

By: Representatives Bell (21st), Snowden,
Rogers (14th)

To: Appropriations

HOUSE BILL NO. 837

1 AN ACT TO PROHIBIT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
2 (PERS) AND THE TREASURER'S OFFICE FROM HAVING DIRECT OR INDIRECT
3 HOLDINGS IN COMPANIES THAT BOYCOTT ISRAEL OR ENGAGE IN A BOYCOTT
4 OF ISRAEL; TO REQUIRE PERS AND THE TREASURER TO IDENTIFY ALL
5 COMPANIES THAT ARE BOYCOTTING ISRAEL OR ARE ENGAGED IN A BOYCOTT
6 OF ISRAEL IN WHICH THEY OWN DIRECT OR INDIRECT HOLDINGS BY A
7 SPECIFIED DATE; TO REQUIRE PERS AND THE TREASURER TO CREATE AND
8 MAINTAIN A LIST OF SCRUTINIZED COMPANIES THAT BOYCOTT ISRAEL THAT
9 NAMES ALL OF THOSE COMPANIES; TO REQUIRE PERS AND THE TREASURER TO
10 PROVIDE WRITTEN NOTICE TO A COMPANY THAT IS IDENTIFIED AS A
11 SCRUTINIZED COMPANY; TO SPECIFY THE CIRCUMSTANCES UNDER WHICH A
12 COMPANY MAY BE REMOVED FROM THE LIST; TO PRESCRIBE CERTAIN
13 REPORTING REQUIREMENTS BY PERS AND THE TREASURER REGARDING THE
14 COMPANIES ON THE LIST; TO AUTHORIZE PERS AND THE TREASURER TO
15 INVEST IN CERTAIN SCRUTINIZED COMPANIES IF THE VALUE OF ALL ASSETS
16 UNDER MANAGEMENT BY THEM BECOMES EQUAL TO OR LESS THAN A SPECIFIED
17 AMOUNT; TO AMEND SECTIONS 25-11-121 AND 27-105-33, MISSISSIPPI
18 CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO PROHIBIT
19 STATE AGENCIES AND LOCAL GOVERNING AUTHORITIES FROM CONTRACTING
20 FOR GOODS AND SERVICES THAT EXCEED A SPECIFIED AMOUNT WITH
21 SCRUTINIZED COMPANIES; TO REQUIRE THE INCLUSION OF A CONTRACT
22 PROVISION THAT AUTHORIZES TERMINATION OF A CONTRACT IF A COMPANY
23 SUBMITS CERTAIN FALSE CERTIFICATION, HAS BEEN PLACED ON THE
24 SCRUTINIZED COMPANIES LIST, OR IS ENGAGED IN A BOYCOTT OF ISRAEL;
25 TO PROVIDE FOR CERTAIN EXCEPTIONS; TO REQUIRE CERTIFICATION UPON
26 SUBMISSION OF A BID OR PROPOSAL FOR CERTAIN CONTRACTS WITH AN
27 AGENCY OR GOVERNING AUTHORITY THAT THE COMPANY IS NOT
28 PARTICIPATING IN A BOYCOTT OF ISRAEL; TO PROVIDE PROCEDURES UPON
29 DETERMINATION THAT A COMPANY HAS SUBMITTED A FALSE CERTIFICATION;
30 TO PROVIDE FOR A CIVIL ACTION AND PENALTIES FOR COMPANIES THAT
31 VIOLATE THE PROVISIONS OF THIS ACT; TO PROVIDE FOR PREEMPTION OF
32 CONFLICTING AGENCY RULES AND GOVERNING AUTHORITY ORDINANCES; TO
33 AMEND SECTIONS 25-53-5 AND 31-7-3, MISSISSIPPI CODE OF 1972, TO
34 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.



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

36 **SECTION 1.** (1) **Definitions.** As used in this section, the
37 following terms shall be defined as provided in this subsection:

38 (a) "Boycott Israel" or "boycott of Israel" means
39 refusing to deal, terminating business activities, or taking other
40 actions to limit commercial relations with Israel, or persons or
41 entities doing business in Israel or in Israeli-controlled
42 territories, in a discriminatory manner. A statement by a company
43 that it is participating in a boycott of Israel, or that it has
44 initiated a boycott in response to a request for a boycott of
45 Israel or in compliance with, or in furtherance of, calls for a
46 boycott of Israel, may be considered by the public fund to be
47 evidence that a company is participating in a boycott of Israel.
48 The term does not include restrictive trade practices or boycotts
49 fostered or imposed by foreign countries against Israel.

50 (b) "Company" means a sole proprietorship,
51 organization, association, corporation, partnership, joint
52 venture, limited partnership, limited liability partnership,
53 limited liability company, or other entity or business
54 association, including all wholly owned subsidiaries,
55 majority-owned subsidiaries, and parent companies, that exists for
56 the purpose of making profit.

57 (c) "Direct holdings" in a company means all securities
58 of that company that are held directly by the public fund or in an



59 account or fund in which the public fund owns all shares or
60 interests.

61 (d) "Indirect holdings" in a company means all
62 securities of that company that are held in a commingled fund or
63 other collective investment, such as a mutual fund, in which the
64 public fund owns shares or interests, together with other
65 investors not subject to this section or which are held in an
66 index fund.

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

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

71 (2) **Identification of companies.** (a) By August 1, 2018,
72 the public fund shall make its best efforts to identify all
73 scrutinized companies in which the public fund has direct or
74 indirect holdings or could possibly have such holdings in the
75 future. Such efforts include:

76 (i) To the extent that the public fund finds it
77 appropriate, reviewing and relying on publicly available
78 information regarding companies that boycott Israel, including
79 information provided by nonprofit organizations, research firms,
80 international organizations, and government entities;

81 (ii) Contacting asset managers contracted by the
82 public fund for information regarding companies that boycott
83 Israel; or



84 (iii) Contacting other institutional investors
85 that prohibit such investments or that have engaged with companies
86 that boycott Israel.

