

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 569

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO STATE GOVERNMENT; PROVIDING LEGISLATIVE INTENT; AMENDING CHAP-
2 TER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1399A,
3 IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT THE BOARD SHALL IDENTIFY
4 CERTAIN SCRUTINIZED COMPANIES AND TO PROVIDE REPORTING REQUIREMENTS;
5 AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
6 TION 67-1230, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT THE TREASURER
7 SHALL IDENTIFY CERTAIN SCRUTINIZED COMPANIES, TO PROVIDE REPORTING
8 REQUIREMENTS, TO PROVIDE THAT THE TREASURER SHALL TAKE CERTAIN ACTIONS
9 REGARDING SCRUTINIZED COMPANIES AND TO PROVIDE THAT THE TREASURER SHALL
10 PROMULGATE CERTAIN RULES; AND AMENDING CHAPTER 23, TITLE 67, IDAHO
11 CODE, BY THE ADDITION OF A NEW SECTION 67-2359, IDAHO CODE, TO DEFINE
12 TERMS AND TO PROVIDE THAT THE STATE OF IDAHO AND POLITICAL SUBDIVISIONS
13 SHALL NOT ENTER INTO CONTRACTS UNLESS IT INCLUDES CERTIFICATION THAT
14 THE COMPANY IS NOT ENGAGED IN A BOYCOTT OF ISRAEL.
15

16 Be It Enacted by the Legislature of the State of Idaho:

17 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
18 reinforce Idaho's political and economic bond with the State of Israel. Is-
19 rael has become a prominent target of boycotts and related tactics that have
20 become a tool of economic warfare that threaten the sovereignty and security
21 of key allies and trade partners of the United States. It is the policy of
22 Idaho and the United States, as enshrined in several federal acts, including
23 50 U.S.C. 4607, to oppose such boycotts and embrace Israel's dynamic and in-
24 novative approach in many business sectors.

25 SECTION 2. That Chapter 13, Title 59, Idaho Code, be, and the same is
26 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
27 ignated as Section 59-1399A, Idaho Code, and to read as follows:

28 59-1399A. LIST OF SCRUTINIZED COMPANIES -- REPORTING. (1) As used in
29 this section:

30 (a) "Boycott of Israel" means refusing to deal or conduct business
31 with, abstaining from dealing or conducting business with, terminating
32 business or business activities with, or performing any other action
33 that is intended to limit commercial relations with Israel or a person
34 or entity doing business in Israel or in territories controlled by Is-
35 rael, if such an action is taken in a manner that discriminates on the
36 basis of nationality, national origin or religion. "Boycott of Israel"
37 does not mean an action that:

38 (i) Is based on a bona fide business or economic reason;

39 (ii) Is taken pursuant to a boycott against a public entity of Is-
40 rael if the boycott is applied in a nondiscriminatory manner; or

1 (iii) Is taken in compliance with or adherence to calls for a boy-
 2 cott of Israel if that action is authorized in 50 U.S.C. 4607 or any
 3 other federal or state law.

4 (b) "Company" means any domestic or foreign sole proprietorship, or-
 5 ganization, association, corporation, partnership, joint venture,
 6 limited partnership, limited liability partnership, limited liability
 7 company or other domestic or foreign entity or business association,
 8 including, without limitation, any wholly owned subsidiary, major-
 9 ity-owned subsidiary, parent company or affiliate of such an entity or
 10 business association that exists for the purpose of making a profit.

11 (c) "Direct holdings" means all publicly traded equity securities of a
 12 company that are held directly by the fund or in an account in which the
 13 fund owns all shares or interests.

14 (d) "Fund" means the public employee retirement fund as defined in sec-
 15 tion 59-1302, Idaho Code.

16 (e) "Scrutinized company" means any company that engages in a boycott
 17 of Israel.

18 (2) The board shall identify each scrutinized company in which it has
 19 direct holdings. In making the identification, the board shall review and
 20 rely on publicly available information regarding which companies are engag-
 21 ing in a boycott of Israel including, without limitation, information pro-
 22 vided by nonprofit organizations, research firms, international organiza-
 23 tions and governmental entities.

24 (3) The board shall create a list of all scrutinized companies identi-
 25 fied pursuant to subsection (2) of this section.

26 (4) The board shall update the list on an annual basis with the informa-
 27 tion provided by and received from those entities listed in subsection (2) of
 28 this section.

29 (5) The board shall prepare an annual report of investments of moneys
 30 from the fund in scrutinized companies as identified pursuant to this sec-
 31 tion. The report must include the amount of moneys allocated in such invest-
 32 ments and other data and statistics designed to explain the past and current
 33 extent to which moneys are invested in scrutinized companies.

34 (6) The board shall submit a copy of the report prepared pursuant to
 35 subsection (5) of this section to the governor and the director of the leg-
 36 islative services office for distribution to the legislature on or before
 37 February 1 of each year.

38 SECTION 3. That Chapter 12, Title 67, Idaho Code, be, and the same is
 39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 40 ignated as Section 67-1230, Idaho Code, and to read as follows:

41 67-1230. LIST OF SCRUTINIZED COMPANIES -- REPORTING -- DIVESTITURE --
 42 RULES. (1) As used in this section:

43 (a) "Boycott of Israel" means refusing to deal or conduct business
 44 with, abstaining from dealing or conducting business with, terminating
 45 business or business activities with, or performing any other action
 46 that is intended to limit commercial relations with Israel or a person
 47 or entity doing business in Israel or in territories controlled by Is-
 48 rael, if such an action is taken in a manner that discriminates on the

1 basis of nationality, national origin or religion. "Boycott of Israel"
2 does not mean an action that:

3 (i) Is based on a bona fide business or economic reason;

4 (ii) Is taken pursuant to a boycott against a public entity of Is-
5 rael if the boycott is applied in a nondiscriminatory manner; or

6 (iii) Is taken in compliance with or adherence to calls for a boy-
7 cott of Israel if that action is authorized in 50 U.S.C. 4607 or any
8 other federal or state law.

