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ENGROSSED LEGISLATIVE BILL 1010

Introduced by Brandt, 32.

A BILL FOR AN ACT relating to electricity; to amend sections 70-670 and 70-1012.01, Reissue Revised Statutes of Nebraska, sections 70-704, 77-6202, and 77-6203, Revised Statutes Cumulative Supplement, 2024, and sections 13-518, 70-1001.01, 70-1012, 70-1015, 70-1506, 77-202, and 77-6204, Revised Statutes Supplement, 2025; to adopt the Large Load Customer Regulation Act; to change provisions relating to restricted funds; to provide for eminent domain relating to energy storage; to provide for storage of electric energy under the Electric Cooperative Corporation Act; to define and redefine terms; to change application, notice, filing, exemption, and violation provisions, and provide for certain energy storage resources relating to certain electric suppliers; to change provisions relating to cryptocurrency mining operations and data centers; to provide requirements relating to data centers; to provide for a nameplate capacity tax for energy storage resources; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 4 of this act shall be known and may be cited as the Large Load Customer Regulation Act.

Sec. 2. For purposes of the Large Load Customer Regulation Act:

(1) Large load customer means a retail load customer requesting a new or expanded interconnection where the total load at a single site would exceed twenty megawatts;

(2) Onsite backup generating facilities means (a) generation of one megawatt or larger that is not capable of operating in parallel with the grid for greater than one-tenth of a second or (b) 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;

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and

(3) Public power supplier means a public power district organized under Chapter 70, article 6, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, a joint entity formed under the Interlocal Cooperation Act, a joint public agency formed under the Joint Public Agency Act, an agency formed under the Municipal Cooperative Financing Act, or any other governmental entity providing electric service.

Sec. 3. (1) Public power suppliers shall establish standards for interconnecting large load customers in a manner designed to support business development in this state while mitigating the potential for stranded infrastructure costs and maintaining system reliability. The standards shall include, but are not limited to:

(a) A requirement for each large load customer to disclose to the interconnecting public power supplier whether the customer is pursuing a substantially similar request for electric service the approval of which would result in the customer materially changing, delaying, or withdrawing the interconnection request. The disclosure may redact competitively sensitive details. The public power supplier shall not sell, share, or disclose the information submitted to it under this subdivision;

(b) A requirement for each interconnected large load customer to disclose to the interconnecting public power supplier information about the customer's onsite backup generating facilities. The public power supplier shall use such information for purposes of the procedure described in section 4 of this act;

(c) A study fee of fifty thousand dollars or one thousand dollars per megawatt, whichever is greater, to be paid to the interconnecting public power supplier for initial studies for loads that exceed the load threshold described in subdivision (1) of section 2 of this act. A large load customer that requests additional capacity following the study shall pay an additional study fee based on the new request. The public power supplier shall complete the study within one year after receiving the study fee;

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(d) A method for a large load 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 a large load customer.

(2) A public power supplier is authorized to establish or negotiate rates, charges, and operating standards for each large load customer that fairly allocate electricity system costs to the large load customer and also mitigate (a) operational and resource adequacy risks and (b) financial risks to other customers, without regard to the requirements of section 70-655.

(3) A public power supplier may impose electric service requirements for large load customers on its system in addition to the standards established under this section.

Sec. 4. Public power suppliers shall develop a procedure to:

(1) Procure demand response, reductions, and load flexibility from large load customers; and

(2) In the event of grid instability or an emergency condition, require the affected large load customers to curtail load or, for those customers with onsite backup generating facilities, to deploy such facilities for the duration of the grid instability or emergency condition or until the load can be recalled safely.

Sec. 5. Section 13-518, Revised Statutes Supplement, 2025, is amended to read:

13-518 For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, (iii) any increase in valuation due to annexation of real property by the governmental unit, (iv) a change in the use of real property, (v) any increase in personal property valuation over the prior year,

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and (vi) the accumulated excess valuation over the redevelopment project valuation described in section 18-2147 of the Community Development Law for redevelopment projects within the governmental unit in the year immediately after the division of taxes for such redevelopment project has ended and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503, except that for fiscal years beginning on or after July 1, 2025, such term shall not include the governing body of any county, city, or village;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443, except that such term shall not include (a) sanitary and improvement districts which have been in existence for five years or less, (b) school districts, or (c) for fiscal years beginning on or after July 1, 2025, counties, cities, or villages;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from

