

SENATE BILL NO. 506—COMMITTEE ON FINANCE

JUNE 4, 2011

Referred to Committee on Finance

SUMMARY—Revises provisions relating to the financial administration of certain local governments. (BDR 30-1313)

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

CONTAINS UNFUNDED MANDATE (§§ 22-52)
(REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 local government financial administration; revising provisions regarding the establishment and maintenance of a reserve account for payment of the outstanding bonds of a school district; authorizing certain modifications after a local improvement project has begun and assessments have been levied; requiring the Regional Transportation Commission of Southern Nevada to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project; authorizing the Commission to enter into one or more public-private partnerships to design, construct, develop, finance, operate or maintain the demonstration project; authorizing the issuance of certain bonds or notes of the Commission to finance the Project; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, the board of trustees of a school district may issue certain
- 2 general obligation bonds. At the time the bonds are issued, the board of trustees
- 3 must establish in its debt service fund a reserve account for payment of the
- 4 outstanding bonds of the school district. (NRS 350.020) **Section 1** of this bill
- 5 changes the amount of the reserves required to 10 percent of the outstanding
- 6 principal or 25 percent, for larger counties, and 50 percent, for smaller counties, of



the amount of principal and interest payments due on all outstanding bonds of the school district in the next fiscal year, whichever is less.

Existing law authorizes counties, cities and towns to initiate and levy assessments and issue bonds for local improvement projects under certain conditions. (NRS 271.265, 271.270) After a governing body passes an ordinance ordering such a project, modifications may be made to the project by amending the ordinance provided that no construction contracts have yet been entered. (NRS 271.325) **Section 4** of this bill allows certain modifications to be made after the project has begun and assessments have been levied. **Section 6** of this bill provides procedures for a governing body to modify such a project without holding a hearing if, after receiving a report on the proposed modification from the municipal engineer or a competent engineer or an engineering firm hired by the governing body, the governing body determines that the magnitude of the changes to the original project do not exceed certain thresholds. **Sections 6-11** of this bill provide procedures, including procedures for notice, hearings and judicial review, for a governing body to modify such an agreement if those thresholds are exceeded. **Sections 12-14** of this bill provide further requirements for a governing body that modifies a local improvement project, and **section 15** of this bill authorizes a governing body that begins procedures to modify a local improvement project at the request of a person to require that person to pay any expenses incurred by the governing body in connection with the modification.

Section 34 of this bill requires the Regional Transportation Commission of Southern Nevada to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. **Section 34** also provides that the demonstration project must be and remain a public highway owned by the Commission. **Section 35** of this bill authorizes the Commission to enter into contracts with one or more public-private partners for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project. **Section 41** of this bill requires the Commission to establish or include in a public-private partnership: (1) a schedule of user fees 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 user fees. **Section 41** also authorizes the Commission to establish exemptions from the user fees for certain motor vehicles. **Section 42** of this bill provides that registered owners are subject to administrative fines and penalties for failure to pay a required user fee. **Section 42** 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 user fee.

Section 43 of this bill requires that all money that is received and is to be retained by the Commission pursuant to a public-private partnership 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. **Section 43** also provides that the money must first be used to defray the obligations of the Commission under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the demonstration project.

Section 44 of this bill provides that the demonstration project and any property improvement determined by the Commission to be necessary or desirable therefor may be financed by the private partner to a public-private partnership using its own



61 funds or obtaining funds in any lawful manner for that entity or by the issuance of
62 revenue bonds or notes of the Commission.

63 **Section 46** of this bill provides that a private partner is exempt from any
64 assessment on property which the Commission provides to the private partner
65 pursuant to a public-private partnership and on which the demonstration project is
66 located. **Section 47** of this bill requires a private partner to use competitive bidding
67 to award contracts for construction work on the demonstration project and to pay
68 prevailing wages to workers engaged in construction on the demonstration project.

69 **Section 50** of this bill requires the Regional Transportation Commission of
70 Southern Nevada to submit a report concerning the demonstration project to the
71 Legislative Commission on or before February 1 of each even-numbered year and
72 to the Director of the Legislative Counsel Bureau for transmittal to the Legislature
73 on or before February 1 of each odd-numbered year. **Section 52** of this bill requires
74 the Regional Transportation Commission of Southern Nevada to submit quarterly
75 reports relating to the demonstration project to the Legislative Commission and the
76 Interim Finance Committee.

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

1 **Section 1.** NRS 350.020 is hereby amended to read as follows:

2 350.020 1. Except as otherwise provided by subsections 3
3 and 4, if a municipality proposes to issue or incur general
4 obligations, the proposal must be submitted to the electors of the
5 municipality at a special election called for that purpose or the next
6 general municipal election or general state election.

7 2. Such a special election may be held:

8 (a) At any time, including, without limitation, on the date of a
9 primary municipal election or a primary state election, if the
10 governing body of the municipality determines, by a unanimous
11 vote, that an emergency exists; or

12 (b) On the first Tuesday after the first Monday in June of an
13 odd-numbered year,

14 ➤ except that the governing body shall not determine that an
15 emergency exists if the special election is for the purpose of
16 submitting to the electors a proposal to refund the bonds. The
17 determination made by the governing body is conclusive unless it is
18 shown that the governing body acted with fraud, a gross abuse of
19 discretion or in violation of the provisions of this subsection. An
20 action to challenge the determination made by the governing body
21 must be commenced within 15 days after the governing body's
22 determination is final. As used in this subsection, "emergency"
23 means any occurrence or combination of occurrences which requires
24 immediate action by the governing body of the municipality to
25 prevent or mitigate a substantial financial loss to the municipality or
26 to enable the governing body to provide an essential service to the
27 residents of the municipality.



