

ASSEMBLY BILL NO. 450—COMMITTEE ON TRANSPORTATION

MARCH 23, 2015

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to transportation.
(BDR 35-1086)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to highways; authorizing the Department of Transportation to enter into a public-private partnership to plan, design, construct, improve, finance, operate and maintain an eligible transportation facility in this State; authorizing the Board of Directors of the Department to establish user fees, administrative fines and other penalties and charges relating to the use of such a facility; providing for the disposition of money which is received and is to be retained by the Department pursuant to a public-private partnership; authorizing the Department to grant to a private partner the use of certain real property; exempting such use of real property from all real property and ad valorem taxes; authorizing the Department to approve, upon request, the construction of a toll bridge or toll road by a person; requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay a user fee; authorizing the Department of Motor Vehicles to establish certain administrative fees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 46** of this bill authorizes the Department of Transportation to enter into
- 2 one or more public-private partnerships for planning, designing, financing,
- 3 constructing, improving, maintaining, operating or acquiring rights-of-way for
- 4 certain transportation facilities. **Section 52** of this bill provides that a public-private



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5 partnership may authorize the charging of user fees in certain circumstances and
6 sets forth specific exceptions to the charging of user fees.

7 **Section 53** of this bill authorizes the Board of Directors of the Department to:
8 (1) establish a schedule or methodology for charging user fees for the use of a
9 transportation facility; (2) establish administrative fines and other penalties and
10 charges for nonpayment of user fees; and (3) approve exemptions from the user
11 fees for certain motor vehicles. **Section 54** of this bill requires the Department to
12 adopt regulations establishing a privacy policy regarding the collection and use of
13 personal identifying information necessary for the collection and enforcement of
14 user fees.

15 **Section 56** of this bill provides that the registered owner of a motor vehicle is
16 subject to administrative fines, late charges and other penalties and charges for
17 failure to pay a required user fee. **Section 57** of this bill requires the Department of
18 Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle
19 if notified that the registered owner of the motor vehicle has failed to pay a required
20 user fee.

21 **Section 59** of this bill requires that all money which is received and retained by
22 the Department of Transportation pursuant to a public-private partnership: (1) be
23 deposited in the State Highway Fund; (2) be accounted for separately; (3) be used
24 first to defray the obligations of the Department under the public-private
25 partnership; and (4) except for costs of administration, be used exclusively for the
26 design, construction, operation, maintenance, financing and repair of the public
27 highways of Nevada. **Section 50** of this bill authorizes certain financing of an
28 eligible transportation facility. **Section 52** of this bill authorizes the Department to
29 grant to a private partner the use of certain real property and exempts the use of that
30 real property from all real property and ad valorem taxes.

31 **Section 53** authorizes the Department to adopt regulations to carry out the
32 provisions of this bill. **Section 64** of this bill requires the Board of Directors of the
33 Department to submit certain reports concerning the status of any eligible
34 transportation facilities to the Legislative Commission and to the Director of the
35 Legislative Counsel Bureau for transmittal to the Legislature.

36 Under existing law, the Department may authorize private persons to develop,
37 construct, improve, maintain or operate certain transportation facilities, except toll
38 bridges or toll roads. (NRS 408.5471-408.549) **Section 71** of this bill allows toll
39 bridges, toll roads and other transportation facilities that charge user fees, and
40 **section 74** of this bill provides that certain provisions governing public-private
41 partnerships apply to such toll bridges, toll roads and transportation facilities that
42 charge user fees.

43 **Section 81** of this bill requires the Department of Transportation to allocate
44 \$20,000,000 or the amount saved from the use of a public-private partnership,
45 whichever is less, for the support of the US 50/South Shore Community
46 Revitalization Project.

1 WHEREAS, The Legislature finds that the State of Nevada is
2 faced with growing traffic congestion and the limited ability to
3 expand transportation infrastructure because of financial,
4 environmental and physical constraints; and

5 WHEREAS, The Legislature finds that it is beneficial to explore
6 alternative approaches to developing transportation facilities,
7 including managing the use of existing and planned transportation
8 facilities; and



1 WHEREAS, The Legislature finds that public-private partnerships
2 have been demonstrated to be an effective means of providing
3 motorists with more reliable travel opportunities and more choices,
4 including within congested freeway corridors; and

5 WHEREAS, The Legislature finds that public-private partnerships
6 are an effective means of financing the development, operation and
7 maintenance of a transportation facility; and

8 WHEREAS, It is the intent of the Legislature to maximize the
9 effectiveness and efficiency of the State's transportation facilities
10 and highway system; and

11 WHEREAS, It is the intent of the Legislature to authorize the
12 Department of Transportation to establish and carry out
13 transportation facilities to increase efficiency, enhance mobility,
14 expand capacity, improve the effectiveness of transit and facilitate
15 the feasibility of financing improvements through public-private
16 partnerships; now, therefore,

17
18 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
19 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
20

21 **Section 1.** (Deleted by amendment.)

22 **Sec. 2.** (Deleted by amendment.)

23 **Sec. 3.** (Deleted by amendment.)

24 **Sec. 4.** (Deleted by amendment.)

25 **Sec. 5.** (Deleted by amendment.)

26 **Sec. 6.** (Deleted by amendment.)

27 **Sec. 7.** (Deleted by amendment.)

28 **Sec. 8.** (Deleted by amendment.)

29 **Sec. 9.** (Deleted by amendment.)

30 **Sec. 10.** (Deleted by amendment.)

31 **Sec. 11.** (Deleted by amendment.)

32 **Sec. 12.** (Deleted by amendment.)

33 **Sec. 13.** (Deleted by amendment.)

34 **Sec. 14.** (Deleted by amendment.)

35 **Sec. 15.** (Deleted by amendment.)

36 **Sec. 16.** (Deleted by amendment.)

37 **Sec. 17.** (Deleted by amendment.)

38 **Sec. 18.** (Deleted by amendment.)

39 **Sec. 19.** (Deleted by amendment.)

40 **Sec. 20.** (Deleted by amendment.)

41 **Sec. 21.** (Deleted by amendment.)

42 **Sec. 22.** (Deleted by amendment.)

43 **Sec. 23.** (Deleted by amendment.)

44 **Sec. 24.** (Deleted by amendment.)

45 **Sec. 25.** (Deleted by amendment.)



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- 1 **Sec. 26.** (Deleted by amendment.)
- 2 **Sec. 27.** (Deleted by amendment.)
- 3 **Sec. 28.** (Deleted by amendment.)
- 4 **Sec. 29.** (Deleted by amendment.)
- 5 **Sec. 30.** (Deleted by amendment.)
- 6 **Sec. 31.** (Deleted by amendment.)
- 7 **Sec. 32.** (Deleted by amendment.)
- 8 **Sec. 33.** (Deleted by amendment.)
- 9 **Sec. 34.** (Deleted by amendment.)

10 **Sec. 35.** Chapter 408 of NRS is hereby amended by adding
11 thereto the provisions set forth as sections 36 to 65, inclusive, of this
12 act.

13 **Sec. 36.** *As used in sections 36 to 65, inclusive, of this act,*
14 *unless the context otherwise requires, the words and terms defined*
15 *in sections 37 to 45, inclusive, of this act have the meanings*
16 *ascribed to them in those sections.*

17 **Sec. 37.** *“Authorized emergency vehicle” has the meaning*
18 *ascribed to it in NRS 484A.020.*

19 **Sec. 38.** *“Concession” means any lease, ground lease,*
20 *franchise, easement, permit, right of entry, operating agreement or*
21 *other binding agreement transferring rights for the use or control,*
22 *in whole or in part, of an eligible transportation facility by the*
23 *Department to a private partner.*

24 **Sec. 39.** 1. *“Eligible transportation facility” means a*
25 *facility, including an enhanced, improved, expanded, extended,*
26 *upgraded or new facility, used or useful for the safe transport of*
27 *people or goods via one or more modes of transport, whether*
28 *involving highways, railways, airports, monorails, transit, bus*
29 *systems, guided rapid transit, fixed guideways, ferries, vessels,*
30 *intermodal or multimodal systems or any other mode of transport,*
31 *as well as facilities, structures, parking facilities, rest areas,*
32 *maintenance yards, rail yards or storage facilities, vehicles, rolling*
33 *stock or other related equipment, items or property.*

34 2. *The term includes, without limitation, highways, roads,*
35 *bridges, on-ramps, off-ramps, direct connectors to or from other*
36 *highways or arterials, tunnels, connectors to an airport, pavement,*
37 *shoulders, structures, culverts, curbs, toll gantries and systems,*
38 *drains, rights-of-way, buildings, communication facilities,*
39 *equipment appurtenances, lighting, signage, service centers,*
40 *operations centers, rest areas, services, personal property and*
41 *works incidental to, related to or desirable for highway design,*
42 *construction, improvement, financing, operation or maintenance.*

43 **Sec. 40.** *“Managed lanes” means a highway facility or a set*
44 *of lanes in which operational and traffic management strategies,*
45 *including, without limitation, access control, vehicle eligibility and*



1 *pricing, are implemented and managed in response to changing*
2 *conditions, traffic and usage and which may include the*
3 *assessment of a user fee. The term includes, without limitation,*
4 *express lanes.*

5 **Sec. 41.** *“Motor vehicle” has the meaning ascribed to it in*
6 *NRS 484A.130.*

7 **Sec. 42.** *“Private partner” means a person with whom the*
8 *Department enters into a public-private partnership.*

9 **Sec. 43.** *“Public-private partnership” means a contract*
10 *entered into by the Department with a private partner under which*
11 *the private partner:*

12 *1. Assists the Department in defining a potential project*
13 *concerning an eligible transportation facility and negotiates terms*
14 *for potentially carrying out the planning, designing, financing,*
15 *constructing, improving, maintaining, operating or acquiring*
16 *rights-of-way for, or any combination thereof, the eligible*
17 *transportation facility, or any portion thereof; or*

18 *2. Assumes responsibility for planning, designing, financing,*
19 *constructing, improving, maintaining, operating or acquiring*
20 *rights-of-way for, or any combination thereof, an eligible*
21 *transportation facility, or any portion thereof.*

