ONE HUNDRED NINTH LEGISLATURE - SECOND SESSION - 2026
COMMITTEE STATEMENT
LB1010

Hearing Date: Wednesday February 11, 2026
Committee On: Natural Resources
Introducer: Brandt
One Liner: Provide for eminent domain of electrical energy storage property, storage of electric energy under the Electric Cooperative Corporation Act, and energy storage resources and change application, notice, filing, exemption, and violation provisions relating to electric suppliers

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Brandt, Clouse, DeKay, Hughes, Juarez, Moser, Raybould
Nay:		
Absent:	1	Senator Conrad
Present Not Voting:		

Testimony:

Proponents:	**Representing:**
Senator Tom Brandt	Opening Presenter
Bruce Vitosh	Norris Public Power District, Nebraska Rural Electric Association
Brad Underwood	Nebraska Power Association, Omaha Public Power District
John K. Hansen	Nebraska Farmers Union

Opponents:	**Representing:**
David Levy	Sofos Power, Eolian L.P.
David Cary	Lancaster County Board
Kenneth Winston	Nebraska Sierra Club

Neutral:	**Representing:**
Shelley Sahling-Zart	Lincoln Electric System
Tim Texel	Nebraska Power Review Board

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:
LB1010 amends and makes new law that applies to private development of electric battery Energy Storage Resources (ESR) facilities and subjects them to governance and procedures outlined for public power and other privately developed electric suppliers in chapter 70. The bill adds the term "energy storage resources" throughout the chapter and, under LB1010, amends section 70-1012 to require that ESRs must file an application with the Power

Review Board (PRB) and get approval from the board before commencing development.

An ESR is defined as a facility that is capable of receiving electric energy from the electrical grid, or from a generation source with which it is associated and is capable of storing the energy for later injection into the electrical grid. Associated energy storage resource means any ESR that: (1) is located on the premises of a privately developed renewable energy generation facility, (2) has the primary purpose of storing the electric energy produced by the facility, and (3) has a maximum limit of electricity output that, collectively with a co-located generation facility, is limited to the nameplate capacity of that generating facility.

To get approval for an ESR facility, a developer must first file an application and meet the current guidelines of convenience and necessity, without duplication of services. With the applicaiton, the applicant must submit written notice that:

(1) The private developer has entered into, or will enter into prior to construction, a power purchase agreement or similar contractual agreement with a consumer-owned electric supplier for purchase of all electric energy and electric capacity resource and will maintain a contractual relationship throughout the operational life of the resource;

(2) The consumer-owned electric supplier that is a party to the contractual relationship has filed the application jointly with the private electric supplier for board approval of the energy storage resource;

(3) The ESR developer has obtained written consent from each electric supplier that will have any part of the ESR located in its chartered territory or retail service area and any other electric supplier that will be interconnected with the private supplier at a substation or switchyard that contains facilities rated at one hundred kilovolts or greater; and

(4) The private electric supplier has entered into a joint transmission development agreement with the consumer-owned electric supplier that owns the transmission facilities that will interconnect with the ESR. The joint transmission development agreement must address construction, ownership, operation, and maintenance of additions or upgrades to the transmission facilities and must be negotiated and executed contemporaneously with the generator interconnection agreement or any other directive of the applicable regional transmission organization (RTO).

LB1010 does not allow a private ESR owner to sell or deliver electricity at retail in Nebraska, to own or operate distribution facilities intended to provide retail electric services in the state, or to have or use the power of eminent domain.

Section-by-Section Summary of LB1010:

Sec. 1. Amends section 70-670 to add “storage” to the list of properties that are subject to eminent domain by any district organized under or subject to Chapter 70, article 6, and are owned, used, or operated, or useful for operation in the generation, transmission or distribution of electrical energy.

Sec. 2. Amends section 70-704 to allow a corporation organized pursuant to the the Electric Cooperative Corporation Act to store the electric energy it has generated in addition to transmitting, distributing, selling, furnishing, and disposing of the electricity it generates.

