

By: Representative Reeves

To: Appropriations

HOUSE BILL NO. 269

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, 2006.