

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1788

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

34 **SECTION 1.** Upon the effective date of this act, the State
35 Fiscal Officer shall transfer to the Mississippi Pandemic Response
36 Broadband Availability Grant Program Fund out of the
37 Budget Contingency Fund.....\$ 50,000,000.00.

38 **SECTION 2.** Sections 2 through 5 of this act shall be known
39 and may be cited as the "Mississippi Pandemic Response Broadband
40 Availability Act."

41 **SECTION 3.** (1) The Legislature finds and declares that due
42 to the COVID-19 pandemic there is an immediate increased need for
43 reliable Internet service in Mississippi, including expanded



44 broadband access, to facilitate and assist with distance learning.
45 Therefore, the Mississippi Department of Education shall establish
46 the Mississippi Pandemic Response Broadband Availability Grant
47 Program to provide grants to Mississippi public school districts,
48 independent schools and Native American tribal schools for the
49 purpose of expanding broadband access in the unserved areas of the
50 State of Mississippi.

51 (2) As used in this act, the following words and phrases
52 shall have the meanings ascribed in this section unless the
53 context clearly indicates otherwise:

54 (a) "Broadband access" means access to broadband
55 services as defined in Section 77-17-3(d).

56 (b) "COVID-19" means the Coronavirus Disease 2019.

57 (c) "Department" means the Mississippi Department of
58 Education.

59 (3) There is hereby created in the State Treasury a special
60 fund to be designated as the "Mississippi Pandemic Response
61 Broadband Availability Grant Program Fund," which shall consist of
62 funds made available by the Legislature in any manner and funds
63 from any other source designated for deposit into such fund.
64 Unexpended amounts remaining in the fund at the end of a fiscal
65 year shall not lapse into the State General Fund, and any
66 investment earnings or interest earned on amounts in the fund
67 shall be deposited to the credit of the fund. Monies in the fund
68 shall be used for the purpose of providing payments to eligible



69 Mississippi public school districts, independent schools and
70 Native American tribal school districts as provided in this act.
71 Monies in the fund shall be administered and disbursed by the
72 department in compliance with the guidelines, guidance, rules,
73 regulations and/or other criteria, as may be amended from time to
74 time, of the United States Department of the Treasury regarding
75 the use of monies from the Coronavirus Relief Fund established by
76 the Coronavirus Aid, Relief, and Economic Security Act. If on
77 December 1, 2020, there are undistributed monies in the fund, or
78 if at any other time undistributed monies in the fund are
79 determined by the department to be ineligible to be spent by the
80 department, those monies shall be transferred to the Unemployment
81 Compensation Fund.

82 **SECTION 4.** (1) The department shall distribute grant
83 monies, without the requirement of application by school districts
84 or schools, as equitably and efficiently as possible after
85 determining the unserved areas of the state using the latest
86 publicly available Federal Communications Commission broadband
87 data, and after determining which and to what extent Mississippi
88 public school districts, independent schools and Native American
89 tribal school districts educate students living in such unserved
90 areas of the state. The Mississippi Department of Education shall
91 consult with the Mississippi Association of Independent Schools
92 and the administrations of the Native American tribal school
93 districts in determining which and to what extent such schools and



94 schools districts educate students living in such unserved areas
95 of the state. Any grant monies provided under this act shall be
96 spent by the recipient school district no later than December 1,
97 2020, or by such later date as may be specified in the guidelines,
98 guidance, rules, regulations and/or other criteria of the United
99 States Department of the Treasury regarding the use of monies from
100 the Coronavirus Relief Fund established in Section 5001 of the
101 Coronavirus Aid, Relief, and Economic Security Act. Grants shall
102 be conditioned on the school district or school broadband provider
103 agreements including that broadband capacity shall be expanded to
104 a significant extent for the district's or school's students
105 during the COVID-19 public health emergency.

106 (2) The department may develop regulations and procedures to
107 govern the administration of the program.

108 **SECTION 5.** (1) The grant monies distributed under this act
109 shall be used by school districts and schools to negotiate and
110 contract with existing or potential broadband providers to
111 increase or gain broadband access for the unserved areas where
112 their students reside. To achieve such increased broadband
113 access, the school districts and schools may utilize any broadband
114 technology available to increase or gain broadband access in the
115 unserved areas.

116 (2) The use of grants shall be subject to audit by the
117 United States Department of the Treasury's Office of Inspector
118 General and the Mississippi Department of Education. A school



119 district or school found to be fully or partially noncompliant
120 with grant requirements shall return to the state all or a portion
121 of the grant monies received. Recipient school districts and
122 schools shall confirm their understanding of these terms.

123 (3) Mississippi public school districts, independent schools
124 and Native American tribal schools that receive grant monies under
125 this act shall provide periodic project status reports to the
126 Mississippi Department of Education and any other documentation
127 that the Mississippi Department of Education determines is
128 necessary to ensure compliance with this act and the United States
129 Department of the Treasury regarding the use of monies from the
130 Coronavirus Relief Fund established in Section 5001 of the
131 Coronavirus Aid, Relief, and Economic Security Act.

132 **SECTION 6.** Section 31-7-13, Mississippi Code of 1972, is
133 amended as follows:

134 31-7-13. All agencies and governing authorities shall
135 purchase their commodities and printing; contract for garbage
136 collection or disposal; contract for solid waste collection or
137 disposal; contract for sewage collection or disposal; contract for
138 public construction; and contract for rentals as herein provided.

139 (a) **Bidding procedure for purchases not over \$5,000.00.**
140 Purchases which do not involve an expenditure of more than Five
141 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
142 charges, may be made without advertising or otherwise requesting
143 competitive bids. However, nothing contained in this paragraph



144 (a) shall be construed to prohibit any agency or governing
145 authority from establishing procedures which require competitive
146 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

147 (b) **Bidding procedure for purchases over \$5,000.00 but**
148 **not over \$50,000.00.** Purchases which involve an expenditure of
149 more than Five Thousand Dollars (\$5,000.00) but not more than
150 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and
151 shipping charges, may be made from the lowest and best bidder
152 without publishing or posting advertisement for bids, provided at
153 least two (2) competitive written bids have been obtained. Any
154 state agency or community/junior college purchasing commodities or
155 procuring construction pursuant to this paragraph (b) may
156 authorize its purchasing agent, or his designee, to accept the
157 lowest competitive written bid under Fifty Thousand Dollars
158 (\$50,000.00). Any governing authority purchasing commodities
159 pursuant to this paragraph (b) may authorize its purchasing agent,
160 or his designee, with regard to governing authorities other than
161 counties, or its purchase clerk, or his designee, with regard to
162 counties, to accept the lowest and best competitive written bid.
163 Such authorization shall be made in writing by the governing
164 authority and shall be maintained on file in the primary office of
165 the agency and recorded in the official minutes of the governing
166 authority, as appropriate. The purchasing agent or the purchase
167 clerk, or their designee, as the case may be, and not the
168 governing authority, shall be liable for any penalties and/or



