

SENATE BILL NO. 214—SENATORS HARDY;
MCGINNESS AND RHOADS

MARCH 2, 2011

JOINT SPONSORS: ASSEMBLYMEN STEWART; AND HARDY

Referred to Committee on Transportation

SUMMARY—Requires the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. (BDR S-842)

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 transportation; requiring the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project and to enter into one or more public-private partnerships to design, construct, develop, finance, operate or maintain the demonstration project; providing for the establishment of tolls, administrative fines and penalties; 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 required toll for the use of the demonstration project and to otherwise assist in the collection of such tolls, fines and penalties; authorizing the Department of Motor Vehicles to establish certain administrative fees; authorizing the issuance of revenue bonds or notes of the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 14** of this bill requires the Department of Transportation to establish a
- 2 demonstration project for a toll road in connection with the Boulder City Bypass
- 3 Project. **Section 14** also provides that the demonstration project must be and remain



* S B 2 1 4 *

a public highway owned by the Department. **Section 15** of this bill requires the Department to enter into contracts with one or more public-private partnerships for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project. **Section 21** of this bill requires the Board of Directors of the Department to establish or include in a public-private partnership: (1) a schedule of tolls for the use of the demonstration project or a methodology for establishing such a schedule; and (2) administrative fines and other penalties for nonpayment of tolls. **Section 21** also authorizes the Board to establish exemptions from the tolls for certain motor vehicles. **Section 22** of this bill provides that registered owners are subject to administrative fines and penalties for failure to pay a required toll. **Section 22** also requires the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle if the Department of Transportation or a private partner provides notice to the Department of Motor Vehicles that the registered owner of the motor vehicle has failed to pay a required toll.

Section 23 of this bill, in accordance with the provisions of the Nevada Constitution, provides that money collected by the Department of Transportation or a private partner in connection with the demonstration project that is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund and, except for costs of administration, must be used exclusively for the construction, maintenance and repair of the public highways of this State. (Nev. Const. Art. 9, § 5) **Section 23** also provides that the money must first be used to defray the costs of administration, construction, maintenance and repair of the demonstration project.

Section 24 of this bill provides that the demonstration project and any property improvement determined by the Department to be necessary or desirable therefor may be financed by the private partner to a public-private partnership using its own funds or obtaining funds in any lawful manner for that entity or by the issuance of revenue bonds or notes of the State.

Section 26 of this bill provides that a private partner is exempt from any assessment on property which the Department provides to the private partner pursuant to a public-private partnership and on which the demonstration project is located. **Section 27** of this bill requires a private partner to pay prevailing wages to workers engaged in construction on the demonstration project.

Section 29 of this bill authorizes the Board of Directors of the Department of Transportation to adopt regulations to carry out the demonstration project. **Section 31** of this bill requires the Board to submit a report concerning the demonstration project to the Legislative Commission on or before February 1 of each even-numbered year and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before February 1 of each odd-numbered year.

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

Section 1. This act may be cited as the Boulder City Bypass
Toll Road Demonstration Project Act.

Sec. 2. As used in this act, unless the context otherwise
requires, the words and terms defined in sections 3 to 13, inclusive,
of this act have the meanings ascribed to them in those sections.

Sec. 3. "Authorized emergency vehicle" has the meaning
ascribed to it in NRS 484A.020.



1 **Sec. 4.** "Board" means the Board of Directors of the
2 Department of Transportation.

3 **Sec. 5.** "Concession" means any lease, ground lease, franchise,
4 easement, permit, right of entry, operating agreement or other
5 binding agreement transferring rights for the use or control, in whole
6 or in part, of the demonstration project by the Department to a
7 private partner.

8 **Sec. 6.** "Demonstration project" means the toll road
9 demonstration project established by the Department pursuant to
10 section 14 of this act.

11 **Sec. 7.** "Department" means the Department of
12 Transportation.

