

By: Representatives Bennett, McCarty

To: Rules

HOUSE BILL NO. 1786  
(As Passed the House)

1 AN ACT TO CREATE THE "TECHNOLOGY INSTRUCTION AND DIGITAL  
2 ACCESS TO LEARNING (TIDAL) ACT," WHICH SHALL BE ADMINISTERED BY  
3 THE STATE DEPARTMENT OF EDUCATION TO PROVIDE STRUCTURED GUIDANCE,  
4 TECHNICAL AND FINANCIAL ASSISTANCE TO LOCAL SCHOOL DISTRICTS AND  
5 PUBLIC CHARTER SCHOOLS IN THE ABILITY TO PROVIDE DISTANCE LEARNING  
6 AND ONLINE INSTRUCTION; TO PRESCRIBE THE LEGISLATIVE FINDINGS AND  
7 STATEMENT OF INTENT; TO DEFINE TERMINOLOGY; TO REQUIRE THE  
8 DEPARTMENT TO SOLICIT REQUESTS FOR BID PROPOSALS FROM TECHNOLOGY  
9 VENDORS TO ESTABLISH AN EXPRESS PRODUCTS LIST (EPL), OR TO ALLOW  
10 THE DEPARTMENT TO USE THE EPLS COMPILED BY THE MISSISSIPPI  
11 DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES (MDITS) FOR THE  
12 PURCHASE OF INFORMATION TECHNOLOGY, ELECTRONIC DEVICES,  
13 TELECOMMUNICATIONS EQUIPMENT AND SOFTWARE PROGRAMS; TO AUTHORIZE  
14 THE DEPARTMENT TO REVISE EPL CATEGORIES BASED UPON PURCHASING  
15 DEMANDS, WHICH ARE CONSISTENT TO PROVIDE SCHOOL DISTRICTS AND  
16 CHARTER SCHOOLS WITH STRUCTURED CHOICE IN THE SELECTION OF THE  
17 BRAND AND TYPE OF ELECTRONIC DEVICES AVAILABLE FOR PURCHASE; TO  
18 PERMIT SCHOOL DISTRICTS AND CHARTER SCHOOLS TO ACQUIRE DEVICES,  
19 EQUIPMENT AND/OR SOFTWARE OUTSIDE OF THE EPLS AND STRUCTURED  
20 CHOICE RECOMMENDATIONS OF THE DEPARTMENT UPON THE DISTRICT'S  
21 DEMONSTRATION THAT SUCH DEVICES, EQUIPMENT AND/OR SOFTWARE MEET OR  
22 EXCEED THE TECHNOLOGICAL SPECIFICATIONS AND FUNCTIONALITY REQUIRED  
23 BY THE DEPARTMENT AND CAN BE PURCHASED AT AN OPTIMAL PRICE POINT  
24 LESS THAN OFFERED ON THE DEPARTMENT'S EPLS; TO SPECIFY THE  
25 CRITERIA TO BE CONSIDERED BY THE DEPARTMENT IN ESTABLISHING ITS  
26 EPLS AND STRUCTURED CHOICE GUIDE IN ORDER TO ENSURE OPTIMAL  
27 ECONOMICAL PRICING AND LONGEVITY OF DEVICE USAGE; TO REQUIRE THAT  
28 THE STATE DEPARTMENT OF EDUCATION SHALL HAVE PROCURED ALL  
29 NECESSARY WI-FI AND LTE ENABLED DEVICES, PROGRAM COMPONENTS AND  
30 SYSTEMS OF PRODUCT SUPPORTS AND SERVICES FOR THE DELIVERY OF  
31 DIGITAL INSTRUCTION THROUGH DISTANCE LEARNING BY NOVEMBER 30,  
32 2020; TO REQUIRE LOCAL SCHOOL DISTRICTS AND CHARTER SCHOOLS TO  
33 IMPLEMENT THE USE OF ITS APPROVED DIGITAL LEARNING PROGRAM AND  
34 ISSUE A WI-FI OR LTE ENABLED ELECTRONIC DEVICE TO EVERY PUBLIC



35 SCHOOL STUDENT; TO REQUIRE THE IMPLEMENTED DIGITAL LEARNING  
36 PROGRAMS TO SUPPORT INDIVIDUALIZED PLANS FOR SCHOOL-TO-HOME  
37 CONNECTIVITY TO PROVIDE STUDENTS WITH ACCESS TO THE SCHOOL  
38 DISTRICT'S OR CHARTER SCHOOL'S LEARNING MANAGEMENT SYSTEM; TO  
39 REQUIRE EACH SCHOOL BOARD TO IDENTIFY A DIGITAL INCLUSION  
40 COORDINATOR FOR EACH SCHOOL FACILITY UNDER ITS GOVERNANCE, WHO  
41 SHALL COORDINATE THE WORK AND REPORT THE RESULTS THEREOF TO THE  
42 DISTRICT SUPERINTENDENT TO BE SUBMITTED TO THE STATE DEPARTMENT OF  
43 EDUCATION FOR PURPOSE OF INCLUSION IN THE STATE SUPERINTENDENT OF  
44 PUBLIC EDUCATION ANNUAL LEGISLATIVE REPORT; TO REQUIRE EVERY  
45 PUBLIC SCHOOL INSTRUCTOR AND ADMINISTRATOR TO SIGN A PERSONAL  
46 PROFESSIONAL DEVELOPMENT PLAN ACKNOWLEDGMENT THAT INCLUDES DIGITAL  
47 INCLUSION, VIRTUAL LEARNING AND TRAINING; TO ALLOW THE USE OF  
48 TECHNOLOGY-RELATED CONTINUING EDUCATION UNITS (CEUS) TO BE  
49 ELIGIBLE TO SATISFY THE PROFESSIONAL DEVELOPMENT PLAN, SUBJECT TO  
50 APPROVAL BY THE STATE BOARD OF EDUCATION; TO REQUIRE EACH LOCAL  
51 SCHOOL DISTRICT AND CHARTER SCHOOL TO DEVELOP AND SUBMIT A  
52 TECHNOLOGY SUSTAINABILITY PLAN TO THE DEPARTMENT AT THE TIME IT  
53 SUBMITS ITS REQUEST FOR FINANCIAL ASSISTANCE; TO STIPULATE THAT  
54 EACH SCHOOL DISTRICT AND CHARTER SCHOOL SHALL ASSUME THE CONTROL  
55 OF OWNERSHIP AND LIABILITY FOR EACH ELECTRONIC DEVICES PURCHASED  
56 AND RECEIVED FOR THE PURPOSE OF IMPLEMENTING DISTANCE LEARNING  
57 UNTIL PROPER DISPOSAL OF SUCH DEVICES; TO PRESCRIBE THE MANNERS BY  
58 WHICH A SCHOOL DISTRICT OR CHARTER SCHOOL MAY DISPOSE OF  
59 ELECTRONIC DEVICES THAT BECOME OBSOLETE; TO PROVIDE SCHOOL  
60 DISTRICTS AND CHARTER SCHOOLS WITH THE AUTHORITY TO DEVELOP ITS  
61 OWN DISTANCE LEARNING POLICY GOVERNING THE MODALITY OF INSTRUCTION  
62 AND DEPLOYMENT OF SERVICES; TO REQUIRE SUCH PLANS TO ALIGN WITH  
63 THE GUIDELINES ESTABLISHED BY THE DEPARTMENT TO ENSURE CONTINUITY  
64 OF SERVICE AND COMPLIANCE WITH THE COLLEGE AND CAREER READINESS  
65 STANDARDS; TO REQUIRE SCHOOL DISTRICTS AND CHARTER SCHOOLS TO  
66 COMPILE AND MAINTAIN AN INVENTORY CONTROL LIST OF ALL ELECTRONIC  
67 DEVICES PURCHASED AND ISSUED TO STUDENTS, TEACHERS AND STAFF, AS  
68 WELL AS ANY SUPPORTING TECHNOLOGY DEVICES USED IN DELIVERY OF  
69 ONLINE INSTRUCTION; TO REQUIRE SCHOOL DISTRICTS AND CHARTER  
70 SCHOOLS TO CONDUCT ANNUAL AUDITS OF EQUIPMENT UPON THE CONCLUSION  
71 OF THE SCHOOL YEAR; TO AUTHORIZE SCHOOL DISTRICTS AND CHARTER  
72 SCHOOLS TO ISSUE FINES TO STUDENTS FOR ANY DAMAGE CAUSED TO OR  
73 DESTRUCTION OF ELECTRONIC DEVICES, OUTSIDE OF WEAR AND TEAR CAUSED  
74 BY NORMAL USAGE; TO REQUIRE SCHOOL DISTRICTS TO ADOPT AND  
75 IMPLEMENT A CYBERSECURITY POLICY TO PREVENT, PROTECT FROM,  
76 MITIGATE THE EFFECTS OF, RESPOND TO AND RECOVER FROM CYBER  
77 THREATS; TO PRESCRIBE THE MINIMUM STANDARDS FOR CYBERSECURITY  
78 POLICIES; TO REQUIRE EACH SCHOOL DISTRICT AND CHARTER SCHOOL TO  
79 CONTRIBUTE AN EQUIVALENT OF 20% OF ITS TOTAL ELEMENTARY AND  
80 SECONDARY SCHOOL EMERGENCY RELIEF (ESSER) FUNDS ALLOCATION, OR AN  
81 EQUIVALENT UP TO 20% OF ITS OVERALL COVID-19 RELATED DIGITAL  
82 LEARNING TECHNOLOGY COST IF THE TOTAL COSTS EXCEEDS ITS ESSER FUND  
83 ALLOCATION, WHICHEVER IS LESS, TO AID IN THE COST OF PURCHASING  
84 ELECTRONIC DEVICES, TECHNOLOGY SUPPORT SERVICES AND SOFTWARE  
85 PROGRAMS TO BE ELIGIBLE FOR PARTICIPATION IN THE GRANT PROGRAM; TO



86 PRESCRIBE THE METHOD BY WHICH THE DEPARTMENT SHALL ALLOCATE GRANT  
87 FUNDS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS USING A FORMULA  
88 DEVELOPED BY THE DEPARTMENT; TO ENCOURAGE SCHOOL DISTRICTS AND  
89 CHARTER SCHOOLS TO RESERVE AND COMMIT A PORTION EQUIVALENT TO 20%  
90 OF ITS ESSER FUNDS ALLOCATION OR THE EQUIVALENT OF THE MINIMUM  
91 PERCENTAGE OF ITS OVERALL COVID-19 RELATED DIGITAL LEARNING  
92 TECHNOLOGY COST AS SUPPLEMENTAL MATCHING FUNDS TO OFFSET THE TOTAL  
93 COST OF PROCURING THE PROPER ELECTRONIC DEVICES AND TECHNOLOGICAL  
94 SUPPORTS AND SYSTEMS OF SERVICE TO FACILITATE THE DELIVERY OF THE  
95 DISTRICT'S OR CHARTER SCHOOL'S DISTANCE LEARNING PROGRAM; TO  
96 PROVIDE THE STATE DEPARTMENT OF EDUCATION AND LOCAL SCHOOL  
97 DISTRICTS OR CHARTER SCHOOLS ACTING AS THEIR OWN PROCUREMENT AGENT  
98 WITH IMMUNITY FROM CIVIL LIABILITY FOR ANY DAMAGES ARISING FROM  
99 THE PUBLIC PROCUREMENT OF PERSONNEL, PROPERTY, SUPPLIES OR  
100 SERVICES NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ACT; TO  
101 AMEND SECTION 37-67-1, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES  
102 THE DISTANCE LEARNING COLLABORATIVE, TO INCLUDE CHARTER SCHOOLS;  
103 TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO EXEMPT  
104 STATE GOVERNMENTAL AGENCIES, LOCAL GOVERNING AUTHORITIES AND ANY  
105 POLITICAL SUBDIVISION THEREOF, INCLUDING LOCAL SCHOOL DISTRICTS,  
106 CHARTER SCHOOLS AND PUBLIC SPECIAL PURPOSE SCHOOLS, FROM THE  
107 PROCUREMENT AND COMPETITIVE BIDDING REQUIREMENTS FOR PURCHASES OF  
108 EQUIPMENT, TECHNOLOGICAL DEVICES, HARDWARE AND SOFTWARE FOR SUCH  
109 DEVICES, SUPPLIES AND SERVICES DIRECTLY ASSOCIATED WITH THE  
110 MITIGATION OF THE IMPACT OF COVID-19 FOR PURPOSES OF PROVIDING  
111 CONTINUAL EDUCATION, HEALTH CARE, SOCIAL SERVICE AND UTILITY  
112 NEEDS; TO AMEND SECTION 37-7-459, MISSISSIPPI CODE OF 1972, TO  
113 PROVIDE CHARTER SCHOOLS WITH THE AUTHORITY TO SELL COMPUTER  
114 DEVICES TO STUDENTS OF ISSUE UPON GRADUATING HIGH SCHOOL, WITH  
115 PRICING CONDITIONS; TO PROVIDE THAT THE PROVISIONS OF THIS ACT ARE  
116 SEVERABLE; AND FOR RELATED PURPOSES.

