

By: Representative Reeves

To: Appropriations

HOUSE BILL NO. 91

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.

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

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

17 25-53-111. The bureau shall have the following additional
 18 duties:

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

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

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

30 (d) To offer or provide transmission, switch and
 31 network services on a reimbursable basis to agencies financed

32 entirely by federal funds, to governing authorities and to other
33 governmental agencies.

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

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

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

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

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

61 (j) To promote, coordinate or assist in the design and
62 engineering of emergency telecommunications systems, including but
63 not limited to "911" service, emergency medical services and other
64 emergency telecommunications services.

65 (k) To advise and provide consultation to agencies and
66 governing authorities with respect to telecommunications
67 management planning and related matters and to provide training to
68 users within state government in telecommunications technology and
69 system use.

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

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

85 (m) To promulgate a model policy for all state agencies
86 that restricts personal use of state-owned cellular telephones
87 and further requires all state agency personnel to maintain a log
88 of all cellular or wireless calls made on those state-owned
89 devices. The log should contain the name of the person called,
90 the purpose of the call and the time of the call. As an
91 alternative to keeping a log, the policy may allow a state agency
92 to obtain detailed call billing for every cellular account and
93 require personnel to verify all calls made, with the agency's
94 executive director or designee reviewing and certifying all bills.
95 All state agencies shall adopt the model policy or adopt a policy
96 that is, at minimum, as stringent as the model policy. The
97 department may exempt state agency law enforcement activities

98 carried out by sworn officers from the requirements of this
99 paragraph.

100 (n) To promulgate a model acceptable use policy
101 defining the appropriate use of all state electronic resources
102 including, but not limited to, desktop personal computers,
103 portable computers, Internet services, email services, long
104 distance services, cell phones, and other wireless communications
105 devices. The acceptable use policy should specify that these
106 resources, including both devices and services, are provided at
107 the state's expense as tools for accomplishing the business
108 missions of the agencies; that all those resources are for
109 business use; and that more than incidental personal use of those
110 resources is prohibited. The acceptable use policy should require
111 that each employee issued one (1) of the above devices or
112 authorized to access one (1) of the above services sign the policy
113 and that the signed copy be placed in that employee's personnel
114 file. The acceptable use policy should also require that the use
115 of these resources be tracked, verified, and signed by the
116 employee and the employee's supervisor at each billing cycle or
117 other appropriate interval. All state agencies shall adopt the
118 model policy or adopt a policy that is, at minimum, as stringent
119 as the model policy.

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

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

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

129 (iii) Whether the agency's needs can be met with
130 its present forms and levels of services;

131 (iv) Whether the agency's needs could be met best
132 by a limited number of cell phones that can be checked out by
133 employees on a daily basis or by a plan that pools all cellular
134 minutes available to the agency;

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

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

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

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

149 25-53-121. (1) The types of contracts permitted in the
150 procurement of telecommunications equipment, systems and related
151 services are defined in this section, and the provision in
152 Sections 25-53-101 through 25-53-125 supplement the provisions of
153 Chapter 7, Title 31, Mississippi Code of 1972.

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

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

162 (i) Specifications for equipment support contracts
163 shall cover a specific class or classes of equipment and service

164 and may include all features associated with that class or
165 classes.

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

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

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

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

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

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

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

195 (d) Equipment support contracts shall include the
196 following terms and conditions:

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

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

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

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

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

226 (3) The Mississippi Department of Information Technology
227 Services may on behalf of any state agency enter into contracts
228 for the lease or purchase of telecommunications equipment systems
229 or services in accordance with the following provisions:

230 (a) The bureau may directly contract for or approve
231 contracts for regulated or tariffed telecommunications services
232 upon determination by the bureau that the application of such
233 service is in the best interests of the State of Mississippi.

234 (b) All other contracts of this type shall be entered
235 into through request for proposals as defined in Sections
236 25-53-101 through 25-53-125.

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

241 (d) The term of a lease contract shall not exceed sixty
242 (60) months for a system lease valued less than One Million
243 Dollars (\$1,000,000.00) and shall not exceed one hundred twenty
244 (120) months for a system lease valued One Million Dollars
245 (\$1,000,000.00) or more.

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

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

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

259 (g) Upon the advance written approval of the bureau,
260 state agencies may extend contracts for the lease of
261 telecommunications equipment, systems and related services on a

262 month-to-month basis for a period not to extend more than one (1)
263 calendar year for the stated lease prices.

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

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

278 **SECTION 3.** This act shall take effect and be in force from
279 and after July 1, 2005.