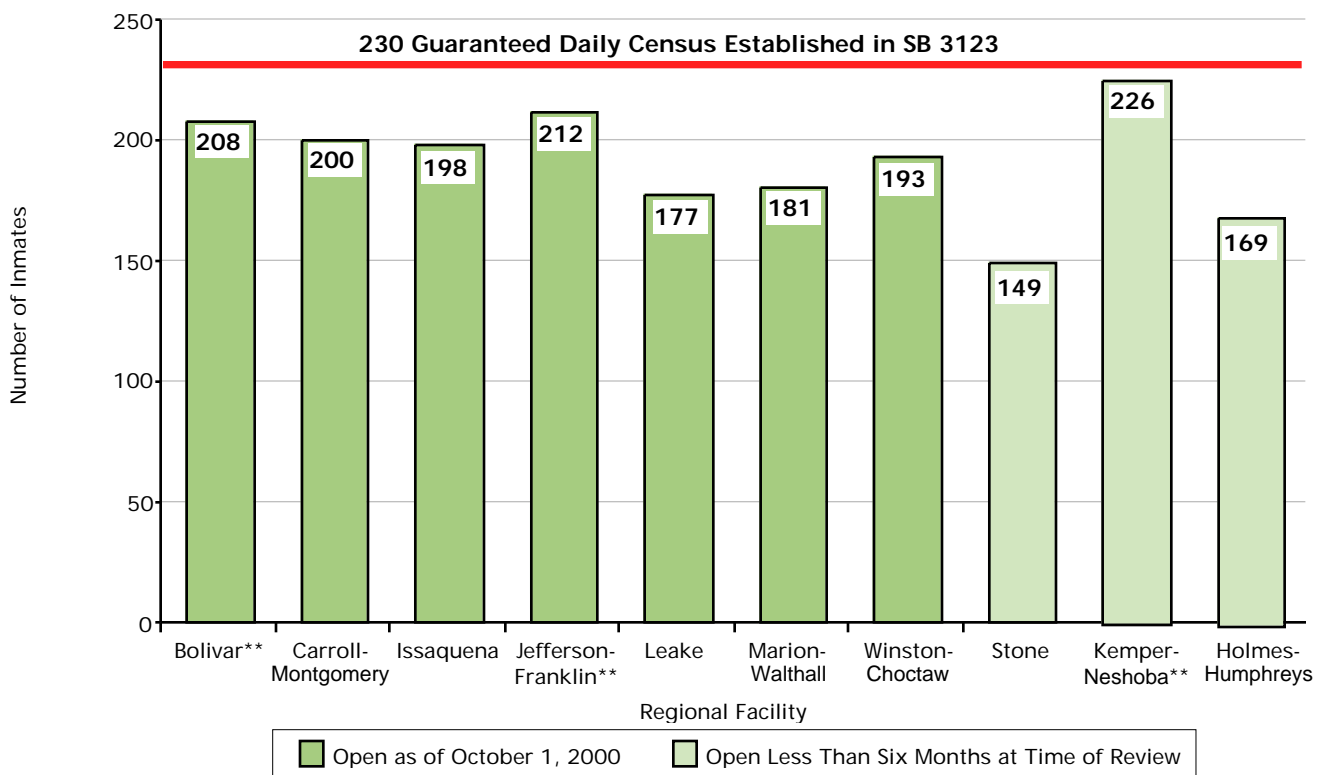
PEER would advise special caution in the interpretation of daily census requirements for three of the facilities, two with relatively low breakeven points (Stone and Holmes-Humphreys) and one with a relatively high breakeven point (Kemper-Neshoba). These facilities are new to the regional system, having been in operation less than six months at the time of review and, in the judgment of PEER's accounting team, not likely to have attained a stable cost environment.

For example, based on current costs, the Stone County facility shows a required daily census of 149 inmates, well below the 230 inmates provided for in SB 3123. However, the Stone County Correctional facility plans to increase the number of correctional officers and supervisors employed by the facility effective July 1,

² The *weighted average per diem* is the average per diem for the review period studied. The review period for the Stone, Kemper-Neshoba, and Holmes-Humphreys county facilities was January-March 2001. The review period for all other regional facilities was October 2000-March 2001.

2001, and to grant raises to current correctional officers and supervisors. The addition of these costs alone will increase the Stone County facility's daily census required to break even to 168 inmates. In addition, the Stone County facility is not currently paying legal expenses (see discussion of legal expenses on page 14). The addition of prorated legal expenses will increase Stone County's daily census required to break even to 175 inmates, much nearer the level that is typical for facilities with more stable cost environments.

Exhibit 4: Daily Inmate Census Needed to Break Even at Weighted Average* Per Diem Rates and Actual Costs



* The review period for Stone, Kemper-Neshoba and Holmes-Humphreys was January – March 2001; the review period for all others was October 2000 – March 2001.

** Facility needs more than 200 inmates to reach breakeven point.

SOURCE: PEER analysis of regional facility information.

Exhibit 5, page 12, provides a breakdown of actual state-generated costs into five cost categories and highlights the degree to which each facility's average daily census for the period studied met or exceeded the requirements to break even at weighted average per diem rates. As the exhibit shows, for the period under review, all

regional facilities except the Kemper-Neshoba facility, one of the newer facilities, had a number of inmates sufficient to break even. The Kemper-Neshoba facility should be given the opportunity to stabilize its operating environment before determining whether it is underfunded for state costs.

Exhibit 5: Cost Itemization with Weighted Average* Per Diem and Actual Costs

	<u>Bolivar County</u>	<u>Carroll-Montgomery County</u>	<u>Issaquena County</u>	<u>Jefferson-Franklin County</u>	<u>Leake County</u>	<u>Marion-Walthall County</u>	<u>Winston-Choctaw County</u>	<u>Stone County</u>	<u>Kemper-Neshoba County</u>	<u>Holmes-Humphreys County</u>
OPERATING REVENUES	\$ 25.25	\$ 25.65	\$ 27.39	\$ 27.21	\$ 26.36	\$ 25.78	\$ 25.71	\$ 24.90	\$ 24.90	\$ 24.90
State Inmate Days	42,222	41,106	41,717	41,669	41,032	34,084	41,996	18,001	17,871	17,696
OPERATING COSTS:										
Basic housing and visitation	\$ 12.42	\$ 13.01	\$ 13.34	\$ 14.86	\$ 10.37	\$ 12.39	\$ 11.78	\$ 6.84	\$ 14.20	\$ 9.64
Programs	1.22	0.63	1.29	1.16	1.32	1.32	1.26	0.88	1.34	0.75
Food service	3.62	2.17	2.73	2.50	2.56	2.70	3.47	2.38	4.81	1.87
Administrative costs	2.79	3.29	2.75	3.46	2.82	3.36	2.01	3.71	1.90	3.47
Total Operating Costs	\$ 20.05	\$ 19.10	\$ 20.11	\$ 21.97	\$ 17.08	\$ 19.77	\$ 18.51	\$ 13.81	\$ 22.25	\$ 15.73
DEBT SERVICE COSTS**	3.20	4.48	4.40	4.12	4.11	5.76	4.11	5.10	5.39	5.95
Total Costs	\$ 23.25	\$ 23.58	\$ 24.51	\$ 26.09	\$ 21.19	\$ 25.53	\$ 22.63	\$ 18.91	\$ 27.64	\$ 21.68

Daily Census Required to Break Even	208	200	198	212	177	181	193	149	226	169
Average State Inmates for Period	232	226	229	229	225	187	231	200	197	197
Number Over/(Under) Level Needed for Breakeven	24	26	32	17	48	6	38	51	(29)	28

* The review period for Stone, Kemper-Neshoba and Holmes-Humphreys was January – March 2001; the review period for all others was October 2000 – March 2001.

