

By: Representative Shanks

To: Corrections

HOUSE BILL NO. 759

1 AN ACT TO REENACT SECTIONS 47-5-531 THROUGH 47-5-571,
 2 47-5-573 AND 47-5-575, MISSISSIPPI CODE OF 1972, WHICH ARE THE
 3 MISSISSIPPI PRISON INDUSTRIES ACT OF 1990; TO AMEND REENACTED
 4 SECTION 47-5-537, MISSISSIPPI CODE OF 1972, TO UPDATE REVISED
 5 AGENCY NOMENCLATURE; TO AMEND REENACTED SECTION 47-5-559,
 6 MISSISSIPPI CODE OF 1972, TO UPDATE REVISED LEGISLATIVE COMMITTEE
 7 NOMENCLATURE; TO AMEND SECTION 47-5-577, MISSISSIPPI CODE OF 1972,
 8 TO EXTEND THE DATE OF THE REPEALER ON THE MISSISSIPPI PRISON
 9 INDUSTRIES ACT OF 1990; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 47-5-531, Mississippi Code of 1972, is
 12 reenacted as follows:

13 47-5-531. Sections 47-5-531 through 47-5-575 shall be known
 14 as the "Mississippi Prison Industries Act of 1990."

15 **SECTION 2.** Section 47-5-533, Mississippi Code of 1972, is
 16 reenacted as follows:

17 47-5-533. (1) It is the finding of the Legislature that
 18 prison industry programs of the State Department of Corrections
 19 are uniquely different from other programs operated or conducted
 20 by other departments in that it is essential to the state that the
 21 prison industry programs provide inmates with useful activities



22 that can lead to meaningful employment after release in order to
23 assist in reducing the return of inmates to the system.

24 (2) It is further the finding of the Legislature that the
25 mission of a prison industry program is:

26 (a) To reduce the cost of state government by operating
27 prison industries primarily with inmate labor, which industries do
28 not seek to unreasonably compete with private enterprise;

29 (b) To serve the rehabilitative goals of the state by
30 duplicating as nearly as possible, the operating activities of a
31 free-enterprise type of profit-making enterprise; and

32 (c) To serve the security goals of the state by
33 reducing the idleness of inmates and by providing an incentive for
34 good behavior while in prison.

35 **SECTION 3.** Section 47-5-535, Mississippi Code of 1972, is
36 reenacted as follows:

37 47-5-535. (1) Except as otherwise specifically provided by
38 law, it is the intent of the Legislature that a nonprofit
39 corporation be organized and formed, within sixty (60) days from
40 April 4, 1990, to lease and manage the prison industry programs of
41 the Mississippi Correctional Industries. The corporation created
42 and established shall be a body politic and corporate, may acquire
43 and hold real and personal property, may receive, hold and
44 dispense monies appropriated to it by the Legislature of the State
45 of Mississippi received from the federal government, received from



46 the sale of products, goods, and services which it produces, and
47 received from any other sources whatsoever.

48 (2) Except as otherwise specifically provided by law, it is
49 the further intent of the Legislature that the nonprofit
50 corporation shall create any additional prison industry program as
51 it deems fit, and any such program shall be created in compliance
52 with the provisions of Sections 47-5-531 through 47-5-575.

53 (3) Except as otherwise specifically provided by law, it is
54 the further intent of the Legislature that such nonprofit
55 corporation shall have exclusive rights to operate any prison
56 industry program and when such corporation is lawfully formed, no
57 other public or private entity shall be allowed to carry out the
58 provisions of Sections 47-5-531 through 47-5-575.

59 (4) It is the further intent of the Legislature, that the
60 nonprofit corporation which is required to be organized and formed
61 under Sections 47-5-531 through 47-5-575 shall locate and operate
62 prison industries at any state correctional facility with the
63 approval of the Commissioner of Corrections. It is the intent of
64 the Legislature that the nonprofit corporation locate and operate
65 such industries in an orderly and expeditious manner. Such
66 corporation may locate and operate prison industries at other
67 prison satellites, at community work centers in the state, at any
68 private correctional facility which houses state inmates and at
69 any regional correctional facility as authorized under Section



70 47-5-931. No industrial prison program shall be located at a site
71 other than state prison facilities approved by the commissioner.

