

By: Representative Zuber

To: Banking and Financial Services

HOUSE BILL NO. 1041

1 AN ACT TO AMEND SECTION 27-105-5, MISSISSIPPI CODE OF 1972,  
2 TO DEFINE THE TERM "REGULATORY CAPITAL" AND REVISE THE DEFINITION  
3 OF THE TERM "TOTAL ASSETS" TO ALIGN WITH FEDERAL REGULATORY  
4 STANDARDS; TO BRING FORWARD SECTIONS 27-105-6, 27-105-33 AND  
5 27-105-315, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE  
6 AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-105-5, Mississippi Code of 1972, is  
9 amended as follows:

10 27-105-5. (1) Any financial institution maintaining a  
11 deposit-taking facility in this state whose accounts are insured  
12 by the Federal Deposit Insurance Corporation or any successors to  
13 that insurance corporation, may qualify as a public funds  
14 depository by submitting an application to the State Treasurer as  
15 provided by Section 27-105-9, if the institution has a \* \* \*  
16 regulatory capital to total assets ratio of five and one-half  
17 percent (5-1/2%) or more. That ratio shall be determined not  
18 later than December 1 in each calendar year by the State Treasurer  
19 on the basis of balance sheets of applying institutions at June 30  
20 of the same calendar year, and an institution shall not be a



21 qualified depository and shall not receive any public funds unless  
22 its ratio has been certified annually by the Treasurer as meeting  
23 the prescribed requirement. Each applicant shall furnish to the  
24 State Treasurer such financial statements, balance sheets or other  
25 documentation, sworn to by a duly elected officer, on such date or  
26 dates and on such forms as the State Treasurer may require. Any  
27 knowing or willful misstatement of fact on those forms shall  
28 subject the officer swearing to them to the penalty of perjury,  
29 and the financial institution of which he is an officer shall not  
30 be eligible to serve as a depository for a period of one (1) year  
31 beginning with the date on which the State Treasurer certifies  
32 that such a misstatement has been made. When so approved by the  
33 State Treasurer, the institution shall place on deposit with the  
34 State Treasurer qualified bonds, notes and liquid securities in an  
35 aggregate amount at least equal to one hundred five percent (105%)  
36 of the average daily balance of funds on deposit in the aggregate  
37 by the State of Mississippi or any agency or department of the  
38 state or by any county, municipality or other governmental unit in  
39 excess of that portion of accounts insured by the Federal Deposit  
40 Insurance Corporation, or any successor thereto.

41 (2) Any financial institution maintaining a deposit-taking  
42 facility in this state whose accounts are insured by the Federal  
43 Deposit Insurance Corporation or any successors to that insurance  
44 corporation and which has been in existence for three (3) or more  
45 years may qualify as a public funds depository and public funds



46 guaranty pool member under Section 27-105-6 by submitting an  
47 application to the State Treasurer as provided by Section  
48 27-105-9, if the institution has a \* \* \* regulatory capital to  
49 total assets ratio of six and one-half percent (6-1/2%) or more  
50 and otherwise meets the requirements of Section 27-105-6. That  
51 ratio shall be determined not later than December 1 in each  
52 calendar year by the State Treasurer on the basis of balance  
53 sheets of applying institutions at June 30 of the same calendar  
54 year, and an institution shall not be a member of the public funds  
55 guaranty pool unless its ratio has been certified annually by the  
56 Treasurer as meeting the prescribed requirement. Each applicant  
57 shall furnish to the State Treasurer such financial statements,  
58 balance sheets or other documentation, sworn to by a duly elected  
59 officer, on such date or dates and on such forms as the State  
60 Treasurer may require. Any knowing or willful misstatement of  
61 fact on those forms shall subject the officer swearing to them to  
62 the penalty of perjury and the financial institution of which he  
63 is an officer shall not be eligible to serve as a depository for a  
64 period of one (1) year beginning with the date on which the State  
65 Treasurer certifies that such a misstatement has been made. When  
66 so approved by the State Treasurer, the institution shall meet its  
67 security requirement of one hundred five percent (105%) by placing  
68 on deposit with the State Treasurer qualified bonds, notes and  
69 liquid securities in an aggregate amount at least equal to  
70 fifty-two and one-half percent (52-1/2%) of the average daily



71 balance of funds on deposit in the aggregate by the State of  
72 Mississippi or any agency or department of the state or by any  
73 county, municipality or other governmental unit in excess of that  
74 portion of accounts insured by the Federal Deposit Insurance  
75 Corporation, or any successor thereto, and executing a guarantee  
76 equal to the balance of fifty-two and one-half percent (52-1/2%)  
77 of the average daily balance of funds on deposit in the aggregate  
78 by the State of Mississippi or any agency or department of the  
79 state or by any county, municipality or other governmental unit in  
80 excess of that portion of accounts insured by the Federal Deposit  
81 Insurance Corporation, or any successor thereto.

