

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. 768: Conditions for state offenders to serve sentences in county jails; extend repealer (RP).

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:

11 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is
12 reenacted and amended as follows:

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

27 (2) If state prisoners are housed in county jails due to a
28 lack of capacity at state correctional institutions, the
29 Department of Corrections shall determine the cost for food and
30 medical attention for such prisoners. The cost of feeding and
31 housing offenders confined in such county jails shall be based on

32 actual costs or contract price per prisoner. In order to maximize
33 the potential use of county jail space, the Department of
34 Corrections is encouraged to negotiate a reasonable per day cost
35 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
36 per day per offender.

37 (3) (a) Upon vouchers submitted by the board of supervisors
38 of any county housing persons due to lack of space at state
39 institutions, the Department of Corrections shall pay to such
40 county, out of any available funds, the actual cost of food, or
41 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
42 per day per offender, as determined under subsection (2) of this
43 section for each day an offender is so confined beginning the day
44 that the Department of Corrections receives a certified copy of
45 the sentencing order and will terminate on the date on which the
46 offender is released or otherwise removed from the custody of the
47 county jail. The department shall pay the cost for medical
48 attention for prisoners at an amount no greater than the
49 reimbursement rate based on the Mississippi Medicaid reimbursement
50 rate. This limitation applies to all medical care services,
51 durable and nondurable goods, prescription drugs and medications.
52 Such payment shall be placed in the county general fund and shall
53 be expended only for food and medical attention for such
54 persons. * * *

55 (b) Upon vouchers submitted by the board of supervisors
56 of any county housing offenders in county jails pending a
57 probation or parole revocation hearing, the department shall pay,
58 out of any available funds, the reimbursement costs provided in
59 paragraph (a).

60 (c) If the probation or parole of an offender is
61 revoked, the additional cost of housing the offender pending the
62 revocation hearing shall be assessed as part of the offender's
63 court cost and shall be remitted to the department.

64 (4) A person, on order of the sentencing court, may serve
65 not more than twenty-four (24) months of his sentence in a county
66 jail if the person is classified in accordance with Section
67 47-5-905 and the county jail is an approved county jail for
68 housing state inmates under federal court order. The sheriff of
69 the county shall have the right to petition the Commissioner of
70 Corrections to remove the inmate from the county jail. The county
71 shall be reimbursed in accordance with subsection (2).

72 (5) The Attorney General of the State of Mississippi shall
73 defend the employees of the Department of Corrections and
74 officials and employees of political subdivisions against any
75 action brought by any person who was committed to a county jail
76 under the provisions of this section.

77 (6) This section does not create in the Department of
78 Corrections, or its employees or agents, any new liability,
79 express or implied, nor shall it create in the Department of
80 Corrections any administrative authority or responsibility for the
81 construction, funding, administration or operation of county or
82 other local jails or other places of confinement which are not
83 staffed and operated on a full-time basis by the Department of
84 Corrections. The correctional system under the jurisdiction of
85 the Department of Corrections shall include only those facilities
86 fully staffed by the Department of Corrections and operated by it
87 on a full-time basis.

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

93 **SECTION 2.** Section 47-5-903, Mississippi Code of 1972, is
94 reenacted as follows:

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

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

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

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

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

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

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

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

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

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

127 47-5-905. (1) All persons placed under the custody of the
128 Department of Corrections shall be processed at a reception and
129 diagnostic center of the Department of Corrections and then be
130 assigned to an appropriate correctional facility for a complete
131 and thorough classification, not to exceed ninety (90) days,
132 unless the department determines that a person can be properly
133 processed and classified at the county jail in accordance with the
134 department's classification plan.

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

138 **SECTION 4.** Section 47-5-907, Mississippi Code of 1972, is
139 reenacted as follows:

140 47-5-907. The sheriff of any county in this state shall have
141 the right to petition the Commissioner of the Department of
142 Corrections to remove a state inmate from the county jail in such
143 county to the State Penitentiary. The commissioner shall remove
144 such inmate from such county jail if the sheriff of such county
145 sets forth just cause in his petition indicating why an inmate
146 should be removed from such county jail to the State Penitentiary.

147 Just cause is established if such sheriff can sufficiently
148 prove that such inmate has a dangerous behavior or sufficiently
149 prove that there is no available or suitable medical facility
150 where such inmate can be provided suitable medical services. The
151 commissioner shall respond in writing to the petition no later
152 than thirty (30) days after the receipt of such petition. If the
153 petition to remove such inmate is denied by the commissioner, such
154 sheriff and his agents shall have from the date of denial absolute
155 immunity from liability for any injury resulting from subsequent
156 behavior or from medical consequences regarding such inmate,
157 provided that such injury resulted from conditions which were set
158 forth in such petition.

159 **SECTION 5.** Section 47-5-909, Mississippi Code of 1972, is
160 reenacted as follows:

161 47-5-909. It is the policy of the Legislature that all
162 inmates be removed from county jails as early as practicable.
163 Sections 47-5-901 through 47-5-907 are temporary measures to help
164 alleviate the immediate operating capacity limitations at
165 correctional facilities and are not permanent measures to be
166 included in the long-term operating capacity of the correctional
167 system.

168 **SECTION 6.** Section 47-5-911, Mississippi Code of 1972, is
169 amended as follows:

170 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
171 repealed on July 1, 2008.

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

**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 THROUGH 47-5-909,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CONDITIONS UNDER WHICH
3 STATE OFFENDERS MAY SERVE SENTENCES IN COUNTY JAILS; TO AMEND
4 REENACTED SECTION 47-5-901, MISSISSIPPI CODE OF 1972, TO REQUIRE
5 THE DEPARTMENT OF CORRECTIONS TO PAY A COUNTY FOR STATE INMATES
6 HELD IN A COUNTY JAIL PENDING A PAROLE OR PROBATION HEARING; TO
7 AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE
8 DATE OF REPEAL ON THOSE REENACTED SECTIONS; AND FOR RELATED
9 PURPOSES

CONFEREES FOR THE HOUSE	CONFEREES FOR THE SENATE
X (SIGNED)	X (SIGNED)
Malone	Doxey
X (SIGNED)	X (SIGNED)
Ward	Gordon
X (SIGNED)	(NOT SIGNED)
Thomas	Walley