

**Adopted**  
**COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 90**

**BY: Committee**

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

15       **SECTION 1.** Section 47-5-64, Mississippi Code of 1972, is  
16 amended as follows:

17       47-5-64. The \* \* \* commissioner \* \* \* is hereby directed to  
18 determine the number of acres and location of land under the  
19 jurisdiction of the department which are needed for security  
20 purposes and for Prison Agricultural Enterprises. The  
21 commissioner \* \* \* shall designate and reserve such additional  
22 land for agricultural enterprise projects of the department \* \* \*,  
23 as he deems necessary. The \* \* \* commissioner \* \* \* shall then  
24 recommend to the Department of Finance and Administration the  
25 number of acres of department land which should be leased to  
26 private entities and the term of the leases. The Department of  
27 Finance and Administration may lease for agricultural purposes  
28 that land so recommended for not less than one (1) nor more than  
29 eight (8) years, with the approval of the Public Procurement  
30 Review Board.

31       **SECTION 2.** Section 47-5-66, Mississippi Code of 1972, is  
32 amended as follows:

47-5-66. (1) It shall be the duty of the State Department of Finance and Administration, with the approval of the Public Procurement Review Board, to lease lands at public contract upon the submission of two (2) or more sealed bids to the State Department of Finance and Administration after having advertised the land for rent in newspapers of general circulation published in Jackson, Mississippi; Memphis, Tennessee; the county in which the land is located; and contiguous counties for a period of not less than two (2) successive weeks. The first publication shall be made not less than ten (10) days before the date of the public contract, and the last publication shall be made not more than seven (7) days before that date. The State Department of Finance and Administration may reject any and all bids. Bids received in response to the advertisement shall be opened at the State Department of Finance and Administration. The State Department of Finance and Administration, at its option, may reject all bids or accept the highest and best bid received in response to the advertisement, or the State Department of Finance and Administration may hold an auction among those who submitted bids in response to the advertisement. If the State Department of Finance and Administration elects to hold an auction, no bidder shall be granted any preference. The opening bid at the auction shall be the highest bid received in response to the advertisement. If the State Department of Finance and Administration receives an acceptable bid in response to the advertisement and elects not to hold an auction among those submitting bids, then the holder of the existing lease may submit a second bid in an amount not less than one hundred five percent (105%) of the highest acceptable bid received if the holder of the existing lease: (a) submitted a bid in response to the advertisement, and (b) constructed or made improvements on the leasehold premises after receiving approval of the State

65 Department of Finance and Administration during the term of the  
66 existing lease. For purposes of this subsection, the term  
67 improvements shall not include any work or items that are done  
68 customarily on an annual basis in the preparing, planting,  
69 growing, cultivating or harvesting of crops or other farm  
70 products. All bidders who submit a bid as prescribed in this  
71 section must include a farm practice plan when submitting such  
72 bid. Successful bidders shall take possession of their leaseholds  
73 at the time authorized by the State Department of Finance and  
74 Administration. However, rent shall be due no later than the day  
75 upon which the lessee shall assume possession of the leasehold,  
76 and shall be due on the anniversary date for each following year  
77 of the lease. The State Department of Finance and Administration  
78 may provide in any lease that rent shall be paid in full in  
79 advance or paid in installments, as may be necessary or  
80 appropriate. In addition, the State Department of Finance and  
81 Administration may accept, and the lease may provide for,  
82 assignments of federal, state, or other agricultural support  
83 payments, growing crops or the proceeds from the sale thereof,  
84 promissory notes, or any other good and valuable consideration  
85 offered by any lessee to meet the rent requirements of the lease.  
86 However, the Department of Finance and Administration shall  
87 consider any federal government payments that are received by a  
88 lessee, and such payments shall be factored into the lease  
89 agreement before such agreement is entered into by the state and  
90 such lessee. In addition, the Department of Finance and  
91 Administration shall conduct a cost-benefit analysis with respect  
92 to such federal government payments as compared to the terms of  
93 any proposed lease, and such analysis must weigh in favor of the  
94 best interests of the taxpayers of the state before such proposed  
95 lease may be approved. If a promissory note is offered by a  
96 lessee, it shall be secured by a first lien on the crop of the

