



SIERRA CLUB

NEBRASKA CHAPTER

To: Nebraska Chapter of the Sierra Club
From: James P. Cavanaugh
Date: April 18, 2019
RE: Nebraska 2019 Legislative Session, Week Ending April 18, 2019

WEEK IN REVIEW

Today, Thursday, April 18th is the 62nd day of the 90 day 2019 legislative session. This week the legislature stated full day floor debate. At noon today the legislature adjourned, for a four day Easter weekend, until Tuesday, April 23rd for the 63rd day.

LB155 ANTI by Senator Brewer to "Change eminent domain provisions that apply to privately developed renewable energy generation facilities" previously had stalled after three hours of debate. This week LB155 was taken up again, and extensive debate was renewed, but a compromise was crafted between Senators Pansing-Brooks and DeBoer and Senator Brewer. The wind energy industry supported the compromise. AM1380 was adopted on a vote of 37 yes and 1 no (Sen. Lowe; Hunt not voting); whereupon LB155 having been replaced by AM1380 was advanced to Select File on a vote of 40 yes (including Lowe) and 1 no (Sen. Hunt). AM1380 is attached.

Tuesday's agenda lists far more bills than can be accomplished, so Tuesday's agenda will be must of next week's agenda. On Tuesday's agenda in 17th place on Select File is our Ornate Box Turtle specialty licenses plate bill (originally LB691 PRO by Senator Cavanaugh but now merged into LB356 by Speaker Scheer. Also on Select File, in 16th place, is Senator Koleterman's LB23 PRO to amend the Property Assessed Clean Energy Act (that had been amended to match Sierra Club's priorities).

Two bills not exactly to Sierra Club's liking are on the Tuesday agenda in 10th place on Select File and in 25th place on General File. LB585 MONITOR by Senator Friesen to "Create the Renewable Fuel Infrastructure Program and provide for grants" is in 10th place. Senator Friesen's AM1419 does not make LB585 much more attractive to the Sierra Club. In 25th is LB700 PRO by Senator Bostelman to "provide for decommissioning and reclamation of a wind energy conservation system". AM1098 is a white copy amendment proposed by the Natural Resources Committee for LB700. AM1098 is more attractive to the Sierra Club (e.g., reclaim to condition before use; preserve local control) than the original LB700.

Also note that Senator Chamber's priority bill, LB44 to repeal the death penalty, appears on next week's General File agenda in 40th place. Traditionally, this topic is the subject of extensive debate.

ATTACHMENTS:

Tuesday, April 23, 2019 Agenda
compromise amendment AM1380 to LB155 on private wind power eminent domain

The latest issue of the Unicameral Update can be found at:

<http://update.legislature.ne.gov/>

To review the full text of bills, as well as committee hearing schedules, please look on the Unicameral website at: <http://www.nebraskalegislature.gov>. Fiscal notes can also be found there.

Please call or e-mail me at any time if you have any questions. My contact information is:

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Bills of Special Interest to Nebraska Chapter of the Sierra Club

Bill #	Position	Sen.	
LB 51	PRO	Vargas	Change license applications, prohibited acts, and franchise restrictions under the Motor Vehicle Industry Regulation Act
		1/31/2019	Hunt name added
		1/30/2019	Notice of hearing for February 26, 2019
		1/14/2019	Referred to Transportation and Telecommunications Committee
		1/10/2019	Date of introduction
LB155	ANTI	Brewer	Change eminent domain provisions that apply to privately developed renewable energy generation facilities
		4/17/2019	Advanced to Enrollment and Review Initial
		4/17/2019	Brewer AM1380 adopted
		4/16/2019	Brewer AM1380 filed
		3/19/2019	Clements priority bill
		2/27/2019	Pending
		2/27/2019	Failed to advance to Enrollment and Review Initial
		2/14/2019	Placed on General File
		2/6/2019	Brewer priority bill
		1/31/2019	Notice of hearing for February 07, 2019
		1/15/2019	Referred to Natural Resources Committee
		1/11/2019	Date of introduction
LB283	PRO		Pansing Brooks Provide for a climate change study
		2/4/2019	Hunt name added
		1/30/2019	Notice of hearing for February 11, 2019
		1/18/2019	Referred to Executive Board
		1/15/2019	Date of introduction
LB492	PRO	Wayne	Adopt the Regional Metropolitan Transit Authority Act
		4/18/2019	Urban Affairs AM628 filed
		4/18/2019	Placed on General File with AM628
		4/11/2019	Hunt name added
		3/19/2019	Urban Affairs priority bill
		1/25/2019	Notice of hearing for February 26, 2019
		1/24/2019	Referred to Urban Affairs Committee
		1/22/2019	Date of introduction