13 **Sec. 8.** "Motor vehicle" has the meaning ascribed to it in
14 NRS 484A.130.

15 **Sec. 9.** "Private partner" means a person with whom the
16 Department enters into a public-private partnership.

17 **Sec. 10.** "Public-private partnership" means a contract entered
18 into by the Department and a private partner under which the private
19 partner:

20 1. Assists the Department in defining a potential project
21 concerning the demonstration project and negotiates terms for
22 potentially carrying out the planning, designing, financing,
23 constructing, improving, maintaining, operating or acquiring rights-
24 of-way for, or any combination thereof, the demonstration project,
25 or any portion thereof; or

26 2. Assumes responsibility for planning, designing, financing,
27 constructing, improving, maintaining, operating or acquiring rights-
28 of-way for the demonstration project or any portion thereof.

29 **Sec. 11.** "Registered owner" means a person whose name
30 appears in the records of the Department of Motor Vehicles as the
31 person to whom a motor vehicle is registered.

32 **Sec. 12.** "Toll" means a fee, fare or other similar charge,
33 including, without limitation, any incidental, account maintenance,
34 administrative, credit card or video tolling fee or charge authorized
35 by a public-private partnership and imposed on a person for his or
36 her use of a toll road.

37 **Sec. 13.** "Toll road" means a highway and appurtenant
38 facilities for which a user must pay a toll as a condition of use.

39 **Sec. 14.** 1. The Department shall establish a toll road
40 demonstration project in connection with the Boulder City Bypass
41 Project. The demonstration project may:

42 (a) Include, without limitation, highways, roads, bridges, on-
43 ramps, off-ramps, direct connectors to or from other highways or
44 arterials, tunnels, connectors to an airport, pavement, shoulders,
45 structures, culverts, curbs, toll gantries and systems, drains,



1 rights-of-way, buildings, communication facilities, equipment
2 appurtenances, lighting, signage, service centers, operations centers,
3 services, personal property and works incidental to, related to or
4 desirable for highway design, construction, improvement,
5 maintenance or operation required, laid out, constructed, improved,
6 maintained or operated for highway purposes.

7 (b) Include any appurtenant facilities and facilities necessary for
8 connectivity, mobility or safety of the demonstration project, which
9 may include tolled and nontolled elements.

10 (c) Be developed in one or more phases, through one or more
11 solicitations and with one or more private partners.

12 2. The Department may perform such tasks as are necessary
13 and appropriate to plan, finance, design, construct, improve,
14 maintain, operate and acquire rights-of-way for the demonstration
15 project, including, without limitation:

16 (a) Plan, design, finance, construct, maintain, operate and make
17 such other improvements to existing highways as may be necessary
18 and appropriate to accommodate, develop and own the
19 demonstration project.

20 (b) Determine the allowable uses of and the goals, standards,
21 specifications and criteria of the demonstration project.

22 (c) Enter into agreements with any local government or other
23 political subdivision of this State, another state or the Federal
24 Government for planning, designing, financing, constructing,
25 improving, maintaining, operating and acquiring rights-of-way for
26 the demonstration project.

27 (d) Enter into contracts with a public-private partnership for
28 planning, designing, financing, constructing, improving,
29 maintaining, operating and acquiring rights-of-way for the
30 demonstration project.

31 (e) Retain legal, financial, technical and other consultants to
32 assist the Department concerning the demonstration project.

33 (f) Secure financial and other assistance for planning, designing,
34 financing, constructing, improving, maintaining, operating and
35 acquiring rights-of-way for the demonstration project.

36 (g) Apply for, accept and expend money from any lawful
37 source, including, without limitation, any public or private funding,
38 loan, grant, line of credit, loan guarantee, credit instrument, private
39 activity bond allocation, credit assistance from the Federal
40 Government or other type of assistance that is available to carry out
41 the demonstration project.

