

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1464

5 By: Representative Collins  
6 By: Senator Rapert  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS CONCERNING THE STATE  
10 TREASURY MONEY MANAGEMENT TRUST; TO DECLARE AN  
11 EMERGENCY; AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

14  
15 TO AMEND PROVISIONS CONCERNING THE STATE  
16 TREASURY MONEY MANAGEMENT TRUST; AND TO  
17 DECLARE AN EMERGENCY.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code §§ 19-3-602 – 19-3-606 are amended to read as  
23 follows:

24 19-3-602. Purpose.

25 The purpose of this subchapter is to create the State Treasury Money  
26 ~~Trust~~ Management ~~Fund~~ Trust administered by the Treasurer of State for the  
27 deposit of moneys ~~not currently needed~~ in order to permit the joint  
28 investment of participants' money so as to enhance investment opportunities  
29 and earnings.  
30

31 19-3-603. Definitions – Authorized deposits.

32 Any entity listed below may deposit money to the State Treasury Money  
33 ~~Trust~~ Management ~~Fund~~ Trust for the purpose of investment:

34 (1) State agency's cash funds as defined in § 19-4-801;

35 (2) Local governments:

36 (A) Any city, county, school district, or community



1 college district of this state; and

2 (B) Any department, instrumentality, or agency of these  
3 entities; and

4 (3) The Treasurer of State may invest in the State Treasury  
5 Money Trust Management Fund Trust to the extent State Treasury funds are not  
6 being utilized for certificates of deposit under the State Treasury  
7 Certificate of Deposit Investment Program or for trust certificates of  
8 deposit pursuant to the State Treasury Management Law, § 19-3-501 et seq.

9  
10 19-3-604. Fund provisions.

11 (a) The investment policy and all other policies, documents, rules,  
12 and procedures established or approved by the State Board of Finance under §  
13 19-3-701 et seq. apply to the administration of this subchapter by the  
14 Treasurer of State.

15 (b)(1) The Treasurer of State may invest or deposit funds in  
16 securities in the State Treasury Money Management Trust as authorized in §  
17 19-3-518.

18 (2) Funds invested will be collateralized to one hundred two  
19 percent (102%) with cash or obligations of the United States Government.

20 (c)(1) Moneys deposited into the State Treasury Money Trust Management  
21 Fund Trust by participants other than the State Treasury are not and shall  
22 not become part of State Treasury funds.

23 (2) The State Treasury Money Management Trust shall operate as a  
24 segregated account for custodial, depository, and accounting purposes.

25 (2) (3)(A) A participant will be able to may deposit at will  
26 into and, up to the balance of the participant's account, obtain moneys upon  
27 demand of the Treasurer of State from the State Treasury Money Management  
28 Trust.

29 (B) A demand for funds by a participant under this  
30 subdivision (c)(3) shall be made by notice as prescribed by the State Board  
31 of Finance.

32 (d) Each participant who elects to deposit money into the State  
33 Treasury Money Trust Management Fund Trust shall provide the account  
34 information required by the State Board of Finance, including without  
35 limitation the identity of any person authorized to conduct transactions on  
36 behalf of the participant.

1           ~~(1) Inform the Treasurer of State upon deposit how long a period~~  
2 ~~the money is expected to be available for investment; and~~

3           ~~(2) Notify the Treasurer of State in writing whether the~~  
4 ~~participant wishes to extend the period.~~

5           ~~(c)(1) If a participant wishes to withdraw any of its money before the~~  
6 ~~end of the period of investment, it must make a written request to the~~  
7 ~~Treasurer of State.~~

8           ~~(2) Any penalties or loss of principal or interest incurred due~~  
9 ~~to the early realized as the result of a participant's demand for withdrawal~~  
10 ~~of funds must shall be charged against incurred by the participant requesting~~  
11 ~~the early withdrawal and deducted on the day the withdrawal is made.~~

12           ~~(f)(1) The Treasurer of State may assess:~~

13                   ~~(A) Assess reasonable charges against the account of a~~  
14 ~~participant in the State Treasury Money Trust Management Fund Trust for~~  
15 ~~reimbursement of the administration and operational expenses incurred in~~  
16 ~~administering the State Treasury Money Trust Management Fund, as well as~~  
17 ~~charges for State Treasury Money Trust Management Fund management; and~~

18                   ~~(B) Charge a reasonable fee for managing the State~~  
19 ~~Treasury Money Management Trust.~~