LB509 PRO McCollister Redefine the terms net metering and qualified facility and change powers and duties of a local distribution utility

3/5/2019 Notice of hearing for March 14, 2019
1/24/2019 Referred to Natural Resources Committee
1/22/2019 Date of introduction

LB678 PRO Vargas Create the Volkswagen Settlement Cash Fund and provide duties for the Department of Environmental Quality

3/4/2019 Notice of hearing for March 20, 2019
1/25/2019 Referred to Appropriations Committee
1/23/2019 Date of introduction

LB691 PRO Cavanaugh Provide for the Ornate Box Turtle Conservation license plates

NOTE: LB691 was amended into LB356 with other specialty license plates.

1/25/2019 Notice of hearing for February 05, 2019
1/25/2019 Referred to Transportation and Telecommunications Committee
1/23/2019 Date of introduction

LB704 PRO McCollister Provide for a request for proposals for renewable energy for state-owned buildings and a study regarding state vehicles

3/4/2019 Notice of hearing for March 15, 2019
1/25/2019 Referred to Government, Military and Veterans Affairs Committee
1/23/2019 Date of introduction

Bills of Interest to the Nebraska Chapter of the Sierra Club

Bill #	Position	Sen.	
LB 23	PRO	Kolterman	Change the Property Assessed Clean Energy Act
4/9/2019			Placed on Select File
4/8/2019			Advanced to Enrollment and Review Initial
4/8/2019			Urban Affairs AM795 adopted
3/20/2019			Urban Affairs AM795 filed
3/20/2019			Placed on General File with AM795
3/20/2019			Speaker priority bill
1/25/2019			Notice of hearing for February 05, 2019
1/14/2019			Referred to Urban Affairs Committee
1/10/2019			Date of introduction
LB 45	PRO	Chambers	Repeal the Black-Tailed Prairie Dog Management
Act			
2/21/2019			Notice of hearing for March 05, 2019
1/14/2019			Referred to Agriculture Committee
1/10/2019			Date of introduction
LB 46	PRO	Chambers	Eliminate provisions relating to the hunting of
mountain lions			
2/14/2019			Notice of hearing for February 21, 2019
1/14/2019			Referred to Natural Resources Committee
1/10/2019			Date of introduction
LB 51	PRO	Vargas	Change license applications, prohibited acts, and franchise
restrictions under the			Motor Vehicle Industry Regulation Act
1/31/2019			Hunt name added
1/30/2019			Notice of hearing for February 26, 2019
1/14/2019			Referred to Transportation and Telecommunications Committee
1/10/2019			Date of introduction
LB124	PRO	Crawford	Change provisions relating to jointly created
clean energy assessment districts under the			Property Assessed Clean Energy Act
3/21/2019			Approved by Governor on March 21, 2019
3/18/2019			Presented to Governor on March 15, 2019
3/15/2019			Passed on Final Reading with Emergency Clause 44-0-5
3/15/2019			President/Speaker signed
3/6/2019			Placed on Final Reading
3/1/2019			Crawford AM405 adopted
3/1/2019			Advanced to Enrollment and Review for Engrossment
2/22/2019			Crawford AM405 filed
2/21/2019			Placed on Select File

2/13/2019 Urban Affairs AM199 adopted
2/13/2019 Advanced to Enrollment and Review Initial
2/8/2019 Urban Affairs AM199 filed
2/8/2019 Placed on General File with AM199
1/25/2019 Notice of hearing for February 05, 2019
1/14/2019 Referred to Urban Affairs Committee
1/10/2019 Date of introduction

