

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 661

Introduced by Andersen, 49; Bosn, 25; Holdcroft, 36; Lonowski, 33;
Sanders, 45; Sorrentino, 39.

Read first time January 22, 2025

Committee:

1 A BILL FOR AN ACT relating to retirement; to amend sections 72-1246,
2 72-1254, and 84-602, Reissue Revised Statutes of Nebraska, and
3 section 72-1239.01, Revised Statutes Cumulative Supplement, 2024; to
4 provide duties for the Nebraska Investment Council regarding
5 investment of retirement system funds; to provide duties for the
6 state investment officer regarding investment of retirement system
7 funds; to require a report relating to certain investments of
8 retirement system funds; to provide a duty for the State Treasurer;
9 to harmonize provisions; to provide an operative date; to repeal the
10 original sections; and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 72-1239.01, Revised Statutes Cumulative
2 Supplement, 2024, is amended to read:

3 72-1239.01 (1)(a) The appointed members of the council shall have
4 the responsibility for the investment management of the assets of the
5 retirement systems administered by the Public Employees Retirement Board
6 as provided in section 84-1503, the assets of the Nebraska educational
7 savings plan trust created pursuant to sections 85-1801 to 85-1817, the
8 assets of the achieving a better life experience program pursuant to
9 sections 77-1401 to 77-1409, and beginning January 1, 2017, the assets of
10 each retirement system provided for under the Class V School Employees
11 Retirement Act. Except as provided in subsection (4) of this section, the
12 appointed members shall be deemed fiduciaries with respect to the
13 investment of the assets of the retirement systems, of the Nebraska
14 educational savings plan trust, and of the achieving a better life
15 experience program and shall be held to the standard of conduct of a
16 fiduciary specified in subsection (3) of this section. The nonvoting, ex
17 officio members of the council shall not be deemed fiduciaries.

18 (b) As fiduciaries, the appointed members of the council and the
19 state investment officer shall discharge their duties with respect to the
20 assets of the retirement systems, of the Nebraska educational savings
21 plan trust, and of the achieving a better life experience program solely
22 in the interests of the members and beneficiaries of the retirement
23 systems or the interests of the participants and beneficiaries of the
24 Nebraska educational savings plan trust and the achieving a better life
25 experience program, as the case may be, for the exclusive purposes of
26 providing benefits to members, members' beneficiaries, participants, and
27 participants' beneficiaries and defraying reasonable expenses incurred
28 within the limitations and according to the powers, duties, and purposes
29 prescribed by law.

30 (2)(a) The appointed members of the council shall have the
31 responsibility for the investment management of the assets of state

1 funds. The appointed members shall be deemed fiduciaries with respect to
2 the investment of the assets of state funds and shall be held to the
3 standard of conduct of a fiduciary specified in subsection (3) of this
4 section. The nonvoting, ex officio members of the council shall not be
5 deemed fiduciaries.

6 (b) As fiduciaries, the appointed members of the council and the
7 state investment officer shall discharge their duties with respect to the
8 assets of state funds solely in the interests of the citizens of the
9 state within the limitations and according to the powers, duties, and
10 purposes prescribed by law.

11 ~~(3)(a)~~ (3) The appointed members of the council shall act with the
12 care, skill, prudence, and diligence under the circumstances then
13 prevailing that a prudent person acting in like capacity and familiar
14 with such matters would use in the conduct of an enterprise of a like
15 character and with like aims by diversifying the investments of the
16 assets of the retirement systems, the Nebraska educational savings plan
17 trust, the achieving a better life experience program, and state funds so
18 as to minimize risk of large losses, unless in light of such
19 circumstances it is clearly prudent not to do so. No assets of the
20 retirement systems, the Nebraska educational savings plan trust, or the
21 achieving a better life experience program shall be invested or
22 reinvested if the sole or primary investment objective is for economic
23 development or social purposes or objectives.

24 (b)(i) For any investments related to the retirement systems, the
25 appointed members of the council shall not engage in investment
26 activities with a restricted entity.

27 (ii) Upon publication of the list of restricted entities by the
28 State Treasurer pursuant to subdivision (10) of section 84-602, the
29 appointed members of the council shall identify any holdings of the
30 retirement systems related to any such restricted entity and shall divest
31 from all holdings and other investment activity in such entity as soon as

1 practicable.