42 (h) Accept from any source any grant, donation, gift or other
43 form of conveyance of land, money, other real or personal property
44 or other thing of value made to the Department to carry out the
45 demonstration project.



(i) Pay any compensation to which a private partner is entitled, pursuant to the terms of the public-private partnership, upon the termination of the public-private partnership.

(j) Enter into a bond indenture, loan agreement, interest rate swap, hedge agreement, financing agreement, security agreement, pledge agreement, credit facility, trust agreement or other financial agreement in connection with the financing of the demonstration project.

3. The demonstration project, whether planned, designed, financed, constructed, improved, maintained or operated by the Department or private partner, must be and remain:

(a) A public highway;

(b) A public use;

(c) A public facility; and

(d) Owned by the Department.

Sec. 15. 1. The Department shall enter into a public-private partnership with one or more private partners for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project. A public-private partnership entered into pursuant to this section may include, without limitation, a concession and must be awarded through one or more solicitations that must include, without limitation, some or all of the requests for qualifications, short-listing of qualified proposers, requests for proposals, negotiations and best and final offers.

2. For any solicitation in which the Department issues a request for qualifications, request for proposals or similar solicitation for a public-private partnership, the Department may determine which factors it will consider and the relative weight of those factors in the evaluation process for the demonstration project to obtain the best value for the Department.

3. Each request for proposals issued for the demonstration project must require each person submitting a proposal to include with the proposal an executive summary. The executive summary must address the major elements of the proposal but must not include the financial terms of the proposal, the financing plan or other confidential or proprietary information or trade secrets that the person submitting the proposal intends to be exempt from disclosure.

4. The executive summary may be released to the public by the Department at any time.

5. After evaluation of the proposals submitted in response to a request for proposals, the Department shall enter into negotiations with the applicant whose proposal appeared to have the best value to enter into a public-private partnership. If the Department is unable



* S B 2 1 4 *

1 to negotiate a public-private partnership with that applicant upon
2 such terms and conditions that the Department determines to be in
3 the best interest of the public, the Department shall suspend or
4 terminate negotiations with that applicant. The Department may
5 then undertake negotiations with the next highest-ranked applicant
6 in sequence until a public-private partnership is entered into or a
7 determination is made by the Department to reject all applicants that
8 submitted proposals.

9 6. After the award and execution of the public-private
10 partnership, the Department shall make available to the applicants
11 and the public the results of the evaluations of proposals and the
12 final rankings of the applicants.

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

21 **Sec. 16.** 1. The Department may reimburse an unsuccessful
22 bidder for a portion of the cost of preparing a proposal or best and
23 final offer, or both. If the Department intends to make such a
24 reimbursement, the Department shall set forth the terms and
25 conditions of the reimbursement in the request for qualifications or
26 request for proposals for the demonstration project.

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

34 **Sec. 17.** 1. The provisions of NRS 338.1385, 338.141,
35 408.327 408.337, 408.343, 408.357 and subsection 1 of NRS
36 408.3884 do not apply to a public-private partnership.

37 2. To be eligible as a private partner in connection with a
38 public-private partnership, a private partner must:

39 (a) Obtain a performance bond, payment bond, letter of credit,
40 parent guarantee or other security acceptable to the Department, or
41 any combination thereof, as the Department may require;

42 (b) Obtain insurance covering general liability and liability for
43 errors and omissions;

44 (c) Not have been found liable for breach of contract with
45 respect to a previous project with the Department, other than a



* S B 2 1 4 *

1 breach for legitimate cause during the 5 years immediately
2 preceding the commencement of the solicitation of the public-
3 private partnership; and

4 (d) Not have been disqualified from being awarded a contract
5 pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.

6 3. A private partner is not required to hold the licenses and
7 certifications required to undertake the work for the demonstration
8 project as a condition of eligibility to be a private partner but must
9 ensure that any work which requires a license or certification is
10 performed by persons that possess the required licenses and
11 certifications.

