

1 SB228  
2 197308-3  
3 By Senators Orr, Figures, Sanders-Fortier, Beasley,  
4 Livingston, Albritton, Smitherman, Waggoner, Chesteen,  
5 Sessions, Ward, Allen, McClendon, Butler, Barfoot, Givhan and  
6 Holley  
7 RFD: Governmental Affairs  
8 First Read: 03-APR-19

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8 SYNOPSIS: Under existing law, the sheriff of a county  
9 receives an allowance in the amount of \$1.75 per  
10 capita from the state for the feeding of prisoners  
11 in the county jail. In addition, the amount of  
12 \$1.25 is conditionally appropriated from the State  
13 General Fund per capita. The sheriff is authorized  
14 to retain the amount of the allowances over the  
15 costs of feeding prisoners, unless the county  
16 commission has directed the allowances to be paid  
17 into the county State General Fund.

18 This bill would increase the amount of the  
19 amount of the allowance paid to the sheriff by the  
20 state for feeding prisoners to \$2.25 per day per  
21 prisoner. Thereafter, the amount provided by the  
22 state would be increased by two percent each year  
23 commencing on October 1, 2021.

24 The bill would also establish a Prisoner  
25 Feeding Fund in the office of the sheriff of each  
26 county into which all allowances would be paid. The  
27 Prisoner Feeding Fund would only be used for

1 feeding prisoners except at the end of each fiscal  
2 year 25 percent of the unencumbered balance may be  
3 used for jail operations or law enforcement  
4 purposes.

5 The bill would also make a continuing  
6 appropriation from the State General Fund to be  
7 used under certain conditions for emergency costs  
8 overruns in the counties.

9  
10 A BILL  
11 TO BE ENTITLED  
12 AN ACT

13  
14 Relating to sheriffs; to amend Sections 14-6-40,  
15 14-6-42, 14-6-47, 14-6-48, and 36-22-17, Code of Alabama 1975,  
16 and to repeal Section 14-6-43 of the Code of Alabama 1975,  
17 relating to the feeding of prisoners in the county jail; to  
18 increase the allowance paid by the state; to establish a  
19 Prisoner Feeding Fund in each county sheriff's office; and to  
20 make a continuing appropriation from the State General Fund  
21 commencing October 1, 2019, and thereafter to be used for  
22 emergency costs overruns in the counties.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 14-6-40, 14-6-42, 14-6-47,  
25 14-6-48, and 36-22-17, Code of Alabama 1975, are amended to  
26 read as follows:

27 "§14-6-40.

1           "The sheriff of the county, except as otherwise  
2 provided by existing laws, in his or her official capacity, in  
3 person or by his or her deputy or jailer, shall feed the shall  
4 be responsible for the feeding of prisoners in the jail under  
5 his or her jurisdiction in accordance with the terms of this  
6 article. The food and services in preparing food, serving  
7 food, and other services incident to the feeding of prisoners  
8 shall be paid for from funds as provided in Section 14-6-42.  
9 In no event shall the sheriff be personally responsible for  
10 the cost of feeding prisoners or any shortage in the funds  
11 provided for that purpose.

12           "§14-6-42.

13           "(a) Food ~~for~~ and the services for preparing food,  
14 serving food, and other services incident to the feeding of  
15 prisoners in the county jail shall be paid for by the state as  
16 follows: There shall be allowed such amount as is actually  
17 necessary for food for each prisoner daily, and said amount so  
18 allowed shall be \$1.75 per capita. In addition to the above  
19 amount, there is hereby conditionally appropriated from the  
20 General Fund an amount of \$1.25 per capita. in the amount of  
21 two dollars and twenty-five cents (\$2.25) per day for each  
22 prisoner.

23           "(b) Payments made by the state pursuant to this  
24 section to the office of the sheriff shall be deposited in a  
25 separate account designated the Prisoner Feeding Fund  
26 established in Section 14-6-47. The sheriff shall maintain  
27 records of all payments received and all expenditures made

1 from the Prisoner Feeding Fund, which shall be subject to  
2 regular audit by the Department of Examiners of Public  
3 Accounts. Expenditures for the feeding of prisoners shall be  
4 exempt from the competitive bid law.

5 "(c) The allowances provided by the state in this  
6 section shall be increased by two percent each year commencing  
7 on October 1, 2021, and thereafter.

8 "§14-6-47.

9 "(a) The Prisoner Feeding Fund is established in the  
10 office of each sheriff. Except as provided in subsection (b),  
11 all monies received in the sheriff's office for food and  
12 services in preparing food, serving food, and other services  
13 incident to the feeding of prisoners in the county jail  
14 pursuant to this chapter, shall be deposited in the Prisoner  
15 Feeding Fund and shall be kept separate from all other monies.  
16 Monies deposited in the Prisoner Feeding Fund shall only be  
17 used for feeding prisoners except as provided herein. At the  
18 conclusion of each fiscal year, the sheriff may expend not  
19 more than 25 percent of the unencumbered balance in the fund  
20 on jail operation or for law enforcement purposes related to  
21 the operation of the office of the sheriff, and the remainder  
22 shall be retained in the fund for feeding expenses in the next  
23 fiscal year , or at the option of the sheriff, the entire  
24 unencumbered balance may be retained in the fund for feeding  
25 expenses in the next fiscal year. In no event shall any monies  
26 paid into the fund be expended except as authorized in this  
27 chapter.

