

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 708, As Amended in the Senate

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO CORPORATIONS; AMENDING SECTION 30-501, IDAHO CODE, TO PROVIDE CERTAIN PROHIBITIONS ON THE FILING OF ARTICLES OF INCORPORATION BY THE STATE, TO PROVIDE EXCEPTIONS, AND TO DEFINE TERMS; AMENDING CHAPTER 5, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-502, IDAHO CODE, TO PROVIDE FOR CERTAIN REPORTING AND TO PROVIDE FOR THE OPPORTUNITY OF CERTAIN CORPORATIONS TO BE REFORMED AS INDEPENDENT PUBLIC BODIES POLITIC AND CORPORATE, TO DISASSOCIATE FROM THE STATE OF IDAHO, OR TO BE REFORMED IN A MANNER THAT IS NOT AN IMPROPER STATE CORPORATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-501, Idaho Code, be, and the same is hereby amended to read as follows:

30-501. CORPORATIONS -- CONSTITUTION OF THE STATE OF IDAHO. (1) Every corporation organized for any lawful purpose or purposes, whether a general business corporation or a designated class of corporation, shall, by the act of filing incorporation documents with the state of Idaho, acknowledge and accept the provisions of the constitution of the state of Idaho and the provisions of this chapter as binding upon that corporation.

(2) Except as expressly authorized by the legislature through the enactment of general laws or pursuant to subsection (4) of this section, the state shall not file or cause to be filed on its behalf articles of incorporation for any corporation that is provided for in subsection (1) of this section. If any articles of incorporation are filed by the state or on its behalf without the authorization of the legislature as required pursuant to this subsection, the secretary of state shall not accept such articles of incorporation. In no instance shall the state constitute the voting majority of the board of directors or members of a corporation or its subsidiary. For purposes of this section, "state" means the state of Idaho, a state officer acting in an official capacity, a state employee acting within the scope of employment, or a state agency, department, division, bureau, board, commission, or institution.

(3) The state shall not file or cause to be filed on its behalf articles of incorporation for a corporation to carry out a purpose or function in lieu of the state or to receive or expend appropriated funds in furtherance of such purpose or function.

(4) It is not a violation of the provisions of this section for the state to:

(a) Create or to authorize the creation of an independent public body politic and corporate; or

1 (b) Associate with a corporation to provide a benefit to the state, pro-
 2 vided that the state is not an owner, stockholder, or controlling member
 3 of such corporation.

4 (5) For the purposes of this section, "independent public body politic
 5 and corporate" means an entity that is:

6 (a) Created in statute to carry out a public purpose;

7 (b) Devoid of any private party with the right to control the entity or
 8 manage it; and

9 (c) Lacking any potential for private parties to change the fundamental
 10 structure or public purpose of the entity as provided for in the statute
 11 that created it.

12 SECTION 2. That Chapter 5, Title 30, Idaho Code, be, and the same is
 13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 14 ignated as Section 30-502, Idaho Code, and to read as follows:

15 30-502. IMPROPER STATE CORPORATIONS -- REPORTING -- OPPORTUNITY TO
 16 REFORM. (1) The provisions of this section shall apply to a corporation that:

17 (a) Was incorporated prior to the effective date of this section;

18 (b) Has assets or liabilities as of the effective date of this section
 19 or has valid contractual obligations that could be enforced against it;

20 (c) Was created by the state, incorporated by the state, or authorized
 21 to be created by the state through some vote or action other than a
 22 general law enacted by the legislature. For purposes of this section,
 23 "state" shall have the same meaning as provided in section 30-501, Idaho
 24 Code; and

25 (d) Was not dissolved or disassociated from the state prior to the ef-
 26 fective date of this act.

27 (2) By January 1, 2025, a corporation shall submit a report to the of-
 28 fice of the secretary of state that includes:

29 (a) The name and mailing address of the corporation;

30 (b) The names of the directors and officers of the corporation;

31 (c) Whether any of the directors are officials, employees, or agents of
 32 the state of Idaho or represent the interests of the state of Idaho on
 33 the board of directors and, if so, whether the identified directors hold
 34 a voting or non-voting position;

35 (d) The date that the corporation was established;

36 (e) Whether the corporation is in good standing with the Idaho secre-
 37 tary of state;

38 (f) A description of the corporation's purpose;

39 (g) Whether the corporation continues to fulfill the purpose for which
 40 it was created and is necessary;

41 (h) Whether the corporation was established pursuant to approval by the
 42 legislature and, if so, evidence of such approval;

43 (i) Specific federal income tax type and specific classification;

44 (j) Internet links to the organization's website, if any, and, if ap-
 45 plicable, to information about the nonprofit corporation on the Idaho
 46 secretary of state's website;

47 (k) A copy of the corporation's current bylaws; and

48 (l) Identification of all contracts or written agreements between the
 49 corporation and the state, if any, and for any such contracts, the iden-

1 tification of any language addressing state obligations or liabilities
2 or language that prevents the loaning or donation of public credit.

3 (3) (a) A corporation that self-reports pursuant to this section shall:

4 (i) By statute, be reformed by the legislature as an independent
5 public body politic and corporate;

6 (ii) Dissolve or otherwise disassociate from the state by July 1,
7 2025; or

8 (iii) Reform as authorized by the legislature pursuant to para-
9 graph (b) of this subsection.

10 (b) A corporation may reform in a manner such that it is not an improper
11 state corporation by:

12 (i) Complying with the requirements of subsection (2) of this
13 section; and

14 (ii) Providing a financial report to the office of the state trea-
15 surer that shows the assets and liabilities of the corporation for
16 the most recent fiscal year.

17 (4) By July 1, 2025, the office of the secretary of state shall deliver
18 a report summarizing and containing the materials it has received pursuant
19 to subsection (2) of this section to the governor, the president pro tempore
20 of the senate, and the speaker of the house of representatives. The report
21 shall contain a list of corporations that have self-reported. The report may
22 also indicate whether corporations that have self-reported intend to be re-
23 formed pursuant to subsection (3) (a) (i) of this section by the legislature
24 as independent public bodies politic and corporate. The report may also in-
25 clude a list of nonprofit corporations that have voluntarily disassociated
26 from the state of Idaho pursuant to the provisions of this section.

27 (5) By July 1, 2025, the office of the state treasurer shall deliver a
28 report summarizing and containing the materials it has received pursuant to
29 subsection (3) (b) of this section to the governor, the president pro tempore
30 of the senate, and the speaker of the house of representatives.

31 (6) A corporation that does not self-report pursuant to the provisions
32 of subsection (2) of this section or that frustrates the reform or disasso-
33 ciation procedures provided for in this section shall be considered to be in
34 violation of the provisions of section 30-501, Idaho Code, and shall not be
35 recognized as a corporation under Idaho law.

36 SECTION 3. An emergency existing therefor, which emergency is hereby
37 declared to exist, this act shall be in full force and effect on and after its
38 passage and approval.