

By: Senator(s) Harkins, Robinson, Chism,
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To: Finance

SENATE BILL NO. 2226
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-117-15, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPEAL DATE OF THE ISRAEL SUPPORT ACT OF 2019; TO
3 AMEND SECTION 27-117-5, MISSISSIPPI CODE OF 1972, TO MAKE
4 TECHNICAL CORRECTIONS TO NUMBERING; TO BRING FORWARD SECTIONS
5 27-117-1, 27-117-3, 27-117-7, 27-117-9, 27-117-11 AND 27-117-13,
6 MISSISSIPPI CODE OF 1972, TO WHICH CONSTITUTE THE ISRAEL SUPPORT
7 ACT OF 2019, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND
8 SECTION 27-105-33, MISSISSIPPI CODE OF 1972, TO INCREASE THE
9 AMOUNT OF FUNDS THE STATE TREASURER MAY INVEST IN BONDS ISSUED,
10 ASSUMED OR GUARANTEED BY THE COUNTRY OF ISRAEL UNDER CERTAIN
11 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-117-15, Mississippi Code of 1972, is
14 amended as follows:

15 27-117-15. * * * [Deleted]

16 **SECTION 2.** Section 27-117-5, Mississippi Code of 1972, is
17 amended as follows:

18 27-117-5. (1) * * * Before December 31, 2019, the Executive
19 Director of the Department of Finance and Administration shall
20 develop or contract to develop, using credible information
21 available to the public, a list of companies determined to engage
22 in a boycott of Israel, as described in this section. When



23 completed, the list must be posted on the website of the
24 Department of Finance and Administration.

25 (* * *2) The executive director shall update the list by
26 July 1 of every year.

27 (* * *3) Before a company is included on the finalized
28 initial list or updated list, the executive director must do all
29 of the following:

30 (* * *a) Provide ninety (90) days' written notice of
31 the executive director's intent to include the company on the
32 list. The notice must inform the company that inclusion on the
33 list will make the company ineligible for investment by the State
34 or Public Employees Retirement System. The notice also must
35 specify that the company, if it ceases its boycott of Israel, may
36 be removed from the list.

37 (* * *b) The executive director shall provide a
38 company with an opportunity to comment in writing that it is not
39 engaged in a boycott of Israel. If the company demonstrates to
40 the executive director that the company is not engaged in a
41 boycott of Israel, the company shall not be included on the list.

42 (* * *4) The executive director shall make every effort to
43 avoid including a company on the list erroneously.

44 **SECTION 3.** Section 27-117-1, Mississippi Code of 1972, is
45 brought forward as follows:

46 27-117-1. This chapter shall be known and may be cited as
47 the "Israel Support Act of 2019."



48 **SECTION 4.** Section 27-117-3, Mississippi Code of 1972, is
49 brought forward as follows:

50 27-117-3. As used in this chapter, the following words and
51 phrases shall have the meanings ascribed in this section unless
52 the context clearly indicates otherwise:

53 (a) "Boycott Israel" or "boycott of Israel" means
54 refusing to deal, terminating business activities, or taking other
55 actions to limit commercial relations with Israel, or persons or
56 entities doing business in Israel or in Israeli-controlled
57 territories, in a discriminatory manner. A statement by a company
58 that it is participating in a boycott of Israel, or that it has
59 initiated a boycott in response to a request for a boycott of
60 Israel or in compliance with, or in furtherance of, calls for a
61 boycott of Israel, may be considered by the public fund to be
62 evidence that a company is participating in a boycott of Israel.
63 The term does not include restrictive trade practices or boycotts
64 fostered or imposed by foreign countries against Israel.

65 (b) "Company" means an organization, association,
66 corporation, partnership, joint venture, limited partnership,
67 limited liability partnership, limited liability company, or other
68 entity or business association, including all wholly owned
69 subsidiaries, majority-owned subsidiaries, and parent companies,
70 that exists for the purpose of making profit.

71 (c) "Expense" means all explicit costs associated with
72 divesting of investments, including, but not limited to, trading



73 costs, brokerage commissions, and any realized losses, and all
74 implicit costs, including, but not limited to, lost opportunity
75 costs resulting from the prohibition from making certain
76 investments.

