

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1370**

FINAL READING

Introduced by Bostelman, 23; Albrecht, 17; Brewer, 43; Clements, 2; DeKay, 40; Dorn, 30; Dover, 19; Erdman, 47; Halloran, 33; Hansen, 16; Hardin, 48; Holdcroft, 36; Hughes, 24; Ibach, 44; Jacobson, 42; Kauth, 31; Linehan, 39; Lippincott, 34; Lowe, 37; McDonnell, 5; Meyer, 41; Murman, 38; Sanders, 45; Slama, 1.

Read first time January 17, 2024

Committee: Natural Resources

1 A BILL FOR AN ACT relating to electricity; to amend sections 70-624.04,  
2 70-637, and 70-1012, Reissue Revised Statutes of Nebraska, sections  
3 70-1014.02 and 84-1411, Revised Statutes Cumulative Supplement,  
4 2022, and section 70-1001.01, Revised Statutes Supplement, 2023; to  
5 provide requirements relating to the closing or decommissioning of a  
6 dispatchable electric generation facility; to change provisions  
7 relating to directors of public power and irrigation districts; to  
8 change provisions relating to contracts entered into by public power  
9 districts; to require certain actions by a developer, owner, or  
10 operator of a wind energy conversion system; to provide certain  
11 requirements relating to the construction or acquisition of an  
12 electric generation facility or transmission lines; to exempt  
13 certain entities from certain meeting requirements; to define terms;  
14 to harmonize provisions; to provide operative dates; to repeal the  
15 original sections; to outright repeal sections 70-1029, 70-1030,  
16 70-1031, and 70-1033, Reissue Revised Statutes of Nebraska, and  
17 section 70-1032, Revised Statutes Cumulative Supplement, 2022; and  
18 to declare an emergency.  
19 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) For purposes of this section, dispatchable electric  
2 generation facility means a facility that, under normal operating  
3 conditions, can increase or decrease its output on demand to provide  
4 electricity onto the electric power transmission grid on an ongoing  
5 basis.

6           (2)(a) If a public power district, a public power and irrigation  
7 district, an electric membership association, an electric cooperative  
8 company, a municipality having a generation and distribution system, or a  
9 registered group of municipalities decides that a dispatchable electric  
10 generation facility with a generation capacity in excess of one hundred  
11 megawatts owned by any such entity should be closed or decommissioned,  
12 such entity shall provide written notice to the Nebraska Power Review  
13 Board prior to a final decision to close or decommission such facility.  
14 Such written notice shall include recommendations on necessary transition  
15 activities to avoid economic harm to workers at such facility or to an  
16 affected community. Transition activities include, but are not  
17 necessarily limited to:

18           (i) Educating workers regarding the availability of various  
19 assistance programs, including what options are available to maintain  
20 employment with such entity;

21           (ii) Explaining what severance pay will be available to workers;

22           (iii) Services for workers including education and job training,  
23 career counseling, skills-matching, and financial planning assistance;  
24 and

25           (iv) Promoting economic development opportunities in the affected  
26 community, including the creation of comparable jobs.

27           (b) The board, in its discretion, may set a time and place for  
28 hearing on the matter and provide at least twenty days' prior notice to  
29 such entity. The hearing shall be held within sixty days after such  
30 notice unless such entity requests in writing that the hearing not be  
31 scheduled until a later time. Any such hearing shall be closed to the

1 public due to the proprietary and commercial information discussed. If  
2 the board determines that no hearing is necessary, the board shall  
3 provide written notice of such determination to such entity within thirty  
4 days after receipt of the written notice described in subdivision (2)(a)  
5 of this section.

6 (3) Within sixty days after the hearing or the determination that no  
7 hearing is necessary as described in subsection (2) of this section, the  
8 board shall make recommendations in writing on the basis of the record  
9 before the board as to whether closing or decommissioning the  
10 dispatchable electric generation facility is in the best interests of the  
11 entity deciding to close or decommission the dispatchable electric  
12 generation facility and its customers. Such recommendations shall be  
13 advisory only. Such entity shall consider the board's recommendations  
14 before making its final decision regarding the closing or decommissioning  
15 of the electric generation facility.

16 (4) The notices, the scheduling decisions concerning the hearing and  
17 purpose of the hearing, the record of the hearing, the board's  
18 recommendations, and any response by the entity deciding to close or  
19 decommission the dispatchable electric generation facility shall all be  
20 treated as confidential records that are not subject to public disclosure  
21 pursuant to sections 84-712 to 84-712.09 until such time as such entity  
22 publicly announces any decision to close or decommission the dispatchable  
23 electric generation facility. Nothing in this subsection shall be  
24 construed to require public disclosure of any information that may be  
25 withheld as provided in section 70-673 or 84-712.05.

