

By: Representative Malone

To: Corrections

HOUSE BILL NO. 431
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 47-5-66, MISSISSIPPI CODE OF 1972,
2 WHICH AUTHORIZES THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO
3 LEASE PRISON LANDS TO PRIVATE ENTITIES FOR AGRICULTURAL PURPOSES,
4 TO EXTEND THE DATE OF REPEAL ON THIS SECTION FROM JULY 1, 2007, TO
5 JULY 1, 2008; TO PROVIDE THAT A PER ACRE FEE SHALL BE COLLECTED IN
6 LIEU OF AD VALOREM TAXES ON LANDS LEASED FOR AGRICULTURAL
7 PURPOSES; TO PROVIDE THAT SUCH LEASES SHALL NOT BE LEASED FOR AN
8 AMOUNT LESS THAN WOULD BE RECEIVED IF SUCH LAND WERE TO BE LEASED
9 UNDER ANY FEDERAL LOAN PROGRAM; AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** Section 47-5-66, Mississippi Code of 1972, is
12 amended as follows:

13 47-5-66. (1) It shall be the duty of the * * * Department
14 of Finance and Administration, with the approval of the Public
15 Procurement Review Board, to lease lands at public contract upon
16 the submission of two (2) or more sealed bids to the * * *
17 Department of Finance and Administration after having advertised
18 the land for rent in newspapers of general circulation published
19 in Jackson, Mississippi; Memphis, Tennessee; the county in which
20 the land is located; and contiguous counties for a period of not
21 less than two (2) successive weeks. The first publication shall
22 be made not less than ten (10) days before the date of the public
23 contract, and the last publication shall be made not more than
24 seven (7) days before that date. The * * * Department of Finance
25 and Administration may reject any and all bids. If all bids on a
26 tract or parcel of land are rejected, the * * * Department of
27 Finance and Administration may then advertise for new bids on that
28 tract or parcel of land. Successful bidders shall take possession
29 of their leaseholds at the time authorized by the * * * Department
30 of Finance and Administration. However, rent shall be due no

31 later than the day upon which the lessee shall assume possession
32 of the leasehold, and shall be due on the anniversary date for
33 each following year of the lease. The * * * Department of Finance
34 and Administration may provide in any lease that rent shall be
35 paid in full in advance or paid in installments, as may be
36 necessary or appropriate. In addition, the * * * Department of
37 Finance and Administration may accept, and the lease may provide
38 for, assignments of federal, state, or other agricultural support
39 payments, growing crops or the proceeds from the sale thereof,
40 promissory notes, or any other good and valuable consideration
41 offered by any lessee to meet the rent requirements of the lease.
42 If a promissory note is offered by a lessee, it shall be secured
43 by a first lien on the crop of the lessee, or the proceeds from
44 the sale thereof. The lien shall be filed pursuant to Article 9
45 of the * * * Uniform Commercial Code and Section 1324 of the Food
46 Security Act of 1985, as enacted or amended. If the note is not
47 paid at maturity, it shall bear interest at the rate provided for
48 judgments and decrees in Section 75-17-7 from its maturity date
49 until the note is paid. The note shall provide for the payment of
50 all costs of collection and reasonable attorney's fees if default
51 is made in the payment of the note. The payment of rent by
52 promissory note or any means other than cash in advance shall be
53 subject to the approval of the Public Procurement Review Board,
54 which shall place the approval of record in the minutes of the
55 board. There is created a special fund to be designated as the
56 "Prison Agricultural Enterprises Fund." Any monies in hand or due
57 from the leasing of Penitentiary lands and the sales of timber as
58 provided in Section 47-5-56 and earmarked for the Prison
59 Industries Fund shall be deposited to the special fund for prison
60 agricultural enterprises. All monies in each fiscal year derived
61 from the leasing of the Penitentiary lands and the sales of timber
62 as provided in Section 47-5-56 shall be deposited into the special
63 fund for the purpose of conducting, operating and managing the

64 prison agricultural enterprises of the department. All profits
65 derived from the prison agricultural enterprises shall be
66 deposited into the Prison Agricultural Enterprises Fund. All
67 profits derived from prison industries shall be placed in a
68 special fund in the State Treasury to be known as the "Prison
69 Industries Fund," to be appropriated each year by the Legislature
70 to the nonprofit corporation, which is required to be organized
71 under the provisions of Section 47-5-535, for the purpose of
72 operating and managing the prison industries. The state shall
73 have the rights and remedies for the security and collection of
74 the rents given by law to landlords. Lands leased for
75 agricultural purposes under Section 47-5-64 shall be subject to a
76 fee-in-lieu of ad valorem taxes, including taxes levied for school
77 purposes. The fee-in-lieu shall be Nine Dollars (\$9.00) per acre.
78 Upon the execution of the agricultural leases to private entities
79 as authorized by Section 47-5-64, the Department of Finance and
80 Administration shall collect the in lieu fee and shall forward the
81 fees to the tax collector in which the land is located. The tax
82 collector shall disburse the fees to the appropriate county or
83 municipal governing authority on a pro rata basis. The sum
84 apportioned to a school district shall not be less than the school
85 district's pro rata share based upon the proportion that the
86 millage imposed for the school district by the appropriate levying
87 authority bears to the millage imposed by the levying authority
88 for all other county or municipal purposes. Any funds obtained by
89 the corporation as a result of sale of goods and services
90 manufactured and provided by it shall be accounted for separate
91 and apart from any funds received by the corporation through
92 appropriation from the State Legislature. All nonappropriated
93 funds generated by the corporation shall not be subject to
94 appropriation by the State Legislature.

95 Any land leased, as provided in this section, shall not be
96 leased for an amount less than would be received if such land were

97 to be leased under any federal loan program. In addition, all
98 leases shall be subject to the final approval of the Public
99 Procurement Review Board before such leases are to become
100 effective.

101 (2) This section shall be repealed from and after July 1,
102 2008.

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