169 damages as may be imposed by law for any act or omission of the
170 purchasing agent or purchase clerk, or their designee,
171 constituting a violation of law in accepting any bid without
172 approval by the governing authority. The term "competitive
173 written bid" shall mean a bid submitted on a bid form furnished by
174 the buying agency or governing authority and signed by authorized
175 personnel representing the vendor, or a bid submitted on a
176 vendor's letterhead or identifiable bid form and signed by
177 authorized personnel representing the vendor. "Competitive" shall
178 mean that the bids are developed based upon comparable
179 identification of the needs and are developed independently and
180 without knowledge of other bids or prospective bids. Any bid item
181 for construction in excess of Five Thousand Dollars (\$5,000.00)
182 shall be broken down by components to provide detail of component
183 description and pricing. These details shall be submitted with
184 the written bids and become part of the bid evaluation criteria.
185 Bids may be submitted by facsimile, electronic mail or other
186 generally accepted method of information distribution. Bids
187 submitted by electronic transmission shall not require the
188 signature of the vendor's representative unless required by
189 agencies or governing authorities.

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

191 (i) **Publication requirement.**

192 1. Purchases which involve an expenditure of
193 more than Fifty Thousand Dollars (\$50,000.00), exclusive of



194 freight and shipping charges, may be made from the lowest and best
195 bidder after advertising for competitive bids once each week for
196 two (2) consecutive weeks in a regular newspaper published in the
197 county or municipality in which such agency or governing authority
198 is located. However, all American Recovery and Reinvestment Act
199 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
200 shall be bid. All references to American Recovery and
201 Reinvestment Act projects in this section shall not apply to
202 programs identified in Division B of the American Recovery and
203 Reinvestment Act.

204 2. Reverse auctions shall be the primary
205 method for receiving bids during the bidding process. If a
206 purchasing entity determines that a reverse auction is not in the
207 best interest of the state, then that determination must be
208 approved by the Public Procurement Review Board. The purchasing
209 entity shall submit a detailed explanation of why a reverse
210 auction would not be in the best interest of the state and present
211 an alternative process to be approved by the Public Procurement
212 Review Board. If the Public Procurement Review Board authorizes
213 the purchasing entity to solicit bids with a method other than
214 reverse auction, then the purchasing entity may designate the
215 other methods by which the bids will be received, including, but
216 not limited to, bids sealed in an envelope, bids received
217 electronically in a secure system, or bids received by any other
218 method that promotes open competition and has been approved by the



219 Office of Purchasing and Travel. However, reverse auction shall
220 not be used for any public contract for design or construction of
221 public facilities, including buildings, roads and bridges. The
222 Public Procurement Review Board must approve any contract entered
223 into by alternative process. The provisions of this item 2 shall
224 not apply to the individual state institutions of higher learning.

225 3. The date as published for the bid opening
226 shall not be less than seven (7) working days after the last
227 published notice; however, if the purchase involves a construction
228 project in which the estimated cost is in excess of Fifty Thousand
229 Dollars (\$50,000.00), such bids shall not be opened in less than
230 fifteen (15) working days after the last notice is published and
231 the notice for the purchase of such construction shall be
232 published once each week for two (2) consecutive weeks. However,
233 all American Recovery and Reinvestment Act projects in excess of
234 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any
235 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
236 under the American Recovery and Reinvestment Act, publication
237 shall be made one (1) time and the bid opening for construction
238 projects shall not be less than ten (10) working days after the
239 date of the published notice. The notice of intention to let
240 contracts or purchase equipment shall state the time and place at
241 which bids shall be received, list the contracts to be made or
242 types of equipment or supplies to be purchased, and, if all plans
243 and/or specifications are not published, refer to the plans and/or



244 specifications on file. If there is no newspaper published in the
245 county or municipality, then such notice shall be given by posting
246 same at the courthouse, or for municipalities at the city hall,
247 and at two (2) other public places in the county or municipality,
248 and also by publication once each week for two (2) consecutive
249 weeks in some newspaper having a general circulation in the county
250 or municipality in the above-provided manner. On the same date
251 that the notice is submitted to the newspaper for publication, the
252 agency or governing authority involved shall mail written notice
253 to, or provide electronic notification to the main office of the
254 Mississippi Procurement Technical Assistance Program under the
255 Mississippi Development Authority that contains the same
256 information as that in the published notice. Submissions received
257 by the Mississippi Procurement Technical Assistance Program for
258 projects funded by the American Recovery and Reinvestment Act
259 shall be displayed on a separate and unique Internet web page
260 accessible to the public and maintained by the Mississippi
261 Development Authority for the Mississippi Procurement Technical
262 Assistance Program. Those American Recovery and Reinvestment Act
263 related submissions shall be publicly posted within twenty-four
264 (24) hours of receipt by the Mississippi Development Authority and
265 the bid opening shall not occur until the submission has been
266 posted for ten (10) consecutive days. The Department of Finance
267 and Administration shall maintain information regarding contracts
268 and other expenditures from the American Recovery and Reinvestment



269 Act, on a unique Internet web page accessible to the public. The
270 Department of Finance and Administration shall promulgate rules
271 regarding format, content and deadlines, unless otherwise
272 specified by law, of the posting of award notices, contract
273 execution and subsequent amendments, links to the contract
274 documents, expenditures against the awarded contracts and general
275 expenditures of funds from the American Recovery and Reinvestment
276 Act. Within one (1) working day of the contract award, the agency
277 or governing authority shall post to the designated web page
278 maintained by the Department of Finance and Administration, notice
279 of the award, including the award recipient, the contract amount,
280 and a brief summary of the contract in accordance with rules
281 promulgated by the department. Within one (1) working day of the
282 contract execution, the agency or governing authority shall post
283 to the designated web page maintained by the Department of Finance
284 and Administration a summary of the executed contract and make a
285 copy of the appropriately redacted contract documents available
286 for linking to the designated web page in accordance with the
287 rules promulgated by the department. The information provided by
288 the agency or governing authority shall be posted to the web page
289 for the duration of the American Recovery and Reinvestment Act
290 funding or until the project is completed, whichever is longer.

