

By: Representative Currie

To: Education

HOUSE BILL NO. 859

1 AN ACT TO AMEND SECTIONS 7-7-211, 29-9-13 AND 29-9-17,
 2 MISSISSIPPI CODE OF 1972, TO PROVIDE AN EXEMPTION TO PUBLIC
 3 SPECIAL PURPOSE SCHOOLS FROM CERTAIN AUDIT REQUIREMENTS OF THE
 4 OFFICE OF THE STATE AUDITOR REGARDING THE PENALTIES IMPOSED FOR
 5 FAILURE OF STATE AGENCIES TO INVENTORY AND PROTECT THE WIRELESS
 6 COMMUNICATION DEVICES, EQUIPMENT AND TECHNOLOGY PROCURED BY SUCH
 7 SCHOOLS AND ISSUED TO STUDENTS, FACULTY AND STAFF FOR THE
 8 IMPLEMENTATION AND SUPPORT THE SCHOOL DISTANCE LEARNING PROGRAMS
 9 AND 1:1 INSTRUCTION; TO BRING FORWARD SECTION 37-68-1, 37-68-3,
 10 37-68-5, 37-68-7, 37-68-9, 37-68-11, 37-68-13 AND 37-68-15,
 11 MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS ESTABLISHING THE
 12 "EQUITY IN DISTANCE LEARNING ACT," FOR PURPOSES OF POSSIBLE
 13 AMENDMENTS; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 7-7-211, Mississippi Code of 1972, is
 16 amended as follows:

17 7-7-211. The department shall have the power and it shall be
 18 its duty:

19 (a) To identify and define for all public offices of
 20 the state and its subdivisions generally accepted accounting
 21 principles or other accounting principles as promulgated by
 22 nationally recognized professional organizations and to consult



23 with the State Fiscal Officer in the prescription and
24 implementation of accounting rules and regulations;

25 (b) To provide best practices, for all public offices
26 of regional and local subdivisions of the state, systems of
27 accounting, budgeting and reporting financial facts relating to
28 said offices in conformity with legal requirements and with
29 generally accepted accounting principles or other accounting
30 principles as promulgated by nationally recognized professional
31 organizations; to assist such subdivisions in need of assistance
32 in the installation of such systems; to revise such systems when
33 deemed necessary, and to report to the Legislature at periodic
34 times the extent to which each office is maintaining such systems,
35 along with such recommendations to the Legislature for improvement
36 as seem desirable;

37 (c) To study and analyze existing managerial policies,
38 methods, procedures, duties and services of the various state
39 departments and institutions upon written request of the Governor,
40 the Legislature or any committee or other body empowered by the
41 Legislature to make such request to determine whether and where
42 operations can be eliminated, combined, simplified and improved;

43 (d) To postaudit each year and, when deemed necessary,
44 preaudit and investigate the financial affairs of the departments,
45 institutions, boards, commissions, or other agencies of state
46 government, as part of the publication of a comprehensive annual
47 financial report for the State of Mississippi, or as deemed



48 necessary by the State Auditor. In complying with the
49 requirements of this paragraph, the department shall have the
50 authority to conduct all necessary audit procedures on an interim
51 and year-end basis;

52 (e) To postaudit and, when deemed necessary, preaudit
53 and investigate separately the financial affairs of (i) the
54 offices, boards and commissions of county governments and any
55 departments and institutions thereof and therein; (ii) public
56 school districts, departments of education and junior college
57 districts; and (iii) any other local offices or agencies which
58 share revenues derived from taxes or fees imposed by the State
59 Legislature or receive grants from revenues collected by
60 governmental divisions of the state; the cost of such audits,
61 investigations or other services to be paid as follows: Such part
62 shall be paid by the state from appropriations made by the
63 Legislature for the operation of the State Department of Audit as
64 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
65 for the services of each staff person engaged in performing the
66 audit or other service plus the actual cost of any independent
67 specialist firm contracted by the State Auditor to assist in the
68 performance of the audit, which sum shall be paid by the county,
69 district, department, institution or other agency audited out of
70 its general fund or any other available funds from which such
71 payment is not prohibited by law. Costs paid for independent
72 specialists or firms contracted by the State Auditor shall be paid



73 by the audited entity through the State Auditor to the specialist
74 or firm conducting the postaudit.

