MISSISSIPPI LEGISLATURE

By: Senator(s) DeBar

To: Education; Appropriations

REGULAR SESSION 2022

SENATE BILL NO. 2884

AN ACT TO BRING FORWARD SECTIONS 37-68-1, 37-68-3 AND 37-68-5, MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS OF THE "EQUITY IN DIGITAL LEARNING ACT," FOR THE PURPOSE OF POSSIBLE AMENDMENTS; TO AMEND SECTION 37-68-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF EDUCATION TO ESTABLISH AND ADMINISTER THE VOLUNTARY EQUITY IN DISTANCE LEARNING GRANT PROGRAM FOR SCHOOLS CHOOSING TO PARTICIPATE FOR THE PURPOSE OF PURCHASING TECHNOLOGY DEVICES AND HARDWARE TO AID IN FACILITATING DISTANCE LEARNING AND SAFE CLASSROOM OR REMOTE INSTRUCTION; TO REQUIRE PARTICIPATING SCHOOLS TO PROVIDE, AS MATCHING FUNDS, A PRO RATA SHARE OF ITS TOTAL EQUIPMENT COST, CALCULATED BY PERCENTAGE, BASED ON THE TOTAL EQUIPMENT PURCHASE COST FOR ALL PARTICIPATING SCHOOL DISTRICTS; TO AMEND SECTION 37-68-9, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT TO CONDUCT A STATEWIDE TECHNOLOGY NEEDS-ASSESSMENT SURVEY OF SCHOOL DISTRICTS TO DETERMINE THE NEED OR DESIRE TO UPDATE DEVICES AND HARDWARE USED TO FACILITATE DISTANCE LEARNING AND SAFE CLASSROOM OR REMOTE INSTRUCTION; TO REQUIRE THE DEPARTMENT TO ANNUALLY REVISE THE ADOPTED EPL BASED UPON PURCHASING DEMANDS AS NEEDED TO PROVIDE SCHOOLS WITH CHOICES IN THE SELECTION OF THE ELECTRONIC DEVICES; TO AMEND SECTION 37-68-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PRO RATA SHARE OF THE MONIES USED BY A SCHOOL DISTRICT FOR PURPOSES OF THIS ACT SHALL BE ALLOCATED FROM ANY OF THE DISTRICT'S AVAILABLE AND UNOBLIGATED ESSER FUNDS, ESSER II FUNDS OR ESSER III FUNDS; TO AMEND SECTION 37-68-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE LEGISLATURE SHALL MAKE AN INITIAL APPROPRIATION OF $10,000,000.00 TO THE EQUITY IN DISTANCE LEARNING FUND; TO AMEND SECTION 37-68-15, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT TO SUBMIT AN ANNUAL COMPREHENSIVE REPORT TO THE LEGISLATION ON THE USE OF FUNDS DISTRIBUTED UNDER THE GRANT PROGRAM BY DECEMBER 31; AND FOR RELATED PURPOSES.

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

S. B. No. 2884

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SECTION 1. Section 37-68-1, Mississippi Code of 1972, is brought forward as follows:

37-68-1. This chapter shall be known and may be cited as the "Equity in Distance Learning Act."

SECTION 2. Section 37-68-3, Mississippi Code of 1972, is brought forward as follows:

37-68-3. (1) The Mississippi Legislature finds the following:

(a) The State of Emergency and ongoing public health crisis related to COVID-19 requires all schools to plan and implement distance learning programs, and plan to facilitate safe classroom and remote instruction;

(b) The availability of unprecedented federal funding for distance learning has created a unique opportunity for schools to provide all students and teachers with better access to technology to enhance traditional classroom teaching; and

(c) In recognition that every school's technology needs are different, this chapter establishes the Equity in Distance Learning Grant Program to require the Mississippi Department of Education and schools to expend funds on eligible expenses, within the relevant statutory provisions of this chapter and the regulations promulgated, in order to assist schools in expeditiously implementing distance learning programs and facilitating safe classroom and remote instruction.

(2) Therefore, the intent of the Mississippi Legislature is:
(a) To provide funding for devices and other technology, including technology related to connectivity and online access, sufficient for students, teachers, and administrators and other staff to engage in grade-appropriate distance learning aligned with the state's College and Career Readiness Standards, and provide funding for safe classroom or remote instruction; and

(b) To provide funding for technical support and professional development to facilitate distance learning and safe classroom or remote instruction.

SECTION 3. Section 37-68-5, Mississippi Code of 1972, is brought forward as follows:

37-68-5. For purposes of this chapter, the following words shall have the meanings ascribed herein unless the context otherwise requires:

(a) "Grant program" means the Equity in Distance Learning Grant Program established in this chapter.

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

(c) "School" means public school districts, agricultural high schools, the Mississippi School for the Deaf and Blind, the Mississippi School of the Arts and the Mississippi School for Mathematics and Science and public charter schools.