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

118 **SECTION 1.** This act shall be known, and may be cited as the  
119 "Technology Instruction and Digital Access to Learning (TIDAL)  
120 Act."

121 **SECTION 2.** (1) The Mississippi Legislature finds that:

122 (a) In the midst of the unexpected global COVID-19  
123 pandemic, which requires the implementation of practical and safe  
124 social distancing measures, the method of providing quality  
125 instruction at the K-12 and postsecondary levels is of paramount



126 importance and must incorporate technological engagement and  
127 access to digital learning; and

128           (b) There exists of an overwhelming necessity for the  
129 development and implementation of an efficient and reliable  
130 infrastructure to support the systems and measures critical to  
131 sustained digital connectivity and delivery of educational  
132 resources and materials in a timely manner due to interruptions in  
133 learning as a result of the impact of COVID-19.

134           (2) (a) It is the intent of this Legislature to establish a  
135 digital learning program that provides for the development,  
136 implementation and evaluation of innovative strategies and methods  
137 to increase students' home access to the Internet or data  
138 connectivity and digital learning resources due to interruptions  
139 in learning as a result of the impact of COVID-19. This may  
140 include such practices as:

141                   (i) Providing a targeted distribution of  
142 technology, such as Wi-Fi and LTE enabled devices, which are  
143 capable of connecting to the Internet, and which allow students to  
144 participate in instruction and other educational services from  
145 locations outside of the school;

146                   (ii) Educating and training students, parents and  
147 educators regarding the appropriate use of that technology outside  
148 of the classroom; and

149                   (iii) Evaluating the effectiveness of relevant  
150 strategies and methods.



151           (b) It is further the intent of this Legislature to  
152 improve out-of-school access to digital learning resources for  
153 eligible students in order to achieve the following educational  
154 goals:

155                   (i) Increasing student participation in the  
156 ability to complete homework assignments and participate in  
157 innovative digital learning models;

158                   (ii) Increasing the education technology and  
159 digital learning resource options available to educators to  
160 support student learning by ensuring methods and resources used  
161 during the school day remain accessible during out-of-school  
162 hours;

163                   (iii) Increasing student, educator and parental  
164 engagement by facilitating greater communication and connection  
165 between school and home;

166                   (iv) Increasing the identification and  
167 dissemination of strategies to support students lacking  
168 out-of-school access to digital learning resources and the  
169 Internet, including unserved and underserved student populations  
170 and students in rural and remote geographic areas;

171                   (v) Ensuring equity in education, which requires  
172 that every pupil in Mississippi's public elementary and secondary  
173 schools has equal access to continual quality educational  
174 opportunities through digital instruction and distance learning,  
175 regardless of:



- 176                   1. The location of his or her residence;  
177                   2. The size of the district or school the  
178 pupil is enrolled and attends; or  
179                   3. Whether, due to COVID-19, traditional  
180 in-person instruction is infeasible as a result of the closure of  
181 school facilities, which necessitates home-based learning for  
182 students through digital instruction and distance learning; and  
183                   (vi) Ensuring quality in education, which would be  
184 enhanced through the creative application of telecommunications,  
185 as pupils are given the opportunity for continued interaction with  
186 their peers, as well as expanded opportunities to interact with  
187 pupils from other cultures and geographical locations, and with  
188 outstanding educators from other schools and districts.

189           **SECTION 3.** As used in this act, the following terms shall  
190 have the meaning ascribed in this section:

191                   (a) "Board" means the State Board of Education.

192                   (b) "Department" means the State Department of  
193 Education.

194                   (c) "Digital learning" means the process by which  
195 school districts and charter schools, in accordance with  
196 regulations guidelines adopted by the board and administered by  
197 the department, provide structured distance learning and high  
198 quality online instruction to its student population to maintain  
199 continuation of educational services.

200                   (d) "Digital learning components" mean:



- 201 (i) Electronic devices;
- 202 (ii) Connectivity/data plans;
- 203 (iii) CIPA compliant web filtering;
- 204 (iv) Learning Management Systems (LMS);
- 205 (v) Digital curriculum;
- 206 (vi) Social-Emotional learning with access to
- 207 Telehealth and/or Teletherapy;
- 208 (vii) Training, support and professional
- 209 development; and
- 210 (viii) Meta-data on system performance and student
- 211 engagement/participation.

212 (e) "Electronic devices" means:

- 213 (i) Computer devices that perform logical
- 214 operations and processes data and, at a minimum, are composed of:
- 215 1. A central processing unit (CPU) to perform
- 216 operations;
- 217 2. User input devices such as a keyboard,
- 218 mouse or digitizer; and
- 219 3. A computer display screen to output
- 220 information.

221 Computers include both stationary and portable units,

222 including desktop computers, integrated desktop computers,

223 notebook computers, thin clients, and workstations;

- 224 (ii) Notebook computers designed specifically for
- 225 portability and to be operated for extended periods of time either



226 with or without a direct connection to an external AC power  
227 source. Notebooks must:

228                   1. Utilize an integrated computer display and  
229 be capable of operation off of an integrated battery or other  
230 portable power source;

231                   2. Have a physical keyboard and pointing  
232 device that is connected to and compatible with the device;

233                   3. Be designed to provide operation of  
234 software similar in functionality to that used in desktops;

235                   (iii) Tablet PCs, which may use touch-sensitive  
236 screens along with, or instead of, other input devices; and

237                   (iv) Computers devices, notebook computers and  
238 tablet PCs that are Wi-Fi or LTE enabled for purposes of  
239 connecting to the Internet.

240                   (f) "Express Product List" or "EPL" means the  
241 compilation of proposals competitively solicited by the  
242 department, evaluated and awarded to multiple vendors, for the  
243 purchase of electronic devices and other system hardware and  
244 software products equipped with the ability to support wireless  
245 connectivity necessary for the delivery of online instruction by  
246 local school districts and charter schools.

247                   (g) "Grant program" means the "Technology Instruction  
248 and Digital Access to Learning (TIDAL) Grant Program administered  
249 by the State Department of Education.





250 (h) "Learning management system" or "LMS" means a  
251 software application for the administration, documentation,  
252 tracking, reporting, automation and delivery of educational  
253 courses, training programs, or learning and development programs.

254 (i) "Local digital learning plans" mean plans developed  
255 and implemented by local school districts and charter schools  
256 which provide for:

257 (i) Modality of Instruction;

258 (ii) Needs Assessment Responses;

259 (iii) Funding and sustainability plans;

260 (iv) Licenses for software, textbooks and  
261 curriculum;

262 (v) Assurances;

263 (vi) Grant application process; and

264 (vii) Monitoring and reporting based on meta-data.

265 (j) "School" means a public K-12 school whose operation  
266 falls under the authority of:

267 (i) A local school board under the governing  
268 purview of the State Board Education;

269 (ii) A public special purpose school under the  
270 governing purview of the State Board Education; or

271 (iii) A public charter school that has been  
272 approved and whose operation falls under the authority of the  
273 Mississippi Charter School Authorizer Board.



274 (k) "School board" means the local governing body that  
275 oversees the administration and operation for a system of schools  
276 in a county or municipality. The term "school board" also means  
277 the governing board of a charter school authorized by the  
278 Mississippi Charter School Authorizer Board.

279 (l) "Structured choice" means the options provided to  
280 school districts and charter schools to choose the brand and type  
281 of electronic devices with assistive technology, approved by the  
282 State Department of Education from its Express Products Lists,  
283 which are age- and grade-appropriate, to support the digital  
284 curriculum and instructional material delivered by the district or  
285 charter school through its distance learning model.

286 **SECTION 4.** (1) (a) There is established the "Technology  
287 Instruction and Digital Access to Learning (TIDAL) Grant Program,  
288 which shall be administered by the State Department of Education.  
289 The purpose of the program is to:

290 (i) Provide structured guidance, technical and  
291 financial assistance to local school districts and charter schools  
292 in the ability to provide distance learning and online  
293 instruction, and the system of support necessary to maintain  
294 delivery of services, network configuration and data connectivity,  
295 maintenance and upkeep of devices in the district's or charter  
296 school's inventory, which shall be distributed to students  
297 enrolled in the state's public K-12 schools and charter schools;  
298 and



299 (ii) Ensure equity in education, by providing  
300 every pupil in Mississippi's public elementary and secondary  
301 schools with equal access to quality educational opportunities,  
302 regardless of:

303 1. The location of his or her residence;

304 2. The size of the district or school the  
305 pupil is enrolled and attends; or

306 3. Whether, due to COVID-19, traditional  
307 in-person instruction is infeasible as a result of the closure of  
308 school facilities, which necessitates home-based learning for  
309 students through digital instruction and distance learning.

310 (b) The program shall be funded with monies  
311 appropriated by the Legislature from the "Technology Instruction  
312 and Digital Access to Learning (TIDAL) Grant Program" Fund,  
313 created under subsection (5) of this section, any additional state  
314 funds made available by the Legislature in any manner and funds  
315 from any other source designated for deposit into such fund, and  
316 any other funds intended for deposit to credit of the grant  
317 program fund by any public or private entity.

318 (2) (a) The department shall solicit requests for bid  
319 proposals from technology vendors to establish an Express Products  
320 List (EPL), or the department, in its discretion, may use the EPLs  
321 compiled by the Mississippi Department of Information Technology  
322 Services (MDITS) to negotiate best pricing when making purchases



323 of all needed information technology, electronic devices,  
324 telecommunications equipment, software programs and services.

325 (b) When practical, the department must receive at  
326 least two (2) bids for all required products, services and  
327 equipment necessary for compliance with the provisions of this  
328 act, as such products, services and equipment are acquired to  
329 facilitate distance learning through the dissemination of digital  
330 instructional material and the issuance of Wi-Fi and LTE enabled  
331 electronic devices and mechanisms of connectivity. In the receipt  
332 and execution of contracts for products and services under the  
333 provisions of this act, the department, when practical, shall  
334 stipulate within the contractual agreement that all such products  
335 and services included in the purchase agreement shall meet all the  
336 requirements specified in the appropriate digital learning plan  
337 through the end of the 2022-2023 scholastic year.

338 (c) The department, local school districts and charters  
339 schools shall make every reasonable attempt to purchase, as  
340 quickly as possible, all devices, software licenses and curriculum  
341 licenses, to ensure availability and accessibility by the  
342 anticipated start date of the 2020-2021 scholastic year, or as  
343 soon as possible after the start of the 2020-2021 scholastic year,  
344 when expedited acquisition is unavoidable due to supply chain  
345 delays or force majeure that impede timely delivery of such  
346 devices, software licenses and curriculum licenses.



347 (d) When negotiating with vendors for best pricing for  
348 products and services for purposes of carrying out the provisions  
349 of this act, the department is authorized to enter into contracts  
350 with selected vendors for bundled products and suites of services  
351 which are aligned to a minimum lifecycle of three (3) years on all  
352 electronic devices, software licenses and curriculum license  
353 included in the purchase agreement, including training on proper  
354 usage of devices, support services and professional development.

355 (3) (a) In its administration of implementation, continued  
356 monitoring and evaluation of the grant program, the department is  
357 authorized to revise EPL categories based upon purchasing demands,  
358 which are consistent with its objective to provide school  
359 districts and charter schools with structured choice in the  
360 selection of the brand and type of electronic devices equipped  
361 with assistive technology for the efficient delivery of online  
362 instruction and instructional materials which align with the  
363 state's adopted College And Career Readiness Standards and any  
364 additional guidelines implemented by the department governing the  
365 minimum requirements for distance learning and data connectivity.

366 (b) Once established by the department, each school  
367 district or charter school shall select only from the structured  
368 choice list of products and services prescribed by the department  
369 unless the school district or charter school is granted permission  
370 under paragraph (c) of this subsection to acquire products and  
371 services outside of the department's designated EPLs and



372 structured choice guide. Each school district and charter school  
373 shall commit to its selections of devices, products and services,  
374 whether from the department approved EPLs and structured choice  
375 guide or an outside vendor, prior to the execution of any  
376 contracts for products and services required for the digital  
377 learning plan.

378 (c) The department may also grant school districts and  
379 charter schools the authority to acquire devices, equipment and/or  
380 software programs from vendors outside of those included in the  
381 EPLs and structured choice recommendations, provided that the  
382 school district and charter school can demonstrate to the  
383 department that the devices, equipment and/or software programs to  
384 be purchased from an unapproved vendor meet or exceed the  
385 technological specifications and functionality required by the  
386 department, and can be purchased at an optimal price point that is  
387 equivalent to or less than any of the vendors and products  
388 included on the department's approved EPLs and structured choice  
389 guide.