** Represents only the state's share of debt service costs.

SOURCE: PEER analysis of regional facility information.

Effect of Inmate Days on Operating Costs

Total operating costs of facilities are greatly affected by the number of state inmate days at each facility. The number of inmate days is determined by MDOC's decisions on assignment of inmates.

Because of the effect of state inmate days, PEER's calculation of "Daily Census Required to Break Even" is a more accurate measure of relative efficiency, since it reflects the number of inmates needed to meet actual state-related costs at current reimbursement rates.

Referring again to Exhibit 5, PEER notes an additional concern relating to interpretation of operating costs. The reader must take care in comparing "Total Operating Costs" of facilities, because this number is greatly affected by the number of state inmate days for each facility. The number of inmate days at a facility is determined by MDOC's decisions on assignment of inmates. For example, during the six-month period ending March 31, 2001, the Leake County facility had state-inmate-related expenses, excluding debt service, of approximately \$701,000 and the Marion-Walthall facility had state-inmate-related expenses, excluding debt service, of approximately \$674,000, a difference of approximately \$27,000. Yet, the Leake County facility's daily operating cost per state inmate for this period is 14% less than the Marion-Walthall facility's daily operating cost per state inmate. The difference in the computed per state inmate cost is attributable to the number of state inmate days provided by each facility. Leake County produced 41,032 state inmate days compared to Marion-Walthall having 34,084 state inmate days, during the period under review. If both facilities had the same number of state inmate days under existing cost conditions, the two facilities would produce near-identical breakeven points.

Because of the effect of state inmate days on "Total Operating Costs" and "Total Costs," these figures are not the most accurate measures of relative efficiency. "Daily Census Required to Breakeven" is a more accurate measure of relative efficiency, since it reflects the number of inmates needed to meet actual state-related costs at current reimbursement rates. This is the figure that should receive the most consideration when comparing efficiencies among the regional facilities. Using the "Daily Census Required to Breakeven" figures for the period October 1, 2000, through March 31, 2001, and excluding the three newest facilities where PEER has less confidence in the stability of the cost data, the breakeven points for meeting actual state-related costs range from 177 inmates per day at Leake County to 212 inmates per day at Jefferson-Franklin. Comparisons along this range provide a general indication of relative efficiency.

Step 2: Identify and exclude any unnecessary costs and re-compute the breakeven analysis

PEER identified \$696,364 in excessive costs that, if eliminated, would reduce the number of inmates required to break even at six of the seven regional facilities open as of October 1, 2000. The inmate breakeven point averages 188, which is below the 200 currently guaranteed in the inmate housing agreements between MDOC and the regional facilities.

Types of Excessive Costs Identified

In order to determine the necessary per diem as required by Senate Bill 3123, PEER identified and excluded costs totaling \$696,364 in the following areas considered excessive or unnecessary:

<u>Excessive Cost Item</u>	<u>Excessive Cost</u>
Attorney salaries and fees	\$341,862
Program and accreditation fees	\$216,000
Payments to sheriffs	<u>\$138,502</u>
Total	<u>\$696,364</u>

Attorney Salaries and Fees

In conducting this analysis, PEER determined that regional facilities were paying for legal services for representation of the facility. MISS. CODE ANN. §47-5-937 authorizes the sheriff of a county where a facility is located to:

...employ counsel to represent the facility to be paid a salary within the range allowed for a legal assistant to a district attorney with the employment to continue for a period of time not to exceed the duration of the indebtedness incurred for construction of the facility. The county or counties shall pay this cost and other costs incurred in the operation of the facility from the proceeds of the funds derived from the financing of the project and the housing of offenders.

The exclusion of excessive attorney costs from regional facilities' inmate housing expenses would yield total annual savings of \$341,862.

PEER observed that legal services were provided through varying methods at varying costs (see Exhibit 6, below). To determine the amount of any excessive charges, PEER compared costs among the ten facilities. PEER selected \$12,000 as a sufficient payment level for legal representation because four of the ten facilities receive legal services at or below this amount. PEER determined the excessive attorney salaries and fees by calculating the difference between current costs and the \$12,000 level. The exclusion of excessive attorney costs would yield annual savings of \$341,862.

Exhibit 6: Computation of Excessive Attorney Compensation

<u>Facility</u>	<u>Prison Attorney</u>	<u>Prison Attorney Salary/Fees</u>	<u>PEER Allocation</u>	<u>Excessive Attorney Cost</u>
Bolivar	Charles Weissinger	\$67,500	\$12,000	\$ 55,500
Carroll-Montgomery	Devo Lancaster	33,750	12,000	21,750
Issaquena	Charles Weissinger	67,500	12,000	55,500
Jefferson-Franklin	Charles Weissinger	62,112	12,000	50,112
Leake	Charles Weissinger	67,500	12,000	55,500
Marion-Walthall	Thomas McNeese	12,000 ^	12,000	0
Winston-Choctaw	Hugh Hathorn	4,800 ^	4,800	0
Stone	Charles Weissinger	60,000	12,000	48,000
Kemper-Neshoba	Henry Palmer	0 †	0	0
Holmes-Humphreys	Charles Weissinger	67,500	12,000	55,500
TOTAL Savings				\$ 341,862

^ The attorney's agreement specifies that he may bill at \$125 per hour above the monthly retainer if the retainer is not sufficient to cover the amount of work required.

† Mr. Palmer serves as county board attorney and does not bill the Kemper-Neshoba facility for legal work.

SOURCE: PEER analysis of regional facility information.

Under MISS. CODE ANN. §47-5-937, a sheriff in a county where a facility is located may employ an attorney for the facility for a period not to exceed the duration of the indebtedness incurred for construction of the facility. Each regional facility was financed with twenty-year revenue bonds payable by the owning county. Therefore, under current state law, a sheriff may employ legal counsel for a twenty-year period.

Bolivar, Issaquena, Jefferson-Franklin, Leake, and Stone county facilities have twenty-year contracts and the Holmes-Humphreys facility has a four-year contract with Mr. Charles Weissinger, Jr. According to Stone County officials, Mr. Weissinger deferred his fee (totaling \$60,000 annually) for the Stone County facility until September 2001. He currently receives annual payments from the remaining five facilities totaling \$332,112.

