

By: Senator(s) Chaney

To: Fees, Salaries and  
Administration;  
Appropriations

SENATE BILL NO. 2313

1 AN ACT TO AMEND SECTIONS 25-53-5 AND 25-53-21, MISSISSIPPI  
2 CODE OF 1972, TO DIRECT THE MISSISSIPPI DEPARTMENT OF INFORMATION  
3 TECHNOLOGY SERVICES TO DEVELOP AN ANNUAL REPORT TO THE LEGISLATURE  
4 AND THE GOVERNOR ON THE STATUS OF INFORMATION TECHNOLOGY AND  
5 APPLICATIONS AT THE STATE AND LOCAL LEVEL IN ORDER TO IMPROVE THE  
6 COMMUNICATION AMONG STATE AND LOCAL GOVERNMENT; TO CREATE A  
7 COMMITTEE TO STUDY THE IMPACT OF TECHNOLOGY ON STATE AND LOCAL  
8 GOVERNMENT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 25-53-5, Mississippi Code of 1972, is  
11 amended as follows:

12 25-53-5. The authority shall have the following powers,  
13 duties, and responsibilities:

14 (a) The authority shall provide for the development of  
15 plans for the efficient acquisition and utilization of computer  
16 equipment and services by all agencies of state government, and  
17 provide for their implementation. In so doing, the authority may  
18 use the MDITS' staff, at the discretion of the executive director  
19 of the authority, or the authority may contract for the services  
20 of qualified consulting firms in the field of information  
21 technology and utilize the service of such consultants as may be  
22 necessary for such purposes.

23 (b) The authority shall immediately institute  
24 procedures for carrying out the purposes of this chapter and  
25 supervise the efficient execution of the powers and duties of the  
26 office of executive director of the authority. In the execution  
27 of its functions under this chapter, the authority shall maintain  
28 as a paramount consideration the successful internal organization  
29 and operation of the several agencies so that efficiency existing  
30 therein shall not be adversely affected or impaired. In executing

31 its functions in relation to the institutions of higher learning  
32 and junior colleges in the state, the authority shall take into  
33 consideration the special needs of such institutions in relation  
34 to the fields of teaching and scientific research.

35 (c) Title of whatever nature of all computer equipment  
36 now vested in any agency of the State of Mississippi is hereby  
37 vested in the authority, and no such equipment shall be disposed  
38 of in any manner except in accordance with the direction of the  
39 authority or under the provisions of such rules and regulations as  
40 may hereafter be adopted by the authority in relation thereto.

41 (d) The authority shall adopt rules, regulations, and  
42 procedures governing the acquisition of computer and  
43 telecommunications equipment and services which shall, to the  
44 fullest extent practicable, insure the maximum of competition  
45 between all manufacturers of supplies or equipment or services.  
46 In the writing of specifications, in the making of contracts  
47 relating to the acquisition of such equipment and services, and in  
48 the performance of its other duties the authority shall provide  
49 for the maximum compatibility of all information systems hereafter  
50 installed or utilized by all state agencies and may require the  
51 use of common computer languages where necessary to accomplish the  
52 purposes of this chapter. The authority may establish by  
53 regulation and charge reasonable fees on a nondiscriminatory basis  
54 for the furnishing to bidders of copies of bid specifications and  
55 other documents issued by the authority.

56 (e) The authority shall adopt rules and regulations  
57 governing the sharing with, or the sale or lease of information  
58 technology services to any nonstate agency or person. Such  
59 regulations shall provide that any such sharing, sale or lease  
60 shall be restricted in that same shall be accomplished only where  
61 such services are not readily available otherwise within the  
62 state, and then only at a charge to the user not less than the

63 prevailing rate of charge for similar services by private  
64 enterprise within this state.

65 (f) The authority may, in its discretion, establish a  
66 special technical advisory committee or committees to study and  
67 make recommendations on technology matters within the competence  
68 of the authority as the authority may see fit. Persons serving on  
69 the Information Resource Council, its task forces, or any such  
70 technical advisory committees shall be entitled to receive their  
71 actual and necessary expenses actually incurred in the performance  
72 of such duties, together with mileage as provided by law for state  
73 employees, provided the same has been authorized by a resolution  
74 duly adopted by the authority and entered on its minutes prior to  
75 the performance of such duties.

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

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

91 (i) The authority shall require such adequate  
92 documentation of information technology procedures utilized by the  
93 various state agencies and may require the establishment of such  
94 organizational structures within state agencies relating to

95 information technology operations as may be necessary to  
96 effectuate the purposes of this chapter.

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

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

121 (l) The authority is authorized to purchase, lease, or  
122 rent computer equipment or services and to operate said equipment  
123 and utilize said services in providing services to one or more  
124 state agencies when in its opinion such operation will provide  
125 maximum efficiency and economy in the functions of any such agency  
126 or agencies.