LB155 ANTI BrewerChange eminent domain provisions that apply to privately developed

renewable energy generation facilities
4/17/2019 Brewer AM1380 adopted
4/17/2019 Advanced to Enrollment and Review Initial
4/16/2019 Brewer AM1380 filed
3/19/2019 Clements priority bill
2/27/2019 Pending
2/27/2019 Failed to advance to Enrollment and Review Initial
2/14/2019 Placed on General File
2/6/2019 Brewer priority bill
1/31/2019 Notice of hearing for February 07, 2019
1/15/2019 Referred to Natural Resources Committee
1/11/2019 Date of introduction

LB157 PRO BrewerProvide for voluntary registration, duties for the Department of Agriculture, and a cause of action under the Nebraska Apiary Act

2/13/2019 Notice of hearing for February 26, 2019
1/15/2019 Referred to Agriculture Committee
1/11/2019 Date of introduction

LB243 MON Gragert Create the Healthy Soils Task Force

4/18/2019 Approved by Governor on April 17, 2019

4/11/2019 Presented to Governor on April 11, 2019
4/11/2019 President/Speaker signed
4/11/2019 Passed on Final Reading with Emergency Clause 43-0-6
4/11/2019 Chambers FA44 withdrawn
4/11/2019 Chambers FA44 filed
4/11/2019 Motion to return to Select File withdrawn
4/3/2019 Chambers MO47 failed
4/3/2019 Chambers MO47 Recommit to the Agriculture Committee filed
4/3/2019 Chambers MO48 Reconsider the vote to recommit to committee filed
4/3/2019 Chambers MO48 failed
4/3/2019 Gragert MO49 prevailed
4/3/2019 Placed on Final Reading

4/3/2019 Advanced to Enrollment and Review for Engrossment
4/3/2019 Gragert MO49 Invoke cloture filed
4/2/2019 Chambers AM1142 filed
4/2/2019 Hughes AM937 adopted
4/2/2019 Chair ruled AM1142 is not germane to bill
4/2/2019 Motion to overrule the Chair failed
4/2/2019 Chambers MO44 Indefinitely postpone filed
4/2/2019 Chambers MO44 failed
4/2/2019 Chambers MO46 Reconsider the vote to indefinitely postpone filed
4/2/2019 Chambers MO46 failed
4/2/2019 Enrollment and Review ER57 adopted
3/25/2019 Hughes AM937 filed
3/25/2019 Enrollment and Review ER57 filed
3/25/2019 Placed on Select File with ER57
3/21/2019 Advanced to Enrollment and Review Initial
3/21/2019 Gragert AM789 adopted
3/21/2019 Agriculture AM640 adopted
3/20/2019 Gragert AM789 filed
3/15/2019 Agriculture AM640 filed
3/15/2019 Placed on General File with AM640
3/15/2019 Gragert priority bill
1/22/2019 Notice of hearing for January 29, 2019
1/16/2019 Referred to Agriculture Committee
1/14/2019 Date of introduction

LB283 PRO Pansing Brooks Provide for a climate change study
2/4/2019 Hunt name added
1/30/2019 Notice of hearing for February 11, 2019
1/18/2019 Referred to Executive Board
1/15/2019 Date of introduction

LB285 PRO McCollister State intent to appropriate funds to the Nebraska
Power Review Board for a study and state public policy
3/5/2019 Notice of hearing for March 14, 2019
1/17/2019 Referred to Natural Resources Committee
1/15/2019 Date of introduction

LB302 ANTI Hughes Merge the State Energy Office with and rename
the Department of Environmental Quality
3/21/2019 Approved by Governor on March 21, 2019
3/18/2019 Presented to Governor on March 15, 2019
3/15/2019 Dispensing of reading at large approved
3/15/2019 Passed on Final Reading with Emergency Clause 45-0-4

3/15/2019 President/Speaker signed
2/27/2019 Placed on Final Reading
2/21/2019 Advanced to Enrollment and Review for Engrossment
2/13/2019 Placed on Select File
2/7/2019 Advanced to Enrollment and Review Initial
2/1/2019 Placed on General File
1/23/2019 Notice of hearing for January 30, 2019
1/17/2019 Referred to Natural Resources Committee
1/15/2019 Date of introduction