72 **SECTION 4.** Section 47-5-537, Mississippi Code of 1972, is
73 reenacted and amended as follows:

74 47-5-537. The Secretary of State, or his designee, shall
75 assist the Department of Corrections and the Department of Finance
76 and Administration in the formation of the nonprofit corporation,
77 and within sixty (60) days after the formation of the corporation,
78 the corporation shall apply for exemption from federal tax under
79 the provisions of Section 501(c)(3) of the Internal Revenue Code
80 of 1986, as amended. Any program of the Division of Vocational
81 Rehabilitation of the * * * Mississippi Department of Human
82 Services shall not be classified as prison industries under the
83 provisions Sections 47-5-531 through 47-5-575.

84 **SECTION 5.** Section 47-5-539, Mississippi Code of 1972, is
85 reenacted as follows:

86 47-5-539. For the purposes of Sections 47-5-531 through
87 47-5-575, the following terms shall have the following meaning
88 unless the context shall provide otherwise:

89 (a) "Chief executive officer" means the chief executive
90 officer of the corporation established under this chapter.

91 (b) "Corporation" means the private nonprofit
92 corporation which is required to be organized and formed to carry
93 out the provisions of Sections 47-5-531 through 47-5-575 regarding
94 prison industries.



95 (c) "Department" means the State Department of
96 Corrections.

97 (d) "Inmate" means any person incarcerated within any
98 state correctional facility.

99 (e) "Prison industry program" means any program which
100 is considered to be a part of any prison industry in this state.

101 (f) "Prison agricultural enterprises" means all
102 agricultural endeavors as defined in Section 47-5-353.

103 (g) "Work initiative" or "initiative" means the program
104 authorized in Section 47-5-579.

105 **SECTION 6.** Section 47-5-541, Mississippi Code of 1972, is
106 reenacted as follows:

107 47-5-541. (1) The corporation shall be governed by a board
108 of directors. The terms of the board of directors in place before
109 July 1, 2022, shall expire June 30, 2022. From and after July 1,
110 2022, the board of directors of the nonprofit corporation shall be
111 composed of the following five (5) members:

112 (a) The Commissioner of the Department of Corrections
113 or his or her designee;

114 (b) One (1) representative of the faith-based
115 community, appointed by the Commissioner of the Department of
116 Corrections with the advice and consent of the Senate;

117 (c) One (1) representative of the business community,
118 appointed by the Commissioner of the Department of Corrections
119 with the advice and consent of the Senate;



120 (d) The Executive Director of AccelerateMS or his or
121 her designee; and

122 (e) The Executive Director of the Mississippi Community
123 College Board or his or her designee.

124 For the initial appointments, the representative of the
125 faith-based community shall serve for a term of one (1) year; the
126 representative of the business community shall serve for a term of
127 two (2) years; the Executive Director of the AccelerateMS or his
128 or her designee shall serve for a term of three (3) years and the
129 Executive Director of the Mississippi Community College Board
130 shall serve for a term of four (4) years. All succeeding terms
131 shall be for four (4) years from the expiration date of the
132 previous term. The term of the Commissioner of Corrections shall
133 run concurrent with his or her term or terms as commissioner.
134 Initial appointments shall be made within thirty (30) days after
135 July 1, 2022. Any vacancy on the board prior to the expiration of
136 a term for any reason, including resignation, removal,
137 disqualification, death or disability shall be filled in the
138 manner prescribed in paragraphs (a) through (e) of this subsection
139 for the balance of the unexpired term. The officers of the
140 corporation shall consist of a chairman, vice chairman and a
141 secretary-treasurer. The officers shall be selected by the
142 members of the board. However, the Commissioner of Corrections
143 shall not be eligible to serve as an officer of the corporation.