390 (4) In establishing its EPLs and structured choice guide,  
391 the department, in order to ensure optimal economical pricing and  
392 longevity of device usage, shall consider, the following:

393 (a) The use of Electronic Product Environmental  
394 Assessment Tool (EPEAT) registered products with positive  
395 environmental attributes;

396 (b) Technical merit of devices;



397 (c) Company resources of vendors to accommodate the  
398 technology needs of state;

399 (d) Value-added, for the benefit conveyed to teachers  
400 and students within the local school district or charter school in  
401 the efficient delivery and receipt of instructional material, as  
402 well as the consideration given for such devices pursuant to a  
403 trade-in agreement as part of a subsequent purchase;

404 (e) Initial purchase cost;

405 (f) Total lifecycle cost computed from each vendor's  
406 cost proposal. Lifecycle cost includes all costs associated with  
407 obtaining the item and maintaining and operating it for its  
408 projected lifecycle, which includes:

409 (i) All initial fees for hardware and software;

410 (ii) Hardware and software maintenance and support  
411 costs over the projected life of the hardware and system software;

412 (iii) All consulting fees, including initial  
413 development, implementation, training, data conversion, and other  
414 requested services; and

415 (iv) Any applicable ongoing costs for support of  
416 the resulting application system.

417 (g) Standardizing device configurations (e.g., memory,  
418 processor speed, etc.); and

419 (h) Adopting uniform refresh cycles, which support the  
420 retirement of a portion of the laptops and desktops at the end of  
421 their useful life and need to be replaced each year, and which



422 allow school districts and charter schools to effectively plan for  
423 device replacement, sanitization and final disposition.

424 (5) (a) There is hereby created in the State Treasury a  
425 special fund to be designated as the "Technology Instruction and  
426 Digital Access to Learning (TIDAL) Grant Program Fund," which  
427 shall consist of funds made available by the Legislature in any  
428 manner and funds from any other source designated for deposit into  
429 such fund, and any other funds designated for deposit to the  
430 credit of the grant program fund from any public or private  
431 entity. Unexpended amounts of any federal Coronavirus Relief Fund  
432 monies appropriated from the Budget Contingency Fund and remaining  
433 in the grant program fund on December 1, 2020, shall lapse into  
434 the Budget Contingency Fund for purpose prescribed in paragraph  
435 (b) of this section. However, unexpended amounts of any monies  
436 unrelated to the Coronavirus Relief Fund, whether appropriated by  
437 the Legislature or donated by any public or private entity,  
438 remaining in the fund at the end of a fiscal year shall not lapse  
439 into the Budget Contingency Fund or the State General Fund, and  
440 any investment earnings or interest earned on amounts in the grant  
441 program fund shall be deposited to the credit of the grant program  
442 fund. Monies in the fund shall be administered and disbursed by  
443 the State Department of Education in compliance with the  
444 guidelines, guidance, rules, regulations and/or other criteria, as  
445 may be amended from time to time, of the United States Department  
446 of the Treasury regarding the use of monies from the Coronavirus





447 Relief Fund established by the Coronavirus Aid, Relief, and  
448 Economic Security (CARES) Act.

449 (b) If on December 1, 2020, there are unexpended  
450 Coronavirus Relief Fund monies remaining in the fund, those funds  
451 shall lapse into the Budget Contingency Fund, to be transferred,  
452 by the State Fiscal Officer, into the Unemployment Compensation  
453 Fund before December 30, 2020.

454 (6) (a) Monies in the grant program fund shall be utilized  
455 by local school districts and public charter schools, in  
456 conjunction with the required local match of Elementary and  
457 Secondary School Emergency Relief (ESSER) Funds, to cover the  
458 remaining balance of any technology purchases made pursuant to the  
459 requirements of this act under the grant program that is not  
460 covered by local district's or charter school's allocations under  
461 the CARES Act or other federal program funds.

462 (b) Monies from the grant program fund utilized for the  
463 purposes prescribed under this subsection shall be paid by the  
464 State Department of Education upon the receipt, review and  
465 approval of grant applications from local school districts or  
466 public charter schools. After the State Department of Education  
467 disburses grant fund payments, the monies shall be utilized by  
468 such local school district or public charter school to cover the  
469 remaining balance of any technology purchases made pursuant to the  
470 requirements of this act.



471 (7) The use of funds allocated under this grant program  
472 shall be subject to audit by the United States Department of  
473 Treasury's Office of Inspector General and the Mississippi Office  
474 of the State Auditor. Each school, or other entity or person  
475 receiving funds under this grant program, found to be fully or  
476 partially noncompliant with the requirements in this act, shall  
477 return to the state all or a portion of the funds received and  
478 used for unallowable expenditures.

479 **SECTION 5.** Upon the effective date of this act, the State  
480 Fiscal Officer shall transfer funds from the Budget Contingency  
481 Fund to the "Technology Instruction and Digital Access to Learning  
482 (TIDAL) Grant Program Fund," the amount of Two Hundred Million  
483 Dollars (\$200,000,000.00) for the implementation and  
484 administration of the TIDAL Act.

485 **SECTION 6.** (1) (a) The State Board of Education shall  
486 develop requirements for participation by public school districts  
487 and public charter schools in the statewide digital learning  
488 program initiative. At a minimum, participation in the digital  
489 learning program initiative shall require school districts and  
490 charter schools to develop local digital learning plans that  
491 address:

492 (i) The design, implementation and operations of  
493 the local digital learning program, which such design must account  
494 for levels of Internet access for all students and teachers, to



495 ensure that the modality of instruction reflects the availability  
496 of Internet access;

497 (ii) The commitment of additional funds to  
498 complement the state funds under this act for the local digital  
499 learning program; and

500 (iii) Sustainability to continue the local digital  
501 learning program after June 30, 2023.

502 (b) The department shall review and approve the plans  
503 before a public school district and charter school may participate  
504 in the statewide digital learning initiative and receive state  
505 funds under this act.

506 (2) (a) By November 30, 2020, the State Department of  
507 Education shall have procured all necessary Wi-Fi and LTE enabled  
508 devices, program components and systems of product supports and  
509 services for the delivery of digital instruction through distance  
510 learning, which shall be distributed to public school districts  
511 and charter schools meeting the qualifications of Section 7 of  
512 this act.

513 (b) Every public school district and charter school  
514 must begin the implementation of their local digital learning  
515 program plan, which was submitted to the State Department of  
516 Education for approval, by the beginning of their individual  
517 2020-2021 school start date, but no later than November 30, 2020,  
518 in to provide for the seamless transition of issuing a Wi-Fi or  
519 LTE enabled electronic learning device and providing digital



520 instruction to every compulsory-school-aged student enrolled in a  
521 school under the authority of the respective local school board or  
522 charter school governing board. The implemented program shall  
523 support individualized plans for school-to-home connectivity, to  
524 provide students with access to the school district's or charter  
525 school's Learning Management System for:

526 (i) The receipt of real-time digital instruction,  
527 subject to the availability of Internet or data connectivity and  
528 the corresponding instructional modality;

529 (ii) The support of streaming school-approved  
530 media and multi-media material related to the course offerings  
531 aligned with the school's curriculum; and

532 (iii) The ability to download instructional  
533 materials and upload completed assignments from the students'  
534 homes or other mobile hotspots or Wi-Fi substations centrally  
535 located throughout the school district.

536 (3) Each local school district and charter school governing  
537 board shall designate a digital inclusion coordinator for each  
538 school facility under its authority, who shall be responsible for  
539 coordinating work and reporting the results thereof to the local  
540 school superintendent and local school board to be included in the  
541 annual report submitted to the Legislature by the State  
542 Superintendent of Public Education.

543 (4) Each local school district and charter school shall  
544 require each individual employed who serves in an instructional or



545 administrative capacity to sign a personal professional  
546 development plan acknowledgment, in which the employee commits to  
547 participating in professional development training for the minimum  
548 number of hours prescribed by the State Board of Education, and  
549 which shall be supported by the State Department of Education on a  
550 regional basis. The department, in its discretion, may also allow  
551 school employees' completion of necessary continuing education  
552 units (CEUs) in technological delivery of instruction and other  
553 courses related to digital learning as satisfactory to the  
554 professional development plan requirement, subject to approval by  
555 the State Board of Education.

556 (5) Each school district and charter school shall have the  
557 authority to develop its own distance learning policy governing  
558 the modality of instruction and deployment of services, provided  
559 that such plan aligns with the guidelines established by the  
560 department, including access to Learning Management Systems and an  
561 age- and grade-appropriate K-12 digital curriculum approved by the  
562 department to ensure continuity of service and compliance with the  
563 College and Career Readiness Standards or any subsequent state  
564 curriculum standards adopted by the State Board of Education.

565 (6) (a) Each local school district and charter school shall  
566 develop and submit a long-term technology sustainability plan to  
567 the department at the time it submits its application request for  
568 grant funds under Section 7 of this act for electronic devices and  
569 software to be used in its distance learning program, which



570 demonstrates the local school district's or charter school's  
571 ability to integrate the cost of sustaining the operation of its  
572 digital learning plan and system of devices and services as part  
573 of its regular budgetary expenses beyond June 30, 2023.

574 (b) Each local school district and charter school shall  
575 adopt and implement a technology refresh cycle plan, which  
576 supports the effective retirement and cost-feasible replacement of  
577 devices at the end of their useful life cycles, and continued  
578 ability to maintain a sufficient inventory of devices and adequate  
579 education technology services beyond the year of implementation  
580 and the availability of any federal or state funds for such  
581 purposes, as the funds may be related to COVID-19 or any other  
582 national disaster, pandemic or other national or state declared  
583 state of emergency.

584 (7) Upon the purchase and/or receipt of electronic devices  
585 for the purpose of implementing distance learning, each school  
586 district and charter school shall assume the control of ownership  
587 and liability for each device in its possession until such time  
588 that said devices:

589 (a) Become obsolete, no longer serve the school or  
590 related school purposes for which they were acquired, and are not  
591 needed in the operation of the schools, and, in the school board's  
592 discretion, are sold by public auction according to the procedure  
593 prescribed in Section 17-25-25;



594           (b) Are sold to the students in Grade 12, who are in  
595 possession of a district-issued electronic device or equipment,  
596 and who have satisfied all the requirements for graduation, as  
597 established by the school district or charter school, in  
598 compliance with the provisions of Section 37-7-459, with the  
599 revenue generated therefrom being deposited into the school  
600 maintenance fund as provided under Section 37-7-457; or

601           (c) Are retrieved from students of issue at the  
602 expiration of term established by the department of typical life  
603 expectancy of such devices to be disposed of pursuant to a  
604 trade-in agreement as part of a subsequent purchase.

605           (8) (a) Each school district and charter school shall  
606 compile and maintain an inventory control list of all electronic  
607 devices purchased and issued to students, teachers and staff, as  
608 well as any supporting technology devices used in delivery of  
609 online instruction. The district or charter school shall conduct  
610 an annual audit of equipment upon the conclusion of the school  
611 year, within the time specified in its distance learning policy.

612           (b) Districts and charter schools are authorized to  
613 issue fines to students for any damage caused to or destruction of  
614 electronic devices, outside of wear and tear caused by normal  
615 usage.

616           (9) School districts and charter schools shall adopt and  
617 implement a cybersecurity policy to prevent, protect from,



618 mitigate the effects of, respond to and recover from cyber  
619 threats. The policy shall establish procedures to:

620 (a) Inform students, teachers and staff of any  
621 policies, rules or laws regarding their use of and access to the  
622 school's or school district's networks and systems before access  
623 to the system is granted;

624 (b) Require students, teachers and staff to accept a  
625 Responsible Use Policy;

626 (c) Ensure that IT staff is aware of local, state and  
627 federal regulations about information security, privacy and  
628 storage of personally identifiable information;

629 (d) Ensure the secure and private storage of data in  
630 compliance with the Family Educational Rights and Privacy Act  
631 (FERPA);

632 (e) Ensure ease of access to and use of cloud-based  
633 software technology, which allows teachers and staff members to  
634 easily store and share students' personal information;

635 (f) Regularly back up their data in case of accidental  
636 or deliberate corruption or destruction of data;

637 (g) Create firewalls and an approved list of  
638 individuals who have access to the school's or school district's  
639 networks and systems. The list should be regularly reviewed to  
640 ensure that only those individuals who have permission to access  
641 the systems can do so;





642 (h) Monitor networks continually to assess the risk  
643 from cyber threats;

644 (i) Consider the purchase of cyber insurance for the  
645 district and a requirement for any contractors to purchase cyber  
646 insurance as well;

647 (j) Provide teachers and staff with a list of contacts  
648 to whom a cybersecurity incident, such as a data breach, is to be  
649 reported;

650 (k) Measures to limit damage and preserve sensitive  
651 information resulting from the breach, including decisions about  
652 whether to request external assistance and from whom, such as:

653 (i) The school district or charter school;

654 (ii) A local, state or federal government computer  
655 incident response team; or

656 (iii) A private vendor; and

657 (l) Notify law enforcement after an incident, as well  
658 as any individuals whose personal information may have been  
659 compromised.