LB366 ANTI Bostelman Change registration fee for alternative fuel-powered motor vehicles

1/30/2019 Notice of hearing for February 26, 2019
1/18/2019 Referred to Transportation and Telecommunications Committee
1/16/2019 Date of introduction

LB368 ANTI Hughes Eliminate overappropriated river basins, subbasins, and reaches

2/13/2019 Notice of hearing for February 20, 2019
1/18/2019 Referred to Natural Resources Committee
1/16/2019 Date of introduction

LB373 ANTI Brewer Provide setback and zoning requirements for wind energy generation projects

3/5/2019 Brewer AM428 filed
1/24/2019 Notice of hearing for January 31, 2019
1/18/2019 Referred to Government, Military and Veterans Affairs Committee
1/16/2019 Date of introduction

LB401 PRO Quick Adopt the Midwest Interstate Passenger Rail Compact

1/30/2019 Notice of hearing for March 05, 2019
1/22/2019 Referred to Transportation and Telecommunications Committee
1/17/2019 Date of introduction

LB492 PRO Wayne Adopt the Regional Metropolitan Transit Authority Act

4/18/2019 Placed on General File with AM628

4/18/2019 Urban Affairs AM628 filed
4/11/2019 Hunt name added
3/19/2019 Urban Affairs priority bill
1/25/2019 Notice of hearing for February 26, 2019
1/24/2019 Referred to Urban Affairs Committee
1/22/2019 Date of introduction

LB509 PRO McCollister Redefine the terms net metering and qualified facility and change powers and duties of a local distribution utility

3/5/2019 Notice of hearing for March 14, 2019
1/24/2019 Referred to Natural Resources Committee
1/22/2019 Date of introduction

LB585 MON Friesen Create the Renewable Fuel Infrastructure Program, eliminate a sales tax exemption, and provide for grants

4/17/2019 Friesen AM1419 filed
4/15/2019 Enrollment and Review ER82 filed
4/15/2019 Placed on Select File with ER82
4/10/2019 Revenue AM953 adopted
4/10/2019 Friesen AM1257 filed
4/10/2019 Friesen AM1257 adopted
4/10/2019 Advanced to Enrollment and Review Initial
3/26/2019 Placed on General File with AM953
3/26/2019 Revenue AM953 filed
3/19/2019 Murman priority bill
3/6/2019 Notice of hearing for March 13, 2019
1/24/2019 Referred to Revenue Committee
1/22/2019 Date of introduction

LB606 MON Groene Provide for water augmentation projects and retention of water rights as prescribed

3/27/2019 Wayne MO42 Indefinitely postpone pursuant to Rule 6, Sec. 3(f) filed
3/26/2019 Wayne FA34 filed
3/19/2019 Groene priority bill
3/5/2019 Notice of hearing for March 13, 2019
1/25/2019 Referred to Natural Resources Committee
1/23/2019 Date of introduction

LB621 PRO Kolowski Change provisions relating to solar energy and wind energy, declare certain instruments void and unenforceable, and provide for a civil cause of action

2/5/2019 Notice of hearing for February 21, 2019
1/25/2019 Referred to Judiciary Committee
1/23/2019 Date of introduction

LB665 MON Friesen Authorize the use of electric foot scooters

1/30/2019 Notice of hearing for February 12, 2019
1/25/2019 Referred to Transportation and Telecommunications Committee
1/23/2019 Date of introduction

LB678 PRO Vargas Create the Volkswagen Settlement Cash Fund and provide duties for the

Department of Environmental Quality
3/4/2019 Notice of hearing for March 20, 2019
1/25/2019 Referred to Appropriations Committee
1/23/2019 Date of introduction

LB691 PRO Cavanaugh Provide for the Ornate Box Turtle Conservation license plates

1/25/2019 Referred to Transportation and Telecommunications Committee
1/25/2019 Notice of hearing for February 05, 2019
1/23/2019 Date of introduction

LB700 PRO Bostelman Provide for decommissioning and reclamation of a wind energy conversion system

