

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

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

H. B. No. 487: Corrections; increase trusty time allowance from 10 days to 30 days for each 30 days of program participation.

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:

26 SECTION 1. Section 47-5-138.1, Mississippi Code of 1972, is  
27 amended as follows:

28 47-5-138.1. (1) (a) In addition to any other  
29 administrative reduction of sentence, an offender in trusty status  
30 as defined by the classification board of the Department of  
31 Corrections may be awarded a trusty time allowance of ten (10)  
32 days' reduction of sentence for each thirty (30) days of  
33 participation in an approved program while in trusty status,  
34 including satisfactory participation in education or instructional  
35 programs, satisfactory participation in work projects and  
36 satisfactory participation in any special incentive program.

37 (b) If the department has a budget deficit, the  
38 Governor or the Commissioner of the Department of Corrections may  
39 increase the trusty time allowance of an offender who meets the  
40 requirements of subsection (2) (b) to twenty-three (23) days  
41 reduction of sentence for each thirty (30) days of participation  
42 in approved programs under subsection (1) (a).

43 This paragraph (b) shall repeal on June 30, 2004.

44 (2) (a) From and after July 1, 2003, an offender who is  
45 awarded the trusty time allowance under subsection (1) (a) may also  
46 be awarded an additional ten (10) days of trusty time allowance  
47 for each thirty (30) days of approved participation.

48 (b) An offender is not eligible for the additional ten  
49 (10) days of trusty time allowance under this subsection if:

50 (i) The offender was sentenced to life  
51 imprisonment; but an offender, except an offender sentenced to  
52 life imprisonment for capital murder, who has reached the age of  
53 sixty-five (65) or older and who has served at least fifteen (15)  
54 years may petition the sentencing court for conditional release;

55 (ii) The offender was convicted as a habitual  
56 offender under Sections 99-19-81 through 99-19-87;

57 (iii) The offender was convicted of a sex crime;

58 (iv) The offender has not served the mandatory  
59 time required for parole eligibility, as prescribed under Section  
60 47-7-3, for a conviction of robbery or attempted robbery through  
61 the display of a deadly weapon, carjacking through the display of  
62 a deadly weapon or a drive-by shooting;

63 (v) The offender was convicted of violating  
64 Section 41-29-139(a) and sentenced under Section 41-29-139(b) or  
65 41-29-139(f);

66 (vi) The offender was convicted of trafficking in  
67 controlled substances under Section 41-29-139;

68 (vii) The offender was convicted of manufacturing  
69 crystal methamphetamine in violation of Section 41-29-139;

70 (viii) The offender was convicted of felony child  
71 abuse;

72 (ix) The offender was convicted of kidnapping;

73 (x) The offender was convicted of burglary of a  
74 dwelling; or

75 (xi) The offender was convicted of a homicide  
76 under Section 97-3-19.

77 **SECTION 2.** Section 47-5-1013, Mississippi Code of 1972, is  
78 amended as follows:

79 47-5-1013. Participants enrolled in an intensive supervision  
80 program shall be required to:

81 (a) Maintain employment if physically able, or  
82 full-time student status at an approved school or vocational  
83 trade, and make progress deemed satisfactory to the correctional

84 field officer, or both, or be involved in supervised job searches.

85 (b) Pay restitution and program fees as directed by the  
86 department. Program fees shall not be less than Seventy-five  
87 Dollars (\$75.00) \* \* \*. The sentencing judge may charge a program  
88 fee of not less than Fifty Dollars (\$50.00) in cases of extreme  
89 financial hardship, when such judge determines that the offender's  
90 participation in the program would provide a benefit to his  
91 community. Program fees shall be deposited in the special fund  
92 created in Section 47-5-1007.

93 (c) Establish a place of residence at a place approved  
94 by the correctional field officer, and not change his residence  
95 without the officer's approval. The correctional officer shall be  
96 allowed to inspect the place of residence for alcoholic beverages,  
97 controlled substances and drug paraphernalia.

98 (d) Remain at his place of residence at all times  
99 except to go to work, to attend school, to perform community  
100 service and as specifically allowed in each instance by the  
101 correctional field officer.

