

By: Senator(s) Doty

To: Technology; Public
Health and Welfare

SENATE BILL NO. 2818

1 AN ACT TO AMEND SECTIONS 25-53-1 AND 25-53-5, MISSISSIPPI
2 CODE OF 1972, TO EXTEND THE DATE OF THE REPEALERS ON THOSE
3 PROVISIONS OF LAW WHICH EXEMPT ACTIONS OF THE DEPARTMENT OF HUMAN
4 SERVICES AND THE DEPARTMENT OF CHILD PROTECTION SERVICES FROM THE
5 REGULATIONS OF THE MISSISSIPPI DEPARTMENT OF INFORMATION
6 TECHNOLOGY SERVICES (MDITS); TO AMEND SECTION 25-9-127,
7 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE THROUGH WHICH ACTIONS
8 OF THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF CHILD
9 PROTECTION SERVICES ARE EXEMPTED FROM STATE PERSONNEL BOARD
10 REGULATIONS; AND FOR RELATED PURPOSES.

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

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

14 25-53-1. The Legislature recognizes that in order for the
15 State of Mississippi to receive the maximum use and benefit from
16 information technology and services now in operation or which will
17 in the future be placed in operation, there should be full
18 cooperation and cohesive planning and effort by and between the
19 several state agencies and that it is the responsibility of the
20 Legislature to provide statutory authority therefor. The
21 Legislature, therefore, declares and determines that for these and
22 other related purposes there is hereby established an agency of



23 state government to be known as the Mississippi Department of
24 Information Technology Services (MDITS). The Legislature further
25 declares that the Mississippi Department of Information Technology
26 Services (MDITS) shall provide statewide services that facilitate
27 cost-effective information processing and telecommunication
28 solutions. State agencies shall work in full cooperation with the
29 board of MDITS to identify opportunities to minimize duplication,
30 reduce costs and improve the efficiency of providing common
31 technology services across agency boundaries. The provisions of
32 this chapter shall not apply to the Department of Human Services
33 for a period of three (3) years beginning July 1, * * * 2020. The
34 provisions of this chapter shall not apply to the Department of
35 Child Protection Services for a period of three (3) years
36 beginning July 1, * * * 2020.

37 Notwithstanding the exemption of the Department of Human
38 Services and the Department of Child Protection Services from the
39 provisions of this section, before the Department of Human
40 Services or the Department of Child Protection Services may take
41 an action that would otherwise be subject to the provisions of
42 this section, the department(s) shall give notice of the proposed
43 action to the MDITS for any recommendations by the MDITS. Upon
44 receipt of the notice, the MDITS shall post the notice on its
45 website and on the procurement portal website established by
46 Sections 25-53-151 and 27-104-165. If the MDITS does not respond
47 to the department(s) within seven (7) calendar days after



receiving the notice, the department(s) may take the proposed action. If the MDITS responds to the department(s) within seven (7) calendar days, then the MDITS has seven (7) calendar days from the date of its initial response to provide any additional recommendations. After the end of the second seven-day period, the department(s) may take the proposed action. The MDITS is not authorized to disapprove any proposed actions that would otherwise be subject to the provisions of this section. This paragraph shall stand repealed on July 1, * * * 2023.

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

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

(a) (i) The authority shall provide for the development of plans for the efficient acquisition and utilization of computer equipment and services by all agencies of state government, and provide for their implementation. In so doing, the authority may use the MDITS' staff, at the discretion of the executive director of the authority, or the authority may contract for the services of qualified consulting firms in the field of information technology and utilize the service of such consultants as may be necessary for such purposes. Pursuant to Section 25-53-1, the provisions of this section shall not apply to the Department of Human Services for a period of three (3) years beginning on July 1, * * * 2020. Pursuant to Section 25-53-1, the



73 provisions of this section shall not apply to the Department of
74 Child Protection Services for a period of three (3) years
75 beginning July 1, * * * 2020.

