

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 644

Introduced by Nordquist, 7; Morfeld, 46; Pansing Brooks, 28.

Read first time January 21, 2015

Committee:

- 1 A BILL FOR AN ACT relating to transportation; to adopt the Nebraska
- 2 Transit and Rail Advisory Council Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known and may be
2 cited as the Nebraska Transit and Rail Advisory Council Act.

3 Sec. 2. (1) The Legislature finds that:

4 (a) Access to timely and efficient modes of passenger transportation
5 is necessary for Nebraska's travelers, visitors, businesses, and daily
6 commuters and to the state's economy and quality of life;

7 (b) The development and utilization of a properly designed,
8 constructed, and financed passenger rail or other public transportation
9 system in the state can act as a catalyst for economic growth and
10 development, alleviate traffic-congested highways for daily commuters,
11 improve travel times, provide more reliable travel, create new employment
12 opportunities, provide a safer transportation alternative, serve as a
13 positive growth management system for building a better and more
14 environmentally secure state, and promote the health, safety, and welfare
15 of the state's citizens;

16 (c) Use of intercity passenger rail trains in the United States
17 since 2000 has increased three times faster than the population, six
18 times faster than road use, and seventeen times faster than air travel,
19 indicating a strong demand for passenger rail as a public transportation
20 system option. Recent advances in technology and the implementation of
21 new interstate, intercity, and commuter rail systems across the country,
22 including in the Midwest, reflect this demand and a trend towards
23 increased and enhanced choices in passenger transportation that reduce
24 congestion, increase labor productivity, foster fuel efficiency, and
25 boost economic development. Such developments include the regional
26 planning and implementation of faster interstate rail service from
27 Chicago to and through Omaha, the launching of several new intercity
28 passenger rail systems in the Midwest and nearby states, increased state
29 and federal planning, investment, and innovation across the Midwest
30 through the Midwest Regional Rail Initiative, and the local development
31 of other new public transportation system technologies and options;

1 (d) The Legislature created the Nebraska Transit and Rail Advisory
2 Council in 1999 to study passenger rail and other public transportation
3 system demands, needs, and options. The council issued a final study in
4 2003 which analyzed travel patterns between Nebraska cities as they
5 existed at that time, ridership forecasts for rail and bus intercity and
6 commuter corridors, potential plans for commuter passenger rail and
7 express bus services in those corridors, environmental and social
8 impacts, and financial and economic assessments. The study found no
9 environmental flaws to any proposed option, and found each option
10 feasible but limited by particular anticipated costs per ridership;

11 (e) The growth in intercity and commuter trips in the state since
12 the 2003 study has greatly expanded. According to the Department of
13 Roads, the population of several urban eastern Nebraska counties will
14 grow more than thirty percent between 2005 and 2030, with most of the
15 growth occurring along the I-80 corridor and in eastern Nebraska's
16 increasingly urbanized areas. The need for expanding transportation
17 system capacity accordingly will continue to lie in eastern Nebraska and
18 along the I-80 corridor. Metropolitan transportation planning
19 organizations in Nebraska have also cited to the increased need for the
20 development of cost-effective additional public transportation system
21 options, including passenger rail;

22 (f) Local governments in the state have also shown significant
23 support for the development of additional passenger rail transportation
24 options through both construction of new passenger rail transit stations,
25 and rehabilitation of existing stations in the state, reflecting the
26 value such local governments place on developing passenger rail service;

27 (g) State and federal governments are increasingly coordinating on
28 the planning, funding, and implementation of interstate, intercity, and
29 commuter passenger rail options, including through state-level passenger
30 rail plans and funding for capital projects, as well as membership by the
31 State of Nebraska in the Midwest Interstate Passenger Rail Compact; and

1 (h) These transportation options will require joint development
2 between the public and private sectors in the planning, financing,
3 management, operation, and construction mechanisms of such systems to
4 ensure the continued future development of efficient and economically
5 viable passenger rail and other public transportation systems in this
6 state.