102 (e) Allow administration of drug and alcohol tests as  
103 requested by the field officer.

104 (f) Perform not less than ten (10) hours of community  
105 service each month.

106 (g) Meet any other conditions imposed by the court to  
107 meet the needs of the offender and limit the risks to the  
108 community.

109 **SECTION 3.** Section 99-37-19, Mississippi Code of 1972, is  
110 amended as follows:

111 99-37-19. The boards of supervisors of the several counties  
112 and the governing authorities of municipalities are hereby  
113 authorized to cooperate with the Department of Corrections in the  
114 establishment of restitution centers. Such centers may house both  
115 probationers referred by the circuit courts as well as inmates  
116 transferred from other facilities of the Department of Corrections  
117 as provided in Section 47-5-110. Such centers shall be operated  
118 by the Department of Corrections. County or municipal property  
119 may be utilized with the approval of the board of supervisors or

120 municipal governing authority for the construction, renovation and  
121 maintenance of facilities owned by the state or a local political  
122 subdivision. Such facility may be leased to the Department of  
123 Corrections for a period of time for use as a restitution center.

124 It is the intent of this section that county and local  
125 governments contribute only to the establishment, renovation and  
126 maintenance of the physical plant of a restitution center and that  
127 the Department of Corrections support the operation of, and have  
128 sole jurisdiction over and responsibility for offenders in, such  
129 restitution program.

130 The Department of Corrections may lease or construct three  
131 (3) restitution centers: one (1) in the northern, one (1) in the  
132 central and one (1) in the southern part of the state. The  
133 restitution centers shall be leased or constructed adjacent to or  
134 near existing community work centers. The department must use  
135 inmate labor to the maximum extent possible for such construction.

136 **SECTION 4.** Section 47-5-110, Mississippi Code of 1972, is  
137 amended as follows:

138 47-5-110. (1) Commitment to any institution or facility  
139 within the jurisdiction of the department shall be to the  
140 department, not to a particular institution or facility. The  
141 commissioner shall assign a newly committed offender to an  
142 appropriate facility consistent with public safety; provided,  
143 however, that any offender who, in the opinion of the sentencing  
144 judge, requires confinement in a maximum security unit shall be  
145 assigned, upon initial commitment, to the Parchman facility. The  
146 commissioner may extend the place of confinement of eligible  
147 offenders as provided under subsection (2) of this section. He  
148 may transfer an offender from one institution to another,  
149 consistent with the commitment and in accordance with treatment,  
150 training and security needs. The commissioner shall have the  
151 authority to transfer inmates from the various correctional  
152 facilities of the department to restitution centers. The  
153 commissioner shall prepare appropriate standards of eligibility  
154 for such transfers. The commissioner shall have the authority to  
155 remove the offenders from restitution centers and to transfer them

156 to other facilities of the department. The commissioner shall  
157 obtain the approval of the sentencing court before transferring an  
158 offender committed to the department to a restitution center. On  
159 the request of the chief executive officer of the affected unit of  
160 local government, the commissioner may transfer a person detained  
161 in a local facility to a state facility. The commissioner shall  
162 determine the cost of care for that person to be borne by the unit  
163 of local government. The commissioner may assign to a community  
164 work center, any offender who is convicted under the Mississippi  
165 Implied Consent Law and who is sentenced to the custody of the  
166 Department of Corrections, except that if a death or a serious  
167 maiming has occurred during the commission of the violation of the  
168 Mississippi Implied Consent Law, then the offender so convicted  
169 may not be assigned to a community work center.

170 (2) The department may establish by rule or policy and  
171 procedure a community pre-release program which shall be subject  
172 to the following requirements:

173 (a) The commissioner may extend the limits of  
174 confinement of offenders serving sentences for violent or  
175 nonviolent crimes who have six (6) months or less remaining before  
176 release on parole, conditional release or discharge to participate  
177 in the program. Parole violators may be allowed to participate in  
178 the program.

