

AMENDMENTS TO LB43

Introduced by DeKay, 40.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 **Section 1.** Section 70-1001.01, Revised Statutes Cumulative
4 Supplement, 2024, is amended to read:

5 70-1001.01 For purposes of sections 70-1001 to 70-1028.02, unless
6 the context otherwise requires:

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

8 (2) Commercial electric vehicle charging station means equipment
9 designed to provide electricity for a fee for the charging of an electric
10 vehicle or a plug-in hybrid electric vehicle, including an electric
11 vehicle direct-current charger or a super-fast charger, any successor
12 technology, and all components thereof. Commercial electric vehicle
13 charging station does not include the residence of a person where an
14 electric vehicle or a plug-in hybrid electric vehicle is charged if no
15 customer usage fee is charged;

16 (3) Commercial electric vehicle charging station operator means a
17 person, partnership, corporation, or other business entity or political
18 subdivision that operates a commercial electric vehicle charging station;

19 (4) Direct-current, fast-charging station means a publicly available
20 charging system capable of delivering at least fifty kilowatts of direct-
21 current electrical power to an electric vehicle's rechargeable battery at
22 a voltage of two hundred volts or greater;

23 (5) Direct-current, fast-charging station operator means a person,
24 partnership, corporation, or other business entity that operates a
25 direct-current, fast-charging station open to the public. The term does
26 not include an electric supplier or a political subdivision;

27 (6) Electric supplier or supplier of electricity means any legal

1 entity supplying, producing, or distributing electricity within the state
2 for sale at wholesale or retail. Electric supplier does not include a
3 commercial electric vehicle charging station operator that is a private
4 person or privately owned partnership, privately owned corporation, or
5 other privately owned business;

6 (7) Electronic-related means relating to electronic devices,
7 circuits, or similar systems, or the components of such electronic
8 devices, circuits, or similar systems, that require electrical currents
9 or electromagnetism to operate;

10 (8) Foreign adversary means a foreign government or foreign
11 nongovernment person determined to be a foreign adversary pursuant to 15
12 C.F.R. 791.4, as such regulation existed on February 7, 2025;

13 (9) ~~(7)~~ Military installation means: a military base other than a
14 National Guard base where fixed-wing aircraft or strategic weapon assets
15 are on a permanent or temporary basis assigned, stored, operated from, or
16 otherwise located;

17 (a) A United States Air Force ballistic missile silo located within
18 the geographic area described in 31 C.F.R. 802.211(b)(3), as such
19 regulation existed on January 1, 2025; or

20 (b) A United States Air Force base described in 31 C.F.R.
21 802.227(c), as such regulation existed on January 1, 2025;

22 (10) ~~(8)~~ Plug-in hybrid electric vehicle has the same meaning as in
23 section 60-345.01;

24 (11) ~~(9)~~ Private electric supplier means an electric supplier
25 producing electricity from a privately developed renewable energy
26 generation facility that is not a public power district, a public power
27 and irrigation district, a municipality, a registered group of
28 municipalities, an electric cooperative, an electric membership
29 association, any other governmental entity, or any combination thereof. A
30 private electric supplier is limited to the development of those
31 facilities as provided in subdivision (12) ~~(10)~~ of this section;

1 (12) ~~(10)~~ Privately developed renewable energy generation facility
2 means and is limited to a facility that (a) generates electricity using
3 solar, wind, geothermal, biomass, landfill gas, or biogas, including all
4 electrically connected equipment used to produce, collect, and store the
5 facility output up to and including the transformer that steps up the
6 voltage to sixty thousand volts or greater, and including supporting
7 structures, buildings, and roads, unless otherwise agreed to in a joint
8 transmission development agreement, (b) is developed, constructed, and
9 owned, in whole or in part, by one or more private electric suppliers,
10 and (c) is not wholly owned by a public power district, a public power
11 and irrigation district, a municipality, a registered group of
12 municipalities, an electric cooperative, an electric membership
13 association, any other governmental entity, or any combination thereof;

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

21 (14) ~~(12)~~ Reliable or reliability means the ability of an electric
22 supplier to supply the aggregate electric power and energy requirements
23 of its electricity consumers in Nebraska at all times under normal
24 operating conditions, taking into account scheduled and unscheduled
25 outages, including sudden disturbances or unanticipated loss of system
26 components that are to be reasonably expected for any electric utility
27 following prudent utility practices, recognizing certain weather
28 conditions and other contingencies may cause outages at the distribution,
29 transmission, and generation level;

