

Dear Members of the Committee on State and Local Government:

I am writing on behalf of ADL (the Anti-Defamation League) New England to express strong opposition to **LD 1383**, “An Act to Require the State to Divest Itself of Assets Invested in Arms Manufacturers That Contribute to Genocide.”

This bill represents a significant and unprecedented expansion of Maine’s use of exclusionary investment screens. While framed as a human rights measure, the bill would mandate divestment from publicly traded companies based on vague, accusation-based criteria determined by UN bodies and advocacy NGOs whose reports often lack neutrality, rather than U.S. law or policy.

Maine’s own constitutional framework, pension governance rules, and prior divestment experience clearly demonstrate that mandates like LD 1383 are legally constrained, operationally incompatible with pension management, and corrosive to fiduciary governance.

Targeted Divestment from Israel

As a preliminary matter, LD 1383 appears to represent a thinly veiled attempt to target Israel. Although it does not mention the country specifically, this type of divestment legislation is consistent with the Boycott, Divestment and Sanctions (BDS) movement, which is an international campaign aimed at delegitimizing and pressuring Israel through diplomatic, financial, professional, academic and cultural isolation of not just the country, but Israeli individuals, Israeli institutions, and increasingly in more recent years, Jews and others who support Israel’s right to exist. The BDS movement does not support constructive measures to build Israeli-Palestinian engagement, nor does it promote peace negotiations or a mutually negotiated two-state solution. Instead, it aims to dismantle the Jewish state. As a leading anti-hate organization committed to stopping the defamation of the Jewish people and securing justice and fair treatment for all, we at ADL have seen firsthand how BDS initiatives like LD 1383 all too frequently lead to divisiveness within communities and can fuel an increase in antisemitism targeting those perceived to be connected to Israel.

Fiduciary Duty Obligations

In addition, LD 1383 presents both operational and potential fiduciary constraints.

First, Maine’s Constitution imposes a strict exclusive-benefit rule requiring pension assets to be managed solely for the financial benefit of retirees. The Maine Public Employees Retirement System’s (MainePERS) own governance documents reinforce this duty to operate by prioritizing risk-adjusted returns, diversification, contribution stability and cost minimization, and by structuring the system around passive indexing and pooled investment strategies.

According to data from FY25, MainePERS manages approximately \$22.4 billion on behalf of 170,000 members. Its investment program relies heavily on passive, benchmark-aligned public equity exposure, with public equity representing roughly \$6-7 billion (30% of total assets), managed through professionally structured, pooled and commingled portfolios. LD 1383’s open-

ended exclusions with highly inflammatory language like “military-grade surveillance technologies,” companies providing “direct material support” to actors “credibly accused” of “genocide,” and companies identified as “contributing” to “gross violations of human rights” would force departures from benchmarks, increase tracking error and raise management and transaction costs in a manner inconsistent with fiduciary duty and current practices.

Maine’s own experience with fossil fuel divestment underscores these concerns – when the legislature enacts a policy-driven divestment mandate, it can result in increased costs, reduced diversification and impaired returns. We strongly believe that LD 1383 would create similar conflicts, ultimately harming the retirement security of Maine’s public employees. When pension performance suffers, workers, retirees and unions bear the costs.

Maine-Specific Contradictions

Moreover, LD 1383 appears to apply globally to publicly traded companies and plausibly reaches beyond traditional arms manufacturers into defense-adjacent technology, AI, semiconductors, cloud services, communications, logistics, and energy. Each of these are core components to a diversified index portfolio.

Maine is also home to Bath Iron Works, a major unionized defense employer, and the Maine National Guard relies on equipment produced by the same defense contractors this bill would target. In other words, the legislation would require Maine to divest from the very companies it simultaneously depends on for jobs, defense readiness and public safety.

Deviation from Previous Divestment Laws

Maine has previously enacted divestment statutes related to foreign governments. And although they were repealed, each of those measures shared critical features such as:

- Alignment with U.S. federal sanctions or foreign-policy determinations
- Focus on named state actors, not publicly traded companies
- A narrow, situational application tied to defined geopolitical events

LD 1383 abandons all those guardrails and relies on accusation-based standards, and it delegates effective authority to UN bodies and advocacy NGOs to determine divestment policy. This presents legal, fiduciary and operational risks to the state of Maine.

Conclusion

LD 1383 represents a flawed approach that would harm Maine’s financial interests and the retirement security of public employees while failing to achieve its stated goals. Symbolic divestment bills that fiduciaries cannot implement consistent with their obligations weakens institutions, politicizes retirement systems, and exposes the State to risk. None of this will produce meaningful change.

We accordingly urge you to reject this legislation and support investment approaches consistent with fiduciary duty, constitutional constraints and Maine’s economic interests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samantha Joseph".

Samantha Joseph

Regional Director, ADL New England