82 (3) The term "qualified bonds, notes and liquid securities"  
83 as used in this section shall mean:

84 (a) All securities that are direct obligations of the  
85 United States Treasury or any other obligations fully guaranteed  
86 by the United States government.

87 (b) Bonds, notes and other obligations of the Federal  
88 Home Loan Bank, Federal National Mortgage Association, Federal  
89 Land Banks, Banks for Cooperatives, and Federal Intermediate  
90 Credit Banks, the Government National Mortgage Association, the  
91 Federal Housing Administration, the Farmers Home Administration,  
92 the Farm Credit System Financial Assistance Corporation, the  
93 United States Postal Service, the Federal Financing Bank, the  
94 Student Loan Marketing Association, the Small Business  
95 Administration, the General Services Administration, the



96 Washington Metropolitan Area Transit Authority, the Maritime  
97 Administration, the Export-Import Bank, the International Bank for  
98 Reconstruction and Development, the Inter-American Development  
99 Bank, the Asian Development Bank, loan participations that carry  
100 the guarantee of the Commodity Credit Corporation, an  
101 instrumentality of the United States Department of Agriculture or  
102 other similar agencies approved by the State Treasurer.

103 (c) Obligations of the Tennessee Valley Authority.

104 (d) Legal obligation or revenue bonds of the State of  
105 Mississippi, its agencies, or any political subdivision of the  
106 state, or any municipality located in the State of Mississippi, or  
107 the Yazoo Mississippi Delta and the Mississippi Levee Districts,  
108 or the Mississippi Higher Education Assistance Corporation or its  
109 successors, or any body corporate and politic created under the  
110 laws of the State of Mississippi.

111 (e) General obligations issued by any other state or by  
112 a county, parish or municipality of any other state, the full  
113 faith and credit of which are pledged to the payment of principal  
114 and interest, that are rated "A" or better by any recognized  
115 national rating agency engaged in the business of rating bonds.

116 (f) Surety bonds of any surety company authorized to do  
117 business in the State of Mississippi.

118 (g) All bonds authorized as security for state funds  
119 under paragraphs (c), (d) and (e), inclusive, shall be investment  
120 quality, and any bonds under paragraphs (c), (e) and (f),



121 inclusive, which are rated substandard by any of the appropriate  
122 supervisory authorities having jurisdiction over the depository or  
123 by any recognized national rating agency engaged in the business  
124 of rating bonds, shall not be eligible for pledging as security to  
125 the State of Mississippi by any qualified state depository. As  
126 used in this paragraph, the term "investment quality" shall mean  
127 that, at worst, the obligor of the bonds has adequate capacity to  
128 meet its financial commitments even if adverse economic conditions  
129 or changing circumstances are likely to lead to weakened capacity  
130 to do so.

131 No bonds shall be accepted as security for more than their  
132 stated par value or market value, whichever is lower, except bonds  
133 and obligations of the State of Mississippi and Mississippi State  
134 Highway bonds or notes, which may be accepted as security at par  
135 value or market value, whichever is greater.

136 The bonds, notes and liquid securities to be placed on  
137 deposit shall secure both deposits and the accrued interest  
138 thereon.

139 Money shall be drawn from the depositories so as to leave in  
140 each as near as practicable, its equitable proportion of state  
141 funds.

142 The State Treasurer is authorized and empowered to:

143 (i) Deposit for safekeeping in the vaults of any  
144 of the state or national banks located within this state that are  
145 members of the Federal Deposit Insurance Corporation and that have



146 appropriate safekeeping facilities approved by the State  
147 Depository Commission, any federal reserve bank, any federal  
148 reserve branch bank, or any bank that is a member of the Federal  
149 Reserve System and is located in a city where there is a federal  
150 reserve bank or a federal reserve branch bank, the securities  
151 placed with him by financial institutions qualifying as state  
152 depositories; or

153           (ii) Accept, in lieu of the securities themselves,  
154 safekeeping trust receipts issued to the State Treasurer by the  
155 authorized safekeeping banks listed in subparagraph (i) above; the  
156 safekeeping trust receipts shall describe the securities and show  
157 that the securities are held for safekeeping for the account of  
158 the State Treasurer or other governmental unit. The securities so  
159 deposited shall not be commingled in any manner with the assets of  
160 the safekeeping bank.

161           The safekeeping banks listed in subparagraph (i) above are  
162 authorized to issue to the State Treasurer their safekeeping trust  
163 receipts based on safekeeping trust receipts issued to them by any  
164 of their correspondent banks that are members of the Federal  
165 Reserve System and are located in any federal reserve city and  
166 that have physical custody of the pledged securities.

167           In no event shall the State Treasurer deposit for safekeeping  
168 with any depository securities placed by the depository with the  
169 State Treasurer in qualifying as a public funds depository, nor  
170 shall he accept a safekeeping trust receipt by or from a



171 depository covering securities it owns in order to secure state  
172 funds on deposit with it.