12 **Sec. 18.** Information obtained by or disclosed to the
13 Department during the procurement or negotiation of a public-
14 private partnership may be kept confidential until the public-private
15 partnership is executed, except that the Department may exempt
16 from release any proprietary information obtained by or disclosed to
17 the Department during the procurement or negotiation.

18 **Sec. 19.** 1. Except as otherwise provided in subsection 2,
19 notwithstanding any other law to the contrary, a public-private
20 partnership may be for a term of not more than 55 years after:

21 (a) The opening of the demonstration project to the public and
22 the commencement of its full operations and collection of revenue;

23 (b) The opening of the demonstration project and the
24 commencement of its full operations; or

25 (c) The commencement of the public-private partnership, if the
26 public-private partnership involves a facility or service that is not
27 generally open to or used by the public.

28 2. A public-private partnership may be extended:

29 (a) As a result of an event in the nature of force majeure;

30 (b) As a means to compensate the private partner for events set
31 forth in the public-private partnership that entitle the private partner
32 to compensation; or

33 (c) For additional terms upon the mutual agreement of the
34 private partner and the Department, as authorized by the Board.

35 **Sec. 20.** 1. A public-private partnership entered into
36 pursuant to this act may include provisions that:

37 (a) Authorize the Department and the private partner to charge,
38 collect, use, enforce and retain tolls, including, without limitation,
39 provisions that:

40 (1) Specify the technology to be used in the demonstration
41 project;

42 (2) Establish circumstances under which the Department may
43 receive the revenues or a share of the revenues from such tolls;



(3) State that the tolls may be collected directly by the Department, the private partner or by a third party engaged for that purpose;

(4) Prescribe a formula, indexation or mechanism for the adjustment of tolls during the term of the public-private partnership;

(5) Allow a variety of strategies to be employed to manage traffic on the demonstration project, including, without limitation:

(I) High-occupancy vehicle lanes where single- or low-occupancy vehicles may use higher-occupancy vehicle lanes by paying a toll;

(II) Managed lanes or facilities in which the tolls may vary during the course of the day or week or according to the levels of congestion that are anticipated or experienced; and

(III) Any combination of, or variation on, the strategies set forth in sub-subparagraphs (I) and (II), or any other strategy that the Department determines is appropriate based on the specific circumstances of the demonstration project; and

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

(b) Allow for payments to be made by this State to the private partner, including, without limitation, periodic payments, construction payments, payments for attaining milestones, progress payments, payments based on availability or other performance-based payments, payments relating to events for which the public-private partnership requires payment of compensation and payments relating to or arising out of the termination of the public-private partnership.

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

(d) Address the manner in which the Department and the private partner will share management of the risks of the demonstration project.

(e) Specify the manner in which the Department and the private partner will share the costs of any development of the demonstration project.



* S B 2 1 4 *

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

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

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

(i) Address the acquisition of rights-of-way and other property interests that may be required for the demonstration project, including, without limitation, provisions that address the exercise of eminent domain by the Department in the manner authorized pursuant to chapters 37 and 408 of NRS.

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

(k) Upon termination of the public-private partnership, address responsibility for repair, rehabilitation, reconstruction or renovations that are required for the demonstration project to meet all applicable standards set forth in the public-private partnership upon reversion of the demonstration project to this State.

(l) Provide for security and law enforcement.

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

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

2. A public-private partnership entered into pursuant to this act must contain a provision by which the private partner expressly agrees to be barred from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the Department from developing or constructing a facility which was planned at the time the public-private partnership was executed and which may impact the revenue that the private partner derives from the demonstration project developed under the public-private partnership. The public-private partnership may provide for reasonable compensation to the private partner for the adverse effect on revenue from the demonstration project developed under the public-private partnership resulting from the development or construction of another facility by the Department.