2 (4) Neither the appointed members of the council nor the state
3 investment officer shall be deemed fiduciaries with respect to
4 investments of the assets of a retirement system provided for under the
5 Class V School Employees Retirement Act made by or on behalf of the board
6 of education as defined in section 79-978 or the board of trustees
7 provided for in section 79-980. Neither the council nor any member
8 thereof nor the state investment officer shall be liable for the action
9 or inaction of the board of education or the board of trustees with
10 respect to the investment of the assets of a retirement system provided
11 for under the Class V School Employees Retirement Act, the consequences
12 of any such action or inaction of the board of education or the board of
13 trustees, and any claims, suits, losses, damages, fees, and costs related
14 to such action or inaction or consequences thereof.

15 (5) For purposes of this section, restricted entity means:

16 (a) A Chinese entity:

17 (i) Designated by Presidential Executive Order 13959, 85 Federal
18 Register 73185, dated November 12, 2020, relating to addressing the
19 threat from securities investments that finance Communist Chinese
20 military companies;

21 (ii) Designated by Presidential Executive Order 14105, 88 Federal
22 Register 54867, dated August 9, 2023, relating to addressing United
23 States investments in certain national security technologies and products
24 in countries of concern; or

25 (iii) Included in the Specially Designated Nationals and Blocked
26 Persons list maintained by the Office of Foreign Assets Control of the
27 United States Department of the Treasury;

28 (b) A Chinese entity that:

29 (i) Is included on the Non-SDN Chinese Military-Industrial Complex
30 Companies List (NS-CMIC List), as such list existed on January 1, 2025,
31 maintained by the Office of Foreign Assets Control of the United States

1 Department of the Treasury under Presidential Executive Order 14032, 86
2 Federal Register 30145, dated June 3, 2021;

3 (ii) Is a Chinese military company or a military-civil fusion
4 contributor and included on the list maintained by the United States
5 Department of Defense in accordance with section 1260H of the National
6 Defense Authorization Act for Fiscal Year 2021, Public Law 116-283, as
7 such list and section existed on January 1, 2025;

8 (iii) Is included on the list required under section 1237 of the
9 National Defense Authorization Act for Fiscal Year 1999, Public Law
10 105-261, as such list and section existed on January 1, 2025;

11 (iv) Is included on the Entity List set forth in Supplement No. 4 to
12 Part 744, 15 C.F.R. 744, as such part existed on January 1, 2025;

13 (v) Is included on the Denied Persons List pursuant to 15 C.F.R.
14 764.3(a)(2), as such list and regulation existed on January 1, 2025;

15 (vi) Is included on the Unverified List set forth in Supplement No.
16 6 to Part 744, 15 C.F.R. 744, as such list and regulation existed on
17 January 1, 2025;

18 (vii) Is included on the Military End User List set forth in
19 Supplement No. 7 to Part 744, 15 C.F.R. 744, as such list and regulation
20 existed on January 1, 2025;

21 (viii) Produces or provides communications equipment or service on
22 the list published by the Federal Communications Commission under section
23 47 U.S.C. 1601 of the Secure and Trusted Communications Networks Act of
24 2019, as such list and section existed on January 1, 2025;

25 (ix) Is included on the Uyghur Forced Labor Prevention Act Entity
26 List, maintained by the United States Department of Homeland Security, as
27 such list existed on January 1, 2025;

28 (x) Is included on the Withhold Release Orders and Findings List
29 issued by the Commissioner of United States Customs and Border Protection
30 Agency pursuant to the Uyghur Forced Labor Prevention Act, Public Law No.
31 117-78, as such list and act existed on January 1, 2025;

1 (xi) Is included on the list of covered issuers as defined in the
2 Sarbanes-Oxley Act of 2002 maintained by the United States Securities and
3 Exchange Commission, as such list existed on January 1, 2025; or

4 (xii) Is otherwise included on any other list that existed on
5 January 1, 2025, maintained by the United States Government that
6 designates a Chinese entity for a restriction relating to investment,
7 contracting, or procurement;

8 (c) A Chinese entity otherwise subject to the control of a Chinese
9 entity listed in subdivision (a) or (b) of this subsection;

10 (d) Any agency or instrumentality of the People's Republic of China;
11 and

12 (e) Any entity on the list of restricted entities published by the
13 State Treasurer or his or her designee pursuant to subdivision (10) of
14 section 84-602.