660 **SECTION 7.** (1) (a) Subject to the availability of  
661 sufficient funds appropriated by the Legislature to the State  
662 Department of Education for the purpose implementing and  
663 administering the provisions of this act, to be eligible for  
664 participation in the grant program, each school district and  
665 charter school shall:



666 (i) Contribute an equivalent of twenty  
667 percent (20%) of its total Elementary and Secondary School  
668 Emergency Relief (ESSER) Fund allocation received for the  
669 mitigation of the impact of COVID-19 related learning interruption  
670 through technological accessibility and connectivity if the cost  
671 of the district's or charter school's COVID-19 related digital  
672 learning technology is less than its ESSER Fund allocation; or

673 (ii) Contribute an equivalent of up to twenty  
674 percent (20%) of its overall COVID-19 related digital learning  
675 technology cost, using its Elementary and Secondary School  
676 Emergency Relief (ESSER) Fund allocation received for the  
677 mitigation of the impact of COVID-19 related learning interruption  
678 through technological accessibility and connectivity, if the total  
679 cost of the district's or charter school's COVID-19 related  
680 digital learning technology exceeds the amount of its ESSER Fund  
681 allocation.

682 The department shall make a determination of whichever  
683 percentage equivalency of a district's or charter school's ESSER  
684 Fund allocation is less, in actual dollar amount, when awarding  
685 grant funds to districts and charter schools to aid in the cost of  
686 purchasing Wi-Fi or LTE enabled electronic devices, technology  
687 support services and software programs.

688 (b) The department shall develop the methodology to be  
689 used in determining the amount of each TIDAL grant awarded, and  
690 how such grant funds shall be distributed to school districts and



691 charter schools according to levels of need, as determined by a  
692 formula developed by the department.

693 (c) As public special purpose schools, which are  
694 ineligible for receipt of ESSER funds, the Mississippi School for  
695 Mathematics and Science (MSMS), the Mississippi School of the Arts  
696 (MSA) and the Mississippi Schools for the Blind and Deaf (MSBD)  
697 shall be eligible for participation in the TIDAL Grant Program,  
698 and may use any available funds approved by the State Board of  
699 Education, in its capacity as the school board for such schools,  
700 as matching funds.

701 (2) Each local school district and charter school is  
702 authorized to expend its allocated ESSER Fund monies, allotted  
703 under the Education Stabilization Fund through the CARES Act, in  
704 any manner it may deem necessary consistent with the federal  
705 guidelines for allowable expenditures of such funds for the  
706 mitigation of the impact of COVID-19 related educational purposes.  
707 However, any districts or charter schools failing to contribute  
708 the equivalent of the minimum percentage of its allocation, or the  
709 equivalent of the minimum percentage of its overall costs,  
710 whichever is less, as authorized under subsection (1)(a) of this  
711 section as supplemental matching funds to offset the total cost of  
712 procuring the proper electronic devices and technological supports  
713 and systems of services to facilitate the delivery of the  
714 district's or charter school's adopted distance learning program,  
715 shall be ineligible for participation in the grant program.



716           **SECTION 8.** The State Department of Education, in  
717 administering the provisions of this act, as well as a local  
718 school district or charter school acting as its own procurement  
719 agent, shall be immune from liability for any damages which may  
720 arise out of the public procurement provisions of Section 31-7-13,  
721 from which it is exempt, with regard to acquisition of personnel,  
722 property, supplies or services for purposes authorized under this  
723 act.

724           **SECTION 9.** Section 37-67-1, Mississippi Code of 1972, is  
725 amended as follows:

726           37-67-1. (1) This section shall be known and may be cited  
727 as the "Distance Learning Collaborative Act of 2016."

728           (2) As used in this section:

729           (a) "Distance learning" means a method of delivering  
730 education and instruction on an individual basis to students who  
731 are not physically present in a traditional setting such as a  
732 classroom. Distance learning provides access to learning when the  
733 source of information and the learners are separated by time and  
734 distance, or both. Distance learning courses that require a  
735 physical on-site presence for any reason other than taking  
736 examinations may be referred to as hybrid or blended courses of  
737 study.

738           (b) "Department" means the Mississippi Department of  
739 Education.



740 (c) A "distance learning collaborative" means a school  
741 or schools that write and submit an application to participate in  
742 the voluntary distance learning program. A distance learning  
743 collaborative is comprised, at a minimum, of a public school  
744 district or a charter school, and may include an agency or other  
745 nonprofit organization approved by the State Department of  
746 Education to provide distance learning resources.

747 (d) A "lead partner" is a public school district,  
748 charter school or other nonprofit entity with the instructional  
749 expertise and operational capacity to manage the Distance Learning  
750 Collaborative Program as described in the approved application for  
751 funds. The lead partner serves as the fiscal agent for the  
752 collaborative and shall disburse awarded funds in accordance with  
753 the collaborative's approved application. The lead partner  
754 ensures that the collaborative adopts and implements the Distance  
755 Learning Collaborative Program consistent with the standards  
756 adopted by the State Board of Education. The public school  
757 district or charter school shall be the lead partner if no other  
758 qualifying lead partner is selected.

759 (3) Effective with the 2016-2017 school year, the  
760 Mississippi State Department of Education shall establish a  
761 voluntary distance learning grant program which shall be a  
762 collaboration among the entities providing distance learning  
763 services for students. The Distance Learning Collaborative  
764 Program shall provide financial assistance to encourage and



765 improve distance learning education services in rural areas  
766 through the use of telecommunications, computer networks and  
767 related advanced technologies to be used by students, teachers and  
768 rural residents. Grants are for projects where the benefit is  
769 primarily delivered to end users who are not at the same location  
770 as the source of the education service.

771 (4) Distance Learning Collaborative Grants may be used to:

772 (a) Acquire the following types of equipment: (i)  
773 computer hardware and software; (ii) audio and video equipment;  
774 (iii) computer network components; (iv) terminal equipment; (v)  
775 data terminal equipment; (vi) inside wiring; (vii) interactive  
776 video equipment; and (viii) other facilities that further distance  
777 learning technology services.

778 (b) Acquire instructional programming for distance  
779 learning programs.

780 (c) Acquire technical assistance and instruction for  
781 using eligible equipment.

782 (d) The cost of tuition and fees for students to  
783 participate over and above the available federal Perkins Loans or  
784 Stafford Loans which are loaned directly to qualifying students to  
785 assist in covering the cost of distance learning funding.

786 (e) Any interest charges that accumulate during a  
787 student's degree program for the utilization of distance learning  
788 services.



789           (5) Subject to the availability of funds appropriated  
790 therefor, the State Department of Education shall administer the  
791 implementation, monitoring and evaluation of the voluntary  
792 Distance Learning Collaborative Program, including awards and the  
793 application process. The department shall establish a rigorous  
794 and transparent application process for the awarding of funds.  
795 Lead partners shall submit the application on behalf of their  
796 distance learning collaborative. The department will establish  
797 monitoring policies and procedures that shall include at least one  
798 (1) site visit per year. The department will provide technical  
799 assistance to collaboratives and their providers to improve the  
800 quality of distance learning services. The department will  
801 evaluate the effectiveness of each distance learning  
802 collaborative.

803           (6) Distance Learning Collaborative Program funds shall be  
804 awarded to distance learning collaboratives whose proposed  
805 programs meet the program criteria established by the State Board  
806 of Education which shall include the following:

807                   (a) Distance learning programs shall be approved and  
808 registered with the State Department of Education and course  
809 content must be aligned with state standards.

810                   (b) Distance learning instructors shall complete  
811 professional development training in online methodology and  
812 technical aspects of web-based instruction, and may be



813 credentialed by the National Board for Professional Teaching  
814 Standards (NBPTS).

815 (c) Transcript equivalency of grades between online and  
816 traditional classes. Student enrollment and credits awarded shall  
817 be made in accordance with regulations jointly approved by the  
818 State Board of Education, the Mississippi Community College Board  
819 and the Board of Trustees of State Institutions of Higher  
820 Learning.

821 (d) Curriculum standards for online courses.

822 (e) Classroom "seat time" requirements for online  
823 courses.

824 (f) Accountability for student achievement, including  
825 methods to assess online course completion rates.

826 (7) A teacher, assistant teacher or other employee whose  
827 salary and fringe benefits are paid from state funds allocated for  
828 the Distance Learning Collaborative Program shall only be  
829 classified as a state or local school district or charter school  
830 employee eligible for state health insurance benefits or  
831 membership in the Public Employees' Retirement System, if the  
832 person's employer is already a public school district, charter  
833 school or an agency or instrumentality of the state, and the  
834 employee would be eligible for such benefits in the normal course  
835 of business.

836 (8) Funding shall be provided for the Distance Learning  
837 Collaborative Program beginning with the 2016-2017 fiscal year





838 subject to appropriation by the Legislature, and the Legislature  
839 may appropriate funds to implement the program on a phased-in  
840 basis. The State Department of Education may receive and expend  
841 contributions and funding from private sources for the  
842 administration and implementation of the Distance Learning  
843 Collaborative Program. In the initial phase of implementation,  
844 the State Department of Education shall award state funds based on  
845 a community's capacity, commitment and need in order to encourage  
846 and improve distance learning services in rural areas. The  
847 department shall make an annual report to the Legislature and the  
848 Governor regarding the effectiveness of the Distance Learning  
849 Collaborative Program, and the PEER Committee shall review those  
850 reports and other program data and submit an independent  
851 evaluation of the program operation and effectiveness to the  
852 Legislature and the Governor on or before October 1 of the  
853 calendar year before the beginning of the next phased-in period of  
854 funding. The State Department of Education shall reserve no more  
855 than five percent (5%) of the appropriation in any year for  
856 administrative costs. Funds remaining after awards to distance  
857 learning collaboratives may be carried over in the following year.

858 (9) The lead partner of a distance learning collaborative  
859 and the local school district or charter school shall compile  
860 information about online learning programs for high school  
861 students to earn college credit and place the information on its  
862 website. Examples of information to be compiled and placed on the



863 website include links to providers of approved online learning  
864 programs, comparisons among various types of online programs  
865 regarding awarding of credit, advantages and disadvantages of  
866 online learning programs, and other general assistance and  
867 guidance for students, teachers and counselors in selecting and  
868 considering online learning programs. Public high schools shall  
869 ensure that teachers and counselors have information about online  
870 learning programs for high school students to earn college or  
871 university credit and are able to assist parents and students in  
872 accessing the information. Distance learning collaboratives shall  
873 ensure that parents and students have opportunities to learn about  
874 online learning programs under this section.

875         **SECTION 10.** Section 31-7-13, Mississippi Code of 1972, is  
876 amended as follows:

877         31-7-13. All agencies and governing authorities shall  
878 purchase their commodities and printing; contract for garbage  
879 collection or disposal; contract for solid waste collection or  
880 disposal; contract for sewage collection or disposal; contract for  
881 public construction; and contract for rentals as herein provided.

882             (a) **Bidding procedure for purchases not over \$5,000.00.**

883 Purchases which do not involve an expenditure of more than Five  
884 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
885 charges, may be made without advertising or otherwise requesting  
886 competitive bids. However, nothing contained in this paragraph

887 (a) shall be construed to prohibit any agency or governing



888 authority from establishing procedures which require competitive  
889 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

890 (b) **Bidding procedure for purchases over \$5,000.00 but**  
891 **not over \$50,000.00.** Purchases which involve an expenditure of  
892 more than Five Thousand Dollars (\$5,000.00) but not more than  
893 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and  
894 shipping charges, may be made from the lowest and best bidder  
895 without publishing or posting advertisement for bids, provided at  
896 least two (2) competitive written bids have been obtained. Any  
897 state agency or community/junior college purchasing commodities or  
898 procuring construction pursuant to this paragraph (b) may  
899 authorize its purchasing agent, or his designee, to accept the  
900 lowest competitive written bid under Fifty Thousand Dollars  
901 (\$50,000.00). Any governing authority purchasing commodities  
902 pursuant to this paragraph (b) may authorize its purchasing agent,  
903 or his designee, with regard to governing authorities other than  
904 counties, or its purchase clerk, or his designee, with regard to  
905 counties, to accept the lowest and best competitive written bid.  
906 Such authorization shall be made in writing by the governing  
907 authority and shall be maintained on file in the primary office of  
908 the agency and recorded in the official minutes of the governing  
909 authority, as appropriate. The purchasing agent or the purchase  
910 clerk, or their designee, as the case may be, and not the  
911 governing authority, shall be liable for any penalties and/or  
912 damages as may be imposed by law for any act or omission of the



913 purchasing agent or purchase clerk, or their designee,  
914 constituting a violation of law in accepting any bid without  
915 approval by the governing authority. The term "competitive  
916 written bid" shall mean a bid submitted on a bid form furnished by  
917 the buying agency or governing authority and signed by authorized  
918 personnel representing the vendor, or a bid submitted on a  
919 vendor's letterhead or identifiable bid form and signed by  
920 authorized personnel representing the vendor. "Competitive" shall  
921 mean that the bids are developed based upon comparable  
922 identification of the needs and are developed independently and  
923 without knowledge of other bids or prospective bids. Any bid item  
924 for construction in excess of Five Thousand Dollars (\$5,000.00)  
925 shall be broken down by components to provide detail of component  
926 description and pricing. These details shall be submitted with  
927 the written bids and become part of the bid evaluation criteria.  
928 Bids may be submitted by facsimile, electronic mail or other  
929 generally accepted method of information distribution. Bids  
930 submitted by electronic transmission shall not require the  
931 signature of the vendor's representative unless required by  
932 agencies or governing authorities.