During the analysis of attorney salaries, PEER discovered Leake County Correctional Facility overpaid Mr. Weissinger \$5,312 during calendar year 2000. According to Leake County Correctional Facility officials, Mr. Weissinger has agreed to repay this amount.

The Marion-Walthall and Winston-Choctaw facilities employ local attorneys as legal counsel through a monthly retainer arrangement. The Carroll-Montgomery facility has contracted with a local attorney for a four-year period at an annual salary of half the salary of a district attorney's legal assistant. The Kemper-Neshoba facility currently utilizes the county board attorney as counsel and has incurred no legal expenses.

PEER believes that paying over \$60,000 for a part-time position represents excessive costs.

The regional facilities need counsel for legal advice and representation. However, PEER believes legal representation of one facility is not a full-time job. This position is supported by the fact that one person serves as counsel simultaneously for six facilities and the remaining four facilities have attorneys on retainer or use the county board attorney. Therefore, in the opinion of PEER, a regional facility paying over \$60,000 for a part-time position represents excessive costs.

American Correctional Association Accreditation and Program Consultant Fees

MISS. CODE ANN. §47-5-931 requires that each facility be operated and maintained in accordance with ACA standards. Also, in accordance with MDOC requirements and ACA standards, each regional facility also offers state inmates educational, religious, and drug and alcohol rehabilitation courses, referred to as program and treatment services.

Each regional facility employs a consultant to assist it in achieving and maintaining ACA accreditation. The ACA consultant also coordinates and provides the program and treatment services in nine of the ten regional facilities. At the Marion-Walthall County Correctional Facility, the warden oversees and coordinates provision of the program and treatment services.

The exclusion of excessive ACA and program consultant expenses would yield an annual savings of \$216,000 for the regional facilities.

PEER realizes the need for an ACA accreditation and program consultant. However, in PEER's opinion, current contract amounts for these services represent excessive costs. (See Exhibit 7, page 17.) PEER compared costs among the ten facilities, assuming \$60,000 annually as a sufficient payment level for such services because four of the ten facilities are receiving ACA accreditation and program and treatment services at or below this amount. The exclusion of excessive ACA and program consultant expenses represents an annual savings of \$216,000.

The Bolivar, Issaquena, Jefferson-Franklin, Kemper-Neshoba, Leake, Stone, and Winston-Choctaw facilities have contracted with Corrections Management Services Inc., Mr. Edward Hargett,

Exhibit 7: Computation of Excessive Accreditation and Program Consultant Compensation

<u>Facility</u>	<u>Consultant/Employee</u>	<u>Consultant Fees/ Employee Salary</u>	<u>PEER Allocation</u>	<u>Excessive Consultant Cost</u>
Bolivar	CMS, Inc.,* Edward Hargett, President	\$96,000	\$60,000	\$36,000
Carroll-Montgomery	Lake Lindsey	\$48,000	48,000	0
Issaquena	CMS, Inc.,* Edward Hargett, President	\$96,000 †	60,000	36,000
Jefferson-Franklin	CMS, Inc.,* Edward Hargett, President	\$96,000	60,000	36,000
Leake	CMS, Inc.,* Edward Hargett, President	\$96,000	60,000	36,000
Marion-Walthall	MCM, Inc.,** Irb Benjamin, President	\$48,000 ††	48,000	0
Winston-Choctaw	CMS, Inc.,* Edward Hargett, President	\$96,000	60,000	36,000
Stone	CMS, Inc.,* Edward Hargett, President	\$60,000	60,000	0
Kemper-Neshoba	CMS, Inc.,* Edward Hargett, President	\$96,000	60,000	36,000
Holmes-Humphreys	CC, Inc.,*** Lake Lindsey, President	\$48,000	48,000	0
TOTAL Savings				\$ 216,000

* Corrections Management Services, Inc.

** Mississippi Correctional Management, Inc.

*** Contemporary Corrections, Inc.

† Includes \$84,000 contract compensation and \$12,000 deputy sheriff salary at the facility.

†† Does not include compensation for program and treatment services.

SOURCE: PEER analysis of regional facility information.

President, to serve as the ACA and program consultant at a contracted total of \$624,000 annually. Also, in addition to serving as the ACA and program consultant for the Issaquena County Correctional Facility, the facility pays Mr. Hargett \$12,000 per year to serve as a deputy sheriff.

Thus, the total amount of annual compensation to Mr. Hargett and his company, CMS, Inc., for services to the regional correctional facilities is \$636,000. For one of these facilities, Issaquena, Mr. Hargett serves as both a consultant and an employee. Due to his status as an employee of this facility, he is a member of the Public Employees' Retirement System (PERS) and is adding to his creditable years of service accrued from prior years as a state employee.

Contemporary Corrections Inc., Mr. Lake Lindsey, President, serves as the ACA accreditation and programs consultant for the Holmes-Humphreys County Correctional Facility for an annual contract of \$48,000. Mr. Lindsey is also employed by the Carroll-Montgomery Correctional Facility as the ACA accreditation officer and correctional consultant for an annual contract of \$48,000. Due to his status as an employee of the Carroll-Montgomery Correctional facility, Mr. Lindsey is also a member of PERS and is adding to his creditable years of service accrued from prior years as a state employee.

Mississippi Correctional Management Inc., Mr. Irb Benjamin, President, serves as the ACA consultant to the Marion-Walthall County Correctional facility for an annual contract of \$48,000. Mr. Benjamin is not a member of PERS and does not provide the educational and treatment programs for the facility. The warden of the Marion-Walthall facility oversees and has responsibility for providing the program and treatment services at the facility. According to officials at the Marion-Walthall facility, the annual cost of providing the program and treatment services is approximately \$12,000.

Compliance with ACA standards and providing program and treatment services to state inmates are important components of the regional facilities' operations. However, PEER believes some of the facilities' current contracted amounts for these services contain excessive costs and that the regional facilities could reduce costs by aggressive renegotiations of these contracts in the future.

Payments to Sheriffs

MISS. CODE ANN. §47-5-935 designates the sheriff of a county where a regional facility is located as the Chief Corrections Officer of the facility with responsibility for management of the facility and for providing care and control of the state inmates housed therein. MISS. CODE ANN. §47-5-935 provides that sheriffs of the counties where a regional facility is located shall receive \$15,600 annually for their duties as Chief Corrections Officer, in addition to the salary received as sheriff of the county.

In conducting this analysis, PEER determined nine of the ten sheriffs eligible for the additional compensation are receiving payments ranging from \$15,000 to \$15,600 annually. The sheriff of Marion County has not requested payment as Chief Corrections Officer of the Marion-Walthall Correctional Facility.

If the warden of each facility were designated Chief Corrections Officer, with no additional compensation, the elimination of payments to sheriffs would represent an annual savings of \$138,502.

