

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1300**

Introduced by Bostar, 29; at the request of the Governor.

Read first time January 16, 2024

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to government; to adopt the Pacific Conflict
- 2 Stress Test Act and the Foreign Adversary Contracting Prohibition
- 3 Act; to provide severability; and to declare an emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 9 of this act shall be known and may be  
2 cited as the Pacific Conflict Stress Test Act.

3           Sec. 2. The purpose of the Pacific Conflict Stress Test Act is to  
4 prepare and secure the State of Nebraska in order to minimize the  
5 disruptive impact of a potential conflict precipitated by foreign  
6 adversaries against allies, democratic countries, and the United States  
7 Armed Forces in the Pacific theater.

8           Sec. 3. For purposes of the Pacific Conflict Stress Test Act:

9           (1) Critical infrastructure means systems and assets, whether  
10 physical or virtual, so vital to this state or the United States of  
11 America that the incapacity or destruction of such systems and assets  
12 would have a debilitating impact on state or national security, state or  
13 national economic security, state or national public health, or any  
14 combination of such matters. Critical infrastructure may be publicly or  
15 privately owned and includes, but is not limited to:

16           (a) Gas and oil production, storage, or delivery systems;

17           (b) Water supply, refinement, storage, or delivery systems;

18           (c) Telecommunications networks;

19           (d) Electrical power delivery systems;

20           (e) Emergency services;

21           (f) Transportation systems and services; and

22           (g) Personal data or otherwise classified information storage  
23 systems, including cybersecurity;

24           (2) Critical procurement means those acquisitions made by the state,  
25 any agency of the state, a political subdivision, or a private  
26 nongovernmental organization that are critical to the proper functioning  
27 of critical infrastructure or to the health, safety, or security of the  
28 State of Nebraska or the United States;

29           (3) Divestment means the sale, forfeiture, or otherwise contractual  
30 end of any current or planned ownership or control of assets;

31           (4) Investment means any transfer of funds into any active or

1 passive, direct or indirect, structure which seeks to generate revenue or  
2 accomplish any other gain, including nonmonetary gains;

3 (5)(a) Pacific conflict means a declared war or armed conflict  
4 between the United States or any of her allies and another nation that  
5 occurs in the land, sea, or air area of the Pacific Ocean and threatens  
6 or could reasonably escalate to threaten the supply chains, critical  
7 infrastructure, safety, or security of the State of Nebraska or the  
8 United States.

9 (b) Pacific conflict includes a serious deterioration of diplomatic  
10 ties or economic engagement between the United States or her allies and  
11 another nation that threatens the status quo of Pacific trade, travel,  
12 and military operations or exercises;

13 (6)(a) State-managed fund means any short-term or long-term  
14 investment structure that is state-managed, state-run, state-controlled,  
15 or otherwise overseen by the State of Nebraska, a state agency, a  
16 political subdivision within this state, or any agency controlled by such  
17 a political subdivision. This subdivision shall apply to any fund which  
18 (i) is subject to the purview or direction of the state or applicable  
19 political subdivision, (ii) is populated, wholly or in part, with state  
20 funds, and (iii) is managed by a third-party entity, such as a fiduciary.

21 (b) State-managed fund includes, but is not limited to:

22 (i) Public pension funds, public retirement funds, or other state-  
23 sponsored funds, that are sponsored, maintained, or contributed to or  
24 required to be contributed to by this state or any subsidiary of the  
25 state;

26 (ii) City, county, or other local or municipal entity investment  
27 funds, rainy day funds, or other political subdivision-controlled  
28 investment structures; and

29 (iii) University or college endowments, trusts, or other structures  
30 which constitute, wholly or in part, a public institution of higher  
31 education's investable assets;

1       (7) State-owned enterprise means any company owned or controlled, in  
2 whole or in part, by a government or by individuals acting in official  
3 government capacities in any form;

4       (8) State risk assessment means a study conducted under the Governor  
5 in consultation with the Legislature which leverages the expertise of  
6 executive agencies and which minimally includes:

7       (a) An identification of threats and hazards that could negatively  
8 impact citizens and assets of this state;

9       (b) A preparation of risk scenarios, describing cause and  
10 consequence of threats and hazards that might actualize to impact  
11 citizens and assets of this state; and

12       (c) An analysis of the probability and severity of the consequences  
13 associated with each risk scenario;

14       (9) State supply chain means the end-to-end process for shipping  
15 goods, purchased by the state, to the State of Nebraska, beginning at the  
16 point of origin through a point or points of distribution to the  
17 destination; and

18       (10) State vendor supply chain means the end-to-end process for  
19 shipping goods, purchased by the state from state vendors, to the  
20 vendors, beginning at the point of origin through a point or points of  
21 distribution to the destination.

22       Sec. 4. It shall be the policy of the State of Nebraska to:

23       (1) Support the civilian and military command of the United States  
24 of America and its efforts to promote and maintain prosperity, peace, and  
25 security for America and her allies;

26       (2) Enhance the defensive posture of this state so as to protect  
27 state citizens and assets and to contribute to the broader defensive  
28 posture of the United States of America by reducing security  
29 vulnerabilities within this state; and

30       (3) Exercise foresight and make reasonable preparations for a  
31 potential regional or global conflict centered on the Pacific theater

1 which could involve attacks upon the United States and her allies in the  
2 Pacific theater, which could involve asymmetrical attacks on the American  
3 homeland, and which could cause the disruption or complete severing of  
4 supply chains between this state and its vendors and the People's  
5 Republic of China, the Republic of China, or other countries in the  
6 Pacific theater.

7       Sec. 5. (1) The Governor shall annually produce and publish a state  
8 risk assessment no later than the day prior to the annual address made to  
9 the Legislature by the Governor.

10       (2) The annual state risk assessment shall include all substantial  
11 risks to state or national security, state or national economic security,  
12 state or national public health, or any combination of such matters,  
13 occurring within and threatening the State of Nebraska.

14       Sec. 6. (1) The Department of Administrative Services shall conduct  
15 an audit of all critical procurements purchased or supplied through a  
16 state supply chain or state vendor supply chain and produce and publish a  
17 report, which shall be electronically submitted to the Legislature and  
18 the Governor and made easily accessible to the public within one hundred  
19 eighty days after the effective date of this act.

20       (2) The audit report shall identify:

21       (a) All critical procurements produced in or by a foreign adversary,  
22 a state-owned enterprise of a foreign adversary, a company domiciled  
23 within a foreign adversary, or a company owned by a company domiciled  
24 within a foreign adversary;

25       (b) All critical procurements manufactured in countries or by  
26 companies at risk of disruption in the event of a Pacific conflict; and

27       (c) All critical procurements sourced from any country or company  
28 which utilizes Pacific supply chain processes at risk of disruption in  
29 the event of a Pacific conflict.

30       (3) The audit report shall:

31       (a) Recommend alternative sourcing, if available;

1       (b) Highlight the difficulty in identifying potential alternative  
2 sourcing, if relevant; and

3       (c) Specify the level of risk to the State of Nebraska associated  
4 with such a disruption in sourcing for each procurement that is  
5 threatened in the event of a Pacific conflict.

6       Sec. 7. (1) The State Treasurer shall conduct an audit of all  
7 state-managed funds and produce and publish a report, which shall be  
8 electronically submitted to the Legislature and the Governor and made  
9 easily accessible to the public within one hundred eighty days after the  
10 effective date of this act.

11       (2) The audit report shall identify:

12       (a) All investments at risk of substantially losing value or being  
13 frozen, seized, or appropriated by foreign adversaries in the event of a  
14 Pacific conflict;

15       (b) All investments in any arms industry of a foreign adversary;

16       (c) All investments in state-owned enterprises of a foreign  
17 adversary; and

18       (d) All investments in companies domiciled within a foreign  
19 adversary or owned by a company domiciled within a foreign adversary.

20       (3) The audit report shall recommend strategies for the immediate  
21 and complete divestment of the assets identified in subsection (2) of  
22 this section.