87 (b) By the first meeting of the public fund following
88 the identification of scrutinized companies in accordance with
89 paragraph (a) of this subsection, the public fund shall compile
90 and make available the "Scrutinized Companies that Boycott Israel
91 List."

92 (c) The public fund shall update and make publicly
93 available quarterly the Scrutinized Companies that Boycott Israel
94 List based on evolving information from, among other sources,
95 those listed in paragraph (a) of this subsection.

96 (3) **Required actions.** The public fund shall adhere to the
97 following procedures for assembling companies on the Scrutinized
98 Companies that Boycott Israel List:

99 (a) **Engagement.**

100 (i) The public fund shall immediately determine
101 the companies on the Scrutinized Companies that Boycott Israel
102 List in which the public fund owns direct or indirect holdings.

103 (ii) For each company newly identified under this
104 paragraph after August 1, 2018, the public fund shall send a
105 written notice informing the company of its scrutinized company
106 status and that it may become subject to investment
107 prohibition by the public fund. The notice must inform the
108 company of the opportunity to clarify its activities regarding the



109 boycott of Israel and encourage the company to cease the boycott
110 of Israel within ninety (90) days in order to avoid qualifying for
111 investment prohibition.

112 (iii) If, within ninety (90) days after the public
113 fund's first engagement with a company under this paragraph, the
114 company ceases a boycott of Israel, the company shall be removed
115 from the Scrutinized Companies that Boycott Israel List, and the
116 provisions of this section shall cease to apply to that company
117 unless that company resumes a boycott of Israel.

118 (b) **Prohibition.** The public fund may not acquire
119 securities of companies on the Scrutinized Companies that Boycott
120 Israel List, except as provided in paragraph (c) of this
121 subsection and subsection (6) of this section.

122 (c) **Excluded securities.** Notwithstanding the
123 provisions of this section, paragraph (b) of this subsection does
124 not apply to:

125 (i) Indirect holdings. However, the public fund
126 shall submit letters to the managers of such investment funds
127 containing companies that boycott Israel requesting that they
128 consider removing such companies from the fund or create a similar
129 fund having indirect holdings devoid of such companies. If the
130 manager creates a similar fund, the public fund shall replace all
131 applicable investments with investments in the similar fund in an
132 expedited timeframe consistent with prudent investing standards.
133 For the purposes of this section, an alternative investment, which



134 means an investment by the public fund in a private equity fund,
135 venture fund, hedge fund or distress fund or a direct investment
136 in a portfolio company through an investment manager, and
137 securities that are not publicly traded are deemed to be indirect
138 holdings.

139 (ii) Exchange-traded funds.

140 (4) **Reporting.** (a) The public fund shall file a report
141 with the President of the Senate and the Speaker of the House of
142 Representatives that includes the Scrutinized Companies that
143 Boycott Israel List within thirty (30) days after the
144 list is created. This report shall be made available to the
145 public.

146 (b) Each quarter thereafter, the public fund shall file
147 a report, which shall be made available to the public and to the
148 President of the Senate and the Speaker of the House of
149 Representatives, that includes:

150 (i) A summary of correspondence with companies
151 engaged by the public fund under subsection (3) (a) (ii);

152 (ii) All prohibited investments under subsection
153 (3) (b);

154 (iii) Any progress made under subsection (3) (c);
155 and

156 (iv) A list of all publicly traded securities held
157 directly by the public fund.

158 (5) **Investment policy statement obligations.** The public



159 fund's actions taken in compliance with this section, including
160 all good faith determinations regarding companies as required by
161 this act, shall be adopted and incorporated into the public fund's
162 investment policy statement.

163 (6) **Investment in certain scrutinized companies.**

164 Notwithstanding any other provision of this section, the public
165 fund may invest in certain scrutinized companies if clear and
166 convincing evidence shows that the value of all assets under
167 management by the public fund becomes equal to or less than
168 ninety-nine and fifty one-hundredths percent (99.50%), or fifty
169 (50) basis points, of the hypothetical value of all assets under
170 management by the public fund, assuming no investment prohibition
171 for any company had occurred under subsection (3)(b). Cessation
172 of the investment prohibition and any new investment in a
173 scrutinized company is limited to the minimum steps necessary to
174 avoid the contingency described in this subsection. For any
175 cessation of the investment prohibition and new investment
176 authorized by this subsection, the public fund shall provide a
177 written report to the President of the Senate and the Speaker of
178 the House of Representatives in advance of the new investment,
179 updated semiannually thereafter as applicable, setting forth the
180 reasons and justification, supported by clear and convincing
181 evidence, for its decisions to cease the investment prohibition in
182 scrutinized companies.



183 **SECTION 2.** Section 25-11-121, Mississippi Code of 1972, is
184 amended as follows:

185 25-11-121. (1) The board shall, from time to time,
186 determine the current requirements for benefit payments and
187 administrative expense which shall be maintained as a cash working
188 balance, except that such cash working balance shall not exceed at
189 any time an amount necessary to meet the current obligations of
190 the system for a period of ninety (90) days. Any amounts in
191 excess of such cash working balance shall be invested, as follows:

192 (a) Funds may be deposited in any institution insured
193 by the Federal Deposit Insurance Corporation that maintains a
194 facility that takes deposits in the State of Mississippi or a
195 custodial bank;

196 (b) Corporate bonds and taxable municipal bonds; or
197 corporate short-term obligations of corporations or of wholly
198 owned subsidiaries of corporations, whose short-term obligations
199 are rated A-2 or better by Standard and Poor's, rated P-2 or
200 better by Moody's Investment Service, F-2 or better by Fitch
201 Ratings, Ltd., or the equivalent of these ratings if assigned by
202 another United States Securities and Exchange Commission
203 designated Nationally Recognized Statistical Rating Organization;

204 (c) Agency and nonagency residential and commercial
205 mortgage-backed securities and collateralized mortgage
206 obligations;

207 (d) Asset-backed securities;



208 (e) Bank loans;

