

**ONE HUNDRED NINTH LEGISLATURE - SECOND SESSION - 2026**  
**COMMITTEE STATEMENT**  
**LB1261**

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**Hearing Date:** Thursday February 05, 2026  
**Committee On:** Natural Resources  
**Introducer:** DeKay  
**One Liner:** Prohibit the use of eminent domain to acquire certain privately owned electric generation facilities

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

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**Vote Results:**

<b>Aye:</b>	6	Senators Brandt, Clouse, DeKay, Hughes, Moser, Raybould
<b>Nay:</b>	2	Senators Conrad, Juarez
<b>Absent:</b>		
<b>Present Not Voting:</b>		

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**Testimony:**

**Proponents:**

Senator Barry DeKay  
Kenny Zoeller  
Javier Fernandez  
Ameka Anyanwu  
Alyssa Clemens Roberts  
  
Chris Leitner  
John C. McClure  
Lash Chaffin

**Opponents:**

John K. Hansen  
Jon Nebel  
Kenneth Winston  
Kay Carne

**Neutral:**

**Representing:**

Opening Presenter  
Governor's Policy Research Office  
Omaha Public Power District  
Lincoln Electric System  
Dawson Public Power, Nebraska Rural Electric Association  
Tenaska, Inc.  
Nebraska Public Power District  
League of Nebraska Municipalities

**Representing:**

Nebraska Farmers Union  
Nebraska State Council of Electrical Workers  
Nebraska Sierra Club  
Self

**Representing:**

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB1261, introduced by Senator DeKay on behalf of the Governor, amends section 70-670 to prohibit any consumer-owned utility provider of wholesale or retail electric service in Nebraska from exercising the power of eminent domain in order to acquire a privately-owned electric generation facility that is constructed to provide electricity to an industrial customer at a single site if the customer is projected to require a load greater than one



thousand megawatts (MW). A consumer-owned utility provider means a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, a governmental entity, or a combination of those named.

The prohibition applies if:

(1) The privately owned generation facility is co-located on or adjacent to the industrial customer, has an electrically equivalent point of grid interconnection to the customer, and has received approval from the Nebraska Power Review Board;

(2) The privately owned electric supplier and consumer-owned utility providing retail electric service within the service area of the industrial customer, and where applicable, the consumer-owned wholesale power supplier responsible for a regional transmission organization's resource adequacy requirements for the consumer-owned retail utility, and the applicable transmission owner for the relevant service area, have executed a long-term power purchase agreement, lease, joint venture, or other commercial contractual structure that (a) preserves the exclusive right of the consumer-owned utility to serve retail customers in the relevant service area and, where applicable, the contractual right of the consumer-owned wholesale power supplier to supply the consumer-owned retail utility, (b) provides commercial benefits acceptable to the consumer-owned utility or utilities, (c) prohibits resale of electricity by the industrial customer, and (d) includes a contractual waiver of the authority to exercise eminent domain to acquire the subject generation assets for the duration of the contract;

(3) The industrial customer pays all costs, fees, and upgrade costs incurred by the consumer-owned utility for the project and the privately owned generation facility; and

(4) The privately owned electric generation facility shall only be used to serve the industrial customer, unless that requirement is waived by the consumer-owned utility or utilities with which the industrial customer has contracted.

The new requirements of LB1261 apply to applicable contracts entered into on or before December 31, 2031.

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**Explanation of amendments:**

The committee adopted AM2086 which strikes the word "projected" from line 2 on page 3 of the bill. As amended, when the specific conditions are met, a consumer-owned utility is prohibited from exercising the power of eminent domain to acquire an electric generation facility that is constructed to provide electricity to an industrial customer with an actual new electric load greater than 1,000 MW.

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Tom Brandt, Chairperson