23       Sec. 8. (1) The Committee on Pacific Conflict is hereby created.  
24 The committee shall consist of the following five voting members:

25       (a) One member who shall serve as the chairperson of the committee,  
26 to be appointed by the Governor. The chairperson shall have applicable  
27 knowledge of the threats posed to this state in the event of a Pacific  
28 conflict and the research and leadership experience to competently and  
29 comprehensively produce the report required by this section;

30       (b) The Director of Administrative Services or his or her designee;

31       (c) The State Treasurer or his or her designee;

1           (d) The Adjutant General or his or her designee; and

2           (e) One additional member, to be appointed by the Governor. Such  
3 member shall have applicable knowledge of the threats posed to this state  
4 in the event of a Pacific conflict.

5           (2) The committee shall also include four members of the  
6 Legislature, to be appointed by the Executive Board of the Legislative  
7 Council. The legislative members shall be nonvoting members of the  
8 committee.

9           (3) Appointments to the committee shall be made within sixty days  
10 after the effective date of this act.

11           (4) The committee shall be authorized for an initial period of three  
12 years.

13           (5) The first meeting of the committee shall be held within ninety  
14 days after the effective date of this act.

15           (6) The committee shall meet no less than once every three months.  
16 Additional meetings may be called at the will of the majority of the  
17 voting members of the committee, and emergency meetings may be called at  
18 the will of the chairperson of the committee or the Governor. Meetings of  
19 the committee shall be subject to the Open Meetings Act.

20           (7) At the discretion of the committee, an advisory board may be  
21 retained to provide expertise and collaborative research support.

22           (8)(a) The committee shall annually produce a report concerning the  
23 threats posed to the State of Nebraska in the event of a Pacific  
24 conflict. The report shall be electronically submitted to the Legislature  
25 and the Governor and shall be made easily accessible to the public no  
26 later than thirty days prior to the annual address made to the  
27 Legislature by the Governor.

28           (b) The report shall provide a comprehensive risk assessment,  
29 including all identified vulnerabilities and recommended mitigation and  
30 emergency response strategies, for each of the following identified areas  
31 and any other areas deemed appropriate or applicable by the committee:

- 1        (i) Critical infrastructure;
- 2        (ii) Telecommunications infrastructure;
- 3        (iii) Military installations located within the state;
- 4        (iv) State supply chain for critical procurements;
- 5        (v) State vendor supply chain for critical procurements;
- 6        (vi) State cybersecurity;
- 7        (vii) Public safety and security; and
- 8        (viii) Public health.

9        (c) The first report submitted under this section shall also  
10 incorporate the findings of the two audits conducted pursuant to sections  
11 6 and 7 of this act and the report completed pursuant to section 9 of  
12 this act.

13        Sec. 9. (1) The Governor, in consultation with the Committee on  
14 Pacific Conflict, shall appoint a lead state agency to conduct a study on  
15 adversarial threats to state assets and critical infrastructure and  
16 coordinate the research and development of the report required in this  
17 section.

18        (2) Within one hundred eighty days after the effective date of this  
19 act, the lead state agency shall identify all critical infrastructure and  
20 other assets within this state that could reasonably be targeted in  
21 malicious actions by adversarial nations in the event of a Pacific  
22 conflict. In identifying such critical infrastructure and other assets,  
23 the lead state agency shall apply consistent, objective criteria.

24        (3) Within one year after the effective date of this act, the lead  
25 state agency shall electronically submit a report to the Legislature and  
26 the Governor which shall include:

27        (a) The critical infrastructure and other assets identified under  
28 subsection (2) of this section, including the specific risks posed to  
29 each infrastructure system or asset in the event of a Pacific conflict;

30        (b) Mitigation strategies and suggestions to limit or eliminate the  
31 risk posed to the critical infrastructure or other assets in the event of



1 a Pacific conflict;

2 (c) Critical procurements identified in the audit conducted pursuant  
3 to section 6 of this act, including the specific risks posed to each  
4 critical procurement in the event of a Pacific conflict; and

5 (d) Mitigation strategies and suggestions, including alternative  
6 sourcing, that limit or eliminate the risk posed to the safety and  
7 security of the state or nation in the event of a Pacific conflict.