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restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776. Funds received pursuant to the nameplate capacity tax levied under section 77-6203 for the first five years after a renewable energy generation facility or energy storage resource has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523 and reimbursement provided pursuant to section 77-1239;

(b) For municipalities, state aid to municipalities paid pursuant to sections 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 60-3,184 to 60-3,190, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid pursuant to the Community College Aid Act;

(e) For educational service units, state aid appropriated under sections 79-1241.01 and 79-1241.03; and

(f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Sec. 6. Section 70-670, Reissue Revised Statutes of Nebraska, is amended to read:

70-670 (1) In addition to any other rights and powers conferred upon any district organized under or subject to Chapter 70, article 6, each such district shall have and exercise the power of eminent domain to acquire from any person, firm, association, or private corporation any and all property owned, used, or operated, or useful for operation, in the generation,

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transmission, storage, or distribution of electrical energy, including an existing electric utility system or any part thereof. The procedure to condemn property shall be exercised in the manner set forth in Chapter 76, article 7.

(2) In the case of the acquisition through the exercise of the power of eminent domain of an existing electric utility system or part thereof, the Attorney General shall, upon request of any district, represent such district in the institution and prosecution of condemnation proceedings. After acquisition of an existing electric utility system through the exercise of the power of eminent domain, the district shall reimburse the state for all costs and expenses incurred in the condemnation proceedings by the Attorney General.

(3) A district may agree to limit its exercise of the power of eminent domain to acquire a project which is a renewable energy generation facility producing electricity with wind and any related facilities.

(4) No property owned, used, or operated as part of a privately developed renewable energy generation facility meeting the requirements of section 70-1014.02 shall be subject to eminent domain by any consumer-owned electric supplier operating in the State of Nebraska.

Sec. 7. Section 70-704, Revised Statutes Cumulative Supplement, 2024, is amended to read:

70-704 Each corporation shall have power: (1) To sue and be sued, complain, and defend, in its corporate name; (2) to have perpetual succession unless a limited period of duration is stated in its articles of incorporation; (3) to adopt a corporate seal, which may be altered at pleasure, and to use it or a facsimile thereof, as required by law; (4) to generate, manufacture, purchase, acquire, and accumulate electric energy and to store, transmit, distribute, sell, furnish, and dispose of such electric energy; (5) to acquire, own, hold, use, exercise and, to the extent permitted by law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges, licenses, rights-of-way, and easements necessary, useful, or appropriate; (6) to purchase, receive, lease as lessee, or in any other manner acquire, own, hold, maintain, sell, exchange, and use any and all real and

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personal property or any interest therein for the purposes expressed herein; (7) to borrow money and otherwise contract indebtedness, to issue its obligations therefor, and to secure the payment thereof by mortgage, pledge, or deed of trust of all or any of its property, assets, franchises, revenue, or income; (8) to sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property and assets; (9) to have the same powers now exercised by law by public light and power districts or private corporations to use any of the streets, highways, or public lands of the state or its political subdivisions in the manner provided by law; (10) to have and exercise the power of eminent domain for the purposes expressed in section 70-703 in the manner set forth in sections 76-704 to 76-724 and to have the powers and be subject to the restrictions of electric light and power corporations and districts as regards the use and occupation of public highways and the manner or method of construction and physical operation of plants, systems, and transmission lines; (11) to accept gifts or grants of money, services, or property, real or personal; (12) to make any and all contracts necessary or convenient for the exercise of the powers granted herein; (13) to fix, regulate, and collect rates, fees, rents, or other charges for electric energy furnished by the corporation; (14) to elect or appoint officers, agents, and employees of the corporation and to define their duties and fix their compensation; (15) to make and alter bylaws not inconsistent with the articles of incorporation or with the laws of this state for the administration and regulation of the affairs of the corporation; (16) to sell, lease, or license its dark fiber pursuant to sections 86-574 to 86-578; and (17) to do and perform, either for itself or its members or for any other corporation organized under the Electric Cooperative Corporation Act or for the members thereof, any and all acts and things and to have and exercise any and all powers as may be necessary, convenient, or appropriate to effectuate the purpose for which the corporation is organized. Notwithstanding any law, ordinance, resolution, or regulation of any political subdivision to the contrary, each corporation may receive funds and extend loans pursuant to the

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Nebraska Investment Finance Authority Act.