15 **Sec. 2.** Section 72-1246, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 72-1246 (1) The state investment officer shall invest in investments
18 of the nature which individuals of prudence, discretion, and intelligence
19 acquire or retain in dealing with the property of another, and if the
20 state investment officer has special skills or is named on the basis of
21 representations of special skills or expertise, he or she is under a duty
22 to use such skills, subject to the direction of the Nebraska Investment
23 Council.

24 (2)(a) For any investments related to the retirement systems
25 administered by the Public Employees Retirement Board as provided in
26 section 84-1503, the state investment officer shall not engage in
27 investment activities with a restricted entity as defined in section
28 72-1239.01.

29 (b) Upon publication of the list of restricted entities by the State
30 Treasurer pursuant to subdivision (10) of section 84-602, the state
31 investment officer shall identify any holdings of the retirement systems

1 related to any such restricted entity and shall divest from any holdings
2 or other investment activity related to any such entity as soon as
3 practicable.

4 **Sec. 3.** Section 72-1254, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 72-1254 (1) The state investment officer shall report no later than
7 fifteen days after the close of each month to the Governor, the State
8 Treasurer, the Auditor of Public Accounts, the Department of
9 Administrative Services, and the members of the council on the operations
10 for the pooled accounts during such month. The report shall include a
11 summary of investments, purchases, and dealers utilized. Such reports
12 shall be available for public inspection in the office of the state
13 investment officer.

14 (2)(a) The state investment officer shall electronically provide
15 semiannual written reports to the Nebraska Retirement Systems Committee
16 of the Legislature and the Clerk of the Legislature regarding any
17 investments related to the retirement systems administered by the Public
18 Employees Retirement Board as provided in section 84-1503, related to any
19 such restricted entity as defined in section 72-1239.01. The report shall
20 include the name of each such company or restricted entity, the asset
21 allocation class and sector to which it belongs pursuant to the asset
22 allocation policy and the amount of retirement systems funds invested
23 therein.

24 (b) The first report shall be due on or before January 15, 2026, and
25 shall contain information for the six-month period ending December 31,
26 2025. The second report shall be due on or before July 15, 2026, and
27 shall contain information for the six-month period ending June 30, 2026.
28 In each calendar year thereafter, reports shall be due:

29 (i) On or before January 15, containing information for the most
30 recent six-month period ending December 31; and

31 (ii) On or before July 15, containing information for the most

1 recent six-month period ending June 30.

2 **Sec. 4.** Section 84-602, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 84-602 It shall be the duty of the State Treasurer:

5 (1) To receive and keep all money of the state not expressly
6 required to be received and kept by some other person;

7 (2) To disburse the public money upon warrants drawn upon the state
8 treasury according to law and not otherwise;

9 (3) To keep a just, true, and comprehensive account of all money
10 received and disbursed;

11 (4) To keep a just account with each fund, and each head of
12 appropriation made by law, and the warrants drawn against them;

13 (5) To report electronically to the Legislature as soon as
14 practicable, but within ten days after the commencement of each regular
15 session, a detailed statement of the condition of the treasury and its
16 operations for the preceding fiscal year;

17 (6) To give information electronically to the Legislature, whenever
18 required, upon any subject connected with the treasury or touching any
19 duty of his or her office;

20 (7) To account for, and pay over, all money received by him or her
21 as such treasurer, to his or her successor in office, and deliver all
22 books, vouchers, and effects of office to him or her; and such successor
23 shall receipt therefor. In accounting for and paying over such money the
24 treasurer shall not be held liable on account of any loss occasioned by
25 any investment, when such investment shall have been made pursuant to the
26 direction of the state investment officer;

27 (8) To develop and maintain the website required under the Taxpayer
28 Transparency Act; ~~and~~

29 (9) To award grants as provided under the Municipal Inland Port
30 Authority Act; and -

31 (10) On or before October 1, 2025, to create and publish a list of

1 restricted entities as defined in section 72-1239.01 and update such list
2 at least every six months.

3 **Sec. 5.** This act becomes operative on July 1, 2025.

4 **Sec. 6.** Original sections 72-1246, 72-1254, and 84-602, Reissue
5 Revised Statutes of Nebraska, and section 72-1239.01, Revised Statutes
6 Cumulative Supplement, 2024, are repealed.

7 **Sec. 7.** Since an emergency exists, this act takes effect when
8 passed and approved according to law.