

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 863**

Introduced by Schilz, 47.

Read first time January 11, 2016

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the State Energy Office; to amend section  
2 81-1607, Reissue Revised Statutes of Nebraska, and sections 81-1601,  
3 81-1602, 81-1603, 81-1605, 81-1606, and 81-1607.01, Revised Statutes  
4 Supplement, 2015; to adopt the Wind Energy Expansion Act; to provide  
5 duties; to harmonize provisions; and to repeal the original  
6 sections.

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

1           Section 1. Sections 1 to 4 of this act shall be known and may be  
2 cited as the Wind Energy Expansion Act.

3           Sec. 2. The Legislature finds and declares that wind energy  
4 production has a growing role in the economic vitality of rural areas of  
5 the state and in the state's overall economy. The growth and vitality of  
6 the state's wind energy production is important to the continued  
7 prosperity of the state and its citizens. The Legislature further finds  
8 and declares that a public interest exists in assisting efforts of the  
9 wind energy industry and rural communities to preserve and enhance wind  
10 energy production as an essential element of economic development and  
11 that a need exists to provide aid, resources, and assistance to rural  
12 communities and counties seeking opportunities in the growth of wind  
13 energy production. It is the intent of the Legislature to seek reasonable  
14 means to nurture and support wind energy production in this state.

15           Sec. 3. (1) The Director of the State Energy Office shall establish  
16 a process, including criteria and standards, to recognize and assist  
17 efforts of counties to create, maintain, or expand their wind energy  
18 sectors under the Wind Energy Expansion Act. A county that meets the  
19 criteria may apply to the director to be designated a wind energy  
20 friendly county. A county may remove itself from the process at any time.  
21 Such criteria and standards may include, but are not limited to, the  
22 following factors: (a) Consideration of the diversity of energy  
23 development activities currently underway or being initiated by a county;  
24 (b) a formal expression of interest by a county board by a duly enacted  
25 resolution following a public hearing for developing wind energy  
26 production sectors of such county's economy; (c) an assurance that such  
27 county intends to work with all other governmental jurisdictions within  
28 its boundaries in implementing wind energy development within the county;  
29 and (d) flexible and individual treatment allowing each county to design  
30 its own wind energy development program according to its own timetable.

31           (2) The designation of any county as a wind energy friendly county

1 shall not indicate or suggest that any other county that does not seek or  
2 obtain such a designation is not friendly to wind energy production.

3 (3) Nothing in this section shall prohibit or prevent any county  
4 board from adopting a resolution that designates the county as a wind  
5 energy friendly county.

6 Sec. 4. In order to assist any county with information and  
7 technology pursuant to the purposes of the Wind Energy Expansion Act, the  
8 State Energy Office shall establish a resource data base to provide, upon  
9 written request of the county zoning authority or county board,  
10 information sources that may be useful to the county in evaluating and  
11 crafting wind energy production conditional use permits that meet the  
12 objectives of the county and the wind energy producer applicant.

13 Sec. 5. Section 81-1601, Revised Statutes Supplement, 2015, is  
14 amended to read:

15 81-1601 (1) There is hereby created an agency of state government to  
16 be known as the State Energy Office. The office may be a separate  
17 division within an existing executive department.

18 (2) The chief executive officer shall be known as the Director of  
19 the State Energy Office and shall be appointed by the Governor with the  
20 advice and consent of the Legislature. The director shall administer the  
21 affairs of the office and shall serve at the pleasure of the Governor.  
22 The director may employ such assistants, professional staff, and other  
23 employees as may be deemed necessary to effectively carry out the  
24 provisions of sections 81-1601 to 81-1605 and the Wind Energy Expansion  
25 Act within such appropriations as the Legislature may provide. The salary  
26 of the director shall be fixed by the Governor unless otherwise expressly  
27 provided for by law.