26 (5) This section shall not apply to any decision by a public power  
27 district, a public power and irrigation district, an electric membership  
28 association, an electric cooperative company, a municipality having a  
29 generation and distribution system, or a registered group of  
30 municipalities to close or decommission a dispatchable electric  
31 generation facility made prior to the effective date of this act.

1           Sec. 2. Section 70-624.04, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           70-624.04   (1) Directors and employees of public power districts,  
4 public power and irrigation districts, and public utility companies shall  
5 be permitted to hold other elective office as provided in section 32-604.  
6 No contracts of any such public power district, public power and  
7 irrigation district, or public utility company shall be void or voidable  
8 by reason of such service by its directors or employees.

9           (2) A director of a public power and irrigation district may have an  
10 interest in a residential lease agreement or a water service agreement  
11 with such district. Such director may participate in any discussion or  
12 vote on such agreements. No agreement of such public power and irrigation  
13 district shall be void or voidable by reason of such interest by such  
14 director.

15           Sec. 3. Section 70-637, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17           70-637 (1) A district shall cause estimates of the costs to be made  
18 by some competent engineer or engineers before the district enters into  
19 any contract for:

20           (a) The construction, reconstruction, remodeling, building,  
21 alteration, maintenance, repair, extension, or improvement, for the use  
22 of the district, of any:

23           (i) Power plant or system;

24           (ii) Hydrogen production, storage, or distribution system;

25           (iii) Ethanol production or distribution system;

26           (iv) Irrigation works; or

27           (v) Part or section of a system or works described in subdivisions  
28 (i) through (iv) of this subdivision; or

29           (b) The purchase of any materials, machinery, or apparatus to be  
30 used in the projects described in subdivision (1)(a) of this section.

31           (2) If the estimated cost exceeds the sum of seven ~~two~~ hundred fifty

1 thousand dollars, for those districts with a gross revenue of less than  
2 five hundred million dollars, or one million five hundred thousand  
3 dollars, for those districts with a gross revenue of five hundred million  
4 dollars or more, no such contract shall be entered into without  
5 advertising for sealed bids.

6 (3) Notwithstanding the provisions of subsection (2) of this section  
7 and sections 70-638 and 70-639, the board of directors of the district  
8 may negotiate directly with sheltered workshops pursuant to section  
9 48-1503.

10 (4)(a) The provisions of subsection (2) of this section and sections  
11 70-638 and 70-639 relating to sealed bids shall not apply to contracts  
12 entered into by a district in the exercise of its rights and powers  
13 relating to (i) radioactive material or the energy therefrom, (ii) any  
14 technologically complex or unique equipment, (iii) equipment or  
15 supplemental labor procurement from an electric utility or from or  
16 through an electric utility alliance, or (iv) any maintenance or repair,  
17 if the requirements of subdivisions (b) and (c) of this subsection are  
18 met.

19 (b) A contract described in subdivision (a) of this subsection need  
20 not comply with subsection (2) of this section or section 70-638 or  
21 70-639 if:

22 (i) The engineer or engineers certify that, by reason of the nature  
23 of the subject matter of the contract, compliance with subsection (2) of  
24 this section would be impractical or not in the public interest;

25 (ii) The engineer's certification is approved by a two-thirds vote  
26 of the board; and

27 (iii) The district advertises notice of its intention to enter into  
28 such contract, the general nature of the proposed work, and the name of  
29 the person to be contacted for additional information by anyone  
30 interested in contracting for such work.

31 (c) Any contract for which the board has approved an engineer's

1 certificate described in subdivision (b) of this subsection shall be  
2 advertised in three issues not less than seven days between issues in one  
3 or more newspapers of general circulation in the district and in such  
4 additional newspapers or trade or technical periodicals as may be  
5 selected by the board in order to give proper notice of its intention to  
6 enter into such contract, and any such contract shall not be entered into  
7 prior to twenty days after the last advertisement.

8 (5) The provisions of subsection (2) of this section and sections  
9 70-638 and 70-639 shall not apply to contracts in excess of seven ~~two~~  
10 hundred fifty thousand dollars, for those districts with a gross revenue  
11 of less than five hundred million dollars, or one million five hundred  
12 thousand dollars, for those districts with a gross revenue of five  
13 hundred million dollars or more, entered into for the purchase of any  
14 materials, machinery, or apparatus to be used in projects described in  
15 subdivision (1)(a) of this section if, after advertising for sealed bids:

16 (a) No responsive bids are received; or

17 (b) The board of directors of such district determines that all bids  
18 received are in excess of the fair market value of the subject matter of  
19 such bids.