In excluding excessive costs, PEER allocated no funds for sheriff payments because the warden of each regional facility is responsible for the day-to-day management and operation of each regional facility. (See Exhibit 8, below.) Therefore, if the warden of each facility were designated Chief Corrections Officer, with no additional compensation, the exclusion of payments to the sheriffs would represent an annual savings of \$138,502.

Exhibit 8: Computation of Unnecessary Compensation to Sheriffs

<u>Facility</u>	<u>Sheriff's Salary</u>	<u>PEER Allocation</u>	<u>Excessive Sheriff's Salary</u>
Bolivar	\$15,600	\$0	\$ 15,600
Carroll-Montgomery	15,000	0	15,000
Issaquena	15,502	0	15,502
Jefferson-Franklin	15,600	0	15,600
Leake	15,600	0	15,600
Marion-Walthall	0	0	0
Winston-Choctaw	15,000	0	15,000
Stone	15,600	0	15,600
Kemper-Neshoba	15,000	0	15,000
Holmes-Humphreys	15,600	0	15,600
TOTAL Savings			\$ 138,502

SOURCE: PEER analysis of regional facility information.

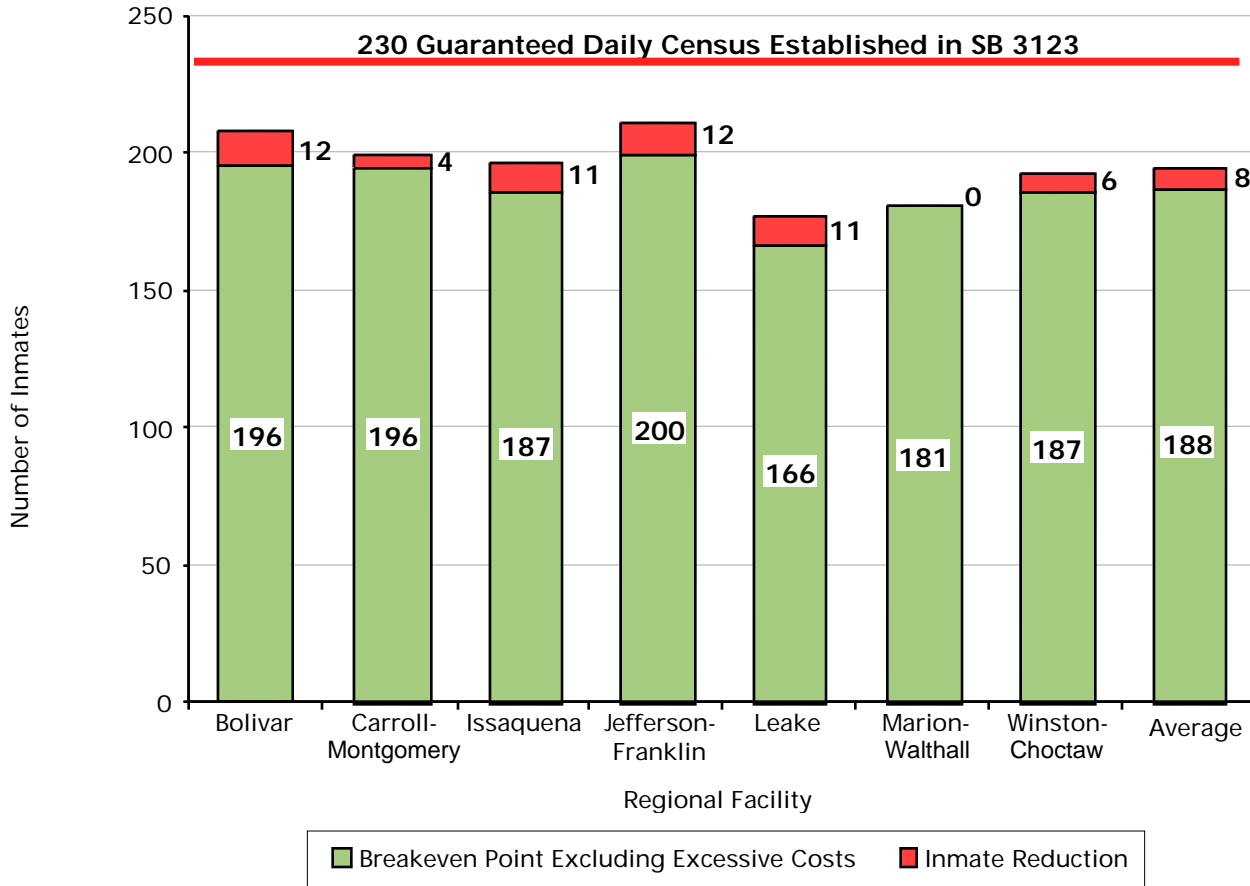
Calculation of Inmate Breakeven Point Excluding Excessive Costs

In calculating the necessary per diem as required by Senate Bill 3123, PEER excluded the excessive costs as outlined above and calculated the associated breakeven point for the seven facilities that were open as of October 1, 2000. The state inmate breakeven points for these facilities are presented in Exhibit 9, page 21.

The exclusion of excessive costs lowers the state inmate breakeven point for each facility, with the exception of the Marion-Walthall facility, and lowers the average of the seven facilities by eight inmates to 188. Exhibit 10, page 22, provides a breakdown of expenses with the exclusion of excessive costs for the seven facilities that were open as of October 1, 2000.

Under the scenario of operating a regional facility without the excessive costs identified by PEER, the average cost per day is \$18.69 and the average number of inmates required to breakeven is 188. Under current housing agreements, MDOC is required to pay each regional facility for 200 inmates per day.

Exhibit 9: State Inmate Breakeven Point When Excluding \$696,364 In Excessive Costs



SOURCE: PEER analysis of regional facility information.

Exhibit 10: Weighted Average* Per-Diem and Without Excessive Costs

	Bolivar County	Carroll- Montgomery County	Issa- quena County	Jefferson- Franklin County	Leake County	Marion- Walthall County	Winston- Choctaw County	Average
OPERATING REVENUES**	\$ 25.25	\$ 25.65	\$ 27.39	\$ 27.21	\$ 26.36	\$ 25.78	\$ 25.71	\$ 26.19
OPERATING COSTS:								
Basic housing and visitation Programs	\$ 12.42	\$ 13.01	\$ 13.34	\$ 14.86	\$ 10.37	\$ 12.39	\$ 11.78	\$ 12.60
Food service	0.80	0.63	0.86	0.73	0.88	1.32	0.83	\$ 0.86
Administrative costs	3.62	2.17	2.73	2.50	2.56	2.70	3.47	\$ 2.82
Total Operating Costs	2.07	2.86	1.93	2.64	2.16	3.36	1.84	\$ 2.41
DEBT SERVICE COSTS***	\$ 18.91	\$ 18.67	\$ 18.87	\$ 20.73	\$ 15.97	\$ 19.77	\$ 17.91	\$ 18.69
	3.20	4.48	4.40	4.12	4.11	5.76	4.11	\$ 4.31
Total Costs Excluding Excessive Costs	\$ 22.11	\$ 23.16	\$ 23.27	\$ 24.85	\$ 20.08	\$ 25.53	\$ 22.03	\$ 23.00
Total Costs Including Excessive Costs	\$ 23.25	\$ 23.58	\$ 24.51	\$ 26.09	\$ 21.19	\$ 25.53	\$ 22.63	\$ 23.82
Cost Reduction	\$ 1.14	\$ 0.42	\$ 1.24	\$ 1.24	\$ 1.11	\$ 0.00	\$ 0.60	\$ 0.82
Daily Census Required								
Excluding Excessive Costs	196	196	187	200	166	181	187	188
Daily Census Required								
Including Excessive Costs	208	200	198	212	177	181	193	196
Breakeven Inmate Reduction	12	4	11	12	11	0	6	8

* The review period for Stone, Kemper-Neshoba and Holmes-Humphreys was January – March 2001;

the review period for all others was October 2000 – March 2001.