22 **Sec. 44.** *“Registered owner” means a person whose name*
23 *appears in the records of the Department of Motor Vehicles as the*
24 *person to whom a motor vehicle is registered.*

25 **Sec. 45.** *“User fee” means a fee, toll, fare or other similar*
26 *charge, including, without limitation, any incidental, account*
27 *maintenance, administrative, credit card or video tolling fee or*
28 *charge, imposed on a person for his or her use of an eligible*
29 *transportation facility by the Department or by a private partner*
30 *pursuant to a public-private partnership.*

31 **Sec. 46.** *1. The Department, subject to the approval of the*
32 *Board, may enter into a public-private partnership to plan,*
33 *finance, design, construct, improve, maintain, operate or acquire*
34 *the rights-of-way for, or any combination thereof, an eligible*
35 *transportation facility.*

36 *2. A public-private partnership may include, without*
37 *limitation:*

38 *(a) A predevelopment agreement leading to another*
39 *implementing agreement for an eligible transportation facility as*
40 *described in this subsection;*

41 *(b) A design-build agreement;*

42 *(c) A design-build agreement that includes the financing,*
43 *maintenance or operation, or any combination thereof, of the*
44 *eligible transportation facility;*



1 (d) A concession, including, without limitation, a toll
2 concession and an availability payment concession;

3 (e) A construction agreement that includes the financing,
4 maintenance or operation, or any combination thereof, of the
5 eligible transportation facility;

6 (f) An operations and maintenance agreement for an eligible
7 transportation facility;

8 (g) Any other method or agreement for completion of the
9 eligible transportation facility, or any combination thereof, that
10 the Department determines will serve the public interest; or

11 (h) Any combination of paragraphs (a) to (g), inclusive.

12 3. Except as otherwise provided in subsection 4 and
13 notwithstanding any other law to the contrary, a public-private
14 partnership may be for a term of not more than 55 years after:

15 (a) The opening of the eligible transportation facility to the
16 public and the commencement of its full operations and collection
17 of revenue, if the eligible transportation facility charges user fees;

18 (b) The opening of the eligible transportation facility and the
19 commencement of its full operations, if the eligible transportation
20 facility is used by the public without user fees; or

21 (c) The commencement of the public-private partnership, if the
22 eligible transportation facility involves a facility or service that is
23 not generally open to or used by the public.

24 4. A public-private partnership may be extended:

25 (a) As a result of a force majeure event or any other matter
26 outside of the reasonable control of the Department or the private
27 partner;

28 (b) As a means to compensate the private partner for events set
29 forth in the public-private partnership that entitle the private
30 partner to additional time or compensation, or both; or

31 (c) For additional terms upon the mutual agreement of:

32 (1) The private partner; and

33 (2) The Department, as authorized by the Board.

34 5. An eligible transportation facility must:

35 (a) Be owned by the Department; and

36 (b) Remain a public use, a public facility or a public highway,
37 or any combination thereof.

38 **Sec. 47.** The Department may do such things as it determines
39 are necessary and appropriate to carry out a public-private
40 partnership entered into pursuant to section 46 of this act,
41 including, without limitation:

42 1. Retain legal, financial, technical and other consultants to
43 assist the Department concerning the eligible transportation
44 facility.



1 2. *Apply for, accept and expend money from any lawful*
2 *source, including, without limitation, any public or private*
3 *funding, loan, grant, line of credit, loan guarantee, credit*
4 *instrument, private activity bond allocation, credit assistance from*
5 *the Federal Government or other type of assistance that is*
6 *available to carry out the eligible transportation facility.*

7 3. *Accept from any source any grant, donation, gift or other*
8 *form of conveyance of land, money, other real or personal*
9 *property or other thing of value made to the Department to carry*
10 *out the eligible transportation facility.*

11 4. *Enter into a bond indenture, loan agreement, interest rate*
12 *swap or financing agreement, security agreement, pledge*
13 *agreement, credit facility, trust agreement or other financial*
14 *agreement in connection with the financing of the eligible*
15 *transportation facility pursuant to sections 36 to 65, inclusive, of*
16 *this act.*

17 **Sec. 48. 1. To enter into a public-private partnership with**
18 **the Department pursuant to section 46 of this act, a person must:**

19 **(a) Obtain a performance bond and payment bond, letter of**
20 **credit, parent company guarantee or other security acceptable to**
21 **the Department, or any combination thereof, in amounts**
22 **determined by the Department;**

23 **(b) Obtain insurance covering general liability and liability for**
24 **errors and omissions in amounts determined by the Department;**

25 **(c) Not have been found liable for breach of contract with**
26 **respect to a previous project with the Department, other than a**
27 **breach for legitimate cause, during the 5 years immediately**
28 **preceding the date of commencement of the solicitation of the**
29 **public-private partnership; and**

30 **(d) Not be disqualified from being awarded a contract**
31 **pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.**

32 2. *A private partner is not required to hold the licenses and*
33 *certifications required to undertake the work for the eligible*
34 *transportation facility as a condition of eligibility to be a private*
35 *partner but must ensure that any work which requires a license or*
36 *certification is performed by a person that possesses the required*
37 *license or certification.*

38 3. *Any private entity that wishes to enter into a public-private*
39 *partnership pursuant to section 46 of this act must provide*
40 *satisfactory evidence to the Board that the entity is in compliance*
41 *with the requirements of title 7 of NRS.*

42 **Sec. 49. 1. A public-private partnership entered into**
43 **pursuant to section 46 of this act must be awarded through one or**
44 **more solicitations. The Department may solicit a public-private**
45 **partnership through:**



1 (a) A two-phase procurement involving a request for
2 statements of qualifications and a request for proposals; or

3 (b) A one-phase procurement involving a request for
4 proposals.

5 2. If a request for statements of qualifications is issued by the
6 Department, the Department may select a certain number of
7 persons who submitted a statement of qualifications to receive and
8 respond to a request for proposals.

9 3. For any solicitation in which the Department issues a
10 request for statements of qualifications, request for proposals or
11 similar request, the Department may establish an evaluation
12 process to obtain the best value for the Department. The
13 Department may determine:

14 (a) The method of evaluation;

15 (b) The factors the Department will consider, including,
16 without limitation, qualifications, experience, cost, price, financial
17 plan, financial commitment, innovative financing and technology,
18 technical approach and management approach; and

19 (c) The relative weight of those factors in the evaluation
20 process.

21 4. In the request for statements of qualifications, request for
22 proposals or other request, as applicable, the Department shall set
23 forth the evaluation process, including the methodology, the
24 factors that will be used and the relative weight of those factors.

25 5. Each request for proposals issued for an eligible
26 transportation facility must require each person submitting a
27 proposal to include with the proposal an executive summary. The
28 executive summary must address the major elements of the
29 proposal but must not include the financial terms of the proposal,
30 the financing plan or other confidential or proprietary
31 information or trade secrets that the person submitting the
32 proposal intends to be exempt from disclosure.

33 6. The executive summary may be released to the public by
34 the Department at any time.

35 7. After evaluation of the proposals submitted in response to
36 a request for proposals, the Department may enter into
37 negotiations with the applicant whose proposal appeared to have
38 the best value to enter into a public-private partnership. If the
39 Department is unable to negotiate a public-private partnership
40 with that applicant upon such terms and conditions that the
41 Department determines to be in the best interest of the public, the
42 Department shall suspend or terminate negotiations with that
43 applicant. The Department may then undertake negotiations with
44 the next highest-ranked applicant in sequence until a public-



1 *private partnership is entered into or a determination is made by*
2 *the Department to reject all applicants who submitted proposals.*

3 8. *After the award and execution of the public-private*
4 *partnership, the Department shall make available to the applicants*
5 *and the public the results of the evaluations of proposals and the*
6 *final rankings of the applicants.*

7 9. *Notwithstanding any other law to the contrary, to*
8 *maximize competition and to obtain the best value for the public,*
9 *no part of a proposal other than the executive summary may be*
10 *released or disclosed by the Department before the award and*
11 *execution of the public-private partnership for the eligible*
12 *transportation facility and the conclusion of any specified period*
13 *to protest or otherwise challenge the award, except pursuant to an*
14 *administrative or judicial order requiring release or disclosure of*
15 *any part of the proposal.*

16 **Sec. 50.** 1. *The Department may reimburse a person who*
17 *submitted a proposal but with whom the Department did not enter*
18 *into a public-private partnership for a portion of the cost of*
19 *preparing the proposal or best and final offer, or both, if the*
20 *Department determines that the proposal:*

21 (a) *Was responsive to the request for proposals; and*

22 (b) *Met all the requirements set by the Department for the*
23 *eligible transportation facility.*

24 2. *If the Department intends to make such a reimbursement,*
25 *the Department shall set forth the terms, conditions and estimated*
26 *amount of the reimbursement in the request for statements of*
27 *qualifications or in the request for proposals, as applicable, for the*
28 *eligible transportation facility.*

29 3. *In exchange for the reimbursement, the Department shall*
30 *require the recipient to grant to the Department the nonexclusive*
31 *right to use any work product contained in the proposal,*
32 *including, without limitation, technologies, techniques, methods,*
33 *processes and information contained in the project design. Such*
34 *use by the Department is at the sole risk of the Department, and*
35 *the recipient does not have any responsibility for such use.*

36 **Sec. 51.** 1. *Except as otherwise provided in this subsection,*
37 *information obtained by or disclosed to the Department during the*
38 *procurement or negotiation of a public-private partnership may be*
39 *kept confidential until the public-private partnership is awarded*
40 *and executed. The Department may exempt from release to the*
41 *public any confidential or proprietary information obtained by or*
42 *disclosed to the Department during the procurement or*
43 *negotiation.*

44 2. *To make confidential and proprietary information exempt*
45 *from disclosure pursuant to subsection 1, the person who submits*



1 *a proposal or other response to a solicitation for an eligible*
2 *transportation facility must:*

3 *(a) Invoke the request for exclusion upon submission of the*
4 *information or other materials for which protection is sought;*

5 *(b) Identify the data or other materials for which protection is*
6 *sought with conspicuous labeling;*