20 (6) Notwithstanding any other provision of subsection (2) of this  
21 section or sections 70-638 and 70-639, a district may, without  
22 advertising or sealed bidding, purchase replacement parts or services  
23 relating to such replacement parts for any generating unit, transformer,  
24 or other transmission and distribution equipment from the original  
25 manufacturer of such equipment upon certification by an engineer or  
26 engineers that such manufacturer is the only available source of supply  
27 for such replacement parts or services and that such purchase is in  
28 compliance with standards established by the board. A written statement  
29 containing such certification and a description of the resulting purchase  
30 of replacement parts or services from the original manufacturer shall be  
31 submitted to the board by the engineer or engineers certifying the

1 purchase for the board's approval. After such certification, but not  
2 necessarily before the board review, notice of any such purchase shall be  
3 published once a week for at least three consecutive weeks in one or more  
4 newspapers of general circulation in the district and published in such  
5 additional newspapers or trade or technical periodicals as may be  
6 selected by the board in order to give proper notice of such purchase.

7 (7) Notwithstanding any other provision of subsection (2) of this  
8 section or sections 70-638 and 70-639, a district may, without  
9 advertising or sealed bidding, purchase used equipment and materials on a  
10 negotiated basis upon certification by an engineer that such equipment is  
11 or such materials are in compliance with standards established by the  
12 board. A written statement containing such certification shall be  
13 submitted to the board by the engineer for the board's approval.

14 Sec. 4. (1) For purposes of this section:

15 (a) FAA approval means approval by the Federal Aviation  
16 Administration that meets the requirements set forth in Chapter 10 of the  
17 Federal Aviation Administration's 2020 Advisory Circular AC 70/7460-1M,  
18 Obstruction Marking and Lighting;

19 (b) Light-mitigating technology system means aircraft detection  
20 lighting or any other comparable system capable of reducing the impact of  
21 facility obstruction lighting while maintaining conspicuity sufficient to  
22 assist aircraft in identifying and avoiding collision with a wind energy  
23 conversion system;

24 (c) Repower means a substantial physical modification of at least  
25 seventy-five percent of the wind turbines in a wind energy conversion  
26 system that results in an increase of ten percent or more in nameplate  
27 capacity; and

28 (d) Wind energy conversion system means an electric generation  
29 facility consisting of ten or more wind turbines that are two hundred  
30 fifty feet or more in height and any accessory or appurtenant structures  
31 and buildings including substations, meteorological towers, electrical

1 infrastructure, and transmission lines.

2 (2) Beginning July 1, 2025:

3 (a)(i) A developer, owner, or operator of a wind energy conversion  
4 system shall make application to the Federal Aviation Administration for  
5 FAA approval to install and operate a light-mitigating technology system  
6 on such wind energy conversion system as follows:

7 (A) Before a wind energy conversion system commences commercial  
8 operation in this state, if such system did not exist prior to July 1,  
9 2025;

10 (B) Within thirty days after a wind energy conversion system  
11 existing prior to July 1, 2025, commences a repower; or

12 (C) If on July 1, 2025, such developer, owner, or operator has five  
13 years or less remaining on a power purchase agreement with an electric  
14 supplier for a wind energy conversion system, within thirty days after  
15 the existing power purchase agreement is extended or renewed or a new  
16 power purchase agreement is executed; and

17 (ii) Within twenty-four months after receiving FAA approval, the  
18 developer, owner, or operator of the wind energy conversion system shall  
19 install a light-mitigating technology system on wind turbines covered  
20 under such FAA approval; and

21 (b) Any developer, owner, or operator of a wind energy conversion  
22 system existing prior to July 1, 2025, that does not commence a repower  
23 shall on or before July 1, 2035, install a light-mitigating technology  
24 system on the wind turbines in such wind energy conversion system that  
25 meets Federal Aviation Administration requirements.

26 (3) Any application made pursuant to subsection (2) of this section  
27 shall be submitted in good faith and reasonably intended to obtain FAA  
28 approval. If FAA approval is not granted after application is made  
29 pursuant to such subsection, the wind energy conversion system may  
30 commence or continue, as applicable, commercial operation without a  
31 light-mitigating technology system.



1       (4) Any costs associated with the installation, implementation,  
2 operation, and maintenance of a light-mitigating technology system shall  
3 be the responsibility of the developer, owner, or operator of the wind  
4 energy conversion system.