291 (ii) **Bidding process amendment procedure.** If all
292 plans and/or specifications are published in the notification,
293 then the plans and/or specifications may not be amended. If all



294 plans and/or specifications are not published in the notification,
295 then amendments to the plans/specifications, bid opening date, bid
296 opening time and place may be made, provided that the agency or
297 governing authority maintains a list of all prospective bidders
298 who are known to have received a copy of the bid documents and all
299 such prospective bidders are sent copies of all amendments. This
300 notification of amendments may be made via mail, facsimile,
301 electronic mail or other generally accepted method of information
302 distribution. No addendum to bid specifications may be issued
303 within two (2) working days of the time established for the
304 receipt of bids unless such addendum also amends the bid opening
305 to a date not less than five (5) working days after the date of
306 the addendum.

307 (iii) **Filing requirement.** In all cases involving
308 governing authorities, before the notice shall be published or
309 posted, the plans or specifications for the construction or
310 equipment being sought shall be filed with the clerk of the board
311 of the governing authority. In addition to these requirements, a
312 bid file shall be established which shall indicate those vendors
313 to whom such solicitations and specifications were issued, and
314 such file shall also contain such information as is pertinent to
315 the bid.

316 (iv) **Specification restrictions.**

317 1. Specifications pertinent to such bidding
318 shall be written so as not to exclude comparable equipment of



319 domestic manufacture. However, if valid justification is
320 presented, the Department of Finance and Administration or the
321 board of a governing authority may approve a request for specific
322 equipment necessary to perform a specific job. Further, such
323 justification, when placed on the minutes of the board of a
324 governing authority, may serve as authority for that governing
325 authority to write specifications to require a specific item of
326 equipment needed to perform a specific job. In addition to these
327 requirements, from and after July 1, 1990, vendors of relocatable
328 classrooms and the specifications for the purchase of such
329 relocatable classrooms published by local school boards shall meet
330 all pertinent regulations of the State Board of Education,
331 including prior approval of such bid by the State Department of
332 Education.

333 2. Specifications for construction projects
334 may include an allowance for commodities, equipment, furniture,
335 construction materials or systems in which prospective bidders are
336 instructed to include in their bids specified amounts for such
337 items so long as the allowance items are acquired by the vendor in
338 a commercially reasonable manner and approved by the
339 agency/governing authority. Such acquisitions shall not be made
340 to circumvent the public purchasing laws.

341 (v) **Electronic bids.** Agencies and governing
342 authorities shall provide a secure electronic interactive system
343 for the submittal of bids requiring competitive bidding that shall



344 be an additional bidding option for those bidders who choose to
345 submit their bids electronically. The Department of Finance and
346 Administration shall provide, by regulation, the standards that
347 agencies must follow when receiving electronic bids. Agencies and
348 governing authorities shall make the appropriate provisions
349 necessary to accept electronic bids from those bidders who choose
350 to submit their bids electronically for all purchases requiring
351 competitive bidding under this section. Any special condition or
352 requirement for the electronic bid submission shall be specified
353 in the advertisement for bids required by this section. Agencies
354 or governing authorities that are currently without available high
355 speed Internet access shall be exempt from the requirement of this
356 subparagraph (v) until such time that high speed Internet access
357 becomes available. Any county having a population of less than
358 twenty thousand (20,000) shall be exempt from the provisions of
359 this subparagraph (v). Any municipality having a population of
360 less than ten thousand (10,000) shall be exempt from the
361 provisions of this subparagraph (v). The provisions of this
362 subparagraph (v) shall not require any bidder to submit bids
363 electronically. When construction bids are submitted
364 electronically, the requirement for including a certificate of
365 responsibility, or a statement that the bid enclosed does not
366 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
367 bid envelope as indicated in Section 31-3-21(1) and (2) shall be



368 deemed in compliance with by including same as an attachment with
369 the electronic bid submittal.

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

371 (i) **Decision procedure.** Purchases may be made
372 from the lowest and best bidder. In determining the lowest and
373 best bid, freight and shipping charges shall be included.
374 Life-cycle costing, total cost bids, warranties, guaranteed
375 buy-back provisions and other relevant provisions may be included
376 in the best bid calculation. All best bid procedures for state
377 agencies must be in compliance with regulations established by the
378 Department of Finance and Administration. If any governing
379 authority accepts a bid other than the lowest bid actually
380 submitted, it shall place on its minutes detailed calculations and
381 narrative summary showing that the accepted bid was determined to
382 be the lowest and best bid, including the dollar amount of the
383 accepted bid and the dollar amount of the lowest bid. No agency
384 or governing authority shall accept a bid based on items not
385 included in the specifications.

386 (ii) **Decision procedure for Certified Purchasing**
387 **Offices.** In addition to the decision procedure set forth in
388 subparagraph (i) of this paragraph (d), Certified Purchasing
389 Offices may also use the following procedure: Purchases may be
390 made from the bidder offering the best value. In determining the
391 best value bid, freight and shipping charges shall be included.
392 Life-cycle costing, total cost bids, warranties, guaranteed



393 buy-back provisions, documented previous experience, training
394 costs and other relevant provisions, including, but not limited
395 to, a bidder having a local office and inventory located within
396 the jurisdiction of the governing authority, may be included in
397 the best value calculation. This provision shall authorize
398 Certified Purchasing Offices to utilize a Request For Proposals
399 (RFP) process when purchasing commodities. All best value
400 procedures for state agencies must be in compliance with
401 regulations established by the Department of Finance and
402 Administration. No agency or governing authority shall accept a
403 bid based on items or criteria not included in the specifications.

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

405 **Landmarks.** In addition to the decision procedure set forth in
406 subparagraph (i) of this paragraph (d), where purchase involves
407 renovation, restoration, or both, of the State Capitol Building or
408 any other historical building designated for at least five (5)
409 years as a Mississippi Landmark by the Board of Trustees of the
410 Department of Archives and History under the authority of Sections
411 39-7-7 and 39-7-11, the agency or governing authority may use the
412 following procedure: Purchases may be made from the lowest and
413 best prequalified bidder. Prequalification of bidders shall be
414 determined not less than fifteen (15) working days before the
415 first published notice of bid opening. Prequalification criteria
416 shall be limited to bidder's knowledge and experience in
417 historical restoration, preservation and renovation. In



418 determining the lowest and best bid, freight and shipping charges
419 shall be included. Life-cycle costing, total cost bids,
420 warranties, guaranteed buy-back provisions and other relevant
421 provisions may be included in the best bid calculation. All best
422 bid and prequalification procedures for state agencies must be in
423 compliance with regulations established by the Department of
424 Finance and Administration. If any governing authority accepts a
425 bid other than the lowest bid actually submitted, it shall place
426 on its minutes detailed calculations and narrative summary showing
427 that the accepted bid was determined to be the lowest and best
428 bid, including the dollar amount of the accepted bid and the
429 dollar amount of the lowest bid. No agency or governing authority
430 shall accept a bid based on items not included in the
431 specifications.