7 *(c) State the reasons why protection is necessary for each*
8 *document for which protection is sought;*

9 *(d) Fully comply with any applicable state law with respect to*
10 *information that the person contends should be exempt from*
11 *disclosure; and*

12 *(e) Defend any action seeking release of records that the*
13 *person submitting the proposal or response believes are protected*
14 *from disclosure, and indemnify, defend and hold harmless the*
15 *State, the Department, its agents and its employees from any*
16 *judgments awarded against the State or the Department in favor of*
17 *the party requesting the records, including any and all costs*
18 *connected with that defense. Under no circumstances will the*
19 *Department be responsible or liable to the person submitting the*
20 *proposal or response or any other person for the disclosure of any*
21 *such labeled materials, whether the disclosure is required by law*
22 *or court order or occurs through inadvertence, mistake or*
23 *negligence on the part of the Department or its officers,*
24 *employees, contractors or consultants.*

25 **Sec. 52. 1. A public-private partnership entered into**
26 **pursuant to section 46 of this act may include provisions that:**

27 *(a) Except as otherwise provided in subsection 3, authorize the*
28 *Department or the private partner, or both, to charge, collect, use,*
29 *enforce and retain user fees, including, without limitation,*
30 *provisions that:*

31 *(1) Specify the technology to be used in or the technology*
32 *standards that must be met in connection with the eligible*
33 *transportation facility.*

34 *(2) Establish circumstances under which the Department*
35 *may receive the revenues or a share of the revenues from such*
36 *user fees.*

37 *(3) State that the user fees may be collected directly by the*
38 *Department, the private partner or by a third party engaged for*
39 *that purpose.*

40 *(4) Prescribe a formula, indexation or mechanism for the*
41 *adjustment of user fees during the term of the public-private*
42 *partnership.*

43 *(5) Allow a variety of strategies to be employed to manage*
44 *traffic on the eligible transportation facility, including, without*
45 *limitation:*



1 (I) *High-occupancy vehicle lanes where single- or low-*
2 *occupancy vehicles may use higher-occupancy vehicle lanes by*
3 *paying a user fee.*

4 (II) *Managed lanes or facilities in which the user fees*
5 *may vary during the course of the day or week or according to the*
6 *levels of congestion that are anticipated or experienced.*

7 (III) *Any combination of, or variation on, the strategies*
8 *set forth in sub-subparagraphs (I) and (II), or any other strategy*
9 *that the Department determines is appropriate based on the*
10 *specific circumstances of the eligible transportation facility.*

11 (6) *Govern the enforcement of user fees, including, without*
12 *limitation, provisions for the use of cameras or other mechanisms*
13 *to ensure that users have paid user fees which are due and*
14 *provisions that allow the Department of Transportation and the*
15 *private partner access to relevant databases, including, without*
16 *limitation, those of the Department of Motor Vehicles, for*
17 *enforcement purposes. The Department of Transportation may*
18 *impose a civil penalty of not more than \$10,000 per violation for*
19 *misuse of the data contained in such databases by the private*
20 *partner, including, without limitation, negligence in securing the*
21 *data properly. Any civil penalty collected pursuant to this*
22 *subparagraph must be deposited in the State General Fund.*

23 (b) *Allow for payments to be made by this State to the private*
24 *partner, including, without limitation, periodic payments,*
25 *construction payments, milestone payments, progress payments,*
26 *payments based on availability or any other performance-based*
27 *payments, payments relating to compensation events specified in*
28 *the public-private partnership and payments relating to or arising*
29 *out of the termination of the public-private partnership.*

30 (c) *Allow the Department to accept payments of money from,*
31 *and share revenues with, the private partner. The Department*
32 *shall deposit such money in the State Highway Fund.*

33 (d) *Address the manner in which the Department and the*
34 *private partner will share management of the risks of the eligible*
35 *transportation facility.*

36 (e) *Specify the manner in which the Department and the*
37 *private partner will share the costs of any development of the*
38 *eligible transportation facility.*

39 (f) *Allocate financial responsibility for any costs that exceed*
40 *the amount specified in the public-private partnership.*

41 (g) *Establish applicable liquidated or stipulated damages to be*
42 *assessed for nonperformance by the private partner.*

43 (h) *Establish performance criteria or incentives, or both.*

44 (i) *Address the acquisition of rights-of-way and other property*
45 *interests that may be required for the eligible transportation*



1 *facility, including, without limitation, provisions that address the*
2 *exercise of eminent domain by the Department in the manner*
3 *authorized pursuant to this chapter and chapter 37 of NRS.*

4 *(j) Establish recordkeeping, accounting and auditing*
5 *standards to be used for the project.*

6 *(k) Upon termination of the public-private partnership,*
7 *address responsibility for repair, rehabilitation, reconstruction or*
8 *renovations that are required for an eligible transportation facility*
9 *to meet all applicable standards set forth in the public-private*
10 *partnership upon reversion of the eligible transportation facility to*
11 *this State.*

12 *(l) Provide for security and law enforcement.*

13 *(m) Identify any specifications of the Department that must be*
14 *satisfied, including, without limitation, provisions allowing the*
15 *private partner to request and receive authorization to deviate*
16 *from the specifications on making a showing satisfactory to the*
17 *Department.*

18 *(n) Specify remedies available and procedures for dispute*
19 *resolution, including, without limitation, the right of the private*
20 *partner to institute legal proceedings to obtain an enforceable*
21 *judgment or award against the Department in the event of a*
22 *default by the Department and procedures for use of dispute*
23 *review boards, mediation, facilitated negotiation, nonbinding and*
24 *binding arbitration and other alternative dispute resolution*
25 *procedures.*

26 *2. A public-private partnership must contain a provision by*
27 *which the private partner expressly agrees to be barred from*
28 *seeking injunctive or other equitable relief to delay, prevent or*
29 *otherwise hinder the Department from developing or constructing*
30 *any other facility which was planned at the time the public-private*
31 *partnership was executed and which may impact the revenue that*
32 *the private partner derives from the eligible transportation facility*
33 *developed under the public-private partnership. The public-private*
34 *partnership may provide for reasonable compensation to the*
35 *private partner for the adverse effect on revenue from the eligible*
36 *transportation facility developed under the public-private*
37 *partnership resulting from the development or construction of*
38 *another facility by the Department.*

39 *3. A public-private partnership must not include a provision*
40 *that authorizes the Department and the private partner to charge,*
41 *collect, use, enforce and retain user fees on any eligible*
42 *transportation facility which is a highway or portion of a highway*
43 *in existence on July 1, 2015, except that user fees may be charged,*
44 *collected, used, enforced and retained where:*



1 (a) Express lanes or high-occupancy vehicle lanes are
2 converted to high-occupancy toll lanes, if the conversion is
3 permissible under federal law;

4 (b) New capacity or lanes are constructed or added to the
5 existing highway;

6 (c) The existing highway is reconstructed or rehabilitated, if
7 the imposition of user fees is permissible under federal law; or

8 (d) It is otherwise permissible under federal law.

9 4. In connection with an eligible transportation facility that
10 charges user fees, the Department is also entitled to charge,
11 collect, use, enforce and retain user fees and exercise, for the
12 benefit of the Department, the power to:

13 (a) Manage traffic on the eligible transportation facility in the
14 manner described in subparagraph (5) of paragraph (a) of
15 subsection 1; and

16 (b) Govern the enforcement of user fees in the manner
17 described in subparagraph (6) of paragraph (a) of subsection 1.

18 **Sec. 53. 1.** If the Department enters into a public-private
19 partnership pursuant to section 46 of this act and the eligible
20 transportation facility involves user fees, the Board:

21 (a) Shall establish a schedule or methodology for the charging
22 of user fees by the Department or the private partner for the use of
23 the eligible transportation facility. Such a schedule or
24 methodology may include, without limitation, provisions for
25 adjusting the user fees based on the type of motor vehicle, time of
26 day, traffic conditions or other factors determined necessary by the
27 Department or the private partner to implement, finance or
28 improve the performance of the eligible transportation facility;

29 (b) Shall, consistent with the provisions of section 56 of this
30 act, establish the schedule of administrative fines, late charges and
31 any other penalties or charges which may be imposed against any
32 person who violates any regulation or rule governing the use of
33 the eligible transportation facility or who fails to pay a user fee;
34 and

35 (c) In addition to the exemptions provided in subsection 2, may
36 provide for exemptions from the payment of a user fee and may
37 authorize the private partner to provide for such exemptions.

38 2. The following motor vehicles are exempt from any user fee
39 established by the Board:

40 (a) A preregistered vehicle transporting a number of occupants
41 that is specified in the public-private partnership or otherwise
42 specified by the Board;

43 (b) A transit bus or vanpool vehicle owned or operated by an
44 agency or political subdivision of this State or the United States, to
45 the extent that such vehicles are exempted pursuant to an



1 *agreement between the agency or political subdivision and the*
2 *Department or the private partner;*

3 *(c) An authorized emergency vehicle if:*

4 *(1) It is responding to an emergency and its emergency*
5 *lights are in use; or*

6 *(2) It is enforcing traffic laws; and*

7 *(d) A vehicle that is exempt pursuant to the terms of the*
8 *public-private partnership.*

9 *3. The Board may review annually any fee schedule or*
10 *methodology established pursuant to this section and any*
11 *adjustments to the user fees made by the Department or the private*
12 *partner to determine whether the user fees effectively manage*
13 *travel times, speed and reliability with regard to the eligible*
14 *transportation facility. Such a review does not entitle the*
15 *Department to modify the terms of a binding public-private*
16 *partnership or bond indenture.*

17 **Sec. 54. 1. The Department or private partner may use any**
18 **method that it determines appropriate to charge, assess and collect**
19 **a user fee, including, without limitation, the issuance of invoices,**
20 **collection by means of toll booths, prepayment requirements and**
21 **the use of an electronic, video or automated collection system. An**
22 **electronic, video or automated collection system may be used to**
23 **verify payment or to charge or assess the user fee to:**

24 *(a) The account of a person whose vehicle is equipped with a*
25 *transponder or other automated payment technology approved by*
26 *the Department;*