209 (f) Convertible bonds;

210 (g) Bonds of the Tennessee Valley Authority;

211 (h) Bonds, notes, certificates and other valid
212 obligations of the United States, and other valid obligations of
213 any federal instrumentality that issues securities under authority
214 of an act of Congress and are exempt from registration with the
215 Securities and Exchange Commission;

216 (i) Bonds, notes, debentures and other securities
217 issued by any federal instrumentality and fully guaranteed by the
218 United States;

219 (j) Interest-bearing revenue bonds or notes or bonds or
220 notes which are general obligations of any state in the United
221 States or of any city or county therein;

222 (k) Bonds of established non-United States companies
223 and foreign government securities. The board may take requisite
224 action to effectuate or hedge transactions or invest in currency
225 through foreign or domestic banks, including the purchase and
226 sale, transfer, exchange, or otherwise disposal of, and generally
227 deal in foreign exchange through the use of foreign currency,
228 interbank forward contracts, futures contracts, options contracts,
229 swaps and other related derivative instruments, notwithstanding
230 any other provisions of this article to the contrary;

231 (l) Shares of stocks, common and/or preferred, of
232 corporations created by or existing under the laws of the United



233 States or any state, district or territory thereof and shares of
234 stocks, common and/or preferred, and convertible securities of
235 non-United States companies; provided:

236 (i) The maximum investments in stocks shall not
237 exceed eighty percent (80%) of the total book value of the total
238 investment fund of the system;

239 (ii) The stock of such corporation shall:

- 240 1. Be listed on a national stock exchange; or
- 241 2. Be traded in the over-the-counter market;

242 (iii) The outstanding shares of such corporation
243 shall have a total market value of not less than Fifty Million
244 Dollars (\$50,000,000.00);

245 (iv) The amount of investment in any one (1)
246 corporation shall not exceed three percent (3%) of the book value
247 of the assets of the system;

248 (v) The shares of any one (1) corporation owned by
249 the system shall not exceed five percent (5%) of that
250 corporation's outstanding stock.

251 The board may take requisite action utilizing foreign
252 currency as an investment vehicle, or to effectuate or hedge
253 transactions for shares of stocks and convertible securities of
254 non-United States companies through foreign or domestic banks,
255 including the purchase and sale, transfer, exchange, or otherwise
256 disposal of, and generally deal in foreign exchange through the
257 use of foreign currency, interbank forward contracts, futures



258 contracts, options contracts, swaps and other related derivative
259 instruments, notwithstanding any other provisions of this article
260 to the contrary;

261 (m) Covered call and put options on securities or
262 indices traded on one or more of the regulated exchanges;

263 (n) Pooled or commingled funds managed by a corporate
264 trustee or by a Securities and Exchange Commission registered
265 investment advisory firm retained as an investment manager by the
266 board of trustees, and shares of investment companies and unit
267 investment trusts registered under the Investment Company Act of
268 1940, where such pooled or commingled funds or shares are
269 comprised of common or preferred stocks, bonds, money market
270 instruments or other investments authorized under this section.
271 Such investment in commingled funds or shares shall be held in
272 trust; provided that the total book value of investments under
273 this paragraph shall at no time exceed five percent (5%) of the
274 total book value of all investments of the system. Any investment
275 manager approved by the board of trustees shall invest such
276 commingled funds or shares as a fiduciary;

277 (o) Pooled or commingled real estate funds or real
278 estate securities managed by a corporate trustee or by a
279 Securities and Exchange Commission registered investment advisory
280 firm retained as an investment manager by the board of trustees.
281 Such investment in commingled funds or shares shall be held in
282 trust; provided that the total book value of investments under



283 this paragraph shall at no time exceed ten percent (10%) of the
284 total book value of all investments of the system. Any investment
285 manager approved by the board of trustees shall invest such
286 commingled funds or shares as a fiduciary. The ten percent (10%)
287 limitation in this paragraph shall not be subject to the five
288 percent (5%) limitation in paragraph (n) of this subsection;

289 (p) Types of investments not specifically authorized by
290 this subsection if the investments are in the form of a separate
291 account managed by a Securities and Exchange Commission registered
292 investment advisory firm retained as an investment manager by the
293 board; or a limited partnership or commingled fund approved by the
294 board; provided that the total book value of investments under
295 this paragraph shall at no time exceed ten percent (10%) of the
296 total book value of all investments of the system. Any person or
297 entity who exercises any discretionary authority or discretionary
298 control respecting management of the separate account, limited
299 partnership or commingled fund, or who exercises any authority or
300 control respecting management or disposition of the assets of the
301 separate account, limited partnership or commingled fund, shall
302 exercise such authority or control as a fiduciary.

303 (2) All investments shall be acquired at prices not
304 exceeding the prevailing market values for such investments.

305 (3) Any limitations herein set forth shall be applicable
306 only at the time of purchase and shall not require the liquidation
307 of any investment at any time, except as may be required to be in



308 compliance with Section 1 of this act. All investments shall be
309 clearly marked to indicate ownership by the system and to the
310 extent possible shall be registered in the name of the system.

311 (4) Subject to the above terms, conditions, limitations and
312 restrictions, the board shall have power to sell, assign, transfer
313 and dispose of any of the securities and investments of the
314 system, provided that said sale, assignment or transfer has the
315 majority approval of the entire board. The board may employ or
316 contract with investment managers, evaluation services or other
317 such services as determined by the board to be necessary for the
318 effective and efficient operation of the system.

319 (5) Except as otherwise provided herein, no trustee and no
320 employee of the board shall have any direct or indirect interest
321 in the income, gains or profits of any investment made by the
322 board, nor shall any such person receive any pay or emolument for
323 his services in connection with any investment made by the board.
324 No trustee or employee of the board shall become an endorser or
325 surety, or in any manner an obligor for money loaned by or
326 borrowed from the system.

327 (6) All interest derived from investments and any gains from
328 the sale or exchange of investments shall be credited by the board
329 to the account of the system.

