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. 638: Death penalty; revise methods by which may be carried out.

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:

SECTION 1. Section 99-19-51, Mississippi Code of 1972, is amended as follows:

99-19-51. (1) The manner of inflicting the punishment of death shall be by * * * the sequential intravenous administration of a lethal quantity of * * * the following combination * * * of substances: (a) an appropriate anesthetic or sedative; (b) a chemical paralytic agent; and (c) potassium chloride, or other similarly effective substance, until death is pronounced by the county coroner where the execution takes place or by a licensed physician according to accepted standards of medical practice. As used in this section, the term "appropriate anesthetic or sedative" means any substance that, if properly administered in a sufficient quantity, is likely to render the condemned inmate
unconscious, so that the execution process should not entail a substantial risk of severe pain.

(2) If the method of execution authorized in subsection (1) of this section is held unconstitutional by a court of competent jurisdiction or is otherwise unavailable, then the sentence of death shall be carried out by nitrogen hypoxia.

(3) If the methods of execution authorized in subsections (1), and (2) of this section are held unconstitutional by a court of competent jurisdiction or are otherwise unavailable, then the sentence of death shall be carried out by electrocution.

(4) If the methods of execution authorized in subsections (1), (2) and (3) of this section are held unconstitutional by a court of competent jurisdiction or are otherwise unavailable, then the sentence of death shall be carried out by firing squad.

(5) The Commissioner of Corrections has the authority and discretion to select and obtain the substances and the means necessary to carry out an execution, and may adopt and promulgate rules and regulations as the Commissioner deems necessary to administer and implement the provisions of this section.

(6) (a) The Commissioner of Corrections shall select an execution team to assist the executioner and his deputies. This team, including the State Executioner and his deputies who are responsible for the administration of lethal chemicals, shall consist of those persons, such as medical personnel, who provide direct support for the administration of lethal chemicals. This
team shall also include those individuals involved in assisting in the execution in any capacity, as well as those personnel assigned to specific duties related to an execution.

(b) For the purposes of this section, "supplier of lethal injection chemicals" means a supplier or suppliers of lethal injection chemicals located within the State of Mississippi.

(c) The identities of all members of the execution team, a supplier of lethal injection chemicals, and the identities of those witnesses listed in Section 99-19-55(2) who attend as members of the victim's or the condemned person's immediate family shall at all times remain confidential, and the information is exempt from disclosure under the provisions of the Mississippi Public Records Act of 1983.

(7) Notwithstanding any provision of law to the contrary, any portion of any record of any kind that could identify a person as being a current or former member of an execution team or a current or former supplier of lethal injection chemicals, or those witnesses listed in Section 99-19-55(2) who attend as members of the victim's or the condemned person's immediate family, shall at all times be confidential, exempt, and protected from disclosure, but the remainder of the record shall not be protected unless otherwise provided by law. A court shall preserve the secrecy of all confidential and exempt information described in this section by reasonable means, which may include granting protective orders,
holding in-camera hearings, sealing the records of the action, and
ordering any person involved in the litigation not to disclose
such information without prior court approval.

(8) Notwithstanding any provision of law to the contrary, if
a member of the execution team or supplier of lethal injection
chemicals is licensed by a board or department, the licensing
board or department shall not censure, reprimand, suspend, revoke,
or take any other disciplinary action against the person's license
because the person participated in a lawful execution. Any person
or institution assisting with or participating in carrying out an
execution in accordance with this statute shall be presumed to be
acting in good faith. Any person or institution acting in good
faith in connection with carrying out an execution shall be immune
from any liability, civil or criminal, that might otherwise be
incurred or imposed. All members of the execution team perform
their respective functions as official duties on behalf of the
state or any agency of the state.

SECTION 2. This act shall take effect and be in force from
and after its passage.

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

AN ACT TO AMEND SECTION 99-19-51, MISSISSIPPI CODE OF 1972,
to revise the methods by which the death penalty may be carried
out; and for related purposes.
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