76 (ii) Notwithstanding the exemption of the
77 Department of Human Services and the Department of Child
78 Protection Services from the provisions of this section, before
79 the Department of Human Services or the Department of Child
80 Protection Services may take an action that would otherwise be
81 subject to the provisions of this section, the department(s) shall
82 give notice of the proposed action to the MDITS for any
83 recommendations by the MDITS. Upon receipt of the notice, the
84 MDITS shall post the notice on its website and on the procurement
85 portal website established by Sections 25-53-151 and 27-104-165.
86 If the MDITS does not respond to the department(s) within seven
87 (7) calendar days after receiving the notice, the department(s)
88 may take the proposed action. If the MDITS responds to the
89 department(s) within seven (7) calendar days, then the MDITS has
90 seven (7) calendar days from the date of its initial response to
91 provide any additional recommendations. After the end of the
92 second seven-day period, the department(s) may take the proposed
93 action. The MDITS is not authorized to disapprove any proposed
94 actions that would otherwise be subject to the provisions of this
95 section. This subparagraph (ii) shall stand repealed on July
96 1, * * * 2023.



97 (b) The authority shall immediately institute
98 procedures for carrying out the purposes of this chapter and
99 supervise the efficient execution of the powers and duties of the
100 office of executive director of the authority. In the execution
101 of its functions under this chapter, the authority shall maintain
102 as a paramount consideration the successful internal organization
103 and operation of the several agencies so that efficiency existing
104 therein shall not be adversely affected or impaired. In executing
105 its functions in relation to the institutions of higher learning
106 and junior colleges in the state, the authority shall take into
107 consideration the special needs of such institutions in relation
108 to the fields of teaching and scientific research.

109 (c) Title of whatever nature of all computer equipment
110 now vested in any agency of the State of Mississippi is hereby
111 vested in the authority, and no such equipment shall be disposed
112 of in any manner except in accordance with the direction of the
113 authority or under the provisions of such rules and regulations as
114 may hereafter be adopted by the authority in relation thereto.

115 (d) The authority shall adopt rules, regulations, and
116 procedures governing the acquisition of computer and
117 telecommunications equipment and services which shall, to the
118 fullest extent practicable, insure the maximum of competition
119 between all manufacturers of supplies or equipment or services.
120 In the writing of specifications, in the making of contracts
121 relating to the acquisition of such equipment and services, and in



122 the performance of its other duties the authority shall provide
123 for the maximum compatibility of all information systems hereafter
124 installed or utilized by all state agencies and may require the
125 use of common computer languages where necessary to accomplish the
126 purposes of this chapter. The authority may establish by
127 regulation and charge reasonable fees on a nondiscriminatory basis
128 for the furnishing to bidders of copies of bid specifications and
129 other documents issued by the authority.

130 (e) The authority shall adopt rules and regulations
131 governing the sharing with, or the sale or lease of information
132 technology services to any nonstate agency or person. Such
133 regulations shall provide that any such sharing, sale or lease
134 shall be restricted in that same shall be accomplished only where
135 such services are not readily available otherwise within the
136 state, and then only at a charge to the user not less than the
137 prevailing rate of charge for similar services by private
138 enterprise within this state.

139 (f) The authority may, in its discretion, establish a
140 special technical advisory committee or committees to study and
141 make recommendations on technology matters within the competence
142 of the authority as the authority may see fit. Persons serving on
143 the Information Resource Council, its task forces, or any such
144 technical advisory committees shall be entitled to receive their
145 actual and necessary expenses actually incurred in the performance
146 of such duties, together with mileage as provided by law for state



employees, provided the same has been authorized by a resolution duly adopted by the authority and entered on its minutes prior to the performance of such duties.

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

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

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



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

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



(l) The authority is authorized to purchase, lease, or rent computer equipment or services and to operate that equipment and use those services in providing services to one or more state agencies when in its opinion such operation will provide maximum efficiency and economy in the functions of any such agency or agencies.