4/5/2019 Natural Resources AM1098 filed
4/5/2019 Placed on General File with AM1098
3/27/2019 Wayne MO36 Indefinitely postpone pursuant to Rule 6, Sec. 3(f) filed
3/19/2019 Natural Resources priority bill
2/27/2019 Notice of hearing for March 06, 2019
1/25/2019 Referred to Natural Resources Committee
1/23/2019 Date of introduction

LB704 PRO McCollister Provide for a request for proposals for renewable energy for state-owned buildings and a study regarding state vehicles

3/4/2019 Notice of hearing for March 15, 2019
1/25/2019 Referred to Government, Military and Veterans Affairs Committee
1/23/2019 Date of introduction

LB729 PRO Walz Adopt the Soil Health Productivity Incentive Act

2/20/2019 Brandt name added
1/31/2019 Notice of hearing for February 19, 2019
1/25/2019 Referred to Agriculture Committee
1/23/2019 Date of introduction

NEBRASKA UNICAMERAL LEGISLATIVE AGENDA

Sixty-Third Day

*Tuesday, April 23, 2019
9:00 a.m.*

*One Hundred Sixth Legislature
First Session*

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- Prayer by the Chaplain
 - Call to Order - Roll Call
 - Corrections for the Journal
 - Messages, Reports, Announcements

SELECT FILE: 2019 COMMITTEE PRIORITY BILLS

- LB 177 (*Lindstrom*) Change a termination date for bonding authority of natural resources districts
- LB 428 (*Friesen*) Change certain tax provisions and redefine wages as prescribed under the Employment Security Law
- LB 31 (*Kolterman*) Provide for a work plan relating to a transfer of management of the retirement system operated under the Class V School Employees Retirement Act to the Nebraska Public Employees Retirement Systems and to require a report and provide duties
- LB 31A (*Kolterman*) Appropriation Bill
- LB 638 (*Stinner*) Change provisions relating to the transfer of excess General Fund net receipts to the Cash Reserve Fund

SELECT FILE: 2019 SENATOR PRIORITY BILLS

- LB 556 (*Howard*) Change provisions relating to prescriptions for controlled substances and the prescription drug monitoring program
- LB 556A (*Howard*) Appropriation Bill
- LB 252 (*Geist*) Provide a condition relating to advertisements by the state lottery
- LB 304 (*Crawford*) Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act
- LB 698 (*Bostelman*) Change load provisions and penalties for commercial motor vehicles and commercial trailers
- LB 616 (*Hilgers*) Provide an interest payment exception for certain state highway and bridge construction contracts
- LB 585 (*Friesen*) Create the Renewable Fuel Infrastructure Program and provide for grants
- LB 641 (*McDonnell*) Provide for grants for a 211 Information and Referral Network
- LB 663 (*Friesen*) Change provisions relating to Nebraska adjusted basis

SELECT FILE: 2019 SPEAKER PRIORITY BILLS

- LB 445 (*McDonnell*) Require cities and villages to provide annual reports relating to occupation taxes as prescribed
- LB 222 (*Albrecht*) Change the Volunteer Emergency Responders Incentive Act
- LB 180 (*Bolz*) Change program eligibility criteria under the Community College Gap Assistance Program Act
- LB 23 (*Kolterman*) Change the Property Assessed Clean Energy Act
- LB 356 (*Scheer*) Change certain license plate fee distributions, create new license plates, and provide for the discontinuance of certain plates as prescribed

- LB 6 (*Blood*) Change residency requirements for college tuition purposes for spouses or legal dependents of persons on active duty
- LB 524 (*Dorn*) Change provisions relating to annexations under the Nebraska Budget Act

SELECT FILE

- LB 405 (*Hunt*) Adopt updates to building and energy codes
- LB 130 (*DeBoer*) Adopt radon resistant new construction requirements
- LB 130A (*DeBoer*) Appropriation Bill

GENERAL FILE: 2019 COMMITTEE PRIORITY BILLS - "*Bostelman Division*"