30 (15) ~~(13)~~ Representative organization means an organization
31 designated by the board and organized for the purpose of providing joint

1 planning and encouraging maximum cooperation and coordination among
2 electric suppliers. Such organization shall represent electric suppliers
3 owning a combined electric generation plant accredited capacity of at
4 least ninety percent of the total electric generation plant accredited
5 capacity constructed and in operation within the state;

6 (16) ~~(14)~~ State means the State of Nebraska; and

7 (17) ~~(15)~~ Unbundled retail rates means the separation of utility
8 bills into the individual price components for which an electric supplier
9 charges its retail customers, including, but not limited to, the separate
10 charges for the generation, transmission, and distribution of
11 electricity.

12 **Sec. 2.** Section 70-1012, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

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

1 outside the applicant's existing retail service area or chartered
2 territory, (c) for acquisition of transmission lines or related
3 facilities, within the state, carrying one hundred fifteen thousand volts
4 or less, if the current owner of the transmission lines or related
5 facilities notifies the board of the lines or facilities involved in the
6 transaction and the parties to the transaction, or (d) for the
7 construction of a qualified facility as defined in section 70-2002.

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

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

27 (3)(a) Before any electric supplier not exempt from subdivision (2)
28 (a) of this section commences construction of or acquires an electric
29 generation facility or transmission lines or related facilities carrying
30 more than seven hundred volts that will be or are located within a ten-
31 mile radius of a military installation, the electric supplier shall,

1 following consultation with such supplier's vendors, submit a one-time
2 written notice to the board certifying that such facility or facilities
3 continually contain no electronic-related equipment or electronic-related
4 components manufactured by any foreign adversary.

5 (b) The electric supplier shall also submit written notice to the
6 board at any time such facility or facilities are no longer in compliance
7 with the certification provided under subdivision (a) of this subsection.

8 (4) Notwithstanding subsections (2) and (3) of this section, an
9 electric supplier required to provide certification under subsection (2)
10 of this section may use electronic-related equipment or electronic-
11 related components manufactured by a foreign adversary if the board
12 preapproves the use of such equipment or components after finding that:

13 (a) There is no other reasonable option for procuring such equipment
14 or components; and

15 (b) Not procuring or using such equipment or components would cause
16 a greater harm to the state or residents of the state than the harm
17 associated with the equipment or components.

18 (5) ~~(3)~~ A privately developed renewable energy generation facility
19 is exempt from this section if it complies with section 70-1014.02.

20 **Sec. 3.** Section 70-1014.02, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 70-1014.02 (1) The Legislature finds that:

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

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

31 (c) The grasslands of the Nebraska Sandhills and other natural

1 resources in Nebraska will become increasingly valuable, both
2 economically and strategically, as the demand for food and energy
3 increases; and

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

6 (2)(a) A privately developed renewable energy generation facility
7 that meets the requirements of this section is exempt from sections
8 70-1012 to 70-1014.01 if, no less than thirty days prior to the
9 commencement of construction, the owner of the facility:

10 (i) Notifies the board in writing of its intent to commence
11 construction of a privately developed renewable energy generation
12 facility;

13 (ii) Certifies to the board that the facility will meet the
14 requirements for a privately developed renewable energy generation
15 facility;

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

27 (iv) Certifies to the board that the private electric supplier has
28 entered into or prior to commencing construction will enter into a joint
29 transmission development agreement pursuant to subdivision (d) ~~(e)~~ of
30 this subsection with the electric supplier owning the transmission
31 facilities of sixty thousand volts or greater to which the privately

1 developed renewable energy generation facility will interconnect;

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

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

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

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

21 (vi) ~~(vii)~~ For a proposed privately developed renewable energy
22 generation facility that has a generating capacity that is greater than
23 ten megawatts, certifies to the board that the private electric supplier
24 has held at least one public meeting with advanced publicized notice in
25 one of the counties in which the proposed facility will be located at
26 which (A) the private electric supplier explains the need for the
27 proposed facility and the type of facility and (B) real property owners
28 in any of the counties in which the proposed facility will be located are
29 provided an opportunity to comment on the proposed facility. The private
30 electric supplier shall provide a report to the board containing the
31 minutes of any such meeting and how many people commented on the proposed

1 facility. Documentation received at any such meeting shall be made
2 available to the board upon its request. A meeting described in this
3 subdivision is not subject to the requirements described in subdivision
4 (3)(b)(iv) of section 84-1411.

