

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT (CORRECTED)
LB616

Hearing Date: Monday February 11, 2019
Committee On: Transportation and Telecommunications
Introducer: Hilgers
One Liner: Provide for build-finance projects under the Build Nebraska Act and the Transportation Innovation Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Cavanaugh, DeBoer, Friesen, Geist, Hilgers, Hughes
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Mike Hilgers
Kyle Schneeweis
Coby Mach
Katie Wilson
Miki Esposito
Gina Cotton
Bruce Bohrer
Lash Chaffin

Representing:

Introducer
Director, NDOT
Lincoln Independent Business Assoc
Assoc General Contractors NE Chpater
City of Lincoln, Transportation and Utilities
4 Lanes 4 Nebraska
Lnk Chamber of Commerce, Greater Oma Chamber
League of Nebraska Municipalities

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 616 would amend provisions relating to highway construction and allow build-finance projects to be structured pursuant to the Build Nebraska Act and the Accelerated State Highway Capital Improvement Program. A "build-finance project" is defined in Section 3 as a project in which a design-builder, a construction manager, or a contractor pays for the project labor, materials, and vendors as the work is performed, and payments due from the Nebraska Department of Transportation (NDOT) are made by, or on behalf of, the department over a period not to exceed 10 years after substantial completion. Also in Section 3, which contains definitions used in the Transportation Innovation Act (Sections 39-2801 to 39-2824), "financing plan" means an assurance of available funding and security to ensure payment to vendors and labor as work is performed on a build-finance project.

Current provisions relating to alternative methods of contracting for public projects (other than low bid) are contained in Sections 39-2808 to 39-2824. Sections 4 through 9 provide harmonizing language to current highway statutes relating to build-finance projects.

Section 10 is new language that in Subsection (1), provides the statutory authorization for NDOT to structure contracts pursuant to the Build Nebraska Act, the Transportation Innovation Act, or the Accelerated State Highway Capital Improvement Program as a build-finance project. NDOT must determine that there is an estimated cost savings to the state. Subsection (2) permits NDOT to authorize a design-builder, a construction manager, or a contractor to enter into a build-finance project. Subsection (3) requires NDOT to include the financing requirements when a build-finance project is under consideration. Subsection (4) permits NDOT to require a financing plan to be included in the proposal. NDOT may consider the financing plan to be a part of the best value-based selection process or as a qualifying factor in the selection process. Subsection (5) requires the build-finance contract to include terms that the payments extending beyond the year of project completion will be subject to annual legislative appropriations, that the project is unsecured, and that it does not constitute a debt obligation of the state. Subsection (6) prohibits NDOT from obligating more than 10 percent of the Highway Trust Fund's annual revenue for securing payments on all outstanding build-finance projects at the time such a project is being considered.

Section 11 amends Section 73-101 to provide an exception for build-finance projects from the normal contract bidding process.

Section 12 amends Section 73-307 to provide an exception from Department of Administrative Services' (DAS) requirements for build-finance projects approval.

Section 13 amends Section 81-1102 to change the definition of "approved project" under DAS jurisdiction by removing an exclusion for state highways, state roads, or aeronautical projects from the definition.

Section 14 amends Section 81-1701 and would exempt build-finance contracts from the Nebraska Consultants' Competitive Negotiation Act.

Section 15 Repealer

Section 16 Emergency Clause

Explanation of amendments:

The committee considered and adopted the following amendment:

AM 442 strikes all provisions of the bill and inserts an amendment to Section 39-1,349. It would exempt highway construction projects with a payment schedule that exceeds the time beyond completion of the construction from having to pay contractor interest.

Curt Friesen, Chairperson