

## REPORT OF CONFERENCE COMMITTEE

### MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled **BILL**:

H.B. No. 555: State offenders housed in county jails; reenact and extend repealer for one year.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

**Amend by striking all after the enacting clause and inserting in lieu thereof the following:**

9 SECTION 1. Section 47-5-901, Mississippi Code of 1972, is  
10 reenacted as follows:

11 47-5-901. (1) Any person committed, sentenced or otherwise  
12 placed under the custody of the Department of Corrections, on  
13 order of the sentencing court and subject to the other conditions  
14 of this subsection, may serve all or any part of his sentence in  
15 the county jail of the county wherein such person was convicted if  
16 the Commissioner of Corrections determines that physical space is  
17 not available for confinement of such person in the state  
18 correctional institutions. Such determination shall be promptly  
19 made by the Department of Corrections upon receipt of notice of  
20 the conviction of such person. The commissioner shall certify in  
21 writing that space is not available to the sheriff or other  
22 officer having custody of the person. Any person serving his  
23 sentence in a county jail shall be classified in accordance with  
24 Section 47-5-905.

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

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

48           (4) A person, on order of the sentencing court, may serve  
49 not more than twenty-four (24) months of his sentence in a county  
50 jail if the person is classified in accordance with Section  
51 47-5-905 and the county jail is an approved county jail for  
52 housing state inmates under federal court order. The sheriff of  
53 the county shall have the right to petition the Commissioner of  
54 Corrections to remove the inmate from the county jail. The county  
55 shall be reimbursed in accordance with subsection (2).

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

61           (6) This section does not create in the Department of  
62 Corrections, or its employees or agents, any new liability,  
63 express or implied, nor shall it create in the Department of  
64 Corrections any administrative authority or responsibility for the  
65 construction, funding, administration or operation of county or  
66 other local jails or other places of confinement which are not

67 staffed and operated on a full-time basis by the Department of  
68 Corrections. The correctional system under the jurisdiction of  
69 the Department of Corrections shall include only those facilities  
70 fully staffed by the Department of Corrections and operated by it  
71 on a full-time basis.

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

77 SECTION 2. Section 47-5-903, Mississippi Code of 1972, is  
78 reenacted as follows:

79 47-5-903. (1) A person committed, sentenced or otherwise  
80 placed under the custody of the Department of Corrections, on  
81 order of the sentencing court, may serve his sentence in the  
82 county jail of the county where convicted if all of the following  
83 conditions are complied with:

84 (a) The person must be classified in accordance with  
85 Section 47-5-905;

86 (b) The person must not be classified as in need of  
87 close supervision;

88 (c) The sheriff of the county where the person will  
89 serve his sentence must request in writing that the person be  
90 allowed to serve his sentence in that county jail;

91 (d) After the person is classified and returned to the  
92 county, the county shall assume the full and complete  
93 responsibility for the care and expenses of housing such person;  
94 and

95 (e) The county jail must be an approved county jail for  
96 housing state inmates under federal court order.

97 (2) This section does not apply to inmates housed in county  
98 jails due to lack of space at state correctional facilities. The  
99 department shall not reimburse the county for the expense of  
100 housing an inmate under this section.

101 (3) The Attorney General of the State of Mississippi shall

102 defend the employees of the Department of Corrections and  
103 officials and employees of political subdivisions against any  
104 action brought by any person who was committed to a county jail  
105 under the provisions of this section.

106 (4) The state, the Department of Corrections, and its  
107 employees or agents, shall not be liable to any person or entity  
108 for an inmate held in a county jail under this section.

109 SECTION 3. Section 47-5-905, Mississippi Code of 1972, is  
110 reenacted as follows:

111 47-5-905. (1) All persons placed under the custody of the  
112 Department of Corrections shall be processed at a reception and  
113 diagnostic center of the Department of Corrections and then be  
114 assigned to an appropriate correctional facility for a complete  
115 and thorough classification, not to exceed ninety (90) days,  
116 unless the department determines that a person can be properly  
117 processed and classified at the county jail in accordance with the  
118 department's classification plan.

119 (2) The Department of Corrections shall develop a plan for  
120 the processing and classification of inmates in county jails and  
121 shall implement the plan by January 1, 1993.

122 SECTION 4. Section 47-5-907, Mississippi Code of 1972, is  
123 reenacted as follows:

124 47-5-907. The sheriff of any county in this state shall have  
125 the right to petition the Commissioner of the Department of  
126 Corrections to remove a state inmate from the county jail in such  
127 county to the State Penitentiary. The commissioner shall remove  
128 such inmate from such county jail if the sheriff of such county  
129 sets forth just cause in his petition indicating why an inmate  
130 should be removed from such county jail to the State Penitentiary.

131 Just cause is established if such sheriff can sufficiently  
132 prove that such inmate has a dangerous behavior or sufficiently  
133 prove that there is no available or suitable medical facility  
134 where such inmate can be provided suitable medical services. The  
135 commissioner shall respond in writing to the petition no later  
136 than thirty (30) days after the receipt of such petition. If the

137 petition to remove such inmate is denied by the commissioner, such  
138 sheriff and his agents shall have from the date of denial absolute  
139 immunity from liability for any injury resulting from subsequent  
140 behavior or from medical consequences regarding such inmate,  
141 provided that such injury resulted from conditions which were set  
142 forth in such petition.

143 SECTION 5. Section 47-5-909, Mississippi Code of 1972, is  
144 reenacted as follows:

145 47-5-909. It is the policy of the Legislature that all  
146 inmates be removed from county jails as early as practicable.  
147 Sections 47-5-901 through 47-5-907 are temporary measures to help  
148 alleviate the immediate operating capacity limitations at  
149 correctional facilities and are not permanent measures to be  
150 included in the long-term operating capacity of the correctional  
151 system.

152 SECTION 6. Section 47-5-911, Mississippi Code of 1972, is  
153 amended as follows:

154 47-5-911. Sections 47-5-901 through 47-5-909 shall stand  
155 repealed on July 1, 2001.

156 SECTION 7. This act shall take effect and be in force from  
157 and after July 1, 1999.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO REENACT SECTIONS 47-5-901, 47-5-903, 47-5-905,  
2 47-5-907, AND 47-5-909, MISSISSIPPI CODE OF 1972, WHICH ARE THE  
3 LAWS THAT REGULATE THE HOUSING OF STATE OFFENDERS IN COUNTY JAILS;  
4 TO AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND  
5 FROM JULY 1, 1999, TO JULY 1, 2001, THE DATE ON WHICH THE LAWS

6 THAT REGULATE THE HOUSING OF STATE OFFENDERS IN COUNTY JAILS WILL  
7 BE REPEALED; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE:

CONFEREES FOR THE SENATE:

X  
Bennett Malone

X  
Robert G. Huggins

X  
Sara R. Thomas

X  
William W. Canon

X  
Robert E. Vince

X  
Joseph Stogner