77 (d) "Investment" means a commitment or contribution of
78 funds or property, whatever the source, a loan or other extension
79 of credit, and the entry into or renewal of a contract for goods
80 or services. The term "investment" does not include indirect
81 beneficial ownership through index funds, commingled funds,
82 limited partnerships, derivative instruments or the like.

83 (e) "Public fund" means the Public Employees'
84 Retirement System and the Treasurer's office.

85 (f) "Scrutinized companies" means companies that
86 boycott Israel or engage in a boycott of Israel.

87 **SECTION 5.** Section 27-117-7, Mississippi Code of 1972, is
88 brought forward as follows:

89 27-117-7. (1) The Public Employees' Retirement System and
90 the State Treasurer may not invest funds with a company that is
91 identified on a list created pursuant to Section 27-117-5 as a
92 company engaging in a boycott of Israel.

93 (2) Any existing investments in violation of this chapter as
94 of July 1, 2020, must be divested when prudent to do so but not
95 later than one hundred twenty (120) days after the posting is made
96 on the website of the Department of Finance and Administration.



97 **SECTION 6.** Section 27-117-9, Mississippi Code of 1972, is
98 brought forward as follows:

99 27-117-9. Notwithstanding the provisions of Section
100 27-117-7, an investment may be made in a company engaged in a
101 boycott of Israel, on a case by case basis, if:

102 (a) The investment was made before December 31, 2019,
103 and the company has adopted, publicized and is implementing a
104 formal plan to cease the boycott of Israel and to refrain from
105 engaging in any new boycott of Israel; or

106 (b) The investor makes a determination that the
107 investments are necessary in order to perform its functions.

108 **SECTION 7.** Section 27-117-11, Mississippi Code of 1972, is
109 brought forward as follows:

110 27-117-11. Nothing in this chapter shall be construed to
111 require the Public Employees' Retirement System of Mississippi or
112 the State Treasurer or their agents to take any action as
113 described in this chapter unless it is determined, in good faith,
114 that: the action described in this chapter is consistent with the
115 fiduciary responsibilities of the Public Employees' Retirement
116 System of Mississippi or the State Treasurer or their agents; and
117 there are appropriated funds of the state to absorb the expenses
118 necessary to implement this chapter.

119 **SECTION 8.** Section 27-117-13, Mississippi Code of 1972, is
120 brought forward as follows:



121 27-117-13. Present, future and former board members,
122 officers, employees and agents of the Public Employees' Retirement
123 System and the Department of Finance and Administration, as well
124 as present, future and former State Treasurers, officers and
125 employees of the State Treasurer and agents retained by the State
126 Treasurer, must be indemnified from the State General Fund and
127 held harmless by the state from all claims, demands, suits,
128 actions, damages, judgments, costs, charges and expenses,
129 including court costs and attorney's fees, and against all
130 liability, losses and damages of any nature whatsoever that these
131 present, future or former board members, officers, employees,
132 agents or contract investment managers shall or may at any time
133 sustain by reason of any decision to restrict, reduce or eliminate
134 investments pursuant to this chapter.

135 **SECTION 9.** Section 27-105-33, Mississippi Code of 1972, is
136 amended as follows:

137 27-105-33. It shall be the duty of the State Treasurer and
138 the Executive Director of the Department of Finance and
139 Administration on or about the tenth day of each month, and in
140 their discretion at any other time, to analyze carefully the
141 amount of cash in the General Fund of the state and in all special
142 funds credited to any special purpose designated by the State
143 Legislature or held to meet the budgets or appropriations for
144 maintenance, improvements and services of the several
145 institutions, boards, departments, commissions, agencies, persons



146 or entities of the state, and to determine in their opinion when
147 the cash in such funds is in excess of the amount required to meet
148 the current needs and demands of no more than seven (7) business
149 days on such funds and report their findings to the Governor. It
150 shall be the duty of the State Treasurer to provide a cash flow
151 model for forecasting revenues and expenditures on a bimonthly
152 basis and providing technical assistance for its operation. The
153 Department of Finance and Administration shall use the cash flow
154 model furnished by the State Treasurer, in analyzing the amount of
155 funds on deposit and available for investment.