27 *(b) The account of a person who otherwise registers to use the*
28 *collection system for the eligible transportation facility; or*

29 *(c) The registered owner of a motor vehicle.*

30 *2. Except as otherwise provided in this subsection, the name,*
31 *address and any other personal identifying information and any*
32 *trip data of a user of an eligible transportation facility is*
33 *confidential and the Department, a private partner, consultant,*
34 *contractor or representative thereof shall not release, sell or*
35 *distribute such information without the express written consent of*
36 *the user. The Department and the private partner may use and*
37 *release such information:*

38 *(a) As is necessary for the purpose of assessing, charging and*
39 *collecting a user fee and enforcing any administrative fines, late*
40 *charges or other penalties and charges imposed pursuant to the*
41 *public-private partnership; and*

42 *(b) To a law enforcement agency pursuant to a subpoena.*

43 *3. The Department or the private partner may solicit and*
44 *contract with a person to provide services relating to the*
45 *enforcement and collection of a user fee and any administrative*



1 *fines, late charges or other penalties and charges imposed*
2 *pursuant to the public-private partnership.*

3 *4. The Department or the private partner may:*

4 *(a) Accept cash payment of user fees at each toll booth or*
5 *similar fixed collection facility for user fees;*

6 *(b) Allow a person to establish and deposit money into an*
7 *account for use in an automated collection system; or*

8 *(c) Allow a person to establish an account that is not linked to*
9 *a specific vehicle for use in an automated collection system.*

10 *5. The Department shall adopt regulations establishing a*
11 *privacy policy regarding the collection and use of personal*
12 *identifying information pursuant to this section. The regulations*
13 *must include, without limitation, provisions requiring that:*

14 *(a) Any personal identifying information used to collect and*
15 *enforce user fees be destroyed not later than 30 days after the*
16 *person has paid the user fee, administrative fines, late fees or*
17 *other penalties and charges imposed;*

18 *(b) Any personal identifying information collected for the*
19 *establishment of an account for the use of an automated collection*
20 *system be:*

21 *(1) Stored longer than 30 days only if the information is*
22 *required to perform account functions, including, without*
23 *limitation, billing and other activities directly related to the use of*
24 *the account; and*

25 *(2) Destroyed within 30 days after receiving written notice*
26 *that the person who established the account wants to close the*
27 *account and has paid all outstanding user fees, administrative*
28 *fines, late fees or any other penalties and charges imposed; and*

29 *(c) Each person establishing an account for use in an*
30 *automated collection system be provided a copy, in a clear and*
31 *conspicuous manner, of the privacy policy required by this section*
32 *and all other applicable privacy laws, including, without*
33 *limitation, sections 52 and 55 of this act.*

34 **Sec. 55.** *1. The Department or a private partner may use a*
35 *photo-monitoring, video, image capture or other automated or*
36 *technology-based system to detect the failure of a driver or*
37 *registered owner of a motor vehicle to pay a user fee or to verify*
38 *the payment of a user fee.*

39 *2. The data, including, without limitation, photographs,*
40 *images, videotapes and other information about the motor vehicle*
41 *and its owner, generated and obtained by a system described in*
42 *subsection 1 may only be used by the Department or the private*
43 *partner to establish the nonpayment of a user fee and to enforce*
44 *collection of a user fee and any administrative fines, late charges*



1 *and other penalties or charges imposed pursuant to the public-*
2 *private partnership and for no other purpose.*

3 **Sec. 56. 1.** *Except as otherwise provided in subsection 3,*
4 *the registered owner of a motor vehicle who fails to pay a user fee*
5 *is subject to an administrative fine for nonpayment and is liable to*
6 *the Department or a private partner for the payment of the user*
7 *fee, administrative fine, late charge and any other penalties or*
8 *charges established by the Board or pursuant to the public-private*
9 *partnership.*

10 *2. If a driver or registered owner fails to pay a user fee, the*
11 *Department or the private partner shall provide notice of*
12 *the nonpayment to the registered owner. The notice must describe*
13 *the claimed nonpayment and the amount due, including, without*
14 *limitation, any administrative fines, late charges or other penalties*
15 *or charges, and explain that the registered owner must, within 20*
16 *days after receiving the notice, pay the full amount due or contest*
17 *the claim in the manner described in the notice. A registered*
18 *owner who does not pay the full amount due or contest the claim*
19 *within 20 days after receiving the notice cannot challenge the*
20 *claim in any proceeding or action brought by the Department or*
21 *the private partner.*

22 *3. A long-term or short-term lessor of a motor vehicle that is*
23 *the registered owner of a vehicle is not liable to the Department*
24 *or the private partner for any failure to pay a user fee arising out*
25 *of the use of a leased or rented motor vehicle during any period*
26 *that the motor vehicle is not in the possession of the lessor if,*
27 *within 20 days after receiving the written notice from the*
28 *Department or the private partner, the lessor provides to the*
29 *Department or the private partner the name, address, driver's*
30 *license number and any other identifying information of the*
31 *person to whom the motor vehicle was rented or leased at the time*
32 *of the use of the violation. If the lessor provides such information,*
33 *the person to whom the motor vehicle was rented or leased at the*
34 *time of the use of the eligible transportation facility is liable for*
35 *the user fee or administrative fee, or both, and any late charges or*
36 *other penalties or charges resulting from the person's failure to*
37 *pay the user fee.*

38 **Sec. 57. 1.** *If a registered owner of a motor vehicle fails to*
39 *respond to the notice of nonpayment provided pursuant to section*
40 *56 of this act, the Department of Transportation or a private*
41 *partner may file a notice with the Department of Motor Vehicles.*
42 *The notice must include:*

43 *(a) The place, time and date of the use of the eligible*
44 *transportation facility;*



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1 (b) The license plate number and, to the extent known, the
2 make and model year of the motor vehicle; and

3 (c) The total amount owed to the Department of
4 Transportation or the private partner, including, without
5 limitation, any administrative fines, late charges or other penalties
6 and charges resulting from the person's failure to pay the user fee.

7 2. Upon receipt of the notice described in subsection 1, the
8 Department of Motor Vehicles shall place a hold on the renewal of
9 the registration of the motor vehicle described in the notice. The
10 Department of Motor Vehicles shall not renew the registration of
11 the motor vehicle unless the registered owner:

12 (a) Pays to the Department of Motor Vehicles the total amount
13 owed to the Department of Transportation or the private partner,
14 which amount the Department of Motor Vehicles shall forward, as
15 directed by the Department of Transportation, to the Department
16 of Transportation or the private partner, along with an accounting
17 indicating the amount paid, from whom, for which motor vehicle
18 and the corresponding license plate number of the motor vehicle;
19 or

20 (b) Presents proof to the Department of Motor Vehicles of
21 payment or satisfaction issued by the Department of
22 Transportation or the private partner.

23 3. In addition to any administrative fine, late charge or other
24 penalty or charge for nonpayment of a user fee established
25 pursuant to a public-private partnership, the Department of Motor
26 Vehicles may impose an additional administrative fee of not more
27 than \$15 upon any person who applies for the renewal of the
28 registration of a motor vehicle subject to a hold placed on the
29 renewal pursuant to this section.

30 4. In addition to any other remedy provided by this section,
31 the Department of Transportation or the private partner may
32 recover in a civil action any user fee, administrative fine, late
33 charge or other penalty or charge authorized pursuant to section
34 56 of this act, as well as the costs of collection and enforcement.

35 **Sec. 58.** 1. The Department of Motor Vehicles shall work
36 cooperatively with the Department of Transportation and any
37 private partner to establish a timely and efficient manner for
38 providing information concerning motor vehicles, including,
39 without limitation, the name, address and driver's license number
40 of the registered owner and the registration number of the vehicle,
41 to the Department of Transportation and the private partner for
42 the purpose of collecting and enforcing user fees and any
43 administration fines, late charges and other penalties and charges
44 imposed pursuant to sections 56 and 57 of this act. To the extent
45 practicable, such information must be transmitted electronically.



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1 2. *The Department of Motor Vehicles shall work*
2 *cooperatively with the departments of motor vehicles and similar*
3 *agencies of other jurisdictions and states to:*

4 (a) *Assist the Department of Transportation and the private*
5 *partner with the collection and enforcement of user fees charged*
6 *against a motor vehicle operated on the eligible transportation*
7 *facility by a person from such other jurisdiction or state; and*

8 (b) *Assist such other departments of motor vehicles and*
9 *similar agencies with the collection and enforcement of user fees*
10 *charged against a motor vehicle operated on the toll facilities of*
11 *such other jurisdiction or state by a motor vehicle registered in*
12 *this State.*

13 ↪ *The cooperation must include providing information*
14 *concerning motor vehicles, including, without limitation, the*
15 *name, address and driver's license number of the registered owner*
16 *and the registration number of the vehicle, to such departments of*
17 *motor vehicles and similar agencies of other jurisdictions and*
18 *states and forwarding such information received from such other*
19 *departments of motor vehicles and similar agencies of other*
20 *jurisdictions and states to the Department of Transportation or the*
21 *private partner.*

22 **Sec. 59.** 1. *All money which is received and is to be*
23 *retained by the Department pursuant to a public-private*
24 *partnership and which is derived from the imposition of any*
25 *charge with respect to the operation of any motor vehicle upon*
26 *any public highway in this State must be deposited in the State*
27 *Highway Fund, accounted for separately and, except for costs of*
28 *administration, be used exclusively for the design, construction,*
29 *operation, maintenance, financing and repair of the public*
30 *highways of this State. The money must first be used to defray the*
31 *obligations for which the Department is responsible under the*
32 *public-private partnership, including, without limitation, the costs*
33 *of administration, design, construction, operation, maintenance,*
34 *financing and repair of the eligible transportation facility from*
35 *which the money is derived.*

36 2. *Any other money received and to be retained by the*
37 *Department pursuant to sections 36 to 65, inclusive, of this act or*
38 *pursuant to any policies or procedures established by the*
39 *Department or set forth in the public-private partnership must be*
40 *deposited in the State Highway Fund and accounted for*
41 *separately. The interest and income on the money in the account,*
42 *after deducting any applicable charges, must be credited to the*
43 *account. The money in the account may be used for:*