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

438 (e) **Lease-purchase authorization.** For the purposes of
439 this section, the term "equipment" shall mean equipment, furniture
440 and, if applicable, associated software and other applicable
441 direct costs associated with the acquisition. Any lease-purchase
442 of equipment which an agency is not required to lease-purchase



443 under the master lease-purchase program pursuant to Section
444 31-7-10 and any lease-purchase of equipment which a governing
445 authority elects to lease-purchase may be acquired by a
446 lease-purchase agreement under this paragraph (e). Lease-purchase
447 financing may also be obtained from the vendor or from a
448 third-party source after having solicited and obtained at least
449 two (2) written competitive bids, as defined in paragraph (b) of
450 this section, for such financing without advertising for such
451 bids. Solicitation for the bids for financing may occur before or
452 after acceptance of bids for the purchase of such equipment or,
453 where no such bids for purchase are required, at any time before
454 the purchase thereof. No such lease-purchase agreement shall be
455 for an annual rate of interest which is greater than the overall
456 maximum interest rate to maturity on general obligation
457 indebtedness permitted under Section 75-17-101, and the term of
458 such lease-purchase agreement shall not exceed the useful life of
459 equipment covered thereby as determined according to the upper
460 limit of the asset depreciation range (ADR) guidelines for the
461 Class Life Asset Depreciation Range System established by the
462 Internal Revenue Service pursuant to the United States Internal
463 Revenue Code and regulations thereunder as in effect on December
464 31, 1980, or comparable depreciation guidelines with respect to
465 any equipment not covered by ADR guidelines. Any lease-purchase
466 agreement entered into pursuant to this paragraph (e) may contain
467 any of the terms and conditions which a master lease-purchase



468 agreement may contain under the provisions of Section 31-7-10(5),
469 and shall contain an annual allocation dependency clause
470 substantially similar to that set forth in Section 31-7-10(8).
471 Each agency or governing authority entering into a lease-purchase
472 transaction pursuant to this paragraph (e) shall maintain with
473 respect to each such lease-purchase transaction the same
474 information as required to be maintained by the Department of
475 Finance and Administration pursuant to Section 31-7-10(13).
476 However, nothing contained in this section shall be construed to
477 permit agencies to acquire items of equipment with a total
478 acquisition cost in the aggregate of less than Ten Thousand
479 Dollars (\$10,000.00) by a single lease-purchase transaction. All
480 equipment, and the purchase thereof by any lessor, acquired by
481 lease-purchase under this paragraph and all lease-purchase
482 payments with respect thereto shall be exempt from all Mississippi
483 sales, use and ad valorem taxes. Interest paid on any
484 lease-purchase agreement under this section shall be exempt from
485 State of Mississippi income taxation.

486 (f) **Alternate bid authorization.** When necessary to
487 ensure ready availability of commodities for public works and the
488 timely completion of public projects, no more than two (2)
489 alternate bids may be accepted by a governing authority for
490 commodities. No purchases may be made through use of such
491 alternate bids procedure unless the lowest and best bidder cannot
492 deliver the commodities contained in his bid. In that event,



493 purchases of such commodities may be made from one (1) of the
494 bidders whose bid was accepted as an alternate.

495 (g) **Construction contract change authorization.** In the
496 event a determination is made by an agency or governing authority
497 after a construction contract is let that changes or modifications
498 to the original contract are necessary or would better serve the
499 purpose of the agency or the governing authority, such agency or
500 governing authority may, in its discretion, order such changes
501 pertaining to the construction that are necessary under the
502 circumstances without the necessity of further public bids;
503 provided that such change shall be made in a commercially
504 reasonable manner and shall not be made to circumvent the public
505 purchasing statutes. In addition to any other authorized person,
506 the architect or engineer hired by an agency or governing
507 authority with respect to any public construction contract shall
508 have the authority, when granted by an agency or governing
509 authority, to authorize changes or modifications to the original
510 contract without the necessity of prior approval of the agency or
511 governing authority when any such change or modification is less
512 than one percent (1%) of the total contract amount. The agency or
513 governing authority may limit the number, manner or frequency of
514 such emergency changes or modifications.

515 (h) **Petroleum purchase alternative.** In addition to
516 other methods of purchasing authorized in this chapter, when any
517 agency or governing authority shall have a need for gas, diesel



518 fuel, oils and/or other petroleum products in excess of the amount
519 set forth in paragraph (a) of this section, such agency or
520 governing authority may purchase the commodity after having
521 solicited and obtained at least two (2) competitive written bids,
522 as defined in paragraph (b) of this section. If two (2)
523 competitive written bids are not obtained, the entity shall comply
524 with the procedures set forth in paragraph (c) of this section.
525 In the event any agency or governing authority shall have
526 advertised for bids for the purchase of gas, diesel fuel, oils and
527 other petroleum products and coal and no acceptable bids can be
528 obtained, such agency or governing authority is authorized and
529 directed to enter into any negotiations necessary to secure the
530 lowest and best contract available for the purchase of such
531 commodities.

532 (i) **Road construction petroleum products price**
533 **adjustment clause authorization.** Any agency or governing
534 authority authorized to enter into contracts for the construction,
535 maintenance, surfacing or repair of highways, roads or streets,
536 may include in its bid proposal and contract documents a price
537 adjustment clause with relation to the cost to the contractor,
538 including taxes, based upon an industry-wide cost index, of
539 petroleum products including asphalt used in the performance or
540 execution of the contract or in the production or manufacture of
541 materials for use in such performance. Such industry-wide index
542 shall be established and published monthly by the Mississippi



543 Department of Transportation with a copy thereof to be mailed,
544 upon request, to the clerks of the governing authority of each
545 municipality and the clerks of each board of supervisors
546 throughout the state. The price adjustment clause shall be based
547 on the cost of such petroleum products only and shall not include
548 any additional profit or overhead as part of the adjustment. The
549 bid proposals or document contract shall contain the basis and
550 methods of adjusting unit prices for the change in the cost of
551 such petroleum products.

