

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1186

Introduced by Cavanaugh, J., 9.

Read first time January 21, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to electricity; to amend section 77-6202,
2 Revised Statutes Cumulative Supplement, 2024, and section 77-6204,
3 Revised Statutes Supplement, 2025; to adopt the Affordable American
4 Energy and Jobs Act; to redefine a term and change distribution
5 provisions relating to the nameplate capacity tax; and to repeal the
6 original sections.

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

1 **Section 1.** Sections 1 to 7 of this act shall be known and may be
2 cited as the Affordable American Energy and Jobs Act.

3 **Sec. 2.** The Legislature finds and declares the following:

4 (1) Electric rates are rising rapidly across the United States due
5 to unprecedented demand for electricity;

6 (2) There is a need for energy generation resources which can be
7 quickly developed and can create jobs and economic benefits in local
8 communities;

9 (3) Affordable American energy can be quickly developed and can
10 provide jobs, tax revenues, and economic benefits across the state;

11 (4) Affordable American energy can provide the lowest cost energy
12 generation resources to the people of the state;

13 (5) Affordable American energy enhances our national security by
14 reducing reliance on foreign fossil fuels;

15 (6) Affordable American energy does not emit carbon dioxide or other
16 harmful substances that can contaminate our lifegiving and sustaining
17 natural resources; and

18 (7) Use of best practices which provide guidance to local governing
19 bodies on issues related to protecting wildlife habitat, bird migration
20 corridors, native prairies, cultural heritage sites, and prime
21 agricultural areas as well as dealing with economic and social impacts
22 can address challenges related to the development of affordable American
23 energy.

24 **Sec. 3.** For purposes of the Affordable American Energy and Jobs
25 Act:

26 (1) Affordable American energy means electric energy generated using
27 wind, solar, biomass, geothermal, hydropower, or battery energy storage
28 systems or other storage devices for later transmission, distribution, or
29 use;

30 (2) Battery energy storage system means a resource capable of
31 receiving electric energy from the electrical grid or from a generation

1 resource with which the system is associated and storing such electric
2 energy for injection into the electrical grid;

3 (3) Department means the Department of Water, Energy, and
4 Environment; and

5 (4) Private electric supplier has the same meaning as in section
6 70-1001.01.

7 **Sec. 4.** Before any affordable American energy project and facility
8 is constructed by any private electric supplier, such supplier shall
9 enter into a power purchase agreement or similar contractual agreement
10 with a Nebraska public power district, public power and irrigation
11 district, municipality, registered group of municipalities, electric
12 cooperative, electric membership association, any other governmental
13 entity, or any combination thereof, for purchase of all electric energy
14 and electric capacity of such project or facility and shall maintain a
15 contractual relationship for purchase of such energy and capacity
16 throughout the operational life of the project or facility. Privately
17 developed affordable American energy projects or facilities shall not be
18 subject to eminent domain by any Nebraska public power district or
19 similar entity that supplies electricity to the public in the state of
20 Nebraska.

21 **Sec. 5.** (1) The department shall develop a list of affordable
22 American energy best practices based on factual information and data for
23 siting affordable American energy projects, including, but not limited
24 to, standards or matrices that can be used by county boards and planning
25 and zoning officials.

26 (2) In developing the affordable American energy best practices, the
27 department shall seek assistance from the Game and Parks Commission, the
28 Department of Economic Development, representatives of Nebraska public
29 power districts, counties, health departments, energy developers,
30 agricultural producers, representatives of conservation organizations,
31 and others who have expertise in this area.

1 (3) The department shall also consider siting criteria developed in
2 other states to the extent such criteria provide examples of best
3 practices.

4 (4) Affordable American energy best practices shall include, but not
5 be limited to, the following:

6 (a) Appropriate setbacks for different types of affordable American
7 energy facilities which support the development of such facilities;

8 (b) Appropriate notices to neighboring residents and property
9 owners;

10 (c) Criteria for protecting wildlife habitat areas, bird migration
11 corridors, native prairies, or other environmentally sensitive areas;

12 (d) Criteria for protecting culturally sensitive areas;

13 (e) Criteria for protecting prime agricultural lands;

14 (f) Guidelines for community benefit agreements or other guidelines
15 which maximize job creation, with an emphasis on job creation for
16 Nebraska residents and union members, and economic benefit to local
17 communities and the state;

18 (g) Consideration of benefits to public power districts and their
19 customers;

20 (h) Other criteria which enable local officials to respond to valid
21 issues and concerns; and

22 (i) Expedited review processes for facilities which fail to meet
23 affordable American energy best practices.

24 (5) On or before October 15, 2026, the department shall publish a
25 preliminary list of affordable American energy best practices on the
26 department's website which shall be open to public comment for thirty
27 days. The department may hold one or more public hearings on such
28 preliminary list.