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

159 (a) Funds shall be allocated equally among all
160 qualified state depositories which do not have demand accounts in
161 excess of One Hundred Fifty Thousand Dollars (\$150,000.00) until
162 each qualified depository willing to accept the same shall have on
163 deposit or in security repurchase agreements or in other
164 securities authorized in paragraph (d) of this section at interest
165 the sum of Three Hundred Thousand Dollars (\$300,000.00). For the
166 purposes of this subsection, no branch bank or branch office shall
167 be counted as a separate depository.

168 (b) The balance, if any, of such excess general and
169 special funds shall be offered to qualified depositories of the
170 state on a pro rata basis as provided in Section 27-105-9. For



171 the purposes of this subsection, the pro rata share of each
172 depository shall be reduced by the amount of the average daily
173 collected earning balance of demand deposits maintained by the
174 State Treasurer pursuant to Section 27-105-9 during the preceding
175 calendar year, and such reduction shall be allocated pro rata
176 among other eligible depositories.

177 (c) Funds offered pursuant to paragraphs (a) and (b)
178 above shall be invested for periods of up to one (1) year, and
179 shall bear interest at an interest rate no less than that
180 numerically equal to the bond equivalent yield on direct
181 obligations of the United States Treasury of comparable maturity,
182 as determined by the State Treasurer. In determining such rate,
183 the State Treasurer shall consider the Legislature's desire to
184 distribute funds equitably throughout the state to the maximum
185 extent possible.

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

192 (i) Time certificates of deposit or
193 interest-bearing accounts with qualified state depositories. For
194 those funds determined under prudent judgment of the State
195 Treasurer to be made available for investment in time certificates



196 of deposit, the rate of interest paid by the depositories shall be
197 determined by rules and regulations adopted and promulgated by the
198 State Treasurer which may include competitive bids. At the time
199 of investment, the interest rate on such certificates of deposit
200 under the provisions of this subparagraph shall be a rate not less
201 than the bond equivalent yield on direct obligations of the United
202 States Treasury with a similar length of maturity.

203 (ii) Direct United States Treasury obligations,
204 the principal and interest of which are fully guaranteed by the
205 government of the United States.

206 (iii) United States government agency, United
207 States government instrumentality or United States
208 government-sponsored enterprise obligations, the principal and
209 interest of which are fully guaranteed by the government of the
210 United States, such as the Government National Mortgage
211 Association; or United States governmental agency, United States
212 government instrumentality or United States government-sponsored
213 enterprise obligations, the principal and interest of which are
214 guaranteed by any United States government agency, United States
215 government instrumentality or United States government-sponsored
216 enterprise contained in a list promulgated by the State Treasurer.

217 (iv) Direct security repurchase agreements and
218 reverse direct security repurchase agreements of any federal book
219 entry of only those securities enumerated in subparagraphs (ii)
220 and (iii) above. "Direct security repurchase agreement" means an



221 agreement under which the state buys, holds for a specified time,
222 and then sells back those securities and obligations enumerated in
223 subparagraphs (ii) and (iii) above. "Reverse direct securities
224 repurchase agreement" means an agreement under which the state
225 sells and after a specified time buys back any of the securities
226 and obligations enumerated in subparagraphs (ii) and (iii) above.
227 A qualified state depository shall be given preference for such
228 agreements when possible.

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

231 1. Investments in such instruments shall be
232 denominated in United States currency;

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

236 3. The amount of funds invested in such bonds
237 at any time shall not exceed * * * Fifty Million Dollars
238 (\$50,000,000.00).

239 (vi) Corporate bonds and taxable municipal bonds;
240 or corporate short-term obligations of corporations or of wholly
241 owned subsidiaries of corporations, whose short-term obligations
242 are rated A-1 or better by Standard and Poor's, rated P-1 or
243 better by Moody's Investment Service, F-1 or better by Fitch
244 Ratings, Ltd., or the equivalent of these ratings if assigned by



245 another United States Securities and Exchange Commission
246 designated Nationally Recognized Statistical Rating Organization.