552 (j) **State agency emergency purchase procedure.** If the
553 governing board or the executive head, or his designees, of any
554 agency of the state shall determine that an emergency exists in
555 regard to the purchase of any commodities or repair contracts, so
556 that the delay incident to giving opportunity for competitive
557 bidding would be detrimental to the interests of the state, then
558 the head of such agency, or his designees, shall file with the
559 Department of Finance and Administration (i) a statement
560 explaining the conditions and circumstances of the emergency,
561 which shall include a detailed description of the events leading
562 up to the situation and the negative impact to the entity if the
563 purchase is made following the statutory requirements set forth in
564 paragraph (a), (b) or (c) of this section, and (ii) a certified
565 copy of the appropriate minutes of the board of such agency
566 requesting the emergency purchase, if applicable. Upon receipt of
567 the statement and applicable board certification, the State Fiscal



568 Officer, or his designees, may, in writing, authorize the purchase
569 or repair without having to comply with competitive bidding
570 requirements.

571 If the governing board or the executive head, or his
572 designees, of any agency determines that an emergency exists in
573 regard to the purchase of any commodities or repair contracts, so
574 that the delay incident to giving opportunity for competitive
575 bidding would threaten the health or safety of any person, or the
576 preservation or protection of property, then the provisions in
577 this section for competitive bidding shall not apply, and any
578 officer or agent of the agency having general or specific
579 authority for making the purchase or repair contract shall approve
580 the bill presented for payment, and he shall certify in writing
581 from whom the purchase was made, or with whom the repair contract
582 was made.

583 Total purchases made under this paragraph (j) shall only be
584 for the purpose of meeting needs created by the emergency
585 situation. Following the emergency purchase, documentation of the
586 purchase, including a description of the commodity purchased, the
587 purchase price thereof and the nature of the emergency shall be
588 filed with the Department of Finance and Administration. Any
589 contract awarded pursuant to this paragraph (j) shall not exceed a
590 term of one (1) year.

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

592 If the governing authority, or the governing authority acting



593 through its designee, shall determine that an emergency exists in
594 regard to the purchase of any commodities or repair contracts, so
595 that the delay incident to giving opportunity for competitive
596 bidding would be detrimental to the interest of the governing
597 authority, then the provisions herein for competitive bidding
598 shall not apply and any officer or agent of such governing
599 authority having general or special authority therefor in making
600 such purchase or repair shall approve the bill presented therefor,
601 and he shall certify in writing thereon from whom such purchase
602 was made, or with whom such a repair contract was made. At the
603 board meeting next following the emergency purchase or repair
604 contract, documentation of the purchase or repair contract,
605 including a description of the commodity purchased, the price
606 thereof and the nature of the emergency shall be presented to the
607 board and shall be placed on the minutes of the board of such
608 governing authority.

609 (1) **Hospital purchase, lease-purchase and lease**
610 **authorization.**

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

616 (ii) In addition to the authority granted in
617 subparagraph (i) of this paragraph (1), the commissioners or board



618 of trustees is authorized to enter into contracts for the lease of
619 equipment or services, or both, which it considers necessary for
620 the proper care of patients if, in its opinion, it is not
621 financially feasible to purchase the necessary equipment or
622 services. Any such contract for the lease of equipment or
623 services executed by the commissioners or board shall not exceed a
624 maximum of five (5) years' duration and shall include a
625 cancellation clause based on unavailability of funds. If such
626 cancellation clause is exercised, there shall be no further
627 liability on the part of the lessee. Any such contract for the
628 lease of equipment or services executed on behalf of the
629 commissioners or board that complies with the provisions of this
630 subparagraph (ii) shall be excepted from the bid requirements set
631 forth in this section.

632 (m) **Exceptions from bidding requirements.** Excepted
633 from bid requirements are:

634 (i) **Purchasing agreements approved by department.**
635 Purchasing agreements, contracts and maximum price regulations
636 executed or approved by the Department of Finance and
637 Administration.

638 (ii) **Outside equipment repairs.** Repairs to
639 equipment, when such repairs are made by repair facilities in the
640 private sector; however, engines, transmissions, rear axles and/or
641 other such components shall not be included in this exemption when
642 replaced as a complete unit instead of being repaired and the need



643 for such total component replacement is known before disassembly
644 of the component; however, invoices identifying the equipment,
645 specific repairs made, parts identified by number and name,
646 supplies used in such repairs, and the number of hours of labor
647 and costs therefor shall be required for the payment for such
648 repairs.

649 (iii) **In-house equipment repairs.** Purchases of
650 parts for repairs to equipment, when such repairs are made by
651 personnel of the agency or governing authority; however, entire
652 assemblies, such as engines or transmissions, shall not be
653 included in this exemption when the entire assembly is being
654 replaced instead of being repaired.

655 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
656 of gravel or fill dirt which are to be removed and transported by
657 the purchaser.

658 (v) **Governmental equipment auctions.** Motor
659 vehicles or other equipment purchased from a federal agency or
660 authority, another governing authority or state agency of the
661 State of Mississippi, or any governing authority or state agency
662 of another state at a public auction held for the purpose of
663 disposing of such vehicles or other equipment. Any purchase by a
664 governing authority under the exemption authorized by this
665 subparagraph (v) shall require advance authorization spread upon
666 the minutes of the governing authority to include the listing of



667 the item or items authorized to be purchased and the maximum bid
668 authorized to be paid for each item or items.

669 (vi) **Intergovernmental sales and transfers.**

670 Purchases, sales, transfers or trades by governing authorities or
671 state agencies when such purchases, sales, transfers or trades are
672 made by a private treaty agreement or through means of
673 negotiation, from any federal agency or authority, another
674 governing authority or state agency of the State of Mississippi,
675 or any state agency or governing authority of another state.

676 Nothing in this section shall permit such purchases through public
677 auction except as provided for in subparagraph (v) of this
678 paragraph (m). It is the intent of this section to allow
679 governmental entities to dispose of and/or purchase commodities
680 from other governmental entities at a price that is agreed to by
681 both parties. This shall allow for purchases and/or sales at
682 prices which may be determined to be below the market value if the
683 selling entity determines that the sale at below market value is
684 in the best interest of the taxpayers of the state. Governing
685 authorities shall place the terms of the agreement and any
686 justification on the minutes, and state agencies shall obtain
687 approval from the Department of Finance and Administration, prior
688 to releasing or taking possession of the commodities.

689 (vii) **Perishable supplies or food.** Perishable
690 supplies or food purchased for use in connection with hospitals,



691 the school lunch programs, homemaking programs and for the feeding
692 of county or municipal prisoners.