144 (2) The board of directors shall select and employ a chief
145 executive officer of the corporation who shall serve at the
146 pleasure of the board. The board shall set the compensation of
147 the chief executive officer. The chief executive officer shall be
148 responsible for the general business and entire operations of the
149 corporation, and shall be responsible for operating the
150 corporation in compliance with the bylaws of the corporation and
151 in compliance with any provision of law. The board shall be
152 authorized and empowered to do only those acts provided by law and
153 by the bylaws of the corporation. Except as otherwise
154 specifically provided by law, such board shall have the authority
155 to establish prison industries, to cease the operation of any
156 industry which it deems unsuitable or unprofitable, to enter into
157 any lease or contract for the corporation and it shall have the
158 full authority to establish prices for any industry good.

159 (3) No member of the board of directors shall vote on any
160 matter that comes before the board that could result in pecuniary
161 benefit for himself or for any entity in which such member has an
162 interest.

163 (4) In addition to the board of directors, an advisory board
164 may be set up for the benefit of each industry which is
165 established pursuant to the provisions of Sections 47-5-531
166 through 47-5-575. Such boards shall be advisory only, and may be
167 set up in the discretion of the board of directors of the
168 corporation.



169 (5) Each member of the board of directors of the corporation
170 shall receive per diem as provided in Section 25-3-69 for each day
171 or fraction thereof spent in actual discharge of his official
172 duties and shall be reimbursed for mileage and actual expenses
173 incurred in the performance of his official duties in accordance
174 with the requirements of Section 25-3-41, Mississippi Code of
175 1972.

176 (6) The board of directors shall make and publish policies,
177 rules and regulations governing all business functions, including
178 but not limited to accounting, marketing, purchasing and
179 personnel, not inconsistent with the terms of Sections 47-5-531
180 through 47-5-575, as may be necessary for the efficient
181 administration and operation of the corporation.

182 (7) The chief executive officer of the corporation shall:

183 (a) Employ all necessary employees of the corporation
184 and dismiss them as is necessary;

185 (b) Administer the daily operations of the corporation,
186 including establishing education, training and workforce
187 development programs in collaboration with the Office of Workforce
188 Development and other relevant state and federal agencies;

189 (c) Upon approval of the board of directors, execute
190 any contracts on behalf of the corporation; and

191 (d) Take any further actions which are necessary and
192 proper toward the achievement of the corporation purposes.



193 (8) A member of the board of directors of the corporation
194 shall not be liable for any civil damages for any personal injury
195 or property damage caused to a person as a result of any acts or
196 omissions committed in good faith in the exercise of their duties
197 as members of the board of directors of the corporation, except
198 where a member of the board engages in acts or omissions which are
199 intentional, willful, wanton, reckless or grossly negligent.

200 **SECTION 7.** Section 47-5-543, Mississippi Code of 1972, is
201 reenacted as follows:

202 47-5-543. (1) Within sixty (60) days after the formation of
203 the corporation pursuant to the provisions of Section 47-5-535,
204 the State Department of Corrections shall lease to the corporation
205 all existing prison industries including the buildings, land,
206 furnishings, equipment and other chattel used in the operation of
207 such industries. Such lease shall be agreed upon by the State
208 Department of Corrections, State Department of Finance and
209 Administration and the corporation. The initial term of such
210 lease shall not exceed six (6) years, provided that such lease may
211 be renewed for additional successive terms of years not to exceed
212 six (6) years in any one (1) renewal. No sublease to the
213 corporation shall be in excess of that amount for which the
214 department is obligated to pay under any lease agreement with any
215 other state agency. Any receivable and remaining funds shall be
216 transferred to the corporation after the payment of any existing
217 liabilities. No operating loss of any type shall be transferred



218 to the corporation. The State Department of Corrections shall
219 continue to manage and operate the prison industries until such
220 industries are leased to the corporation. When leasing any prison
221 industry program to the corporation, the corporation shall
222 exercise a reasonable effort to employ any personnel of the State
223 Department of Corrections who are currently involved in any prison
224 industry program being leased to the corporation. Before the
225 leasing of the prison industries, buildings, lands and other items
226 mentioned herein to the corporation, the State Auditor of Public
227 Accounts shall perform a comprehensive audit of all the items and
228 things mentioned herein which are to be leased by the department
229 to the corporation. The corporation may expand, eliminate,
230 suspend or alter any of its industries as it sees fit.