(m) Upon the request of the governing body of a political subdivision or instrumentality, the authority shall assist the political subdivision or instrumentality in its development of plans for the efficient acquisition and utilization of computer equipment and services. An appropriate fee shall be charged the political subdivision by the authority for such assistance.

(n) The authority shall adopt rules and regulations governing the protest procedures to be followed by any actual or prospective bidder, offerer or contractor who is aggrieved in connection with the solicitation or award of a contract for the acquisition of computer equipment or services. Such rules and regulations shall prescribe the manner, time and procedure for making protests and may provide that a protest not timely filed shall be summarily denied. The authority may require the protesting party, at the time of filing the protest, to post a bond, payable to the state, in an amount that the authority determines sufficient to cover any expense or loss incurred by the state, the authority or any state agency as a result of the



220 protest if the protest subsequently is determined by a court of
221 competent jurisdiction to have been filed without any substantial
222 basis or reasonable expectation to believe that the protest was
223 meritorious; however, in no event may the amount of the bond
224 required exceed a reasonable estimate of the total project cost.
225 The authority, in its discretion, also may prohibit any
226 prospective bidder, offerer or contractor who is a party to any
227 litigation involving any such contract with the state, the
228 authority or any agency of the state to participate in any other
229 such bid, offer or contract, or to be awarded any such contract,
230 during the pendency of the litigation.

231 (o) The authority shall make a report in writing to the
232 Legislature each year in the month of January. Such report shall
233 contain a full and detailed account of the work of the authority
234 for the preceding year as specified in Section 25-53-29(3).

235 All acquisitions of computer equipment and services involving
236 the expenditure of funds in excess of the dollar amount
237 established in Section 31-7-13(c), or rentals or leases in excess
238 of the dollar amount established in Section 31-7-13(c) for the
239 term of the contract, shall be based upon competitive and open
240 specifications, and contracts therefor shall be entered into only
241 after advertisements for bids are published in one or more daily
242 newspapers having a general circulation in the state not less than
243 fourteen (14) days prior to receiving sealed bids therefor. The
244 authority may reserve the right to reject any or all bids, and if



all bids are rejected, the authority may negotiate a contract within the limitations of the specifications so long as the terms of any such negotiated contract are equal to or better than the comparable terms submitted by the lowest and best bidder, and so long as the total cost to the State of Mississippi does not exceed the lowest bid. If the authority accepts one (1) of such bids, it shall be that which is the lowest and best.

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

(q) The authority is authorized to purchase, lease, or rent information technology and services for the purpose of establishing pilot projects to investigate emerging technologies. These acquisitions shall be limited to new technologies and shall be limited to an amount set by annual appropriation of the Legislature. These acquisitions shall be exempt from the advertising and bidding requirement.

(r) All fees collected by the Mississippi Department of Information Technology Services shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature.



(s) The authority shall work closely with the council to bring about effective coordination of policies, standards and procedures relating to procurement of remote sensing and geographic information systems (GIS) resources. In addition, the authority is responsible for development, operation and maintenance of a delivery system infrastructure for geographic information systems data. The authority shall provide a warehouse for Mississippi's geographic information systems data.

(t) The authority shall manage one or more State Data Centers to provide information technology services on a cost-sharing basis. In determining the appropriate services to be provided through the State Data Center, the authority should consider those services that:

- (i) Result in savings to the state as a whole;
- (ii) Improve and enhance the security and reliability of the state's information and business systems; and
- (iii) Optimize the efficient use of the state's information technology assets, including, but not limited to, promoting partnerships with the state institutions of higher learning and community colleges to capitalize on advanced information technology resources.