75 Each school district in the state shall have its financial
76 records audited annually, at the end of each fiscal year, either
77 by the State Auditor or by a certified public accountant approved
78 by the State Auditor. Beginning with the audits of fiscal year
79 2010 activity, no certified public accountant shall be selected to
80 perform the annual audit of a school district who has audited that
81 district for three (3) or more consecutive years previously.
82 Certified public accountants shall be selected in a manner
83 determined by the State Auditor. The school district shall have
84 the responsibility to pay for the audit, including the review by
85 the State Auditor of audits performed by certified public
86 accountants;

87 (f) To postaudit and, when deemed necessary, preaudit
88 and investigate the financial affairs of the levee boards;
89 agencies created by the Legislature or by executive order of the
90 Governor; profit or nonprofit business entities administering
91 programs financed by funds flowing through the State Treasury or
92 through any of the agencies of the state, or its subdivisions; and
93 all other public bodies supported by funds derived in part or
94 wholly from public funds, except municipalities which annually
95 submit an audit prepared by a qualified certified public
96 accountant using methods and procedures prescribed by the
97 department;



98 (g) Except as otherwise provided in Section 29-9-13,
99 29-9-17 and to make written demand, when necessary, for the
100 recovery of any amounts representing public funds improperly
101 withheld, misappropriated and/or otherwise illegally expended by
102 an officer, employee or administrative body of any state, county
103 or other public office, and/or for the recovery of the value of
104 any public property disposed of in an unlawful manner by a public
105 officer, employee or administrative body, such demands to be made
106 (i) upon the person or persons liable for such amounts and upon
107 the surety on official bond thereof, and/or (ii) upon any
108 individual, partnership, corporation or association to whom the
109 illegal expenditure was made or with whom the unlawful disposition
110 of public property was made, if such individual, partnership,
111 corporation or association knew or had reason to know through the
112 exercising of reasonable diligence that the expenditure was
113 illegal or the disposition unlawful. Such demand shall be
114 premised on competent evidence, which shall include at least one
115 (1) of the following: (i) sworn statements, (ii) written
116 documentation, (iii) physical evidence, or (iv) reports and
117 findings of government or other law enforcement agencies. Other
118 provisions notwithstanding, a demand letter issued pursuant to
119 this paragraph shall remain confidential by the State Auditor
120 until the individual against whom the demand letter is being filed
121 has been served with a copy of such demand letter. If, however,
122 such individual cannot be notified within fifteen (15) days using



123 reasonable means and due diligence, such notification shall be
124 made to the individual's bonding company, if he or she is bonded.
125 Each such demand shall be paid into the proper treasury of the
126 state, county or other public body through the office of the
127 department in the amount demanded within thirty (30) days from the
128 date thereof, together with interest thereon in the sum of one
129 percent (1%) per month from the date such amount or amounts were
130 improperly withheld, misappropriated and/or otherwise illegally
131 expended. In the event, however, such person or persons or such
132 surety shall refuse, neglect or otherwise fail to pay the amount
133 demanded and the interest due thereon within the allotted thirty
134 (30) days, the State Auditor shall have the authority and it shall
135 be his duty to institute suit, and the Attorney General shall
136 prosecute the same in any court of the state to the end that there
137 shall be recovered the total of such amounts from the person or
138 persons and surety on official bond named therein; and the amounts
139 so recovered shall be paid into the proper treasury of the state,
140 county or other public body through the State Auditor. In any
141 case where written demand is issued to a surety on the official
142 bond of such person or persons and the surety refuses, neglects or
143 otherwise fails within one hundred twenty (120) days to either pay
144 the amount demanded and the interest due thereon or to give the
145 State Auditor a written response with specific reasons for
146 nonpayment, then the surety shall be subject to a civil penalty in
147 an amount of twelve percent (12%) of the bond, not to exceed Ten



148 Thousand Dollars (\$10,000.00), to be deposited into the State
149 General Fund;

150 (h) To investigate any alleged or suspected violation
151 of the laws of the state by any officer or employee of the state,
152 county or other public office in the purchase, sale or the use of
153 any supplies, services, equipment or other property belonging
154 thereto; and in such investigation to do any and all things
155 necessary to procure evidence sufficient either to prove or
156 disprove the existence of such alleged or suspected violations.
157 The * * * Division of Investigation of the State Department of
158 Audit may investigate, for the purpose of prosecution, any
159 suspected criminal violation of the provisions of this chapter.
160 For the purpose of administration and enforcement of this chapter,
161 the enforcement employees of the * * * Division of Investigation
162 of the State Department of Audit have the powers of a law
163 enforcement officer of this state, and shall be empowered to make
164 arrests and to serve and execute search warrants and other valid
165 legal process anywhere within the State of Mississippi. All
166 enforcement employees of the * * * Division of Investigation of
167 the State Department of Audit hired on or after July 1, 1993,
168 shall be required to complete the Law Enforcement Officers
169 Training Program and shall meet the standards of the program;