231 (2) Any lands, buildings, equipment, furnishings, livestock,
232 supplies and vehicles used in the department's farming operations
233 which were leased or transferred to the nonprofit corporation
234 under subsection (1) shall be transferred to the department. Any
235 personnel in the department's farming operations employed by the
236 nonprofit corporation who desire to be reassigned to the
237 department and who are under state service may be reassigned to
238 the department.

239 (3) The department is not required to lease land, buildings,
240 equipment, furnishings or other chattel used in its prison
241 agricultural enterprises.



242 **SECTION 8.** Section 47-5-545, Mississippi Code of 1972, is
243 reenacted as follows:

244 47-5-545. Except as otherwise specifically provided by law,
245 after the commissioning and implementation of a marketing
246 feasibility study for any proposed new prison industry, the
247 corporation may establish such prison industry. Before any new
248 industry is established, the corporation shall hold a hearing to
249 determine the impact such industry may have on the private sector
250 market. The corporation shall provide adequate and advance notice
251 regarding the nature, time, date and place of such hearing. After
252 the hearing which is required under this section, the corporation
253 may commence negotiations with the State Department of
254 Corrections, with the Secretary of State, or his designee, serving
255 as a mediator, regarding the leasing of land and other chattels
256 for the purpose of establishing any new industry.

257 **SECTION 9.** Section 47-5-547, Mississippi Code of 1972, is
258 reenacted as follows:

259 47-5-547. Except as otherwise specifically provided by law,
260 any training program or auxiliary program associated with any
261 existing prison industry shall be transferred to the corporation.
262 The corporation is empowered and authorized to establish in
263 participation with any community or junior college or state
264 institution of higher learning, any training or auxiliary program
265 for existing prison industries or for any industries which the
266 corporation might create. Such community or junior college or



267 state institution of higher learning shall provide assistance in
268 business planning, marketing and analysis of existing or projected
269 industries. These industrial services shall be contracted with
270 any appropriate community or junior college or state institution
271 of higher learning when these industries are developed at other
272 correction sites.

273 **SECTION 10.** Section 47-5-549, Mississippi Code of 1972, is
274 reenacted as follows:

275 47-5-549. Any service or item manufactured, processed, grown
276 or produced by the corporation from its prison industries may be
277 furnished or sold to any legislative, executive or judicial branch
278 of the state, any political subdivision or any governing authority
279 of the state, any other state, any school, college or university
280 of the state, any foreign government, any agency of the federal
281 government or to any private entity. The corporation shall make
282 reasonable efforts to purchase raw materials from in-state
283 vendors. The prices for industry-made products shall be
284 established by the board of directors of the corporation or its
285 designee.

286 **SECTION 11.** Section 47-5-551, Mississippi Code of 1972, is
287 reenacted as follows:

288 47-5-551. In the event the corporation is dissolved or its
289 lease of any prison industry program expires or is otherwise
290 terminated, all property relating to such prison industry program
291 which ceases to function because of such termination or



292 dissolution, including all funds, buildings, land, furnishings,
293 equipment and other chattels subsequently purchased or otherwise
294 acquired by the corporation in connection with its continued
295 operation of that program, automatically reverts to full ownership
296 by the department.

297 **SECTION 12.** Section 47-5-553, Mississippi Code of 1972, is
298 reenacted as follows:

299 47-5-553. Before any prison industry may commence
300 operations, the chief executive officer of the corporation must
301 communicate with the Commissioner of Corrections regarding the
302 proper security for the facility. If at anytime the Commissioner
303 of Corrections recognizes a need for improvement in the security
304 at any facility, then he or she shall communicate to the
305 corporation regarding what improvements are needed for the
306 facility to be properly secured. The corporation shall furnish
307 its own security within the parameters of any prison industry work
308 area.