** Represents average per diem received during the period.

*** Represents only the state’s share of debt service costs.

SOURCE: PEER analysis of regional facility information.

Step 3: Compute a hypothetical per diem, per inmate rate for use in future negotiations

The average per diem of \$18.69, after exclusion of excessive costs, provides a guideline for renegotiation of per diem rates if the current per diem structure is replaced by a uniform per diem. If the state paid all regional facilities a \$24.90 per diem (the amount currently paid to a regional facility in the first year of operation), this amount would exceed the efficient per diem plus debt service for each of these facilities, but would still have a breakeven point lower than the guaranteed daily census of 230 provided in SB 3123.

Uniform Per Diem

The exclusion of excessive costs provides the basis for determining a uniform per diem rate of \$18.69 for all regional facilities. If each facility's debt service costs were added to this uniform per diem, the per diem payment schedule would be as shown in Exhibit 11, below.

Exhibit 11: Efficient Per Diem With Debt Service

	<u>Bolivar County</u>	<u>Carroll- Montgomery County</u>	<u>Issa- quena County</u>	<u>Jefferson- Franklin County</u>	<u>Leake County</u>	<u>Marion- Walthall County</u>	<u>Winston- Choctaw County</u>
Current Average Per Diem*	\$25.25	\$25.65	\$27.39	\$27.21	\$26.36	\$25.78	\$25.71
Efficient Per Diem for Operating Costs	\$18.69	\$18.69	\$18.69	\$18.69	\$18.69	\$18.69	\$18.69
DEBT SERVICE COSTS**	\$3.20	\$4.48	\$4.40	\$4.12	\$4.11	\$5.76	\$4.11
Total Per-Diem	\$21.89	\$23.17	\$23.09	\$22.81	\$22.80	\$24.45	\$22.80

* Average per diem including changes in the per-diem during the year.

** Represents only the state's share of debt service costs.

SOURCE: PEER analysis of regional facility information.

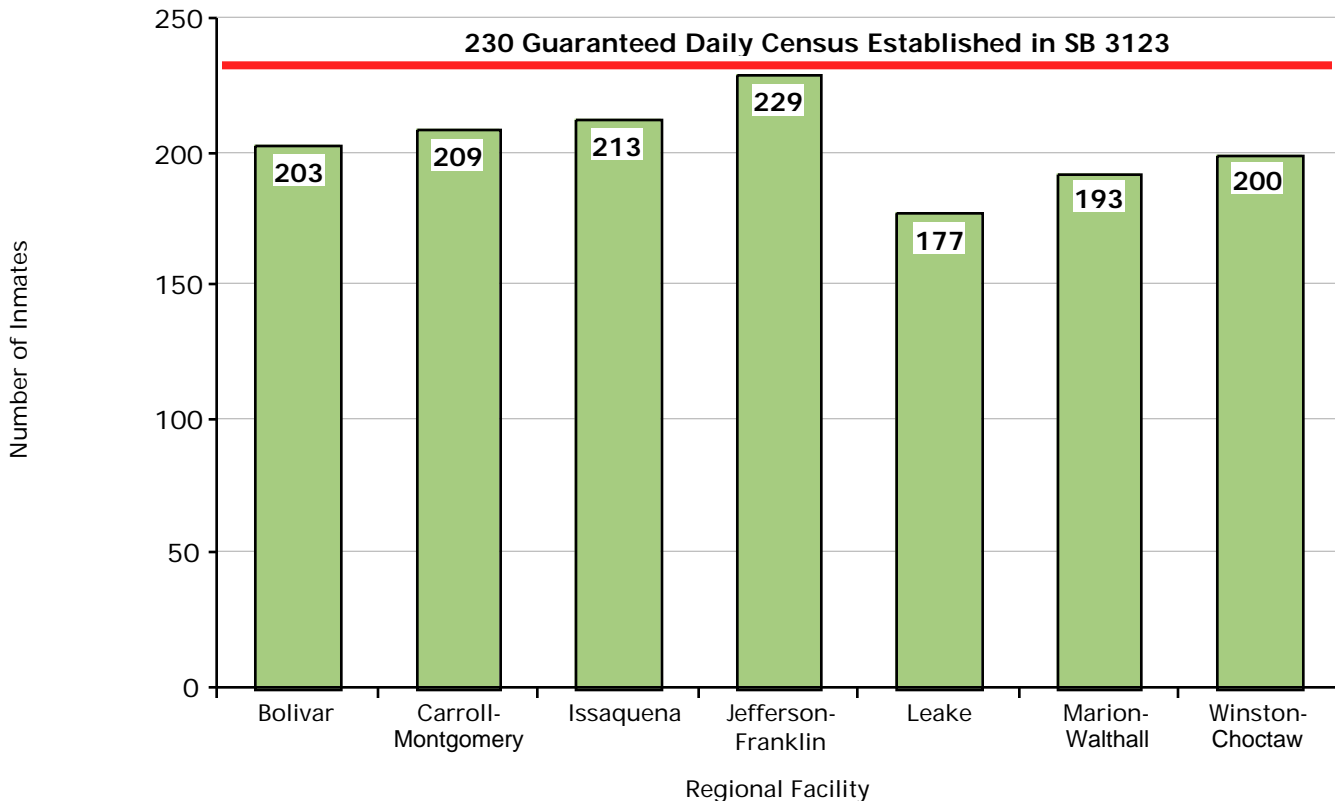
Breakeven Points Excluding Excessive Costs and with a \$24.90 Per Diem

Even with the addition of debt service payments, the per diem required to break even after exclusion of excessive costs for the seven regional facilities is less than the lowest per diem of \$24.90 now paid to facilities in the first year of operation.

Even with the addition of debt service payments, the per diem required after the exclusion of excessive costs for the seven facilities is less than the lowest per diem of \$24.90 now paid to facilities in the first year of operation. PEER calculated the breakeven point for these seven facilities under the scenario of exclusion of excessive costs and a uniform per diem of \$24.90. The results are shown in Exhibit 12, below.