Sec. 3. Amends section 70-1001.01: (1) to define "energy storage resource (ESR)" as a facility that is capable of receiving electric energy from the electrical grid or a generation facility with which the ESR is associated and is capable of storing the electrical energy for later injection into the electrical grid, (2) to define "associated energy storage resource" as any ESR that is co-located on the premises of a privately developed renewable energy generation facility, has the primary purpose of storing energy for use by that facility, and has a maximum limit on

electricity output that, when collectively with the co-facility, does not exceed the nameplate capacity of the co-located generation facility, and (3) to include ESRs that are privaely developed in the meaning of private electric suppliers. Limits a private electric supplier to the development of ESRs and renewable energy generation facilities.

Sec. 4. Amends section 70-1012 to require that, before commencing construction or acquisition of any ESR facility by a supplier other than public power, a supplier must file an application with the Power Review Board (PRB) and meet the requirements of notice, certification, and convenience and necessity set forth in Chapter 70.

Sec. 5. Amends section 70-1012.01 to add energy storage resources to provisions governing termination of construction or acquisition of a facility after PRB approval of the project.

Sec. 6. Amends section 70-1015 to add energy storage resources and associated energy storage resources to those projects subject to rules, procedures, and potential injunction if construction is commenced without notice or PRB approval or if rules are violated.

Sec. 7. Repealer.

Explanation of amendments:
The Committee considered and adopted the Standing Committee Amendment (AM2422) that replaces the original bill. AM2422 includes LB 1010 as amended by AM2350, LB 1064 as amended by AM2392, and LB 1111 as amended by AM2386, and accomplishes the following:

LB1010 as amended by AM 2350 (Sections 5-10 of AM 2422)

As amended by AM 2350, LB1010 no longer requires that the private ESR developer and consumer-owned electric provider with which the developer has a power purchase agreement make a joint application to the PRB and provides that evidence, rather than written notice, of the matters to be reviewed by the PRB must be included with the application. The bill also exempts ESRs that have been approved by the PRB from the exercise of eminent domain by any electric supplier.

LB1064 as amended by AM 2392 (Sections 1-4 of AM 2422)

LB1064, introduced by Senator Bostar, is a new law that creates the Large Load Customer Regulation Act to regulate entities, other than consumer-owned electric utilities, that request a new or expanded interconnection where the total load at a single site would exceed twenty megawatts (20MW).

The bill defines public power supplier consistent with sections 70-601 and 70-2103 and directs public power suppliers to establish standards for interconnecting large load customers that include a requirement that the large load customer (a) disclose whether the customer is pursuing a substantially similar request for electric service that, if approved, would materially change, delay, or cause the current request to be withdrawn, (b) disclose information about the customer's onsite backup generating facilities, (c) pay a flat rate fee of at least $100,000 for initial studies for loads greater than 20MW, and an additional study fee if the customer requests additional capacity following the study, with studies to be completed within one-year after the study fee is paid, (d) provide a method for the customer to demonstrate site control for the proposed load location, and (e) financial commitment requirements for the development of transmission and generation infrastructure needed to serve the customer's large load.

LB1064 states that a public power supplier is not required to establish a general rate tariff for large load customers and is authorized to establish or negotiate rates, charges, and operating standards that fairly allocate electricity system costs to the large load customer and mitigates operational and resource adequacy risks and the financial risks

to other customers without regard to the requirements of section 70-655.

LB1064 also requires suppliers to develop a procedure to procure demand response reductions and flexibility from a large load customer and, in the event of an emergency, to require the large load customer to curtail load or to deploy its onsite backup generation for the duration of the emergency condition.

Testifiers on LB1064:
Proponents:
Senator Eliot Bostar , Opening Presenter
Matt Andersen, Lincoln Electric System

Opponents: None
Neutral:
John McNally, Nebraska Public Power District

Committee vote to attach LB1064:
Yes: 7 Brandt, Clouse, DeKay, Hughes, Juarez, Moser, Raybould;
No: 0;
Absent: 1 Conrad;
Present Not Voting: 0;

LB1111 as amended by AM 2386 (Section 11 of AM 2422)

LB1111, introduced by Senator M. Cavanaugh, amends sections 70-1025 and 70-1506 to define and establish procedures and rules for developers of data centers with a peak electricity demand of ten megawatts (10MW) or more and requires an annual report from public power regarding intended and existing data centers.