309 **SECTION 13.** Section 47-5-555, Mississippi Code of 1972, is
310 reenacted as follows:

311 47-5-555. The department shall, subject to the necessary
312 security requirements and the needs of the corporation, provide to
313 the corporation sufficient inmate labor for the various prison
314 industry programs. The department may adopt rules and regulations
315 as may be necessary to govern the use of inmates by the
316 corporation. The corporation shall establish policies and



317 procedures, subject to the approval of the department, relating to
318 the use of inmates in the prison industry programs.

319 **SECTION 14.** Section 47-5-557, Mississippi Code of 1972, is
320 reenacted as follows:

321 47-5-557. Any inmate who performs work for the corporation,
322 except those inmates employed by the corporation in the Prison
323 Industry Enhancement Program under Section 47-5-1251, shall not be
324 deemed an agent, employee or involuntary servant of the
325 corporation while performing such work or while going to and from
326 work or other specified areas.

327 **SECTION 15.** Section 47-5-559, Mississippi Code of 1972, is
328 reenacted and amended as follows:

329 47-5-559. The corporation shall submit to the Governor and
330 the Legislature, on or before January 1 of each year, a report on
331 the status of the correctional work programs, including, but not
332 limited to, the programs and funds which have been transferred to
333 the corporation, the programs and funds to be taken over within
334 the next year and the proposed use of the profits from such
335 programs, a breakdown of the amount of noninmate labor used, work
336 subcontracted to other vendors, use of consultants, finished goods
337 purchased for resale, and the number of inmates working in the
338 correctional work programs at the time of the report. In
339 addition, the corporation shall submit to the department, the
340 Governor and the Legislature an annual independently audited
341 financial statement and such other information as may be requested



342 by the Legislature together with recommendations from the
343 corporation relating to provisions for reasonable tax incentives
344 to private enterprises that employ inmates, parolees or former
345 inmates who have participated in correctional work programs. The
346 department shall include, as a portion of its annual report, a
347 report on post-release job placement and the rate of subsequent
348 contact with the correctional system for those inmates who have
349 participated in the correctional work programs operated by the
350 corporation and by the department. Beginning January 1, 1991, the
351 State Auditor shall conduct an annual financial audit of the
352 corporation in conjunction with an independent audit conducted by
353 the corporation's auditors. The State Auditor and the legislative
354 PEER committee shall also conduct a biennial performance audit of
355 the corporation for the period beginning January 1, 1991, through
356 January 1, 1993, and thereafter upon the joint request of the
357 Senate Corrections Committee, House * * * Corrections Committee,
358 Senate Finance Committee, and House Ways and Means Committee.

359 **SECTION 16.** Section 47-5-561, Mississippi Code of 1972, is
360 reenacted as follows:

361 47-5-561. (1) In addition to its other powers, the
362 corporation shall have the power to request, through the
363 department, an appropriation of general revenue funds for the
364 purposes of operation of, addition to or renovation of facilities
365 or correctional work programs at the various correctional
366 institutions; however, upon receipt of such appropriation, the



367 rental paid by the corporation for the operation of or such new
368 remodeled or renovated facilities or the operation of a
369 correctional work program shall be sufficient to amortize its cost
370 over a period of five (5) years.

371 (2) The corporation shall maintain those prison industries
372 funds in excess of that amount necessary for sustaining quarterly
373 or monthly operations of the corporation in an interest-bearing
374 account best serving the proper management of corporation funds
375 and earning the maximum amount of interest allowed by law. The
376 corporation shall cause monies from the interest-bearing account
377 to be deposited quarterly or monthly into the corporation's
378 checking account in order to pay the legal debts of the
379 corporation, approved for payment by the corporation.

380 **SECTION 17.** Section 47-5-563, Mississippi Code of 1972, is
381 reenacted as follows:

382 47-5-563. (1) The department may adopt such rules as may be
383 necessary to govern the use of inmates by the corporation;
384 however, such rules shall be related only to the need for
385 security, inmate projections, and efficient operation of each
386 institution.

387 (2) The corporation, with the input of the department, shall
388 establish policies and procedures subject to the approval of the
389 department's legal counsel relating to the use of inmates in the
390 correctional work programs.