Sec. 8. Section 70-1001.01, Revised Statutes Supplement, 2025, is amended to read:

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

(1) Associated energy storage resource means any energy storage resource that:

(a) Is located on the premises of a privately developed renewable energy generation facility;

(b) Has the primary purpose of storing the electric energy produced at such facility; and

(c) Has a maximum limit of electricity output that, aggregated with a co-located generation facility, is collectively limited to the nameplate capacity of such generation facility;

(2) Board means the Nebraska Power Review Board;

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

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

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

(6) Direct-current, fast-charging station operator means a person, partnership, corporation, or other business entity that operates a direct-

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current, fast-charging station open to the public. The term does not include an electric supplier or a political subdivision;

(7) Electric supplier or supplier of electricity means any legal entity supplying, producing, storing, or distributing electricity within the state for sale at wholesale or retail. Electric supplier does not include a commercial electric vehicle charging station operator that is a private person or privately owned partnership, privately owned corporation, or other privately owned business;

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

(9) Energy storage resource means a facility that is capable of receiving electric energy from the electrical grid, or from a generation source with which such facility is associated, and capable of storing such energy for later injection into the electrical grid. Energy storage resource does not include any device or equipment that is intended solely to inject or absorb reactive power, including any capacitor or synchronous condenser, or any equipment that is intended solely to provide electric energy for electric vehicles;

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

(11) Military installation means:

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

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

(12) Plug-in hybrid electric vehicle has the same meaning as in section 60-345.01;

(13) Private electric supplier means an electric supplier that produces or

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stores electricity from a privately developed renewable energy generation facility or energy storage resource that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof. A private electric supplier is limited to the development of energy storage resources and privately developed renewable energy generation facilities;

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

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

(16) Reliable or reliability means the ability of an electric supplier to supply the aggregate electric power and energy requirements of its electricity consumers in Nebraska at all times under normal operating conditions, taking into account scheduled and unscheduled outages, including sudden disturbances or unanticipated loss of system components that are to be reasonably expected

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for any electric utility following prudent utility practices, recognizing certain weather conditions and other contingencies may cause outages at the distribution, transmission, and generation level;

(17) Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant accredited capacity of at least ninety percent of the total electric generation plant accredited capacity constructed and in operation within the state;

(18) State means the State of Nebraska; and

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

Sec. 9. Section 70-1012, Revised Statutes Supplement, 2025, is amended to read:

70-1012 (1) Before any electric generation facilities, any energy storage resources, or any transmission lines or related facilities carrying more than seven hundred volts are constructed or acquired by any supplier, an application, filed with the board and containing such information as the board shall prescribe, shall be approved by the board, except that such approval shall not be required (a) for the construction or acquisition of a transmission line extension or related facilities within a supplier's own service area or for the construction or acquisition of a line not exceeding one-half mile outside its own service area when all owners of electric lines located within one-half mile of the extension consent thereto in writing and such consents are filed with the board, (b) for any generation facility when the board finds that (i) such facility is being constructed or acquired to replace a generating plant owned by an individual municipality or registered group of municipalities with a capacity not greater than that of the plant being replaced, (ii) such

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facility will generate less than twenty-five thousand kilowatts of electric energy at rated capacity, and (iii) the applicant will not use the plant or transmission capacity to supply wholesale power to customers outside the applicant's existing retail service area or chartered territory, (c) for acquisition of transmission lines or related facilities, within the state, carrying one hundred fifteen thousand volts or less, if the current owner of the transmission lines or related facilities notifies the board of the lines or facilities involved in the transaction and the parties to the transaction, or (d) for the construction of a qualified facility as defined in section 70-2002.

(2)(a) Before any electric supplier commences construction of or acquires an electric generation facility, energy storage resource, or transmission lines or related facilities carrying more than seven hundred volts that will be or are located within a ten-mile radius of a military installation, the owner of such facility, resource, transmission lines, or related facilities shall provide written notice certifying to the board that such facility, resource, or facilities contain no electronic-related equipment or electronic-related components manufactured by any foreign adversary.

(b) Any electric supplier that supplies, produces, stores, or distributes electricity within the state for sale at retail is exempt from subdivision (a) of this subsection if it is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation. To receive such exemption, the electric supplier shall submit written notice to the board certifying that it is in such compliance. The electric supplier shall also submit written notice to the board at any time such supplier is no longer in such compliance.