The bill defines a data center as a facility with a peak electricity demand of ten megawatts (10MW) or more wherein the primary services are the storage, management, and processing of digital data, and that is used to house computer and network systems for monitoring and managing infrastructure performance, internet-related equipment and services, data communications, connections, environmental controls, fire protection systems, and security systems and services, and adds “data center” to most provisions currently applicable only to “cryptocurrency mining operations".

AM 2386 to LB1111 makes the following changes:

1. Strikes all changes to section 70-1025 (load and capability report); and
2. Requires that any person owning or operating a data center to annually submit a report to the Department of Water, Energy, and Environment (DWEE) and the Legislature’s Natural Resources Committee by September 30 of each year. The report must include:
    - The name of the data center;
    - The names of the developers and owners of the data center;
    - The physical size of the data center in square feet;
    - The location of the data center, including street address and county;
    - The annual electricity usage of the data center;
    - The annual water usage of the data center;
    - The sales and use tax exemptions the data center receives or expects to receive;

- Any incentive payments from the ImagiNE Nebraska Act and Nebraska Advantage Act;
- The suppliers of electricity that would provide electric service to the data center and the amount of electricity to be provided by each supplier;
- All energy efficiency, load management, and conservation measures implemented by the data center;
- Any commitments by the data center to use renewable energy; and
- The service life of the data center.

3. AM2386 also amends subdivision (2)(b) of section 70-1506 to add to the public power supplier's authority to impose requirements on data centers including terms and conditions "that require the operation to pay the full cost of providing electric services and ensure no cost is passed on to other retail customers."

Testifiers on LB1111:
Proponents:
Senator Machaela Cavanaugh, M. , Opening Presenter
Kenneth Winston, Nebraska Sierra Club
Jane Kleeb, BOLD
John K. Hansen, Nebraska Farmers Union

Opponents: None
Neutral:
Marylee Moulton, League of Women Voters of Nebraska
Tim Texel, Nebraska Power Review Board

Committee vote to attach LB1111:
Yes: 7 Brandt, Clouse, DeKay, Hughes, Juarez, Moser, Raybould;
No: 0;
Absent: 1 Conrad;
Present Not Voting: 0;

Section-by-Section Summary of AM2422:

Sec. 1. Creates new law naming the Large Load Customer Regulation Act. (LB1064).

Sec. 2. Defines terms used in the Act. Large load customer means a retail load customer that requests a new or expanded interconnection with total load greater than twenty megawatts (20MW) at a single site. An onsite backup generating facility means a facility that generates one megawatt or more that is not capable of operating in parallel with the grid for greater than 1/10th of a second, or generation of one megawatt or larger that is capable of operating continuously in parallel with the grid, non-exporting, and meeting applicable generator interconnection requirements; a public power supplier is defined consistent with section 70-601. AM2392 amended the original definitions to comply with Southwest Power Pool rules. (LB1064, amended by AM2392).

Sec. 3. A new section of law that requires public power suppliers to establish standards for interconnecting large load customers in a manner designed to support business development and to mitigate the potential for stranded infastructure costs and to maintain system reliability. The standards required must include, but are not limited to: (a) requiring customers to disclose whether the customer is pursuing a substantially similar request for electric service elsewhere, the approval of which would result in the customer materially changing, delaying, or withdrawing the

interconnection request; (b) granting the applicant the ability to redact competitively sensitive details, and prohibiting the public power supplier from selling, sharing, or disclosing the information submitted under the Act; (c) requiring that each interconnected large load customer disclose information about the customer's onsite backup generation facilitties; (d) requiring the customer to pay a flat rate study fee of at least $100,000 for loads in excess of the large load threshhold set in the Act; (e) a method for a large load customer to demonstrate site control for the proposed location; and (f) providing financial commitment requirements for the development of transmission and generation infrastructure needed to serve the customer. AM2392 amended subsection (3) of this section to replace the $100,000 flat rate study fee with a study fee of $50,000 or $1,000 per megawatt, whichever is greater. (LB1064, amended by AM2392).