933 (c) **Bidding procedure for purchases over \$50,000.00.**

934 (i) **Publication requirement.**

935 1. Purchases which involve an expenditure of  
936 more than Fifty Thousand Dollars (\$50,000.00), exclusive of  
937 freight and shipping charges, may be made from the lowest and best



938 bidder after advertising for competitive bids once each week for  
939 two (2) consecutive weeks in a regular newspaper published in the  
940 county or municipality in which such agency or governing authority  
941 is located. However, all American Recovery and Reinvestment Act  
942 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
943 shall be bid. All references to American Recovery and  
944 Reinvestment Act projects in this section shall not apply to  
945 programs identified in Division B of the American Recovery and  
946 Reinvestment Act.

947                   2. Reverse auctions shall be the primary  
948 method for receiving bids during the bidding process. If a  
949 purchasing entity determines that a reverse auction is not in the  
950 best interest of the state, then that determination must be  
951 approved by the Public Procurement Review Board. The purchasing  
952 entity shall submit a detailed explanation of why a reverse  
953 auction would not be in the best interest of the state and present  
954 an alternative process to be approved by the Public Procurement  
955 Review Board. If the Public Procurement Review Board authorizes  
956 the purchasing entity to solicit bids with a method other than  
957 reverse auction, then the purchasing entity may designate the  
958 other methods by which the bids will be received, including, but  
959 not limited to, bids sealed in an envelope, bids received  
960 electronically in a secure system, or bids received by any other  
961 method that promotes open competition and has been approved by the  
962 Office of Purchasing and Travel. However, reverse auction shall



963 not be used for any public contract for design or construction of  
964 public facilities, including buildings, roads and bridges. The  
965 Public Procurement Review Board must approve any contract entered  
966 into by alternative process. The provisions of this item 2 shall  
967 not apply to the individual state institutions of higher learning.

968           3. The date as published for the bid opening  
969 shall not be less than seven (7) working days after the last  
970 published notice; however, if the purchase involves a construction  
971 project in which the estimated cost is in excess of Fifty Thousand  
972 Dollars (\$50,000.00), such bids shall not be opened in less than  
973 fifteen (15) working days after the last notice is published and  
974 the notice for the purchase of such construction shall be  
975 published once each week for two (2) consecutive weeks. However,  
976 all American Recovery and Reinvestment Act projects in excess of  
977 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any  
978 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
979 under the American Recovery and Reinvestment Act, publication  
980 shall be made one (1) time and the bid opening for construction  
981 projects shall not be less than ten (10) working days after the  
982 date of the published notice. The notice of intention to let  
983 contracts or purchase equipment shall state the time and place at  
984 which bids shall be received, list the contracts to be made or  
985 types of equipment or supplies to be purchased, and, if all plans  
986 and/or specifications are not published, refer to the plans and/or  
987 specifications on file. If there is no newspaper published in the



988 county or municipality, then such notice shall be given by posting  
989 same at the courthouse, or for municipalities at the city hall,  
990 and at two (2) other public places in the county or municipality,  
991 and also by publication once each week for two (2) consecutive  
992 weeks in some newspaper having a general circulation in the county  
993 or municipality in the above-provided manner. On the same date  
994 that the notice is submitted to the newspaper for publication, the  
995 agency or governing authority involved shall mail written notice  
996 to, or provide electronic notification to the main office of the  
997 Mississippi Procurement Technical Assistance Program under the  
998 Mississippi Development Authority that contains the same  
999 information as that in the published notice. Submissions received  
1000 by the Mississippi Procurement Technical Assistance Program for  
1001 projects funded by the American Recovery and Reinvestment Act  
1002 shall be displayed on a separate and unique Internet web page  
1003 accessible to the public and maintained by the Mississippi  
1004 Development Authority for the Mississippi Procurement Technical  
1005 Assistance Program. Those American Recovery and Reinvestment Act  
1006 related submissions shall be publicly posted within twenty-four  
1007 (24) hours of receipt by the Mississippi Development Authority and  
1008 the bid opening shall not occur until the submission has been  
1009 posted for ten (10) consecutive days. The Department of Finance  
1010 and Administration shall maintain information regarding contracts  
1011 and other expenditures from the American Recovery and Reinvestment  
1012 Act, on a unique Internet web page accessible to the public. The



1013 Department of Finance and Administration shall promulgate rules  
1014 regarding format, content and deadlines, unless otherwise  
1015 specified by law, of the posting of award notices, contract  
1016 execution and subsequent amendments, links to the contract  
1017 documents, expenditures against the awarded contracts and general  
1018 expenditures of funds from the American Recovery and Reinvestment  
1019 Act. Within one (1) working day of the contract award, the agency  
1020 or governing authority shall post to the designated web page  
1021 maintained by the Department of Finance and Administration, notice  
1022 of the award, including the award recipient, the contract amount,  
1023 and a brief summary of the contract in accordance with rules  
1024 promulgated by the department. Within one (1) working day of the  
1025 contract execution, the agency or governing authority shall post  
1026 to the designated web page maintained by the Department of Finance  
1027 and Administration a summary of the executed contract and make a  
1028 copy of the appropriately redacted contract documents available  
1029 for linking to the designated web page in accordance with the  
1030 rules promulgated by the department. The information provided by  
1031 the agency or governing authority shall be posted to the web page  
1032 for the duration of the American Recovery and Reinvestment Act  
1033 funding or until the project is completed, whichever is longer.

1034           (ii) **Bidding process amendment procedure.** If all  
1035 plans and/or specifications are published in the notification,  
1036 then the plans and/or specifications may not be amended. If all  
1037 plans and/or specifications are not published in the notification,





1038 then amendments to the plans/specifications, bid opening date, bid  
1039 opening time and place may be made, provided that the agency or  
1040 governing authority maintains a list of all prospective bidders  
1041 who are known to have received a copy of the bid documents and all  
1042 such prospective bidders are sent copies of all amendments. This  
1043 notification of amendments may be made via mail, facsimile,  
1044 electronic mail or other generally accepted method of information  
1045 distribution. No addendum to bid specifications may be issued  
1046 within two (2) working days of the time established for the  
1047 receipt of bids unless such addendum also amends the bid opening  
1048 to a date not less than five (5) working days after the date of  
1049 the addendum.

1050 (iii) **Filing requirement.** In all cases involving  
1051 governing authorities, before the notice shall be published or  
1052 posted, the plans or specifications for the construction or  
1053 equipment being sought shall be filed with the clerk of the board  
1054 of the governing authority. In addition to these requirements, a  
1055 bid file shall be established which shall indicate those vendors  
1056 to whom such solicitations and specifications were issued, and  
1057 such file shall also contain such information as is pertinent to  
1058 the bid.

1059 (iv) **Specification restrictions.**

1060 1. Specifications pertinent to such bidding  
1061 shall be written so as not to exclude comparable equipment of  
1062 domestic manufacture. However, if valid justification is



1063 presented, the Department of Finance and Administration or the  
1064 board of a governing authority may approve a request for specific  
1065 equipment necessary to perform a specific job. Further, such  
1066 justification, when placed on the minutes of the board of a  
1067 governing authority, may serve as authority for that governing  
1068 authority to write specifications to require a specific item of  
1069 equipment needed to perform a specific job. In addition to these  
1070 requirements, from and after July 1, 1990, vendors of relocatable  
1071 classrooms and the specifications for the purchase of such  
1072 relocatable classrooms published by local school boards shall meet  
1073 all pertinent regulations of the State Board of Education,  
1074 including prior approval of such bid by the State Department of  
1075 Education.

1076                                   2. Specifications for construction projects  
1077 may include an allowance for commodities, equipment, furniture,  
1078 construction materials or systems in which prospective bidders are  
1079 instructed to include in their bids specified amounts for such  
1080 items so long as the allowance items are acquired by the vendor in  
1081 a commercially reasonable manner and approved by the  
1082 agency/governing authority. Such acquisitions shall not be made  
1083 to circumvent the public purchasing laws.

1084                                   (v) **Electronic bids.** Agencies and governing  
1085 authorities shall provide a secure electronic interactive system  
1086 for the submittal of bids requiring competitive bidding that shall  
1087 be an additional bidding option for those bidders who choose to



1088 submit their bids electronically. The Department of Finance and  
1089 Administration shall provide, by regulation, the standards that  
1090 agencies must follow when receiving electronic bids. Agencies and  
1091 governing authorities shall make the appropriate provisions  
1092 necessary to accept electronic bids from those bidders who choose  
1093 to submit their bids electronically for all purchases requiring  
1094 competitive bidding under this section. Any special condition or  
1095 requirement for the electronic bid submission shall be specified  
1096 in the advertisement for bids required by this section. Agencies  
1097 or governing authorities that are currently without available high  
1098 speed Internet access shall be exempt from the requirement of this  
1099 subparagraph (v) until such time that high speed Internet access  
1100 becomes available. Any county having a population of less than  
1101 twenty thousand (20,000) shall be exempt from the provisions of  
1102 this subparagraph (v). Any municipality having a population of  
1103 less than ten thousand (10,000) shall be exempt from the  
1104 provisions of this subparagraph (v). The provisions of this  
1105 subparagraph (v) shall not require any bidder to submit bids  
1106 electronically. When construction bids are submitted  
1107 electronically, the requirement for including a certificate of  
1108 responsibility, or a statement that the bid enclosed does not  
1109 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
1110 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
1111 deemed in compliance with by including same as an attachment with  
1112 the electronic bid submittal.



1113 (d) **Lowest and best bid decision procedure.**

1114 (i) **Decision procedure.** Purchases may be made  
1115 from the lowest and best bidder. In determining the lowest and  
1116 best bid, freight and shipping charges shall be included.  
1117 Life-cycle costing, total cost bids, warranties, guaranteed  
1118 buy-back provisions and other relevant provisions may be included  
1119 in the best bid calculation. All best bid procedures for state  
1120 agencies must be in compliance with regulations established by the  
1121 Department of Finance and Administration. If any governing  
1122 authority accepts a bid other than the lowest bid actually  
1123 submitted, it shall place on its minutes detailed calculations and  
1124 narrative summary showing that the accepted bid was determined to  
1125 be the lowest and best bid, including the dollar amount of the  
1126 accepted bid and the dollar amount of the lowest bid. No agency  
1127 or governing authority shall accept a bid based on items not  
1128 included in the specifications.

1129 (ii) **Decision procedure for Certified Purchasing**  
1130 **Offices.** In addition to the decision procedure set forth in  
1131 subparagraph (i) of this paragraph (d), Certified Purchasing  
1132 Offices may also use the following procedure: Purchases may be  
1133 made from the bidder offering the best value. In determining the  
1134 best value bid, freight and shipping charges shall be included.  
1135 Life-cycle costing, total cost bids, warranties, guaranteed  
1136 buy-back provisions, documented previous experience, training  
1137 costs and other relevant provisions, including, but not limited



1138 to, a bidder having a local office and inventory located within  
1139 the jurisdiction of the governing authority, may be included in  
1140 the best value calculation. This provision shall authorize  
1141 Certified Purchasing Offices to utilize a Request For Proposals  
1142 (RFP) process when purchasing commodities. All best value  
1143 procedures for state agencies must be in compliance with  
1144 regulations established by the Department of Finance and  
1145 Administration. No agency or governing authority shall accept a  
1146 bid based on items or criteria not included in the specifications.