(3)(a) Before any electric supplier that is not exempt from subdivision (2)(a) of this section commences construction of or acquires an electric generation facility or transmission lines or related facilities carrying more than seven hundred volts that will be or are located within a ten-mile radius of a military installation, the electric supplier shall, following consultation with such supplier's vendors, submit a one-time written notice to the board

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certifying that such facility or facilities continually contain no electronic-related equipment or electronic-related components manufactured by any foreign adversary.

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

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

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

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

(5) Before any private electric supplier commences construction or acquires an energy storage resource or related facilities, the owners of such resource or proposed resource shall file an application with the board that contains the information prescribed by the board and shall obtain approval of such application by the board. Such application shall include evidence that demonstrates to the board that:

(a) The private electric supplier has entered into or, prior to construction, will enter into a power purchase agreement or similar contractual agreement with a Nebraska public power district, public power and irrigation district, municipality, registered group of municipalities, electric cooperative, or electric membership association, any other governmental entity, or any combination thereof for purchase of all electric energy and electric capacity of such resource and will maintain a contractual relationship throughout the operational life of the resource;

(b) The private electric supplier has obtained written consent from each

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electric supplier that will have any part of the energy storage resource located in its chartered territory or retail service area and any other electric supplier that will be interconnected with the private electric supplier at a substation or switchyard that contains facilities rated at one hundred kilovolts or greater. Any written consent that is required under this subdivision shall be provided on a form that is prescribed by the board. Such written consent shall be filed with the board with the application; and

(c) 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 energy storage resource. The agreement shall address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the energy storage resource. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or any other directive of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission. The terms of such agreement shall be consistent with prudent electric utility practices for the interconnection of the energy storage resource, the consumer-owned electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The consumer-owned electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier that owns the energy storage resource shall have the right to construct any necessary facility or improvement set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(6) Nothing in this section shall be construed to limit the authority of or require an electric supplier that is operating in this state to enter into a joint agreement with a private electric supplier to develop, construct, or jointly own a generation facility or energy storage resource.

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(7) Nothing in this section shall be construed to authorize a private electric supplier to:

(a) Sell or deliver electricity at retail in Nebraska;

(b) Own or operate distribution facilities intended to provide retail electric service in this state; or

(c) Have or use the power of eminent domain in this state.

(8) An energy storage resource that is not an associated energy resource and has been approved by the board shall be exempt from the use of eminent domain by any electric supplier.

(9) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Sec. 10. Section 70-1012.01, Reissue Revised Statutes of Nebraska, is amended to read:

70-1012.01 (1) If a supplier terminates construction or acquisition of electric generation or transmission facilities or energy storage resources after receiving approval for the facilities or resources from the board, the supplier shall file with the board, within thirty days after the action taken to terminate construction or acquisition, a statement of the factors or reasons relied upon by the supplier in taking such action. Within ten days after receipt of such a filing, the board shall give notice of the filing to such other suppliers as it deems interested or affected by such action and it shall hold a hearing for the purpose of obtaining such additional information as the board deems advisable or necessary to inform other suppliers and the public of the reasons for such termination. Notice of any such hearing shall be given to those suppliers previously given notice of the filing and to any other parties expressing interest in the approved application.

(2) The board shall not have authority to approve or deny the action of a supplier terminating construction or acquisition, and any such filing or hearing shall be advisory and solely for the purpose of informing the board, other suppliers, interested parties, and the ratepayers of this state of the factors or reasons relied upon in taking action to terminate construction or

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acquisition.

(3) Nothing in this section shall constitute or be construed as a defense to any cause of action, including a claim for breach of contract, resulting from such termination.

(4) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Sec. 11. Section 70-1015, Revised Statutes Supplement, 2025, is amended to read:

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

(2) If the executive director of the board determines that a private electric supplier commenced construction of a privately developed renewable energy generation facility less than thirty days prior to providing the notice and certification required in subdivisions (2)(a) and (b) of section 70-1014.02, the executive director shall send notice via certified mail to the private electric supplier, informing it of the determination that the private electric supplier is in violation of such subdivisions and is subject to a fine in the amount of five hundred dollars. The private electric supplier shall have twenty days from the date on which the notice is received in which to submit the notice and certification described in such subdivisions and to pay the fine. Within ten days after the private electric supplier submits a notice and certification compliant with subsection (2) of section 70-1014.02 and payment of the fine, the executive director of the board shall issue the written acknowledgment described in subsection (3) of section 70-1014.02. If the

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private electric supplier fails to submit a notice and certification compliant with subsection (2) of section 70-1014.02 and pay the fine within twenty days after the date on which the private electric supplier receives the notice from the executive director of the board, the private electric supplier shall immediately cease construction or operation of the privately developed renewable energy generation facility and any associated energy storage resource.