7 (2) The Legislature declares that the creation, improvement, and
8 operation of passenger rail and other public transportation systems and
9 the construction of passenger rail and transit facilities in Nebraska
10 through the encouragement of private investments and the use of federal
11 and state funds is a public purpose and use for which public money may be
12 borrowed, expended, advanced, loaned, or granted. Such activity can best
13 be accomplished at this time by the authorization of the Nebraska Transit
14 and Rail Advisory Council for the limited purpose of studying new
15 technology, funding mechanisms, demographic changes, federal and state
16 relations, service frequency potential, ridership projections, regional
17 and local transportation planning, public transportation system demand,
18 and economic development, community, and environmental benefits
19 associated with interstate, intercity, and commuter passenger rail and
20 other public transportation systems.

21 Sec. 3. For purposes of this act:

22 (1) Associated development means property, equipment, or buildings
23 which are built, installed, or established to provide financing, funding,
24 or revenue for the planning, constructing, managing, and operating of a
25 passenger rail transportation system and which are directly associated
26 with transit stations. The term includes property necessary for joint
27 development;

28 (2) Council means the Nebraska Transit and Rail Advisory Council;

29 (3) Department means the Department of Roads;

30 (4) Joint development means the planning, managing, financing,
31 operating, or constructing of projects adjacent to or physically related,

1 functionally related, or otherwise related to a passenger rail or other
2 public transportation system in order to effect the policy and purposes
3 of the act pursuant to agreements between any person, firm, corporation,
4 association, organization, agency, or other entity, public or private;

5 (5) Passenger rail transportation system means any fixed-guideway
6 transportation system for transporting people or goods which operates at
7 speeds up to one hundred ten miles per hour. The term includes a corridor
8 and structures essential to the operation of the system, as well as the
9 land, structures, improvements, rolling stock, rights-of-way, easements,
10 rail lines, rail beds, guideway structures, stations, platforms,
11 switches, yards, terminals, parking lots, power relays, switching houses,
12 transit station, associated development, and any other facilities or
13 equipment used or useful for the purposes of passenger rail
14 transportation construction, operation, or maintenance or the financing
15 of passenger rail transportation;

16 (6) Public transportation system means services provided for the
17 public on a regular basis by vehicles such as bus or rail on public ways,
18 using specific routes and schedules, and usually on a fare-paying basis.
19 The term includes a combination of real and personal property,
20 structures, improvements, buildings, equipment, vehicle parking, or other
21 facilities and rights-of-way, or any combination thereof, used or useful
22 for the purposes of public transportation;

23 (7) Right-of-way means land necessary for the construction,
24 operation, and maintenance of a passenger rail or other public
25 transportation system;

26 (8) Terminus means the transit station serving the service area at
27 the end of a passenger rail or other public transportation system; and

28 (9) Transit station or station means any structure or transportation
29 facility that is primarily used, as part of a passenger rail or public
30 transportation system, for the purpose of loading, unloading, or
31 transferring passengers or accommodating the movement of passengers from

1 one mode of transportation to another.

2 Sec. 4. (1) The Nebraska Transit and Rail Advisory Council is
3 created. The council shall consist of eleven members to be appointed by
4 the Governor with the approval of the Legislature as follows:

5 (a) The Director-State Engineer or his or her designee;

6 (b) One public service commissioner;

7 (c) Two members of the general public with demonstrated knowledge of
8 passenger rail and other public transportation systems;

9 (d) One representative each from two private railroad companies;

10 (e) One representative from the Department of Economic Development;
11 and

12 (f) Four representatives of local government, with at least one
13 representative from a city of the metropolitan class, and one
14 representative from a city of the primary class.

15 (2) The Governor shall appoint each member of the council to serve
16 until the termination of the Nebraska Transit and Rail Advisory Council
17 Act.

18 (3) The council members shall have an interest in or knowledge of
19 passenger rail or other public transportation systems.

20 (4) Members of the council who are not employed by the State of
21 Nebraska shall be reimbursed for their actual and necessary expenses as
22 provided in sections 81-1174 to 81-1177.

23 (5) A majority of the council members constitutes a quorum for the
24 transaction of business, and all decisions of the council shall be
25 approved by at least a majority of members present.

