

By: Representative Brown

To: Appropriations

HOUSE BILL NO. 989  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-53-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF CERTAIN TERMS AS USED IN THE CHAPTER OF  
3 LAW THAT CREATES THE MISSISSIPPI DEPARTMENT OF INFORMATION  
4 TECHNOLOGY SERVICES AND PRESCRIBES ITS POWERS AND DUTIES; TO AMEND  
5 SECTIONS 25-53-5 AND 25-53-123, MISSISSIPPI CODE OF 1972, TO  
6 REQUIRE ADVERTISEMENT AND RECEIPT OF COMPETITIVE BIDS BY THE  
7 MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES FOR THE  
8 ACQUISITION OR RENTAL OF COMPUTER EQUIPMENT AND SERVICES WHEN THE  
9 EXPENDITURE OF FUNDS EXCEEDS A CERTAIN DOLLAR AMOUNT AS  
10 ESTABLISHED IN THE PUBLIC PURCHASING LAW; TO AMEND SECTION  
11 25-53-51, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN APPLICANTS  
12 FOR EMPLOYMENT AT THE MISSISSIPPI DEPARTMENT OF INFORMATION  
13 TECHNOLOGY SERVICES TO BE FINGERPRINTED AND TO PROVIDE THAT SUCH  
14 FINGERPRINTS SHALL BE FORWARDED TO THE FEDERAL BUREAU OF  
15 INVESTIGATION IF NO DISQUALIFYING RECORD OF THE APPLICANT IS  
16 IDENTIFIED AT THE STATE LEVEL; TO REPEAL SECTION 25-53-103,  
17 MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES DEFINITIONS FOR CERTAIN  
18 TERMS USED IN THE SECTIONS OF LAW THAT PLACE RESPONSIBILITY FOR  
19 ACQUISITION, OPERATION AND MAINTENANCE OF TELECOMMUNICATION  
20 SYSTEMS IN THE MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY  
21 SERVICES; AND FOR RELATED PURPOSES.

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

23 SECTION 1. Section 25-53-3, Mississippi Code of 1972, is  
24 amended as follows:

25 25-53-3. (1) Whenever the term "Central Data Processing  
26 Authority" or the term "authority," when referring to the Central  
27 Data Processing Authority, is used in any law, rule, regulation,  
28 document or elsewhere, it shall be construed to mean the  
29 Mississippi Department of Information Technology Services.

30 (2) For the purposes of this chapter the following terms  
31 shall have the meanings ascribed in this section unless the  
32 context otherwise requires:

33 (a) "Central Data Processing Authority" and  
34 "CDPA" \* \* \* mean "Mississippi Department of Information  
35 Technology Services (MDITS)" and the term "authority" means "board

36 of the MDITS." \* \* \*

37 (b) "Bureau of Systems Policy and Planning," "Bureau of  
38 Telecommunications," \* \* \* "Bureau of Central Data Processing" and  
39 "bureau" mean "Mississippi Department of Information Technology  
40 Services." \* \* \*

41 (c) "Computer equipment or services" means any  
42 information technology, computer or computer related  
43 telecommunications equipment, electronic word processing and  
44 office systems, or services utilized in connection therewith,  
45 including, but not limited to, all phases of computer software and  
46 consulting services, and insurance on all state-owned computer  
47 equipment.

48 (d) "Acquisition" of computer or telecommunications  
49 equipment or services means the purchase, lease, rental, or  
50 acquisition in any other manner of any such computer or  
51 telecommunications equipment or services.

52 (e) "Agency" means and includes all the various state  
53 agencies, officers, departments, boards, commissions, offices and  
54 institutions of the state but does not include any agency financed  
55 entirely by federal funds.

56 (f) "Governing authority" means boards of supervisors,  
57 governing boards of all school districts, all boards of directors  
58 of public water supply districts, boards of directors of master  
59 public water supply districts, municipal public utility  
60 commissions, governing authorities of all municipalities, port  
61 authorities, commissioners and boards of trustees of any public  
62 hospitals and any political subdivision of the state supported  
63 wholly or in part by public funds of the state or political  
64 subdivisions thereof.