20           ~~(2) The State Board of Finance shall set any charge or fee~~  
21 ~~imposed under this subsection.~~

22           ~~(2) (3) Charges incurred for State Treasury Money Trust~~  
23 ~~Management Fund management will and fees received under this subsection shall~~  
24 ~~be deposited into the State Treasury for credit to the Securities Reserve~~  
25 ~~Fund in a fund for the benefit of the Treasurer of State.~~

26           ~~(g) All interest and earnings received on the money of the State~~  
27 ~~Treasury Money Trust Management Fund Trust shall be credited back to the~~  
28 ~~State Treasury Money Trust Management Fund Trust for distribution to the~~  
29 ~~participants of the fund after any charges or fees due under subsection (f)~~  
30 ~~of this section are deducted.~~

31           ~~(h) The After deducting any charges or fees due under subsection (f)~~  
32 ~~of this section, on the second business day that the State Treasury is open~~  
33 ~~after the twenty-fifth day of the month, the Treasurer of State shall:~~  
34 ~~distribute the monthly earnings of the State Treasury Money Management Trust~~  
35 ~~during the preceding month.~~

36           ~~(1) Compute the proportion of the total deposits in the State~~

1 Treasury Money Trust Management Fund which were attributable to each  
 2 participant;

3 ~~(2) Apply that proportion to the total amount of interest~~  
 4 ~~received during the month on invested money of the State Treasury Money Trust~~  
 5 ~~Management Fund; and~~

6 ~~(3) Pay to each participant or reinvest upon its instructions~~  
 7 ~~its proportionate share of the interest, less its proportionate share of any~~  
 8 ~~assessments for the expenses of administration.~~

9 (i) The State Board of Finance shall establish the method of computing  
 10 a participant's rate of return, earnings, charges, fees, and expenses to  
 11 determine the distribution for each participant.

12 (j) The monthly sum of a participant's daily earnings, after deducting  
 13 administrative charges and fees under subsection (f) of this section, shall  
 14 be credited to the participant's account and reinvested, unless otherwise  
 15 instructed by the participant, on the distribution date stated in subsection  
 16 (h) of this section.

17

18 19-3-605. Prudent investor rule.

19 The Treasurer of State shall apply the prudent investor rule while  
 20 serving in a fiduciary capacity for State Treasury Money Trust Management  
 21 Fund Trust participants. The prudent investor rule means that, in making  
 22 investments, the fiduciaries shall exercise the judgment and care under the  
 23 prevailing circumstances that an institutional investor of ordinary prudence,  
 24 discretion, and intelligence exercises in the management of large investments  
 25 entrusted to it, not for speculation but for investment, considering the  
 26 permanent disposition of funds, and the probable safety of capital as well as  
 27 probable income.

28

29 19-3-606. Loan of securities.

30 (a) In order to increase investment income with minimal risk, the  
 31 Treasurer of State may loan securities held ~~by the State Treasury Money Trust~~  
 32 ~~Management Fund~~ under this section, but only if at the time the loan is  
 33 executed at least one hundred two percent (102%) of the full market value of  
 34 the security loaned is collateralized by cash or securities guaranteed by the  
 35 United States Government or an agency thereof.

36 (b) At all times during the term of the loan, the collateral shall be

1 equal to not less than ninety-eight percent (98%) of the full market value  
2 calculated on the total value of all securities on loan.

3 (c) For purposes of this section, the value of the collateral shall be  
4 determined on a daily basis.

5  
6 SECTION 2. The introductory language of Arkansas Code § 19-3-704(a) is  
7 amended to read as follows:

8 (a) In addition to any other function, power, or duty imposed by law,  
9 the State Board of Finance shall establish, maintain, and enforce all  
10 policies and procedures concerning the management and investment of funds in  
11 the State Treasury and the State Treasury Money ~~Trust~~ Management ~~Fund~~ Trust,  
12 including without limitation:

13  
14 SECTION 3. Arkansas Code § 19-4-803(9), concerning exemption from the  
15 provisions regarding the expenditure of cash funds, is amended to read as  
16 follows:

17 (9) The State Treasury Money ~~Trust~~ Management ~~Fund~~ Trust; and

18  
19 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
20 General Assembly of the State of Arkansas that that this act amends the  
21 investment authority of the Treasurer of State and the ability of other  
22 participants to invest in the State Treasury Money Management Trust; that  
23 this act affects the ability of the Treasurer of State to invest state funds  
24 and take immediate advantage of investment opportunities to benefit the state  
25 and public entities of the state; and that this act is immediately necessary  
26 to allow for implementation of the new investment authority provisions to  
27 take full advantage of investment opportunities to benefit the State of  
28 Arkansas. Therefore, an emergency is declared to exist, and this act being  
29 immediately necessary for the preservation of the public peace, health, and  
30 safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,  
33 the expiration of the period of time during which the Governor may veto the  
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is  
36 overridden, the date the last house overrides the veto.