* S B 2 1 4 *

Sec. 21. 1. The Board:

(a) Shall adopt, establish or include in the public-private partnership a schedule of tolls or a methodology for establishing the tolls that may be charged by the Department or a private partner for the use of the demonstration project, which may include, without limitation, provisions for adjusting the tolls based on the types of motor vehicle, time of day, traffic conditions or other factors determined necessary by the Department or a private partner to implement, finance or improve the performance of the demonstration project;

(b) Shall, consistent with the provisions of section 22 of this act, establish or provide in the public-private partnership for the establishment of administrative fines, late charges and other penalties for any person who violates any regulation or rule governing the use of the demonstration project or who fails to pay a toll; and

(c) In addition to the exemptions provided in subsection 2, may establish or provide in the public-private partnership for exemptions from the payment of a toll.

2. The following motor vehicles are exempt from any toll established by the Board:

(a) A preregistered vehicle transporting three or more persons;

(b) A transit bus or vanpool vehicle owned or operated by an agency or political subdivision of this State or the United States, to the extent that such vehicles are exempted pursuant to an agreement between the agency or political subdivision and the Department or a private partner;

(c) An authorized emergency vehicle if the person operating it is:

(1) Responding to an emergency and its emergency lights are in use; or

(2) Enforcing traffic laws; and

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

3. Not less frequently than once each calendar year, the Board shall review any fee schedule established pursuant to this section and any adjustments to the fee schedule made by the Department or a private partner to determine whether the tolls effectively manage travel times, speed and reliability with regard to the demonstration project.

4. The Department or a private partner may use any method it determines appropriate to collect a toll, including, without limitation, the issuance of invoices, prepayment requirements and the use of an electronic, video or automated collection system. An



* S B 2 1 4 *

1 electronic, video or automated collection system may be used to
2 verify payment or to charge the toll to the:

3 (a) Account of a person whose vehicle is equipped with a
4 transponder approved by the Department or other automated
5 payment technology approved by the Department;

6 (b) Account of a person who otherwise registers to use the
7 demonstration project in accordance with the policies and
8 procedures established by the Board or set forth in the public-private
9 partnership; or

10 (c) Registered owner.

11 5. The name, address, other personal identifying information
12 and trip data of a user is confidential, and the Department, a private
13 partner, consultant, contractor or representative thereof shall not
14 release, sell or distribute such information without the express
15 written consent of the user, except that the Department or a private
16 partner may release such information:

17 (a) As is necessary to collect a toll and enforce any penalty for a
18 violation of this act or any policies and procedures established
19 pursuant thereto or set forth in the public-private partnership; and

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

21 6. The Department or a private partner may solicit and contract
22 with any person to provide services relating to the collection of a
23 toll.

24 **Sec. 22.** 1. Except as otherwise provided in subsection 3, a
25 registered owner who fails to pay a toll is subject to an
26 administrative fine for nonpayment and is liable to the Department
27 or private partner for the payment of the toll, the administrative fine
28 and any additional charges or penalties prescribed by the Board or
29 set forth in the public-private partnership.

30 2. If a driver or registered owner fails to pay a toll, the
31 Department or private partner shall provide notice of nonpayment to
32 the registered owner. The notice must describe the claimed
33 nonpayment and the amount due, including any additional charges,
34 administrative fines or penalties, and explain that the registered
35 owner must, within 20 days after receiving the notice, pay the full
36 amount due or contest the claim in the manner described in the
37 notice. A registered owner who does not pay the full amount due or
38 contest the claim within 20 days after receiving the notice may not
39 challenge the claim in any proceeding or action brought by the
40 Department or the private partner.

41 3. An automobile rental agency that is the registered owner is
42 not liable to the Department or a private partner for any violation
43 arising out of the use of a leased or rented motor vehicle during any
44 period in which the motor vehicle is not in the possession of the
45 agency if, within 20 days after receiving the written notice from the



* S B 2 1 4 *

1 Department or private partner, the automobile rental agency
2 provides to the Department or private partner the name, address and
3 other identifying information of the person to whom the motor
4 vehicle was rented or leased at the time of the violation.