5       (5) Nothing in this section shall be construed to require mitigation  
6 of light pollution to be carried out in a manner that conflicts with  
7 federal law or requirements, including requirements of the Federal  
8 Aviation Administration or the United States Department of Defense.

9       (6) Nothing in this section shall be construed to require any new or  
10 separate approval from any state or local governmental agency.

11       Sec. 5. Section 70-1001.01, Revised Statutes Supplement, 2023, is  
12 amended to read:

13       70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the  
14 context otherwise requires:

15       (1) Board means the Nebraska Power Review Board;

16       (2) Electric supplier or supplier of electricity means any legal  
17 entity supplying, producing, or distributing electricity within the state  
18 for sale at wholesale or retail;

19       (3) Military installation means a military base other than a  
20 National Guard base where fixed-wing aircraft or strategic weapon assets  
21 are on a permanent or temporary basis assigned, stored, operated from, or  
22 otherwise located;

23       (4) ~~(3)~~ Private electric supplier means an electric supplier  
24 producing electricity from a privately developed renewable energy  
25 generation facility that is not a public power district, a public power  
26 and irrigation district, a municipality, a registered group of  
27 municipalities, an electric cooperative, an electric membership  
28 association, any other governmental entity, or any combination thereof;

29       (5) ~~(4)~~ Privately developed renewable energy generation facility  
30 means a facility that (a) generates electricity using solar, wind,  
31 geothermal, biomass, landfill gas, or biogas, including all electrically

1 connected equipment used to produce, collect, and store the facility  
2 output up to and including the transformer that steps up the voltage to  
3 sixty thousand volts or greater, and including supporting structures,  
4 buildings, and roads, unless otherwise agreed to in a joint transmission  
5 development agreement, (b) is developed, constructed, and owned, in whole  
6 or in part, by one or more private electric suppliers, and (c) is not  
7 wholly owned by a public power district, a public power and irrigation  
8 district, a municipality, a registered group of municipalities, an  
9 electric cooperative, an electric membership association, any other  
10 governmental entity, or any combination thereof;

11 (6) ~~(5)~~ Regional transmission organization means an entity  
12 independent from those entities generating or marketing electricity at  
13 wholesale or retail, which has operational control over the electric  
14 transmission lines in a designated geographic area in order to reduce  
15 constraints in the flow of electricity and ensure that all power  
16 suppliers have open access to transmission lines for the transmission of  
17 electricity;

18 (7) ~~(6)~~ Reliable or reliability means the ability of an electric  
19 supplier to supply the aggregate electric power and energy requirements  
20 of its electricity consumers in Nebraska at all times under normal  
21 operating conditions, taking into account scheduled and unscheduled  
22 outages, including sudden disturbances or unanticipated loss of system  
23 components that are to be reasonably expected for any electric utility  
24 following prudent utility practices, recognizing certain weather  
25 conditions and other contingencies may cause outages at the distribution,  
26 transmission, and generation level;

27 (8) ~~(7)~~ Representative organization means an organization designated  
28 by the board and organized for the purpose of providing joint planning  
29 and encouraging maximum cooperation and coordination among electric  
30 suppliers. Such organization shall represent electric suppliers owning a  
31 combined electric generation plant accredited capacity of at least ninety

1 percent of the total electric generation plant accredited capacity  
2 constructed and in operation within the state;

3 (9) ~~(8)~~ State means the State of Nebraska; and

4 (10) ~~(9)~~ Unbundled retail rates means the separation of utility  
5 bills into the individual price components for which an electric supplier  
6 charges its retail customers, including, but not limited to, the separate  
7 charges for the generation, transmission, and distribution of  
8 electricity.

9 Sec. 6. Section 70-1012, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 70-1012 (1) Before any electric generation facilities or any  
12 transmission lines or related facilities carrying more than seven hundred  
13 volts are constructed or acquired by any supplier, an application, filed  
14 with the board and containing such information as the board shall  
15 prescribe, shall be approved by the board, except that such approval  
16 shall not be required (a) for the construction or acquisition of a  
17 transmission line extension or related facilities within a supplier's own  
18 service area or for the construction or acquisition of a line not  
19 exceeding one-half mile outside its own service area when all owners of  
20 electric lines located within one-half mile of the extension consent  
21 thereto in writing and such consents are filed with the board, (b) for  
22 any generation facility when the board finds that (i) such facility is  
23 being constructed or acquired to replace a generating plant owned by an  
24 individual municipality or registered group of municipalities with a  
25 capacity not greater than that of the plant being replaced, (ii) such  
26 facility will generate less than twenty-five thousand kilowatts of  
27 electric energy at rated capacity, and (iii) the applicant will not use  
28 the plant or transmission capacity to supply wholesale power to customers  
29 outside the applicant's existing retail service area or chartered  
30 territory, (c) for acquisition of transmission lines or related  
31 facilities, within the state, carrying one hundred fifteen thousand volts

1 or less, if the current owner of the transmission lines or related  
2 facilities notifies the board of the lines or facilities involved in the  
3 transaction and the parties to the transaction, or (d) for the  
4 construction of a qualified facility as defined in section 70-2002.