330 (7) The board of trustees shall credit regular interest to
331 the annuity savings account monthly. Regular interest shall mean



332 such per centum rate to be compounded annually as set by the board
333 of trustees through regulation.

334 (8) The board of trustees shall be the custodian of the
335 funds of the system. All retirement allowance payrolls shall be
336 certified by the executive director who shall furnish the board a
337 surety bond in a company authorized to do business in Mississippi
338 in such an amount as shall be required by the board, the premium
339 to be paid by the board from the expense account.

340 (9) For the purpose of meeting disbursements for retirement
341 allowances, annuities and other payments, cash may be kept
342 available, not exceeding the requirements of the system for a
343 period of ninety (90) days, on deposit in one or more banks or
344 trust companies organized under the laws of the State of
345 Mississippi or the laws of the United States, provided that the
346 sum on deposit in any one (1) bank or trust company shall not
347 exceed thirty-five percent (35%) of the paid-up capital and
348 regular surplus of such bank or trust company.

349 (10) The board, the executive director and employees shall
350 discharge their duties with respect to the investments of the
351 system solely for the interest of the system with the care, skill,
352 prudence and diligence under the circumstances then prevailing
353 that a prudent investor acting in a like capacity and familiar
354 with such matters would use in the conduct of an enterprise of a
355 like character and with like aims, including diversifying the
356 investments of the system so as to minimize the risk of large



357 losses, unless under the circumstances it is clearly prudent not
358 to do so.

359 (11) Documentary material or data made or received by the
360 system which consists of trade secrets or commercial or financial
361 information that relates to the investments of the system shall be
362 exempt from the Mississippi Public Records Act of 1983 if the
363 disclosure of the material or data is likely to impair the
364 system's ability to obtain such information in the future, or is
365 likely to cause substantial harm to the competitive position of
366 the person or entity from whom the information was obtained.

367 (12) The board shall not acquire any securities that are
368 prohibited by Section 1 of this act.

369 **SECTION 3.** Section 27-105-33, Mississippi Code of 1972, is
370 amended as follows:

371 27-105-33. It shall be the duty of the State Treasurer and
372 the Executive Director of the Department of Finance and
373 Administration on or about the tenth day of each month, and in
374 their discretion at any other time, to analyze carefully the
375 amount of cash in the General Fund of the state and in all special
376 funds credited to any special purpose designated by the State
377 Legislature or held to meet the budgets or appropriations for
378 maintenance, improvements and services of the several
379 institutions, boards, departments, commissions, agencies, persons
380 or entities of the state, and to determine in their opinion when
381 the cash in such funds is in excess of the amount required to meet



382 the current needs and demands of no more than seven (7) business
383 days on such funds and report their findings to the Governor. It
384 shall be the duty of the State Treasurer to provide a cash flow
385 model for forecasting revenues and expenditures on a bimonthly
386 basis and providing technical assistance for its operation. The
387 Department of Finance and Administration shall use the cash flow
388 model furnished by the State Treasurer, in analyzing the amount of
389 funds on deposit and available for investment.

390 The State Treasurer is * * * authorized, empowered and
391 directed to invest all such excess general and special funds of
392 the state in the following manner:

393 (a) Funds shall be allocated equally among all
394 qualified state depositories which do not have demand accounts in
395 excess of One Hundred Fifty Thousand Dollars (\$150,000.00) until
396 each qualified depository willing to accept the same shall have on
397 deposit or in security repurchase agreements or in other
398 securities authorized in paragraph (d) of this section at interest
399 the sum of Three Hundred Thousand Dollars (\$300,000.00). For the
400 purposes of this subsection, no branch bank or branch office shall
401 be counted as a separate depository.

402 (b) The balance, if any, of such excess general and
403 special funds shall be offered to qualified depositories of the
404 state on a pro rata basis as provided in Section 27-105-9. For
405 the purposes of this subsection, the pro rata share of each
406 depository shall be reduced by the amount of the average daily



407 collected earning balance of demand deposits maintained by the
408 State Treasurer pursuant to Section 27-105-9 during the preceding
409 calendar year, and such reduction shall be allocated pro rata
410 among other eligible depositories.

411 (c) Funds offered pursuant to paragraphs (a) and (b)
412 above shall be invested for periods of up to one (1) year, and
413 shall bear interest at an interest rate no less than that
414 numerically equal to the bond equivalent yield on direct
415 obligations of the United States Treasury of comparable maturity,
416 as determined by the State Treasurer. In determining such rate,
417 the State Treasurer shall consider the Legislature's desire to
418 distribute funds equitably throughout the state to the maximum
419 extent possible.

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

426 (i) Time certificates of deposit or
427 interest-bearing accounts with qualified state depositories. For
428 those funds determined under prudent judgment of the State
429 Treasurer to be made available for investment in time certificates
430 of deposit, the rate of interest paid by the depositories shall be
431 determined by rules and regulations adopted and promulgated by the



432 State Treasurer which may include competitive bids. At the time
433 of investment, the interest rate on such certificates of deposit
434 under the provisions of this subparagraph shall be a rate not less
435 than the bond equivalent yield on direct obligations of the United
436 States Treasury with a similar length of maturity.

437 (ii) Direct United States Treasury obligations,
438 the principal and interest of which are fully guaranteed by the
439 government of the United States.

440 (iii) United States government agency, United
441 States government instrumentality or United States government
442 sponsored enterprise obligations, the principal and interest of
443 which are fully guaranteed by the government of the United States,
444 such as the Government National Mortgage Association; or United
445 States governmental agency, United States government
446 instrumentality or United States government sponsored enterprise
447 obligations, the principal and interest of which are guaranteed by
448 any United States government agency, United States government
449 instrumentality or United States government sponsored enterprise
450 contained in a list promulgated by the State Treasurer.