(u) The authority shall increase federal participation in the cost of the State Data Center to the extent provided by law and its shared technology infrastructure through providing such shared services to agencies that receive federal funds. With



294 regard to state institutions of higher learning and community
295 colleges, the authority may provide shared services when mutually
296 agreeable, following a determination by both the authority and the
297 Board of Trustees of State Institutions of Higher Learning or the
298 Mississippi Community College Board, as the case may be, that the
299 sharing of services is mutually beneficial.

300 (v) The authority, in its discretion, may require new
301 or replacement agency business applications to be hosted at the
302 State Data Center. With regard to state institutions of higher
303 learning and community colleges, the authority and the Board of
304 Trustees of State Institutions of Higher Learning or the
305 Mississippi Community College Board, as the case may be, may agree
306 that institutions of higher learning or community colleges may
307 utilize business applications that are hosted at the State Data
308 Center, following a determination by both the authority and the
309 applicable board that the hosting of those applications is
310 mutually beneficial. In addition, the authority may establish
311 partnerships to capitalize on the advanced technology resources of
312 the Board of Trustees of State Institutions of Higher Learning or
313 the Mississippi Community College Board, following a determination
314 by both the authority and the applicable board that such a
315 partnership is mutually beneficial.

316 (w) The authority shall provide a periodic update
317 regarding reform-based information technology initiatives to the



Chairmen of the House and Senate Accountability, Efficiency and
Transparency Committees.

From and after July 1, 2018, the expenses of this agency
shall be defrayed by appropriation from the State General Fund.
In addition, in order to receive the maximum use and benefit from
information technology and services, expenses for the provision of
statewide shared services that facilitate cost-effective
information processing and telecommunication solutions shall be
defrayed by pass-through funding and shall be deposited into the
Mississippi Department of Information Technology Services
Revolving Fund unless otherwise specified by the Legislature.
These funds shall only be utilized to pay the actual costs
incurred by the Mississippi Department of Information Technology
Services for providing these shared services to state agencies.
Furthermore, state agencies shall work in full cooperation with
the Board of the Mississippi Department of Information Technology
Services to identify computer equipment or services to minimize
duplication, reduce costs, and improve the efficiency of providing
common technology services across agency boundaries.

SECTION 3. Section 25-9-127, Mississippi Code of 1972, is
amended as follows:

25-9-127. (1) No employee of any department, agency or
institution who is included under this chapter or hereafter
included under its authority, and who is subject to the rules and
regulations prescribed by the state personnel system, may be



343 dismissed or otherwise adversely affected as to compensation or
344 employment status except for inefficiency or other good cause, and
345 after written notice and hearing within the department, agency or
346 institution as shall be specified in the rules and regulations of
347 the State Personnel Board complying with due process of law; and
348 any employee who has by written notice of dismissal or action
349 adversely affecting his compensation or employment status shall,
350 on hearing and on any appeal of any decision made in such action,
351 be required to furnish evidence that the reasons stated in the
352 notice of dismissal or action adversely affecting his compensation
353 or employment status are not true or are not sufficient grounds
354 for the action taken; provided, however, that this provision shall
355 not apply (a) to persons separated from any department, agency or
356 institution due to curtailment of funds or reduction in staff when
357 such separation is in accordance with rules and regulations of the
358 state personnel system; (b) during the probationary period of
359 state service of twelve (12) months; and (c) to an executive
360 officer of any state agency who serves at the will and pleasure of
361 the Governor, board, commission or other appointing authority.

362 (2) The operation of a state-owned motor vehicle without a
363 valid Mississippi driver's license by an employee of any
364 department, agency or institution that is included under this
365 chapter and that is subject to the rules and regulations of the
366 state personnel system shall constitute good cause for dismissal
367 of such person from employment.



368 (3) Beginning July 1, 1999, every male between the ages of
369 eighteen (18) and twenty-six (26) who is required to register
370 under the federal Military Selective Service Act, 50 USCS App.
371 453, and who is an employee of the state shall not be promoted to
372 any higher position of employment with the state until he submits
373 to the person, commission, board or agency by which he is employed
374 satisfactory documentation of his compliance with the draft
375 registration requirements of the Military Selective Service Act.
376 The documentation shall include a signed affirmation under penalty
377 of perjury that the male employee has complied with the
378 requirements of the Military Selective Service Act.