5 (2)(a) Before any electric supplier commences construction of or  
6 acquires an electric generation facility or transmission lines or related  
7 facilities carrying more than seven hundred volts that will be located  
8 within a ten-mile radius of a military installation, the owner of such  
9 proposed facility, transmission lines, or related facilities shall  
10 provide written notice certifying to the board that such facility or  
11 facilities contain no materials, electronics, or other components  
12 manufactured by any foreign government or foreign nongovernment person  
13 determined to be a foreign adversary pursuant to 15 C.F.R. 7.4.

14 (b) Any electric supplier supplying, producing, or distributing  
15 electricity within the state for sale at retail is exempt from  
16 subdivision (a) of this subsection if it is in compliance with the  
17 critical infrastructure protection requirements issued by the North  
18 American Electric Reliability Corporation. To receive such exemption, the  
19 electric supplier shall submit written notice to the board certifying  
20 that it is in such compliance. The electric supplier shall also submit  
21 written notice to the board at any time such supplier is no longer in  
22 such compliance.

23 (3) ~~(2)~~ A privately developed renewable energy generation facility  
24 is exempt from this section if it complies with section 70-1014.02.

25 Sec. 7. Section 70-1014.02, Revised Statutes Cumulative Supplement,  
26 2022, is amended to read:

27 70-1014.02 (1) The Legislature finds that:

28 (a) Nebraska has the authority as a sovereign state to protect its  
29 land, natural resources, and cultural resources for economic and  
30 aesthetic purposes for the benefit of its residents and future  
31 generations by regulation of energy generation projects;

1 (b) The unique terrain and ecology of the Nebraska Sandhills provide  
2 an irreplaceable habitat for millions of migratory birds and other  
3 wildlife every year and serve as the home to numerous ranchers and  
4 farmers;

5 (c) The grasslands of the Nebraska Sandhills and other natural  
6 resources in Nebraska will become increasingly valuable, both  
7 economically and strategically, as the demand for food and energy  
8 increases; and

9 (d) The Nebraska Sandhills are home to priceless archaeological  
10 sites of historical and cultural significance to American Indians.

11 (2)(a) A privately developed renewable energy generation facility  
12 that meets the requirements of this section is exempt from sections  
13 70-1012 to 70-1014.01 if no less than thirty days prior to the  
14 commencement of construction the owner of the facility:

15 (i) Notifies the board in writing of its intent to commence  
16 construction of a privately developed renewable energy generation  
17 facility;

18 (ii) Certifies to the board that the facility will meet the  
19 requirements for a privately developed renewable energy generation  
20 facility;

21 (iii) Certifies to the board that the private electric supplier will  
22 (A) comply with any decommissioning requirements adopted by the local  
23 governmental entities having jurisdiction over the privately developed  
24 renewable energy generation facility and (B) except as otherwise provided  
25 in subdivision (b) of this subsection, submit a decommissioning plan to  
26 the board obligating the private electric supplier to bear all costs of  
27 decommissioning the privately developed renewable energy generation  
28 facility and requiring that the private electric supplier post a security  
29 bond or other instrument, no later than the tenth year following  
30 commercial operation, securing the costs of decommissioning the facility  
31 and provide a copy of the bond or instrument to the board;

1 (iv) Certifies to the board that the private electric supplier has  
2 entered into or prior to commencing construction will enter into a joint  
3 transmission development agreement pursuant to subdivision (c) of this  
4 subsection with the electric supplier owning the transmission facilities  
5 of sixty thousand volts or greater to which the privately developed  
6 renewable energy generation facility will interconnect; ~~and~~

7 (v) Certifies to the board that the private electric supplier has  
8 consulted with the Game and Parks Commission to identify potential  
9 measures to avoid, minimize, and mitigate impacts to species identified  
10 under subsection (1) or (2) of section 37-806 during the project planning  
11 and design phases, if possible, but in no event later than the  
12 commencement of construction; and -

13 (vi) Certifies in writing to the board that the facility, if located  
14 within a ten-mile radius of a military installation:

15 (A) Contains no materials, electronics, or other components  
16 manufactured by any foreign government or foreign nongovernment person  
17 determined to be a foreign adversary pursuant to 15 C.F.R. 7.4; or

18 (B) Is in compliance with the critical infrastructure protection  
19 requirements issued by the North American Electric Reliability  
20 Corporation if connected to the transmission grid at one hundred  
21 kilovolts or higher voltage and has to have a nameplate rating of twenty  
22 megavolt amperes for a single generation unit or injecting at an  
23 aggregate of seventy-five megavolt amperes or greater. The private  
24 electric supplier shall also submit written notice to the board at any  
25 time such private electric supplier is no longer in such compliance.