173 (4) In fulfilling the requirements of this Section 27-105-5,  
174 the State Treasurer shall:

175 (a) Maintain perpetual inventory of pledged collateral  
176 and perform monthly market valuations and quality ratings.

177 (b) Monitor and confirm, as often as deemed necessary  
178 by the Treasurer, the pledged collateral held by third party  
179 custodians.

180 (c) Perfect an interest in pledged collateral by having  
181 pledged securities moved into an account established in the  
182 Treasurer's name. This action shall be taken at the discretion of  
183 the Treasurer.

184 (d) Review the reports of each qualified public funds  
185 depository for material changes in capital accounts or changes in  
186 name, address or type of institution, record the average daily  
187 balances of public deposits held; and monitor the  
188 collateral-pledging levels and required collateral based on the  
189 average daily balances.

190 (e) Compare public deposit information reported by  
191 qualified public funds depositories and public depositors. That  
192 comparison shall be conducted for qualified public depositories  
193 based on established financial condition criteria of record on  
194 September 30.





195 (f) Verify the reports of any qualified public funds  
196 depository relating to public deposits it holds when necessary to  
197 protect the integrity of the public deposits program.

198 (g) Confirm public deposits, to the extent possible  
199 under current law, when needed.

200 (h) Require at his or her discretion the filing of any  
201 information or forms required under this chapter to be by  
202 electronic data transmission. Those filings of information or  
203 forms shall have the same enforceability as a signed writing.

204 (5) A qualified public funds depository shall:

205 (a) Within fifteen (15) days after the end of each  
206 calendar month or when requested by the Treasurer, submit to the  
207 Treasurer a written report, under oath, indicating the average  
208 daily balance of all public deposits held by it during the  
209 reported month, required collateral, a detailed schedule of all  
210 securities pledged as collateral, selected financial information,  
211 and any other information that the Treasurer determines necessary  
212 to administer this chapter.

213 (b) Provide to each public depositor annually, not  
214 later than thirty (30) days following the public depositor's  
215 fiscal year end, the following information on all open accounts  
216 identified as a "public deposit" for that public depositor as of  
217 its fiscal year end, to be used for confirmation purposes: the  
218 federal employer identification number of the public funds  
219 depository, the name on the deposit account record, the federal



220 employer identification number on the deposit account record, and  
221 the account number, account type and actual account balance on  
222 deposit. Any discrepancy found in the confirmation process shall  
223 be reconciled within sixty (60) days of the public depositor's  
224 fiscal year end.

225 (c) Submit to the Treasurer annually, not later than  
226 sixty (60) days of the public depositor's fiscal year end, a  
227 report of all public deposits held for the credit of all public  
228 depositors at the close of business on each public depositor's  
229 fiscal year end. The annual report shall consist of public  
230 deposit information in a report format prescribed by the  
231 Treasurer. The manner of required filing may be as a signed  
232 writing or electronic data transmission, at the discretion of the  
233 Treasurer.

234 (6) Public depositors shall comply with the following  
235 requirements:

236 (a) A public depositor shall ensure that the name of  
237 the public depositor and its tax identification number are on the  
238 account or certificate provided to the public depositor by the  
239 qualified public depository in a manner sufficient to disclose the  
240 identity of the public depositor;

241 (b) Not later than thirty (30) days following its  
242 fiscal year end, a public depositor shall notify the State  
243 Treasurer of its official name, address, federal tax  
244 identification number, and provide a listing of all accounts that



245 it had with qualified public depositories, including the deposit  
246 balance in those accounts, as of its fiscal year end. A public  
247 entity established during the year shall furnish its official  
248 name, address and federal tax identification number to the State  
249 Treasurer before making any public deposit.

250 (7) Any information contained in a report of a qualified  
251 public funds depository required under Section 27-105-5 or  
252 27-105-6 shall be considered confidential and exempt from  
253 disclosure and not subject to dissemination to anyone other than  
254 the State Treasurer and the State Auditor under the provisions of  
255 this chapter.

256 (8) The State Treasurer is empowered to assume  
257 responsibility as successor pledgee as agent on behalf of any  
258 county, municipality or other governmental unit of any and all  
259 collateral pledged before July 1, 2001, to that county,  
260 municipality or governmental unit by that public funds depository.  
261 Upon assuming responsibility as successor pledgee as provided in  
262 this subsection (8), the State Treasurer is empowered to sign such  
263 documents on behalf of any such county, municipality or  
264 governmental unit as may be required by a trustee custodian,  
265 including, but not limited to, any documentation necessary to  
266 change the pledgee from the county, municipality or governmental  
267 unit as pledgee to the State Treasurer as agent.

268 (9) As used in this section and Section 27-105-6, the  
269 following terms shall have the meanings set forth below:



270 (a) The term " \* \* \* regulatory capital" means \* \* \*  
271 the bank's regulatory (Tier 1) capital, as calculated in  
272 accordance with 12 C.F.R. Part 3; 12 C.F.R. Part 217; or 12 C.F.R.  
273 324, as now enacted, or as amended or replaced, as applicable to  
274 the applicant.

