

By: Representative Malone

To: Corrections

## HOUSE BILL NO. 431

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; AND FOR RELATED PURPOSES.

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

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

9 47-5-66. (1) It shall be the duty of the State Department  
10 of Finance and Administration, with the approval of the Public  
11 Procurement Review Board, to lease lands at public contract upon  
12 the submission of two (2) or more sealed bids to the State  
13 Department of Finance and Administration after having advertised  
14 the land for rent in newspapers of general circulation published  
15 in Jackson, Mississippi; Memphis, Tennessee; the county in which  
16 the land is located; and contiguous counties for a period of not  
17 less than two (2) successive weeks. The first publication shall  
18 be made not less than ten (10) days before the date of the public  
19 contract, and the last publication shall be made not more than  
20 seven (7) days before that date. The State Department of Finance  
21 and Administration may reject any and all bids. If all bids on a  
22 tract or parcel of land are rejected, the State Department of  
23 Finance and Administration may then advertise for new bids on that  
24 tract or parcel of land. Successful bidders shall take possession  
25 of their leaseholds at the time authorized by the State Department  
26 of Finance and Administration. However, rent shall be due no  
27 later than the day upon which the lessee shall assume possession  
28 of the leasehold, and shall be due on the anniversary date for

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

62 deposited into the Prison Agricultural Enterprises Fund. All  
63 profits derived from prison industries shall be placed in a  
64 special fund in the State Treasury to be known as the "Prison  
65 Industries Fund," to be appropriated each year by the Legislature  
66 to the nonprofit corporation, which is required to be organized  
67 under the provisions of Section 47-5-535, for the purpose of  
68 operating and managing the prison industries. The state shall  
69 have the rights and remedies for the security and collection of  
70 the rents given by law to landlords. Upon the execution of the  
71 agricultural leases to private entities as authorized by Section  
72 47-5-64, the leased land shall be liable to be taxed as other  
73 lands are taxed during the continuance of the lease, but in case  
74 of sale thereon for taxes, only the title of the leaseholder or  
75 his heirs or assigns shall pass by the sale. Any funds obtained  
76 by the corporation as a result of sale of goods and services  
77 manufactured and provided by it shall be accounted for separate  
78 and apart from any funds received by the corporation through  
79 appropriation from the State Legislature. All nonappropriated  
80 funds generated by the corporation shall not be subject to  
81 appropriation by the State Legislature.

82 (2) This section shall be repealed from and after July 1,  
83 2008.

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