5 4. The Department or a private partner may use a photo-
6 monitoring, video, image capture or other automated or technology-
7 based enforcement and collections system to detect the failure of a
8 motor vehicle to register payment of the required toll, to detect the
9 failure of the driver or registered owner to pay a toll, or to verify and
10 assess the payment of a toll. The data, including photographs,
11 images, videotapes and other vehicle and owner information
12 generated and obtained by the system, may be used to establish the
13 nonpayment of the toll and to enforce collection of the toll. The
14 Department or private partner shall not use the information for any
15 other purpose.

16 5. If the registered owner fails to respond to the notice
17 described in subsection 2, the Department of Transportation or
18 private partner may file a notice of nonpayment with the
19 Department of Motor Vehicles. The notice must include:

20 (a) The place, time and date of the violation;

21 (b) The number of the license plate and the make and model
22 year of the motor vehicle; and

23 (c) The total amount owed the Department or private partner for
24 the violation.

25 6. Upon receipt of the notice described in subsection 5, the
26 Department of Motor Vehicles shall place a hold on the renewal of
27 the registration of the motor vehicle described in the notice. The
28 Department of Motor Vehicles shall not renew the registration of the
29 motor vehicle unless the registered owner:

30 (a) Pays to the Department of Motor Vehicles the total amount
31 owed the Department of Transportation or private partner, which the
32 Department of Motor Vehicles shall forward to the Department of
33 Transportation or private partner, along with an accounting
34 indicating the amount paid, from whom, for which motor vehicle
35 and the corresponding license plate number of the motor vehicle; or

36 (b) Presents proof to the Department of Motor Vehicles of
37 payment or satisfaction issued by the Department of Transportation
38 or private partner.

39 7. In addition to any penalty, administrative fine or fee
40 prescribed by the Board or set forth in the public-private partnership
41 for nonpayment of a toll, the Department of Motor Vehicles may
42 impose an additional administrative fee of not more than \$15 upon
43 any person who applies for the renewal of the registration of a motor
44 vehicle subject to a hold pursuant to this section.



* S B 2 1 4 *

8. The Department of Motor Vehicles shall work cooperatively with the Department of Transportation and any private partner to establish a timely and efficient manner for providing motor vehicle information, including, without limitation, the name and address of the registered owner, to the Department of Transportation and any private partner for the purposes of collecting fees and enforcing any penalties imposed pursuant to this act, established by the Board or set forth in the public-private partnership. To the extent practicable, such information must be transmitted electronically.

9. The Department of Motor Vehicles shall work cooperatively with departments of motor vehicles and similar agencies of other jurisdictions and states to assist:

(a) The Department of Transportation and a private partner with the collection and enforcement of tolls charged against a motor vehicle operated on the demonstration project by a person from such other jurisdiction or state; and

(b) Such other departments of motor vehicles and similar agencies with the collection and enforcement of tolls charged against a motor vehicle operated on the toll facilities of such other jurisdiction or state by a motor vehicle registered in this State.

➔ The cooperation must include providing motor vehicle information and the name and address of the registered owner to such departments of motor vehicles and similar agencies of other jurisdictions and states and forwarding such information received from such other departments of motor vehicles and similar agencies of other jurisdictions and states to the Department of Transportation or private partner.

Sec. 23. 1. All money collected by the Department or a private partner in connection with the demonstration project that is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund and, except for costs of administration, must be used exclusively for the construction, maintenance and repair of the public highways of this State. The money must first be used to defray the costs of administration, construction, maintenance and repair of the demonstration project.

2. Any other money received by the Department pursuant to this act or any policies or procedures established by the Department or set forth in the public-private partnership must be deposited in the State Highway Fund and accounted for separately. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. The money in the account may be used for:



* S B 2 1 4 *

(a) The payment of the costs of planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project;

(b) The payment of the costs of administering the demonstration project and enforcing the collection of tolls;

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

(d) The costs of administration, construction, maintenance and repair of the public highways located in Clark County.