5 (b)(i) No less than thirty days prior to the commencement of
6 construction of a privately developed renewable energy generation
7 facility located within a ten-mile radius of a military installation, the
8 owner of such facility shall:

9 (A) Provide written notice to the board under subdivision (2)(b)(ii)
10 (A) of this section; or

11 (B) Certify in writing to the board that the facility will, upon
12 reaching commercial operation, be in compliance with the critical
13 infrastructure protection requirements issued by the North American
14 Electric Reliability Corporation if such facility is connected to the
15 transmission grid at one hundred kilovolts or higher voltage and has a
16 nameplate rating of twenty megavolt amperes for a single generation unit
17 or is injecting at an aggregate of seventy-five megavolt amperes or
18 greater. The owner of such facility shall also submit written notice to
19 the board at any time such facility is no longer in compliance with such
20 requirements.

21 (ii)(A) An owner of a facility choosing to proceed under subdivision
22 (2)(b)(i)(A) of this section shall, following consultation with such
23 owner's vendors, submit a one-time written notice to the board certifying
24 that the facility continually contains no electronic-related equipment or
25 electronic-related components manufactured by any foreign adversary.

26 (B) The owner shall also submit written notice to the board at any
27 time such facility is no longer in compliance with the certification
28 provided under subdivision (2)(b)(ii)(A) of this section.

29 (iii) Notwithstanding subdivisions (2)(b)(i) and (ii) of this
30 section, the owner of a facility required to provide the certification
31 under subsection (2)(b)(i) may use electronic-related equipment or

1 electronic-related components manufactured by a foreign adversary if the
2 board preapproves the use of such equipment or components after finding
3 that:

4 (A) There is no other reasonable option for procuring such equipment
5 or components; and

6 (B) Not procuring or using such equipment or components would cause
7 a greater harm to the state than the harm associated with the equipment
8 or components.

9 (c) ~~(b)~~ The board may bring an action in the name of the State of
10 Nebraska for failure to comply with subdivision (a)(iii)(B) of this
11 subsection, except that such subdivision does not apply if a local
12 government entity with the authority to create requirements for
13 decommissioning has enacted decommissioning requirements for the
14 applicable jurisdiction.

15 (d) ~~(c)~~ A joint transmission development agreement shall be entered
16 into to address construction, ownership, operation, and maintenance of
17 such additions or upgrades to the transmission facilities as required for
18 the privately developed renewable energy generation facility. The joint
19 transmission development agreement shall be negotiated and executed
20 contemporaneously with the generator interconnection agreement or other
21 directives of the applicable regional transmission organization with
22 jurisdiction over the addition or upgrade of transmission, upon terms
23 consistent with prudent electric utility practices for the
24 interconnection of renewable generation facilities, the electric
25 supplier's reasonable transmission interconnection requirements, and
26 applicable transmission design and construction standards. The electric
27 supplier shall have the right to purchase and own transmission facilities
28 as set forth in the joint transmission development agreement. The private
29 electric supplier of the privately developed renewable energy generation
30 facility shall have the right to construct any necessary facilities or
31 improvements set forth in the joint transmission development agreement

1 pursuant to the standards set forth in the agreement at the private
2 electric supplier's cost.

3 (3) Within ten days after receipt of a written notice complying with
4 subsection (2) of this section, the executive director of the board shall
5 issue a written acknowledgment that the privately developed renewable
6 energy generation facility is exempt from sections 70-1012 to 70-1014.01
7 if such facility remains in compliance with the requirements of this
8 section.

9 (4) The exemption allowed under this section for a privately
10 developed renewable energy generation facility shall extend to and exempt
11 all private electric suppliers owning any interest in the facility,
12 including any successor private electric supplier which subsequently
13 acquires any interest in the facility.

14 (5) No property owned, used, or operated as part of a privately
15 developed renewable energy generation facility shall be subject to
16 eminent domain by a consumer-owned electric supplier operating in the
17 State of Nebraska. Nothing in this section shall be construed to grant
18 the power of eminent domain to a private electric supplier or limit the
19 rights of any entity to acquire any public, municipal, or utility right-
20 of-way across property owned, used, or operated as part of a privately
21 developed renewable energy generation facility as long as the right-of-
22 way does not prevent the operation of or access to the privately
23 developed renewable energy generation facility.

24 (6) Only a consumer-owned electric supplier operating in the State
25 of Nebraska may exercise eminent domain authority to acquire the land
26 rights necessary for the construction of transmission lines and related
27 facilities. There is a rebuttable presumption that the exercise of
28 eminent domain to provide needed transmission lines and related
29 facilities for a privately developed renewable energy generation facility
30 is a public use.