8 (4) The report shall also include a risk-based list of the critical  
9 infrastructure and other assets identified under subsection (2) of this  
10 section, the order of which shall be determined by:

11 (a) The degree to which each critical infrastructure system is in  
12 need of protective action; and

13 (b) The degree to which the debilitation of each critical  
14 infrastructure system would affect the safety and security of the state  
15 and the nation.

16 (5) The lead state agency shall coordinate with the Committee on  
17 Pacific Conflict and other appropriate state agencies and shall be  
18 provided with the resources necessary to produce the report. State  
19 agencies shall provide the lead state agency with information necessary  
20 to carry out the responsibilities under this section. The lead state  
21 agency shall develop a process for relevant stakeholders to submit  
22 information to assist in identifying critical infrastructure and other  
23 assets described in subsection (2) of this section.

24 (6) The lead state agency may also, at its discretion, coordinate  
25 with state universities of higher education, private firms specializing  
26 in infrastructure risk management, and federal agencies including, but  
27 not limited to, the United States Department of Defense, the  
28 Cybersecurity and Infrastructure Security Agency, the Director of  
29 National Intelligence, the National Security Agency, the United States  
30 Department of Homeland Security, and any other agency deemed appropriate  
31 by the lead state agency.

1       (7) The lead state agency, in coordination with other appropriate  
2 state agencies, shall confidentially notify owners and operators of  
3 critical infrastructure identified under subsection (2) of this section  
4 that they have been so identified, and shall ensure that the owners and  
5 operators are provided the basis for the determination. The lead state  
6 agency shall also establish a process through which owners and operators  
7 of critical infrastructure may submit relevant information and request  
8 reconsideration of assessments made under subsection (2) of this section.

9       Sec. 10. Sections 10 to 16 of this act shall be known and may be  
10 cited as the Foreign Adversary Contracting Prohibition Act.

11       Sec. 11. The Legislature finds that:

12       (1) Dealings with commercial entities that are organized under the  
13 laws of a foreign adversary or that have their principal place of  
14 business within a foreign adversary tend to be less commercially sound  
15 because such entities are unusually likely to be acting on noncommercial  
16 motivations and carry increased political risk, including from United  
17 States federal sanction authorities;

18       (2) When such a commercial entity is a state-owned entity, it  
19 presents heightened concerns and threatens this state's security,  
20 including by making accessible to the foreign adversary information about  
21 the structure, operations, resources, and infrastructure of the  
22 government of this state; and

23       (3) Dealings with such commercial entities, and especially state-  
24 owned entities, threaten the privacy and security of residents of this  
25 state, to the extent that they involve the personal information of such  
26 residents.

27       Sec. 12. For purposes of the Foreign Adversary Contracting  
28 Prohibition Act:

29       (1) Company means any sole proprietorship, organization,  
30 association, corporation, partnership, joint venture, limited  
31 partnership, limited liability partnership, limited liability company, or

1 other entity or business association that exists for the purpose of  
2 making a profit, including all wholly owned subsidiaries, majority owned  
3 subsidiaries, parent companies, or affiliates of any such entity or  
4 business association;

5 (2) Foreign adversary means a foreign adversary as determined  
6 pursuant to 15 C.F.R. 7.4;

7 (3) Owned in whole or in part means:

8 (a) For a publicly traded company, any share of ownership that  
9 entails the ability to direct or influence the operations of the company,  
10 the ability to appoint or discharge any board members, officers, or  
11 directors, or any other rights beyond those available to a retail  
12 investor holding an equivalent share of ownership; and

13 (b) For a privately held company, any share of ownership;

14 (4) Public entity means the state or any department, agency,  
15 commission, or other body of state government, including publicly funded  
16 institutions of higher education, any political subdivision of the state,  
17 and any other public or private agency, person, partnership, corporation,  
18 or business entity acting on behalf of any such public entity; and

19 (5) Scrutinized company means:

20 (a) Any company organized under the laws of a foreign adversary or  
21 having its principal place of business within a foreign adversary, and  
22 any subsidiary of any such company; or

23 (b) Any company owned in whole or in part or operated by the  
24 government of a foreign adversary, an entity controlled by the government  
25 of a foreign adversary, or any subsidiary or parent of any such company.