Sec. 24. 1. The demonstration project and any property improvement determined by the Department to be necessary or desirable therefor may, as determined by the Department, be financed:

(a) By the private partner using its own funds or obtaining funds in any lawful manner for that entity.

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

(1) Revenues from the demonstration project, including, without limitation, tolls and payments established, due and collected pursuant to sections 21 and 22 of this act, other than subsection 7 of section 22 of this act;

(2) Payments from the Department to the private partner pursuant to a public-private partnership;

(3) Payments from the private partner as described in section 23 of this act;

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

(5) Any grants, donations or other sources of funding mentioned in paragraph (f), (g) or (h) of subsection 2 of section 14 of this act, if use of the money to pay and secure the payment of the principal of and interest on those bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received;

(6) Interest or other gain accruing on any of the money deposited in the State Highway Fund pursuant to section 23 of this act; and

(7) Any combination thereof,

↪ as described in the resolution authorizing the issuance of the bonds or notes. The bonds or notes must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this section and may have a maturity of up to 40 years after the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for



* S B 2 1 4 *

1 the issuance of the bonds or notes, and shall never be a debt of the
2 State under Section 3 of Article 9 of the Constitution of the State of
3 Nevada.

4 (c) By the issuance of revenue bonds or notes of the State, to
5 finance the demonstration project directly or by making a loan to the
6 private partner, pursuant to a financing agreement entered into
7 between the State and the private partner to secure the bonds or
8 notes and provide for their payment. Any bonds or notes issued
9 under this paragraph must be solely payable from and secured by
10 payments made by and property of and other security provided by
11 the private partner, including, without limitation, any payments
12 made to the private partner by the Department pursuant to the
13 public-private partnership. Any bonds or notes issued pursuant to
14 this paragraph must be authorized and issued under the procedure
15 described in NRS 408.273, but the bonds or notes must be secured
16 as provided in this paragraph and may have a maturity of up to 40
17 years from the date of issuance. Any bonds or notes authorized by
18 this paragraph are special, limited obligations of the State payable
19 solely from the revenues specifically pledged to the payment of
20 those obligations, as specified in the resolution for the issuance of
21 bonds or notes, and shall never be a debt of the State under Section
22 3 of Article 9 of the Constitution of the State of Nevada.

23 (d) By the issuance of private activity bonds or notes of the State
24 or other eligible issuer, to finance the demonstration project directly
25 or by making a loan to the private partner, pursuant to a financing
26 agreement entered into between the State and the private partner for
27 the purpose of securing the bonds or notes and providing for their
28 payment. Any bonds or notes issued pursuant to this paragraph must
29 be payable solely from and secured by payments made by and
30 property of and other security provided by the private partner,
31 including, without limitation, any payments made to the private
32 partner by the Department pursuant to the public-private
33 partnership. Any bonds or notes issued pursuant to this paragraph
34 must be authorized and issued under the procedure described in
35 NRS 408.273 but the bonds or notes must be secured as provided in
36 this paragraph and may have a maturity of up to 40 years from the
37 date of issuance. Any bonds or notes authorized by this paragraph
38 are special, limited obligations of the State payable solely from the
39 revenues specifically pledged to the payment of those obligations, as
40 specified in the resolution for the issuance of the bonds or notes, and
41 shall never be a debt of the State under Section 3 of Article 9 of the
42 Constitution of the State of Nevada.

43 (e) By any loan, grant, line of credit, loan guarantee, credit
44 instrument, private activity bond allocation, credit assistance from



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1 the Federal Government or other type of assistance that is available
2 to carry out the demonstration project.

3 (f) With any grant, donation, gift or other form of conveyance of
4 land, money or other real or personal property or other thing of
5 value made to the Department to carry out the demonstration
6 project.