44 (a) *The payment of the costs of planning, designing, financing,*
45 *constructing, improving, maintaining, operating or acquiring*



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1 *rights-of-way for, or any combination thereof, the eligible*
2 *transportation facility;*

3 *(b) The payment of the costs of administering the eligible*
4 *transportation facility and enforcing the collection and*
5 *enforcement of tolls;*

6 *(c) Satisfaction of any obligations of the Department pursuant*
7 *to a public-private partnership; and*

8 *(d) The costs of administration, construction, maintenance*
9 *and repair of the public highways located in the county or*
10 *counties from which the money was obtained.*

11 **Sec. 60. 1.** *An eligible transportation facility and any*
12 *improvement to property in connection with an eligible*
13 *transportation facility determined by the Department to be*
14 *necessary or desirable therefor may, as determined by the*
15 *Department, be financed:*

16 *(a) By the private partner using equity, debt, bonds or any*
17 *other financing or money, or any combination thereof, for the*
18 *eligible transportation facility.*

19 *(b) By the issuance of revenue bonds or notes of the State*
20 *which are payable from and secured by:*

21 *(1) Revenues from the eligible transportation facility,*
22 *including, without limitation, user fees and payments established,*
23 *due and collected pursuant to sections 56 and 57 of this act, other*
24 *than subsection 3 of section 57 of this act;*

25 *(2) Payments from the Department to the private partner*
26 *pursuant to a public-private partnership, including any availability*
27 *payments;*

28 *(3) Payments from the private partner as described in*
29 *section 52 of this act;*

30 *(4) Guarantees or any other forms of financial assistance*
31 *from the private partner or any other person;*

32 *(5) Any grants, donations or other sources of money*
33 *mentioned in subsection 2 or 3 of section 47 of this act, if use of*
34 *the money for the purpose of paying and securing the payment of*
35 *the principal of and interest on those bonds or notes is consistent*
36 *with and not prohibited by the instrument, law or regulation under*
37 *which the money is received;*

38 *(6) Interest or other gain accruing on any of the money*
39 *deposited in the State Highway Fund pursuant to section 59 of this*
40 *act;*

41 *(7) Any other funds and revenues of the Department that*
42 *are eligible for such use; or*

43 *(8) Any combination thereof,*

44 *↪ as described in the resolution authorizing the issuance of the*
45 *bonds or notes. The bonds or notes must be authorized and issued*



1 *under the procedure described in NRS 408.273, but the bonds or*
2 *notes must be secured as provided in this section and may have a*
3 *maturity of up to 40 years after the date of issuance. Any bonds or*
4 *notes authorized by this paragraph are special, limited obligations*
5 *of the State payable solely from the revenues specifically pledged*
6 *to the payment of those obligations, as specified in the resolution*
7 *for the issuance of the bonds or notes, and do not create a debt of*
8 *the State for the purposes of Section 3 of Article 9 of the Nevada*
9 *Constitution.*

10 (c) *By the issuance of revenue bonds or notes of the State, to*
11 *finance the eligible transportation facility directly or by making a*
12 *loan to the private partner, pursuant to a financing agreement*
13 *entered into between the State and the private partner for the*
14 *purpose of securing the bonds or notes and providing for their*
15 *payment. Any bonds or notes issued pursuant to this paragraph*
16 *must be payable solely from and secured by payments made by and*
17 *property of and other security provided by the private partner,*
18 *including, without limitation, any payments made to the private*
19 *partner by the Department pursuant to the public-private*
20 *partnership. Any bonds or notes issued pursuant to this paragraph*
21 *must be authorized and issued under the procedure described in*
22 *NRS 408.273, but the bonds or notes must be secured as provided*
23 *in this paragraph and may have a maturity of up to 40 years from*
24 *the date of issuance. Any bonds or notes as authorized by this*
25 *paragraph are special, limited obligations of the State payable*
26 *solely from the revenues specifically pledged to the payment of*
27 *those obligations, as specified in the resolution for the issuance of*
28 *the bonds or notes, and do not create a debt of the State for the*
29 *purposes of Section 3 of Article 9 of the Nevada Constitution.*

30 (d) *By the issuance of private activity bonds or notes of the*
31 *State or any other eligible issuer, to finance the eligible*
32 *transportation facility directly or by making a loan to the private*
33 *partner, pursuant to a financing agreement entered into between*
34 *the State and the private partner for the purpose of securing the*
35 *bonds or notes and providing for their payment. Any bonds or*
36 *notes issued pursuant to this paragraph must be payable solely*
37 *from and secured by payments made by and property of and other*
38 *security provided by the private partner, including, without*
39 *limitation, any availability payments or other payments made to*
40 *the private partner by the Department pursuant to the public-*
41 *private partnership. Any bonds or notes issued pursuant to this*
42 *paragraph must be authorized and issued under the procedure*
43 *described in NRS 408.273, but the bonds or notes must be secured*
44 *as provided in this paragraph and may have a maturity of up to*
45 *40 years from the date of issuance. Any bonds or notes as authorized*



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1 *by this paragraph are special, limited obligations of the State*
2 *payable solely from the revenues specifically pledged to the*
3 *payment of those obligations, as specified in the resolution for*
4 *the issuance of the bonds or notes, and do not create a debt of the*
5 *State for the purposes of Section 3 of Article 9 of the Nevada*
6 *Constitution.*

7 *(e) By any loan, grant, line of credit, loan guarantee, credit*
8 *instrument, private activity bond allocation, credit assistance from*
9 *the Federal Government or other type of assistance that is*
10 *available to carry out the eligible transportation facility.*

11 *(f) With any grant, donation, gift or other form of conveyance*
12 *of land, money or other real or personal property or other thing of*
13 *value made to the Department to carry out the eligible*
14 *transportation facility.*

15 *(g) With available money from any other source, including a*
16 *source described in subsections 2 and 3 of section 47 of this act or*
17 *from user fees.*

18 *(h) By any combination of paragraphs (a) to (g), inclusive.*

19 *2. If so determined by the Department, any bonds or notes*
20 *issued as described in paragraph (b) of subsection 1 may also be*
21 *payable from and secured by taxes which are credited to the State*
22 *Highway Fund and which would not cause the bonds or notes to*
23 *create a public debt under the provisions of Section 3 of Article 9*
24 *of the Nevada Constitution. In addition, the Department may*
25 *pledge those taxes to and use those taxes for the payment of any of*
26 *its obligations under a public-private partnership.*

27 **Sec. 61.** *The Department may acquire, condemn or hold real*
28 *property and related appurtenances under fee title, lease,*
29 *easement, dedication or license for an eligible transportation*
30 *facility or in connection with a public-private partnership in any*
31 *manner in which the Department is authorized by law.*

32 **Sec. 62.** *1. The Department may grant to a private partner*
33 *in connection with a public-private partnership a lease, easement,*
34 *operating agreement, license, permit or right of entry for such real*
35 *property and related appurtenances. Such grant and use shall be*
36 *deemed for all purposes a public use, a public facility or a public*
37 *highway, or any combination thereof.*

38 *2. The Department may include authority in a public-private*
39 *partnership or otherwise authorize a private partner to remove any*
40 *encroachments or relocate any utility from the right-of-way of an*
41 *eligible transportation facility.*

42 *3. The use of the real property and related appurtenances*
43 *granted by the Department to the private partner pursuant to*
44 *subsection 1 is exempt from all real property and ad valorem taxes*
45 *pursuant to NRS 361.157.*



1 **Sec. 63. 1.** *The Department may adopt regulations to carry*
2 *out the provisions of sections 36 to 65, inclusive, of this act.*

3 2. *Any public-private partnership entered into pursuant to*
4 *sections 36 to 65, inclusive, of this act must include a provision*
5 *which states that the regulations adopted by the Department*
6 *pursuant to subsection 1 and the provisions of sections 36 to 65,*
7 *inclusive, of this act, as of the date on which the Department*
8 *entered into the public-private partnership, shall be deemed*
9 *incorporated as terms of the public-private partnership.*

10 **Sec. 64.** *If the Department enters into a public-private*
11 *partnership pursuant to section 46 of this act:*

12 1. *The Department shall report annually to the Board on the*
13 *status of the eligible transportation facility.*

14 2. *On or before February 1 of each year, the Board shall*
15 *prepare a written report concerning the eligible transportation*
16 *facility. The report must include, without limitation:*

17 (a) *The current status of the eligible transportation facility.*

18 (b) *If the eligible transportation facility involves user fees, the*
19 *amount of user fees collected by the Department and the private*
20 *partner.*

21 (c) *The amount of money received by the Department in*
22 *connection with the eligible transportation facility from sources*
23 *other than user fees.*

24 (d) *The amount paid by the Department under a public-private*
25 *partnership.*

26 (e) *Such other information as the Board determines*
27 *appropriate.*

28 3. *On or before February 1 of each even-numbered year, the*
29 *Board shall submit the report prepared pursuant to subsection 2 to*
30 *the Legislative Commission. On or before February 1 of each odd-*
31 *numbered year, the Board shall submit the report to the Director*
32 *of the Legislative Counsel Bureau for transmittal to the next*
33 *regular session of the Legislature.*

34 **Sec. 65.** *To the extent practicable, the provisions of sections*
35 *36 to 65, inclusive, of this act are intended to supplement other*
36 *statutory provisions governing the administration of highways in*
37 *this State and such other provisions must be given effect to the*
38 *extent that those provisions do not conflict with the provisions of*
39 *sections 36 to 65, inclusive, of this act. If there is a conflict*
40 *between such other provisions and the provisions of sections 36 to*
41 *65, inclusive, of this act, the provisions of sections 36 to 65,*
42 *inclusive, of this act control.*

43 **Sec. 66.** NRS 408.317 is hereby amended to read as follows:

44 408.317 1. Except as otherwise provided in NRS 408.3875 to
45 408.3887, inclusive, *and sections 36 to 65, inclusive, of this act, all*



1 work of construction, reconstruction, improvement and maintenance
2 of highways as provided under the provisions of this chapter is
3 under the supervision and direction of the Director and must be
4 performed in accordance with the plans, specifications and contracts
5 prepared by the Director.

