

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 557**

Introduced by McGill, 26; Dubas, 34; Haar, 21; Mello, 5.  
Read first time January 23, 2013  
Committee: Natural Resources

A BILL

1 FOR AN ACT relating to net metering; to amend sections 70-2002 and  
2 70-2003, Reissue Revised Statutes of Nebraska; to provide  
3 for community solar gardens; to harmonize provisions; and  
4 to repeal the original sections.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 70-2002, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           70-2002 For purposes of sections 70-2001 to 70-2005 and  
4 sections 2 and 3 of this act:

5           (1) Community solar garden means a solar electric  
6 generation facility with a nameplate rating of two megawatts or less  
7 that is located in or near a community served by a local distribution  
8 utility for which the beneficial use of the electricity generated by  
9 the facility belongs to the subscribers to the community solar  
10 garden;

11           ~~(1)~~(2) Customer-generator means an end-use electricity  
12 customer that generates electricity on the customer's side of the  
13 meter from a qualified facility and includes a community solar  
14 garden;

15           ~~(2)~~(3) Interconnection agreement means an agreement  
16 between a local distribution utility and a customer-generator that  
17 establishes the financial, interconnection, safety, performance, and  
18 reliability requirements relating to the installation and operation  
19 of a qualified facility in accordance with the standards prescribed  
20 in sections 70-2001 to 70-2005 and sections 2 and 3 of this act;

21           ~~(3)~~(4) Local distribution system means the equipment and  
22 facilities used for the distribution of electric energy to the end-  
23 use electricity customer;

24           ~~(4)~~(5) Local distribution utility means the owner or  
25 operator of the local distribution system;

1           ~~(5)~~—(6) Net excess generation means the net amount of  
2 energy, if any, by which the output of a qualified facility exceeds a  
3 customer-generator's total electricity requirements during a billing  
4 period;

5           ~~(6)~~—(7) Net metering means a system of metering  
6 electricity in which a local distribution utility:

7           (a) Credits a customer-generator at the applicable retail  
8 rate for each kilowatt-hour produced by a qualified facility during a  
9 billing period up to the total of the customer-generator's  
10 electricity requirements during that billing period. A customer-  
11 generator may be charged a minimum monthly fee that is the same as  
12 other noncustomer-generators in the same rate class but shall not be  
13 charged any additional standby, capacity, demand, interconnection, or  
14 other fee or charge; and

15           (b) Compensates the customer-generator for net excess  
16 generation during the billing period at a rate equal to the local  
17 distribution utility's avoided cost of electric supply over the  
18 billing period. The monetary credits shall be applied to the bills of  
19 the customer-generator for the preceding billing period and shall  
20 offset the cost of energy owed by the customer-generator. If the  
21 energy portion of the customer-generator's bill is less than zero in  
22 any month, monetary credits shall be carried over to future bills of  
23 the customer-generator until the balance is zero. At the end of each  
24 annualized period, any excess monetary credits shall be paid out to  
25 coincide with the final bill of that period; ~~and~~

1           ~~(7)~~(8) Qualified facility means a facility for the  
2 production of electrical energy that:

3           (a) Uses as its energy source either methane, wind, solar  
4 resources, biomass, hydropower resources, or geothermal resources;

5           (b) Is controlled by the customer-generator and is  
6 located on premises owned, leased, or otherwise controlled by the  
7 customer-generator;

8           (c) Interconnects and operates in parallel with the local  
9 distribution system;

10           (d) Is intended to meet or offset the customer-  
11 generator's requirements for electricity;

12           (e) Is not intended to offset or provide credits for  
13 electricity consumption at another location owned, operated, leased,  
14 or otherwise controlled by the customer-generator or for any other  
15 customer;

16           (f) Has a rated capacity at or below twenty-five  
17 kilowatts;

18           (g) Meets all applicable safety, performance,  
19 interconnection, and reliability standards established by the  
20 National Electrical Code filed with the Secretary of State and  
21 adopted by the State Electrical Board under subdivision (5) of  
22 section 81-2104, the National Electrical Safety Code, the Institute  
23 of Electrical and Electronics Engineers, and the Underwriters  
24 Laboratories, Inc.; and

25           (h) Is equipped to automatically isolate the qualified

1 facility from the electrical system in the event of an electrical  
2 power outage or other conditions where the line is de-energized.

3 Qualified facility includes a community solar garden; and

4 (9) Subscriber means an end-use electricity customer who  
5 owns a subscription and who has identified one or more physical  
6 locations to which the subscription is attributed.

7 Sec. 2. (1) A community solar garden may be owned by a  
8 subscriber organization, whose sole purpose is beneficially owning  
9 and operating a community solar garden. The subscriber organization  
10 may be any for-profit or nonprofit entity. A community solar garden  
11 may also be built, owned, and operated by a third party under  
12 contract with the subscriber organization.

13 (2) The Nebraska Power Review Board or local distribution  
14 utility may adopt and promulgate rules and regulations as necessary  
15 to implement this section, including, but not limited to, rules and  
16 regulations to facilitate the financing of subscriber-owned community  
17 solar gardens. Such rules may include:

18 (a) Minimum capitalization;

19 (b) The share of a community solar garden's eligible  
20 solar electric generation facilities that a subscriber organization  
21 may at any time own in its own name; and

22 (c) Authorizing subscriber organizations to enter into  
23 leases, sale-and-leaseback transactions, operating agreements, and  
24 other ownership arrangements with third parties.

