

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

544B0476

HOUSE BILL NO. 1206

Introduced by: Representatives Pischke, Brunner, Dennert, Finck, Frye-Mueller, Goodwin, Gosch, Howard, Jensen (Kevin), Livermont, Marty, Otten (Herman), Steele, and Zikmund and Senators Nelson, Bolin, Cronin, DiSanto, Greenfield (Brock), Jensen (Phil), Klumb, Maher, Monroe, Otten (Ernie), and Russell

1 FOR AN ACT ENTITLED, An Act to provide for divestiture of certain state investment
2 holdings.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 4-5-48 be amended to read:

5 4-5-48. Terms used in §§ 4-5-48 to 4-5-60, inclusive, mean:

6 (1) "Active business operations," all business operations that are not inactive business
7 operations;

8 (2) "Company," any sole proprietorship, organization, association, corporation,
9 partnership, joint venture, limited partnership, limited liability partnership, limited
10 liability company, or other entity or business association, including all wholly owned
11 subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such
12 entities or business associations, that exists for profit-making purposes;

13 (3) "Direct holdings," all publicly traded debt and equity securities of a company that are
14 held directly by the State Investment Council or held in an account or fund in which



1 the State Investment Council owns all shares or interests;

2 (4) "Government of Iran," the government of the Islamic Republic of Iran or its
3 instrumentalities or political subdivisions and companies owned or controlled by the
4 Islamic Republic of Iran;

5 (5) "Inactive business operations," the continued holding or renewal of rights to property
6 previously operated for the purpose of generating revenues but not presently
7 deployed for such a purpose;

8 (6) "Indirect holdings," all investments held in an account or fund, including a mutual
9 fund, a real estate fund, a private equity fund, or a commingled fund, managed by one
10 or more persons who are not employed by the State Investment Council, in which the
11 public funds own shares or interests together with other investors who are not subject
12 to §§ 4-5-48 to 4-5-60, inclusive;

13 (7) "Scrutinized company," any company engaging in scrutinized business operations;

14 (8) "Scrutinized business operations," all active business operations that are subject or
15 liable to sanctions under Public Law 104-172, as amended, the Iran Sanctions Act of
16 1996, ~~and~~ that involve the maintenance of a company's existing assets or investments
17 in Iran, or the deployment of new investments to Iran that meet or exceed the twenty
18 million dollar threshold referred to in Public Law 104-172, as amended, the Iran
19 Sanctions Act of 1996, and that have economic prohibitions against Israel. The term
20 does not include the retail sale of gasoline and related products;

21 (9) "Substantial action specific to Iran," adopting, publicizing, and implementing a
22 formal plan to cease scrutinized business operations within one year and to refrain
23 from any such new business operations.

24 Section 2. That § 4-5-49 be amended to read:

1 4-5-49. ~~Within ninety days following July 1, 2010, the~~ The State Investment Council shall
2 make its best efforts to identify all scrutinized companies in which it has direct holdings. These
3 efforts shall include, ~~as appropriate:~~

4 (1) Reviewing and relying, as appropriate, on publicly available information regarding
5 scrutinized companies ~~with business operations in Iran~~, including information
6 provided by nonprofit organizations, research firms, international organizations, and
7 government entities;

8 (2) Contacting asset managers contracting with the State Investment Council who invest
9 in scrutinized companies ~~with business operations in Iran~~; and

10 (3) Contacting other institutional investors that have divested from or engaged with
11 scrutinized companies ~~with business operations in Iran~~.

12 Section 3. That § 4-5-52 be amended to read:

13 4-5-52. The State Investment Council shall use the following procedures with respect to
14 companies on the scrutinized companies list:

15 (1) For each company newly identified with scrutinized business operations, the State
16 Investment Council shall, within ninety days following its assembly of the scrutinized
17 companies list, send a written notice informing the company of its scrutinized
18 company status and that it may become subject to divestment by the State Investment
19 Council. The notice shall offer the company the opportunity to clarify its scrutinized
20 business operations and shall encourage the company to cease, within ninety days of
21 the date of the notice, its scrutinized business operations, or to convert them to
22 inactive business operations in order to avoid divestment by the State Investment
23 Council; and

24 (2) If, within ninety days following the State Investment Council's first engagement with

1 a scrutinized company, that company publicly announces its commitment to
2 substantial action specific to Iran or Israel, that company shall be removed from the
3 scrutinized companies list and the provisions of §§ 4-5-48 to 4-5-60, inclusive, cease
4 to apply to it unless it resumes active business operations in Iran or resumes
5 economic prohibitions against Israel.