179 (b) Any offender who is referred to the program shall  
180 remain an offender of the department and shall be subject to rules  
181 and regulations of the department pertaining to offenders of the  
182 department until discharged or released on parole or conditional  
183 release by the State Parole Board.

184 (c) The department shall require the offender to  
185 participate in work or educational or vocational programs and  
186 other activities that may be necessary for the supervision and  
187 treatment of the offender.

188 (d) An offender assigned to the program shall be  
189 authorized to leave a community pre-release center only for the  
190 purpose and time necessary to participate in the program and  
191 activities authorized in paragraph (c) of this subsection.

192 (3) The commissioner shall have absolute immunity from  
193 liability for any injury resulting from a determination by the  
194 commissioner that an offender shall be allowed to participate in  
195 the community pre-release program.

196 (4) (a) The department may by rule or policy and procedure  
197 provide the regimented inmate discipline program and pre-release  
198 service for offenders at each of its major correctional  
199 facilities: Mississippi State Penitentiary, Central Mississippi  
200 Correctional Institution and South Mississippi Correctional  
201 Institution.

202 (b) The commissioner may establish regimented inmate  
203 discipline and pre-release programs at the South Mississippi  
204 Correctional Institution. Offenders assigned to this facility may  
205 receive the services provided by the regimented inmate discipline  
206 program. The pre-release program may be located on the grounds of  
207 this facility or another facility designated by the commissioner.

208 (5) The department may expand community work centers and  
209 pre-release centers by twenty (20) beds at each site. The  
210 department must use inmate labor to the maximum extent possible  
211 for the expansion.

212 **SECTION 5.** Section 47-7-3, Mississippi Code of 1972, is  
213 amended as follows:

214 47-7-3. (1) Every prisoner who has been convicted of any  
215 offense against the State of Mississippi, and is confined in the  
216 execution of a judgment of such conviction in the Mississippi  
217 State Penitentiary for a definite term or terms of one (1) year or  
218 over, or for the term of his or her natural life, whose record of  
219 conduct shows that such prisoner has observed the rules of the  
220 Penitentiary, and who has served not less than one-fourth (1/4) of  
221 the total of such term or terms for which such prisoner was  
222 sentenced, or, if sentenced to serve a term or terms of thirty  
223 (30) years or more, or, if sentenced for the term of the natural  
224 life of such prisoner, has served not less than ten (10) years of  
225 such life sentence, may be released on parole as hereinafter  
226 provided, except that:

227 (a) No prisoner convicted as a confirmed and habitual

228 criminal under the provisions of Sections 99-19-81 through  
229 99-19-87 shall be eligible for parole;

230 (b) Any person who shall have been convicted of a sex  
231 crime shall not be released on parole except for a person under  
232 the age of nineteen (19) who has been convicted under Section  
233 97-3-67;

234 (c) No one shall be eligible for parole until he shall  
235 have served one (1) year of his sentence, unless such person has  
236 accrued any meritorious earned time allowances, in which case he  
237 shall be eligible for parole if he has served (i) nine (9) months  
238 of his sentence or sentences, when his sentence or sentences is  
239 two (2) years or less; (ii) ten (10) months of his sentence or  
240 sentences when his sentence or sentences is more than two (2)  
241 years but no more than five (5) years; and (iii) one (1) year of  
242 his sentence or sentences when his sentence or sentences is more  
243 than five (5) years;

244 (d) (i) No person shall be eligible for parole who  
245 shall, on or after January 1, 1977, be convicted of robbery or  
246 attempted robbery through the display of a firearm until he shall  
247 have served ten (10) years if sentenced to a term or terms of more  
248 than ten (10) years or if sentenced for the term of the natural  
249 life of such person. If such person is sentenced to a term or  
250 terms of ten (10) years or less, then such person shall not be  
251 eligible for parole. The provisions of this paragraph (d) shall  
252 also apply to any person who shall commit robbery or attempted  
253 robbery on or after July 1, 1982, through the display of a deadly  
254 weapon. This subparagraph (d) (i) shall not apply to persons  
255 convicted after September 30, 1994;