1           "(b) (1) Nothing in this chapter shall prohibit the  
2 sheriff and the county commission from entering into mutual  
3 agreements to carry out the requirements of this chapter. Any  
4 mutual agreements shall not supersede the provisions of  
5 Section 14-6-40 or exempt any funds or expenditures from audit  
6 as required by this chapter nor authorize any of the funds  
7 deposited into a prisoner feeding fund or other account for  
8 feeding prisoners to be converted into personal income for any  
9 public official or employee.

10           "(2) Nothing in this chapter shall require a change  
11 in procedures in those counties where funds for the feeding of  
12 prisoners are paid into the general fund of the county  
13 pursuant to resolution authorized under Section 36-22-17, as  
14 it existed prior to the effective date of the act adding this  
15 subsection.

16           "(c) All records related to payments received and  
17 expenditures made for food preparation and the feeding of  
18 prisoners in the county jail shall be kept ~~and statements made~~  
19 by the sheriff's office on forms prescribed ~~and furnished~~ by  
20 the ~~Department of Finance~~ Department of Examiners of Public  
21 Accounts and shall be subject to regular audit.

22           "§14-6-48.

23           "The sheriff shall be the custodian of all funds  
24 paid into the Prisoner Feeding Fund pursuant to Section  
25 14-6-47, which funds shall be public funds of the office of  
26 the sheriff. Any unexpended monies in the Prisoner Feeding  
27 Fund on the effective date of any new term of office shall

1 remain in the fund to be expended by the office of the sheriff  
2 as provided in this chapter. Any sheriff who fails to ~~enter~~  
3 ~~into a book, to be kept by him for that purpose, any account~~  
4 ~~paid him by the state~~ maintain records for feeding prisoners,  
5 ~~or to keep such book in his office as one of the public~~  
6 ~~records thereof,~~ as required in this chapter or to ~~lay~~ submit  
7 the same before the grand jury at each term of the circuit  
8 court held in his or her county or, upon the expiration of his  
9 or her term of office, to turn the same over to his or her  
10 successor as required by law is guilty of a misdemeanor.

11 "§36-22-17.

12 "~~All~~ Except as otherwise provided herein, all fees,  
13 commissions, percentages, allowances, charges and court costs  
14 heretofore collectible for the use of the sheriff and his or  
15 her deputies, ~~excluding the allowances and amounts received~~  
16 ~~for feeding prisoners, which the various sheriffs of the~~  
17 ~~various counties shall be entitled to keep and retain, except~~  
18 ~~in those instances where the county commission directs such~~  
19 ~~allowances and amounts to be paid into the general fund of the~~  
20 ~~county by proper resolution passed by said county commission~~  
21 ~~of said county,~~ shall be collected and paid into the general  
22 fund of the county. Except as otherwise provided in subsection  
23 (b) of Section 14-6-47, all monies paid by the state for the  
24 feeding of prisoners pursuant to Title 14, Chapter 6 shall be  
25 paid into the Prisoner Feeding Fund established in Section  
26 14-6-47, and expended only as provided in Chapter 6."

1                   Section 2. Section 14-6-43 of the Code of Alabama  
2 1975, is repealed.

3                   Section 3. There is hereby continuously appropriated  
4 annually for the feeding of prisoners in the county jails as  
5 provided herein, the sum of five hundred thousand dollars  
6 (\$500,000) from the State General Fund for the fiscal year  
7 commencing October 1, 2019, increased by 1.5 percent per year  
8 for each fiscal year thereafter, compounded when the  
9 adjustment is made at the beginning of each year. The funds  
10 shall be held by the Department of Finance in a special  
11 account to be disbursed upon joint application by a county  
12 commission and the sheriff of a county in case of an  
13 unforeseeable emergency cost overrun that fully depletes the  
14 Prisoner Feeding Fund in the county treasury. This application  
15 shall be supported by the sworn statements by the chair of the  
16 county commission and the sheriff stating the reason for the  
17 need for emergency funding and the reason for the  
18 unforeseeable cost overrun. The department may demand any  
19 pertinent financial records prior to disbursing any emergency  
20 funding. The department shall determine when a cost overrun  
21 qualifies for disbursement of funds. A county commission may  
22 not receive from this emergency fund per year more than 80  
23 percent of the actual cost overrun as substantiated by  
24 financial records up to a maximum of twenty-five thousand  
25 dollars (\$25,000) per year. At the end of every calendar year,  
26 any funds remaining in the account that have not been  
27 disbursed and that have accumulated in excess of one million



1 dollars (\$1,000,000), increased 1.5 percent each year after  
2 fiscal year 2019, compounded when the adjustment is made at  
3 the beginning of each year, shall be returned to the State  
4 Treasury.

5 Section 4. This act shall become effective on the  
6 first day of the third month following its passage and  
7 approval by the Governor, or its otherwise becoming law.