1147 (iii) **Decision procedure for Mississippi**

1148 **Landmarks.** In addition to the decision procedure set forth in  
1149 subparagraph (i) of this paragraph (d), where purchase involves  
1150 renovation, restoration, or both, of the State Capitol Building or  
1151 any other historical building designated for at least five (5)  
1152 years as a Mississippi Landmark by the Board of Trustees of the  
1153 Department of Archives and History under the authority of Sections  
1154 39-7-7 and 39-7-11, the agency or governing authority may use the  
1155 following procedure: Purchases may be made from the lowest and  
1156 best prequalified bidder. Prequalification of bidders shall be  
1157 determined not less than fifteen (15) working days before the  
1158 first published notice of bid opening. Prequalification criteria  
1159 shall be limited to bidder's knowledge and experience in  
1160 historical restoration, preservation and renovation. In  
1161 determining the lowest and best bid, freight and shipping charges  
1162 shall be included. Life-cycle costing, total cost bids,



1163 warranties, guaranteed buy-back provisions and other relevant  
1164 provisions may be included in the best bid calculation. All best  
1165 bid and prequalification procedures for state agencies must be in  
1166 compliance with regulations established by the Department of  
1167 Finance and Administration. If any governing authority accepts a  
1168 bid other than the lowest bid actually submitted, it shall place  
1169 on its minutes detailed calculations and narrative summary showing  
1170 that the accepted bid was determined to be the lowest and best  
1171 bid, including the dollar amount of the accepted bid and the  
1172 dollar amount of the lowest bid. No agency or governing authority  
1173 shall accept a bid based on items not included in the  
1174 specifications.

1175 (iv) **Construction project negotiations authority.**  
1176 If the lowest and best bid is not more than ten percent (10%)  
1177 above the amount of funds allocated for a public construction or  
1178 renovation project, then the agency or governing authority shall  
1179 be permitted to negotiate with the lowest bidder in order to enter  
1180 into a contract for an amount not to exceed the funds allocated.

1181 (e) **Lease-purchase authorization.** For the purposes of  
1182 this section, the term "equipment" shall mean equipment, furniture  
1183 and, if applicable, associated software and other applicable  
1184 direct costs associated with the acquisition. Any lease-purchase  
1185 of equipment which an agency is not required to lease-purchase  
1186 under the master lease-purchase program pursuant to Section  
1187 31-7-10 and any lease-purchase of equipment which a governing



1188 authority elects to lease-purchase may be acquired by a  
1189 lease-purchase agreement under this paragraph (e). Lease-purchase  
1190 financing may also be obtained from the vendor or from a  
1191 third-party source after having solicited and obtained at least  
1192 two (2) written competitive bids, as defined in paragraph (b) of  
1193 this section, for such financing without advertising for such  
1194 bids. Solicitation for the bids for financing may occur before or  
1195 after acceptance of bids for the purchase of such equipment or,  
1196 where no such bids for purchase are required, at any time before  
1197 the purchase thereof. No such lease-purchase agreement shall be  
1198 for an annual rate of interest which is greater than the overall  
1199 maximum interest rate to maturity on general obligation  
1200 indebtedness permitted under Section 75-17-101, and the term of  
1201 such lease-purchase agreement shall not exceed the useful life of  
1202 equipment covered thereby as determined according to the upper  
1203 limit of the asset depreciation range (ADR) guidelines for the  
1204 Class Life Asset Depreciation Range System established by the  
1205 Internal Revenue Service pursuant to the United States Internal  
1206 Revenue Code and regulations thereunder as in effect on December  
1207 31, 1980, or comparable depreciation guidelines with respect to  
1208 any equipment not covered by ADR guidelines. Any lease-purchase  
1209 agreement entered into pursuant to this paragraph (e) may contain  
1210 any of the terms and conditions which a master lease-purchase  
1211 agreement may contain under the provisions of Section 31-7-10(5),  
1212 and shall contain an annual allocation dependency clause



1213 substantially similar to that set forth in Section 31-7-10(8).  
1214 Each agency or governing authority entering into a lease-purchase  
1215 transaction pursuant to this paragraph (e) shall maintain with  
1216 respect to each such lease-purchase transaction the same  
1217 information as required to be maintained by the Department of  
1218 Finance and Administration pursuant to Section 31-7-10(13).  
1219 However, nothing contained in this section shall be construed to  
1220 permit agencies to acquire items of equipment with a total  
1221 acquisition cost in the aggregate of less than Ten Thousand  
1222 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
1223 equipment, and the purchase thereof by any lessor, acquired by  
1224 lease-purchase under this paragraph and all lease-purchase  
1225 payments with respect thereto shall be exempt from all Mississippi  
1226 sales, use and ad valorem taxes. Interest paid on any  
1227 lease-purchase agreement under this section shall be exempt from  
1228 State of Mississippi income taxation.

1229           (f) **Alternate bid authorization.** When necessary to  
1230 ensure ready availability of commodities for public works and the  
1231 timely completion of public projects, no more than two (2)  
1232 alternate bids may be accepted by a governing authority for  
1233 commodities. No purchases may be made through use of such  
1234 alternate bids procedure unless the lowest and best bidder cannot  
1235 deliver the commodities contained in his bid. In that event,  
1236 purchases of such commodities may be made from one (1) of the  
1237 bidders whose bid was accepted as an alternate.





1238           (g) **Construction contract change authorization.** In the  
1239 event a determination is made by an agency or governing authority  
1240 after a construction contract is let that changes or modifications  
1241 to the original contract are necessary or would better serve the  
1242 purpose of the agency or the governing authority, such agency or  
1243 governing authority may, in its discretion, order such changes  
1244 pertaining to the construction that are necessary under the  
1245 circumstances without the necessity of further public bids;  
1246 provided that such change shall be made in a commercially  
1247 reasonable manner and shall not be made to circumvent the public  
1248 purchasing statutes. In addition to any other authorized person,  
1249 the architect or engineer hired by an agency or governing  
1250 authority with respect to any public construction contract shall  
1251 have the authority, when granted by an agency or governing  
1252 authority, to authorize changes or modifications to the original  
1253 contract without the necessity of prior approval of the agency or  
1254 governing authority when any such change or modification is less  
1255 than one percent (1%) of the total contract amount. The agency or  
1256 governing authority may limit the number, manner or frequency of  
1257 such emergency changes or modifications.

1258           (h) **Petroleum purchase alternative.** In addition to  
1259 other methods of purchasing authorized in this chapter, when any  
1260 agency or governing authority shall have a need for gas, diesel  
1261 fuel, oils and/or other petroleum products in excess of the amount  
1262 set forth in paragraph (a) of this section, such agency or



1263 governing authority may purchase the commodity after having  
1264 solicited and obtained at least two (2) competitive written bids,  
1265 as defined in paragraph (b) of this section. If two (2)  
1266 competitive written bids are not obtained, the entity shall comply  
1267 with the procedures set forth in paragraph (c) of this section.  
1268 In the event any agency or governing authority shall have  
1269 advertised for bids for the purchase of gas, diesel fuel, oils and  
1270 other petroleum products and coal and no acceptable bids can be  
1271 obtained, such agency or governing authority is authorized and  
1272 directed to enter into any negotiations necessary to secure the  
1273 lowest and best contract available for the purchase of such  
1274 commodities.

1275           (i) **Road construction petroleum products price**  
1276 **adjustment clause authorization.** Any agency or governing  
1277 authority authorized to enter into contracts for the construction,  
1278 maintenance, surfacing or repair of highways, roads or streets,  
1279 may include in its bid proposal and contract documents a price  
1280 adjustment clause with relation to the cost to the contractor,  
1281 including taxes, based upon an industry-wide cost index, of  
1282 petroleum products including asphalt used in the performance or  
1283 execution of the contract or in the production or manufacture of  
1284 materials for use in such performance. Such industry-wide index  
1285 shall be established and published monthly by the Mississippi  
1286 Department of Transportation with a copy thereof to be mailed,  
1287 upon request, to the clerks of the governing authority of each



1288 municipality and the clerks of each board of supervisors  
1289 throughout the state. The price adjustment clause shall be based  
1290 on the cost of such petroleum products only and shall not include  
1291 any additional profit or overhead as part of the adjustment. The  
1292 bid proposals or document contract shall contain the basis and  
1293 methods of adjusting unit prices for the change in the cost of  
1294 such petroleum products.

1295           (j) **State agency emergency purchase procedure.** If the  
1296 governing board or the executive head, or his designees, of any  
1297 agency of the state shall determine that an emergency exists in  
1298 regard to the purchase of any commodities or repair contracts, so  
1299 that the delay incident to giving opportunity for competitive  
1300 bidding would be detrimental to the interests of the state, then  
1301 the head of such agency, or his designees, shall file with the  
1302 Department of Finance and Administration (i) a statement  
1303 explaining the conditions and circumstances of the emergency,  
1304 which shall include a detailed description of the events leading  
1305 up to the situation and the negative impact to the entity if the  
1306 purchase is made following the statutory requirements set forth in  
1307 paragraph (a), (b) or (c) of this section, and (ii) a certified  
1308 copy of the appropriate minutes of the board of such agency  
1309 requesting the emergency purchase, if applicable. Upon receipt of  
1310 the statement and applicable board certification, the State Fiscal  
1311 Officer, or his designees, may, in writing, authorize the purchase



1312 or repair without having to comply with competitive bidding  
1313 requirements.

1314         If the governing board or the executive head, or his  
1315 designees, of any agency determines that an emergency exists in  
1316 regard to the purchase of any commodities or repair contracts, so  
1317 that the delay incident to giving opportunity for competitive  
1318 bidding would threaten the health or safety of any person, or the  
1319 preservation or protection of property, then the provisions in  
1320 this section for competitive bidding shall not apply, and any  
1321 officer or agent of the agency having general or specific  
1322 authority for making the purchase or repair contract shall approve  
1323 the bill presented for payment, and he shall certify in writing  
1324 from whom the purchase was made, or with whom the repair contract  
1325 was made.

1326         Total purchases made under this paragraph (j) shall only be  
1327 for the purpose of meeting needs created by the emergency  
1328 situation. Following the emergency purchase, documentation of the  
1329 purchase, including a description of the commodity purchased, the  
1330 purchase price thereof and the nature of the emergency shall be  
1331 filed with the Department of Finance and Administration. Any  
1332 contract awarded pursuant to this paragraph (j) shall not exceed a  
1333 term of one (1) year.

1334                 (k) **Governing authority emergency purchase procedure.**

1335 If the governing authority, or the governing authority acting  
1336 through its designee, shall determine that an emergency exists in



1337 regard to the purchase of any commodities or repair contracts, so  
1338 that the delay incident to giving opportunity for competitive  
1339 bidding would be detrimental to the interest of the governing  
1340 authority, then the provisions herein for competitive bidding  
1341 shall not apply and any officer or agent of such governing  
1342 authority having general or special authority therefor in making  
1343 such purchase or repair shall approve the bill presented therefor,  
1344 and he shall certify in writing thereon from whom such purchase  
1345 was made, or with whom such a repair contract was made. At the  
1346 board meeting next following the emergency purchase or repair  
1347 contract, documentation of the purchase or repair contract,  
1348 including a description of the commodity purchased, the price  
1349 thereof and the nature of the emergency shall be presented to the  
1350 board and shall be placed on the minutes of the board of such  
1351 governing authority.

1352 (1) **Hospital purchase, lease-purchase and lease**  
1353 **authorization.**

1354 (i) The commissioners or board of trustees of any  
1355 public hospital may contract with such lowest and best bidder for  
1356 the purchase or lease-purchase of any commodity under a contract  
1357 of purchase or lease-purchase agreement whose obligatory payment  
1358 terms do not exceed five (5) years.

1359 (ii) In addition to the authority granted in  
1360 subparagraph (i) of this paragraph (1), the commissioners or board  
1361 of trustees is authorized to enter into contracts for the lease of



1362 equipment or services, or both, which it considers necessary for  
1363 the proper care of patients if, in its opinion, it is not  
1364 financially feasible to purchase the necessary equipment or  
1365 services. Any such contract for the lease of equipment or  
1366 services executed by the commissioners or board shall not exceed a  
1367 maximum of five (5) years' duration and shall include a  
1368 cancellation clause based on unavailability of funds. If such  
1369 cancellation clause is exercised, there shall be no further  
1370 liability on the part of the lessee. Any such contract for the  
1371 lease of equipment or services executed on behalf of the  
1372 commissioners or board that complies with the provisions of this  
1373 subparagraph (ii) shall be excepted from the bid requirements set  
1374 forth in this section.

1375 (m) **Exceptions from bidding requirements.** Excepted  
1376 from bid requirements are:

1377 (i) **Purchasing agreements approved by department.**  
1378 Purchasing agreements, contracts and maximum price regulations  
1379 executed or approved by the Department of Finance and  
1380 Administration.

1381 (ii) **Outside equipment repairs.** Repairs to  
1382 equipment, when such repairs are made by repair facilities in the  
1383 private sector; however, engines, transmissions, rear axles and/or  
1384 other such components shall not be included in this exemption when  
1385 replaced as a complete unit instead of being repaired and the need  
1386 for such total component replacement is known before disassembly



1387 of the component; however, invoices identifying the equipment,  
1388 specific repairs made, parts identified by number and name,  
1389 supplies used in such repairs, and the number of hours of labor  
1390 and costs therefor shall be required for the payment for such  
1391 repairs.