275 (b) The term "assets classified loss" means:

276 (i) When measured as of the date of examination of  
277 the financial institution, those assets that have been determined  
278 by an evaluation made by a state or federal examiner as of that  
279 date to be a loss; and

280 (ii) When measured as of any other date, those  
281 assets:

282 (A) That have been determined: 1. by an  
283 evaluation made by a state or federal examiner at the most recent  
284 examination of the financial institution to be a loss, or 2. by  
285 evaluations made by the financial institution since its most  
286 recent examination to be a loss; and

287 (B) That have not been charged off from the  
288 financial institution's books or collected.

289 (c) The term "intangible assets" means those assets  
290 that would be required to be reported in the item for intangible  
291 assets in a Federal Deposit Insurance Corporation (FDIC) banking  
292 institution's "Reports of Condition and Income" (Call Reports),  
293 regardless of whether the institution is insured by the FDIC.



294 (d) The term "mandatory convertible debt" means a  
295 subordinated debt instrument meeting the requirements of the  
296 Federal Deposit Insurance Corporation that requires the issuer to  
297 convert the instrument into common or perpetual preferred stock by  
298 a date at or before the maturity of the debt instrument. The  
299 maturity of these instruments must be twelve (12) years or less.

300 (e) The term "mortgage servicing rights" means those  
301 assets (net of any related valuation allowances) that result from  
302 contracts to service loans secured by real estate (that have been  
303 securitized or are owned by others) for which the benefits of  
304 servicing are expected to more than adequately compensate the  
305 servicer for performing the servicing.

306 (f) The term "perpetual preferred stock" means a  
307 preferred stock that does not have a stated maturity date or that  
308 cannot be redeemed at the option of the holder and that has no  
309 other provisions that will require future redemption of the issue.  
310 It includes those issues of preferred stock that automatically  
311 convert into common stock at a stated date. It excludes those  
312 issues, the rate on which increases, or can increase, in such a  
313 manner that would effectively require the issuer to redeem the  
314 issue.

315 (g) The term "total assets" means the average of total  
316 assets of any financial institution that are or would be included  
317 in a Federal Deposit Insurance Corporation (FDIC) banking  
318 institution's "Reports of Condition and Income" (Call Reports),



319 regardless of whether the institution is insured by the  
320 FDIC, \* \* \* minus intangible assets other than mortgage servicing  
321 rights.

322 (h) The term "average daily balance" means the average  
323 daily balance of public deposits of each governmental unit held  
324 during the reported month. The average daily balances must be  
325 determined by totaling, by account, the daily balance held by the  
326 depositor and then dividing the total by the number of calendar  
327 days in the month. Deposit insurance is then deducted from each  
328 public depositor's balance and the resulting amounts are totaled  
329 to obtain the average daily balance.

330 (i) The term "public funds" means funds in which the  
331 entire beneficial interest is owned by a governmental unit or  
332 funds held in the name of a public official of a governmental unit  
333 charged with the duty to receive or administer funds and acting in  
334 such official capacity.

335 (j) The term "governmental unit" means the State of  
336 Mississippi, and any office, department, agency, division, bureau,  
337 commission, board, institution, hospital, college, university,  
338 airport authority or other instrumentality thereof, whether or not  
339 such body or instrumentality has the authority to levy taxes or to  
340 sue or be sued in its own name. Further, it shall mean any body  
341 politic or body corporate other than the state responsible for  
342 governmental activities only in geographic areas smaller than that  
343 of the state, including, but not limited to, any county,



344 municipality, school district, community hospital as defined in  
345 Section 41-13-10, airport authority or other instrumentality  
346 thereof, whether or not such body or instrumentality has the  
347 authority to levy taxes or to sue or be sued in its own name. It  
348 is the intent to include all state and political subdivisions or  
349 instrumentalities thereof whether specifically recited herein or  
350 not.

351         **SECTION 2.** Section 27-105-6, Mississippi Code of 1972, is  
352 brought forward as follows:

353         27-105-6. (1) There is established within the State  
354 Treasury a public funds guaranty pool to consist of qualified  
355 public funds depositories commissioned under Section 27-105-5(2)  
356 to be administered by a Guaranty Pool Board and the State  
357 Treasurer.

358         (2) There is established a nine-member Guaranty Pool Board  
359 to administer the guaranty pool and to review and recommend  
360 criteria to be used by the State Treasurer in order to protect  
361 public deposits and the depositories in the program.

362         (3) Any financial institution qualifying as a guaranty pool  
363 member shall guarantee public fund deposits against loss caused by  
364 the default or insolvency of other guaranty pool members and shall  
365 execute under oath an agreement of contingent liability in  
366 addition to a public deposit pledge agreement.