28 Sec. 6. Section 81-1602, Revised Statutes Supplement, 2015, is  
29 amended to read:

30 81-1602 The State Energy Office shall have the following duties:

31 (1) To serve as or assist in developing and coordinating a central

1 repository within state government for the collection of data on energy;

2 (2) To undertake a continuing assessment of the trends in the  
3 availability, consumption, and development of all forms of energy;

4 (3) To collect and analyze data relating to present and future  
5 demands and resources for all sources of energy and to specify energy  
6 needs for the state;

7 (4) To recommend to the Governor and the Legislature energy policies  
8 and conservation measures for the state and to carry out such measures as  
9 are adopted;

10 (5) To provide for public dissemination of appropriate information  
11 on energy, energy sources, and energy conservation;

12 (6) To accept, expend, or disburse funds, public or private, made  
13 available to it for research studies, demonstration projects, or other  
14 activities which are related either to energy conservation and efficiency  
15 or development;

16 (7) To study the impact and relationship of state energy policies to  
17 national and regional energy policies and engage in such activities as  
18 will reasonably insure that the State of Nebraska and its citizens  
19 receive an equitable share of energy supplies, including the  
20 administration of any federally mandated or state-mandated energy  
21 allocation programs;

22 (8) To actively seek the advice of the citizens of Nebraska  
23 regarding energy policies and programs;

24 (9) To prepare emergency allocation plans suggesting to the Governor  
25 actions to be taken in the event of serious shortages of energy;

26 (10) To design a state program for conservation of energy and energy  
27 efficiency;

28 (11) To provide technical assistance to local subdivisions of  
29 government;

30 (12) To provide technical assistance to private persons desiring  
31 information on energy conservation and efficiency techniques and the use

1 of renewable energy technologies;

2 (13) To develop a strategic state energy plan pursuant to section  
3 81-1604;

4 (14) To develop and disseminate transparent and objective energy  
5 information and analysis while utilizing existing energy planning  
6 resources of relevant stakeholder entities;

7 (15) To actively seek to maximize federal and other nonstate funding  
8 and support to the state for energy planning;~~and~~

9 (16) To monitor energy transmission capacity planning and policy  
10 affecting the state and the regulatory approval process for the  
11 development of energy infrastructure and make recommendations to the  
12 Governor and electronically to the Legislature as necessary to facilitate  
13 energy infrastructure planning and development; and -

14 (17) To carry out the purposes of the Wind Energy Expansion Act.

15 Sec. 7. Section 81-1603, Revised Statutes Supplement, 2015, is  
16 amended to read:

17 81-1603 The office shall have the power to do such things as are  
18 necessary to carry out sections 81-1601 to 81-1605 and the Wind Energy  
19 Expansion Act , including, but not limited to, the following:

20 (1) To adopt rules and regulations, pursuant to the Administrative  
21 Procedure Act, to carry out the purposes of sections 81-1601 to 81-1605  
22 and the Wind Energy Expansion Act;

23 (2) To make all contracts pursuant to sections 81-1601 to 81-1605  
24 and do all things to cooperate with the federal government, and to  
25 qualify for, accept, expend, and dispense public or private funds  
26 intended for the implementation of sections 81-1601 to 81-1605 and the  
27 Wind Energy Expansion Act;

28 (3) To contract for services, if such work or services cannot be  
29 satisfactorily performed by employees of the agency or by any other part  
30 of state government;

31 (4) To enter into such agreements as are necessary to carry out

1 energy research and development with other states;

2 (5) To carry out the duties and responsibilities relating to energy  
3 as may be requested or required of the state by the federal government;

4 (6) To cooperate and participate with the approval of the Governor  
5 in the activities of organizations of states relating to the  
6 availability, conservation, development, and distribution of energy;

7 (7) To engage in such activities as will seek to insure that the  
8 State of Nebraska and its citizens receive an equitable share of energy  
9 supplies at a fair price; and

10 (8) To form advisory committees of citizens of Nebraska to advise  
11 the director of the energy office on programs and policies relating to  
12 energy and to assist in implementing such programs. Such committees shall  
13 be of a temporary nature and no member shall receive any compensation for  
14 serving on any such committee but, with the approval of the Governor,  
15 members shall receive reimbursement for actual and necessary expenses as  
16 provided in sections 81-1174 to 81-1177. The minutes of meetings of and  
17 actions taken by each committee shall be kept and a record shall be  
18 maintained of the name, address, and occupation or vocation of every  
19 individual serving on any committee. Such minutes and records shall be  
20 maintained in the State Energy Office and shall be available for public  
21 inspection during regular office hours.