6 2. All maintenance and repair of highways when performed by
7 the Department must be paid out of the State Highway Fund.

8 **Sec. 67.** NRS 408.327 is hereby amended to read as follows:

9 408.327 Except as otherwise provided in NRS 408.3875 to
10 408.3887, inclusive ~~†~~, *and sections 36 to 65, inclusive, of this act:*

11 1. Whenever the provisions of NRS 408.323 do not apply, the
12 Director shall advertise for bids for such work according to the plans
13 and specifications prepared by the Director.

14 2. The advertisement must state the place where the bidders
15 may obtain or inspect the plans and specifications and the time and
16 place for opening the plans and specifications.

17 3. Publication of the advertisement must be made at least once
18 a week for 2 consecutive weeks for a total of at least two
19 publications in a newspaper of general circulation in the county in
20 which the major portion of the proposed improvement or
21 construction is to be made, and the advertisement must also be
22 published at least once a week for 2 consecutive weeks for a total of
23 at least two publications in one or more daily papers of general
24 circulation throughout the State. The first publication of the
25 advertisement in the daily newspapers having general circulation
26 throughout the State must be made not less than 15 days before the
27 time set for opening bids.

28 **Sec. 68.** NRS 408.333 is hereby amended to read as follows:

29 408.333 Except as otherwise provided in NRS 408.367 or
30 408.3875 to 408.3887, inclusive ~~†~~, *and sections 36 to 65,*
31 *inclusive, of this act:*

32 1. Before furnishing any person proposing to bid on any
33 advertised work with the plans and specifications for such work, the
34 Director shall require from the person a statement, verified under
35 oath, in the form of answers to questions contained in a standard
36 form of questionnaire and financial statement, which must include a
37 complete statement of the person's financial ability and experience
38 in performing public work and any other comparable experience.

39 2. Such statements must be filed with the Director in ample
40 time to permit the Department to verify the information contained
41 therein in advance of furnishing proposal forms, plans and
42 specifications to any person proposing to bid on the advertised
43 public work, in accordance with the regulations of the Department.

44 3. Whenever the Director is not satisfied with the sufficiency
45 of the answers contained in the questionnaire and financial



1 statement, the Director may refuse to furnish the person with plans
2 and specifications and the official proposal forms on the advertised
3 project. If the Director determines that the person has, within the
4 preceding year, materially breached a contract for a public work for
5 which the cost exceeds \$25,000,000, the Director shall refuse to
6 furnish the person with plans and specifications and the official
7 proposal forms on the advertised project. Any bid of any person to
8 whom plans and specifications and the official proposal forms have
9 not been issued in accordance with this section must be disregarded,
10 and the certified check, cash or undertaking of such a bidder
11 returned forthwith.

12 4. Any person who is disqualified by the Director, in
13 accordance with the provisions of this section, may request, in
14 writing, a hearing before the Director and present again the person's
15 check, cash or undertaking and such further evidence with respect to
16 the person's financial responsibility, organization, plant and
17 equipment, or experience, as might tend to justify, in his or her
18 opinion, issuance to him or her of the plans and specifications for
19 the work.

20 5. Such a person may appeal the decision of the Director to the
21 Board no later than 5 days before the opening of the bids on the
22 project. If the appeal is sustained by the Board, the person must be
23 granted the rights and privileges of all other bidders.

24 **Sec. 69.** NRS 408.337 is hereby amended to read as follows:

25 408.337 Except as otherwise provided in NRS 408.3875 to
26 408.3887, inclusive ~~+~~, *and sections 36 to 65, inclusive, of this act:*

27 1. All bids must be accompanied by an undertaking executed
28 by a corporate surety authorized to do business in the State, or by
29 cash or a certified check in an amount equal to at least 5 percent of
30 the amount bid. Such undertaking, cash or check furnished to
31 accompany a bid submitted on-line pursuant to NRS 408.343 must
32 be furnished in accordance with the procedures set forth by the
33 Director.

34 2. If the successful bidder fails to execute the contract in
35 accordance with his or her bid and give any bond required by law
36 and the contract and bond are not postmarked or delivered to the
37 Department within 20 days after award of the contract, the
38 undertaking, cash or certified check is forfeited and the proceeds
39 must be paid into the State Highway Fund.

40 3. The failure of the successful bidder to furnish any bond
41 required of the bidder by law within the time fixed for his or her
42 execution of the contract constitutes a failure to execute the contract.

43 4. If the Director deems it is for the best interests of the State,
44 the Director may, on refusal or failure of the successful bidder to
45 execute the contract, award it to the second lowest responsible



1 bidder. If the second lowest responsible bidder fails or refuses to
2 execute the contract, the Director may likewise award it to the third
3 lowest responsible bidder. On the failure or refusal to execute the
4 contract of the second or third lowest bidder to whom a contract is
5 so awarded, their bidder's security is likewise forfeited to the State.

6 5. The bidder's security of the second and third lowest
7 responsible bidders may be withheld by the Department until the
8 contract has been finally executed and the bond given as required
9 under the provisions of the contract, at which time the security must
10 be returned. The bidder's security submitted by all other
11 unsuccessful bidders must be returned to them within 10 days after
12 the contract is awarded.

13 **Sec. 70.** NRS 408.343 is hereby amended to read as follows:

14 408.343 1. Except as otherwise provided in NRS 408.3875 to
15 408.3887, inclusive ~~H~~, *and sections 36 to 65, inclusive, of this act:*

16 (a) All bids must be submitted:

17 (1) Under sealed cover and received at the address in Nevada
18 stated in the advertisement for bids and must be opened publicly and
19 read at the time stated in the advertisement; or

20 (2) Pursuant to the process of on-line bidding established by
21 the Director.

22 (b) No bids may be received after the time stated in the
23 advertisement even though bids are not opened exactly at the time
24 stated in the advertisement. No bid, whether submitted in
25 accordance with subparagraph (1) or (2) of paragraph (a), may be
26 opened before that time.

27 (c) Any bid may be withdrawn by request at any time before the
28 time stated in the advertisement. The withdrawal must be filed with
29 the Director and executed by the bidder or the bidder's duly
30 authorized representative. The withdrawal may be filed
31 electronically. The withdrawal of a bid does not prejudice the right
32 of the bidder to file a new bid before the time stated in the
33 advertisement.

34 (d) The Department may reject any bid or all bids if, in the
35 opinion of the Department, the bids are unbalanced, incomplete,
36 contain irregularities of any kind or for any good cause.

37 (e) Until the final award of the contract, the Department may
38 reject or accept any bids and may waive technical errors contained
39 in the bids, as may be deemed best for the interests of the State.

40 (f) In awarding a contract, the Department shall make the award
41 to the lowest responsible bidder who has qualified and submitted his
42 or her bid in accordance with the provisions of this chapter.

43 2. The Director may adopt regulations to carry out the
44 provisions of this section.

45 3. As used in this section, "on-line bidding" means a process:



1 (a) That is established by the Director; and

2 (b) By which bidders submit proposals or bids for contracts on a
3 secure website on the Internet or its successor, if any, which is
4 established and maintained by the Department for that purpose.

5 **Sec. 71.** NRS 408.357 is hereby amended to read as follows:

6 408.357 1. Except as otherwise provided in NRS 408.354,
7 *and sections 36 to 65, inclusive, of this act*, every contract must
8 provide for the filing and furnishing of one or more bonds by the
9 ~~successful bidder,~~ *person to whom the contract is awarded*, with
10 corporate sureties approved by the Department and authorized to do
11 business in the State, in a sum equal to the full or total amount of the
12 contract awarded. The bond or bonds must be performance bonds or
13 labor and material bonds, or both.

14 2. The performance bonds must:

15 (a) Guarantee the faithful performance of the contract in
16 accordance with the plans, specifications and terms of the contract.

17 (b) Be maintained for 1 year after the date of completion of the
18 contract.

19 3. The labor and material bonds must:

20 (a) Secure payment of state and local taxes relating to the
21 contract, premiums under the Nevada Industrial Insurance Act,
22 contributions under the Unemployment Compensation Law, and
23 payment of claims for labor, materials, provisions, implements,
24 machinery, means of transportation or supplies furnished upon or
25 used for the performance of the contract; and

26 (b) Provide that if the contractor or his or her subcontractors, or
27 assigns, fail to pay for such taxes, premiums, contributions, labor
28 and materials required of, and used or consumed by, the contractor
29 or his or her subcontractors, the surety shall make the required
30 payment in an amount not exceeding the total sum specified in the
31 bond together with interest at a rate of 8 percent per annum.

32 ➤ All such bonds must be otherwise conditioned as required by law
33 or the Department.

34 4. No person bidding for work or submitting proposals under
35 the provisions of this chapter may be accepted as surety on any
36 bond.

37 5. Whenever the Department has cause to believe that the
38 sureties or any of them have become insufficient, it may demand in
39 writing of the contractor such further bonds or additional sureties, in
40 a total sum not exceeding that originally required, as are necessary,
41 considering the extent of the work remaining to be done. Thereafter
42 no payment may be made upon the contract to the contractor or any
43 assignee of the contractor until the further bonds or additional
44 sureties have been furnished.



1 6. The Department in every contract may require the furnishing
2 of proof by the successful bidder of public liability and insurance
3 coverage for damage to property.

4 **Sec. 72.** NRS 408.5471 is hereby amended to read as follows:

5 408.5471 As used in NRS 408.5471 to 408.549, inclusive,
6 unless the context otherwise requires, "transportation facility"
7 ~~means a road, railroad, bridge, tunnel, overpass, airport, mass~~
8 ~~transit facility, parking facility for vehicles or similar commercial~~
9 ~~facility used for the support of or the transportation of persons or~~
10 ~~goods, including, without limitation, any other property that is~~
11 ~~needed to operate the facility. The term does not include a toll~~
12 ~~bridge or toll road.]~~ *has the meaning ascribed to "eligible*
13 *transportation facility" in section 39 of this act.*

14 **Sec. 73.** NRS 408.5473 is hereby amended to read as follows:

15 408.5473 ~~[The]~~ *In addition to the provisions of sections 36 to*
16 *65, inclusive, of this act, the* Department may authorize a person to
17 develop, construct, improve, maintain or operate, or any
18 combination thereof, a transportation facility pursuant to NRS
19 408.5475 or 408.548.