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

134           (n) The authority shall adopt rules and regulations  
135 governing the protest procedures to be followed by any actual or  
136 prospective bidder, offerer or contractor who is aggrieved in  
137 connection with the solicitation or award of a contract for the  
138 acquisition of computer equipment or services. Such rules and  
139 regulations shall prescribe the manner, time and procedure for  
140 making protests and may provide that a protest not timely filed  
141 shall be summarily denied. The authority may require the  
142 protesting party, at the time of filing the protest, to post a  
143 bond, payable to the state, in an amount that the authority  
144 determines sufficient to cover any expense or loss incurred by the  
145 state, the authority or any state agency as a result of the  
146 protest if the protest subsequently is determined by a court of  
147 competent jurisdiction to have been filed without any substantial  
148 basis or reasonable expectation to believe that the protest was  
149 meritorious; however, in no event may the amount of the bond  
150 required exceed a reasonable estimate of the total project cost.  
151 The authority, in its discretion, also may prohibit any  
152 prospective bidder, offerer or contractor who is a party to any  
153 litigation involving any such contract with the state, the  
154 authority or any agency of the state to participate in any other  
155 such bid, offer or contract, or to be awarded any such contract,  
156 during the pendency of the litigation.

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

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

161 All acquisitions of computer equipment and services involving  
162 the expenditure of funds in excess of the dollar amount  
163 established in Section 31-7-13(c), or rentals or leases in excess  
164 of the dollar amount established in Section 31-7-13(c) for the  
165 term of the contract, shall be based upon competitive and open  
166 specifications, and contracts therefor shall be entered into only  
167 after advertisements for bids are published in one or more daily  
168 newspapers having a general circulation in the state not less than  
169 fourteen (14) days prior to receiving sealed bids therefor. The  
170 authority may reserve the right to reject any or all bids, and if  
171 all bids are rejected, the authority may negotiate a contract  
172 within the limitations of the specifications so long as the terms  
173 of any such negotiated contract are equal to or better than the  
174 comparable terms submitted by the lowest and best bidder, and so  
175 long as the total cost to the State of Mississippi does not exceed  
176 the lowest bid. If the authority accepts one (1) of such bids, it  
177 shall be that which is the lowest and best.

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

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

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

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

203 (t) The authority shall develop and submit an annual  
204 report to the Legislature and the Governor regarding the status  
205 and future progress of information technology and technology  
206 applications in agencies of state and local government. The  
207 report shall address the ability of state and local agencies of  
208 government to make nonconfidential communications using the same  
209 updated technology. This report will be made available beginning  
210 with the convening of the 2008 Regular Session of the Legislature  
211 and will be updated and appropriately modified in each successive  
212 session.

213 (u) There is hereby created an interim committee to  
214 study the impact of information technology on state and local  
215 government. The committee shall consist of the following ex  
216 officio members: (i) the State Auditor, or his designee; (ii) the  
217 Executive Director of the Mississippi Department of Information  
218 Technology Services, or his designee; and (iii) the Executive  
219 Director of the Department of Finance and Administration, or his  
220 designee. The committee shall also consist of the following  
221 appointments: three (3) appointments by the Governor representing  
222 the business sector, county government and municipal government;  
223 three (3) Senators appointed by the Lieutenant Governor; and three

224 (3) Representatives appointed by the Speaker of the House of  
225 Representatives. The State Auditor shall serve as chairman of the  
226 committee and shall call necessary meetings. Members shall not be  
227 compensated for attending meetings. The committee shall study the  
228 progress and future plans for information technology in  
229 Mississippi. It will determine whether or not the state should  
230 have a Chief Information Officer whose duty is to mandate  
231 particular applications of technology to be utilized by state and  
232 local governmental agencies. The committee shall assist the  
233 Department of Information Technology Services in developing its  
234 first required report to the Legislature and Governor under  
235 paragraph (t). After the presentation of its report to the 2008  
236 Regular Session, the committee shall be dissolved.

237 **SECTION 2.** Section 25-53-21, Mississippi Code of 1972, is  
238 amended as follows:

239 25-53-21. The executive director shall have the following  
240 duties, responsibilities and authority:

241 (a) He shall conduct continuing studies of all  
242 information technology activities carried out by all agencies of  
243 the state and shall develop a long-range plan for the efficient  
244 and economical performance of such activities in state government.  
245 Such plan shall be submitted to the authority for its approval  
246 and, having been approved by the authority, shall be implemented  
247 by the executive director and all state agencies. Such plan shall  
248 be continuously reviewed and modifications thereof shall be  
249 proposed to the authority by the executive director as  
250 developments in information technology techniques and changes in  
251 the structure, activities, and functions of state government may  
252 require.