367 (4) In addition to maintaining the capital requirements of  
368 Section 27-105-5, a guaranty pool member shall meet and maintain,  
369 on a quarterly basis, at least two (2) of the following ratios:

370 (a) A ratio of loans past due ninety (90) days or more  
371 to total loans of less than two percent (2%);

372 (b) An annualized return on average assets of more than  
373 seventy-five one hundredths of one percent (0.75%); and

374 (c) A total loans to total assets ratio not exceeding  
375 eighty percent (80%).

376 Failure of a guaranty pool member to meet the capital ratio  
377 and at least two (2) of the above three (3) ratios shall subject  
378 the member to subsection (9) of this section.

379 (5) In fulfilling the requirements of this section, the  
380 Treasurer has the power to:

381 (a) Order discontinuance of participation in the  
382 guaranty pool program by a qualified public depository upon  
383 failure of the financial institution to meet the above  
384 requirements of subsection (4) of this section;

385 (b) Appoint a nine-member Guaranty Pool Board;

386 (c) Establish goals and objectives and provide other  
387 data as may be necessary to assist the Guaranty Pool Board  
388 established under subsection (2) in developing standards for the  
389 program;

390 (d) Perform financial analysis of any qualified public  
391 funds depository as needed.





392           (6) The Guaranty Pool Board shall consist of:

393                 (a) One (1) representative of financial institutions  
394 with assets of One Billion Dollars (\$1,000,000,000.00) or more  
395 chosen by the State Treasurer from a list of two (2) bankers  
396 nominated by the Mississippi Bankers Association;

397                 (b) One (1) representative of financial institutions  
398 with assets of Three Hundred Million Dollars (\$300,000,000.00) but  
399 less than One Billion Dollars (\$1,000,000,000.00) chosen by the  
400 State Treasurer from a list of two (2) bankers nominated by the  
401 Mississippi Bankers Association;

402                 (c) One (1) representative of financial institutions  
403 with assets of less than Three Hundred Million Dollars  
404 (\$300,000,000.00) chosen by the State Treasurer from a list of two  
405 (2) bankers nominated by the Mississippi Bankers Association;

406                 (d) Two (2) representatives of banks at large chosen by  
407 the State Treasurer from a list of four (4) bankers nominated by  
408 the Mississippi Bankers Association;

409                 (e) One (1) member chosen by the State Treasurer from a  
410 list of two (2) supervisors nominated by the Mississippi  
411 Supervisors Association;

412                 (f) One (1) member chosen by the State Treasurer from a  
413 list of two (2) municipal officials nominated by the Mississippi  
414 Municipal League; and

415                 (g) The Commissioner of Banking and Consumer Finance  
416 and the State Treasurer.



417           The Guaranty Pool Board shall determine the effective date of  
418 the public funds guaranty pool, which date shall be no earlier  
419 than July 1, 2001, and so notify the State Treasurer. All  
420 nominees of the Mississippi Bankers Association shall be employed  
421 by a financial institution that is a member of the public funds  
422 guaranty pool.

423           Initially, three (3) of the five (5) representatives of  
424 financial institutions shall be appointed for a term of one (1)  
425 year. The remaining members other than the Commissioner of  
426 Banking and Consumer Finance and State Treasurer, who shall be  
427 permanent members, shall be appointed for a term of two (2) years.  
428 Upon expiration of these terms, members shall be appointed  
429 thereafter for two-year terms. Any member is eligible for  
430 reappointment and shall serve until a successor qualifies. If a  
431 vacancy occurs in the position of any appointed member, a new  
432 member shall be appointed in the same manner as the member's  
433 predecessor for the remainder of the unexpired term. A member of  
434 the board shall receive no compensation for service on the board.

435           The Guaranty Pool Board shall elect a chair and vice chair  
436 and shall also designate a secretary who need not be a member of  
437 the Guaranty Pool Board. The secretary shall keep a record of the  
438 proceedings of the Guaranty Pool Board and shall be the custodian  
439 of all printed materials filed with or by the advisory committee.  
440 Notwithstanding the existence of vacancies on the Guaranty Pool  
441 Board, a majority of the members constitutes a quorum. The



442 Guaranty Pool Board shall not take official action in the absence  
443 of a quorum.

444 In addition to the requirements of subsection (4) of this  
445 section, the Guaranty Pool Board, by a two-thirds ( $\frac{2}{3}$ )  
446 supermajority vote of the entire Guaranty Pool Board, may  
447 establish additional criteria for qualification as a guaranty pool  
448 member, including promulgating additional ratios, requiring  
449 stricter ratios than provided under subsection (4), or requiring  
450 additional collateral; however, any additional criteria shall be  
451 uniformly applied to all participants, although higher collateral  
452 pledge levels may be based on different financial criteria. Any  
453 reduction in previously approved criteria shall likewise be  
454 subject to a two-thirds ( $\frac{2}{3}$ ) supermajority vote of the entire  
455 Guaranty Pool Board. Any additional criteria will become effective  
456 at the quarter next after the Guaranty Pool Board votes. The  
457 Guaranty Pool Board is authorized to promulgate regulations in  
458 order to more fully carry out its obligations under this  
459 paragraph.

