MISSISSIPPI LEGISLATURE

By: Representative Reeves

To: Fees and Salaries of Public Officers; Appropriations

HOUSE BILL NO. 1039

1 AN ACT TO AMEND SECTION 25-53-111, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES TO
3 ESTABLISH GENERAL POLICIES TO GUIDE AGENCIES IN MAKING DECISIONS
4 TO PROCURE CELLULAR TELEPHONES; TO REQUIRE THE DEPARTMENT OF
5 INFORMATION TECHNOLOGY SERVICES TO ESTABLISH A MODEL POLICY
6 REGULATING PERSONAL USE OF CELLULAR TELEPHONES OWNED BY STATE
7 AGENCIES AND TO REQUIRE STATE AGENCIES TO ADOPT THE MODEL POLICY,
8 OR A POLICY EQUALLY STRINGENT; TO AMEND SECTION 25-53-121,
9 MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF INFORMATION
10 TECHNOLOGY SERVICES TO ENTER INTO SINGLE OR MULTIPLE CONTRACTS FOR
11 CELLULAR TELEPHONE SERVICES IN THE STATE AND TO REQUIRE STATE
12 AGENCIES TO USE THE SINGLE OR MULTIPLE CONTRACTS NEGOTIATED BY THE
13 DEPARTMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-53-111, Mississippi Code of 1972, is
amended as follows:

25-53-111. The bureau shall have the following additional
duties:

(a) To establish and coordinate through either state
ownership or commercial leasing, all telecommunications systems
and services affecting the management and operations of the state.

(b) To act as the sole centralized customer for the
acquisition, billing and record keeping of all telecommunications
systems or services provided to state agencies whether obtained
through lease or purchase.

(c) To charge respective user agencies for their
proportionate cost of the installation, maintenance and operation
of the telecommunications systems and services, including the
operation of the bureau.

(d) To offer or provide transmission, switch and
network services on a reimbursable basis to agencies financed
entirely by federal funds, to governing authorities and to other governmental agencies.

(e) To approve or provide state telephone services on a reimbursable basis to full-time students at state institutions of higher learning and junior colleges, including where such services are provided by the state or the institution.

(f) To develop coordinated telecommunications systems or services within and among all state agencies and require, where appropriate, cooperative utilization of telecommunications equipment and services by aggregating users. Where such cooperative utilization of telecommunications system or service would affect an agency authorized to receive information from the National Crime Information Center of the Federal Bureau of Investigation, such plans for cooperative utilization shall first be approved by the National Crime Information Center before implementation of such telecommunications systems or service can proceed.

(g) To review, coordinate, approve or disapprove all requests by state agencies for the procurement, through purchase or contract for lease of telecommunications systems or services including telecommunication proposals, studies and consultation contracts and intra-LATA and inter-LATA transmission channels.

(h) To establish and define telecommunications systems and services specifications and designs so as to assure compatibility of telecommunications systems and services within state government and governing authorities.

(i) To provide a continuous, comprehensive analysis and inventory of telecommunications costs, facilities and systems within state government.

(j) To promote, coordinate or assist in the design and engineering of emergency telecommunications systems, including but not limited to "911" service, emergency medical services and other emergency telecommunications services.
(k) To advise and provide consultation to agencies and governing authorities with respect to telecommunications management planning and related matters and to provide training to users within state government in telecommunications technology and system use.

(l) To develop policies, procedures and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems, and to base such policies on current information about state telecommunications activities in relation to the full range of emerging technologies.

Any state agency requesting an increase in expenditure of funds for new telecommunications equipment systems or services shall submit to the Legislative Budget Office with its budget request preceding the fiscal year for which funding is requested detailed justification for such request. The justification shall be provided on forms developed by the bureau in accordance with the Administrative Procedure Act. In addition, all state agencies shall submit to the bureau, when requested, a long-range plan for use of telecommunications equipment, systems and services.

(m) To promulgate a model policy for all state agencies that restricts personal use of state-owned cellular telephones and further requires all state agency personnel to maintain a log of all cellular or wireless calls made on those state-owned devices. The log should contain the name of the person called, the purpose of the call and the time of the call. As an alternative to keeping a log, the policy may allow a state agency to obtain detailed call billing for every cellular account and require personnel to verify all calls made, with the agency's executive director or designee reviewing and certifying all bills. All state agencies shall adopt the model policy or adopt a policy that is, at minimum, as stringent as the model policy. The department may exempt state agency law enforcement activities.
carried out by sworn officers from the requirements of this paragraph.

(n) To promulgate a model acceptable use policy defining the appropriate use of all state electronic resources, including but not limited to, desktop personal computers, portable computers, Internet services, email services, long distance services, cell phones, and other wireless communications devices. The acceptable use policy should specify that these resources, including both devices and services, are provided at the state's expense as tools for accomplishing the business missions of the agencies; that all those resources are for business use; and that more than incidental personal use of those resources is prohibited. The acceptable use policy should require that each employee issued one of the above devices or authorized to access one of the above services sign the policy and that the signed copy be placed in that employee's personnel file. The acceptable use policy should also require that the use of these resources be tracked, verified, and signed by the employee and the employee's supervisor at each billing cycle or other appropriate interval. All state agencies shall adopt the model policy or adopt a policy that is, at minimum, as stringent as the model policy.