- LB 600 (*Walz*) Change a time limit relating to the authority of the deputy public counsel for institutions
- LB 460 (*Health and Human Services Committee*) Change criminal background check provisions under the Children's Residential Facilities and Placing Licensure Act
- LB 460A (*Howard*) Appropriation Bill
- LB 184 (*Friesen*) Adopt the Small Wireless Facilities Deployment Act
- LB 700 (*Bostelman*) Provide for decommissioning and reclamation of a wind energy conversion system

GENERAL FILE: 2019 SPEAKER PRIORITY BILLS - "*Wayne Division*"

- LB 478 (*Vargas*) Prohibit use of consent by a minor as a defense or mitigation of damages or liability in certain civil actions arising from sexual assaults
- LB 595 (*Albrecht*) Change Office of Dispute Resolution to Office of Restorative Justice and Dispute Resolution and change powers and duties of the office
- LB 96 (*Wayne*) Change local building code provisions

GENERAL FILE: 2019 COMMITTEE PRIORITY BILLS - "*Geist Division*"

- LB 468 (*Walz*) Prohibit additional services and populations under the medicaid managed care program
- LB 418 (*Cavanaugh*) Change provisions relating to certain medical debt collection involving workers' compensation
- LB 560 (*Geist*) Change provisions relating to tax credits under the Beginning Farmer Tax Credit Act

GENERAL FILE: 2019 SENATOR PRIORITY BILLS - "*Chambers Division*"

- LB 433 (*Hansen, M.*) Change provisions relating to return of tenant's deposits and damages
- LB 86 (*Wayne*) Change provisions relating to the allocation of the Affordable Housing Trust Fund and the collection and remittance of the documentary stamp tax
- LB 470 (*La Grone*) Provide a tax deduction for nonparticipant contributions and remove a tax deduction limit relating to the Nebraska educational savings plan trust
- LB 44 (*Chambers*) Eliminate the death penalty and change provisions relating to murder in the first degree

LEGISLATIVE RESOLUTION(s) Eligible For Adoption Pursuant to Rule 4, Section 5(b)

- LR 86 (*Lathrop*) Congratulate Nancy Hicks Rose on her retirement
- LR 89 (*Hughes*) Congratulate Adair Reese for being crowned Mrs. Nebraska for 2019

- Messages on the President's Desk
- Adjourn until Wednesday, April 24, 2019 at 9:00 a.m.

AMENDMENTS TO LB155

Introduced by Brewer, 43.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 70-1014.02, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 70-1014.02 (1) The Legislature finds that:

6 (a) Nebraska has the authority as a sovereign state to protect its
7 land, natural resources, and cultural resources for economic and
8 aesthetic purposes for the benefit of its residents and future
9 generations by regulation of energy generation projects;

10 (b) The unique terrain and ecology of the Nebraska Sandhills provide
11 an irreplaceable habitat for millions of migratory birds and other
12 wildlife every year and serve as the home to numerous ranchers and
13 farmers;

14 (c) The grasslands of the Nebraska Sandhills and other natural
15 resources in Nebraska will become increasingly valuable, both
16 economically and strategically, as the demand for food and energy
17 increases; and

18 (d) The Nebraska Sandhills are home to priceless archaeological
19 sites of historical and cultural significance to American Indians.

20 (2)(a) ~~(1)(a)~~ A privately developed renewable energy generation
21 facility that meets the requirements of this section is exempt from
22 sections 70-1012 to 70-1014.01 if no less than thirty days prior to the
23 commencement of construction the owner of the facility:

24 (i) Notifies the board in writing of its intent to commence
25 construction of a privately developed renewable energy generation
26 facility;

27 (ii) Certifies to the board that the facility will meet the

1 requirements for a privately developed renewable energy generation
2 facility;

3 (iii) Certifies to the board that the private electric supplier will
4 (A) comply with any decommissioning requirements adopted by the local
5 governmental entities having jurisdiction over the privately developed
6 renewable energy generation facility and (B) except as otherwise provided
7 in subdivision (b) of this subsection, submit a decommissioning plan to
8 the board obligating the private electric supplier to bear all costs of
9 decommissioning the privately developed renewable energy generation
10 facility and requiring that the private electric supplier post a security
11 bond or other instrument, no later than the tenth year following
12 commercial operation, securing the costs of decommissioning the facility
13 and provide a copy of the bond or instrument to the board;