26 (b) The board may bring an action in the name of the State of  
27 Nebraska for failure to comply with subdivision (a)(iii)(B) of this  
28 subsection. Subdivision (a)(iii)(B) of this subsection does not apply if  
29 a local government entity with the authority to create requirements for  
30 decommissioning has enacted decommissioning requirements for the  
31 applicable jurisdiction.

1 (c) The joint transmission development agreement shall address  
2 construction, ownership, operation, and maintenance of such additions or  
3 upgrades to the transmission facilities as required for the privately  
4 developed renewable energy generation facility. The joint transmission  
5 development agreement shall be negotiated and executed contemporaneously  
6 with the generator interconnection agreement or other directives of the  
7 applicable regional transmission organization with jurisdiction over the  
8 addition or upgrade of transmission, upon terms consistent with prudent  
9 electric utility practices for the interconnection of renewable  
10 generation facilities, the electric supplier's reasonable transmission  
11 interconnection requirements, and applicable transmission design and  
12 construction standards. The electric supplier shall have the right to  
13 purchase and own transmission facilities as set forth in the joint  
14 transmission development agreement. The private electric supplier of the  
15 privately developed renewable energy generation facility shall have the  
16 right to construct any necessary facilities or improvements set forth in  
17 the joint transmission development agreement pursuant to the standards  
18 set forth in the agreement at the private electric supplier's cost.

19 (3) Within ten days after receipt of a written notice complying with  
20 subsection (2) of this section, the executive director of the board shall  
21 issue a written acknowledgment that the privately developed renewable  
22 energy generation facility is exempt from sections 70-1012 to 70-1014.01.

23 (4) The exemption allowed under this section for a privately  
24 developed renewable energy generation facility shall extend to and exempt  
25 all private electric suppliers owning any interest in the facility,  
26 including any successor private electric supplier which subsequently  
27 acquires any interest in the facility.

28 (5) No property owned, used, or operated as part of a privately  
29 developed renewable energy generation facility shall be subject to  
30 eminent domain by a consumer-owned electric supplier operating in the  
31 State of Nebraska. Nothing in this section shall be construed to grant

1 the power of eminent domain to a private electric supplier or limit the  
2 rights of any entity to acquire any public, municipal, or utility right-  
3 of-way across property owned, used, or operated as part of a privately  
4 developed renewable energy generation facility as long as the right-of-  
5 way does not prevent the operation of or access to the privately  
6 developed renewable energy generation facility.

7 (6) Only a consumer-owned electric supplier operating in the State  
8 of Nebraska may exercise eminent domain authority to acquire the land  
9 rights necessary for the construction of transmission lines and related  
10 facilities. There is a rebuttable presumption that the exercise of  
11 eminent domain to provide needed transmission lines and related  
12 facilities for a privately developed renewable energy generation facility  
13 is a public use.

14 (7) Nothing in this section shall be construed to authorize a  
15 private electric supplier to sell or deliver electricity at retail in  
16 Nebraska.

17 (8) Nothing in this section shall be construed to limit the  
18 authority of or require a consumer-owned electric supplier operating in  
19 the State of Nebraska to enter into a joint agreement with a private  
20 electric supplier to develop, construct, and jointly own a privately  
21 developed renewable energy generation facility.

22 Sec. 8. Section 84-1411, Revised Statutes Cumulative Supplement,  
23 2022, is amended to read:

24 84-1411 (1)(a) Except as provided in subsection (9) of this section,  
25 each ~~Each~~ public body shall give reasonable advance publicized notice of  
26 the time and place of each meeting as provided in this subsection. Such  
27 notice shall be transmitted to all members of the public body and to the  
28 public.

29 (b)(i) Except as provided in subdivision (1)(b)(ii) of this section,  
30 in the case of a public body described in subdivision (1)(a)(i) of  
31 section 84-1409 or such body's advisory committee, such notice shall be



1 published in a newspaper of general circulation within the public body's  
2 jurisdiction and, if available, on such newspaper's website.