256 (ii) No person shall be eligible for parole who  
257 shall, on or after October 1, 1994, be convicted of robbery,  
258 attempted robbery or carjacking as provided in Section 97-3-115 et  
259 seq., through the display of a firearm or drive-by shooting as  
260 provided in Section 97-3-109. The provisions of this subparagraph  
261 (d) (ii) shall also apply to any person who shall commit robbery,  
262 attempted robbery, carjacking or a drive-by shooting on or after  
263 October 1, 1994, through the display of a deadly weapon;

264 (e) No person shall be eligible for parole who, on or  
265 after July 1, 1994, is charged, tried, convicted and sentenced to  
266 life imprisonment without eligibility for parole under the  
267 provisions of Section 99-19-101;

268 (f) No person shall be eligible for parole who is  
269 charged, tried, convicted and sentenced to life imprisonment under  
270 the provisions of Section 99-19-101;

271 (g) No person shall be eligible for parole who is  
272 convicted or whose suspended sentence is revoked after June 30,  
273 1995, except that a first offender convicted of a nonviolent crime  
274 after June 30, 1995, may be eligible for parole if the offender  
275 meets the requirements in subsection (1) and this paragraph. In  
276 addition to other requirements, if a first offender is convicted  
277 of a drug or driving under the influence felony, the offender must  
278 complete a drug and alcohol rehabilitation program prior to parole  
279 or the offender may be required to complete a post-release drug  
280 and alcohol program as a condition of parole. For purposes of  
281 this paragraph, "nonviolent crime" means a felony other than  
282 homicide, robbery, manslaughter, sex crimes, arson, burglary of an  
283 occupied dwelling, aggravated assault, kidnapping, felonious abuse  
284 of vulnerable adults, felonies with enhanced penalties, the sale  
285 or manufacture of a controlled substance under the Uniform  
286 Controlled Substances Law, and felony child abuse.

287 (2) Notwithstanding any other provision of law, an inmate  
288 shall not be eligible to receive earned time, good time or any  
289 other administrative reduction of time which shall reduce the time  
290 necessary to be served for parole eligibility as provided in  
291 subsection (1) of this section; however, this subsection shall not  
292 apply to the advancement of parole eligibility dates pursuant to  
293 the Prison Overcrowding Emergency Powers Act. Moreover,  
294 meritorious earned time allowances may be used to reduce the time  
295 necessary to be served for parole eligibility as provided in  
296 paragraph (c) of subsection (1) of this section.

297 (3) The State Parole Board shall by rules and regulations  
298 establish a method of determining a tentative parole hearing date  
299 for each eligible offender taken into the custody of the



300 Department of Corrections. The tentative parole hearing date  
301 shall be determined within ninety (90) days after the department  
302 has assumed custody of the offender. Such tentative parole  
303 hearing date shall be calculated by a formula taking into account  
304 the offender's age upon first commitment, number of prior  
305 incarcerations, prior probation or parole failures, the severity  
306 and the violence of the offense committed, employment history and  
307 other criteria which in the opinion of the board tend to validly  
308 and reliably predict the length of incarceration necessary before  
309 the offender can be successfully paroled.

310 (4) Any inmate within twenty-four (24) months of his parole  
311 eligibility date and who meets the criteria established by the  
312 classification board shall receive priority for placement in any  
313 educational development and job training programs. Any inmate  
314 refusing to participate in an educational development or job  
315 training program may be ineligible for parole.

316 **SECTION 6.** (1) There is hereby created a joint study  
317 committee to examine the desirability of authorizing truth-in-  
318 sentencing guidelines. The joint committee shall consist of the  
319 Chairman of the Senate Corrections Committee and two (2) members  
320 of the Senate Corrections Committee appointed by the Lieutenant  
321 Governor, and the Chairman of the House Penitentiary Committee and  
322 two (2) members of the House Penitentiary Committee appointed by  
323 the Speaker of the House. The Chairman of the Senate Corrections  
324 Committee and the Chairman of the Penitentiary Committee shall  
325 serve as cochairmen of the joint committee. The joint committee  
326 shall examine desirability of authorizing truth-in-sentencing  
327 guidelines in this state.