451 (iv) Direct security repurchase agreements and
452 reverse direct security repurchase agreements of any federal book
453 entry of only those securities enumerated in subparagraphs (ii)
454 and (iii) above. "Direct security repurchase agreement" means an
455 agreement under which the state buys, holds for a specified time,
456 and then sells back those securities and obligations enumerated in



457 subparagraphs (ii) and (iii) above. "Reverse direct securities
458 repurchase agreement" means an agreement under which the state
459 sells and after a specified time buys back any of the securities
460 and obligations enumerated in subparagraphs (ii) and (iii) above.
461 At least eighty percent (80%) of the total dollar amount in all
462 repurchase agreements at any one time shall be pursuant to
463 contracts with qualified state depositories.

464 (e) For the purposes of this section, direct
465 obligations issued by the United States of America shall be deemed
466 to include securities of, or other interests in, any open-end or
467 closed-end management type investment company or investment trust
468 registered under the provisions of 15 USCS Section 80(a)-1 et
469 seq., provided that the portfolio of such investment company or
470 investment trust is limited to direct obligations issued by the
471 United States of America, United States government agencies,
472 United States government instrumentalities or United States
473 government sponsored enterprises, and to repurchase agreements
474 fully collateralized by direct obligations of the United States of
475 America, United States government agencies, United States
476 government instrumentalities or United States government sponsored
477 enterprises, and the investment company or investment trust takes
478 delivery of such collateral for the repurchase agreement, either
479 directly or through an authorized custodian. The State Treasurer
480 and the Executive Director of the Department of Finance and
481 Administration shall review and approve the investment companies



482 and investment trusts in which funds invested under paragraph (d)
483 of this section may be invested. The total dollar amount of funds
484 invested in all open-end and closed-end management type investment
485 companies and investment trusts at any one time shall not exceed
486 twenty percent (20%) of the total dollar amount of funds invested
487 under paragraph (d) of this section.

488 (f) Investments authorized by subparagraphs (ii) and
489 (iii) of paragraph (d) shall mature on such date or dates as
490 determined by the State Treasurer in the exercise of prudent
491 judgment to generate a favorable return to the state and will
492 allow the monies to be available for use at such time as the
493 monies will be needed for state purposes. However, the maturity
494 of securities purchased as enumerated in subparagraphs (ii) and
495 (iii) shall not exceed ten (10) years from date of purchase.
496 Special funds shall be considered those funds created
497 constitutionally, statutorily or administratively which are not
498 considered general funds. All funds invested for a period of
499 thirty (30) days or longer under paragraph (d) shall bear a rate
500 at least equal to the current established rate under paragraph (c)
501 of this section.

502 (g) Any interest-bearing deposits or certificates of
503 deposit shall not exceed at any time the amount insured by the
504 Federal Deposit Insurance Corporation in any one (1) banking
505 institution, the Federal Savings and Loan Insurance Corporation in
506 any one (1) savings and loan association, or other deposit



507 insurance corporation approved by the State Treasurer, unless the
508 uninsured portion is collateralized by the pledge of securities in
509 the manner provided by Section 27-105-5.

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

513 (i) Not more than Five Hundred Thousand Dollars
514 (\$500,000.00) of funds may be invested with foreign financial
515 institutions, and the State Treasurer may enter into price
516 contracts for the purchase or exchange of foreign currency or
517 other arrangements for currency exchange in an amount not to
518 exceed Five Hundred Thousand Dollars (\$500,000.00) upon specific
519 direction of the Department of Economic and Community Development.
520 The State Treasurer shall promulgate all rules and regulations for
521 applications, qualifications and any other necessary matters for
522 foreign financial institutions.

523 Any liquidating agent of a depository in liquidation,
524 voluntary or involuntary, shall redeem from the state any bonds
525 and securities which have been pledged to secure state funds and
526 such redemption shall be at the par value or market value thereof,
527 whichever is greater; otherwise, the liquidating agent or receiver
528 may pay off the state in full for its deposits and retrieve the
529 pledged securities without regard to par or market value.

530 The State Treasurer and the Executive Director of the
531 Department of Finance and Administration shall make monthly



532 reports to the Legislative Budget Office containing a full and
533 complete statement of all funds invested by virtue of the
534 provisions of this section and the revenues derived therefrom and
535 the expenses incurred therewith, together with all such other
536 information as may seem to each of them as being pertinent to
537 inform fully the Mississippi Legislature with reference thereto.

538 The State Treasurer shall not deposit any funds on demand
539 deposit with any authorized depository, unless such depository has
540 contracted for interest-bearing accounts or time certificates of
541 deposit.

542 The State Treasurer shall not acquire any securities that are
543 prohibited by Section 1 of this act.

544 Notwithstanding the foregoing, any financial institution not
545 meeting the prescribed ratio requirement set forth in Section
546 27-105-5 whose accounts are insured by the Federal Deposit
547 Insurance Corporation, or any successor to that insurance
548 corporation, may receive state funds in an amount not exceeding
549 the amount which is insured by such insurance corporations and may
550 qualify as a state depository to the extent of such insurance for
551 this purpose only. The paid-in and earned capital funds of such
552 financial institution shall not be included in the computations
553 specified in Section 27-105-9(a) and (b).

554 **SECTION 4.** (1) As used in this section, the following terms
555 shall be defined as provided in this section:



556 (a) "Awarding body" means, for purposes of state
557 contracts, an agency, and for purposes of local contracts, the
558 governing authority of the local governmental entity, as those
559 terms are defined in Section 31-7-1.

560 (b) "Boycott of Israel" has the same meaning as defined
561 in Section 1 of this act.

562 (2) A company is ineligible to, and may not, bid on, submit
563 a proposal for, or enter into or renew a contract with an agency
564 or governing authority for goods or services of One Million
565 Dollars (\$1,000,000.00) or more if, at the time of bidding or
566 submitting a proposal for a new contract or renewal of an existing
567 contract, the company is on the Scrutinized Companies that Boycott
568 Israel List, created under Section 1 of this act, or is engaged in
569 a boycott of Israel.