Under this scenario, the number of inmates required to break even increases because of the reduction of the per diem from current levels. If the per diem paid to regional facilities were lowered, additional state inmates would have to be placed in the regional facilities to meet their operating costs, even with the elimination of excessive costs.

Exhibit 12: Breakeven Points with \$24.90 Per Diem and Efficient Operations



SOURCE: PEER analysis of regional facility information.

Perspective on Regional Facility Costs for Housing Non-State Inmates

Most local governments do not provide sufficient funds to regional correctional facilities to cover the costs of housing non-state inmates. Regional facilities use revenues generated from state inmate censuses to help defray the cost of housing non-state inmates.

As stated earlier, SB 3123 required that the PEER Committee determine the necessary per diem, per inmate costs associated with housing state inmates at each of the regional correctional facilities. This analysis provides important insight into the state's obligation relative to the cost of operating a regional facility. There are, however, other important operating costs that are the responsibility of local governments.

In addition to state inmates, regional correctional facilities may also house non-state inmates from the counties, municipalities, and the federal government. Though not in its SB 3123 mandate, PEER obtained basic information on the current per diem rates paid by counties and cities to offset the costs of housing these non-state inmates. Per diem rates provided for non-state inmates vary widely from source to source. (See the Appendix, page 35, for a listing of the per diem rates paid by municipalities and counties.) For example, per diem rates for municipalities range from \$15 to \$35, with most municipalities paying between \$15 and \$25 per inmate day. Judging from the analysis of state-related costs, those paying on the higher side of the range likely meet or exceed local inmate costs, while those in the lower range do not pay a per diem rate that is sufficient to support the housing of their local inmates.

Low per diem rates paid by counties are indicative of attempts to house county inmates at low local costs while seeking higher rates from the state for its inmates.

PEER also observed that, in general, the per diem rates for inmates from counties in which the regional facility is located are lower than the state's current per diem. The notable exceptions are Kemper County, which pays \$24.90 per inmate, per day to house county inmates and Bolivar County, which has appropriated \$900,000 for the county's share of the facility's expenses for FY 2001. The remaining counties range from no per diem for Issaquena County (only 22 inmate days from October 1, 2000, through March 31, 2001) to \$20.00 per inmate, per day for Holmes and Humphreys county inmates. These low per diem rates are indicative of attempts to house county inmates at low local costs while seeking higher rates from the state for its inmates. In fairness, PEER would note that state inmates not yet classified by MDOC are also housed in regional facilities. For purposes of this study, the unclassified inmates were considered to be non-state because they are housed in the non-state areas of each facility and are not counted by MDOC as a state inmate in providing the 200 state inmates guaranteed to each regional

facility. The per diem rate for these unclassified inmates is currently \$20.00 per day at all facilities.

In summary, local reimbursements for the cost of housing local inmates are not likely to meet the breakeven requirements of the regional facilities for housing those inmates, though PEER did not fully test this assumption since it was outside the scope of the current review. PEER would note that regional facilities do have the option of reviewing housing agreements with local entities and increasing per diems to ensure that all parties are paying a per diem rate sufficient to support the housing of local inmates, thus allowing the regional facility to reach the breakeven point for its local commitment.

Analysis of Cost of Housing State Inmates in Private Correctional Facilities

The private facilities specified in SB 3123, Regular Session, 2001, will break even for housing state inmates at daily censuses below those provided in the bill. Thus the guaranteed daily census provided in SB 3123 for private facilities (900) does not apply.

Calculation of Breakeven Points for Private Correctional Facilities Specified in SB 3123

The breakeven points for the Delta Correctional Facility and the Marshall County Correctional Facility are 843 and 871, respectively. Senate Bill 3123 specified a guaranteed daily census of 900.

Private Facility Breakeven Points

In calculating the breakeven points for the private correctional facilities, PEER repeated the three-step process performed in calculating the breakeven points for regional facilities. Because private facilities only house state inmates, no allocation of expenses between state and non-state inmates was necessary.

The accounting team performing the analysis identified no excessive costs in the private facilities' operations. Therefore, the calculations derived from using actual costs are assumed to also be the necessary costs.

PEER calculated the breakeven point for the two private facilities specified in SB 3123, Marshall County and Delta Correctional Facility, on operating results from January 1, 2001, through March 31, 2001. Three other private facilities (East Mississippi Correctional Facility, Walnut Grove Correctional Facility, and Wilkinson County Correctional Facility) were not specified in SB 3123 and accordingly were not part of this study. In the opinion of the accounting team performing the analysis, this period is representative of the facilities' operating costs, since each facility has been open several years and presents the most recent, uniform financial information.

Exclusion of Management Fees from Calculation

In calculating cost per day at private facilities, PEER included medical expenses because these facilities bear the cost of the first 72 hours of medical care for inmates.

PEER excluded any management fees assessed by the private companies for housing inmates in calculating the breakeven points since such fees actually represent profit. Charges for services provided should be based on the actual costs of providing the service and not simply be a mechanism to generate fees or profits. The accounting team performing the analysis included actual costs associated with housing, programs, food service, medical, and administrative services for inmates in the private facilities. Medical costs are included for private facilities because private facilities bear the cost of the first seventy-two hours of medical care for inmates.

Exhibit 13, below, provides a breakdown of the expenses for each private facility among the five operating cost categories.

Exhibit 13: Private Correctional Facilities' Actual Costs

	Marshall County	Delta Correctional
OPERATING REVENUES	\$ 28.26	\$ 28.29
OPERATING COSTS:		
Basic housing and visitation	\$ 16.73	\$ 16.92
Programs	2.39	2.52
Food service	2.76	3.00
Medical	4.70	2.52
Administrative costs	1.67	2.57
Total operating costs	\$ 28.25	\$ 27.54
NET OPERATING REVENUE	\$ 0.01	\$ 0.75
Daily Census Required to Break Even	871	843
Average inmates for quarter ended March 31, 2001	871	870
Facility capacity	1,000	1016

NOTE: Debt service is not a consideration in calculating the breakeven point for the private facilities because infrastructure is provided by the state. Debt service payment would add \$6.14 to Marshall County costs and \$6.51 to Delta Correctional costs.

SOURCE: PEER analysis of private correctional facility information.

Private Facility Profit Motive

The state should give due consideration to the profit motive in negotiating housing agreements with the private facilities in order to offer companies an incentive to continue operation.

The breakeven points presented above represent the level at which these private facilities will neither make a profit nor lose money. Since these facilities are operated by private companies with the goal of realizing profits from the operation of the facilities, the state will have to give due consideration to the profit motive in negotiating housing agreements with the private correctional facilities in order to offer the private companies an incentive to continue operation. This is a policy decision beyond PEER's scope of review per SB 3123.

Inmate Placement Decisions Based on Cost Analysis

The Department of Corrections should consider all available cost information in planning placement of large inmate populations in a multifaceted system.