(d) "COVID-19" means the Coronavirus Disease 2019.
(e) "State of Emergency" means the State of Emergency declared by Executive Order of the Governor of the State of Mississippi on March 14, 2020, and any amendments thereto or subsequent orders or amendments thereto.

(f) "Express Product List" or "EPL" means the compilation of vendors and products adopted by the department for use by schools for the purchase of devices, software, online tools, and other equipment and technology necessary to support distance learning.

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

(h) "Eligible expenses" means a cost incurred by a school, pursuant to this chapter, to facilitate or enhance distance learning capabilities under its distance learning plan, including:

(i) The purchase of laptop computers, tablets, assisted learning devices or other devices which can be used personally by a student or teacher in their home or in the classroom;

(ii) The purchase of learning management systems, software and other online tools;

(iii) The purchase and installation of hardware to provide for or enhance the internet connectivity of a school's
students, including the cost of establishing personal or centrally
located hotspots;

(iv) The enhancement of security related to
devices or connectivity to comply with state and federal law, and
to protect students, teachers and administrators and other staff
working within the school;

(v) The delivery of professional development
related to use of devices, connectivity and other relevant
components of distance learning for teachers, students and the
wider community, including parents or guardians of students
enrolled in the school; and

(vi) Materials or equipment necessary to increase
health and safety precautions in classrooms or other school
facilities.

SECTION 4. Section 37-68-7, Mississippi Code of 1972, is
amended as follows:

37-68-7. (1) There is established the Equity in Distance
Learning Grant Program which shall be administered by the
department for the purpose of * * * assisting schools * * *, which
voluntarily participate in the program, with eligible expenses
incurred in funding their distance learning plans, and in
facilitating safe classroom and remote instruction as deemed
necessary to provide continuous in-person or remote instruction to
their student population.
(2) Subject to appropriations by the Legislature to the Equity in Distance Learning Fund, * * * participating schools shall provide a pro rata match of its total equipment cost, calculated by percentage, * * * based on * * * the total equipment purchase cost for all participating school districts. * * *

(3) Subject to the provisions of this chapter, and other applicable federal law and regulations, schools choosing to participate in the program shall have the authority to use the funds provided in this grant program in a way which best facilitates their distance learning plan, and safe classroom or remote instruction.

(4) Participating schools are highly encouraged to commit a portion of their federal Coronavirus Aid, Relief and Economic Security (CARES) Act - ESSER funds, Coronavirus Response and Relief Supplemental Appropriation (CRRSA) Act - ESSER II funds or American Rescue Plan (ARP) Act - ESSER III funds, whichever such funds remain available for obligation prior to September 30, 2022, September 30, 2023 or September 30, 2024, respectively, for such purposes, above the amount required by Section 37-68-11(b), as supplemental matching funds to offset the total cost of purchasing sufficient electronic devices, technological supports and systems of service for its distance learning plan.

SECTION 5. Section 37-68-9, Mississippi Code of 1972, is amended as follows:

37-68-9. (1) The department shall:
(a) Inform each participating school of its required pro rata portion of available and unobligated local ESSER, ESSER II or ESSER III funds, or any other funds made available to the school for such purposes, to be used to match the funds appropriated to this grant program as provided for in Section 37-68-7(2);

(b) Develop regulations and procedures to govern the administration of this grant program, to include:

* * *

( * * *i) * * * Providing guidance to participating schools in the development of a technology sustainability plan, addressing how devices and other technology purchased and used by the school district, * * * students, teachers and other administrators and staff, will be maintained throughout their usage and replaced before the expiration of the term of their expected useful life; and

( * * *ii) * * * Providing guidance to participating schools in the development of a responsible use policy for students, teachers and administrators or other staff to govern the use of devices and other technology purchased under this grant program;

(c) * * * Conduct a statewide technology needs-assessment survey of school districts to determine the need or desire to update devices and hardware used to facilitate distance learning and safe classroom or remote instruction in
compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, by the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the CARES Act, CRRSA Act and the ARP Act;

(d) Solicit bid proposals from vendors to establish an EPL; * * *

(e) Seek an emergency exemption from the procurement laws and bidding procedures established in Section 31-7-13 to expedite the compilation of an updated EPL and to minimize the cost of relevant devices or other technology for school districts through bulk purchasing * * *; and

(f) Annually revise the adopted EPL based upon purchasing demands as needed to provide schools with choice in the selection of the electronic devices.