31 (7) Nothing in this section shall be construed to authorize a

1 private electric supplier to sell or deliver electricity at retail in
2 Nebraska.

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

8 **Sec. 4.** Section 70-1015, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

10 70-1015 (1) If any supplier violates Chapter 70, article 10, by
11 either (a) commencing the construction or finalizing or attempting to
12 finalize the acquisition of any generation facilities, any transmission
13 lines, or any related facilities without first providing notice or
14 obtaining board approval, whichever is required, or (b) serving or
15 attempting to serve at retail any customers located in Nebraska or any
16 wholesale customers in violation of section 70-1002.02, such
17 construction, acquisition, or service of such customers shall be enjoined
18 in an action brought in the name of the State of Nebraska until such
19 supplier has complied with Chapter 70, article 10.

20 (2) If the executive director of the board determines that a private
21 electric supplier commenced construction of a privately developed
22 renewable energy generation facility less than thirty days prior to
23 providing the notice and certification required in subdivisions
24 ~~subdivision~~ (2)(a) and (b) of section 70-1014.02, the executive director
25 shall send notice via certified mail to the private electric supplier,
26 informing it of the determination that the private electric supplier is
27 in violation of such subdivisions ~~subdivision~~ and is subject to a fine in
28 the amount of five hundred dollars. The private electric supplier shall
29 have twenty days from the date on which the notice is received in which
30 to submit the notice and certification described in such subdivisions
31 ~~subdivision~~ and to pay the fine. Within ten days after the private

1 electric supplier submits a notice and certification compliant with
2 subsection (2) of section 70-1014.02 and payment of the fine, the
3 executive director of the board shall issue the written acknowledgment
4 described in subsection (3) of section 70-1014.02. If the private
5 electric supplier fails to submit a notice and certification compliant
6 with subsection (2) of section 70-1014.02 and pay the fine within twenty
7 days after the date on which the private electric supplier receives the
8 notice from the executive director of the board, the private electric
9 supplier shall immediately cease construction or operation of the
10 privately developed renewable energy generation facility.

11 (3) If the private electric supplier disputes that construction was
12 commenced less than thirty days prior to submitting the written notice
13 and certification required by subdivisions ~~subdivision~~ (2)(a) and (b) of
14 section 70-1014.02, the private electric supplier may request a hearing
15 before the board. Such request shall be submitted within twenty days
16 after the private electric supplier receives the notice sent by the
17 executive director pursuant to subsection (2) of this section. If the
18 private electric supplier does not accept the certified mail sent
19 pursuant to such subsection, the executive director shall send a second
20 notice to the private electric supplier by first-class United States
21 mail. The private electric supplier may submit a request for hearing
22 within twenty days after the date on which the second notice was mailed.

23 (4) Upon receipt of a request for hearing, the board shall set a
24 hearing date. Such hearing shall be held within sixty days after such
25 receipt. The board shall provide to the private electric supplier written
26 notice of the hearing at least twenty days prior to the date of the
27 hearing. The board or its hearing officer may grant continuances upon
28 good cause shown or upon the request of the private electric supplier.
29 Timely filing of a request for hearing by a private electric supplier
30 shall stay any further enforcement under this section until the board
31 issues an order pursuant to subsection (5) of this section or the request

1 for hearing is withdrawn.

2 (5) The board shall issue a written decision within sixty days after
3 conclusion of the hearing. All costs of the hearing shall be paid by the
4 private electric supplier if (a) the board determines that the private
5 electric supplier commenced construction of the privately developed
6 renewable energy generation facility less than thirty days prior to
7 submitting the written notice and certification required pursuant to
8 subsection (2) of section 70-1014.02 or (b) the private electric supplier
9 withdraws its request for hearing prior to the board issuing its
10 decision.

11 (6) A private electric supplier which the board finds to be in
12 violation of the requirements of subsection (2) of section 70-1014.02
13 shall either (a) pay the fine described in this section and submit a
14 notice and certification compliant with subsection (2) of section
15 70-1014.02 or (b) immediately cease construction or operation of the
16 privately developed renewable energy generation facility.

17 **Sec. 5.** Original sections 70-1001.01, 70-1012, 70-1014.02, and
18 70-1015, Revised Statutes Cumulative Supplement, 2024, are repealed.

19 **Sec. 6.** Since an emergency exists, this act takes effect when
20 passed and approved according to law.