The dynamic of cost and population in the state correctional system can quickly become complex. Cost analyses such as this are point-in-time presentations and may not always contain identical cost elements. A small change in the variables involved may result in large changes in cost per day amounts. *PEER advises against using an overly simplistic comparison to make critical placement decisions for the correctional system as a whole.* To illustrate, PEER offers the following analysis of the relationship of fixed and variable cost and cost per day in decision making.

Asserting Lower Total Regional or Private Facility Costs as a Basis for Placement

Comparing a regional or private facility's cost per day to the state's cost per day and asserting that the difference represents a savings is not accurate, because a facility's cost per day is merely a reflection of its internal cost of operation and does not include additional "hidden" costs borne by the state. For example, at a regional facility, the state incurs additional costs such as medical costs, administrative costs for classification and placement of inmates, and parole board cost for inmates in regional facilities. These costs are not typically reflected in presentations of a regional facility's cost per day.

The state's true cost of housing inmates in a regional facility is the facility's per diem plus additional expenses such as medical and parole board costs. If the decision is made to place an inmate in a regional facility, only the state's variable cost is likely to be saved.

The state's true cost of housing an inmate in a regional or private facility is the facility's per diem plus additional expenses not reflected in the facility's per diem calculation. If the decision is made to place an inmate in a regional or private facility, only the state's variable cost is likely to be saved. Unless a placement decision involves a sufficiently large number of inmates to allow major changes at a state facility that will eliminate the associated fixed costs, the state must continue to pay fixed costs. As a result, even though a regional or private facility's cost per inmate day is lower than the state's, the difference does not represent an absolute savings to the state because of the "hidden" state expenses and the continuation of significant fixed costs on the state side.

Asserting Lower State Variable Costs as a Basis for Placement

System-level decisions on inmate placement should be made in light of all costs, variable and fixed.

Asserting that the lower state variable costs compared to the per diem paid a regional or private facility should be the basis for placement is equally flawed. Again, asserting that the difference reflects an actual cost savings to the state is an oversimplification of a complex operating environment. Placement decisions based solely on the state's variable costs become viable only when the regional and private facilities have sufficient inmate populations to support continued operations at efficient, breakeven levels. System-level decisions should be made in light of all costs, variable and fixed. Focusing only on the variable cost element ignores fixed costs, which comprise the majority of costs associated with housing an inmate and assumes that the system is totally responsive to current need, which is a false assumption.

In meeting an increased demand for prison space, the state has created a system with three distinct elements: state facilities, regional facilities, and private facilities. Unless the state determines that one or more of these options is no longer needed to meet the state's space needs, all must be maintained at a basic operational level. Decisions intended to improve the state's cost per inmate day should not be made without considering other elements in the system.

It is PEER's contention that the entire system must be managed as a whole and that due consideration must be given to all costs and breakeven points for all elements in the system. To ignore one element with the goal of fostering another element may be done to the detriment of the entire system. For example, failing to place sufficient inmates in the regional or private facilities to at least allow them to break even on state costs and continue operation could haunt the state in future years, should the additional beds be needed. Any decision to sacrifice an element of the system should be made on the basis of adequate comparative cost information and future need data.

Furthermore, the placement of inmates with the sole goal of manipulating the state's inmate cost per day is simply not a prudent management course in the state's current environment. Although moving inmates to state facilities allows fixed costs to be spread over more inmates and therefore lowers the state's computed cost per day, that lower figure does not represent a savings to the state.

It is the state's responsibility to provide incarceration space for those sentenced and full occupancy cannot necessarily be a goal or achievable. The necessity to maintain empty beds drives up the state's inmate cost per day. The regional and private facilities' goal is to be 100% occupied to lower costs. Given these varying objectives and all costs being equal, the state will always be expected to have a higher inmate cost per day than those of the regional and private facilities.

MDOC's overall goal should be to operate the correctional system in a manner that would maximize efficiency and cost effectiveness of all three elements of the system: state, regional, and private facilities.

MDOC's overall goal should be to operate the correctional system in a manner that would maximize efficiency and cost effectiveness of all three elements of the system: state, regional, and private facilities. To accomplish this goal, measures of efficiency, such as breakeven points for regional and private facilities and cost per inmate day for state facilities, must be determined, monitored and utilized in making inmate placement decisions and measuring system efficiencies, but should be kept in proper perspective when considering the entire correctional system.

Recommendations

Designation of Chief Corrections Officer

The Legislature should amend MISS. CODE ANN. Section 47-5-935 to allow counties to designate a regional facility's warden as Chief Corrections Officer, without additional compensation for performing these duties. The Legislature should amend the section to delete the requirement that sheriffs receive \$15,600 compensation for duties as Chief Corrections Officer.

Cost Efficient Per Diem

The Legislature should amend MISS. CODE ANN. Section 47-5-933 to allow MDOC to negotiate a uniform per diem for regional correctional facilities based on efficient operation, elimination of excessive costs, and the state's portion of individual debt service costs of each regional facility.

Funds Appropriated for Housing Inmates at Higher Levels

The Legislative Budget Committee should determine MDOC's intentions regarding any additional funds appropriated to house inmates at the higher levels provided for in Senate Bill 3123.