lessee, or the proceeds from the sale thereof. The lien shall be filed pursuant to Article 9 of the \* \* \* Uniform Commercial Code and Section 1324 of the Food Security Act of 1985, as enacted or amended. If the note is not paid at maturity, it shall bear interest at the rate provided for judgments and decrees in Section 75-17-7 from its maturity date until the note is paid. The note shall provide for the payment of all costs of collection and reasonable attorney's fees if default is made in the payment of the note. The payment of rent by promissory note or any means other than cash in advance shall be subject to the approval of the Public Procurement Review Board, which shall place the approval of record in the minutes of the board. There is created a special fund to be designated as the "Prison Agricultural Enterprises Fund." Any monies in hand or due from the leasing of Penitentiary lands and the sales of timber as provided in Section 47-5-56 and earmarked for the Prison Industries Fund shall be deposited to the special fund for prison agricultural enterprises. All monies in each fiscal year derived from the leasing of the Penitentiary lands and the sales of timber as provided in Section 47-5-56 shall be deposited into the special fund for the purpose of conducting, operating and managing the prison agricultural enterprises of the department. All profits derived from the prison agricultural enterprises shall be deposited into the Prison Agricultural Enterprises Fund. All profits derived from prison industries shall be placed in a special fund in the State Treasury to be known as the "Prison Industries Fund," to be appropriated each year by the Legislature to the nonprofit corporation, which is required to be organized under the provisions of Section 47-5-535, for the purpose of operating and managing the prison industries. The state shall have the rights and remedies for the security and collection of the rents given by law to landlords. Upon the execution of the agricultural leases to private entities as

authorized by Section 47-5-64, the leased land shall be liable to be taxed as other lands are taxed during the continuance of the lease, but in case of sale thereon for taxes, only the title of the leaseholder or his heirs or assigns shall pass by the sale. Any funds obtained by the corporation as a result of sale of goods and services manufactured and provided by it shall be accounted for separate and apart from any funds received by the corporation through appropriation from the State Legislature. All nonappropriated funds generated by the corporation shall not be subject to appropriation by the State Legislature.

(2) The corrections auditor of the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER), as appointed in Section 47-5-35, may audit any land leased to a private entity, as authorized in this section, in the following areas:

- (a) Use of the land;
- (b) Improvements made upon the land; and
- (c) Revenue received by the state from the leasing of the land.

The corrections auditor shall make a report regarding his findings before December 31 of each year to the Chairmen of the Corrections Committees of the House of Representatives and Senate and the Commissioner of Corrections.

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**SECTION 3.** 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 47-5-64, MISSISSIPPI CODE OF 1972, TO INCREASE FROM 3 TO 8 YEARS THE MAXIMUM LEASE TERM FOR WHICH THE COMMISSIONER OF CORRECTIONS MAY LEASE LAND OF DEPARTMENT OF CORRECTIONS FOR AGRICULTURAL PURPOSES; TO AMEND SECTION 47-5-66, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF FINANCE AND ADMINISTRATION TO HOLD AUCTIONS FOR AGRICULTURAL LEASES TO PRIVATE ENTITIES; TO REQUIRE THE DEPARTMENT OF FINANCE

8 AND ADMINISTRATION TO FACTOR FEDERAL GOVERNMENT PAYMENTS IN  
9 LEASES; TO AUTHORIZE THE CORRECTIONS AUDITOR OF THE JOINT  
10 LEGISLATIVE COMMITTEE ON PERFORMANCE EVALUATION AND EXPENDITURE  
11 REVIEW (PEER) TO MAKE A YEARLY REPORT TO THE CHAIRMEN OF THE  
12 CORRECTIONS COMMITTEES AND COMMISSIONER OF CORRECTIONS REGARDING  
13 LEASED LAND; AND FOR RELATED PURPOSES.