

## Senate Amendments to House Bill No. 759

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

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

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, and shall stand repealed on June 30, 2024.

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

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.

SS26\HB759A.J

Amanda White  
Secretary of the Senate