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

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

(5) The board shall issue a written decision within sixty days after conclusion of the hearing. All costs of the hearing shall be paid by the private electric supplier if (a) the board determines that the private electric

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supplier commenced construction of the privately developed renewable energy generation facility and any associated energy storage resource less than thirty days prior to submitting the written notice and certification required pursuant to subsection (2) of section 70-1014.02 or (b) the private electric supplier withdraws its request for hearing prior to the board issuing its decision.

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

Sec. 12. Section 70-1506, Revised Statutes Supplement, 2025, is amended to read:

70-1506 (1) For purposes of this section:

(a) Cryptocurrency mining means validating transactions for addition to a blockchain distributed ledger;

(b) Cryptocurrency mining operation means any facility of one megawatt in size or greater that conducts cryptocurrency mining;

(c) Data center means a facility:

(i) The primary services of which are the storage, management, and processing of digital data;

(ii) That is used to house computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications systems, data storage systems, 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

(iii) That has a peak electricity demand of ten megawatts or more; and

(d) Public power supplier means a public power district, municipal electric utility, or any other government entity providing electric service.

(2) A public power supplier may impose requirements on any cryptocurrency

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mining operation or data center for the cost of infrastructure upgrades necessitated by such operation or center, including, but not limited to:

(a) Requiring direct payment or a letter of credit from such operation or center for such cost; or

(b) Imposing terms and conditions on such operation or center that require the operation or center to pay the full cost of providing electric service and ensure no cost is passed on to other retail customers.

(3) Requirements imposed pursuant to this section shall be fair, reasonable, and not unduly discriminatory.

(4) Before any requirement is imposed pursuant to this section, the public power supplier shall conduct a load study to determine the costs, impacts, and infrastructure upgrades necessitated by the cryptocurrency mining operation or data center.

(5) Any person intending to install a cryptocurrency mining operation or data center is responsible for notifying the local public power supplier of such intent, and such operation or center is subject to the interconnection requirements of such supplier.

(6) The owner or operator of a data center shall submit an annual report to the Department of Water, Energy, and Environment and the Natural Resources Committee of the Legislature on or before September 30 of each year that includes the following:

(a) The name of the data center;

(b) The names of the developers and owners of the data center;

(c) The physical size of the data center in square feet;

(d) The location of the data center, including street address and county;

(e) The annual electricity demand of the data center;

(f) The annual water usage of the data center;

(g) The sales and use tax exemptions the data center utilizes or expects to utilize;

(h) Any incentive payments for the data center under the ImagiNE Nebraska Act and the Nebraska Advantage Act;

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(i) All energy efficiency, load management, and conservation measures implemented by the data center;

(j) All commitments by the data center to use renewable energy; and

(k) The service life of the data center.

(7) The owner or operator of a data center shall:

(a) Bear all decommissioning costs of such data center; and

(b) Enter into a community benefit agreement with communities affected by the data center.

(8) Each public power supplier shall make available to the public on the supplier's website the number of cryptocurrency mining operations under the jurisdiction of the supplier and the annual energy usage of each operation.

(9) A cryptocurrency mining operation shall allow a public power supplier to interrupt such operation's electric service according to such supplier's established rate schedules and policies.

Sec. 13. Section 77-202, Revised Statutes Supplement, 2025, is amended to read:

77-202 (1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision:

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder. If the property to be beneficially owned by a governmental subdivision has a total acquisition cost that exceeds the threshold amount or will be used as the site of a public building with a total estimated construction cost that exceeds the threshold amount, then such property shall qualify for an exemption under this section only if the question

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of acquiring such property or constructing such public building has been submitted at a primary, general, or special election held within the governmental subdivision and has been approved by the voters of the governmental subdivision. For purposes of this subdivision, threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental subdivision that will beneficially own the property as of the end of the governmental subdivision's prior fiscal year; and

(ii) Public purpose means use of the property (A) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (B) to carry out the duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing of property to a private party unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose;

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or

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resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

(c) Property owned by and used exclusively for agricultural and horticultural societies;

(d)(i) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (A) owned or used for financial gain or profit to either the owner or user, (B) used for the sale of alcoholic liquors for more than twenty hours per week, or (C) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin.