14 (iv) Certifies to the board that the private electric supplier has
15 entered into or prior to commencing construction will enter into a joint
16 transmission development agreement pursuant to subdivision (c) of this
17 subsection with the electric supplier owning the transmission facilities
18 of sixty thousand volts or greater to which the privately developed
19 renewable energy generation facility will interconnect; and

20 (v) Certifies to the board that the private electric supplier has
21 consulted with the Game and Parks Commission to identify potential
22 measures to avoid, minimize, and mitigate impacts to species identified
23 under subsection (1) or (2) of section 37-806 during the project planning
24 and design phases, if possible, but in no event later than the
25 commencement of construction.

26 (b) The board may bring an action in the name of the State of
27 Nebraska for failure to comply with subdivision (a)(iii)(B) of this
28 subsection. Subdivision (a)(iii)(B) of this subsection does not apply if
29 a local government entity with the authority to create requirements for
30 decommissioning has enacted decommissioning requirements for the
31 applicable jurisdiction.

1 (c) The joint transmission development agreement shall address
2 construction, ownership, operation, and maintenance of such additions or
3 upgrades to the transmission facilities as required for the privately
4 developed renewable energy generation facility. The joint transmission
5 development agreement shall be negotiated and executed contemporaneously
6 with the generator interconnection agreement or other directives of the
7 applicable regional transmission organization with jurisdiction over the
8 addition or upgrade of transmission, upon terms consistent with prudent
9 electric utility practices for the interconnection of renewable
10 generation facilities, the electric supplier's reasonable transmission
11 interconnection requirements, and applicable transmission design and
12 construction standards. The electric supplier shall have the right to
13 purchase and own transmission facilities as set forth in the joint
14 transmission development agreement. The private electric supplier of the
15 privately developed renewable energy generation facility shall have the
16 right to construct any necessary facilities or improvements set forth in
17 the joint transmission development agreement pursuant to the standards
18 set forth in the agreement at the private electric supplier's cost.

19 (3) ~~(2)~~ Within ten days after receipt of a written notice complying
20 with subsection (2) ~~(1)~~ of this section, the executive director of the
21 board shall issue a written acknowledgment that the privately developed
22 renewable energy generation facility is exempt from sections 70-1012 to
23 70-1014.01.

24 (4) ~~(3)~~ The exemption allowed under this section for a privately
25 developed renewable energy generation facility shall extend to and exempt
26 all private electric suppliers owning any interest in the facility,
27 including any successor private electric supplier which subsequently
28 acquires any interest in the facility.

29 (5) ~~(4)~~ No property owned, used, or operated as part of a privately
30 developed renewable energy generation facility shall be subject to
31 eminent domain by a consumer-owned electric supplier operating in the

1 State of Nebraska. Nothing in this section shall be construed to grant
2 the power of eminent domain to a private electric supplier or limit the
3 rights of any entity to acquire any public, municipal, or utility right-
4 of-way across property owned, used, or operated as part of a privately
5 developed renewable energy generation facility as long as the right-of-
6 way does not prevent the operation of or access to the privately
7 developed renewable energy generation facility.

8 ~~(6)~~ (5) Only a consumer-owned electric supplier operating in the
9 State of Nebraska may exercise eminent domain authority to acquire the
10 land rights necessary for the construction of transmission lines and
11 related facilities. There is a rebuttable presumption that the The
12 exercise of eminent domain to provide needed transmission lines and
13 related facilities for a privately developed renewable energy generation
14 facility is a public use.

15 ~~(7)~~ (6) Nothing in this section shall be construed to authorize a
16 private electric supplier to sell or deliver electricity at retail in
17 Nebraska.

18 ~~(8)~~ (7) Nothing in this section shall be construed to limit the
19 authority of or require a consumer-owned electric supplier operating in
20 the State of Nebraska to enter into a joint agreement with a private
21 electric supplier to develop, construct, and jointly own a privately
22 developed renewable energy generation facility.