460 (7) A public funds guaranty pool member shall submit to the  
461 State Treasurer not later than the date required to be filed with  
462 its primary federal regulatory agency:

463 (a) A copy of the quarterly Consolidated Reports of  
464 Condition and Income, and any amended reports, required by the  
465 Federal Deposit Insurance Act, 12 USCS Section 1811 et seq., if  
466 the depository is a bank; or



467 (b) A copy of the Thrift Financial Report, and any  
468 amended reports, required to be filed with the Office of Thrift  
469 Supervision if the depository is a savings and loan association.

470 (8) A public funds guaranty pool member may effect a  
471 voluntary withdrawal from the guaranty pool by giving written  
472 notice to the State Treasurer. Notice of withdrawal shall be  
473 mailed or delivered in sufficient time to be received by the State  
474 Treasurer at least one hundred eighty (180) days before the  
475 effective date of withdrawal. On the effective date of  
476 withdrawal, the guaranty pool member shall pledge and place on  
477 deposit with the State Treasurer securities equal to one hundred  
478 five percent (105%) of the outstanding balances of public funds  
479 held less the amount of funds insured by the Federal Deposit  
480 Insurance Corporation.

481 The contingent liability for any loss before the effective  
482 date of withdrawal of the depository withdrawing from the guaranty  
483 pool shall continue after the effective date of the withdrawal for  
484 a period of six (6) months.

485 (9) A public funds guaranty pool member failing to meet the  
486 requirements for membership in subsection (4) of this section or  
487 as modified by the Guaranty Pool Board under its authority at  
488 subsection (6) is required to withdraw from the guaranty pool.  
489 The State Treasurer shall notify the public funds guaranty pool  
490 member of the effective date of the withdrawal not less than  
491 thirty (30) days before that effective date. Not later than the



492 effective date of withdrawal, the withdrawing pool member must  
493 pledge and place on deposit with the State Treasurer securities  
494 equal to one hundred five percent (105%) of the outstanding  
495 balances of public funds held less the amount of funds insured by  
496 the Federal Deposit Insurance Corporation or pay over those funds  
497 to the public depositor.

498 The contingent liability for any loss before the effective  
499 date of withdrawal of the depository withdrawing from the guaranty  
500 pool shall continue for a period of one (1) year after the  
501 effective date of the withdrawal.

502 **SECTION 3.** Section 27-105-33, Mississippi Code of 1972, is  
503 brought forward as follows:

504 27-105-33. It shall be the duty of the State Treasurer and  
505 the Executive Director of the Department of Finance and  
506 Administration on or about the tenth day of each month, and in  
507 their discretion at any other time, to analyze carefully the  
508 amount of cash in the General Fund of the state and in all special  
509 funds credited to any special purpose designated by the State  
510 Legislature or held to meet the budgets or appropriations for  
511 maintenance, improvements and services of the several  
512 institutions, boards, departments, commissions, agencies, persons  
513 or entities of the state, and to determine in their opinion when  
514 the cash in such funds is in excess of the amount required to meet  
515 the current needs and demands of no more than seven (7) business  
516 days on such funds and report their findings to the Governor. It



517 shall be the duty of the State Treasurer to provide a cash flow  
518 model for forecasting revenues and expenditures on a bimonthly  
519 basis and providing technical assistance for its operation. The  
520 Department of Finance and Administration shall use the cash flow  
521 model furnished by the State Treasurer, in analyzing the amount of  
522 funds on deposit and available for investment.

523 The State Treasurer is hereby authorized, empowered and  
524 directed to invest all such excess general and special funds of  
525 the state in the following manner:

526 (a) Funds shall be allocated equally among all  
527 qualified state depositories which do not have demand accounts in  
528 excess of One Hundred Fifty Thousand Dollars (\$150,000.00) until  
529 each qualified depository willing to accept the same shall have on  
530 deposit or in security repurchase agreements or in other  
531 securities authorized in paragraph (d) of this section at interest  
532 the sum of Three Hundred Thousand Dollars (\$300,000.00). For the  
533 purposes of this subsection, no branch bank or branch office shall  
534 be counted as a separate depository.

535 (b) The balance, if any, of such excess general and  
536 special funds shall be offered to qualified depositories of the  
537 state on a pro rata basis as provided in Section 27-105-9. For  
538 the purposes of this subsection, the pro rata share of each  
539 depository shall be reduced by the amount of the average daily  
540 collected earning balance of demand deposits maintained by the  
541 State Treasurer pursuant to Section 27-105-9 during the preceding



542 calendar year, and such reduction shall be allocated pro rata  
543 among other eligible depositories.

