

LEGISLATIVE BILL 829

Approved by the Governor May 26, 1999

Introduced by Kiel, 9; Beutler, 28; Bromm, 23; Brown, 6; Landis, 46;
Preister, 5; Raikes, 25; Robak, 22; Schimek, 27; Suttle, 10

AN ACT relating to transportation; to adopt the Nebraska Transit and Rail Advisory Council Act; and to provide a termination date.
Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Transit and Rail Advisory Council Act.

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

(a) Access to timely and efficient modes of passenger transportation is necessary for Nebraska's travelers, visitors, and day-to-day commuters; to the quality of life in the state; and to the economy of the state;

(b) Technological advances in passenger transportation can significantly and positively affect the ability of the state to attract and provide efficient services for domestic and international businesses and tourists and thus significantly affect the revenue of the state;

(c) The development and utilization of a properly designed, constructed, and financed passenger rail, high-speed rail, or other passenger surface transportation system can act as a catalyst for economic growth and development; alleviate traffic-congested commutes for day-to-day commuters; create new employment opportunities; create a safer transportation alternative; serve as a positive growth management system for building a better and more environmentally secure state; and promote the health, safety, and welfare of the citizens of the state;

(d) Joint development between the public and private sectors may be necessary in the planning, financing, management, operation, and construction mechanisms to ensure the continued future development of an efficient and economically viable passenger rail, high-speed rail, or other passenger surface transportation system in this state; and

(e) Transportation benefits include improved travel times and more reliable travel, hence increased productivity.

(2) The Legislature hereby declares that creation, improvement, and operation of passenger rail, high-speed rail, and other passenger surface transportation systems and the construction of rail and transit facilities in Nebraska through the encouragement of private investments and the use of federal and state funds is a public purpose and use for which public money may be borrowed, expended, advanced, loaned, or granted. Such activity can best be accomplished by the creation of a Nebraska Transit and Rail Advisory Council, N-TRAC.

Sec. 3. For purposes of the Nebraska Transit and Rail Advisory Council Act:

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

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

(3) Department means the Department of Roads;

(4) High-speed rail transportation system means any high-speed, fixed-guideway transportation system for transporting people or goods which is capable of operating at speeds in excess of one hundred ten miles per hour, including a monorail system, dual track rail system, suspended rail system, magnetic levitation system, or pneumatic repulsion system. The term includes a corridor and structures essential to the operation of the system, including the land, structures, improvements, rolling stock, rights-of-way, easements, rail lines, rail beds, guideway structures, stations, platforms, switches, yards, terminals, parking lots, power relays, switching houses, transit station, associated development, and any other facilities or equipment used or useful for the purposes of high-speed rail transportation construction, operation, or maintenance or the financing of high-speed rail transportation;

(5) Joint development means the planning, managing, financing, operating, or constructing of projects adjacent to or physically related, functionally related, or otherwise related to a passenger rail, high-speed rail, or other passenger surface transportation system in order to effect the policy and purposes of the act pursuant to agreements between any person, firm, corporation, association, organization, agency, or other entity, public

or private;

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

(7) Right-of-way means land necessary for the construction, operation, and maintenance of a passenger rail, high-speed rail, or other passenger surface transportation system;

(8) Terminus means the transit station serving the service area at the end of a passenger rail, high-speed rail, or other passenger surface transportation system; and

(9) Transit station or station means any structure or transportation facility that is primarily used, as part of a passenger rail, high-speed rail, or other passenger surface transportation system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

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

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

(b) One public service commissioner;

(c) Two members of the general public with demonstrated knowledge of passenger rail, high-speed rail, and other passenger surface transportation systems;

(d) Two representatives of private railroads;

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

and

(f) Four representatives of local government.

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

(3) The council members shall have an interest in or knowledge of passenger rail, high-speed rail, or other passenger surface transportation systems. A council member shall abstain from voting on any decision or policy of the council if the decision or policy will result in any financial benefit or detriment to him or her, any member of his or her family, or any business with which he or she is associated and the benefit or detriment is distinguishable from the effects of the actions on the public generally or a broad segment of the public.

(4) The department shall assist with administrative and operational support for the council.

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

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

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

(1) Collecting, administering, and expending funds;

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

(3) Adopting and promulgating rules and regulations to carry out the act.

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

Sec. 7. The department shall:

(1) Conduct research and prepare and review plans and specifications for any project to be proposed to the council;

(2) Conduct studies, including feasibility studies, and investigations and act in an advisory capacity to the council in the

establishment of broad policies for carrying out the Nebraska Transit and Rail Advisory Council Act;

(3) Hold hearings, make investigations, studies, and inspections, and do all other things necessary to implement the act;

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

(5) Make data and information of the department available to the council; and

(6) Adopt and promulgate rules and regulations necessary for the department to carry out its duties under the act.

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

(2) The State Treasurer shall credit to the fund any money (a) appropriated to the fund by the Legislature, (b) donated as gifts, bequests, grants, or other contributions to the fund from public or private sources, and (c) received pursuant to the act. Money made available by any department or agency of the United States may also be credited to the fund if so directed by the Director-State Engineer or may be credited to the Nebraska Transit and Rail Advisory Council Revolving Fund pursuant to the act. Any money in the Nebraska Transit and Rail Advisory Council Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. The Nebraska Transit and Rail Advisory Council Revolving Fund is created. The fund shall be used by the council to carry out its responsibilities under the Nebraska Transit and Rail Advisory Council Act. The revolving fund shall consist of any money credited to the revolving fund pursuant to the act and other funds as the council may designate. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. The department and the council may expend the federal funds which are or may become available for feasibility studies, construction, operation, capital expenditures, or program administration for any passenger rail, high-speed rail, or other passenger surface transportation systems projects allowable under federal law.

Sec. 11. The council may accept gifts, donations, money, and services, including in-kind resources, for any purpose allowable under the Nebraska Transit and Rail Advisory Council Act.

Sec. 12. The council, with the assistance of the department, shall, not later than January 1, 2002, complete a study on the feasibility and projected costs of constructing a passenger rail, high-speed rail, or other passenger surface transportation system, with particular attention paid to the feasibility of other passenger surface transportation systems on a statewide basis, and report its findings to the Transportation Committee of the Legislature. Such report shall include suggested legislation necessary to implement the feasibility options included within the study for a passenger rail, high-speed rail, or other passenger surface transportation system.

Sec. 13. The department and the council shall take all reasonable steps necessary to secure private or federal funding of the feasibility study required by section 12 of this act before requesting appropriations from the Legislature to fund the feasibility study.

Sec. 14. The Nebraska Transit and Rail Advisory Council Act terminates on June 30, 2003.