253 (b) He shall review the purchasing practices of all  
254 state agencies in the area of the purchasing of supplies for  
255 information technology and make recommendations to the authority  
256 and to the Public Procurement Review Board for the institution of



257 purchasing procedures which will insure the most economical  
258 procurement of such supplies commensurate with the efficient  
259 operation of all departments and agencies of state government.

260 (c) He shall see that all reports required of all  
261 agencies are promptly and accurately made in accordance with the  
262 rules and regulations adopted by the authority. Either in person  
263 or through his authorized agents, he shall make such inspections  
264 of information technology operations being conducted by any of the  
265 agencies of the state as may be necessary for the performance of  
266 his duties.

267 (d) He shall suggest and cause to be brought about  
268 cooperation between the several state agencies in order to provide  
269 efficiency in information technology operation. He shall,  
270 together with the heads of the agencies involved, reduce to  
271 writing and execute cooperative plans for the acquisition and  
272 operation of information technology equipment, and any such plan  
273 so adopted shall be carried out in accordance with the provisions  
274 of such plan unless the same shall be amended by the joint action  
275 of the executive director and the heads of agencies involved. The  
276 executive director shall report to the authority the details of  
277 any plan so adopted and all amendments or modifications thereof,  
278 and shall otherwise report to the authority and to the Public  
279 Procurement Review Board any failure on the part of any agency to  
280 carry out the provisions of such plan. In the event the head of  
281 any agency involved or the executive director shall propose  
282 amendments to a plan so adopted and such amendment is disapproved  
283 by the head of another agency involved or the executive director,  
284 an appeal may be taken to the authority which may, after full  
285 consideration thereof, order the adoption of the proposed  
286 amendment or any modification thereof. The executive director  
287 shall make decisions on all questions of the division of the cost  
288 of information technology operations among the several agencies,

289 but his findings shall be subject to the approval or modification  
290 by the authority on appeal to it.

291 (e) He shall review all contracts for acquisition of  
292 computer equipment or services now or hereafter in force and may  
293 require the renegotiation, termination, amendment or execution of  
294 any such contracts in proper form and in accordance with the  
295 policies and rules and regulations and subject to the direction of  
296 the authority. In the negotiation and execution of such  
297 contracts, the executive director may negotiate a limitation on  
298 the liability to the state of prospective contractors provided  
299 such limitation affords the state reasonable protection.

300 (f) He shall act as the purchasing and contracting  
301 agent for the State of Mississippi in the negotiation and  
302 execution of all contracts for the acquisition of computer  
303 equipment or services. He shall receive, review, and promptly  
304 approve or disapprove all requests of agencies of the state for  
305 the acquisition of computer equipment or services, which are  
306 submitted in accordance with rules and regulations of the  
307 authority. In the event that any such request is disapproved, he  
308 shall immediately notify the requesting agency and the members of  
309 the authority in writing of such disapproval, stating his reasons  
310 therefor. The disapproval of any request by the executive  
311 director of the authority may be appealed to the authority or to  
312 the Public Procurement Review Board, respectively, in such manner  
313 as may be authorized by such reasonable rules and regulations  
314 hereby authorized to be adopted by the authority and by the Public  
315 Procurement Review Board to govern the same. The executive  
316 director shall report the approval of all such requests to the  
317 authority in such manner as may be directed by the authority, and  
318 shall execute any such contracts only after complying with rules  
319 and regulations which may be adopted by the authority in relation  
320 thereto. Any contracts for personal or professional services  
321 entered into by the executive director shall be exempted from the

322 requirements of Section 25-9-120(3) relating to submission of such  
323 contract to the State Personal Service Contract Review Board.

324 (g) He shall suggest and cause to be brought about  
325 cooperation between the several state agencies, departments and  
326 institutions in order that work may be done by one agency for  
327 another agency, and equipment in one agency may be made available  
328 to another agency, and suggest and cause to be brought about such  
329 improvements as may be necessary in joint or cooperative  
330 information technology operations.

331 (h) He shall be designated as the "Chief Information  
332 Confidentiality Officer" after being duly sworn to the oath of  
333 this office by the chairman of the authority and shall be  
334 responsible for administering the oath to other qualified officers  
335 he may designate.

336 (i) He shall appoint employees of the Mississippi  
337 Department of Information Technology Services, or at his  
338 discretion, employees of other state agencies and institutions  
339 that are responsible for handling or processing data for any  
340 agency or institution other than that for which they are employed,  
341 to a position of information custodial care that shall be known as  
342 "Information Confidentiality Officer." The selection and swearing  
343 of all officers shall be reported to the authority at the next  
344 regular meeting and names, affirmation dates and employment dates  
345 shall be recorded in the permanent minutes of the authority.

346 (j) He shall assist the authority in the development of  
347 the annual report to the Legislature and the Governor on the  
348 status and progress of information technology and applications in  
349 state and local government, as required in Section 25-53-5(t) and  
350 (u).

351 **SECTION 3.** This act shall take effect and be in force from  
352 and after July 1, 2007.