328 (2) The joint committee shall make a report of its findings  
329 and recommendations, including necessary legislation, to the  
330 Legislature during the first week of the 2004 Regular Session.

331 (3) The joint committee shall meet on the call of the  
332 cochairmen and shall organize by selecting from its membership a  
333 vice chairman who shall also serve as secretary and shall be  
334 responsible for keeping all records of the joint committee. A  
335 majority of the members of the joint committee shall constitute a

336 quorum. All members shall be notified in writing of all meetings  
337 and such notices shall be mailed at least five (5) days prior to  
338 the date on which a meeting is to be held.

339 (4) Members of the committee shall be paid from the  
340 contingent expense funds of their respective houses in the same  
341 amounts as provided for committee meetings when the Legislature is  
342 not in session.

343 (5) All state agencies shall cooperate with the joint  
344 committee in providing information and resources necessary for the  
345 joint committee to make its study.

346 (6) The joint committee shall utilize the staff of the  
347 Legislature and any other assistance made available to it.

348 (7) Upon presentation of its report the joint committee  
349 shall be dissolved.

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

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

1 AN ACT TO AMEND SECTION 47-5-138.1, MISSISSIPPI CODE OF 1972,  
2 TO GRANT THE GOVERNOR AND COMMISSIONER OF THE DEPARTMENT OF  
3 CORRECTIONS AUTHORITY TO INCREASE TRUSTY TIME ALLOWANCE IF THE  
4 DEPARTMENT HAS A BUDGET DEFICIT; TO INCREASE FROM TEN DAYS TO  
5 TWENTY DAYS THE REDUCTION OF SENTENCE THAT MAY BE AWARDED AS A  
6 TRUSTY TIME ALLOWANCE FOR EACH THIRTY DAYS OF PARTICIPATION BY A  
7 TRUSTY IN AN APPROVED PROGRAM; TO AMEND SECTION 47-5-1013,  
8 MISSISSIPPI CODE OF 1972, TO INCREASE THE FEE FOR HOUSE ARREST  
9 PARTICIPANTS; TO AMEND SECTION 99-37-19, MISSISSIPPI CODE OF 1972,  
10 TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO CONSTRUCT THREE  
11 RESTITUTION CENTERS UTILIZING INMATE LABOR TO THE GREATEST EXTENT  
12 POSSIBLE; TO AMEND SECTION 47-5-110, MISSISSIPPI CODE OF 1972, TO  
13 AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO ADD BEDS AT COMMUNITY  
14 WORK CENTERS AND PRE-RELEASE CENTERS UTILIZING INMATE LABOR TO THE  
15 GREATEST EXTENT; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF  
16 1972, TO PROVIDE THAT FIRST-TIME OFFENDERS WHO ARE CONVICTED OF  
17 NONVIOLENT CRIMES AFTER JUNE 30, 1995, MAY BE ELIGIBLE FOR PAROLE  
18 SUBJECT TO CERTAIN CONDITIONS; TO CREATE A JOINT STUDY COMMITTEE  
19 OF THE SENATE AND THE HOUSE; TO PROVIDE THAT THE COMMITTEE SHALL  
20 EXAMINE THE DESIRABILITY OF AUTHORIZING TRUTH-IN-SENTENCING  
21 GUIDELINES IN THIS STATE; TO REQUIRE THE COMMITTEE TO MAKE A  
22 REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE LEGISLATURE  
23 DURING THE FIRST WEEK OF THE 2004 REGULAR SESSION; AND FOR RELATED  
24 PURPOSES.

CONFEREES FOR THE HOUSE

**X**  
\_\_\_\_\_  
Bennett Malone

**X**  
\_\_\_\_\_  
Charlie Smith

**X**  
\_\_\_\_\_  
Daniel D. Guice, Jr.

CONFEREES FOR THE SENATE

**X**  
\_\_\_\_\_  
Rob H. Smith

**X**  
\_\_\_\_\_  
Willie Simmons

\_\_\_\_\_  
Tommy Dickerson