3 (ii) In the case of the governing body of a city of the second class  
4 or village or such body's advisory committee, such notice shall be  
5 published by:

6 (A) Publication in a newspaper of general circulation within the  
7 public body's jurisdiction and, if available, on such newspaper's  
8 website; or

9 (B) Posting written notice in three conspicuous public places in  
10 such city or village. Such notice shall be posted in the same three  
11 places for each meeting.

12 (iii) In the case of a public body not described in subdivision (1)  
13 (b)(i) or (ii) of this section, such notice shall be given by a method  
14 designated by the public body.

15 (c) In addition to a method of notice required by subdivision (1)(b)  
16 (i) or (ii) of this section, such notice may also be provided by any  
17 other appropriate method designated by such public body or such advisory  
18 committee.

19 (d) Each public body shall record the methods and dates of such  
20 notice in its minutes.

21 (e) Such notice shall contain an agenda of subjects known at the  
22 time of the publicized notice or a statement that the agenda, which shall  
23 be kept continually current, shall be readily available for public  
24 inspection at the principal office of the public body during normal  
25 business hours. Agenda items shall be sufficiently descriptive to give  
26 the public reasonable notice of the matters to be considered at the  
27 meeting. Except for items of an emergency nature, the agenda shall not be  
28 altered later than (i) twenty-four hours before the scheduled  
29 commencement of the meeting or (ii) forty-eight hours before the  
30 scheduled commencement of a meeting of a city council or village board  
31 scheduled outside the corporate limits of the municipality. The public

1 body shall have the right to modify the agenda to include items of an  
2 emergency nature only at such public meeting.

3 (2)(a) The following entities may hold a meeting by means of virtual  
4 conferencing if the requirements of subdivision (2)(b) of this section  
5 are met:

6 (i) A state agency, state board, state commission, state council, or  
7 state committee, or an advisory committee of any such state entity;

8 (ii) An organization, including the governing body, created under  
9 the Interlocal Cooperation Act, the Joint Public Agency Act, or the  
10 Municipal Cooperative Financing Act;

11 (iii) The governing body of a public power district having a  
12 chartered territory of more than one county in this state;

13 (iv) The governing body of a public power and irrigation district  
14 having a chartered territory of more than one county in this state;

15 (v) An educational service unit;

16 (vi) The Educational Service Unit Coordinating Council;

17 (vii) An organization, including the governing body, of a risk  
18 management pool or its advisory committees organized in accordance with  
19 the Intergovernmental Risk Management Act;

20 (viii) A community college board of governors;

21 (ix) The Nebraska Brand Committee;

22 (x) A local public health department;

23 (xi) A metropolitan utilities district;

24 (xii) A regional metropolitan transit authority; and

25 (xiii) A natural resources district.

26 (b) The requirements for holding a meeting by means of virtual  
27 conferencing are as follows:

28 (i) Reasonable advance publicized notice is given as provided in  
29 subsection (1) of this section, including providing access to a dial-in  
30 number or link to the virtual conference;

31 (ii) In addition to the public's right to participate by virtual

1 conferencing, reasonable arrangements are made to accommodate the  
2 public's right to attend at a physical site and participate as provided  
3 in section 84-1412, including reasonable seating, in at least one  
4 designated site in a building open to the public and identified in the  
5 notice, with: At least one member of the entity holding such meeting, or  
6 his or her designee, present at each site; a recording of the hearing by  
7 audio or visual recording devices; and a reasonable opportunity for  
8 input, such as public comment or questions, is provided to at least the  
9 same extent as would be provided if virtual conferencing was not used;

10 (iii) At least one copy of all documents being considered at the  
11 meeting is available at any physical site open to the public where  
12 individuals may attend the virtual conference. The public body shall also  
13 provide links to an electronic copy of the agenda, all documents being  
14 considered at the meeting, and the current version of the Open Meetings  
15 Act; and

16 (iv) Except as otherwise provided in this subdivision or subsection  
17 (4) of section 79-2204, no more than one-half of the meetings of the  
18 state entities, advisory committees, boards, councils, organizations, or  
19 governing bodies are held by virtual conferencing in a calendar year. In  
20 the case of an organization created under the Interlocal Cooperation Act  
21 that sells electricity or natural gas at wholesale on a multistate basis  
22 or an organization created under the Municipal Cooperative Financing Act,  
23 the organization may hold more than one-half of its meetings by virtual  
24 conferencing if such organization holds at least one meeting each  
25 calendar year that is not by virtual conferencing. The governing body of  
26 a risk management pool that meets at least quarterly and the advisory  
27 committees of the governing body may each hold more than one-half of its  
28 meetings by virtual conferencing if the governing body's quarterly  
29 meetings are not held by virtual conferencing.