544 (c) Funds offered pursuant to paragraphs (a) and (b)  
545 above shall be invested for periods of up to one (1) year, and  
546 shall bear interest at an interest rate no less than that  
547 numerically equal to the bond equivalent yield on direct  
548 obligations of the United States Treasury of comparable maturity,  
549 as determined by the State Treasurer. In determining such rate,  
550 the State Treasurer shall consider the Legislature's desire to  
551 distribute funds equitably throughout the state to the maximum  
552 extent possible.

553 (d) To the extent that the State Treasurer shall find  
554 that general and special funds cannot be invested pursuant to  
555 paragraphs (a), (b) and (c) of this section for the stated  
556 maturity up to one (1) year, the Treasurer may invest such funds,  
557 together with any other funds required for current operation, as  
558 determined pursuant to this section, in the following:

559 (i) Time certificates of deposit or  
560 interest-bearing accounts with qualified state depositories. For  
561 those funds determined under prudent judgment of the State  
562 Treasurer to be made available for investment in time certificates  
563 of deposit, the rate of interest paid by the depositories shall be  
564 determined by rules and regulations adopted and promulgated by the  
565 State Treasurer which may include competitive bids. At the time  
566 of investment, the interest rate on such certificates of deposit



567 under the provisions of this subparagraph shall be a rate not less  
568 than the bond equivalent yield on direct obligations of the United  
569 States Treasury with a similar length of maturity.

570 (ii) Direct United States Treasury obligations,  
571 the principal and interest of which are fully guaranteed by the  
572 government of the United States.

573 (iii) United States government agency, United  
574 States government instrumentality or United States government  
575 sponsored enterprise obligations, the principal and interest of  
576 which are fully guaranteed by the government of the United States,  
577 such as the Government National Mortgage Association; or United  
578 States governmental agency, United States government  
579 instrumentality or United States government sponsored enterprise  
580 obligations, the principal and interest of which are guaranteed by  
581 any United States government agency, United States government  
582 instrumentality or United States government sponsored enterprise  
583 contained in a list promulgated by the State Treasurer.

584 (iv) Direct security repurchase agreements and  
585 reverse direct security repurchase agreements of any federal book  
586 entry of only those securities enumerated in subparagraphs (ii)  
587 and (iii) above. "Direct security repurchase agreement" means an  
588 agreement under which the state buys, holds for a specified time,  
589 and then sells back those securities and obligations enumerated in  
590 subparagraphs (ii) and (iii) above. "Reverse direct securities  
591 repurchase agreement" means an agreement under which the state





592 sells and after a specified time buys back any of the securities  
593 and obligations enumerated in subparagraphs (ii) and (iii) above.  
594 At least eighty percent (80%) of the total dollar amount in all  
595 repurchase agreements at any one time shall be pursuant to  
596 contracts with qualified state depositories.

597 (v) Bonds issued, assumed or guaranteed by the  
598 Country of Israel, provided that:

599 1. Investments in such instruments shall be  
600 denominated in United States currency;

601 2. Such bonds must be of investment grade as  
602 rated by at least one (1) nationally recognized statistical rating  
603 agency; and

604 3. The amount of funds invested in such bonds  
605 at any time shall not exceed Twenty Million Dollars  
606 (\$20,000,000.00).

607 (e) For the purposes of this section, direct  
608 obligations issued by the United States of America shall be deemed  
609 to include securities of, or other interests in, any open-end or  
610 closed-end management type investment company or investment trust  
611 registered under the provisions of 15 USCS Section 80(a)-1 et  
612 seq., provided that the portfolio of such investment company or  
613 investment trust is limited to direct obligations issued by the  
614 United States of America, United States government agencies,  
615 United States government instrumentalities or United States  
616 government sponsored enterprises, and to repurchase agreements



617 fully collateralized by direct obligations of the United States of  
618 America, United States government agencies, United States  
619 government instrumentalities or United States government sponsored  
620 enterprises, and the investment company or investment trust takes  
621 delivery of such collateral for the repurchase agreement, either  
622 directly or through an authorized custodian. The State Treasurer  
623 and the Executive Director of the Department of Finance and  
624 Administration shall review and approve the investment companies  
625 and investment trusts in which funds invested under paragraph (d)  
626 of this section may be invested. The total dollar amount of funds  
627 invested in all open-end and closed-end management type investment  
628 companies and investment trusts at any one time shall not exceed  
629 twenty percent (20%) of the total dollar amount of funds invested  
630 under paragraph (d) of this section.

631 (f) Investments authorized by subparagraphs (ii) and  
632 (iii) of paragraph (d) shall mature on such date or dates as  
633 determined by the State Treasurer in the exercise of prudent  
634 judgment to generate a favorable return to the state and will  
635 allow the monies to be available for use at such time as the  
636 monies will be needed for state purposes. However, the maturity  
637 of securities purchased as enumerated in subparagraphs (ii) and  
638 (iii) shall not exceed ten (10) years from date of purchase.  
639 Special funds shall be considered those funds created  
640 constitutionally, statutorily or administratively which are not  
641 considered general funds. All funds invested for a period of



642 thirty (30) days or longer under paragraph (d) shall bear a rate  
643 at least equal to the current established rate under paragraph (c)  
644 of this section.