20 **Sec. 74.** NRS 408.5485 is hereby amended to read as follows:

21 408.5485 *1. The Department may contract with a person*
22 *whose request or proposal is approved pursuant to NRS 408.5483*
23 *for transportation services to be provided by the transportation*
24 *facility in exchange for such payments for service and other*
25 *consideration as the Department may deem appropriate ~~†~~ ,*
26 *including, without limitation, periodic payments, construction*
27 *payments, milestone payments, progress payments, payments*
28 *based on availability or any other performance-based payments,*
29 *payments relating to compensation events specified in a public-*
30 *private partnership and payments relating to or arising out of the*
31 *termination of a public-private partnership.*

32 *2. The powers, rights, reservations and authority granted to*
33 *the Department pursuant to section 60 of this act with respect to*
34 *an eligible transportation facility authorized by sections 36 to 65,*
35 *inclusive, of this act, apply to the development, design,*
36 *construction, financing, improvement, maintenance or operation,*
37 *or any combination thereof, of a transportation facility authorized*
38 *by NRS 408.5471 to 408.549, inclusive.*

39 *3. If a transportation facility authorized by NRS 408.5471 to*
40 *408.549, inclusive, imposes or otherwise involves user fees, the*
41 *powers, rights, reservations and authority granted to the*
42 *Department with respect to an eligible transportation facility*
43 *authorized by sections 36 to 65, inclusive, of this act:*



1 (a) Apply to the development, design, construction, financing,
2 improvement, maintenance or operation, or any combination
3 thereof, of the transportation facility; and

4 (b) Are supplemental to the provisions of NRS 408.5471 to
5 408.549, inclusive.

6 4. As used in this section:

7 (a) "Eligible transportation facility" has the meaning ascribed
8 to it in section 39 of this act.

9 (b) "Public-private partnership" has the meaning ascribed to it
10 in section 43 of this act.

11 **Sec. 75.** NRS 239.010 is hereby amended to read as follows:

12 239.010 1. Except as otherwise provided in this section and
13 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
14 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
15 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
16 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
17 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
18 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
19 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
20 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
21 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,
22 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
23 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
24 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
25 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
26 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
27 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
28 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
29 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
30 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
31 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
32 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
33 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
34 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
35 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
36 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
37 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
38 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
39 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
40 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
41 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
42 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
43 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
44 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
45 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,



1 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
2 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
3 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
4 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
5 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
6 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
7 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
8 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
9 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
10 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
11 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
12 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
13 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
14 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
15 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
16 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
17 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
18 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
19 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
20 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
21 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
22 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
23 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
24 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
25 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
26 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
27 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
28 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
29 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and sections 51*
30 *and 54 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of
31 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
32 and unless otherwise declared by law to be confidential, all public
33 books and public records of a governmental entity must be open at
34 all times during office hours to inspection by any person, and may
35 be fully copied or an abstract or memorandum may be prepared
36 from those public books and public records. Any such copies,
37 abstracts or memoranda may be used to supply the general public
38 with copies, abstracts or memoranda of the records or may be used
39 in any other way to the advantage of the governmental entity or of
40 the general public. This section does not supersede or in any manner
41 affect the federal laws governing copyrights or enlarge, diminish or
42 affect in any other manner the rights of a person in any written book
43 or record which is copyrighted pursuant to federal law.
44 2. A governmental entity may not reject a book or record
45 which is copyrighted solely because it is copyrighted.



1 3. A governmental entity that has legal custody or control of a
2 public book or record shall not deny a request made pursuant to
3 subsection 1 to inspect or copy or receive a copy of a public book or
4 record on the basis that the requested public book or record contains
5 information that is confidential if the governmental entity can
6 redact, delete, conceal or separate the confidential information from
7 the information included in the public book or record that is not
8 otherwise confidential.

9 4. A person may request a copy of a public record in any
10 medium in which the public record is readily available. An officer,
11 employee or agent of a governmental entity who has legal custody
12 or control of a public record:

13 (a) Shall not refuse to provide a copy of that public record in a
14 readily available medium because the officer, employee or agent has
15 already prepared or would prefer to provide the copy in a different
16 medium.

17 (b) Except as otherwise provided in NRS 239.030, shall, upon
18 request, prepare the copy of the public record and shall not require
19 the person who has requested the copy to prepare the copy himself
20 or herself.

21 **Sec. 76.** NRS 338.1373 is hereby amended to read as follows:

22 338.1373 1. A local government or its authorized
23 representative shall award a contract for a public work pursuant to
24 the provisions of NRS 338.1415 and:

25 (a) NRS 338.1377 to 338.139, inclusive;

26 (b) NRS 338.143 to 338.148, inclusive;

27 (c) NRS 338.1685 to 338.16995, inclusive; or

28 (d) NRS 338.1711 to 338.173, inclusive.

29 2. Except as otherwise provided in this subsection, subsection
30 3 and chapter 408 of NRS, the provisions of this chapter apply with
31 respect to contracts for the construction, reconstruction,
32 improvement and maintenance of highways that are awarded by the
33 Department of Transportation pursuant to NRS 408.201 and
34 408.313 to 408.433, inclusive. The provisions of NRS 338.1375 to
35 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139,
36 338.142 and 338.1711 to 338.1727, inclusive, do not apply with
37 respect to contracts for the construction, reconstruction,
38 improvement and maintenance of highways that are awarded by the
39 Department of Transportation pursuant to NRS 408.201 and
40 408.313 to 408.433, inclusive **H**, *and sections 36 to 65, inclusive,*
41 *of this act.*

42 3. To the extent that a provision of this chapter precludes the
43 granting of federal assistance or reduces the amount of such
44 assistance with respect to a contract for the construction,
45 reconstruction, improvement or maintenance of highways that is



1 awarded by the Department of Transportation pursuant to NRS
2 408.201 and 408.313 to 408.433, inclusive, *and sections 36 to 65,*
3 *inclusive, of this act,* that provision of this chapter does not apply to
4 the Department of Transportation or the contract.

5 **Sec. 77.** NRS 338.1385 is hereby amended to read as follows:

6 338.1385 1. Except as otherwise provided in subsection 9,
7 this State, or a governing body or its authorized representative that
8 awards a contract for a public work in accordance with paragraph
9 (a) of subsection 1 of NRS 338.1373 shall not:

10 (a) Commence a public work for which the estimated cost
11 exceeds \$100,000 unless it advertises in a newspaper qualified
12 pursuant to chapter 238 of NRS that is published in the county
13 where the public work will be performed for bids for the public
14 work. If no qualified newspaper is published in the county where the
15 public work will be performed, the required advertisement must be
16 published in some qualified newspaper that is printed in the State of
17 Nevada and having a general circulation within the county.

18 (b) Commence a public work for which the estimated cost is
19 \$100,000 or less unless it complies with the provisions of NRS
20 338.1386, 338.13862 and 338.13864 and, with respect to the State,
21 NRS 338.1384 to 338.13847, inclusive.

22 (c) Divide a public work into separate portions to avoid the
23 requirements of paragraph (a) or (b).

24 2. At least once each quarter, the authorized representative of a
25 public body shall report to the public body any contract that the
26 authorized representative awarded pursuant to subsection 1 in the
27 immediately preceding quarter.

28 3. Each advertisement for bids must include a provision that
29 sets forth the requirement that a contractor must be qualified
30 pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

31 4. Approved plans and specifications for the bids must be on
32 file at a place and time stated in the advertisement for the inspection
33 of all persons desiring to bid thereon and for other interested
34 persons. Contracts for the public work must be awarded on the basis
35 of bids received.

36 5. Except as otherwise provided in subsection 6 and NRS
37 338.1389, a public body or its authorized representative shall award
38 a contract to the lowest responsive and responsible bidder.

39 6. Any bids received in response to an advertisement for bids
40 may be rejected if the public body or its authorized representative
41 responsible for awarding the contract determines that:

42 (a) The bidder is not a qualified bidder pursuant to NRS
43 338.1379 or 338.1382;

44 (b) The bidder is not responsive or responsible;



* A B 4 5 0 R 1 *

1 (c) The quality of the services, materials, equipment or labor
2 offered does not conform to the approved plans or specifications; or

3 (d) The public interest would be served by such a rejection.

4 7. A public body may let a contract without competitive
5 bidding if no bids were received in response to an advertisement for
6 bids and:

7 (a) The public body publishes a notice stating that no bids were
8 received and that the contract may be let without further bidding;

9 (b) The public body considers any bid submitted in response to
10 the notice published pursuant to paragraph (a);

11 (c) The public body lets the contract not less than 7 days after
12 publishing a notice pursuant to paragraph (a); and

13 (d) The contract is awarded to the lowest responsive and
14 responsible bidder.

15 8. Before a public body may commence the performance of a
16 public work itself pursuant to the provisions of this section, based
17 upon a determination that the public interest would be served by
18 rejecting any bids received in response to an advertisement for bids,
19 the public body shall prepare and make available for public
20 inspection a written statement containing:

21 (a) A list of all persons, including supervisors, whom the public
22 body intends to assign to the public work, together with their
23 classifications and an estimate of the direct and indirect costs of
24 their labor;

25 (b) A list of all equipment that the public body intends to use on
26 the public work, together with an estimate of the number of hours
27 each item of equipment will be used and the hourly cost to use each
28 item of equipment;

29 (c) An estimate of the cost of administrative support for the
30 persons assigned to the public work;

31 (d) An estimate of the total cost of the public work, including,
32 the fair market value of or, if known, the actual cost of all materials,
33 supplies, labor and equipment to be used for the public work; and

34 (e) An estimate of the amount of money the public body expects
35 to save by rejecting the bids and performing the public work itself.