170 (i) To issue subpoenas, with the approval of, and
171 returnable to, a judge of a chancery or circuit court, in termtime
172 or in vacation, to examine the records, documents or other



173 evidence of persons, firms, corporations or any other entities
174 insofar as such records, documents or other evidence relate to
175 dealings with any state, county or other public entity. The
176 circuit or chancery judge must serve the county in which the
177 records, documents or other evidence is located; or where all or
178 part of the transaction or transactions occurred which are the
179 subject of the subpoena;

180 (j) In any instances in which the State Auditor is or
181 shall be authorized or required to examine or audit, whether
182 preaudit or postaudit, any books, ledgers, accounts or other
183 records of the affairs of any public hospital owned or owned and
184 operated by one or more political subdivisions or parts thereof or
185 any combination thereof, or any school district, including
186 activity funds thereof, it shall be sufficient compliance
187 therewith, in the discretion of the State Auditor, that such
188 examination or audit be made from the report of any audit or other
189 examination certified by a certified public accountant and
190 prepared by or under the supervision of such certified public
191 accountant. Such audits shall be made in accordance with
192 generally accepted standards of auditing, with the use of an audit
193 program prepared by the State Auditor, and final reports of such
194 audits shall conform to the format prescribed by the State
195 Auditor. All files, working papers, notes, correspondence and all
196 other data compiled during the course of the audit shall be
197 available, without cost, to the State Auditor for examination and



198 abstracting during the normal business hours of any business day.
199 The expense of such certified reports shall be borne by the
200 respective hospital, or any available school district funds other
201 than minimum program funds, subject to examination or audit. The
202 State Auditor shall not be bound by such certified reports and
203 may, in his or their discretion, conduct such examination or audit
204 from the books, ledgers, accounts or other records involved as may
205 be appropriate and authorized by law;

206 (k) The State Auditor shall have the authority to
207 contract with qualified public accounting firms to perform
208 selected audits required in paragraphs (d), (e), (f) and (j) of
209 this section, if funds are made available for such contracts by
210 the Legislature, or if funds are available from the governmental
211 entity covered by paragraphs (d), (e), (f) and (j). Such audits
212 shall be made in accordance with generally accepted standards of
213 auditing. All files, working papers, notes, correspondence and
214 all other data compiled during the course of the audit shall be
215 available, without cost, to the State Auditor for examination and
216 abstracting during the normal business hours of any business day;

217 (l) The State Auditor shall have the authority to
218 establish training courses and programs for the personnel of the
219 various state and local governmental entities under the
220 jurisdiction of the Office of the State Auditor. The training
221 courses and programs shall include, but not be limited to, topics
222 on internal control of funds, property and equipment control and



223 inventory, governmental accounting and financial reporting, and
224 internal auditing. The State Auditor is authorized to charge a
225 fee from the participants of these courses and programs, which fee
226 shall be deposited into the Department of Audit Special Fund.
227 State and local governmental entities are authorized to pay such
228 fee and any travel expenses out of their general funds or any
229 other available funds from which such payment is not prohibited by
230 law;

231 (m) Upon written request by the Governor or any member
232 of the State Legislature, the State Auditor may audit any state
233 funds and/or state and federal funds received by any nonprofit
234 corporation incorporated under the laws of this state;

235 (n) To conduct performance audits of personal or
236 professional service contracts by state agencies on a random
237 sampling basis, or upon request of the State Personal Service
238 Contract Review Board under Section 25-9-120(3);

239 (o) At the discretion of the State Auditor, the Auditor
240 may conduct risk assessments, as well as performance and
241 compliance audits based on Generally Accepted Government Auditing
242 Standards (GAGAS) of any state-funded economic development program
243 authorized under Title 57, Mississippi Code of 1972. After risk
244 assessments or program audits, the State Auditor may conduct
245 audits of those projects deemed high-risk, specifically as they
246 identify any potential wrongdoing or noncompliance based on
247 objectives of the economic development program. The Auditor is



248 granted authority to gather, audit and review data and information
249 from the Mississippi Development Authority or any of its agents,
250 the Department of Revenue, and when necessary under this
251 paragraph, the recipient business or businesses or any other
252 private, public or nonprofit entity with information relevant to
253 the audit project. The maximum amount the State Auditor may bill
254 the oversight agency under this paragraph in any fiscal year is
255 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
256 and necessary expenses;

257 (p) To review and approve any independent auditor
258 selected by the Mississippi Lottery Corporation in accordance with
259 Section 27-115-89, to conduct an annual audit of the corporation;
260 and

261 (q) To conduct audits or investigations of the
262 Mississippi Lottery Corporation if in the opinion of the State
263 Auditor conditions justify such audits or investigations.