23 Sec. 2. Section 70-1015, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 70-1015 (1) If any supplier violates Chapter 70, article 10, by
26 either (a) commencing the construction or finalizing or attempting to
27 finalize the acquisition of any generation facilities, any transmission
28 lines, or any related facilities without first providing notice or
29 obtaining board approval, whichever is required, or (b) serving or
30 attempting to serve at retail any customers located in Nebraska or any
31 wholesale customers in violation of section 70-1002.02, such

1 construction, acquisition, or service of such customers shall be enjoined
2 in an action brought in the name of the State of Nebraska until such
3 supplier has complied with Chapter 70, article 10.

4 (2) If the executive director of the board determines that a private
5 electric supplier commenced construction of a privately developed
6 renewable energy generation facility less than thirty days prior to
7 providing the notice required in subdivision (2)(a) ~~(1)(a)~~ of section
8 70-1014.02, the executive director shall send notice via certified mail
9 to the private electric supplier, informing it of the determination that
10 the private electric supplier is in violation of such subdivision and is
11 subject to a fine in the amount of five hundred dollars. The private
12 electric supplier shall have twenty days from the date on which the
13 notice is received in which to submit the notice described in such
14 subdivision and to pay the fine. Within ten days after the private
15 electric supplier submits a notice compliant with ~~the provisions of~~
16 subsection (2) ~~(1)~~ of section 70-1014.02 and payment of the fine, the
17 executive director of the board shall issue the written acknowledgment
18 described in subsection (3) ~~(2)~~ of section 70-1014.02. If the private
19 electric supplier fails to submit a notice compliant with ~~the provisions~~
20 ~~of~~ subsection (2) ~~(1)~~ of section 70-1014.02 and pay the fine within
21 twenty days after the date on which the private electric supplier
22 receives the notice from the executive director of the board, the private
23 electric supplier shall immediately cease construction or operation of
24 the privately developed renewable energy generation facility.

25 (3) If the private electric supplier disputes that construction was
26 commenced less than thirty days prior to submitting the written notice
27 required by subdivision (2)(a) ~~(1)(a)~~ of section 70-1014.02, the private
28 electric supplier may request a hearing before the board. Such request
29 shall be submitted within twenty days after the private electric supplier
30 receives the notice sent by the executive director pursuant to subsection
31 (3) ~~(2)~~ of this section. If the private electric supplier does not accept

1 the certified mail sent pursuant to such subsection, the executive
2 director shall send a second notice to the private electric supplier by
3 first-class United States mail. The private electric supplier may submit
4 a request for hearing within twenty days after the date on which the
5 second notice was mailed.

6 (4) Upon receipt of a request for hearing, the board shall set a
7 hearing date. Such hearing shall be held within sixty days after such
8 receipt. The board shall provide to the private electric supplier written
9 notice of the hearing at least twenty days prior to the date of the
10 hearing. The board or its hearing officer may grant continuances upon
11 good cause shown or upon the request of the private electric supplier.
12 Timely filing of a request for hearing by a private electric supplier
13 shall stay any further enforcement under this section until the board
14 issues an order pursuant to subsection (6) ~~(5)~~ of this section or the
15 request for hearing is withdrawn.

16 (5) The board shall issue a written decision within sixty days after
17 conclusion of the hearing. All costs of the hearing shall be paid by the
18 private electric supplier if (a) the board determines that the private
19 electric supplier commenced construction of the privately developed
20 renewable energy generation facility less than thirty days prior to
21 submitting the written notice required pursuant to subsection (2) ~~(1)~~ of
22 section 70-1014.02 or (b) the private electric supplier withdraws its
23 request for hearing prior to the board issuing its decision.

24 (6) A private electric supplier which the board finds to be in
25 violation of the requirements of subsection (2) ~~(1)~~ of section 70-1014.02
26 shall either (a) pay the fine described in this section and submit a
27 notice compliant with ~~the provisions of~~ subsection (2) ~~(1)~~ of section
28 70-1014.02 or (b) immediately cease construction or operation of the
29 privately developed renewable energy generation facility.

30 Sec. 3. Original sections 70-1014.02 and 70-1015, Reissue Revised
31 Statutes of Nebraska, are repealed.