

# 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.