1392 (iii) **In-house equipment repairs.** Purchases of  
1393 parts for repairs to equipment, when such repairs are made by  
1394 personnel of the agency or governing authority; however, entire  
1395 assemblies, such as engines or transmissions, shall not be  
1396 included in this exemption when the entire assembly is being  
1397 replaced instead of being repaired.

1398 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1399 of gravel or fill dirt which are to be removed and transported by  
1400 the purchaser.

1401 (v) **Governmental equipment auctions.** Motor  
1402 vehicles or other equipment purchased from a federal agency or  
1403 authority, another governing authority or state agency of the  
1404 State of Mississippi, or any governing authority or state agency  
1405 of another state at a public auction held for the purpose of  
1406 disposing of such vehicles or other equipment. Any purchase by a  
1407 governing authority under the exemption authorized by this  
1408 subparagraph (v) shall require advance authorization spread upon  
1409 the minutes of the governing authority to include the listing of  
1410 the item or items authorized to be purchased and the maximum bid  
1411 authorized to be paid for each item or items.



1412                   (vi)    **Intergovernmental sales and transfers.**  
1413 Purchases, sales, transfers or trades by governing authorities or  
1414 state agencies when such purchases, sales, transfers or trades are  
1415 made by a private treaty agreement or through means of  
1416 negotiation, from any federal agency or authority, another  
1417 governing authority or state agency of the State of Mississippi,  
1418 or any state agency or governing authority of another state.  
1419 Nothing in this section shall permit such purchases through public  
1420 auction except as provided for in subparagraph (v) of this  
1421 paragraph (m). It is the intent of this section to allow  
1422 governmental entities to dispose of and/or purchase commodities  
1423 from other governmental entities at a price that is agreed to by  
1424 both parties. This shall allow for purchases and/or sales at  
1425 prices which may be determined to be below the market value if the  
1426 selling entity determines that the sale at below market value is  
1427 in the best interest of the taxpayers of the state. Governing  
1428 authorities shall place the terms of the agreement and any  
1429 justification on the minutes, and state agencies shall obtain  
1430 approval from the Department of Finance and Administration, prior  
1431 to releasing or taking possession of the commodities.

1432                   (vii)   **Perishable supplies or food.** Perishable  
1433 supplies or food purchased for use in connection with hospitals,  
1434 the school lunch programs, homemaking programs and for the feeding  
1435 of county or municipal prisoners.





1436 (viii) **Single source items.** Noncompetitive items  
1437 available from one (1) source only. In connection with the  
1438 purchase of noncompetitive items only available from one (1)  
1439 source, a certification of the conditions and circumstances  
1440 requiring the purchase shall be filed by the agency with the  
1441 Department of Finance and Administration and by the governing  
1442 authority with the board of the governing authority. Upon receipt  
1443 of that certification the Department of Finance and Administration  
1444 or the board of the governing authority, as the case may be, may,  
1445 in writing, authorize the purchase, which authority shall be noted  
1446 on the minutes of the body at the next regular meeting thereafter.  
1447 In those situations, a governing authority is not required to  
1448 obtain the approval of the Department of Finance and  
1449 Administration. Following the purchase, the executive head of the  
1450 state agency, or his designees, shall file with the Department of  
1451 Finance and Administration, documentation of the purchase,  
1452 including a description of the commodity purchased, the purchase  
1453 price thereof and the source from whom it was purchased.

1454 (ix) **Waste disposal facility construction**  
1455 **contracts.** Construction of incinerators and other facilities for  
1456 disposal of solid wastes in which products either generated  
1457 therein, such as steam, or recovered therefrom, such as materials  
1458 for recycling, are to be sold or otherwise disposed of; however,  
1459 in constructing such facilities, a governing authority or agency  
1460 shall publicly issue requests for proposals, advertised for in the



1461 same manner as provided herein for seeking bids for public  
1462 construction projects, concerning the design, construction,  
1463 ownership, operation and/or maintenance of such facilities,  
1464 wherein such requests for proposals when issued shall contain  
1465 terms and conditions relating to price, financial responsibility,  
1466 technology, environmental compatibility, legal responsibilities  
1467 and such other matters as are determined by the governing  
1468 authority or agency to be appropriate for inclusion; and after  
1469 responses to the request for proposals have been duly received,  
1470 the governing authority or agency may select the most qualified  
1471 proposal or proposals on the basis of price, technology and other  
1472 relevant factors and from such proposals, but not limited to the  
1473 terms thereof, negotiate and enter contracts with one or more of  
1474 the persons or firms submitting proposals.

1475                   (x) **Hospital group purchase contracts.** Supplies,  
1476 commodities and equipment purchased by hospitals through group  
1477 purchase programs pursuant to Section 31-7-38.

1478                   (xi) **Information technology products.** Purchases  
1479 of information technology products made by governing authorities  
1480 under the provisions of purchase schedules, or contracts executed  
1481 or approved by the Mississippi Department of Information  
1482 Technology Services and designated for use by governing  
1483 authorities.

1484                   (xii) **Energy efficiency services and equipment.**  
1485 Energy efficiency services and equipment acquired by school



1486 districts, community and junior colleges, institutions of higher  
1487 learning and state agencies or other applicable governmental  
1488 entities on a shared-savings, lease or lease-purchase basis  
1489 pursuant to Section 31-7-14.

1490 (xiii) **Municipal electrical utility system fuel.**

1491 Purchases of coal and/or natural gas by municipally owned electric  
1492 power generating systems that have the capacity to use both coal  
1493 and natural gas for the generation of electric power.

1494 (xiv) **Library books and other reference materials.**

1495 Purchases by libraries or for libraries of books and periodicals;  
1496 processed film, videocassette tapes, filmstrips and slides;  
1497 recorded audiotapes, cassettes and diskettes; and any such items  
1498 as would be used for teaching, research or other information  
1499 distribution; however, equipment such as projectors, recorders,  
1500 audio or video equipment, and monitor televisions are not exempt  
1501 under this subparagraph.

1502 (xv) **Unmarked vehicles.** Purchases of unmarked  
1503 vehicles when such purchases are made in accordance with  
1504 purchasing regulations adopted by the Department of Finance and  
1505 Administration pursuant to Section 31-7-9(2).

1506 (xvi) **Election ballots.** Purchases of ballots  
1507 printed pursuant to Section 23-15-351.

1508 (xvii) **Multichannel interactive video systems.**

1509 From and after July 1, 1990, contracts by Mississippi Authority  
1510 for Educational Television with any private educational



1511 institution or private nonprofit organization whose purposes are  
1512 educational in regard to the construction, purchase, lease or  
1513 lease-purchase of facilities and equipment and the employment of  
1514 personnel for providing multichannel interactive video systems  
1515 (ITSF) in the school districts of this state.

1516 (xviii) **Purchases of prison industry products by**  
1517 **the Department of Corrections, regional correctional facilities or**  
1518 **privately owned prisons.** Purchases made by the Mississippi  
1519 Department of Corrections, regional correctional facilities or  
1520 privately owned prisons involving any item that is manufactured,  
1521 processed, grown or produced from the state's prison industries.

1522 (xix) **Undercover operations equipment.** Purchases  
1523 of surveillance equipment or any other high-tech equipment to be  
1524 used by law enforcement agents in undercover operations, provided  
1525 that any such purchase shall be in compliance with regulations  
1526 established by the Department of Finance and Administration.

1527 (xx) **Junior college books for rent.** Purchases by  
1528 community or junior colleges of textbooks which are obtained for  
1529 the purpose of renting such books to students as part of a book  
1530 service system.

1531 (xxi) **Certain school district purchases.**  
1532 Purchases of commodities made by school districts from vendors  
1533 with which any levying authority of the school district, as  
1534 defined in Section 37-57-1, has contracted through competitive  
1535 bidding procedures for purchases of the same commodities.



1536 (xxii) **Garbage, solid waste and sewage contracts.**  
1537 Contracts for garbage collection or disposal, contracts for solid  
1538 waste collection or disposal and contracts for sewage collection  
1539 or disposal.

1540 (xxiii) **Municipal water tank maintenance**  
1541 **contracts.** Professional maintenance program contracts for the  
1542 repair or maintenance of municipal water tanks, which provide  
1543 professional services needed to maintain municipal water storage  
1544 tanks for a fixed annual fee for a duration of two (2) or more  
1545 years.

1546 (xxiv) **Purchases of Mississippi Industries for the**  
1547 **Blind products.** Purchases made by state agencies or governing  
1548 authorities involving any item that is manufactured, processed or  
1549 produced by the Mississippi Industries for the Blind.

1550 (xxv) **Purchases of state-adopted textbooks.**  
1551 Purchases of state-adopted textbooks by public school districts.

1552 (xxvi) **Certain purchases under the Mississippi**  
1553 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1554 provisions of Section 57-75-9(2), (3) and (4).

1555 (xxvii) **Used heavy or specialized machinery or**  
1556 **equipment for installation of soil and water conservation**  
1557 **practices purchased at auction.** Used heavy or specialized  
1558 machinery or equipment used for the installation and  
1559 implementation of soil and water conservation practices or  
1560 measures purchased subject to the restrictions provided in



1561 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1562 Soil and Water Conservation Commission under the exemption  
1563 authorized by this subparagraph shall require advance  
1564 authorization spread upon the minutes of the commission to include  
1565 the listing of the item or items authorized to be purchased and  
1566 the maximum bid authorized to be paid for each item or items.

1567 (xxviii) **Hospital lease of equipment or services.**  
1568 Leases by hospitals of equipment or services if the leases are in  
1569 compliance with paragraph (1)(ii).

1570 (xxix) **Purchases made pursuant to qualified**  
1571 **cooperative purchasing agreements.** Purchases made by certified  
1572 purchasing offices of state agencies or governing authorities  
1573 under cooperative purchasing agreements previously approved by the  
1574 Office of Purchasing and Travel and established by or for any  
1575 municipality, county, parish or state government or the federal  
1576 government, provided that the notification to potential  
1577 contractors includes a clause that sets forth the availability of  
1578 the cooperative purchasing agreement to other governmental  
1579 entities. Such purchases shall only be made if the use of the  
1580 cooperative purchasing agreements is determined to be in the best  
1581 interest of the governmental entity.

1582 (xxx) **School yearbooks.** Purchases of school  
1583 yearbooks by state agencies or governing authorities; provided,  
1584 however, that state agencies and governing authorities shall use  
1585 for these purchases the RFP process as set forth in the



1586 Mississippi Procurement Manual adopted by the Office of Purchasing  
1587 and Travel.

1588                    (xxxii) **Design-build method and dual-phase**  
1589 **design-build method of contracting.** Contracts entered into under  
1590 the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1591                    (xxxiii) **Toll roads and bridge construction**  
1592 **projects.** Contracts entered into under the provisions of Section  
1593 65-43-1 or 65-43-3.

1594                    (xxxiiii) **Certain purchases under Section 57-1-221.**  
1595 Contracts entered into pursuant to the provisions of Section  
1596 57-1-221.

1597                    (xxxiv) **Certain transfers made pursuant to the**  
1598 **provisions of Section 57-105-1(7).** Transfers of public property  
1599 or facilities under Section 57-105-1(7) and construction related  
1600 to such public property or facilities.

1601                    (xxxv) **Certain purchases or transfers entered into**  
1602 **with local electrical power associations.** Contracts or agreements  
1603 entered into under the provisions of Section 55-3-33.

1604                    (xxxvi) **Certain purchases by an academic medical**  
1605 **center or health sciences school.** Purchases by an academic  
1606 medical center or health sciences school, as defined in Section  
1607 37-115-50, of commodities that are used for clinical purposes and  
1608 1. intended for use in the diagnosis of disease or other  
1609 conditions or in the cure, mitigation, treatment or prevention of  
1610 disease, and 2. medical devices, biological, drugs and



1611 radiation-emitting devices as defined by the United States Food  
1612 and Drug Administration.

1613 (xxxvii) **Certain purchases made under the Alyce G.**  
1614 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1615 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1616 Lottery Law.