(ii) For purposes of subdivision (1)(d) of this section:

(A) Educational organization means (I) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education, (II) a museum or historical society operated exclusively for the benefit and education of the public, or (III) a nonprofit organization that owns or operates a child care facility; and

(B) Charitable organization includes (I) an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons and (II) a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109.

(iii) The property tax exemption authorized in subdivision (1)(d)(i) of this section shall apply to any for-profit skilled nursing facility, for-profit nursing facility, or for-profit assisted-living facility that provides housing for medicaid beneficiaries, except that the exemption amount for such property

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shall be a percentage of the property taxes that would otherwise be due. Such percentage shall be equal to the average percentage of occupied beds in the facility provided to medicaid beneficiaries over the most recent three-year period. This subdivision shall not be construed to modify, limit, or reduce any property tax exemption provided to a nonprofit skilled nursing facility, nonprofit nursing facility, or nonprofit assisted-living facility pursuant to subdivision (1)(d)(i) of this section. For purposes of this subdivision, skilled nursing facility has the same meaning as in section 71-429, nursing facility has the same meaning as in section 71-424, and assisted-living facility has the same meaning as in section 71-5903.

(iv) The property tax exemption authorized in subdivision (1)(d)(i) of this section shall apply to a building that (A) is owned by a charitable organization, (B) is made available to students in attendance at an educational institution, and (C) is recognized by such educational institution as approved student housing, except that the exemption shall only apply to the commons area of such building, including any common rooms and cooking and eating facilities;

(e) Household goods and personal effects not owned or used for financial gain or profit to either the owner or user; and

(f) A portion of the property owned by a taxpayer as provided in the Recreational Trail Easement Property Tax Exemption Act.

(2) The increased value of land by reason of shade and ornamental trees planted along the highway shall not be taken into account in the valuation of land.

(3) Tangible personal property which is not depreciable tangible personal property as defined in section 77-119 shall be exempt from property tax.

(4) Motor vehicles, trailers, and semitrailers required to be registered for operation on the highways of this state shall be exempt from payment of property taxes.

(5) Business and agricultural inventory shall be exempt from the personal property tax. For purposes of this subsection, business inventory includes personal property owned for purposes of leasing or renting such property to

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others for financial gain only if the personal property is of a type which in the ordinary course of business is leased or rented thirty days or less and may be returned at the option of the lessee or renter at any time and the personal property is of a type which would be considered household goods or personal effects if owned by an individual. All other personal property owned for purposes of leasing or renting such property to others for financial gain shall not be considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of section 77-4105 or section 77-5209.02 shall be exempt from the personal property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage Act or the ImagiNE Nebraska Act shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property. Any depreciable tangible personal property used directly in the generation of electricity using solar, biomass, or landfill gas as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property if such depreciable tangible personal property was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more. Depreciable tangible personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, solar panels, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

(10) Any depreciable tangible personal property used in the storage of electricity by an energy storage resource subject to the nameplate capacity tax levied under section 77-6203 shall be exempt from the property tax levied on depreciable tangible personal property.

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(11) Any tangible personal property that is acquired by a person operating a data center located in this state, that is assembled, engineered, processed, fabricated, manufactured into, attached to, or incorporated into other tangible personal property, both in component form or that of an assembled product, for the purpose of subsequent use at a physical location outside this state by the person operating a data center shall be exempt from the personal property tax. Such exemption extends to keeping, retaining, or exercising any right or power over tangible personal property in this state for the purpose of subsequently transporting it outside this state for use thereafter outside this state. For purposes of this subsection, data center means computers, supporting equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information, environmentally controlled structures or facilities or interrelated structures or facilities that provide the infrastructure for housing the equipment, such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression, and any building housing the foregoing.

(12) For tax years prior to tax year 2020, each person who owns property required to be reported to the county assessor under section 77-1201 shall be allowed an exemption amount as provided in the Personal Property Tax Relief Act. For tax years prior to tax year 2020, each person who owns property required to be valued by the state as provided in section 77-601, 77-682, 77-801, or 77-1248 shall be allowed a compensating exemption factor as provided in the Personal Property Tax Relief Act.