9 (b) "Company" means any domestic or foreign sole proprietorship, or-
10 ganization, association, corporation, partnership, joint venture,
11 limited partnership, limited liability partnership, limited liability
12 company or other domestic or foreign entity or business association,
13 including, without limitation, any wholly owned subsidiary, major-
14 ity-owned subsidiary, parent company or affiliate of such an entity or
15 business association that exists for the purpose of making a profit.

16 (c) "Direct holdings" means all publicly traded equity securities of
17 a company that are held directly by the public fund or in an account in
18 which the public fund owns all shares or interests.

19 (d) "Indirect holdings" means all publicly traded securities of a com-
20 pany that are held by the treasurer in an account or fund that is managed
21 by one (1) or more persons who are not employed by the treasurer and in
22 which the public fund owns shares or interests, together with other in-
23 vestors who are not subject to the provisions of this section.

24 (e) "Public fund" means a trust fund administered by the treasurer.

25 (f) "Scrutinized company" means any company that engages in a boycott
26 of Israel.

27 (2) The treasurer shall identify each scrutinized company in which he
28 has direct holdings or indirect holdings. In making the identification, the
29 treasurer shall review and rely on publicly available information regarding
30 which companies are engaging in a boycott of Israel including, without lim-
31 itation, information provided by nonprofit organizations, research firms,
32 international organizations and governmental entities.

33 (3) The treasurer shall create a list of all scrutinized companies
34 identified pursuant to subsection (2) of this section.

35 (4) The treasurer shall update the list on an annual basis with the in-
36 formation provided by and received from those entities listed in subsection
37 (2) of this section.

38 (5) The treasurer shall prepare an annual report of investments of mon-
39 eys from the public fund in scrutinized companies as identified pursuant to
40 this section. The report must include the amount of moneys allocated in such
41 investments and other data and statistics designed to explain the past and
42 current extent to which moneys are invested in scrutinized companies.

43 (6) The treasurer shall submit a copy of the report prepared pursuant to
44 subsection (5) of this section to the governor and the director of the leg-
45 islative services office for distribution to the legislature on or before
46 February 1 of each year.

47 (7) Except as provided in subsection (8) of this section, the treasurer
48 shall:

49 (a) Sell, redeem, divest or withdraw all direct holdings of a scru-
50 tinized company from the assets under his management within three (3)

1 months after preparing a list of scrutinized companies, pursuant to
 2 subsection (3) of this section, which includes that scrutinized com-
 3 pany;

4 (b) On or before June 30 of each year, post on the website of the trea-
 5 surer a list that includes each investment that was sold, redeemed, di-
 6 vested or withdrawn pursuant to paragraph (a) of this subsection;

7 (c) Not acquire securities of a scrutinized company as part of the di-
 8 rect holdings of the office of the state treasurer; and

9 (d) Request that the manager of the indirect holdings of any public fund
 10 consider selling, redeeming, divesting or withdrawing holdings of a
 11 scrutinized company from the assets under his management.

12 Nothing in this subsection shall require the treasurer to take action as
 13 described in this subsection unless the treasurer determines and adopts
 14 findings, in good faith and based on credible information available to the
 15 public, that the action described in this subsection is consistent with the
 16 fiduciary responsibilities of the treasurer.

17 (8) The treasurer shall promulgate rules:

18 (a) Establishing a process for giving notice to a company of the inclu-
 19 sion of that company on the list of scrutinized companies created pur-
 20 suant to subsection (3) of this section;

21 (b) Establishing the process for the removal of a company from the list
 22 of scrutinized companies created pursuant to subsection (3) of this
 23 section; and

24 (c) Deemed necessary by the treasurer to carry out the provisions of
 25 this section.

26 SECTION 4. That Chapter 23, Title 67, Idaho Code, be, and the same is
 27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 28 ignated as Section 67-2359, Idaho Code, and to read as follows:

29 67-2359. CONTRACTING WITH CERTAIN COMPANIES PROHIBITED. (1) As used
 30 in this section:

31 (a) "Boycott of Israel" means refusing to deal or conduct business
 32 with, abstaining from dealing or conducting business with, terminating
 33 business or business activities with, or performing any other action
 34 that is intended to limit commercial relations with Israel or a person
 35 or entity doing business in Israel or in territories controlled by Is-
 36 rael, if such an action is taken in a manner that discriminates on the
 37 basis of nationality, national origin or religion. "Boycott of Israel"
 38 does not mean an action that:

39 (i) Is based on a bona fide business or economic reason;

40 (ii) Is taken pursuant to a boycott against a public entity of Is-
 41 rael if the boycott is applied in a nondiscriminatory manner; or

42 (iii) Is taken in compliance with or adherence to calls for a boy-
 43 cott of Israel if that action is authorized in 50 U.S.C. 4607 or any
 44 other federal or state law.

45 (b) "Company" means any domestic or foreign sole proprietorship, or-
 46 ganization, association, corporation, partnership, joint venture,
 47 limited partnership, limited liability partnership, limited liability
 48 company or other domestic or foreign entity or business association,
 49 including, without limitation, any wholly owned subsidiary, major-

1 ity-owned subsidiary, parent company or affiliate of such an entity or
2 business association that exists for the purpose of making a profit.

3 (2) The state of Idaho and any political subdivision in the state shall
4 not enter into a contract with a company unless the contract includes a writ-
5 ten certification that the company is not currently engaged in, and agrees
6 for the duration of the contract not to engage in, a boycott of Israel.