**Appendix
Regional Facility Comparison**

Category	Bolivar	Carroll-Montgomery	Holmes-Humphreys	Issaquena	Jefferson-Franklin
Date Facility Opened	December 15, 1999	May 11, 1999	November 10, 2000	March 1, 1997	May 16, 1997
State Per-diem July 1, 2001	\$25.65	\$26.42	\$24.90	\$28.03	\$28.03
Date Per-diem Increases	December 2001	May 2002	November 2001	March 2002	May 2002
Total Prisoner Capacity	397	380	322	345	310
Total Facility Square Footage	40,642	41,871	46,518	38,403	38,242
Total Amount of Bond Issue	\$5,800,000	\$5,800,000	\$5,800,000	\$5,100,000	\$5,100,000
Total Interest	\$3,927,052	\$4,061,182	\$4,328,367	\$3,834,373	\$3,810,160
Total Debt Service	\$9,727,052	\$9,861,182	\$10,128,367	\$8,934,373	\$8,910,160
Prison Attorney	Charles Weissinger	Devo Lancaster	Charles Weissinger	Charles Weissinger	Charles Weissinger
Prison Attorney Salary	\$ 67,500	\$ 33,750	\$67,500	\$67,500	\$62,112
Contract Expiration Date	July 1, 2019	January 4, 2004	September 7, 2004	October 9, 2015	August 2, 2015
ACA and Programs Consultant	CMS#, Edward Hargett, President	Lake Lindsey	CCI#/, Lake Lindsey, President	CMS#, Edward Hargett, President	CMS#, Edward Hargett, President
ACA and Programs Consultant Fees	\$96,000*	\$48,000*	\$48,000*	\$96,000* [@]	\$96,000*
Contract Expiration Date	December 15, 2003	October 31, 2001	Agreement letter††	March 1, 2004	March 1, 2002
Sheriff's Salary	\$15,600	\$15,000	\$15,600	\$15,502	\$15,600
Total Corrections Officers	32	27	23	28	27
Total Corrections Officer Supervisors	6	6	4	4	7
Total Part-time Corrections Officers	0	0	10	1	9
Total Facility Corrections Officers	38	33	37	33	43
Average Corrections Officer Salary	\$17,779	\$17,430	\$15,760	\$17,569	\$19,278
Average Corr. Officer Supervisor Salary	\$19,472	\$20,895	\$19,116	\$19,983	\$22,393
	Six months ended March 31, 2001:	Six months ended March 31, 2001:	Three months ended March 31, 2001:	Six months ended March 31, 2001:	Six months ended March 31, 2001:
State Per-diem Prisoner Days	42,222	41,106	17,696	41,717	41,669
Other Prisoner Days	16,594	9,930	5,131	9,948	6,162
Total Prisoner Days	58,816	51,036	22,827	51,665	47,831
Average Number of State Inmates	232	226	197	229	229
Average Number of Other Inmates	91	55	57	55	34
Total Average Number of Inmates	323	280	254	284	263
Per-diem for Owner County Prisoners	\$0.00***	Montgomery & Carroll - \$20.00 for 1st 10 prisoners \$0 for 2nd 10 prisoners \$15.00 for remaining prisoners	Holmes & Humphreys Counties - \$20	\$0.00	\$12.00
Per-diem for City Prisoners	Alligator, Beulah, Drew, Gunnison, Merigold, Mound Bayou, Rosedale, Shaw, Shelby - \$24.90 Benoit, Boyle, Cleveland, Renova, Indianola, Pace, and Winstonville - \$25.65	North Carrollton, Winona, Vaiden, Kilmichael - \$25	Durant, Lexington, Pickens, West, Tchula, Goodman, Cruger, Inverness - \$24.90	Vicksburg, Rolling Fork, & Anguilla - \$30.00	Fayette - \$15.00
Per-diem for Non-owner County prisoners	Washington - \$16.00 Coahoma & Sunflower: \$25.65	Leflore, Coahoma, & Holmes - \$30	Carroll - \$24.90	Sharkey - \$15.00 Warren - \$30.00	Franklin - \$15 Wilkinson, Claiborne & Pike - \$25

† As County Board Attorney, Mr. Palmer does not bill the Kemper-Neshoba facility for legal work.
 ^ The attorney's agreement with the facility specifies that he may bill at \$125 per hour above the monthly retainer if the retainer is not sufficient to cover the amount of work required.
 †† Agreement letter which may be terminated by either party at any time.
 # Corrections Management Services, Inc.
 ## Contemporary Corrections, Inc.
 ### Mississippi Correctional Management, Inc.
 * Includes maintaining accreditation with the American Correctional Association and providing educational programs.
 ** Only includes maintaining accreditation with the American Correctional Association. Educational programs are coordinated by facility staff.
 *** Bolivar County appropriated \$450,000 to the facility for October 1, 2000 to March 31, 2001.
 @Includes \$84,000 contract to CMS and \$12,000 salary to Mr. Hargett.
 SOURCE: Compiled by PEER.

Appendix (Continued)
Regional Facility Comparison

Category	Kemper-Neshoba	Leake	Marion-Walthall	Stone	Winston-Choctaw
Date Facility Opened	October 27, 2000	October 15, 1998	March 2, 1999	December 6, 2000	March 18, 1999
State Per-diem July 1, 2001	\$24.90	\$26.42	\$26.42	\$24.90	\$26.42
Date Per-diem Increases	November 2001	October 2001	March 2002	December 2001	March 2002
Total Prisoner Capacity	320	338	333	364	324
Total Facility Square Footage	44,876	45,093	40,555	42,692	44,876
Total Amount of Bond Issue	\$5,800,000	\$5,800,000	\$5,800,000	\$5,800,000	\$6,000,000
Total Interest	\$4,223,213	\$4,325,346	\$4,310,200	\$4,346,283	\$3,673,068
Total Debt Service	\$10,023,213	\$10,125,346	\$10,110,200	\$10,146,283	\$9,673,068
Prison Attorney	Henry Palmer	Charles Weissinger	Thomas McNeese	Charles Weissinger	Hugh Hathorn
Prison Attorney Salary	County Board Attorney †	\$67,500	\$12,000^	\$60,000	\$4,800^
Contract Expiration Date	N/A	April 15, 2016	Agreement Letter ††	November 1, 2019	Agreement Letter ††
ACA and Programs Consultant	CMS#, Edward Hargett, President	CMS#, Edward Hargett, President	MCM### Irb Benjamin, President	CMS#, Edward Hargett, President	CMS#, Edward Hargett, President
ACA and Programs Consultant Fees	\$96,000*	\$96,000*	\$48,000**	\$60,000*	\$96,000*
Contract Expiration Date	December 31, 2003	October 15, 2005	July 5, 2003	September 29, 2007	May 20, 2002
Sheriff's Salary	\$15,000	\$15,600	\$0.00	\$15,600	\$15,000
Total Corrections Officers	29	27	21	17	22
Total Corrections Officer Supervisors	6	8	8	4	8
Total Part-time Corrections Officers	0	0	4	0	0
Total Facility Corrections Officers	35	35	33	21	30
Average Corrections Officer Salary	\$17,500	\$16,406	\$16,698	\$16,000	\$19,260
Average Corr. Officer Supervisor Salary	\$18,000	\$18,366	\$19,492	\$17,500	\$20,472
State Per-diem Prisoner Days	Three months ended March 31, 2001: 17,871	Six months ended March 31, 2001: 41,032	Six months ended March 31, 2001: 34,084	Three months ended March 31, 2001: 20,410	Six months ended March 31, 2001: 41,966
Other Prisoner Days	713	13,755	12,523	3,630	10,149
Total Prisoner Days	18,584	54,787	46,607	24,040	52,115
Average Number of State Inmates	199	225	187	227	231
Average Number of Other Inmates	8	76	69	40	56
Total Average Number of Inmates	206	301	256	267	286
Per-diem for Owner County Prisoners	Kemper - \$24.90 Neshoba - \$15.00	Leake - \$12.00	Marion - \$12.00	Stone - \$12.00	Winston and Choctaw - \$15.00
Per-diem for City Prisoners	DeKalb - \$15.00 Scooba - \$18.00	Walnut Grove and Carthage - \$15.00	Columbia - \$15.00	Wiggins and New Augusta - \$20.00	Louisville - \$15.00 Starkville & Eupora - \$35.00 Noxapater & Ackerman - \$15.00
Per-diem for Non-owner County prisoners	N/A	Scott - \$15	N/A	Perry - \$20.00	Oktibbeha & Lowndes - \$35.00 Kemper - \$15.00

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James Barber, Deputy Director
Ted Booth, General Counsel

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