391 (3) All such policies and procedures adopted by the
392 department and the corporation shall be placed on file in the
393 Office of the Secretary of State.

394 **SECTION 18.** Section 47-5-565, Mississippi Code of 1972, is
395 reenacted as follows:

396 47-5-565. To carry out the provisions of Sections 47-5-531
397 through 47-5-575, the provisions of Sections 47-5-301 et seq., and
398 47-5-501 et seq., Mississippi Code of 1972, the corporation shall
399 authorize the transfer and expending of monies from the Prison
400 Industries Fund.

401 **SECTION 19.** Section 47-5-567, Mississippi Code of 1972, is
402 reenacted as follows:

403 47-5-567. Except as otherwise specifically provided by law,
404 no inmate shall be eligible for unemployment compensation or
405 workmen's compensation whether employed by the corporation or by
406 any other private enterprise operating on the grounds of a
407 correctional institution or elsewhere where such employment shall
408 be a part of a correctional work program or work release program
409 of either the corporation or the department.

410 **SECTION 20.** Section 47-5-569, Mississippi Code of 1972, is
411 reenacted as follows:

412 47-5-569. (1) Except as otherwise specifically provided by
413 law, if the department leases a single correctional work program
414 at any correctional institution to the corporation, the
415 corporation shall lease all such correctional work programs at



416 that institution. Any rent paid by the corporation to the
417 department shall be deposited in a correctional programs trust
418 fund for enhancement of education and training, post-release job
419 placement, and other correctional purposes related to the purposes
420 of Sections 47-5-531 through 47-5-575.

421 (2) All leases of department-owned land for the funding or
422 operations of the corporation shall be subject to the approval of
423 the corporation, the Mississippi Department of Corrections and the
424 Public Procurement Review Board.

425 (3) This section shall not apply to any program within the
426 prison agricultural enterprises operated by the department.

427 **SECTION 21.** Section 47-5-571, Mississippi Code of 1972, is
428 reenacted as follows:

429 47-5-571. Except as otherwise specifically provided by law,
430 no goods, wares, services or merchandise manufactured, mined or
431 offered in whole or in part by prisoners shall be sold or offered
432 by any person or other authority except by the corporation, as
433 authorized by Sections 47-5-531 through 47-5-575.

434 **SECTION 22.** Section 47-5-573, Mississippi Code of 1972, is
435 reenacted as follows:

436 47-5-573. (1) In adopting or modifying master plans for
437 correctional work programs, and in the administration of the
438 Department of Corrections, it shall be the objective of the
439 department to develop a logical sequence of vocational training,



440 employment by correctional work programs, and post-release job
441 placement for inmates participating in correctional work programs.

442 (2) The Department of Corrections shall establish guidelines
443 for the development of correctional work programs.

444 (3) The needs of the corporation shall be considered by the
445 department when assigning and transferring prisoners to
446 correctional institutions. The following criteria shall be used
447 when assigning and transferring inmates:

448 (a) Skills of the inmate relevant to the corporation's
449 industries;

450 (b) Security classification of the inmate relevant to
451 the type of corporation's industry;

452 (c) Duration of availability of the inmate for
453 employment by the corporation;

454 (d) Establishment of a concept of potentially
455 rehabilitative inmate.

456 **SECTION 23.** Section 47-5-575, Mississippi Code of 1972, is
457 reenacted as follows:

458 47-5-575. Any records or reports which relate to the
459 financial aspect or operations of the corporation, with the
460 exception of any trade secrets, shall be considered as public
461 records and shall be subject to the provisions of the Mississippi
462 Public Records Act of 1983.

463 **SECTION 24.** Section 47-5-577, Mississippi Code of 1972, is
464 amended as follows:



465 47-5-577. Sections 47-5-531 through 47-5-575, which create
466 the Mississippi Prison Industries Act of 1990, shall stand
467 repealed from and after July 1, * * * 2027.

468 **SECTION 25.** This act shall take effect and be in force from
469 and after July 1, 2024.