65 (g) "Bid" means any of the valid source selection  
66 techniques and competitive procurement methods appropriate to  
67 information technology procurement in the public sector, including  
68 but not limited to, competitive sealed bidding, competitive sealed  
69 proposals, simplified small purchase procedures, sole source  
70 procurements, and emergency procurements.

71 (h) "Telecommunications transmission facility" means  
72 any transmission medium, switch, instrument, inside wiring system

73 or other facility which is used, in whole or part, to provide any  
74 transmission.

75 (i) "Equipment support contract" means a contract which  
76 covers a single, specific class or classes of telecommunications  
77 equipment or service and all features associated with that class,  
78 through which state agencies may purchase or lease the item of  
79 equipment or service specified by issuing a purchase order under  
80 the terms of the contract without the necessity of further  
81 competitive bidding.

82 (j) "Inside wiring system" means any wiring which:

83 (i) Directly or indirectly, interconnects any  
84 terminal equipment with any other terminal equipment or with any  
85 regulated facility or common carrier services; and

86 (ii) Is located at the premises of the customer  
87 and is not inside any terminal equipment.

88 (k) "Procurement" means the selling, buying,  
89 purchasing, renting, leasing or otherwise obtaining  
90 telecommunications equipment, system or related services, as well  
91 as activities engaged in, resulting in or expected to result in  
92 selling, buying, purchasing, renting, leasing or otherwise  
93 obtaining telecommunications equipment.

94 (l) "Telecommunications equipment, systems, related  
95 services" are limited to the equipment and means to provide:

96 (i) Telecommunications transmission facilities.

97 (ii) Telephone systems, including voice processing  
98 systems.

99 (iii) Facsimile systems.

100 (iv) Radio paging services.

101 (v) Mobile telephone services, including cellular  
102 mobile telephone service.

103 (vi) Intercom and paging systems.

104 (vii) Video conferencing systems.

105 (viii) Personal communications networks and

106 services.

107 (ix) Any and all systems based on emerging and  
108 future telecommunications technologies relative to (i) through  
109 (viii) above.

110 (m) "Telecommunications system lease contract" means a  
111 contract between a supplier of telecommunications systems,  
112 including equipment and related services, and the Mississippi  
113 Department of Information Technology Services through which  
114 telecommunications systems, including equipment and related  
115 services, may be leased for a term which shall not exceed sixty  
116 (60) months for a system lease valued less than One Million  
117 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty  
118 (120) months for a system lease valued One Million Dollars  
119 (\$1,000,000.00) or more.

120 (n) "Tariffed or regulated service" means  
121 telecommunications service offered by common carriers and subject  
122 to control by the Mississippi Public Service Commission or the  
123 Federal Communications Commission.

124 SECTION 2. Section 25-53-5, Mississippi Code of 1972, is  
125 amended as follows:

126 25-53-5. The authority shall have the following powers,  
127 duties, and responsibilities:

128 (a) The authority shall provide for the development of  
129 plans for the efficient acquisition and utilization of computer  
130 equipment and services by all agencies of state government, and  
131 provide for their implementation. In so doing, the authority may  
132 use the MDITS staff, at the discretion of the executive director  
133 of the authority, or the authority may contract for the services  
134 of qualified consulting firms in the field of information  
135 technology and utilize the service of such consultants as may be  
136 necessary for such purposes.

137 (b) The authority shall immediately institute  
138 procedures for carrying out the purposes of this chapter and

139 supervise the efficient execution of the powers and duties of the  
140 office of executive director of the authority. In the execution  
141 of its functions under this chapter, the authority shall maintain  
142 as a paramount consideration the successful internal organization  
143 and operation of the several agencies so that efficiency existing  
144 therein shall not be adversely affected or impaired. In executing  
145 its functions in relation to the institutions of higher learning  
146 and junior colleges in the state, the authority shall take into  
147 consideration the special needs of such institutions in relation  
148 to the fields of teaching and scientific research.

149 (c) Title of whatever nature of all computer equipment  
150 now vested in any agency of the State of Mississippi is hereby  
151 vested in the authority, and no such equipment shall be disposed  
152 of in any manner except in accordance with the direction of the  
153 authority or under the provisions of such rules and regulations as  
154 may hereafter be adopted by the authority in relation thereto.