36 9. This section does not apply to:

37 (a) Any utility subject to the provisions of chapter 318 or 710 of
38 NRS;

39 (b) Any work of construction, reconstruction, improvement and
40 maintenance of highways subject to ~~NRS 408.323 or 408.327;~~ *the*
41 *provisions of chapter 408 of NRS;*

42 (c) Normal maintenance of the property of a school district;

43 (d) The Las Vegas Valley Water District created pursuant to
44 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water
45 District created pursuant to chapter 477, Statutes of Nevada 1983 or



1 the Virgin Valley Water District created pursuant to chapter 100,
2 Statutes of Nevada 1993;

3 (e) The design and construction of a public work for which a
4 public body contracts with a design-build team pursuant to NRS
5 338.1711 to 338.1727, inclusive;

6 (f) A constructability review of a public work, which review a
7 local government or its authorized representative is required to
8 perform pursuant to NRS 338.1435; or

9 (g) The preconstruction or construction of a public work for
10 which a public body enters into a contract with a construction
11 manager at risk pursuant to NRS 338.1685 to 338.16995, inclusive.

12 **Sec. 78.** NRS 338.143 is hereby amended to read as follows:

13 338.143 1. Except as otherwise provided in subsection 8, a
14 local government or its authorized representative that awards a
15 contract for a public work in accordance with paragraph (b) of
16 subsection 1 of NRS 338.1373 shall not:

17 (a) Commence a public work for which the estimated cost
18 exceeds \$100,000 unless it advertises in a newspaper qualified
19 pursuant to chapter 238 of NRS that is published in the county
20 where the public work will be performed for bids for the public
21 work. If no qualified newspaper is published within the county
22 where the public work will be performed, the required
23 advertisement must be published in some qualified newspaper that is
24 printed in the State of Nevada and has a general circulation within
25 the county.

26 (b) Commence a public work for which the estimated cost is
27 \$100,000 or less unless it complies with the provisions of NRS
28 338.1442, 338.1444 or 338.1446.

29 (c) Divide a public work into separate portions to avoid the
30 requirements of paragraph (a) or (b).

31 2. At least once each quarter, the authorized representative of a
32 local government shall report to the governing body any contract
33 that the authorized representative awarded pursuant to subsection 1
34 in the immediately preceding quarter.

35 3. Approved plans and specifications for the bids must be on
36 file at a place and time stated in the advertisement for the inspection
37 of all persons desiring to bid thereon and for other interested
38 persons. Contracts for the public work must be awarded on the basis
39 of bids received.

40 4. Except as otherwise provided in subsection 5 and NRS
41 338.147, the local government or its authorized representative shall
42 award a contract to the lowest responsive and responsible bidder.

43 5. Any bids received in response to an advertisement for bids
44 may be rejected if the local government or its authorized
45 representative responsible for awarding the contract determines that:



- 1 (a) The bidder is not responsive or responsible;
- 2 (b) The quality of the services, materials, equipment or labor
- 3 offered does not conform to the approved plans or specifications; or
- 4 (c) The public interest would be served by such a rejection.

5 6. A local government may let a contract without competitive
6 bidding if no bids were received in response to an advertisement for
7 bids and:

8 (a) The local government publishes a notice stating that no bids
9 were received and that the contract may be let without further
10 bidding;

11 (b) The local government considers any bid submitted in
12 response to the notice published pursuant to paragraph (a);

13 (c) The local government lets the contract not less than 7 days
14 after publishing a notice pursuant to paragraph (a); and

15 (d) The contract is awarded to the lowest responsive and
16 responsible bidder.

17 7. Before a local government may commence the performance
18 of a public work itself pursuant to the provisions of this section,
19 based upon a determination that the public interest would be served
20 by rejecting any bids received in response to an advertisement for
21 bids, the local government shall prepare and make available for
22 public inspection a written statement containing:

23 (a) A list of all persons, including supervisors, whom the local
24 government intends to assign to the public work, together with their
25 classifications and an estimate of the direct and indirect costs of
26 their labor;

27 (b) A list of all equipment that the local government intends to
28 use on the public work, together with an estimate of the number of
29 hours each item of equipment will be used and the hourly cost to use
30 each item of equipment;

31 (c) An estimate of the cost of administrative support for the
32 persons assigned to the public work;

33 (d) An estimate of the total cost of the public work, including
34 the fair market value of or, if known, the actual cost of all materials,
35 supplies, labor and equipment to be used for the public work; and

36 (e) An estimate of the amount of money the local government
37 expects to save by rejecting the bids and performing the public work
38 itself.

39 8. This section does not apply to:

40 (a) Any utility subject to the provisions of chapter 318 or 710 of
41 NRS;

42 (b) Any work of construction, reconstruction, improvement and
43 maintenance of highways subject to ~~NRS 408.323 or 408.327;~~ *the*
44 *provisions of chapter 408 of NRS;*

45 (c) Normal maintenance of the property of a school district;



1 (d) The Las Vegas Valley Water District created pursuant to
2 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water
3 District created pursuant to chapter 477, Statutes of Nevada 1983 or
4 the Virgin Valley Water District created pursuant to chapter 100,
5 Statutes of Nevada 1993;

6 (e) The design and construction of a public work for which a
7 public body contracts with a design-build team pursuant to NRS
8 338.1711 to 338.1727, inclusive;

9 (f) A constructability review of a public work, which review a
10 local government or its authorized representative is required to
11 perform pursuant to NRS 338.1435; or

12 (g) The preconstruction or construction of a public work for
13 which a public body enters into a contract with a construction
14 manager at risk pursuant to NRS 338.1685 to 338.16995, inclusive.

15 **Sec. 79.** NRS 361.157 is hereby amended to read as follows:

16 361.157 1. When any real estate or portion of real estate
17 which for any reason is exempt from taxation is leased, loaned or
18 otherwise made available to and used by a natural person,
19 association, partnership or corporation in connection with a business
20 conducted for profit or as a residence, or both, the leasehold interest,
21 possessory interest, beneficial interest or beneficial use of the lessee
22 or user of the property is subject to taxation to the extent the:

23 (a) Portion of the property leased or used; and

24 (b) Percentage of time during the fiscal year that the property is
25 leased by the lessee or used by the user, in accordance with
26 NRS 361.2275,

27 ↪ can be segregated and identified. The taxable value of the interest
28 or use must be determined in the manner provided in subsection 3 of
29 NRS 361.227 and in accordance with NRS 361.2275.

30 2. Subsection 1 does not apply to:

31 (a) Property located upon a public airport, park, market or
32 fairground, or any property owned by a public airport, unless the
33 property owned by the public airport is not located upon the public
34 airport and the property is leased, loaned or otherwise made
35 available for purposes other than for the purposes of a public airport,
36 including, without limitation, residential, commercial or industrial
37 purposes;

38 (b) Federal property for which payments are made in lieu of
39 taxes in amounts equivalent to taxes which might otherwise be
40 lawfully assessed;

41 (c) Property of any state-supported educational institution,
42 except any part of such property located within a tax increment area
43 created pursuant to NRS 278C.155;

44 (d) Property leased or otherwise made available to and used by a
45 natural person, private association, private corporation, municipal



1 corporation, quasi-municipal corporation or a political subdivision
2 under the provisions of the Taylor Grazing Act or by the United
3 States Forest Service or the Bureau of Reclamation of the United
4 States Department of the Interior;

5 (e) Property of any Indian or of any Indian tribe, band or
6 community which is held in trust by the United States or subject to a
7 restriction against alienation by the United States;

8 (f) Vending stand locations and facilities operated by persons
9 who are blind under the auspices of the Bureau of Services to
10 Persons Who Are Blind or Visually Impaired of the Rehabilitation
11 Division of the Department of Employment, Training and
12 Rehabilitation, whether or not the property is owned by the federal,
13 state or a local government;

14 (g) Leases held by a natural person, corporation, association,
15 municipal corporation, quasi-municipal corporation or political
16 subdivision for development of geothermal resources, but only for
17 resources which have not been put into commercial production;

18 (h) The use of exempt property that is leased, loaned or made
19 available to a public officer or employee, incident to or in the course
20 of public employment;

21 (i) A parsonage owned by a recognized religious society or
22 corporation when used exclusively as a parsonage;

23 (j) Property owned by a charitable or religious organization all,
24 or a portion, of which is made available to and is used as a residence
25 by a natural person in connection with carrying out the activities of
26 the organization;

27 (k) Property owned by a governmental entity and used to
28 provide shelter at a reduced rate to elderly persons or persons having
29 low incomes;

30 (l) The occasional rental of meeting rooms or similar facilities
31 for periods of less than 30 consecutive days;

32 (m) The use of exempt property to provide day care for children
33 if the day care is provided by a nonprofit organization; ~~for~~

34 (n) *Any lease, easement, operating agreement, license, permit*
35 *or right of entry for any exempt state property granted by the*
36 *Department of Transportation pursuant to section 62 of this act;*
37 *or*

38 (o) Any lease, easement, operating agreement, license, permit or
39 right of entry for any exempt state property granted by the
40 Department or the Regional Transportation Commission of
41 Southern Nevada pursuant to section 45 of the Boulder City Bypass
42 Toll Road Demonstration Project Act.

43 3. Taxes must be assessed to lessees or users of exempt real
44 estate and collected in the same manner as taxes assessed to owners
45 of other real estate, except that taxes due under this section do not



1 become a lien against the property. When due, the taxes constitute a
2 debt due from the lessee or user to the county for which the taxes
3 were assessed and, if unpaid, are recoverable by the county in the
4 proper court of the county.

5 **Sec. 80.** The provisions of subsection 1 of NRS 218D.380 do
6 not apply to any provision of this act which adds or revises a
7 requirement to submit a report to the Legislature.

8 **Sec. 81.** The Department of Transportation shall allocate
9 \$20,000,000 or the amount of money saved from the use of a public-
10 private partnership pursuant to the provisions of sections 36 to 65,
11 inclusive, of this act, whichever is less, to the Tahoe transportation
12 district established by NRS 277.200 for the support of the US
13 50/South Shore Community Revitalization Project.

14 **Sec. 82.** This act becomes effective on July 1, 2015.