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APPROVED: 02/28/2017

Stricken language would be deleted from and underlined language would be added to present law.  
Act 710 of the Regular Session

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017

As Engrossed: 5/3/8/17  
**A Bill**

SENATE BILL 513

4  
5 By: Senator Hester  
6 By: Representative Dotson

7  
8 **For An Act To Be Entitled**

9 AN ACT TO PROHIBIT PUBLIC ENTITIES FROM CONTRACTING  
10 WITH AND INVESTING IN COMPANIES THAT BOYCOTT ISRAEL;  
11 AND FOR OTHER PURPOSES.

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13  
14 **Subtitle**

15 TO PROHIBIT PUBLIC ENTITIES FROM  
16 CONTRACTING WITH AND INVESTING IN  
17 COMPANIES THAT BOYCOTT ISRAEL.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Title 25, Chapter 1, is amended to add an  
23 additional subchapter to read as follows:

24 Subchapter 5 – Prohibited Contracts and Investments

25  
26 25-1-501. Legislative findings.

27 The General Assembly finds that:

28 (1) Boycotts and related tactics have become a tool of economic  
29 warfare that threaten the sovereignty and security of key allies and trade  
30 partners of the United States;

31 (2) The State of Israel is the most prominent target of such  
32 boycott activity, which began with but has not been limited to the Arab  
33 League Boycott adopted in 1945, even before Israel's declaration of  
34 independence as the reestablished national state of the Jewish people;

35 (3) Companies that refuse to deal with United States trade  
36 partners such as Israel, or entities that do business with or in such



1 countries, make discriminatory decisions on the basis of national origin that  
2 impair those companies' commercial soundness;

3 (4) It is the public policy of the United States, as enshrined  
4 in several federal acts, to oppose boycotts against Israel, and Congress has  
5 concluded as a matter of national trade policy that cooperation with Israel  
6 materially benefits United States companies and improves American  
7 competitiveness;

8 (5) Israel in particular is known for its dynamic and innovative  
9 approach in many business sectors, and therefore a company's decision to  
10 discriminate against Israel, Israeli entities, or entities that do business  
11 with or in Israel, is an unsound business practice, making the company an  
12 unduly risky contracting partner or vehicle for investment; and

13 (6) Arkansas seeks to act to implement Congress's announced  
14 policy of "examining a company's promotion or compliance with unsanctioned  
15 boycotts, divestment from, or sanctions against Israel as part of its  
16 consideration in awarding grants and contracts and supports the divestment of  
17 state assets from companies that support or promote actions to boycott,  
18 divest from, or sanction Israel".

19  
20 25-1-502. Definitions.

21 As used in this subchapter:

22 (1)(A)(i) "Boycott Israel" and "boycott of Israel" means  
23 engaging in refusals to deal, terminating business activities, or other  
24 actions that are intended to limit commercial relations with Israel, or  
25 persons or entities doing business in Israel or in Israeli-controlled  
26 territories, in a discriminatory manner.

27 (ii) "Boycott" does not include those boycotts to  
28 which 50 App. U.S.C. § 2407(c) applies.

29 (B) A company's statement that it is participating in  
30 boycotts of Israel, or that it has taken the boycott action at the request,  
31 in compliance with, or in furtherance of calls for a boycott of Israel, can  
32 be considered by the Arkansas Development Finance Authority as a type of  
33 evidence, among others, that a company is participating in a boycott of  
34 Israel;

35 (2) "Company" means a sole proprietorship, organization,  
36 association, corporation, partnership, joint venture, limited partnership,



1 limited liability partnership, limited liability company, or other entity or  
2 business association, including all wholly owned subsidiaries, majority-owned  
3 subsidiaries, parent companies, or affiliates of those entities or business  
4 associations;

5 (3) "Direct holdings" in reference to a company means all  
6 publicly traded securities of that company that are held directly by the  
7 public entity in an actively managed account or fund in which the public  
8 entity owns all shares or interests;