693 (viii) **Single source items.** Noncompetitive items
694 available from one (1) source only. In connection with the
695 purchase of noncompetitive items only available from one (1)
696 source, a certification of the conditions and circumstances
697 requiring the purchase shall be filed by the agency with the
698 Department of Finance and Administration and by the governing
699 authority with the board of the governing authority. Upon receipt
700 of that certification the Department of Finance and Administration
701 or the board of the governing authority, as the case may be, may,
702 in writing, authorize the purchase, which authority shall be noted
703 on the minutes of the body at the next regular meeting thereafter.
704 In those situations, a governing authority is not required to
705 obtain the approval of the Department of Finance and
706 Administration. Following the purchase, the executive head of the
707 state agency, or his designees, shall file with the Department of
708 Finance and Administration, documentation of the purchase,
709 including a description of the commodity purchased, the purchase
710 price thereof and the source from whom it was purchased.

711 (ix) **Waste disposal facility construction**
712 **contracts.** Construction of incinerators and other facilities for
713 disposal of solid wastes in which products either generated
714 therein, such as steam, or recovered therefrom, such as materials
715 for recycling, are to be sold or otherwise disposed of; however,



716 in constructing such facilities, a governing authority or agency
717 shall publicly issue requests for proposals, advertised for in the
718 same manner as provided herein for seeking bids for public
719 construction projects, concerning the design, construction,
720 ownership, operation and/or maintenance of such facilities,
721 wherein such requests for proposals when issued shall contain
722 terms and conditions relating to price, financial responsibility,
723 technology, environmental compatibility, legal responsibilities
724 and such other matters as are determined by the governing
725 authority or agency to be appropriate for inclusion; and after
726 responses to the request for proposals have been duly received,
727 the governing authority or agency may select the most qualified
728 proposal or proposals on the basis of price, technology and other
729 relevant factors and from such proposals, but not limited to the
730 terms thereof, negotiate and enter contracts with one or more of
731 the persons or firms submitting proposals.

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

735 (xi) **Information technology products.** Purchases
736 of information technology products made by governing authorities
737 under the provisions of purchase schedules, or contracts executed
738 or approved by the Mississippi Department of Information
739 Technology Services and designated for use by governing
740 authorities.



741 (xii) **Energy efficiency services and equipment.**
742 Energy efficiency services and equipment acquired by school
743 districts, community and junior colleges, institutions of higher
744 learning and state agencies or other applicable governmental
745 entities on a shared-savings, lease or lease-purchase basis
746 pursuant to Section 31-7-14.

747 (xiii) **Municipal electrical utility system fuel.**
748 Purchases of coal and/or natural gas by municipally owned electric
749 power generating systems that have the capacity to use both coal
750 and natural gas for the generation of electric power.

751 (xiv) **Library books and other reference materials.**
752 Purchases by libraries or for libraries of books and periodicals;
753 processed film, videocassette tapes, filmstrips and slides;
754 recorded audiotapes, cassettes and diskettes; and any such items
755 as would be used for teaching, research or other information
756 distribution; however, equipment such as projectors, recorders,
757 audio or video equipment, and monitor televisions are not exempt
758 under this subparagraph.

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

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



765 (xvii) **Multichannel interactive video systems.**
766 From and after July 1, 1990, contracts by Mississippi Authority
767 for Educational Television with any private educational
768 institution or private nonprofit organization whose purposes are
769 educational in regard to the construction, purchase, lease or
770 lease-purchase of facilities and equipment and the employment of
771 personnel for providing multichannel interactive video systems
772 (ITSF) in the school districts of this state.

773 (xviii) **Purchases of prison industry products by**
774 **the Department of Corrections, regional correctional facilities or**
775 **privately owned prisons.** Purchases made by the Mississippi
776 Department of Corrections, regional correctional facilities or
777 privately owned prisons involving any item that is manufactured,
778 processed, grown or produced from the state's prison industries.

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

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

788 (xxi) **Certain school district purchases.**
789 Purchases of commodities made by school districts from vendors



790 with which any levying authority of the school district, as
791 defined in Section 37-57-1, has contracted through competitive
792 bidding procedures for purchases of the same commodities.

793 (xxii) **Garbage, solid waste and sewage contracts.**

794 Contracts for garbage collection or disposal, contracts for solid
795 waste collection or disposal and contracts for sewage collection
796 or disposal.

797 (xxiii) **Municipal water tank maintenance**

798 **contracts.** Professional maintenance program contracts for the
799 repair or maintenance of municipal water tanks, which provide
800 professional services needed to maintain municipal water storage
801 tanks for a fixed annual fee for a duration of two (2) or more
802 years.

803 (xxiv) **Purchases of Mississippi Industries for the**

804 **Blind products.** Purchases made by state agencies or governing
805 authorities involving any item that is manufactured, processed or
806 produced by the Mississippi Industries for the Blind.

807 (xxv) **Purchases of state-adopted textbooks.**

808 Purchases of state-adopted textbooks by public school districts.

809 (xxvi) **Certain purchases under the Mississippi**

810 **Major Economic Impact Act.** Contracts entered into pursuant to the
811 provisions of Section 57-75-9(2), (3) and (4).

812 (xxvii) **Used heavy or specialized machinery or**

813 **equipment for installation of soil and water conservation**

814 **practices purchased at auction.** Used heavy or specialized



815 machinery or equipment used for the installation and
816 implementation of soil and water conservation practices or
817 measures purchased subject to the restrictions provided in
818 Sections 69-27-331 through 69-27-341. Any purchase by the State
819 Soil and Water Conservation Commission under the exemption
820 authorized by this subparagraph shall require advance
821 authorization spread upon the minutes of the commission to include
822 the listing of the item or items authorized to be purchased and
823 the maximum bid authorized to be paid for each item or items.

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

827 (xxix) **Purchases made pursuant to qualified**
828 **cooperative purchasing agreements.** Purchases made by certified
829 purchasing offices of state agencies or governing authorities
830 under cooperative purchasing agreements previously approved by the
831 Office of Purchasing and Travel and established by or for any
832 municipality, county, parish or state government or the federal
833 government, provided that the notification to potential
834 contractors includes a clause that sets forth the availability of
835 the cooperative purchasing agreement to other governmental
836 entities. Such purchases shall only be made if the use of the
837 cooperative purchasing agreements is determined to be in the best
838 interest of the governmental entity.



839 (xxx) **School yearbooks.** Purchases of school
840 yearbooks by state agencies or governing authorities; provided,
841 however, that state agencies and governing authorities shall use
842 for these purchases the RFP process as set forth in the
843 Mississippi Procurement Manual adopted by the Office of Purchasing
844 and Travel.

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

848 (xxxiii) **Toll roads and bridge construction**
849 **projects.** Contracts entered into under the provisions of Section
850 65-43-1 or 65-43-3.