247 (e) For the purposes of this section, direct
248 obligations issued by the United States of America shall be deemed
249 to include securities of, or other interests in, any open-end or
250 closed-end management type investment company or investment trust
251 registered under the provisions of 15 USCS Section 80(a)-1 et
252 seq., provided that the portfolio of such investment company or
253 investment trust is limited to direct obligations issued by the
254 United States of America, United States government agencies,
255 United States government instrumentalities or United States
256 government-sponsored enterprises, and to repurchase agreements
257 fully collateralized by direct obligations of the United States of
258 America, United States government agencies, United States
259 government instrumentalities or United States government-sponsored
260 enterprises, and the investment company or investment trust takes
261 delivery of such collateral for the repurchase agreement, either
262 directly or through an authorized custodian. The State Treasurer
263 and the Executive Director of the Department of Finance and
264 Administration shall review and approve the investment companies
265 and investment trusts in which funds invested under paragraph (d)
266 of this section may be invested. The total dollar amount of funds
267 invested in all open-end and closed-end management type investment
268 companies and investment trusts at any one time shall not exceed



269 twenty percent (20%) of the total dollar amount of funds invested
270 under paragraph (d) of this section.

271 (f) Investments authorized by subparagraphs (ii) and
272 (iii) of paragraph (d) shall mature on such date or dates as
273 determined by the State Treasurer in the exercise of prudent
274 judgment to generate a favorable return to the state and will
275 allow the monies to be available for use at such time as the
276 monies will be needed for state purposes. However, the maturity
277 of securities purchased as enumerated in subparagraphs (ii) and
278 (iii) shall not exceed ten (10) years from date of purchase.
279 Special funds shall be considered those funds created
280 constitutionally, statutorily or administratively which are not
281 considered general funds. All funds invested for a period of
282 thirty (30) days or longer under paragraph (d) shall bear a rate
283 at least equal to the current established rate under paragraph (c)
284 of this section.

285 (g) Any interest-bearing deposits or certificates of
286 deposit shall not exceed at any time the amount insured by the
287 Federal Deposit Insurance Corporation in any one (1) banking
288 institution, the Federal Savings and Loan Insurance Corporation in
289 any one (1) savings and loan association, or other deposit
290 insurance corporation approved by the State Treasurer, unless the
291 uninsured portion is collateralized by the pledge of securities in
292 the manner provided by Section 27-105-5.



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

296 (i) Not more than Five Hundred Thousand Dollars
297 (\$500,000.00) of funds may be invested with foreign financial
298 institutions, and the State Treasurer may enter into price
299 contracts for the purchase or exchange of foreign currency or
300 other arrangements for currency exchange in an amount not to
301 exceed Five Hundred Thousand Dollars (\$500,000.00) upon specific
302 direction of the Department of Economic and Community Development.
303 The State Treasurer shall promulgate all rules and regulations for
304 applications, qualifications and any other necessary matters for
305 foreign financial institutions.

306 Any liquidating agent of a depository in liquidation,
307 voluntary or involuntary, shall redeem from the state any bonds
308 and securities which have been pledged to secure state funds and
309 such redemption shall be at the par value or market value thereof,
310 whichever is greater; otherwise, The liquidating agent or receiver
311 may pay off the state in full for its deposits and retrieve the
312 pledged securities without regard to par or market value.

313 The State Treasurer and the Executive Director of the
314 Department of Finance and Administration shall make monthly
315 reports to the Legislative Budget Office containing a full and
316 complete statement of all funds invested by virtue of the
317 provisions of this section and the revenues derived therefrom and



318 the expenses incurred therewith, together with all such other
319 information as may seem to each of them as being pertinent to
320 inform fully the Mississippi Legislature with reference thereto.

321 The State Treasurer shall not deposit any funds on demand
322 deposit with any authorized depository, unless such depository has
323 contracted for interest-bearing accounts or time certificates of
324 deposit.

325 Notwithstanding the foregoing, any financial institution not
326 meeting the prescribed ratio requirement set forth in Section
327 27-105-5 whose accounts are insured by the Federal Deposit
328 Insurance Corporation, or any successor to that insurance
329 corporation, may receive state funds in an amount not exceeding
330 the amount which is insured by such insurance corporations and may
331 qualify as a state depository to the extent of such insurance for
332 this purpose only. The paid-in and earned capital funds of such
333 financial institution shall not be included in the computations
334 specified in Section 27-105-9(a) and (b).

335 **SECTION 10.** This act shall take effect and be in force from
336 and after July 1, 2024.