155 (d) The authority shall adopt rules, regulations, and  
156 procedures governing the acquisition of computer and  
157 telecommunications equipment and services which shall, to the  
158 fullest extent practicable, insure the maximum of competition  
159 between all manufacturers of supplies or equipment or services.  
160 In the writing of specifications, in the making of contracts  
161 relating to the acquisition of such equipment and services, and in  
162 the performance of its other duties the authority shall provide  
163 for the maximum compatibility of all information systems hereafter  
164 installed or utilized by all state agencies and may require the  
165 use of common computer languages where necessary to accomplish the  
166 purposes of this chapter. The authority may establish by  
167 regulation and charge reasonable fees on a nondiscriminatory basis  
168 for the furnishing to bidders of copies of bid specifications and  
169 other documents issued by the authority.

170 (e) The authority shall adopt rules and regulations  
171 governing the sharing with, or the sale or lease of information

172 technology services to any nonstate agency or person. Such  
173 regulations shall provide that any such sharing, sale, or lease  
174 shall be restricted in that same shall be accomplished only where  
175 such services are not readily available otherwise within the  
176 state, and then only at a charge to the user not less than the  
177 prevailing rate of charge for similar services by private  
178 enterprise within this state.

179 (f) The authority may, in its discretion, establish a  
180 special technical advisory committee or committees to study and  
181 make recommendations on technology matters within the competence  
182 of the authority as the authority may see fit. Persons serving on  
183 the Information Resource Council, its task forces, or any such  
184 technical advisory committees shall be entitled to receive their  
185 actual and necessary expenses actually incurred in the performance  
186 of such duties, together with mileage as provided by law for state  
187 employees, provided the same has been authorized by a resolution  
188 duly adopted by the authority and entered on its minutes prior to  
189 the performance of such duties.

190 (g) The authority may provide for the development and  
191 require the adoption of standardized computer programs and may  
192 provide for the dissemination of information to and the  
193 establishment of training programs for the personnel of the  
194 various information technology centers of state agencies and  
195 personnel of the agencies utilizing the services thereof.

196 (h) The authority shall adopt reasonable rules and  
197 regulations requiring the reporting to the authority through the  
198 office of executive director of such information as may be  
199 required for carrying out the purposes of this chapter and may  
200 also establish such reasonable procedures to be followed in the  
201 presentation of bills for payment under the terms of all contracts  
202 for the acquisition of computer equipment and services now or  
203 hereafter in force as may be required by the authority or by the  
204 executive director in the execution of their powers and duties.

205           (i) The authority shall require such adequate  
206 documentation of information technology procedures utilized by the  
207 various state agencies and may require the establishment of such  
208 organizational structures within state agencies relating to  
209 information technology operations as may be necessary to  
210 effectuate the purposes of this chapter.

211           (j) The authority may adopt such further reasonable  
212 rules and regulations as may be necessary to fully implement the  
213 purposes of this chapter. All rules and regulations adopted by  
214 the authority shall be published and disseminated in readily  
215 accessible form to all affected state agencies, and to all current  
216 suppliers of computer equipment and services to the state, and to  
217 all prospective suppliers requesting the same. Such rules and  
218 regulations shall be kept current, be periodically revised, and  
219 copies thereof shall be available at all times for inspection by  
220 the public at reasonable hours in the offices of the authority.  
221 Whenever possible no rule, regulation or any proposed amendment to  
222 such rules and regulations shall be finally adopted or enforced  
223 until copies of said proposed rules and regulations have been  
224 furnished to all interested parties for their comment and  
225 suggestions.

226           (k) The authority shall establish rules and regulations  
227 which shall provide for the submission of all contracts proposed  
228 to be executed by the executive director for computer equipment or  
229 services to the authority for approval before final execution, and  
230 the authority may provide that such contracts involving the  
231 expenditure of less than such specified amount as may be  
232 established by the authority may be finally executed by the  
233 executive director without first obtaining such approval by the  
234 authority.