26 Sec. 5. The council may do all things necessary to implement the
27 Nebraska Transit and Rail Advisory Council Act, including, but not
28 limited to:

29 (1) Collecting, administering, and expending funds;

30 (2) Conducting or authorizing feasibility studies or any other
31 studies deemed necessary or required under the act; and

1 (3) Adopting and promulgating rules and regulations to carry out the
2 purposes of the act.

3 Sec. 6. Trade secrets and other proprietary or commercial
4 information which may be filed pursuant to the Nebraska Transit and Rail
5 Advisory Council Act shall not be considered public records as defined in
6 section 84-712.01 if the release of such trade secrets or information
7 would give advantage to business competitors and serve no public purpose.
8 Any person seeking release of the trade secrets or other proprietary or
9 commercial information as a public record shall demonstrate to the
10 satisfaction of the council that the release would not violate this
11 section.

12 Sec. 7. The department shall have the following duties under the
13 Nebraska Transit and Rail Advisory Council Act:

14 (1) Assist the council with administrative and operational support;

15 (2) Conduct research and prepare and review plans and specifications
16 for any project to be proposed to or by the council;

17 (3) Conduct studies, including feasibility studies, and act in an
18 advisory capacity to the council in the establishment of broad policies
19 for carrying out the act;

20 (4) Hold hearings, conduct investigations, and perform inspections,
21 and do all other things necessary to implement the act;

22 (5) Furnish necessary assistance to the council in making its
23 inspection and study of any proposed project or feasibility study;

24 (6) Make data and information of the department available to the
25 council; and

26 (7) Adopt and promulgate rules and regulations necessary to carry
27 out its duties under the act.

28 Sec. 8. (1) The Nebraska Transit and Rail Advisory Council Cash
29 Fund is created. The fund shall be used by the council to carry out its
30 responsibilities under the Nebraska Transit and Rail Advisory Council
31 Act. The fund may be used to defray the necessary expenses of the

1 council.

2 (2) The State Treasurer shall credit to the fund any money (a)
3 appropriated to the fund by the Legislature, (b) donated as gifts,
4 bequests, grants, or other contributions to the fund from public or
5 private sources, and (c) otherwise received pursuant to the act. The
6 council may accept gifts, donations, money, and services, including in-
7 kind resources, for any purpose allowable under the act. Money made
8 available by any department or agency of the United States may also be
9 credited to the fund if so directed by the Director-State Engineer
10 pursuant to the act. The department and the council may expend the
11 federal funds which are or may become available for feasibility studies,
12 construction, operation, capital expenditures, or program administration
13 for any passenger rail or other public transportation systems projects
14 allowable under federal law. Any money in the Nebraska Transit and Rail
15 Advisory Council Cash Fund available for investment shall be invested by
16 the state investment officer pursuant to the Nebraska Capital Expansion
17 Act and the Nebraska State Funds Investment Act.

18 Sec. 9. The council, with the assistance of the department, shall,
19 not later than January 1, 2017, complete a study on the feasibility and
20 projected costs of constructing and operating passenger rail and other
21 public transportation systems to meet the transportation demands, needs,
22 and options of Nebraska's travelers, visitors, businesses, and daily
23 commuters, with attention paid to the feasibility of passenger rail and
24 other public transportation systems in major existing travel corridors
25 and on a statewide basis, and report its findings electronically to the
26 Transportation and Telecommunications Committee of the Legislature. The
27 study shall examine new technology, funding mechanisms, demographic
28 changes, federal and state relations, service frequency potential,
29 ridership projections, regional and local transportation planning, public
30 transportation system demand, and economic development, community, and
31 environmental benefits related to interstate, intercity, and commuter

1 passenger rail and other public transportation systems. The study shall
2 focus on changes and factors since the final report issued in 2003. The
3 report to the Legislature shall include suggested legislation necessary
4 to implement the feasibility options included within the study for
5 passenger rail or other public transportation systems to meet the demand
6 and need in the state, including, but not limited to, connections to
7 interstate passenger rail developments in the region.

8 Sec. 10. The Nebraska Transit and Rail Advisory Council Act
9 terminates on June 30, 2018.