264 **SECTION 2.** Section 29-9-13, Mississippi Code of 1972, is
265 amended as follows:

266 29-9-13. (1) Except as otherwise provided in subsection (2)
267 representatives of the State Auditor's office under the direction
268 of the State Auditor, in making regular audits of the different
269 state agencies, shall make a check or physical audit of the actual
270 items or properties shown on their inventories and related
271 records. Each state agency, the Secretary of the Senate, and the
272 Clerk of the House of Representatives, when requested to do so,



273 shall furnish a competent person or persons to assist in this
274 check or physical audit. The auditor shall keep his records
275 current at all times and shall report to the agency concerned and
276 the general status of the inventory involved, on the completion of
277 each audit.

278 (2) (a) The provision of this subsection shall not apply to
279 any wireless communications devices, equipment or technology
280 procured by any public school, public charter school, or public
281 special purpose schools created under Section 43-5-1 et seq.,
282 Section 37-139-1 et seq., and Section 37-140-1 et seq., in
283 compliance with the provisions of the "Equity in Distance Learning
284 Act," established under Section 37-68-1 et seq., which are issued
285 to and remain in the possession of the students of issuance
286 enrolled therein for the purpose of implementing and supporting
287 distance learning and facilitating remote instruction.

288 (b) To be eligible for exemption under this section,
289 each public special purpose school shall compile and maintain an
290 inventory list of all devices purchased and issued to students,
291 teachers and administrators and other staff, as well as any
292 supporting technology or equipment used to support the school's
293 distance learning plan. Additionally, each public special purpose
294 school shall adopt a responsible use policy, which:

295 (i) Addresses the use of devices and other
296 technology purchased under this grant program;



297 (ii) Includes a provision requiring students,
298 parents or guardians, teachers, administrators and other staff to
299 agree in writing to the provisions in the policy;

300 (iii) Includes authority to assess fines for
301 intentional loss or damage to devices; and

302 (iv) Includes a provision acknowledging that the
303 school shall assume the control of ownership and liability for
304 personal devices and other equipment purchased in compliance with
305 "Equity in Distance Learning Act" or the offering of 1:1
306 instruction until the personal device or other equipment:

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

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

312 3. Is traded in to a vendor as part of a
313 subsequent purchase.

314 **SECTION 3.** Section 29-9-17, Mississippi Code of 1972, is
315 amended as follows:

316 29-9-17. (1) Except as otherwise provided in subsection
317 (2), if any officer or employee of any state agency shall refuse
318 or fail to make any inventory or supplemental inventory thereto as
319 required herein, or to do so in the manner prescribed by the State
320 Auditor, the State Auditor shall proceed to make, or cause to be
321 made, the inventory or supplemental inventory; and the expense



322 thereof shall be personally borne by said officer or employee, and
323 he shall be responsible on his official bond for the payment of
324 the expense.

325 (2) (a) In the event that an examination conducted pursuant
326 to Section 29-9-13 finds items that are included on an agency's
327 inventory which are missing and otherwise unaccounted for, the
328 State Auditor has the authority to proceed under the provisions of
329 Section 7-7-211 to recover the value of the missing items. The
330 demand shall be made against the head of the agency, the agency's
331 property officer and/or the appropriate officer or employee, if
332 identified. The provisions of this subsection shall not apply to
333 any wireless communications devices, equipment or technology
334 procured by any public school, public charter school, or public
335 special purpose schools created under Section 43-5-1 et seq.,
336 Section 37-139-1 et seq., and Section 37-140-1 et seq., in
337 compliance with the provisions of the "Equity in Distance Learning
338 Act," established under Section 37-68-1 et seq., which are issued
339 to and remain in the possession of the students of issuance
340 enrolled therein for the purpose of implementing and supporting
341 distance learning and facilitating remote instruction.