22 Sec. 8. Section 81-1605, Revised Statutes Supplement, 2015, is  
23 amended to read:

24 81-1605 Notwithstanding any provisions of sections 81-1601 to  
25 81-1605 and the Wind Energy Expansion Act, the State Energy Office shall  
26 not perform any duties or exercise any powers which are delegated to  
27 other agencies or subdivisions of state government.

28 Sec. 9. Section 81-1606, Revised Statutes Supplement, 2015, is  
29 amended to read:

30 81-1606 The Director of the State Energy Office shall develop and  
31 maintain a program of collection, compilation, and analysis of energy

1 statistics and information. Existing information reporting requests,  
2 maintained at the state and federal levels, shall be utilized whenever  
3 possible in any data collection required under the provisions of sections  
4 81-1601 to 81-1607 and the Wind Energy Expansion Act. A central state  
5 repository of energy data shall be developed and coordinated with other  
6 governmental data-collection and record-keeping programs. The director  
7 shall, on at least an annual basis, with monthly compilations, submit to  
8 the Governor and the Clerk of the Legislature a report identifying state  
9 energy consumption by fuel type and by use to the extent that such  
10 information is available. The report submitted to the Clerk of the  
11 Legislature shall be submitted electronically. Nothing in this section  
12 shall be construed as permitting or authorizing the revealing of  
13 confidential information. For purposes of this section confidential  
14 information shall mean any process, formula, pattern, decision, or  
15 compilation of information which is used, directly or indirectly, in the  
16 business of the producer, refiner, distributor, transporter, or vendor,  
17 and which gives such producer, refiner, distributor, transporter, or  
18 vendor an advantage or an opportunity to obtain an advantage over  
19 competitors who do not know or use it.

20 Sec. 10. Section 81-1607, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 81-1607 (1) On or before February 15 of each year, the Director of  
23 the State Energy Office shall transmit to the Governor and the Clerk of  
24 the Legislature a comprehensive report designed to identify emerging  
25 trends related to energy supply, demand, and conservation and to specify  
26 the level of statewide energy need within the following sectors:  
27 Agricultural, commercial, residential, industrial, transportation,  
28 utilities, government, and any other sector that the director determines  
29 to be useful. The report submitted to the Clerk of the Legislature shall  
30 be submitted electronically.

31 (2) The report shall include, but not be limited to:

1 (a) An assessment of the state's energy resources, including  
2 examination of the current energy supplies and any feasible alternative  
3 sources;

4 (b) The estimated reduction in annual energy consumption resulting  
5 from various energy conservation measures;

6 (c) The status of the office's ongoing studies;

7 (d) Recommendations to the Governor and the Legislature for  
8 administrative and legislative actions to accomplish the purposes of  
9 sections 70-625, 70-704, 81-161, 81-1602, 81-1606, ~~and 81-1607,~~ and the  
10 Wind Energy Expansion Act; and

11 (e) The use of funds disbursed during the previous year under  
12 sections 81-1635 to 81-1641. The use of such funds shall be reported each  
13 year until the funds are completely disbursed and all contractual  
14 obligations have expired or otherwise terminated.

15 Sec. 11. Section 81-1607.01, Revised Statutes Supplement, 2015, is  
16 amended to read:

17 81-1607.01 The State Energy Office Cash Fund is hereby created. The  
18 fund shall consist of funds received pursuant to section 57-705. The fund  
19 shall be used for the administration of sections 81-1601 to 81-1607 and  
20 the Wind Energy Expansion Act, for energy conservation activities, and  
21 for providing technical assistance to communities in the area of natural  
22 gas other than assistance regarding ownership of regulated utilities,  
23 except that transfers may be made from the fund to the General Fund at  
24 the direction of the Legislature. Any money in the State Energy Office  
25 Cash Fund available for investment shall be invested by the state  
26 investment officer pursuant to the Nebraska Capital Expansion Act and the  
27 Nebraska State Funds Investment Act.

28 Sec. 12. Original section 81-1607, Reissue Revised Statutes of  
29 Nebraska, and sections 81-1601, 81-1602, 81-1603, 81-1605, 81-1606, and  
30 81-1607.01, Revised Statutes Supplement, 2015, are repealed.