25 (3) If a subscriber ceases to be a customer at the

1 premises on which the subscription is based but, within a reasonable  
2 period as determined by the commission, becomes a customer at another  
3 premises in the service territory of the local distribution utility  
4 and within the geographic area served by the community solar garden,  
5 the subscription shall continue in effect.

6 (4) The owners of and the subscribers to a community  
7 solar garden shall not be considered utilities subject to regulation  
8 solely as a result of any interest in a community solar garden.  
9 Prices paid for subscriptions in a community solar garden shall not  
10 be subject to regulation by the commission.

11 Sec. 3. A subscription organization shall be responsible  
12 for providing to the local distribution utility, on a monthly basis  
13 and within reasonable periods set by the local distribution utility,  
14 the percentage shares that should be used to determine the net  
15 metering credit to each subscriber to the community solar garden. If  
16 the electricity output of the community solar garden is not fully  
17 subscribed, the local distribution utility shall purchase the  
18 unsubscribed renewable energy and the renewable energy credits at a  
19 rate at least equal to the utility's average hourly incremental cost  
20 of electricity supply over the immediately preceding calendar year.

21 Sec. 4. Section 70-2003, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 70-2003 (1) A local distribution utility shall  
24 interconnect the qualified facility of any customer-generator that  
25 enters into an interconnection agreement with the local distribution

1 utility, satisfies the requirements for a qualified facility and all  
2 other requirements of sections 70-2001 to 70-2005 and sections 2 and  
3 3 of this act, and pays for costs incurred by the local distribution  
4 utility for equipment or services required for interconnection that  
5 would not be necessary if the qualified facility were not  
6 interconnected to the local distribution system, except as provided  
7 in subsection (2) of this section and as may be provided for in the  
8 utility's aid in construction policy.

9 (2) A local distribution utility shall provide at no  
10 additional cost to any customer-generator with a qualified facility a  
11 metering system that is capable of measuring the flow of electricity  
12 in both directions and may be accomplished through use of a single,  
13 bidirectional electric revenue meter that has only a single register  
14 for billing purposes, a smart metering system, or another meter  
15 configuration that can easily be read by the customer-generator.

16 (3) A local distribution utility may, at its own expense,  
17 install additional monitoring equipment to separately monitor the  
18 flow of electricity in each direction as may be necessary to  
19 accomplish the reporting requirements of sections 70-2001 to 70-2005  
20 and sections 2 and 3 of this act.

21 (4) Subject to the requirements of sections 70-2001 to  
22 70-2005 and sections 2 and 3 of this act and the interconnection  
23 agreement, a local distribution utility shall provide net metering to  
24 any customer-generator with a qualified facility. The local  
25 distribution utility shall allow a customer-generator's retail

1 electricity consumption to be offset by a qualified facility that is  
2 interconnected with the local distribution system. A qualified  
3 facility's net excess generation during a billing period, if any,  
4 shall be determined by the local distribution utility in accordance  
5 with section 70-2002 and shall be credited to the customer-generator  
6 at a rate equal to the local distribution utility's avoided cost of  
7 electricity supply during the billing period, and the monetary  
8 credits shall be carried forward from billing period to billing  
9 period and credited against the customer-generator's retail electric  
10 bills in subsequent billing periods. Any excess monetary credits  
11 shall be paid out to coincide with the final bill at the end of each  
12 annualized period or within sixty days after the date the customer-  
13 generator terminates its retail service.

14 (5) A local distribution utility shall not be required to  
15 provide net metering to additional customer-generators, regardless of  
16 the output of the proposed generation unit, after the date during a  
17 calendar year on which the total generating capacity of all customer-  
18 generators using net metering served by such local distribution  
19 utility is equal to or exceeds one percent of the capacity necessary  
20 to meet the local distribution utility's average aggregate customer  
21 monthly peak demand forecast for that calendar year.

22 (6) No local distribution utility may require a customer-  
23 generator whose qualified facility meets the standards established  
24 under sections 70-2001 to 70-2005 and sections 2 and 3 of this act  
25 to:

1           (a) Comply with additional safety or performance  
2 standards or pay additional charges for equipment or services for  
3 interconnection that are additional to those necessary to meet the  
4 standards established under sections 70-2001 to 70-2005 and sections  
5 2 and 3 of this act;

6           (b) Perform or pay for additional tests; or

7           (c) Purchase additional liability insurance if all safety  
8 and interconnection requirements are met.

9           (7) Nothing in sections 70-2001 to 70-2005 and sections 2  
10 and 3 of this act prevents a local distribution utility from entering  
11 into other arrangements with customers desiring to install electric  
12 generating equipment or from providing net metering to customer-  
13 generators having renewable generation units with a rated capacity  
14 above twenty-five kilowatts.

15           Sec. 5. Original sections 70-2002 and 70-2003, Reissue  
16 Revised Statutes of Nebraska, are repealed.