645 (g) Any interest-bearing deposits or certificates of  
646 deposit shall not exceed at any time the amount insured by the  
647 Federal Deposit Insurance Corporation in any one (1) banking  
648 institution, the Federal Savings and Loan Insurance Corporation in  
649 any one (1) savings and loan association, or other deposit  
650 insurance corporation approved by the State Treasurer, unless the  
651 uninsured portion is collateralized by the pledge of securities in  
652 the manner provided by Section 27-105-5.

653 (h) Unless otherwise provided, income from investments  
654 authorized by the provisions of this subsection shall be credited  
655 to the State General Fund.

656 (i) Not more than Five Hundred Thousand Dollars  
657 (\$500,000.00) of funds may be invested with foreign financial  
658 institutions, and the State Treasurer may enter into price  
659 contracts for the purchase or exchange of foreign currency or  
660 other arrangements for currency exchange in an amount not to  
661 exceed Five Hundred Thousand Dollars (\$500,000.00) upon specific  
662 direction of the Department of Economic and Community Development.  
663 The State Treasurer shall promulgate all rules and regulations for  
664 applications, qualifications and any other necessary matters for  
665 foreign financial institutions.



666 Any liquidating agent of a depository in liquidation,  
667 voluntary or involuntary, shall redeem from the state any bonds  
668 and securities which have been pledged to secure state funds and  
669 such redemption shall be at the par value or market value thereof,  
670 whichever is greater; otherwise, the liquidating agent or receiver  
671 may pay off the state in full for its deposits and retrieve the  
672 pledged securities without regard to par or market value.

673 The State Treasurer and the Executive Director of the  
674 Department of Finance and Administration shall make monthly  
675 reports to the Legislative Budget Office containing a full and  
676 complete statement of all funds invested by virtue of the  
677 provisions of this section and the revenues derived therefrom and  
678 the expenses incurred therewith, together with all such other  
679 information as may seem to each of them as being pertinent to  
680 inform fully the Mississippi Legislature with reference thereto.

681 The State Treasurer shall not deposit any funds on demand  
682 deposit with any authorized depository, unless such depository has  
683 contracted for interest-bearing accounts or time certificates of  
684 deposit.

685 Notwithstanding the foregoing, any financial institution not  
686 meeting the prescribed ratio requirement set forth in Section  
687 27-105-5 whose accounts are insured by the Federal Deposit  
688 Insurance Corporation, or any successor to that insurance  
689 corporation, may receive state funds in an amount not exceeding  
690 the amount which is insured by such insurance corporations and may



691 qualify as a state depository to the extent of such insurance for  
692 this purpose only. The paid-in and earned capital funds of such  
693 financial institution shall not be included in the computations  
694 specified in Section 27-105-9(a) and (b).

695         **SECTION 4.** Section 27-105-315, Mississippi Code of 1972, is  
696 brought forward as follows:

697         27-105-315. (1) Any financial institution in a county, or  
698 in an adjoining county where there is no financial institution in  
699 the county qualifying, whose accounts are insured by the Federal  
700 Deposit Insurance Corporation or any successors to that insurance  
701 corporation may qualify as a county depository, if the institution  
702 qualifies as a public funds depository under Section 27-105-5 or a  
703 public funds guaranty pool member under Sections 27-105-5 and  
704 27-105-6. The qualified financial institution shall secure those  
705 deposits by placing qualified securities on deposit with the State  
706 Treasurer as provided in Section 27-105-5.

707         (2) Notwithstanding the foregoing, any financial institution  
708 whether or not meeting the prescribed ratio requirement whose  
709 accounts are insured by the Federal Deposit Insurance Corporation  
710 or any successors to that insurance corporation, may receive  
711 county funds in an amount not exceeding the amount that is insured  
712 by that insurance corporation and may qualify as a county  
713 depository to the extent of that insurance.

714         (3) For purposes of the foregoing subsection (2), a deposit  
715 or investment shall be within the amount that is insured by that



716 insurance corporation if the deposit or investment is made on the  
717 following conditions:

718 (a) The financial institution arranges for the  
719 investment of the funds in interest-bearing accounts in one or  
720 more banks or savings and loan associations wherever located in  
721 the United States, for the account of the public depositor;

722 (b) The full amount of the principal and accrued  
723 interest of each such interest-bearing account is insured by the  
724 Federal Deposit Insurance Corporation;

725 (c) The financial institution acts as custodian for the  
726 public depositor with respect to the funds invested in the public  
727 depositor's account; and

728 (d) At the same time that such interest-bearing  
729 accounts are invested, the financial institution receives an  
730 amount of deposits from customers of other financial institutions  
731 located in the United States equal to or greater than the amount  
732 of the funds invested by the public depositor through the  
733 financial institution.

734 **SECTION 5.** This act shall take effect and be in force from  
735 and after its passage.