(o) To adopt general policies that will help each agency of state government assess the need for cellular telephones. These general policies should, at minimum, address the following:

(i) Whether a less expensive telecommunications alternative is suitable or available, or both;

(ii) Whether a cell phone issued to an employee would improve job performance and productivity through better communicative ability or mobility, or both;

(iii) Whether the agency's needs can be met with its present forms and levels of services;
(iv) Whether the agency's needs could be met best by a limited number of cell phones that can be checked out by employees on a daily basis or by a plan that pools all cellular minutes available to the agency;

(v) Whether quantifiable benefits are associated with the procurement of cellular service and whether cellular service provides more efficient or effective service delivery; and

(vi) Whether quantifiable savings associated with the use of cellular telephones result in a reduction in other costs.

Each agency should establish specific guidelines for procurement of cellular telephone that are in conformity with the general policies promulgated by the department. Each state agency shall report the quantifiable benefits and savings that it realizes from the use of cellular telephones in its annual report to the Legislature.

SECTION 2. Section 25-53-121, Mississippi Code of 1972, is amended as follows:

25-53-121. (1) The types of contracts permitted in the procurement of telecommunications equipment, systems and related services are defined herein, and the provision in Sections 25-53-101 through 25-53-125 supplement the provisions of Chapter 7, Title 31, Mississippi Code of 1972.

(2) The Mississippi Department of Information Technology Services may, on behalf of any state agency, enter into an equipment support contract with a vendor of telecommunications equipment or services for the purchase or lease of such equipment or services in accordance with the following provisions:

(a) Specifications for equipment support contracts shall be developed in advance and shall conform to the following requirements:

(i) Specifications for equipment support contracts shall cover a specific class or classes of equipment and service
and may include all features associated with that class or classes.

(ii) Specifications in the request for proposals for equipment support contracts shall be developed by the Mississippi Department of Information Technology Services.

(iii) Specifications shall be based on the projected needs of user agencies.

(iv) Specifications for equipment support contracts for purchase or lease of telecommunications equipment may include specifications for the maintenance of the equipment desired.

(b) The initial procurement of an equipment support contract, and procurement of equipment and services to be utilized by agencies under an equipment support contract, shall be as follows:

(i) Equipment support contracts shall be awarded by competitive sealed bidding.

(ii) A using agency may procure required telecommunications equipment and service available under an equipment support contract through release of a purchase order for the required equipment and service to the vendor holding an equipment support contract. However, such procurement by purchase order shall be accomplished in accordance with the procedures and regulations prescribed by the Mississippi Department of Information Technology Services, and shall be subject to all other statutory requirements including approval by the bureau.

(c) The final authority for entering into equipment support contracts shall rest with the bureau, and such contracts shall be executed by the Mississippi Department of Information Technology Services in accordance with the procedures and regulations defined by said authority.

(d) Equipment support contracts shall include the following terms and conditions:
(i) Equipment support contracts shall be valid for not more than one (1) fiscal year with the Mississippi Department of Information Technology Services having an option to renew for two (2) additional fiscal years. The vendor may vary lease or purchase prices for the optional renewal period(s) by an amount equal to the lesser of the lease or purchase price permitted by that vendor's contract with the General Services Administration of the United States government for such equipment and services, or any variance in that vendor's published list prices for such equipment and services during that fiscal year, provided that any increase may not exceed five percent (5%) and the variance must have been authorized by the initial equipment and service order contract.

(ii) The prices stated in such contract shall not change for the period of the contract.

(iii) Individual items of telecommunications equipment and service which may be included under an equipment support contract may not have a purchase price greater than Fifty Thousand Dollars ($50,000.00) or a monthly lease price greater than Three Thousand Dollars ($3,000.00). Such price shall not include costs of maintenance, taxes or transportation.

(iv) Equipment support contracts shall include the following annual appropriation dependency clause:

"The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Legislature. If the Legislature fails to appropriate sufficient monies to provide for the continuance of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated."

(3) The Mississippi Department of Information Technology Services may on behalf of any state agency enter into contracts for the lease or purchase of telecommunications equipment systems or services in accordance with the following provisions:
(a) The bureau may directly contract for or approve contracts for regulated or tariffed telecommunications services upon determination by the bureau that the application of such service is in the best interests of the State of Mississippi.

(b) All other contracts of this type shall be entered into through request for proposals as defined in Sections 25-53-101 through 25-53-125.

(c) The justification of such contracts must be presented to the bureau prior to issuance of a request for proposals. Such justification shall identify and consider all cost factors relevant to that contract.

(d) The term of a lease contract shall not exceed sixty (60) months for a system lease valued less than One Million Dollars ($1,000,000.00) and shall not exceed one hundred twenty (120) months for a system lease valued One Million Dollars ($1,000,000.00) or more.

(e) All lease contracts must contain the following annual appropriation dependency clause:

"The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Legislature. If the Legislature fails to appropriate sufficient monies to provide for the continuation of a contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated."

(f) The Mississippi Department of Information Technology Services shall maintain a list of all such contracts. This list shall show as a minimum the name of the vendor, the annual cost of each contract and the term of the contract or the purchase cost.

(g) Upon the advance written approval of the bureau, state agencies may extend contracts for the lease of telecommunications equipment, systems and related services on a
month-to-month basis for a period not to extend more than one (1) calendar year for the stated lease prices.

(4) With respect to the procurement of cellular telephone services, the Department of Information Technology Services shall develop a list of approved vendors for the delivery of those services to state agencies. The department may exercise the option of selecting one (1) vendor to provide the services, or if it deems such to be most advantageous to the state, it may select multiple vendors. If it chooses to utilize multiple vendors, the department may select vendors on the basis of lowest and best bid proposals, or it may establish a state contract per minute price and allow any vendor who agrees to provide service at the contract price to be added to the list of vendors.

No agency shall contract for cellular telephone services with any vendor unless the vendor has been approved by the Department of Information Technology Services.

SECTION 3. This act shall take effect and be in force from and after July 1, 2003.