570 (3) Any contract with an agency or governing authority for
571 goods or services of One Million Dollars (\$1,000,000.00) or more
572 entered into or renewed on or after October 1, 2018, must contain
573 a provision that allows for the termination of the contract at the
574 option of the awarding body if the company:

575 (a) Is found to have submitted a false certification as
576 provided under subsection (5) of this section; or

577 (b) Has been placed on the Scrutinized Companies that
578 Boycott Israel List, or is engaged in a boycott of Israel.

579 (4) Notwithstanding subsection (2) or subsection (3) of this
580 section, an agency or governing authority, on a case-by-case



581 basis, may permit a company on the Scrutinized Companies that
582 Boycott Israel List to be eligible for, bid on, submit a proposal
583 for, or enter into or renew a contract for goods or services of
584 One Million Dollars (\$1,000,000.00) or more under the conditions
585 set forth in paragraph (a) of this subsection or the conditions
586 set forth in paragraph (b) of this subsection:

587 (a) All of the following occur:

588 (i) The boycott of Israel was initiated before
589 October 1, 2018;

590 (ii) The company certifies in writing that it has
591 ceased its boycott of Israel;

592 (iii) The agency or governing authority determines
593 that it is in the best interest of the state or local community to
594 contract with the company; and

595 (iv) The company has adopted, has publicized, and
596 is implementing a formal plan to cease scrutinized business
597 operations and to refrain from engaging in any new scrutinized
598 business operations.

599 (b) One (1) of the following occurs:

600 (i) The governing authority makes a public finding
601 that, absent such an exemption, the governing authority would be
602 unable to obtain the goods or services for which the contract is
603 offered;

604 (ii) For a contract with an executive agency, the
605 Governor makes a public finding that, absent such an exemption,



606 the agency would be unable to obtain the goods or services for
607 which the contract is offered; or

608 (iii) For a contract with an office of a state
609 constitutional officer other than the Governor, the state
610 constitutional officer makes a public finding that, absent such an
611 exemption, the office would be unable to obtain the goods or
612 services for which the contract is offered.

613 (5) At the time a company submits a bid or proposal for a
614 contract or before the company enters into or renews a contract
615 with an agency or governing authority for goods or services of One
616 Million Dollars (\$1,000,000.00) or more, the company must certify
617 that the company is not participating in a boycott of Israel.

618 (a) If, after the agency or the governing authority
619 determines, using credible information available to the public,
620 that the company has submitted a false certification, the agency
621 or governing authority shall provide the company with written
622 notice of its determination. The company shall have ninety (90)
623 days following receipt of the notice to respond in writing and to
624 demonstrate that the determination of false certification was made
625 in error. If the company does not make such demonstration within
626 ninety (90) days after receipt of the notice, the agency or the
627 governing authority shall bring a civil action against the
628 company. If a civil action is brought and the court determines
629 that the company submitted a false certification, the company
630 shall be subject to the following:



631 (i) A civil penalty equal to the greater of Two
632 Million Dollars (\$2,000,000.00) or twice the amount of the
633 contract for which the false certification was submitted shall be
634 imposed, and the company shall pay the penalty and all reasonable
635 attorney fees and costs, including any costs for investigations
636 that led to the finding of false certification.

637 (iii) The company is ineligible to bid on any
638 contract with an agency or governing authority for three (3) years
639 after the date the agency or governing authority determined that
640 the company submitted a false certification.

641 (b) A civil action to collect the penalties described
642 in paragraph (a) of this subsection must be brought within three (3)
643 years after the date the false certification is submitted.

644 (6) Only the agency or governing authority that is a party
645 to the contract may cause a civil action to be brought under this
646 section. This section does not create or authorize a private
647 right of action or enforcement of the penalties provided in this
648 section. An unsuccessful bidder, or any other person other than
649 the agency or governing authority, may not protest the award of a
650 contract or contract renewal on the basis of a false
651 certification.

652 (7) This section preempts any rule of any agency or an
653 ordinance of any local governmental entity involving public
654 contracts for goods or services of One Million Dollars



655 (\$1,000,000.00) or more with a company engaged in scrutinized
656 business operations.

657 **SECTION 5.** Section 25-53-5, Mississippi Code of 1972, is
658 amended as follows:

659 25-53-5. The authority shall have the following powers,
660 duties, and responsibilities:

661 (a) (i) The authority shall provide for the
662 development of plans for the efficient acquisition and utilization
663 of computer equipment and services by all agencies of state
664 government, and provide for their implementation. In so doing,
665 the authority may use the MDITS' staff, at the discretion of the
666 executive director of the authority, or the authority may contract
667 for the services of qualified consulting firms in the field of
668 information technology and utilize the service of such consultants
669 as may be necessary for such purposes. Pursuant to Section
670 25-53-1, the provisions of this section shall not apply to the
671 Department of Human Services for a period of three (3) years
672 beginning on July 1, 2016. Pursuant to Section 25-53-1, the
673 provisions of this section shall not apply to the Department of
674 Child Protection Services for a period of three (3) years
675 beginning July 1, 2016.

676 (ii) Notwithstanding the exemption of the
677 Department of Human Services and the Department of Child
678 Protection Services from the provisions of this section, before
679 the Department of Human Services or the Department of Child



680 Protection Services may take an action that would otherwise be
681 subject to the provisions of this section, the department(s) shall
682 give notice of the proposed action to the MDITS for any
683 recommendations by the MDITS. Upon receipt of the notice, the
684 MDITS shall post the notice on its website and on the procurement
685 portal website established by Sections 25-53-151 and 27-104-165.
686 If the MDITS does not respond to the department(s) within seven
687 (7) calendar days after receiving the notice, the department(s)
688 may take the proposed action. If the MDITS responds to the
689 department(s) within seven (7) calendar days, then the MDITS has
690 seven (7) calendar days from the date of its initial response to
691 provide any additional recommendations. After the end of the
692 second seven-day period, the department(s) may take the proposed
693 action. The MDITS is not authorized to disapprove any proposed
694 actions that would otherwise be subject to the provisions of this
695 section. This subparagraph (ii) shall stand repealed on July 1,
696 2019.