(13)(a) Broadband equipment shall be exempt from the personal property tax if such broadband equipment is:

(i) Deployed in an area funded in whole or in part by funds from the Broadband Equity, Access, and Deployment Program, authorized by the federal Infrastructure Investment and Jobs Act, Public Law 117-58; or

(ii) Deployed in a qualified census tract located within the corporate limits of a city of the metropolitan class and being utilized to provide end-

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users with access to the Internet at speeds of at least one hundred megabits per second for downloading and at least one hundred megabits per second for uploading.

(b) An owner of broadband equipment seeking an exemption under this section shall apply for an exemption to the county assessor on or before December 31 of the year preceding the year for which the exemption is to begin. If the broadband equipment meets the criteria described in this subsection, the county assessor shall approve the application within thirty calendar days after receiving the application. The application shall be on forms prescribed by the Tax Commissioner.

(c) For purposes of this subsection:

(i) Broadband communications service means telecommunications service as defined in section 86-121, video programming as defined in 47 U.S.C. 522, as such section existed on January 1, 2024, or Internet access as defined in section 1104 of the federal Internet Tax Freedom Act, Public Law 105-277;

(ii) Broadband equipment means machinery or equipment used to provide broadband communications service and includes, but is not limited to, wires, cables, fiber, conduits, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, circuit cards, insulating and protective materials and cases, power equipment, backup power equipment, diagnostic equipment, storage devices, modems, and other general central office or headend equipment, such as channel cards, frames, and cabinets, or equipment used in successor technologies, including items used to monitor, test, maintain, enable, or facilitate qualifying equipment, machinery, software, ancillary components, appurtenances, accessories, or other infrastructure that is used in whole or in part to provide broadband communications service. Machinery or equipment used to produce broadband communications service does not include personal consumer electronics, including, but not limited to, smartphones, computers, and tablets; and

(iii) Qualified census tract means a qualified census tract as defined in

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26 U.S.C. 42(d)(5)(B)(ii)(I), as such section existed on January 1, 2024.

Sec. 14. Section 77-6202, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6202 For purposes of sections 77-6201 to 77-6204:

(1) Commissioned means the renewable energy generation facility or energy storage resource has been in commercial operation for at least twenty-four hours. A renewable energy generation facility is not in commercial operation unless the renewable energy generation facility is connected to the electrical grid or to the end user if the renewable energy generation facility is a customer-generator as defined in section 70-2002;

(2) Energy storage resource has the same meaning as in section 70-1001.01;

(3) Nameplate capacity means the capacity of (a) a renewable energy generation facility to generate electricity as measured in megawatts, including fractions of a megawatt, or (b) an energy storage resource to store electricity as measured in megawatts, including fractions of a megawatt. Nameplate capacity shall be determined based on the alternating current capacity of the facility or resource; and

(4) Renewable energy generation facility means (a) a facility that generates electricity using wind as the fuel source or (b) a facility that generates electricity using solar, biomass, or landfill gas as the fuel source if such facility was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more.

Sec. 15. Section 77-6203, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6203 (1)(a) The owner of a renewable energy generation facility annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned renewable energy generation facility multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

(b) The owner of an energy storage resource with a nameplate capacity of one hundred kilowatts or more annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned energy storage resource

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multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

(2) No tax shall be imposed on a renewable energy generation facility or energy storage resource:

(a) Owned or operated by the federal government, the State of Nebraska, a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative; or

(b) That is a customer-generator as defined in section 70-2002.

(3) No tax levied pursuant to this section shall be construed to constitute restricted funds as defined in section 13-518 for the first five years after the renewable energy generation facility or energy storage resource is commissioned.

(4) The presence of one or more renewable energy generation facilities, energy storage resources subject to the nameplate capacity tax, or supporting infrastructure shall not be a factor in the assessment, determination of actual value, or classification under section 77-201 of the real property underlying or adjacent to such facilities, resources, or infrastructure.

(5)(a) The Department of Revenue shall collect the tax due under this section.

(b) The tax shall be imposed beginning the first calendar year the renewable energy generation facility is commissioned or the first calendar year the energy storage resource has a nameplate capacity of one hundred kilowatts or more. A renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, shall be subject to the tax levied pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The amount of property tax on depreciable tangible personal property previously paid on a renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, which is greater than the amount that would have been paid pursuant to sections 77-6201 to 77-6204 from the date of commissioning until January 1, 2010, shall be credited

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against any tax due under Chapter 77, and any amount so credited that is unused in any tax year shall be carried over to subsequent tax years until fully utilized.