Sec. 4. A new section of law that requires the applicable public power supplier to develop procedures to (a) procure demand response, reductions, and load flexibility from the customer, and (b) in the event of grid instability or emergency condition, require that the affected customer agree to curtail load or, for those customers with onsite backup generating facilities, to deploy the facilities for the duration of the grid instability or emergency condition or until the load can be recalled safely. (LB1064, amended by AM2392).

Sec. 5. Amends section 70-670 to add energy "storage" (battery) to the list of those developments useful for generation, transmission, or distribution of electrical energy and subject to a public power district's conferred power of eminent domain. (LB1010)

Sec. 6. Amends section 70-704 to add energy "storage" (battery) to the powers of each corporation formed for the purpose of rural electrification under the Electric Cooperative Corporation Act. (LB1010)

Sec. 7. Amends section 70-1001.01 to add definitions of energy storage resource (ESR) and associated energy storage resources for purposes of sections 70-1001 to 70-1028.02. An ESR is a facility that is capable of receiving electric energy from the electrical grid, or from a generation source with which it is associated and is capable of storing the energy for later injection into the electrical grid. Associated energy storage resource means any ESR that is co-located on the premises of a privately developed renewable energy generation facility, has the primary purpose of storing the electric energy produced by that facility, and has a maximum limit of electricity output that, aggregated with the co-located facility, is collectively limited to the nameplate capacity of that facility. (LB1010).

Sec. 8. Amends section 70-1012 to subject applications for development of an ESR to those that other private electric suppliers must meet prior to commencing construction or acquiring a facility. As amended, LB1010 requires that an applicant include evidentiary support that includes: (a) that the private developer has entered into, or will enter into prior to construction, a power purchase agreement or similar contractual agreement with a consumer-owned electric supplier and will maintain a contractual relationship throughout the operational life of the resource; (b) that the ESR developer has obtained written consent from each electric supplier that will have any part of the ESR located in its chartered territory or retail service area; and (c) that the private electric supplier has entered into a joint transmission development agreement with the consumer-owned electric supplier that owns the transmission facilities that will interconnect with the ESR. The joint transmission development agreement must address construction, ownership, operation, and maintenance of additions or upgrades to the transmission facilities and must be negotiated and executed contemporaneously with the generator interconnection agreement or any other directive of the applicable regional transmission organization (RTO). This section prohibits a private electric supplier from selling or delivering electricity at retail in Nebraska. An ESR that is not an associated ESR and that has been approved by the PRB is exempt from the use of eminent domain by any electric supplier. "Written notice" is replaced with "evidence" to be included with an application to the PRB, and the joint application requirement is removed. (LB1010, AM2350).

Sec. 9. Amends section 70-1012.01 to add ESR to those facilities required to give the PRB a 30-day notice and a reason for action to terminate construction or acquisition after receiving PRB approval. (LB1010)

Sec. 10. Amends secction 70-1015 to add ESR facilities to those subject to rules, procedures, and potential injunction if construction is commenced without notice or PRB approval or if applicable rules are violated. (LB1010)

Sec. 11. Amends section 70-1506 to add the definition of data center and to grant a public power supplier authority to require a data center to to pay costs of related infrastructure, the full cost of providing electric service, and to ensure that no cost is passed on to retail customers. Also requires each data center to annually submit, by September 30 of each year, a report to the Department of Water, Energy, and Environment (DWEE), and to the Natural Resources Committee of the Legislature to identify the principals involved, the physical location and size of the center, annual expected electric load demand, the annual expected water usage, any tax exemptions or financial incentive payments, energy efficiency management and conservation measures to be implemented, as well as the center's commitments to use renewable energy and the service life of the center. (LB1111, AM2386).

Sec. 12. Repealer.

Tom Brandt, Chairperson