30 (3) Virtual conferencing, emails, faxes, or other electronic  
31 communication shall not be used to circumvent any of the public

1 government purposes established in the Open Meetings Act.

2 (4) The secretary or other designee of each public body shall  
3 maintain a list of the news media requesting notification of meetings and  
4 shall make reasonable efforts to provide advance notification to them of  
5 the time and place of each meeting and the subjects to be discussed at  
6 that meeting.

7 (5) When it is necessary to hold an emergency meeting without  
8 reasonable advance public notice, the nature of the emergency shall be  
9 stated in the minutes and any formal action taken in such meeting shall  
10 pertain only to the emergency. Such emergency meetings may be held by  
11 virtual conferencing. The provisions of subsection (4) of this section  
12 shall be complied with in conducting emergency meetings. Complete minutes  
13 of such emergency meetings specifying the nature of the emergency and any  
14 formal action taken at the meeting shall be made available to the public  
15 by no later than the end of the next regular business day.

16 (6) A public body may allow a member of the public or any other  
17 witness to appear before the public body by means of virtual  
18 conferencing.

19 (7)(a) Notwithstanding subsections (2) and (5) of this section, if  
20 an emergency is declared by the Governor pursuant to the Emergency  
21 Management Act as defined in section 81-829.39, a public body the  
22 territorial jurisdiction of which is included in the emergency  
23 declaration, in whole or in part, may hold a meeting by virtual  
24 conferencing during such emergency if the public body gives reasonable  
25 advance publicized notice as described in subsection (1) of this section.  
26 The notice shall include information regarding access for the public and  
27 news media. In addition to any formal action taken pertaining to the  
28 emergency, the public body may hold such meeting for the purpose of  
29 briefing, discussion of public business, formation of tentative policy,  
30 or the taking of any action by the public body.

31 (b) The public body shall provide access by providing a dial-in

1 number or a link to the virtual conference. The public body shall also  
2 provide links to an electronic copy of the agenda, all documents being  
3 considered at the meeting, and the current version of the Open Meetings  
4 Act. Reasonable arrangements shall be made to accommodate the public's  
5 right to hear and speak at the meeting and record the meeting. Subsection  
6 (4) of this section shall be complied with in conducting such meetings.

7 (c) The nature of the emergency shall be stated in the minutes.  
8 Complete minutes of such meeting specifying the nature of the emergency  
9 and any formal action taken at the meeting shall be made available for  
10 inspection as provided in subsection (5) of section 84-1413.

11 (8) In addition to any other statutory authorization for virtual  
12 conferencing, any public body not listed in subdivision (2)(a) of this  
13 section may hold a meeting by virtual conferencing if:

14 (a) The purpose of the virtual meeting is to discuss items that are  
15 scheduled to be discussed or acted upon at a subsequent non-virtual open  
16 meeting of the public body;

17 (b) No action is taken by the public body at the virtual meeting;  
18 and

19 (c) The public body complies with subdivisions (2)(b)(i) and (2)(b)  
20 (ii) of this section.

21 (9) This section does not apply to a meeting of the Nebraska Power  
22 Review Board or a public power district, a public power and irrigation  
23 district, an electric membership association, an electric cooperative  
24 company, a municipality having a generation and distribution system, or a  
25 registered group of municipalities if such meeting is subject to section  
26 1 of this act.

27 Sec. 9. Sections 1, 2, 3, 4, 8, and 10 of this act become operative  
28 three calendar months after the adjournment of this legislative session.  
29 The other sections of this act become operative on their effective date.

30 Sec. 10. Original sections 70-624.04 and 70-637, Reissue Revised  
31 Statutes of Nebraska, and section 84-1411, Revised Statutes Cumulative

1 Supplement, 2022, are repealed.

2       Sec. 11. Original section 70-1012, Reissue Revised Statutes of  
3 Nebraska, section 70-1014.02, Revised Statutes Cumulative Supplement,  
4 2022, and section 70-1001.01, Revised Statutes Supplement, 2023, are  
5 repealed.

6       Sec. 12. The following sections are outright repealed: Sections  
7 70-1029, 70-1030, 70-1031, and 70-1033, Reissue Revised Statutes of  
8 Nebraska, and section 70-1032, Revised Statutes Cumulative Supplement,  
9 2022.

10       Sec. 13. Since an emergency exists, this act takes effect when  
11 passed and approved according to law.