

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1261**

Introduced by DeKay, 40; at the request of the Governor; Holdcroft, 36;  
Meyer, F., 41.

Read first time January 27, 2026

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to electrical energy; to amend section 70-670,
- 2 Reissue Revised Statutes of Nebraska; to prohibit the use of eminent
- 3 domain to acquire certain privately owned electric generation
- 4 facilities; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 70-670, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           70-670 (1) In addition to any other rights and powers conferred upon  
4 any district organized under or subject to Chapter 70, article 6, each  
5 such district shall have and exercise the power of eminent domain to  
6 acquire from any person, firm, association, or private corporation any  
7 and all property owned, used, or operated, or useful for operation, in  
8 the generation, transmission, or distribution of electrical energy,  
9 including an existing electric utility system or any part thereof. The  
10 procedure to condemn property shall be exercised in the manner set forth  
11 in Chapter 76, article 7.

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

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

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

28           (5)(a) Notwithstanding any other provision of law to the contrary,  
29 no consumer-owned utility providing wholesale or retail electric service  
30 in Nebraska shall exercise the power of eminent domain to acquire a  
31 privately owned electric generation facility that is constructed to

1 provide electric service to an industrial customer at a single site with  
2 projected new electric load greater than one thousand megawatts, provided  
3 that:

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

8 (ii) The privately owned electric supplier and consumer-owned  
9 utility providing retail electric service within the service area of the  
10 industrial customer, and where applicable, the consumer-owned wholesale  
11 power supplier responsible for a regional transmission organization's  
12 resource adequacy requirements for the consumer-owned retail utility, and  
13 the applicable transmission owner for the relevant service area, have  
14 executed a long-term power purchase agreement, lease, joint venture, or  
15 other commercial contractual structure that (A) preserves the exclusive  
16 right of the consumer-owned utility to serve retail customers in the  
17 relevant service area and, where applicable, the contractual right of the  
18 consumer-owned wholesale power supplier to supply the consumer-owned  
19 retail utility, (B) provides commercial benefits acceptable to the  
20 consumer-owned utility or utilities, (C) prohibits resale of electricity  
21 by the industrial customer, and (D) includes a contractual waiver of the  
22 authority to exercise eminent domain to acquire the subject generation  
23 assets for the duration of the contract with the consumer-owned utility  
24 or utilities;

25 (iii) The industrial customer shall pay all costs, fees, congestion  
26 fees, and electric system upgrade costs of any kind incurred by any  
27 consumer-owned utility providing wholesale or retail electric service in  
28 Nebraska as a result of the industrial customer's project; and

29 (iv) The privately owned electric generation facility shall only be  
30 used to serve the industrial customer, unless waived by the consumer-  
31 owned utility or utilities with which the privately owned electric

1 generation facility has contracted under the provisions of this  
2 subsection.

3 (b) For purposes of this subsection, consumer-owned utility means a  
4 public power district, a public power and irrigation district, a  
5 municipality, a registered group of municipalities, an electric  
6 cooperative, an electric membership association, any other governmental  
7 entity, or any combination thereof.

8 (c) This subsection shall apply to contracts to serve new industrial  
9 loads entered into with consumer-owned utilities on or before December  
10 31, 2031.

11 **Sec. 2.** Original section 70-670, Reissue Revised Statutes of  
12 Nebraska, is repealed.