697 (b) The authority shall immediately institute
698 procedures for carrying out the purposes of this chapter and
699 supervise the efficient execution of the powers and duties of the
700 office of executive director of the authority. In the execution
701 of its functions under this chapter, the authority shall maintain
702 as a paramount consideration the successful internal organization
703 and operation of the several agencies so that efficiency existing
704 therein shall not be adversely affected or impaired. In executing



705 its functions in relation to the institutions of higher learning
706 and junior colleges in the state, the authority shall take into
707 consideration the special needs of such institutions in relation
708 to the fields of teaching and scientific research.

709 (c) Title of whatever nature of all computer equipment
710 now vested in any agency of the State of Mississippi is hereby
711 vested in the authority, and no such equipment shall be disposed
712 of in any manner except in accordance with the direction of the
713 authority or under the provisions of such rules and regulations as
714 may hereafter be adopted by the authority in relation thereto.

715 (d) The authority shall adopt rules, regulations, and
716 procedures governing the acquisition of computer and
717 telecommunications equipment and services which shall, to the
718 fullest extent practicable, insure the maximum of competition
719 between all manufacturers of supplies or equipment or services.
720 In the writing of specifications, in the making of contracts
721 relating to the acquisition of such equipment and services, and in
722 the performance of its other duties the authority shall provide
723 for the maximum compatibility of all information systems hereafter
724 installed or utilized by all state agencies and may require the
725 use of common computer languages where necessary to accomplish the
726 purposes of this chapter. The authority may establish by
727 regulation and charge reasonable fees on a nondiscriminatory basis
728 for the furnishing to bidders of copies of bid specifications and
729 other documents issued by the authority.



730 (e) The authority shall adopt rules and regulations
731 governing the sharing with, or the sale or lease of information
732 technology services to any nonstate agency or person. Such
733 regulations shall provide that any such sharing, sale or lease
734 shall be restricted in that same shall be accomplished only where
735 such services are not readily available otherwise within the
736 state, and then only at a charge to the user not less than the
737 prevailing rate of charge for similar services by private
738 enterprise within this state.

739 (f) The authority may, in its discretion, establish a
740 special technical advisory committee or committees to study and
741 make recommendations on technology matters within the competence
742 of the authority as the authority may see fit. Persons serving on
743 the Information Resource Council, its task forces, or any such
744 technical advisory committees shall be entitled to receive their
745 actual and necessary expenses actually incurred in the performance
746 of such duties, together with mileage as provided by law for state
747 employees, provided the same has been authorized by a resolution
748 duly adopted by the authority and entered on its minutes prior to
749 the performance of such duties.

750 (g) The authority may provide for the development and
751 require the adoption of standardized computer programs and may
752 provide for the dissemination of information to and the
753 establishment of training programs for the personnel of the



754 various information technology centers of state agencies and
755 personnel of the agencies utilizing the services thereof.

756 (h) The authority shall adopt reasonable rules and
757 regulations requiring the reporting to the authority through the
758 office of executive director of such information as may be
759 required for carrying out the purposes of this chapter and may
760 also establish such reasonable procedures to be followed in the
761 presentation of bills for payment under the terms of all contracts
762 for the acquisition of computer equipment and services now or
763 hereafter in force as may be required by the authority or by the
764 executive director in the execution of their powers and duties.

765 (i) The authority shall require such adequate
766 documentation of information technology procedures utilized by the
767 various state agencies and may require the establishment of such
768 organizational structures within state agencies relating to
769 information technology operations as may be necessary to
770 effectuate the purposes of this chapter.

771 (j) The authority may adopt such further reasonable
772 rules and regulations as may be necessary to fully implement the
773 purposes of this chapter. All rules and regulations adopted by
774 the authority shall be published and disseminated in readily
775 accessible form to all affected state agencies, and to all current
776 suppliers of computer equipment and services to the state, and to
777 all prospective suppliers requesting the same. Such rules and
778 regulations shall be kept current, be periodically revised, and



779 copies thereof shall be available at all times for inspection by
780 the public at reasonable hours in the offices of the authority.
781 Whenever possible no rule, regulation or any proposed amendment to
782 such rules and regulations shall be finally adopted or enforced
783 until copies of the proposed rules and regulations have been
784 furnished to all interested parties for their comment and
785 suggestions.

786 (k) The authority shall establish rules and regulations
787 which shall provide for the submission of all contracts proposed
788 to be executed by the executive director for computer equipment or
789 services to the authority for approval before final execution, and
790 the authority may provide that such contracts involving the
791 expenditure of less than such specified amount as may be
792 established by the authority may be finally executed by the
793 executive director without first obtaining such approval by the
794 authority.

795 (l) The authority is authorized to purchase, lease, or
796 rent computer equipment or services and to operate that equipment
797 and use those services in providing services to one or more state
798 agencies when in its opinion such operation will provide maximum
799 efficiency and economy in the functions of any such agency or
800 agencies.

801 (m) Upon the request of the governing body of a
802 political subdivision or instrumentality, the authority shall
803 assist the political subdivision or instrumentality in its



804 development of plans for the efficient acquisition and utilization
805 of computer equipment and services. An appropriate fee shall be
806 charged the political subdivision by the authority for such
807 assistance.

808 (n) The authority shall adopt rules and regulations
809 governing the protest procedures to be followed by any actual or
810 prospective bidder, offerer or contractor who is aggrieved in
811 connection with the solicitation or award of a contract for the
812 acquisition of computer equipment or services. Such rules and
813 regulations shall prescribe the manner, time and procedure for
814 making protests and may provide that a protest not timely filed
815 shall be summarily denied. The authority may require the
816 protesting party, at the time of filing the protest, to post a
817 bond, payable to the state, in an amount that the authority
818 determines sufficient to cover any expense or loss incurred by the
819 state, the authority or any state agency as a result of the
820 protest if the protest subsequently is determined by a court of
821 competent jurisdiction to have been filed without any substantial
822 basis or reasonable expectation to believe that the protest was
823 meritorious; however, in no event may the amount of the bond
824 required exceed a reasonable estimate of the total project cost.
825 The authority, in its discretion, also may prohibit any
826 prospective bidder, offerer or contractor who is a party to any
827 litigation involving any such contract with the state, the
828 authority or any agency of the state to participate in any other



829 such bid, offer or contract, or to be awarded any such contract,
830 during the pendency of the litigation.

