

AMENDMENTS TO LB 629

Introduced by Natural Resources

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

3           Section 1. Sections 1 to 9 of this act shall be known and  
4 may be cited as the Rural Community-Based Energy Development Act.

5           Sec. 2. It is the intent of the Legislature to  
6 create new rural economic development opportunities through rural  
7 community-based energy development.

8           Sec. 3. For purposes of the Rural Community-Based Energy  
9 Development Act:

10           (1) C-BED project or community-based energy development  
11 project means a new wind energy project that:

12           (a) Has an ownership structure as follows:

13           (i) For a C-BED project that consists of more than two  
14 turbines, is owned by qualified owners with no single qualified  
15 owner owning more than fifteen percent of the project and with at  
16 least thirty-three percent of the power purchase agreement payments  
17 flowing to the qualified owner or owners or local community; or

18           (ii) For a C-BED project that consists of one or two  
19 turbines, is owned by one or more qualified owners with at least  
20 thirty-three percent of the power purchase agreement payments  
21 flowing to a qualified owner or local community; and

22           (b) Has a resolution of support adopted:

23           (i) By the county board of each county in which the C-BED

1 project is to be located; or

2 (ii) By the tribal council for a C-BED project located  
3 within the boundaries of an Indian reservation;

4 (2) Electric utility means an electric supplier that:

5 (a) Owns more than one hundred miles of  
6 one-hundred-fifteen-kilovolt or larger transmission lines in the  
7 State of Nebraska;

8 (b) Owns more than two hundred megawatts of electric  
9 generating facilities; and

10 (c) Has the obligation to directly serve more than two  
11 hundred megawatts of wholesale or retail electric load in the State  
12 of Nebraska; and

13 (3) Qualified owner means:

14 (a) A Nebraska resident;

15 (b) A limited liability company that is organized under  
16 the Limited Liability Company Act and that is made up of members  
17 who are Nebraska residents;

18 (c) A Nebraska nonprofit corporation organized under the  
19 Nebraska Nonprofit Corporation Act;

20 (d) An electric supplier as defined in section  
21 70-1001.01, except that ownership in a single C-BED project is  
22 limited to no more than:

23 (i) Fifteen percent by a single electric supplier; and

24 (ii) A combined total of twenty-five percent ownership by  
25 multiple electric suppliers; or

26 (e) A tribal council.

27 Sec. 4. (1) A C-BED project developer and an electric

1 utility are authorized to negotiate in good faith mutually  
2 agreeable power purchase agreement terms.

3 (2) A qualified owner or any combination of qualified  
4 owners may develop a C-BED project with an equity partner that is  
5 not a qualified owner, if not more than sixty-seven percent of the  
6 power purchase agreement payments flow to the nonqualified owners.

7 (3) Except for an inherited interest, the transfer of  
8 a C-BED project to any person other than a qualified owner is  
9 prohibited during the initial twenty years of the power purchase  
10 agreement.

11 (4) A C-BED project that is operating under a power  
12 purchase agreement is not eligible for any applicable net energy  
13 billing.

14 (5) A C-BED project shall be subject to approval by the  
15 Nebraska Power Review Board in accordance with Chapter 70, article  
16 10, or shall receive certification as a qualifying facility in  
17 accordance with the federal Public Utility Regulatory Policies Act  
18 of 1978, 16 U.S.C. 2601 et seq., with written notice of such  
19 certification provided to the Nebraska Power Review Board.

20 Sec. 5. An electric utility shall:

21 (1) Consider mechanisms to encourage the aggregation of  
22 C-BED projects located in the same general geographical area; and

23 (2) Require any qualified owner to provide sufficient  
24 security to assure performance under the power purchase agreement.

25 Sec. 6. The governing body of an electric utility  
26 that has determined a need to construct new renewable generation  
27 facilities shall take reasonable steps to determine if one or more

1 C-BED projects are available and are technically, economically, and  
2 operationally feasible to provide some or all of the identified  
3 generation need.

4       Sec. 7. To the extent feasible, a C-BED project developer  
5 shall provide, in writing, an opportunity to invest in the C-BED  
6 project to each property owner on whose property a turbine is  
7 located.

8       Sec. 8. Nothing in sections 1 to 7 of this act shall be  
9 construed to obligate an electric utility to enter into a power  
10 purchase agreement under a C-BED project.

11       Sec. 9. An electric supplier as defined in section  
12 70-1001.01 may agree to limit its exercise of the power of eminent  
13 domain to acquire a C-BED project which is a renewable energy  
14 generation facility producing electricity with wind and any related  
15 facilities if such electric supplier enters into a contract to  
16 purchase output from such facility for a term of ten years or more.

17       Sec. 10. If any section in this act or any part of any  
18 section is declared invalid or unconstitutional, the declaration  
19 shall not affect the validity or constitutionality of the remaining  
20 portions.

21       Sec. 11. Since an emergency exists, this act takes effect  
22 when passed and approved according to law.