

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 708

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO CORPORATIONS; AMENDING SECTION 30-501, IDAHO CODE, TO PRO-
2 VIDE CERTAIN PROHIBITIONS ON THE INCORPORATION OF A CORPORATION BY THE
3 STATE, TO PROVIDE EXCEPTIONS, AND TO DEFINE TERMS; AMENDING CHAPTER 5,
4 TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-502, IDAHO
5 CODE, TO PROVIDE FOR CERTAIN REPORTING AND TO PROVIDE FOR THE OPPOR-
6 TUNITY OF CERTAIN CORPORATIONS TO BE REFORMED AS INDEPENDENT PUBLIC
7 BODIES POLITIC AND CORPORATE, TO DISASSOCIATE FROM THE STATE OF IDAHO,
8 OR TO BE REFORMED IN A MANNER THAT IS NOT AN IMPROPER STATE CORPORATION;
9 AND DECLARING AN EMERGENCY.
10

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

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

14 30-501. CORPORATIONS -- CONSTITUTION OF THE STATE OF IDAHO. (1) Every
15 corporation organized for any lawful purpose or purposes, whether a general
16 business corporation or a designated class of corporation, shall, by the act
17 of filing incorporation documents with the state of Idaho, acknowledge and
18 accept the provisions of the constitution of the state of Idaho and the pro-
19 visions of this chapter as binding upon that corporation.

20 (2) The state shall not create a corporation or act as the incorpora-
21 tor of any corporation that is provided for in subsection (1) of this section
22 except as expressly authorized by the legislature through the enactment of
23 general laws or pursuant to subsection (4) of this section. Provided, how-
24 ever, that the state shall not constitute the voting majority of the board
25 of directors or members of a corporation or its subsidiary. For purposes of
26 this section, "state" means the state of Idaho, a state officer acting in an
27 official capacity, a state employee acting within the scope of employment,
28 or a state agency, department, division, bureau, board, commission, or in-
29 stitution.

30 (3) A corporation shall not be incorporated by the state to carry out a
31 purpose or function in lieu of the state or to receive or expend appropriated
32 funds in furtherance of such purpose or function.

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

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

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

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

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

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

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

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

9 30-502. IMPROPER STATE CORPORATIONS -- REPORTING -- OPPORTUNITY TO
 10 REFORM. (1) The provisions of this section shall apply to a corporation that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (l) Identification of all contracts or written agreements between the
 43 corporation and the state, if any, and for any such contracts, the iden-
 44 tification of any language addressing state obligations or liabilities
 45 or language that prevents the loaning or donation of public credit.

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

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

1 (ii) Dissolve or otherwise disassociate from the state by July 1,
2 2025; or

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

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

7 (i) Complying with the requirements of subsection (2) of this
8 section; and

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

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

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

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

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