1617 (xxxviii) **Certain purchases made by state**  
1618 **governmental agencies, local governing authorities and any**  
1619 **political subdivision thereof, including local school districts,**  
1620 **charter schools and public special purpose schools directly**  
1621 **associated with the mitigation of the impact of COVID-19.**

1622 Contracts and purchases by state governmental agencies, local  
1623 governing authorities and any political subdivision thereof,  
1624 including local school districts, charter schools and public  
1625 special purpose schools for purchases of equipment, technological  
1626 devices, hardware and software for such devices, supplies and  
1627 services directly associated with the mitigation of the impact of  
1628 COVID-19 for purposes of providing:

1629 1. Continual education services at both the  
1630 K-12 and postsecondary levels, including, but not limited to:

1631 a. Providing services to school K-12  
1632 administrators with necessary resources for the operation of  
1633 schools;

1634 b. Training and professional development  
1635 of local school staff regarding measures to decrease the spread of





1636 COVID-19 and familiarity with technology programs and devices to  
1637 facilitate distance learning to provide quality online age- and  
1638 grade-appropriate instruction to students and families;

1639 c. Purchase of facility sanitization  
1640 supplies;

1641 d. Providing technology programs and  
1642 devices to students for the transition to and administration of  
1643 online distance learning;

1644 e. Providing summer learning activities;

1645 f. Developing, implementing and  
1646 maintaining Learning Management Systems to be used by school  
1647 districts and charter schools to provide course content consistent  
1648 with the curriculum guidelines adopted by the State Board of  
1649 Education;

1650 g. Purchasing necessary equipment and  
1651 accommodations and providing adequate services for students with  
1652 disabilities enrolled within the school district or charter school  
1653 in a manner consistent with the student's IEP or 504 Plan under  
1654 IDEA;

1655 h. Providing appropriate mental health  
1656 services to students; and

1657 i. Purchasing personal protection  
1658 equipment (PPE);

1659 2. Healthcare services for the purchase of  
1660 testing equipment, personal protection equipment (PPE) and



1661 equipment and medication necessary for the treatment of patients  
1662 diagnosed with COVID-19;

1663 3. Social and mental health service; and

1664 4. Transportation and public utilities for

1665 the development of transit infrastructure and expanding

1666 infrastructure for digital network access and purchase of Internet

1667 access and provide technical support to citizens for digital

1668 inclusion through broadband access.

1669 (n) **Term contract authorization.** All contracts for the  
1670 purchase of:

1671 (i) All contracts for the purchase of commodities,  
1672 equipment and public construction (including, but not limited to,  
1673 repair and maintenance), may be let for periods of not more than  
1674 sixty (60) months in advance, subject to applicable statutory  
1675 provisions prohibiting the letting of contracts during specified  
1676 periods near the end of terms of office. Term contracts for a  
1677 period exceeding twenty-four (24) months shall also be subject to  
1678 ratification or cancellation by governing authority boards taking  
1679 office subsequent to the governing authority board entering the  
1680 contract.

1681 (ii) Bid proposals and contracts may include price  
1682 adjustment clauses with relation to the cost to the contractor  
1683 based upon a nationally published industry-wide or nationally  
1684 published and recognized cost index. The cost index used in a  
1685 price adjustment clause shall be determined by the Department of



1686 Finance and Administration for the state agencies and by the  
1687 governing board for governing authorities. The bid proposal and  
1688 contract documents utilizing a price adjustment clause shall  
1689 contain the basis and method of adjusting unit prices for the  
1690 change in the cost of such commodities, equipment and public  
1691 construction.

1692           (o) **Purchase law violation prohibition and vendor**  
1693 **penalty.** No contract or purchase as herein authorized shall be  
1694 made for the purpose of circumventing the provisions of this  
1695 section requiring competitive bids, nor shall it be lawful for any  
1696 person or concern to submit individual invoices for amounts within  
1697 those authorized for a contract or purchase where the actual value  
1698 of the contract or commodity purchased exceeds the authorized  
1699 amount and the invoices therefor are split so as to appear to be  
1700 authorized as purchases for which competitive bids are not  
1701 required. Submission of such invoices shall constitute a  
1702 misdemeanor punishable by a fine of not less than Five Hundred  
1703 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1704 or by imprisonment for thirty (30) days in the county jail, or  
1705 both such fine and imprisonment. In addition, the claim or claims  
1706 submitted shall be forfeited.

1707           (p) **Electrical utility petroleum-based equipment**  
1708 **purchase procedure.** When in response to a proper advertisement  
1709 therefor, no bid firm as to price is submitted to an electric  
1710 utility for power transformers, distribution transformers, power



1711 breakers, reclosers or other articles containing a petroleum  
1712 product, the electric utility may accept the lowest and best bid  
1713 therefor although the price is not firm.

1714           (q) **Fuel management system bidding procedure.** Any  
1715 governing authority or agency of the state shall, before  
1716 contracting for the services and products of a fuel management or  
1717 fuel access system, enter into negotiations with not fewer than  
1718 two (2) sellers of fuel management or fuel access systems for  
1719 competitive written bids to provide the services and products for  
1720 the systems. In the event that the governing authority or agency  
1721 cannot locate two (2) sellers of such systems or cannot obtain  
1722 bids from two (2) sellers of such systems, it shall show proof  
1723 that it made a diligent, good-faith effort to locate and negotiate  
1724 with two (2) sellers of such systems. Such proof shall include,  
1725 but not be limited to, publications of a request for proposals and  
1726 letters soliciting negotiations and bids. For purposes of this  
1727 paragraph (q), a fuel management or fuel access system is an  
1728 automated system of acquiring fuel for vehicles as well as  
1729 management reports detailing fuel use by vehicles and drivers, and  
1730 the term "competitive written bid" shall have the meaning as  
1731 defined in paragraph (b) of this section. Governing authorities  
1732 and agencies shall be exempt from this process when contracting  
1733 for the services and products of fuel management or fuel access  
1734 systems under the terms of a state contract established by the  
1735 Office of Purchasing and Travel.



1736 (r) **Solid waste contract proposal procedure.** Before  
1737 entering into any contract for garbage collection or disposal,  
1738 contract for solid waste collection or disposal or contract for  
1739 sewage collection or disposal, which involves an expenditure of  
1740 more than Fifty Thousand Dollars (\$50,000.00), a governing  
1741 authority or agency shall issue publicly a request for proposals  
1742 concerning the specifications for such services which shall be  
1743 advertised for in the same manner as provided in this section for  
1744 seeking bids for purchases which involve an expenditure of more  
1745 than the amount provided in paragraph (c) of this section. Any  
1746 request for proposals when issued shall contain terms and  
1747 conditions relating to price, financial responsibility,  
1748 technology, legal responsibilities and other relevant factors as  
1749 are determined by the governing authority or agency to be  
1750 appropriate for inclusion; all factors determined relevant by the  
1751 governing authority or agency or required by this paragraph (r)  
1752 shall be duly included in the advertisement to elicit proposals.  
1753 After responses to the request for proposals have been duly  
1754 received, the governing authority or agency shall select the most  
1755 qualified proposal or proposals on the basis of price, technology  
1756 and other relevant factors and from such proposals, but not  
1757 limited to the terms thereof, negotiate and enter into contracts  
1758 with one or more of the persons or firms submitting proposals. If  
1759 the governing authority or agency deems none of the proposals to  
1760 be qualified or otherwise acceptable, the request for proposals



1761 process may be reinitiated. Notwithstanding any other provisions  
1762 of this paragraph, where a county with at least thirty-five  
1763 thousand (35,000) nor more than forty thousand (40,000)  
1764 population, according to the 1990 federal decennial census, owns  
1765 or operates a solid waste landfill, the governing authorities of  
1766 any other county or municipality may contract with the governing  
1767 authorities of the county owning or operating the landfill,  
1768 pursuant to a resolution duly adopted and spread upon the minutes  
1769 of each governing authority involved, for garbage or solid waste  
1770 collection or disposal services through contract negotiations.

1771 (s) **Minority set-aside authorization.** Notwithstanding  
1772 any provision of this section to the contrary, any agency or  
1773 governing authority, by order placed on its minutes, may, in its  
1774 discretion, set aside not more than twenty percent (20%) of its  
1775 anticipated annual expenditures for the purchase of commodities  
1776 from minority businesses; however, all such set-aside purchases  
1777 shall comply with all purchasing regulations promulgated by the  
1778 Department of Finance and Administration and shall be subject to  
1779 bid requirements under this section. Set-aside purchases for  
1780 which competitive bids are required shall be made from the lowest  
1781 and best minority business bidder. For the purposes of this  
1782 paragraph, the term "minority business" means a business which is  
1783 owned by a majority of persons who are United States citizens or  
1784 permanent resident aliens (as defined by the Immigration and  
1785 Naturalization Service) of the United States, and who are Asian,



1786 Black, Hispanic or Native American, according to the following  
1787 definitions:

1788 (i) "Asian" means persons having origins in any of  
1789 the original people of the Far East, Southeast Asia, the Indian  
1790 subcontinent, or the Pacific Islands.

1791 (ii) "Black" means persons having origins in any  
1792 black racial group of Africa.

1793 (iii) "Hispanic" means persons of Spanish or  
1794 Portuguese culture with origins in Mexico, South or Central  
1795 America, or the Caribbean Islands, regardless of race.

1796 (iv) "Native American" means persons having  
1797 origins in any of the original people of North America, including  
1798 American Indians, Eskimos and Aleuts.

1799 (t) **Construction punch list restriction.** The  
1800 architect, engineer or other representative designated by the  
1801 agency or governing authority that is contracting for public  
1802 construction or renovation may prepare and submit to the  
1803 contractor only one (1) preliminary punch list of items that do  
1804 not meet the contract requirements at the time of substantial  
1805 completion and one (1) final list immediately before final  
1806 completion and final payment.

1807 (u) **Procurement of construction services by state**  
1808 **institutions of higher learning.** Contracts for privately financed  
1809 construction of auxiliary facilities on the campus of a state  
1810 institution of higher learning may be awarded by the Board of



1811 Trustees of State Institutions of Higher Learning to the lowest  
1812 and best bidder, where sealed bids are solicited, or to the  
1813 offeror whose proposal is determined to represent the best value  
1814 to the citizens of the State of Mississippi, where requests for  
1815 proposals are solicited.

1816 (v) **Insurability of bidders for public construction or**  
1817 **other public contracts.** In any solicitation for bids to perform  
1818 public construction or other public contracts to which this  
1819 section applies including, but not limited to, contracts for  
1820 repair and maintenance, for which the contract will require  
1821 insurance coverage in an amount of not less than One Million  
1822 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1823 submit proof of current insurance coverage in the specified amount  
1824 or demonstrate ability to obtain the required coverage amount of  
1825 insurance if the contract is awarded to the bidder. Proof of  
1826 insurance coverage shall be submitted within five (5) business  
1827 days from bid acceptance.

1828 (w) **Purchase authorization clarification.** Nothing in  
1829 this section shall be construed as authorizing any purchase not  
1830 authorized by law.

1831 **SECTION 11.** Section 37-7-459, Mississippi Code of 1972, is  
1832 amended as follows:

1833 37-7-459. (1) Upon a resolution duly adopted by a majority  
1834 of its members, the board of trustees of local public school  
1835 districts or charter school governing board may adopt a policy





1836 authorizing the sale of computers, peripheral equipment and  
1837 adaptive devices to students to whom such devices and equipment  
1838 have been issued during the course of an academic school year.  
1839 However, the sale of computers by a public school district or  
1840 charter school shall be limited to those students enrolled in  
1841 Grade 12, who are in possession of a district-issued computer  
1842 device or equipment, and who have satisfied all the requirements  
1843 for graduation, as established by the school district or charter  
1844 school. Students meeting the criteria established in this  
1845 paragraph who verify to the school of enrollment before graduation  
1846 an official document of acceptance to any Mississippi two-year or  
1847 four-year college or university, whether public or private, shall  
1848 be required to pay One Dollar (\$1.00) for the cost of the  
1849 district-issued computer device or peripheral equipment or  
1850 adaptive device. Students meeting the requirements of this  
1851 section who cannot sufficiently verify acceptance to a Mississippi  
1852 two-year or four-year college or university shall be required to  
1853 pay Seventy-five Dollars (\$75.00) for the cost of the  
1854 district-issued computer device or peripheral equipment.  
1855 Verification of college acceptance must be submitted before the  
1856 deadline for finalizing graduation eligibility established by each  
1857 school district or charter school adopting a policy authorizing  
1858 the sale of such devices to students.

1859 (2) All sales shall be final and without warranty of  
1860 merchantability, given the prior and extended use of the computer,



1861 equipment or adaptive device by the purchasing student. All  
1862 proceeds received from the sale of property authorized under  
1863 paragraph (1) of this section shall be deposited into the school  
1864 maintenance fund as provided under Section 37-7-457.

1865 (3) For purposes of this section the term "school board"  
1866 also means the governing board of a charter school authorized by  
1867 the Mississippi Charter School Authorizer Board. As used in this  
1868 section, the term "school of enrollment" also means a charter  
1869 school.

1870 **SECTION 12.** If any section, paragraph, sentence, clause,  
1871 phrase, or any part of this act is declared to be in conflict with  
1872 federal law, or if for any reason is declared to be invalid or of  
1873 no effect, the remaining sections, paragraphs, sentences, clauses,  
1874 phrases or parts thereof shall be in no matter affected thereby  
1875 but shall remain in full force and effect.

1876 **SECTION 13.** This act shall take effect and be in force from  
1877 and after its passage.