851 (xxxiiii) **Certain purchases under Section 57-1-221.**
852 Contracts entered into pursuant to the provisions of Section
853 57-1-221.

854 (xxxiv) **Certain transfers made pursuant to the**
855 **provisions of Section 57-105-1(7).** Transfers of public property
856 or facilities under Section 57-105-1(7) and construction related
857 to such public property or facilities.

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

861 (xxxvi) **Certain purchases by an academic medical**
862 **center or health sciences school.** Purchases by an academic
863 medical center or health sciences school, as defined in Section



864 37-115-50, of commodities that are used for clinical purposes and
865 1. intended for use in the diagnosis of disease or other
866 conditions or in the cure, mitigation, treatment or prevention of
867 disease, and 2. medical devices, biological, drugs and
868 radiation-emitting devices as defined by the United States Food
869 and Drug Administration.

870 (xxxvii) **Certain purchases made under the Alyce G.**
871 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
872 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
873 Lottery Law.

874 (xxxviii) **Certain purchases made under the**
875 **Mississippi Pandemic Response Broadband Availability Act.**
876 Contracts made by a public school district or school pursuant to
877 the Mississippi Pandemic Response Broadband Availability Act.

878 (n) **Term contract authorization.** All contracts for the
879 purchase of:

880 (i) All contracts for the purchase of commodities,
881 equipment and public construction (including, but not limited to,
882 repair and maintenance), may be let for periods of not more than
883 sixty (60) months in advance, subject to applicable statutory
884 provisions prohibiting the letting of contracts during specified
885 periods near the end of terms of office. Term contracts for a
886 period exceeding twenty-four (24) months shall also be subject to
887 ratification or cancellation by governing authority boards taking



888 office subsequent to the governing authority board entering the
889 contract.

890 (ii) Bid proposals and contracts may include price
891 adjustment clauses with relation to the cost to the contractor
892 based upon a nationally published industry-wide or nationally
893 published and recognized cost index. The cost index used in a
894 price adjustment clause shall be determined by the Department of
895 Finance and Administration for the state agencies and by the
896 governing board for governing authorities. The bid proposal and
897 contract documents utilizing a price adjustment clause shall
898 contain the basis and method of adjusting unit prices for the
899 change in the cost of such commodities, equipment and public
900 construction.

901 (o) **Purchase law violation prohibition and vendor**
902 **penalty.** No contract or purchase as herein authorized shall be
903 made for the purpose of circumventing the provisions of this
904 section requiring competitive bids, nor shall it be lawful for any
905 person or concern to submit individual invoices for amounts within
906 those authorized for a contract or purchase where the actual value
907 of the contract or commodity purchased exceeds the authorized
908 amount and the invoices therefor are split so as to appear to be
909 authorized as purchases for which competitive bids are not
910 required. Submission of such invoices shall constitute a
911 misdemeanor punishable by a fine of not less than Five Hundred
912 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),



913 or by imprisonment for thirty (30) days in the county jail, or
914 both such fine and imprisonment. In addition, the claim or claims
915 submitted shall be forfeited.

916 (p) **Electrical utility petroleum-based equipment**
917 **purchase procedure.** When in response to a proper advertisement
918 therefor, no bid firm as to price is submitted to an electric
919 utility for power transformers, distribution transformers, power
920 breakers, reclosers or other articles containing a petroleum
921 product, the electric utility may accept the lowest and best bid
922 therefor although the price is not firm.

923 (q) **Fuel management system bidding procedure.** Any
924 governing authority or agency of the state shall, before
925 contracting for the services and products of a fuel management or
926 fuel access system, enter into negotiations with not fewer than
927 two (2) sellers of fuel management or fuel access systems for
928 competitive written bids to provide the services and products for
929 the systems. In the event that the governing authority or agency
930 cannot locate two (2) sellers of such systems or cannot obtain
931 bids from two (2) sellers of such systems, it shall show proof
932 that it made a diligent, good-faith effort to locate and negotiate
933 with two (2) sellers of such systems. Such proof shall include,
934 but not be limited to, publications of a request for proposals and
935 letters soliciting negotiations and bids. For purposes of this
936 paragraph (q), a fuel management or fuel access system is an
937 automated system of acquiring fuel for vehicles as well as



938 management reports detailing fuel use by vehicles and drivers, and
939 the term "competitive written bid" shall have the meaning as
940 defined in paragraph (b) of this section. Governing authorities
941 and agencies shall be exempt from this process when contracting
942 for the services and products of fuel management or fuel access
943 systems under the terms of a state contract established by the
944 Office of Purchasing and Travel.

945 (r) **Solid waste contract proposal procedure.** Before
946 entering into any contract for garbage collection or disposal,
947 contract for solid waste collection or disposal or contract for
948 sewage collection or disposal, which involves an expenditure of
949 more than Fifty Thousand Dollars (\$50,000.00), a governing
950 authority or agency shall issue publicly a request for proposals
951 concerning the specifications for such services which shall be
952 advertised for in the same manner as provided in this section for
953 seeking bids for purchases which involve an expenditure of more
954 than the amount provided in paragraph (c) of this section. Any
955 request for proposals when issued shall contain terms and
956 conditions relating to price, financial responsibility,
957 technology, legal responsibilities and other relevant factors as
958 are determined by the governing authority or agency to be
959 appropriate for inclusion; all factors determined relevant by the
960 governing authority or agency or required by this paragraph (r)
961 shall be duly included in the advertisement to elicit proposals.
962 After responses to the request for proposals have been duly



963 received, the governing authority or agency shall select the most
964 qualified proposal or proposals on the basis of price, technology
965 and other relevant factors and from such proposals, but not
966 limited to the terms thereof, negotiate and enter into contracts
967 with one or more of the persons or firms submitting proposals. If
968 the governing authority or agency deems none of the proposals to
969 be qualified or otherwise acceptable, the request for proposals
970 process may be reinitiated. Notwithstanding any other provisions
971 of this paragraph, where a county with at least thirty-five
972 thousand (35,000) nor more than forty thousand (40,000)
973 population, according to the 1990 federal decennial census, owns
974 or operates a solid waste landfill, the governing authorities of
975 any other county or municipality may contract with the governing
976 authorities of the county owning or operating the landfill,
977 pursuant to a resolution duly adopted and spread upon the minutes
978 of each governing authority involved, for garbage or solid waste
979 collection or disposal services through contract negotiations.