379 (4) For a period of two (2) years beginning July 1, 2014,
380 the provisions of subsection (1) shall not apply to the personnel
381 actions of the State Department of Education that are subject to
382 the rules and regulations of the State Personnel Board, and all
383 employees of the department shall be classified as nonstate
384 service during that period. However, any employee hired after
385 July 1, 2014, by the department shall meet the criteria of the
386 State Personnel Board as it presently exists for employment. The
387 State Superintendent of Public Education and the State Board of
388 Education shall consult with the Office of the Attorney General
389 before taking personnel actions authorized by this section to
390 review those actions for compliance with applicable state and
391 federal law.



392 It is not the intention or effect of this section to include
393 any school attendance officer in any exemption from coverage under
394 the State Personnel Board policy or regulations, including, but
395 not limited to, termination and conditions of employment.

396 (5) (a) For a period of two (2) years beginning July 1,
397 2015, the provisions of subsection (1) shall not apply to the
398 personnel actions of the Department of Corrections, and all
399 employees of the department shall be classified as nonstate
400 service during that period. However, any employee hired after
401 July 1, 2015, by the department shall meet the criteria of the
402 State Personnel Board as it presently exists for employment.

403 (b) Additionally, for a period of one (1) year
404 beginning July 1, 2016, the personnel actions of the Commissioner
405 of the Department of Corrections shall be exempt from State
406 Personnel Board rules, regulations and procedures in order to give
407 the commissioner flexibility in making an orderly, effective and
408 timely reorganization and realignment of the department.

409 (c) The Commissioner of Corrections shall consult with
410 the Office of the Attorney General before personnel actions
411 authorized by this section to review those actions for compliance
412 with applicable state and federal law.

413 (6) Through July 1, * * * 2023, the provisions of subsection
414 (1) of this section shall not apply to the personnel actions of
415 the Department of Human Services that are subject to the rules and
416 regulations of the State Personnel Board, and all employees of the



department shall be classified as nonstate service during that period. Any employee hired on or after July 1, * * * 2023, by the department shall meet the criteria of the State Personnel Board as it presently exists for employment. The Executive Director of Human Services shall consult with the Office of the Attorney General before taking personnel actions authorized by this section to review those actions for compliance with applicable state and federal law.

(7) Through July 1, * * * 2023, the provisions of subsection (1) of this section shall not apply to the personnel actions of the Department of Child Protection Services that are subject to the rules and regulations of the State Personnel Board, and all employees of the department shall be classified as nonstate service during that period. Any employee hired on or after July 1, * * * 2023, by the division shall meet the criteria of the State Personnel Board as it presently exists for employment. The Commissioner of Child Protection Services shall consult with the Office of the Attorney General before taking personnel actions authorized by this section to review those actions for compliance with applicable state and federal law.

(8) Any state agency whose personnel actions are exempted in this section from the rules, regulations and procedures of the State Personnel Board shall file with the Lieutenant Governor, the Speaker of the House of Representatives, and the members of the Senate and House Accountability, Efficiency and Transparency



442 Committees an annual report no later than July 1, 2016, and each
443 year thereafter while under the exemption. Such annual report
444 shall contain the following information:

445 (a) The number of current employees who received an
446 increase in salary during the past fiscal year and the amount of
447 the increase;

448 (b) The number of employees who were dismissed from the
449 agency or otherwise adversely affected as to compensation or
450 employment status during the past fiscal year, including a
451 description of such adverse effects; and

452 (c) The number of new employees hired during the past
453 fiscal year and the starting salaries of each new employee.

454 **SECTION 4.** This act shall take effect and be in force from
455 and after July 1, 2020.