7 (g) With legally available money from any other source,
8 including a source described in paragraph (f), (g) or (h) of
9 subsection 2 of section 7 of this act, or from tolls.

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

11 2. If so determined by the Department, any bonds or notes
12 issued as described in paragraph (b) of subsection 1 may also be
13 payable from and secured by taxes which are credited to the State
14 Highway Fund and which would not cause the bonds or notes to
15 create a public debt under the provisions of Section 3 of Article 9 of
16 the Constitution of the State of Nevada. In addition, the Department
17 may pledge those taxes to and use those taxes for the payment of
18 any of its obligations under a public-private partnership.

19 **Sec. 25.** 1. The Department may acquire, condemn or hold
20 real property and related appurtenances under fee title, lease,
21 easement, dedication or license for the demonstration project. The
22 Department may grant to a private partner a lease, easement,
23 operating agreement, license, permit or right of entry for such real
24 property and related appurtenances, and such grant and use shall be
25 deemed for all purposes:

26 (a) A public use;

27 (b) A public facility; and

28 (c) A public highway.

29 2. The real property and related appurtenances, or the use
30 thereof, that are granted by the Department to the private partner
31 shall be exempt from all real property and ad valorem taxes.

32 **Sec. 26.** Notwithstanding any specific statute to the contrary, a
33 private partner is exempt from any assessment on property:

34 1. Which the Department owns or acquires or in which the
35 Department has a possessory interest;

36 2. Which the Department provides to the private partner
37 pursuant to a public-private partnership; and

38 3. On which the demonstration project is located.

39 **Sec. 27.** A private partner who enters into a contract for
40 construction work pursuant to a public-private partnership shall pay
41 the prevailing wage required pursuant to NRS 338.013 to 338.090,
42 inclusive, and solely for the purposes of those provisions, the
43 demonstration project shall be deemed to be a public work and the
44 Department shall be deemed to be a party to the contract and to be
45 the public body advertising for bids for the demonstration project



1 and awarding the construction contract for the demonstration
2 project.

3 **Sec. 28.** The Department may include authority in a public-
4 private partnership or otherwise authorize a private partner to
5 remove any encroachments or relocate any utility from the right-of-
6 way of the demonstration project.

7 **Sec. 29.** 1. The Board may adopt regulations to carry out the
8 provisions of this act.

9 2. Any public-private partnership entered into pursuant to this
10 act must include a provision which provides that any regulation
11 adopted by the Board pursuant to this act that is effective on the date
12 of the public-private partnership shall be deemed incorporated as a
13 term of the public-private partnership.

14 **Sec. 30.** To the extent practicable, the provisions of this act are
15 intended to supplement other statutory provisions governing the
16 administration of highways in this State, and such other provisions
17 must be given effect to the extent that those provisions do not
18 conflict with the provisions of this act. If there is a conflict between
19 such other provisions and the provisions of this act, the provisions
20 of this act control.

21 **Sec. 31.** 1. The Department shall report annually to the
22 Board on the status of the demonstration project.

23 2. On or before February 1 of each year, the Board shall
24 prepare a written report concerning the demonstration project. The
25 report must include, without limitation:

26 (a) The current status of the demonstration project.

27 (b) The amount of tolls collected by the Department and any
28 private partners.

29 (c) The amount of money received by the Department in
30 connection with the demonstration project from sources other than
31 tolls.

32 (d) The amount paid by the Department under any public-private
33 partnership.

34 (e) Such other information as the Board determines appropriate.

35 3. On or before February 1 of each even-numbered year, the
36 Board shall submit the report prepared pursuant to subsection 2 to
37 the Legislative Commission. On or before February 1 of each odd-
38 numbered year, the Board shall submit the report to the Director of
39 the Legislative Counsel Bureau for transmittal to the next regular
40 session of the Legislature.

41 **Sec. 32.** This act becomes effective on July 1, 2011.