26 Sec. 13. A scrutinized company shall not bid on, submit a proposal  
27 for, or enter into, directly or indirectly through a third party, any  
28 contract or contract renewal with any public entity for any information,  
29 surveillance, light detection and ranging, or communications  
30 technologies, components, networks, systems, or related services.

31 Sec. 14. A public entity shall require a company that submits a bid

1 or proposal or enters into any contract or contract renewal with any  
2 public entity for any information, surveillance, light detection and  
3 ranging, or communications technologies, components, networks, systems,  
4 or related services, to certify:

5 (1) That the company is not a scrutinized company;

6 (2) That the company will not subcontract with any scrutinized  
7 company for any aspect of performance of the contemplated contract; and

8 (3) That any products or services to be provided do not originate  
9 with a scrutinized company.

10 Sec. 15. (1) No public entity shall enter into any contract or  
11 contract renewal that would result in any state or local government funds  
12 being transferred:

13 (a) To a scrutinized company in connection with any information,  
14 surveillance, light detection and ranging, or communications  
15 technologies, components, networks, systems, or related services; or

16 (b) To any company in connection with any information, surveillance,  
17 light detection and ranging, or communications technologies, components,  
18 networks, systems, or related services that originate with a scrutinized  
19 company.

20 (2) Notwithstanding subsection (1) of this section, a public entity  
21 may enter into a contract for goods manufactured by a scrutinized company  
22 if:

23 (a) There is no other reasonable option for procuring such good;

24 (b) The contract is preapproved by the Department of Administrative  
25 Services; and

26 (c) Not procuring such good would pose a greater threat to the state  
27 than the threat associated with the good itself.

28 Sec. 16. (1) Any contract entered into in violation of the Foreign  
29 Adversary Contracting Prohibition Act shall be null and void.

30 (2) Any person who violates section 13 of this act or violates the  
31 certification provided pursuant to section 14 of this act:

1       (a) Shall be liable for a civil penalty in an amount equal to the  
2 highest of the following three amounts:

3       (i) Two hundred fifty thousand dollars;

4       (ii) Twice the amount of the contract for which a bid or proposal  
5 was submitted; or

6       (iii) The amount of any losses suffered by the public entity as a  
7 result of such violation; and

8       (b) Shall be ineligible to enter into any contract with any public  
9 entity for a period of five years.

10       (3) The Attorney General may bring an action in any court of  
11 competent jurisdiction against any person that violates the Foreign  
12 Adversary Contracting Prohibition Act.

13       (4) If a public entity believes that a company has violated the  
14 certification provided pursuant to section 14 of this act, the public  
15 entity shall give such company notice of the alleged violation. The  
16 company shall then have sixty days to respond to the notice. The public  
17 entity shall make a final determination on whether a violation of such  
18 certification has occurred within sixty days after receipt of the  
19 response from the company. If the public entity determines that a  
20 violation has occurred, the public entity may refer the matter to the  
21 Attorney General.

22       (5) Any individual may act as a whistleblower and report suspected  
23 violations of section 13 of this act or suspected violations of the  
24 certification provided pursuant to section 14 of this act to the Attorney  
25 General. If the reported violation results in a civil penalty under this  
26 section, the whistleblower shall be entitled to a reward equal to thirty  
27 percent of the civil penalty assessed.

28       Sec. 17. If any section in this act or any part of any section is  
29 declared invalid or unconstitutional, the declaration shall not affect  
30 the validity or constitutionality of the remaining portions.

31       Sec. 18. Since an emergency exists, this act takes effect when

1 passed and approved according to law.