

1 HOUSE BILL NO. 699

2 INTRODUCED BY W. MCKAMEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLICY OF THE STATE OF MONTANA REGARDING
5 BOYCOTTS OF ISRAEL; DEFINING "BOYCOTT OF ISRAEL"; PROVIDING LEGISLATIVE INTENT;
6 ESTABLISHING CONTRACT POLICIES FOR THE STATE AND ITS SUBDIVISIONS; PROVIDING FOR
7 NONINVESTMENT IN AND DIVESTMENT FROM ENTITIES ENGAGED IN A BOYCOTT OF ISRAEL;
8 PROVIDING AN APPROPRIATION; PROVIDING DEFINITIONS; AND AMENDING SECTION 7-1-111, MCA."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 NEW SECTION. Section 1. Definitions. As used in [sections 1 through 3], unless the context clearly
13 indicates otherwise, "boycott of Israel" means terminating a contract or publicly refusing to enter into a contract
14 with Israel, Israeli citizens, or Israeli entities, or publicly refusing to purchase Israeli goods or services, if a
15 purpose of the termination or refusal is to collectively restrict Israeli commerce or collectively change policy or
16 law of the Israeli government.

17
18 NEW SECTION. Section 2. Legislative intent. It is the intent of the legislature:

19 (1) to support the state and people of Israel in every way permissible under the constitutions of the
20 United States and the state of Montana while honoring the fundamental rights of free expression and
21 association provided by those constitutions; and

22 (2) to not financially sustain parties that choose to engage in a boycott of Israel.

23
24 NEW SECTION. Section 3. State policy regarding contracts and boycotts of Israel. The state
25 and its political subdivisions:

26 (1) may not engage in a boycott of Israel;

27 (2) may not enter into or renew a contract with a party known to be currently engaged in a boycott of
28 Israel;

1 (3) shall make a good faith effort to include in all contracts entered into after [the effective date of this
2 act] a provision allowing rescission of the contract, without liquidated damages or any other penalty, if a party
3 engages in a boycott of Israel; and

4 (4) may not require any statement or certification from a potential party to a contract regarding an
5 intent to engage in or refrain from a boycott of Israel.

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7 **NEW SECTION. Section 4. State policy regarding investment in entities engaged in boycott of**

8 **Israel.** (1) The board of investments may not invest in an entity known to the board of investments to be
9 currently engaged in a boycott of Israel unless investing in the entity is necessary to achieve the board's
10 fiduciary duty to act as a prudent expert.

11 (2) The board of investments shall divest from an entity known to the board to be currently engaged in
12 a boycott of Israel if the divestment can be achieved under the board's fiduciary duty to act as a prudent expert.

13 (3) As used in this section, "boycott of Israel" has the meaning provided in [section 1].

14

15 **Section 5.** Section 7-1-111, MCA, is amended to read:

16 **"7-1-111. (Subsection (21) effective October 1, 2021) Powers denied.** A local government unit with
17 self-government powers is prohibited from exercising the following:

18 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
19 exercise of an independent self-government power;

20 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to
21 those provisions, it may exercise any power of a public employer with regard to its employees;

22 (3) any power that applies to or affects the public school system, except that a local unit may impose
23 an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall
24 exercise any power that it is required by law to exercise regarding the public school system;

25 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public
26 convenience and necessity pursuant to Title 69, chapter 12;

27 (5) any power that establishes a rate or price otherwise determined by a state agency;

28 (6) any power that applies to or affects any determination of the department of environmental quality

1 with regard to any mining plan, permit, or contract;

2 (7) any power that applies to or affects any determination by the department of environmental quality
3 with regard to a certificate of compliance;

4 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
5 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6
6 months' imprisonment, or both, except as specifically authorized by statute;

7 (9) any power that applies to or affects the right to keep or bear arms;

8 (10) any power that applies to or affects a public employee's pension or retirement rights as
9 established by state law, except that a local government may establish additional pension or retirement
10 systems;

11 (11) any power that applies to or affects the standards of professional or occupational competence
12 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

13 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
14 75, chapter 7, part 1, or Title 87;

15 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is
16 intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title
17 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require
18 landlords to comply with ordinances or provisions that are applicable to all other businesses or residences
19 within the local government's jurisdiction.

20 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

21 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
22 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government
23 may enter into a cooperative agreement with the department of agriculture concerning the use and application
24 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
25 government from adopting or implementing zoning regulations or fire codes governing the physical location or
26 siting of fertilizer manufacturing, storage, and sales facilities.

27 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing,
28 sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable

1 seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from
 2 adopting or implementing zoning regulations or building codes governing the physical location or siting of
 3 agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or distribution
 4 facilities.

5 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
 6 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
 7 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
 8 communications commission of the United States;

9 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio
 10 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a
 11 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,
 12 "technician" or higher class, issued by the federal communications commission of the United States;

13 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
 14 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
 15 highway that is under the jurisdiction of an entity other than the local government unit;

16 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in
 17 relation to a wildfire;

18 (21) any power to prohibit completely adult-use providers, adult-use marijuana-infused products
 19 providers, and adult-use dispensaries from being located within the jurisdiction of the local government except
 20 as allowed in Title 16, chapter 12; or

21 (22) any power regarding a boycott of Israel prohibited in [section 3]."

22
 23 **NEW SECTION. Section 6. Appropriation.** There is appropriated \$1 from the general fund to the
 24 board of investments for the biennium beginning July 1, 2021, for the purposes of [section 4].

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 26 **NEW SECTION. Section 7. Codification instruction.** (1) [Sections 1 through 3] are intended to be
 27 codified as an integral part of Title 2, and the provisions of Title 2 apply to [sections 1 through 3].

28 (2) [Section 4] is intended to be codified as an integral part of Title 17, chapter 6, and the provisions of

1 Title 17, chapter 6, apply to [section 4].

2

3 NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
5 the part remains in effect in all valid applications that are severable from the invalid applications.

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