342 (b) To be eligible for exemption under this section,
343 each public special purpose school shall compile and maintain an
344 inventory list of all devices purchased and issued to students,
345 teachers and administrators and other staff, as well as any
346 supporting technology or equipment used to support the school's



347 distance learning plan. Additionally, each public special purpose
348 school shall adopt a responsible use policy, which:

349 (i) Addresses the use of devices and other
350 technology purchased under this grant program;

351 (ii) Includes a provision requiring students,
352 parents or guardians, teachers, administrators and other staff to
353 agree in writing to the provisions in the policy;

354 (iii) Includes authority to assess fines for
355 intentional loss or damage to devices; and

356 (iv) Includes a provision acknowledging that the
357 school shall assume the control of ownership and liability for
358 personal devices and other equipment purchased in compliance with
359 "Equity in Distance Learning Act" or the offering of 1:1
360 instruction until the personal device or other equipment:

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

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

366 3. Is traded in to a vendor as part of a
367 subsequent purchase.

368 **SECTION 4.** Section 37-68-1, Mississippi Code of 1972, is
369 brought forward as follows:

370 37-68-1. This chapter shall be known and may be cited as the
371 "Equity in Distance Learning Act."



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

374 37-68-3. (1) The Mississippi Legislature finds the
375 following:

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

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

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

392 (2) Therefore, the intent of the Mississippi Legislature is:

393 (a) To provide funding for devices and other
394 technology, including technology related to connectivity and
395 online access, sufficient for students, teachers, and
396 administrators and other staff to engage in grade-appropriate



397 distance learning aligned with the state's College and Career
398 Readiness Standards, and provide funding for safe classroom or
399 remote instruction; and

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

403 **SECTION 6.** Section 37-68-5, Mississippi Code of 1972, is
404 brought forward as follows:

405 37-68-5. For purposes of this chapter, the following words
406 shall have the meanings ascribed herein unless the context
407 otherwise requires:

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

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

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

416 (d) "COVID-19" means the Coronavirus Disease 2019.

417 (e) "State of Emergency" means the State of Emergency
418 declared by Executive Order of the Governor of the State of
419 Mississippi on March 14, 2020, and any amendments thereto or
420 subsequent orders or amendments thereto.



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

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

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

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

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

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

444 (iv) The enhancement of security related to
445 devices or connectivity to comply with state and federal law, and



446 to protect students, teachers and administrators and other staff
447 working within the school;

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

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

456 **SECTION 7.** Section 37-68-7, Mississippi Code of 1972, is
457 brought forward as follows:

458 37-68-7. (1) There is established the Equity in Distance
459 Learning Grant Program which shall be administered by the
460 department for the purpose of reimbursing schools for eligible
461 expenses incurred in funding their distance learning plans, and in
462 facilitating safe classroom and remote instruction.

463 (2) Subject to appropriations by the Legislature,
464 allocations to schools shall be made based on average daily
465 membership, as defined in Section 37-151-5 and as calculated in
466 the 2019-2020 school year. For any school not funded under the
467 Mississippi Adequate Education Program, the department shall
468 calculate the average-daily-membership equivalent or fund the
469 school based on enrollment.



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

475 (4) Schools are highly encouraged to commit a portion of
476 their federal ESSER funds, above the amount required by Section
477 37-68-11(b), as supplemental matching funds to offset the total
478 cost of purchasing sufficient electronic devices, technological
479 supports and systems of service for its distance learning plan.

480 **SECTION 8.** Section 37-68-9, Mississippi Code of 1972, is
481 brought forward as follows:

482 37-68-9. (1) The department shall:

483 (a) Inform each school of its portion of the funds
484 appropriated to this grant program as provided for in Section
485 37-68-7(2);

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

488 (i) A reimbursement process for schools to submit
489 expenditures and receive reimbursement for eligible expenses from
490 the department up to the total amount allocated to each school in
491 Section 37-68-7;

492 (ii) Provide guidance to schools in the
493 development of a technology sustainability plan, addressing how
494 devices and other technology purchased and used by the school



495 district, and students, teachers and other administrators and
496 staff, will be maintained throughout their usage and replaced
497 before the expiration of the term of their expected useful life;

498 (iii) Provide guidance to schools in the
499 development of a responsible use policy for students, teachers and
500 administrators or other staff to govern the use of devices and
501 other technology purchased under this grant program;

502 (c) Provide guidance to schools on the development and
503 implementation of a distance learning plan;

504 (d) Solicit bid proposals from vendors to establish an
505 EPL; and

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

511 (2) The department may:

512 (a) Revise the adopted EPL based upon purchasing
513 demands as needed to provide schools with choice in the selection
514 of the electronic devices; and

515 (b) Use the federal ESSER funds set aside for
516 administration of the program to administer this grant program, to
517 the extent permissible under federal law.