(c)(i) The tax for the first calendar year shall be prorated based upon the number of days remaining in the calendar year after the renewable energy generation facility is commissioned or after the energy storage resource reaches nameplate capacity of one hundred kilowatts or more.

(ii) In the first year in which a renewable energy generation facility or energy storage resource is taxed or in any year in which additional commissioned nameplate capacity is added to a renewable energy generation facility or energy storage resource, the taxes on the initial or additional nameplate capacity shall be prorated for the number of days remaining in the calendar year.

(iii) When a renewable energy generation facility or energy storage resource is decommissioned or made nonoperational by a change in law during a tax year, the taxes shall be prorated for the number of days during which the renewable energy generation facility or energy storage resource was not decommissioned or was operational.

(iv) When the capacity of a renewable energy generation facility or energy storage resource to produce or store electricity is reduced but the renewable energy generation facility or energy storage resource is not decommissioned, the nameplate capacity of the renewable energy generation facility or energy storage resource is deemed to be unchanged.

(6)(a) On March 1 of each year, the owner of a renewable energy generation facility or an energy storage resource shall file with the Department of Revenue a report on the nameplate capacity of the facility or resource for the previous year from January 1 through December 31. All taxes shall be due on April 1 and shall be delinquent if not paid on a quarterly basis on April 1 and each quarter thereafter. Delinquent quarterly payments shall draw interest at the rate provided for in section 45-104.02, as such rate may from time to time be adjusted.

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(b) The owner of a renewable energy generation facility or energy storage resource is liable for the taxes under this section with respect to the facility or resource, whether or not the owner of the facility or resource is the owner of the land on which the facility or resource is situated.

(7) Failure to file a report required by subsection (6) of this section, filing such report late, failure to pay taxes due, or underpayment of such taxes shall result in a penalty of five percent of the amount due being imposed for each quarter the report is overdue or the payment is delinquent, except that the penalty shall not exceed ten thousand dollars.

(8) The Department of Revenue shall enforce the provisions of this section. The department may adopt and promulgate rules and regulations necessary for the implementation and enforcement of this section.

(9) The Department of Revenue shall separately identify the proceeds from the tax imposed by this section and shall pay all such proceeds over to the county treasurer of the county where the renewable energy generation facility or energy storage resource is located within thirty days after receipt of such proceeds.

Sec. 16. Section 77-6204, Revised Statutes Supplement, 2025, is amended to read:

77-6204 (1) The county treasurer shall distribute all revenue received from the Department of Revenue pursuant to section 77-6203 as follows:

(a) Five percent of such revenue shall be distributed to the community college area in which the renewable energy generation facility or energy storage resource is located; and

(b) The remainder of such revenue shall be distributed to local taxing entities which, but for such personal property tax exemption, would have received distribution of personal property tax revenue from depreciable personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source or used in the storage of electricity by an energy storage resource.

(2) A local taxing entity's status as eligible for distribution under

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subdivision (1)(b) of this section shall not be affected when and if (a) the net book value of personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source becomes zero or (b) the net book value of personal property used in the storage of electricity by an energy storage resource becomes zero.

(3) A local taxing entity's status as eligible for distribution under subdivision (1)(b) of this section shall be affected by (a) the disposal of all of the exempt depreciable personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source or (b) the disposal of all of the exempt depreciable personal property used in the storage of electricity by an energy storage resource.

(4) The distribution to each eligible local taxing entity under subdivision (1)(b) of this section shall be calculated by determining the amount of taxes that the eligible local taxing entity levied during the taxable year and dividing this amount by the total tax levied by all of the eligible local taxing entities during the year. Each eligible entity's resulting fraction shall then be multiplied by the amount of revenue available for distribution pursuant to subdivision (1)(b) of this section to determine the portion of such revenue due each local taxing entity.

(5) The Department of Revenue shall not retain any revenue collected pursuant to sections 77-6201 to 77-6204 for distribution, use, transfer, pledge, or allocation to or from the General Fund.

Sec. 17. Original sections 70-670 and 70-1012.01, Reissue Revised Statutes of Nebraska, sections 70-704, 77-6202, and 77-6203, Revised Statutes Cumulative Supplement, 2024, and sections 13-518, 70-1001.01, 70-1012, 70-1015, 70-1506, 77-202, and 77-6204, Revised Statutes Supplement, 2025, are repealed.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 1010 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the ..... day of ..... 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., ... o'clock .....M.

GOVERNOR