235           (l) The authority is authorized to purchase, lease, or  
236 rent computer equipment or services and to operate said equipment  
237 and utilize said services in providing services to one or more

238 state agencies when in its opinion such operation will provide  
239 maximum efficiency and economy in the functions of any such agency  
240 or agencies.

241 (m) The authority shall assist political subdivisions  
242 and instrumentalities in their development of plans for the  
243 efficient acquisition and utilization of computer equipment and  
244 services. An appropriate fee shall be charged the political  
245 subdivision by the authority for such assistance.

246 (n) The authority shall adopt rules and regulations  
247 governing the protest procedures to be followed by any actual or  
248 prospective bidder, offerer or contractor who is aggrieved in  
249 connection with the solicitation or award of a contract for the  
250 acquisition of computer equipment or services. Such rules and  
251 regulations shall prescribe the manner, time and procedure for  
252 making protests and may provide that a protest not timely filed  
253 shall be summarily denied. The authority may require the  
254 protesting party, at the time of filing the protest, to post a  
255 bond, payable to the state, in an amount that the authority  
256 determines sufficient to cover any expense or loss incurred by the  
257 state, the authority or any state agency as a result of the  
258 protest if the protest subsequently is determined by a court of  
259 competent jurisdiction to have been filed without any substantial  
260 basis or reasonable expectation to believe that the protest was  
261 meritorious; however, in no event may the amount of the bond  
262 required exceed a reasonable estimate of the total project cost.  
263 The authority, in its discretion, also may prohibit any  
264 prospective bidder, offerer or contractor who is a party to any  
265 litigation involving any such contract with the state, the  
266 authority or any agency of the state to participate in any other  
267 such bid, offer or contract, or to be awarded any such contract,  
268 during the pendency of the litigation.

269 (o) The authority shall make a report in writing to the  
270 Legislature each year in the month of January. Such report shall



271 contain a full and detailed account of the work of the authority  
272 for the preceding year as specified in Section 25-53-29(3).

273 All acquisitions of computer equipment and services involving  
274 the expenditure of funds in excess of the dollar amount  
275 established in Section 31-7-13(c), or rentals or leases in excess  
276 of the dollar amount established in Section 31-7-13(c) for the  
277 term of the contract, shall be based upon competitive and open  
278 specifications, and contracts therefor shall be entered into only  
279 after advertisements for bids are published in one or more daily  
280 newspapers having a general circulation in the state not less than  
281 fourteen (14) days prior to receiving sealed bids therefor. The  
282 authority may reserve the right to reject any or all bids, and if  
283 all bids are rejected, the authority may negotiate a contract  
284 within the limitations of the specifications so long as the terms  
285 of any such negotiated contract are equal to or better than the  
286 comparable terms submitted by the lowest and best bidder, and so  
287 long as the total cost to the State of Mississippi does not exceed  
288 the lowest bid. If the authority accepts one (1) of such bids, it  
289 shall be that which is the lowest and best.

290 (p) When applicable, the authority may procure  
291 equipment, systems and related services in accordance with the law  
292 or regulations, or both, which govern the Bureau of Purchasing of  
293 the Office of General Services or which govern the Mississippi  
294 Department of Information Technology Services procurement of  
295 telecommunications equipment, software and services.

296 (q) The authority is authorized to purchase, lease, or  
297 rent information technology and services for the purpose of  
298 establishing pilot projects to investigate emerging technologies.

299 These acquisitions shall be limited to new technologies and shall  
300 be limited to an amount set by annual appropriation of the  
301 Legislature. These acquisitions shall be exempt from the  
302 advertising and bidding requirement.

303 (r) All fees collected by the Mississippi Department of

304 Information Technology Services shall be deposited into the  
305 Mississippi Department of Information Technology Services  
306 Revolving Fund unless otherwise specified by the Legislature.

307 SECTION 3. Section 25-53-51, Mississippi Code of 1972, is  
308 amended as follows:

309 25-53-51. To qualify for the position of information  
310 confidentiality officer a person must:

311 (a) Be an employee of a state agency or institution in  
312 a position such that his duties require him to handle or process  
313 or supervise the handling or processing of data in conjunction  
314 with the use of automated information technology equipment for an  
315 agency or institution other than that for whom he is regularly  
316 employed.