831 (o) The authority shall make a report in writing to the
832 Legislature each year in the month of January. Such report shall
833 contain a full and detailed account of the work of the authority
834 for the preceding year as specified in Section 25-53-29(3).

835 All acquisitions of computer equipment and services involving
836 the expenditure of funds in excess of the dollar amount
837 established in Section 31-7-13(c), or rentals or leases in excess
838 of the dollar amount established in Section 31-7-13(c) for the
839 term of the contract, shall be based upon competitive and open
840 specifications, and contracts therefor shall be entered into only
841 after advertisements for bids are published in one or more daily
842 newspapers having a general circulation in the state not less than
843 fourteen (14) days prior to receiving sealed bids therefor. The
844 authority may reserve the right to reject any or all bids, and if
845 all bids are rejected, the authority may negotiate a contract
846 within the limitations of the specifications so long as the terms
847 of any such negotiated contract are equal to or better than the
848 comparable terms submitted by the lowest and best bidder, and so
849 long as the total cost to the State of Mississippi does not exceed
850 the lowest bid. If the authority accepts one (1) of such bids, it
851 shall be that which is the lowest and best. All acquisitions of
852 computer equipment and services under this paragraph are subject



853 to and must be in compliance with the provisions of Section 2 of
854 this act.

855 (p) When applicable, the authority may procure
856 equipment, systems and related services in accordance with the law
857 or regulations, or both, which govern the Bureau of Purchasing of
858 the Office of General Services or which govern the Mississippi
859 Department of Information Technology Services procurement of
860 telecommunications equipment, software and services.

861 (q) The authority is authorized to purchase, lease, or
862 rent information technology and services for the purpose of
863 establishing pilot projects to investigate emerging technologies.
864 These acquisitions shall be limited to new technologies and shall
865 be limited to an amount set by annual appropriation of the
866 Legislature. These acquisitions shall be exempt from the
867 advertising and bidding requirement.

868 (r) All fees collected by the Mississippi Department of
869 Information Technology Services shall be deposited into the
870 Mississippi Department of Information Technology Services
871 Revolving Fund unless otherwise specified by the Legislature.

872 (s) The authority shall work closely with the council
873 to bring about effective coordination of policies, standards and
874 procedures relating to procurement of remote sensing and
875 geographic information systems (GIS) resources. In addition, the
876 authority is responsible for development, operation and
877 maintenance of a delivery system infrastructure for geographic



878 information systems data. The authority shall provide a warehouse
879 for Mississippi's geographic information systems data.

880 (t) The authority shall manage one or more State Data
881 Centers to provide information technology services on a
882 cost-sharing basis. In determining the appropriate services to be
883 provided through the State Data Center, the authority should
884 consider those services that:

885 (i) Result in savings to the state as a whole;

886 (ii) Improve and enhance the security and
887 reliability of the state's information and business systems; and

888 (iii) Optimize the efficient use of the state's
889 information technology assets, including, but not limited to,
890 promoting partnerships with the state institutions of higher
891 learning and community colleges to capitalize on advanced
892 information technology resources.

893 (u) The authority shall increase federal participation
894 in the cost of the State Data Center to the extent provided by law
895 and its shared technology infrastructure through providing such
896 shared services to agencies that receive federal funds. With
897 regard to state institutions of higher learning and community
898 colleges, the authority may provide shared services when mutually
899 agreeable, following a determination by both the authority and the
900 Board of Trustees of State Institutions of Higher Learning or the
901 Mississippi Community College Board, as the case may be, that the
902 sharing of services is mutually beneficial.



903 (v) The authority, in its discretion, may require new
904 or replacement agency business applications to be hosted at the
905 State Data Center. With regard to state institutions of higher
906 learning and community colleges, the authority and the Board of
907 Trustees of State Institutions of Higher Learning or the
908 Mississippi Community College Board, as the case may be, may agree
909 that institutions of higher learning or community colleges may
910 utilize business applications that are hosted at the State Data
911 Center, following a determination by both the authority and the
912 applicable board that the hosting of those applications is
913 mutually beneficial. In addition, the authority may establish
914 partnerships to capitalize on the advanced technology resources of
915 the Board of Trustees of State Institutions of Higher Learning or
916 the Mississippi Community College Board, following a determination
917 by both the authority and the applicable board that such a
918 partnership is mutually beneficial.

919 (w) The authority shall provide a periodic update
920 regarding reform-based information technology initiatives to the
921 Chairmen of the House and Senate Accountability, Efficiency and
922 Transparency Committees.

923 From and after July 1, 2016, the expenses of this agency
924 shall be defrayed by appropriation from the State General Fund and
925 all user charges and fees authorized under this section shall be
926 deposited into the State General Fund as authorized by law.



927 From and after July 1, 2016, no state agency shall charge
928 another state agency a fee, assessment, rent or other charge for
929 services or resources received by authority of this section.

930 **SECTION 6.** Section 31-7-3, Mississippi Code of 1972, is
931 amended as follows:

932 31-7-3. The Department of Finance and Administration shall
933 administer the provisions of this chapter.

934 The purposes or aims of the Department of Finance and
935 Administration in carrying out said provisions shall be to
936 coordinate and promote efficiency and economy in the purchase of
937 commodities by the agencies of the state.

938 All purchases made under this chapter by agencies and
939 governing authorities are subject to and must be in compliance
940 with the provisions of Section 2 of this act.

941 **SECTION 7.** This act shall take effect and be in force from
942 and after July 1, 2018.