(2) The department may * * * use the federal Coronavirus Aid, Relief and Economic Security (CARES) Act - ESSER funds, Coronavirus Response and Relief Supplemental Appropriation (CRRSA) Act - ESSER II funds or American Rescue Plan (ARP) Act - ESSER III funds, whichever such funds remain available for obligation prior to September 30, 2022, September 30, 2023 or September 30, 2024, respectively, set aside for administration of the program to administer this grant program, to the extent permissible under federal law.
SECTION 6. Section 37-68-11, Mississippi Code of 1972, is amended as follows:

37-68-11. To be eligible under this grant program, a participating school shall:

(a) Prioritize first the purchase of products listed in Section 37-68-5(h)(i). Schools shall equip every student with a grade-appropriate device, as recommended by the department, before incurring the other expenses listed in Section 37-68-5(h)(ii) or (iii), which shall receive next priority after the products listed in Section 37-68-5(h)(i);

(b) Match the total statewide equipment cost for prioritized products listed in Section 37-68-5(h) for all participating schools with a pro rata share of the monies received by the school from the ESSER Fund, ESSER II Fund or ESSER III Fund, as authorized in Sections 37-68-7(4) and 37-68-9(2), provided that any such funds remain available for obligation prior to their respective expiration dates, or any funds made available to a school district or charter school for such purposes from any federal, state, public or private entity;

(c) Purchase products from vendors listed on the annually updated EPL, if using funds under this grant program, unless the school can demonstrate, to the department, that the products it purchases from vendors not listed on the EPL:

(i) Meet or exceed the technological specification and functionality required by the department; and
(ii) Can be purchased at a price that is less than any of the prices listed on the EPL for a comparable product;

* * *

(* * *d) Develop and submit, or update and submit to the department, by September 1, * * * 2022:

(i) * * * An appropriate and achievable plan by the school to * * * maintain distance learning capabilities with a focus on device procurement and connectivity to the internet for students and teachers. A school's distance learning plan shall make specific provision for its students with special needs, including the purchase of appropriate devices and equipment;

(ii) With the understanding that this grant program is being funded with * * * state or limited purpose federal funds, a revised technology sustainability plan addressing how devices and other technology purchased and used by the school, and students, teachers and other administrators and staff, will be maintained throughout their usage and replaced before the expiration of the term of their expected useful life without additional state or federal funds; and

(iii) A responsible use policy, addressing the use of devices and other technology purchased under this grant program. The policy shall include a provision requiring students, parents or guardians, teachers, administrators and other staff to agree in writing to the provisions in the policy, and may include fines for intentional loss or damage to devices. The policy shall
also include a provision acknowledging that the school shall
assume the control of ownership and liability for personal devices
and other equipment purchased under this grant program until the
personal device or other equipment:

1. No longer serves the school or related
school purposes for which it was acquired and is sold by public
auction under Section 17-25-25;

2. Is sold to students in Grade 12 under the
provisions of Section 37-7-459; or

3. Is traded in to a vendor as part of a
subsequent purchase; and

(* * *) Compile and maintain an inventory list of all
devices purchased and issued to students, teachers and
administrators and other staff, as well as any supporting
technology or equipment used to support the school's distance
learning plan.

SECTION 7. Section 37-68-13, Mississippi Code of 1972, is
amended as follows:

37-68-13. (1) * * * There is created a special fund in the
State Treasury, to be known as the "Equity in Distance Learning
Fund," from which the grants authorized by this chapter shall be
disbursed by the department. The Legislature shall make an
initial appropriation to the fund in the amount of Ten Million
Dollars ($10,000,000.00) from either the State General Fund,
Budget Contingency Fund, or a combination of both such funds. All
monies shall be disbursed from the fund in compliance with the
guidelines, guidance, rules, regulations and/or other criteria, as
may be amended from time to time, by the United States Department
of the Treasury regarding the use of monies from the Coronavirus
Relief Fund established by the CARES Act, CRRSA Act and the ARP
Act. * * * Unexpended amounts of any monies unrelated to the
Coronavirus Relief Fund, whether appropriated by the Legislature
or donated by any public or private entity, remaining in the fund
at the end of a fiscal year shall not lapse into the Budget
Contingency Fund or the State General Fund, and any investment
earnings or interest earned on amounts in the grant program fund
shall be deposited to the credit of the grant program fund.

* * *

(2) The use of funds allocated under this grant program
shall be subject to audit by the United States Department of the
Treasury's Office of Inspector General and the Mississippi Office
of the State Auditor. Each school, or other entity or person
receiving funds under this grant program, found to be fully or
partially noncompliant with the requirements in this chapter,
shall return to the state all or a portion of the funds received.

SECTION 8. Section 37-68-15, Mississippi Code of 1972, is
amended as follows:

37-68-15. The department shall provide * * * an annual
comprehensive report on the use of funds distributed under this
grant program and the effectiveness of distance learning plans
adopted by schools to the Governor, Lieutenant Governor, Speaker
of the House of Representatives, and Chairs of the Senate and
House Appropriations and Education Committees by **December 31.**

**SECTION 9.** This act shall take effect and be in force from
and after July 1, 2022.