518 **SECTION 9.** Section 37-68-11, Mississippi Code of 1972, is
519 brought forward as follows:



520 37-68-11. To be eligible under this grant program, a school
521 shall:

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

528 (b) Match twenty percent (20%) of the funds received
529 under this grant program with monies received by the school from
530 the Elementary and Secondary School Emergency Relief Fund or any
531 funds made available to a school district or charter school for
532 such purposes from any federal, state, public or private entity;

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

537 (i) Meet or exceed the technological specification
538 and functionality required by the department; and

539 (ii) Can be purchased at a price that is less than
540 any of the prices listed on the EPL for a comparable product;

541 (d) Submit the original, itemized receipt of purchase
542 or an authentic copy of the receipt with its request for
543 reimbursement;



544 (e) Secure insurance and submit proof of insurance for
545 any items to be reimbursed under this program;

546 (f) Develop and submit to the department, by September
547 1, 2020:

548 (i) A distance learning plan, establishing an
549 appropriate and achievable plan by the school to develop,
550 implement and maintain distance learning capabilities with a focus
551 on device procurement and connectivity to the internet for
552 students and teachers. A school's distance learning plan shall
553 make specific provision for its students with special needs,
554 including the purchase of appropriate devices and equipment;

555 (ii) With the understanding that this grant
556 program is being funded with one-time federal funds, a technology
557 sustainability plan addressing how devices and other technology
558 purchased and used by the school, and students, teachers and other
559 administrators and staff, will be maintained throughout their
560 usage and replaced before the expiration of the term of their
561 expected useful life without additional state funds; and

562 (iii) A responsible use policy, addressing the use
563 of devices and other technology purchased under this grant
564 program. The policy shall include a provision requiring students,
565 parents or guardians, teachers, administrators and other staff to
566 agree in writing to the provisions in the policy, and may include
567 fines for intentional loss or damage to devices. The policy shall
568 also include a provision acknowledging that the school shall



569 assume the control of ownership and liability for personal devices
570 and other equipment purchased under this grant program until the
571 personal device or other equipment:

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

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

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

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

584 **SECTION 10.** Section 37-68-13, Mississippi Code of 1972, is
585 brought forward as follows:

586 37-68-13. (1) (a) There is created a special fund in the
587 State Treasury, to be known as the "Equity in Distance Learning
588 Fund," from which the grants authorized by this chapter shall be
589 disbursed by the department. All monies shall be disbursed from
590 the fund in compliance with the guidelines, guidance, rules,
591 regulations and/or other criteria, as may be amended from time to
592 time, by the United States Department of the Treasury regarding
593 the use of monies from the Coronavirus Relief Fund established by



594 the CARES Act. If on November 1, 2020, there are unobligated
595 monies in the fund from either the department or schools, the
596 department shall have the discretion to distribute the monies for
597 eligible expenditures pursuant to the CARES Act to schools by
598 application. However, unexpended amounts of any monies unrelated
599 to the Coronavirus Relief Fund, whether appropriated by the
600 Legislature or donated by any public or private entity, remaining
601 in the fund at the end of a fiscal year shall not lapse into the
602 Budget Contingency Fund or the State General Fund, and any
603 investment earnings or interest earned on amounts in the grant
604 program fund shall be deposited to the credit of the grant program
605 fund.

606 (b) If on December 29, 2020, there are unexpended
607 Coronavirus Relief Fund monies remaining in the fund, those funds
608 shall lapse into the Budget Contingency Fund, to be transferred,
609 by the State Fiscal Officer, into the Unemployment Compensation
610 Fund on or before December 30, 2020.

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



618 **SECTION 11.** Section 37-68-15, Mississippi Code of 1972, is
619 brought forward as follows:

620 37-68-15. The department shall provide a comprehensive
621 report on the use of funds distributed under this grant program
622 and the effectiveness of distance learning plans adopted by
623 schools to the Governor, Lieutenant Governor, Speaker of the House
624 of Representatives, and Chairs of the Senate and House
625 Appropriations and Education Committees by October 1, 2020.

626 **SECTION 12.** This act shall take effect and be in force from
627 and after July 1, 2023.