9 (4) "Indirect holdings" in reference to a company means all  
10 securities of that company that are held in an account or fund, such as a  
11 mutual fund, managed by one (1) or more persons not employed by the public  
12 entity, in which the public entity owns shares or interests together with  
13 other investors not subject to the provisions of this act or that are held in  
14 an index fund;

15 (5) "Public entity" means the State of Arkansas, or a political  
16 subdivision of the state, including all boards, commissions, agencies,  
17 institutions, authorities, and bodies politic and corporate of the state,  
18 created by or in accordance with state law or regulations, and does include  
19 colleges, universities, a statewide public employee retirement system, and  
20 institutions in Arkansas as well as units of local and municipal government;

21 (6) "Restricted companies" means companies that boycott Israel;  
22 and

23 (7) "Retirement system" means a public retirement system in  
24 Arkansas.

25  
26 25-1-503. Prohibition on contracting with entities that boycott  
27 Israel.

28 (a) Except as provided under subsection (b) of this section, a public  
29 entity shall not:

30 (1) Enter into a contract with a company to acquire or dispose  
31 of services, supplies, information technology, or construction unless the  
32 contract includes a written certification that the person or company is not  
33 currently engaged in, and agrees for the duration of the contract not to  
34 engage in, a boycott of Israel; or

35 (2) Engage in boycotts of Israel.

36 (b) This section does not apply to:

1           (1) A company that fails to meet the requirements under  
2 subdivision (a)(1) of this section but offers to provide the goods or  
3 services for at least twenty percent (20%) less than the lowest certifying  
4 business; or

5           (2) Contracts with a total potential value of less than one  
6 thousand dollars (\$1,000).

7  
8           25-1-504. Prohibition on direct investments in companies that boycott  
9 Israel.

10           (a)(1) A public entity through its asset managers shall identify all  
11 companies that boycott Israel and assemble those identified companies into a  
12 list of restricted companies to be distributed to each retirement system.

13           (2) For each company newly identified and added to the list of  
14 restricted companies, the public entity through its asset managers shall send  
15 a written notice informing the company of its status and that it may become  
16 subject to divestment by the public entity.

17           (3) If, following the engagement by the public entity through  
18 its assets managers with a restricted company, that company ceases activity  
19 that designates it as a restricted company and submits a written  
20 certification to the public entity that it shall not reengage in such  
21 activity for the duration of any investment by the public entity, the company  
22 shall be removed from the restricted companies list.

23           (4) The public entity shall keep and maintain the list of  
24 restricted companies and all written certifications from restricted and  
25 previously restricted companies.

26           (b)(1) The public entity shall adhere to the following procedures for  
27 companies on the list of restricted companies:

28           (A) Each public entity shall identify the companies on the  
29 list of restricted companies that the public entity owns direct holdings and  
30 indirect holdings;

31           (B) The public entity shall instruct its investment  
32 advisors to sell, redeem, divest, or withdraw all direct holdings of  
33 restricted companies from the public entity's assets under management in an  
34 orderly and fiduciarily responsible manner within three (3) months after the  
35 appearance of the company on the list of restricted companies; and

36           (C) Upon request from the Arkansas Development Finance

1 Authority, each public entity shall provide the Arkansas Development Finance  
2 Authority with information regarding investments sold, redeemed, divested, or  
3 withdrawn in compliance under this section.

4 (2) The public entity shall not acquire securities of restricted  
5 companies as part of direct holdings.

6 (c)(1) Subsection (b) of this section does not apply to the public  
7 entity's indirect holdings or private market funds.

8 (2) The public entity shall submit letters to the managers of  
9 those investment funds identifying restricted companies and requesting that  
10 those investment funds consider removing the investments in the restricted  
11 companies from the funds.

12 (d) The costs associated with the divestment activities of the public  
13 entity shall be borne by the respective public entity.

14 (e) With respect to actions taken in compliance with this section,  
15 including all good-faith determinations regarding companies as required under  
16 this section, any statewide retirement system and the Arkansas Development  
17 Finance Authority are exempt from any conflicting statutory or common law  
18 obligations, including any fiduciary duties and any obligations with respect  
19 to choice of asset managers, investment funds, or investments for the  
20 statewide retirement systems' portfolios.

21  
22 /s/Hester

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25 APPROVED: 03/27/2017