317 (b) Have been continuously employed for a period of at  
318 least one hundred eighty (180) days by such agency or institution  
319 or have successfully been cleared for employment through an  
320 investigation that shall consist of a determination as to good  
321 moral character and that the prospective employee has not been  
322 convicted of a felony. In order to determine the applicant's  
323 suitability for employment at the Mississippi Department of  
324 Information Technology Services, the applicant shall be  
325 fingerprinted. If no disqualifying record is identified at the  
326 state level, the fingerprints shall be forwarded by the  
327 Mississippi Department of Public Safety to the Federal Bureau of  
328 Investigation for a national criminal history record check. A  
329 prospective employee may be provisionally employed based on a  
330 reference check by the employing agency pending final receipt of  
331 the results of a national criminal history record check for a  
332 period not to exceed one hundred eighty (180) days.

333 (c) Successfully complete a suitable instructional  
334 course on the subjects of information security, privacy and  
335 confidentiality and protection, to be developed and taught under  
336 the supervision of the executive director. An employee may work

337 in a provisional capacity under the direct supervision of an  
338 information confidentiality officer as part of an on-the-job  
339 training program while completing instructional requirements, for  
340 a period not to exceed ninety (90) days.

341 (d) Be duly sworn to the following oath: "I, \_\_\_\_\_,  
342 do solemnly swear to protect and uphold the confidentiality of all  
343 information that may come to my knowledge that is designated as  
344 'confidential information' by another state agency or institution  
345 for which I may handle or process in the normal course of my  
346 duties. I swear to exercise reasonable care in the handling and  
347 processing of all such designated data and further that I will not  
348 reveal or otherwise divulge information from such data obtained.  
349 I understand that proven violation of this oath will subject me to  
350 forfeiture of my bond and dismissal from employment."

351 (e) Enter into bond in the minimum amount of Five  
352 Thousand Dollars (\$5,000.00) with a surety company authorized to  
353 do business in the state, and conditioned to pay the full amount  
354 thereof as liquidated damages to any person about whom  
355 confidential information is disclosed in violation of his oath.

356 (f) Be identified by a wallet-sized identification card  
357 with a picture of the person to be carried at all times while on  
358 duty.

359 SECTION 4. Section 25-53-123, Mississippi Code of 1972, is  
360 amended as follows:

361 25-53-123. (1) The only method of procurement permitted for  
362 the acquisition of nonregulated telecommunications systems,  
363 including equipment and related services, shall be in conformity  
364 with the following requirements: All acquisitions of  
365 telecommunications equipment, systems and related services  
366 involving the expenditures of funds in excess of the dollar amount  
367 established in Section 31-7-13(c), or rentals or leases in excess  
368 of the dollar amount established in Section 31-7-13(c), for the  
369 term of the contract, shall be based upon competitive and open

370 specifications, and contracts therefor shall be entered into only  
371 after advertisements for bids are published in one or more daily  
372 newspapers having a general circulation in the state not less than  
373 fourteen (14) days prior to receiving sealed bids therefor. The  
374 authority may reserve the right to reject any or all bids, and if  
375 all bids are rejected, the authority may negotiate a contract  
376 within the limitations of the specifications so long as the terms  
377 of any such negotiated contract are equal to or better than the  
378 comparable terms submitted by the lowest and best bidder, and so  
379 long as the total cost to the State of Mississippi does not exceed  
380 the lowest bid. If the authority accepts one (1) of such bids, it  
381 shall be that which is the lowest and best.

382 (2) When applicable, the bureau may procure equipment,  
383 systems and related services in accordance with the law or  
384 regulations, or both, which govern the Bureau of Purchasing of the  
385 Governor's Office of General Services or which govern the  
386 Mississippi Department of Information Technology Services  
387 procurement of computer equipment, software and services.

388 SECTION 5. Section 25-53-103, Mississippi Code of 1972,  
389 which prescribes definitions for certain terms used in the  
390 sections of law that place responsibility for acquisition,  
391 operation and maintenance of telecommunication systems in the  
392 Mississippi Department of Information Technology Services, is  
393 repealed.

394 SECTION 6. This act shall take effect and be in force from  
395 and after its passage.