29 (6) On or before December 15, 2026, the department shall publish a
30 final list of affordable American energy best practices on the
31 department's website.

1 (7) The list of affordable American energy best practices shall not
2 be binding on any county board or local zoning authority.

3 (8) Any county which adopts the list of affordable American energy
4 best practices in its planning and zoning process shall be eligible to
5 receive additional revenue under the nameplate capacity tax.

6 (9) The department shall use existing staff and other resources of
7 the department to develop the list of affordable American energy best
8 practices.

9 **Sec. 6.** There is hereby created the Affordable American Energy Best
10 Practices Cash Fund. The fund shall be administered by the department.
11 The fund may receive gifts, bequests, grants, or other contributions or
12 donations from public or private entities. No General Funds shall be
13 transferred to the Affordable American Energy Best Practices Cash Fund.
14 The fund shall be used for educational purposes related to the Affordable
15 American Energy and Jobs Act and not as incentive payments related to any
16 application or project. Any money in the fund available for investment
17 shall be invested by the state investment officer pursuant to the
18 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
19 Act.

20 **Sec. 7.** The department may adopt and promulgate rules and
21 regulations to carry out the Affordable American Energy and Jobs Act.

22 **Sec. 8.** Section 77-6202, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 77-6202 For purposes of sections 77-6201 to 77-6204:

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

31 (2) Nameplate capacity means the capacity of a renewable energy

1 generation facility to generate electricity as measured in megawatts,
2 including fractions of a megawatt. Nameplate capacity shall be determined
3 based on the facility's alternating current capacity; and

4 (3) Renewable energy generation facility means (a) a facility that
5 generates electricity using wind as the fuel source, ~~or~~ (b) a facility
6 that generates electricity using solar, biomass, or landfill gas as the
7 fuel source if such facility was installed on or after January 1, 2016,
8 and has a nameplate capacity of one hundred kilowatts or more, or (c) a
9 battery energy storage system as defined in section 3 of this act.

10 **Sec. 9.** Section 77-6204, Revised Statutes Supplement, 2025, is
11 amended to read:

12 77-6204 (1) The county treasurer shall distribute all revenue
13 received from the Department of Revenue pursuant to section 77-6203 as
14 follows:

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

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

24 (2) A local taxing entity's status as eligible for distribution
25 under subdivision (1)(b) of this section shall not be affected when and
26 if the net book value of personal property used directly in the
27 generation of electricity using wind, solar, biomass, or landfill gas as
28 the fuel source becomes zero. A local taxing entity's status as eligible
29 for distribution under such subdivision shall be affected by the disposal
30 of all of the exempt depreciable personal property used directly in the
31 generation of electricity using wind, solar, biomass, or landfill gas as

1 the fuel source.

2 ~~(3)(a) (3)~~ The distribution to each eligible local taxing entity
3 under subdivision (1)(b) of this section shall be calculated by
4 determining the amount of taxes that the eligible local taxing entity
5 levied during the taxable year and dividing this amount by the total tax
6 levied by all of the eligible local taxing entities during the year.

7 (b)(i) After the resulting fraction has been determined for each
8 eligible local taxing entity, the revenue shall first be distributed to
9 all counties that are eligible local taxing entities and that have
10 adopted the list of affordable American energy best practices published
11 pursuant to subsection (6) of section 5 of this act by multiplying the
12 resulting fraction of each such county by one hundred fifty percent and
13 then multiplying the resulting amount by the amount of revenue available
14 for distribution pursuant to subdivision (1)(b) of this section to
15 determine the portion of such revenue due each such county.

16 (ii) The revenue distributed to a county under subdivision (3)(b)(i)
17 of this section may be used as follows:

18 (A) Fifty percent of the revenue shall be retained by the county and
19 used for property tax relief for taxpayers of the county; and

20 (B) Fifty percent of the revenue shall be distributed by the county
21 to all electric utilities that provide electric service in the county to
22 be used to reduce the electric bills of the customers of such utilities
23 through energy efficiency, demand side programs or projects, or other
24 similar programs as determined by each utility. The distribution under
25 this subdivision shall be allocated among the utilities on a pro rata
26 basis based on the number of residential customers served in the county
27 by each utility.

28 (c) After such distribution, the resulting fraction of each eligible
29 local taxing entity that is not a county that has adopted the list of
30 affordable American energy best practices ~~Each eligible entity's~~
31 ~~resulting fraction~~ shall then be multiplied by the remaining amount of

1 revenue available for distribution pursuant to subdivision (1)(b) of this
2 section to determine the portion of such revenue due each such ~~local~~
3 ~~taxing~~ entity.

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

7 **Sec. 10.** Original section 77-6202, Revised Statutes Cumulative
8 Supplement, 2024, and section 77-6204, Revised Statutes Supplement, 2025,
9 are repealed.