980 (s) **Minority set-aside authorization.** Notwithstanding
981 any provision of this section to the contrary, any agency or
982 governing authority, by order placed on its minutes, may, in its
983 discretion, set aside not more than twenty percent (20%) of its
984 anticipated annual expenditures for the purchase of commodities
985 from minority businesses; however, all such set-aside purchases
986 shall comply with all purchasing regulations promulgated by the
987 Department of Finance and Administration and shall be subject to



988 bid requirements under this section. Set-aside purchases for
989 which competitive bids are required shall be made from the lowest
990 and best minority business bidder. For the purposes of this
991 paragraph, the term "minority business" means a business which is
992 owned by a majority of persons who are United States citizens or
993 permanent resident aliens (as defined by the Immigration and
994 Naturalization Service) of the United States, and who are Asian,
995 Black, Hispanic or Native American, according to the following
996 definitions:

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

1000 (ii) "Black" means persons having origins in any
1001 black racial group of Africa.

1002 (iii) "Hispanic" means persons of Spanish or
1003 Portuguese culture with origins in Mexico, South or Central
1004 America, or the Caribbean Islands, regardless of race.

1005 (iv) "Native American" means persons having
1006 origins in any of the original people of North America, including
1007 American Indians, Eskimos and Aleuts.

1008 (t) **Construction punch list restriction.** The
1009 architect, engineer or other representative designated by the
1010 agency or governing authority that is contracting for public
1011 construction or renovation may prepare and submit to the
1012 contractor only one (1) preliminary punch list of items that do



1013 not meet the contract requirements at the time of substantial
1014 completion and one (1) final list immediately before final
1015 completion and final payment.

1016 (u) **Procurement of construction services by state**
1017 **institutions of higher learning.** Contracts for privately financed
1018 construction of auxiliary facilities on the campus of a state
1019 institution of higher learning may be awarded by the Board of
1020 Trustees of State Institutions of Higher Learning to the lowest
1021 and best bidder, where sealed bids are solicited, or to the
1022 offeror whose proposal is determined to represent the best value
1023 to the citizens of the State of Mississippi, where requests for
1024 proposals are solicited.

1025 (v) **Insurability of bidders for public construction or**
1026 **other public contracts.** In any solicitation for bids to perform
1027 public construction or other public contracts to which this
1028 section applies including, but not limited to, contracts for
1029 repair and maintenance, for which the contract will require
1030 insurance coverage in an amount of not less than One Million
1031 Dollars (\$1,000,000.00), bidders shall be permitted to either
1032 submit proof of current insurance coverage in the specified amount
1033 or demonstrate ability to obtain the required coverage amount of
1034 insurance if the contract is awarded to the bidder. Proof of
1035 insurance coverage shall be submitted within five (5) business
1036 days from bid acceptance.



1037 (w) **Purchase authorization clarification.** Nothing in
1038 this section shall be construed as authorizing any purchase not
1039 authorized by law.

1040 **SECTION 7.** If any section, paragraph, sentence, clause,
1041 phrase or any part of this act is declared to be in conflict with
1042 federal law, or if for any reason is declared to be invalid or of
1043 no effect, the remaining sections, paragraphs, sentences, clauses,
1044 phrases or parts thereof shall be in no manner affected thereby
1045 but shall remain in full force and effect.

1046 **SECTION 8.** This act shall take effect and be in force from
1047 and after July 1, 2020, and shall stand repealed on June 30, 2020.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER
2 \$50,000,000.00 TO THE MISSISSIPPI PANDEMIC RESPONSE BROADBAND
3 AVAILABILITY GRANT PROGRAM FUND; TO CREATE THE "MISSISSIPPI
4 PANDEMIC RESPONSE BROADBAND AVAILABILITY ACT"; TO PROVIDE A
5 STATEMENT OF LEGISLATIVE INTENT AND FINDINGS; TO CREATE THE
6 "MISSISSIPPI PANDEMIC RESPONSE BROADBAND AVAILABILITY GRANT
7 PROGRAM FUND" AS A SPECIAL FUND IN THE STATE TREASURY FOR THE
8 PURPOSE OF PROVIDING FUNDS FOR GRANTS TO MISSISSIPPI PUBLIC SCHOOL
9 DISTRICTS, INDEPENDENT SCHOOLS AND NATIVE AMERICAN TRIBAL SCHOOL
10 DISTRICTS; TO PROVIDE THAT THE MISSISSIPPI PANDEMIC RESPONSE
11 BROADBAND AVAILABILITY GRANT PROGRAM SHALL BE ADMINISTERED BY THE
12 MISSISSIPPI DEPARTMENT OF EDUCATION, FOR THE PURPOSE OF MAKING
13 GRANTS TO ELIGIBLE SCHOOL DISTRICTS AND SCHOOLS TO PROVIDE THEM
14 WITH GRANT MONIES FOR ELIGIBLE EXPENSES; TO DIRECT THE MISSISSIPPI
15 DEPARTMENT OF EDUCATION TO DEVELOP REGULATIONS AND PROCEDURES TO
16 GOVERN THE ADMINISTRATION OF THE PROGRAM; TO PRESCRIBE THE
17 REQUIREMENTS FOR THE GRANTS; TO SPECIFY THAT THE USE OF GRANT
18 FUNDS SHALL BE SUBJECT TO AUDIT AND REGULATION OF THE MISSISSIPPI
19 DEPARTMENT OF EDUCATION, AND NONCOMPLIANCE WITH THE TERMS OF THE
20 GRANT SHALL REQUIRE REPAYMENT OF GRANT MONIES TO THE STATE; TO
21 SPECIFY THAT ALL MONIES SHALL BE DISBURSED FROM THIS SPECIAL FUND
22 IN COMPLIANCE WITH THE REQUIREMENTS OF THE CARES ACT AND



23 GUIDELINES FROM THE UNITED STATES DEPARTMENT OF THE TREASURY
24 REGARDING THE USE OF MONIES FROM THE CORONAVIRUS RELIEF FUND; TO
25 TRANSFER UNDISTRIBUTED MONIES IN THE FUND AS OF DECEMBER 1, 2020,
26 TO THE UNEMPLOYMENT COMPENSATION FUND; TO PROVIDE THAT A
27 DECLARATION OF ANY PORTION OF THIS ACT AS INVALID SHALL NOT AFFECT
28 THE REMAINING PORTIONS OF THIS ACT; TO AMEND SECTION 31-7-13,
29 MISSISSIPPI CODE OF 1972, TO EXEMPT PUBLIC SCHOOL DISTRICTS AND
30 SCHOOLS FROM THE PROCUREMENT AND COMPETITIVE BIDDING REQUIREMENTS
31 FOR CONTRACTS MADE UNDER THE MISSISSIPPI PANDEMIC RESPONSE
32 BROADBAND AVAILABILITY ACT; AND FOR RELATED PURPOSES.