3. If payment of a general obligation of the municipality is additionally secured by a pledge of gross or net revenue of a project to be financed by its issue, and the governing body determines, by an affirmative vote of two-thirds of the members elected to the governing body, that the pledged revenue will at least equal the amount required in each year for the payment of interest and principal, without regard to any option reserved by the municipality for early redemption, the municipality may, after a public hearing, incur this general obligation without an election unless, within 90 days after publication of a resolution of intent to issue the bonds, a petition is presented to the governing body signed by not less than 5 percent of the registered voters of the municipality. Any member elected to the governing body whose authority to vote is limited by charter, statute or otherwise may vote on the determination required to be made by the governing body pursuant to this subsection. The determination by the governing body becomes conclusive on the last day for filing the petition. For the purpose of this subsection, the number of registered voters must be determined as of the close of registration for the last preceding general election. The resolution of intent need not be published in full, but the publication must include the amount of the obligation and the purpose for which it is to be incurred. Notice of the public hearing must be published at least 10 days before the day of the hearing. The publications must be made once in a newspaper of general circulation in the municipality. When published, the notice of the public hearing must be at least as large as 5 inches high by 4 inches wide.

4. The board of trustees of a school district may issue general obligation bonds which are not expected to result in an increase in the existing property tax levy for the payment of bonds of the school district without holding an election for each issuance of the bonds if the qualified electors approve a question submitted by the board of trustees that authorizes issuance of bonds for a period of 10 years after the date of approval by the voters. If the question is approved, the board of trustees of the school district may issue the bonds for a period of 10 years after the date of approval by the voters, after obtaining the approval of the debt management commission in the county in which the school district is located and, in a county whose population is 100,000 or more, the approval of the oversight panel for school facilities established pursuant to NRS 393.092 in that county, if the board of trustees of the school district finds that the existing tax for debt service will at least equal the amount required to pay the principal and interest on the outstanding general obligations of the school district and the general obligations proposed to be issued. The finding made by the board of trustees is conclusive in the absence of fraud or gross abuse of discretion. As



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1 used in this subsection, "general obligations" does not include
2 medium-term obligations issued pursuant to NRS 350.087 to
3 350.095, inclusive.

4 5. At the time of issuance of bonds authorized pursuant to
5 subsection 4, the board of trustees shall establish a reserve account
6 in its debt service fund for payment of the outstanding bonds of the
7 school district. The reserve account must be established and
8 maintained in an amount at least equal to the lesser of :

9 (a) *For a school district located in a county whose population*
10 *is 100,000 or more, twenty-five percent; and*

11 (b) *For a school district located in a county whose population*
12 *is less than 100,000, fifty percent,*

13 ➔ of the amount of principal and interest payments due on all of the
14 outstanding bonds of the school district in the next fiscal year or 10
15 percent of the outstanding principal amount of the outstanding
16 bonds of the school district.

17 6. If the amount in the reserve account falls below the amount
18 required by ~~{this-subsection:}~~ **subsection 5:**

19 (a) The board of trustees shall not issue additional bonds
20 pursuant to subsection 4 until the reserve account is restored to the
21 level required by ~~{this-subsection:}~~ **subsection 5;** and

22 (b) The board of trustees shall apply all of the taxes levied by
23 the school district for payment of bonds of the school district that
24 are not needed for payment of the principal and interest on bonds of
25 the school district in the current fiscal year to restore the reserve
26 account to the level required pursuant to ~~{this-subsection:}~~
27 **subsection 5.**

28 ~~{6:}~~ 7. A question presented to the voters pursuant to
29 subsection 4 may authorize all or a portion of the revenue generated
30 by the debt rate which is in excess of the amount required:

31 (a) For debt service in the current fiscal year;

32 (b) For other purposes related to the bonds by the instrument
33 pursuant to which the bonds were issued; and

34 (c) To maintain the reserve account required pursuant to
35 subsection 5,

36 ➔ to be transferred to the county school district's fund for capital
37 projects established pursuant to NRS 387.328 and used to pay the
38 cost of capital projects which can lawfully be paid from that fund.
39 Any such transfer must not limit the ability of the school district to
40 issue bonds during the period of voter authorization if the findings
41 and approvals required by subsection 4 are obtained.

42 ~~{7:}~~ 8. A municipality may issue special or medium-term
43 obligations without an election.



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1 **Sec. 2.** Chapter 271 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 3 to 15, inclusive, of this
3 act.

4 **Sec. 3.** *The provisions of sections 3 to 15, inclusive, of this*
5 *act shall only apply to local improvement projects or districts*
6 *created before July 1, 2011.*

7 **Sec. 4.** *After the acquisition or improvement of a project*
8 *ordered pursuant to NRS 271.325 has begun and any special*
9 *assessment thereon has been levied and divided into installments,*
10 *the governing body may modify the project subject to the*
11 *provisions of sections 3 to 15, inclusive, of this act by:*

- 12 1. *Eliminating a portion of the project;*
- 13 2. *Making changes or additions to the project;*
- 14 3. *Modifying the assessments to reflect the changes or*
15 *additions to the project;*
- 16 4. *Modifying the assessment installments and the due dates of*
17 *the assessment installments; or*
- 18 5. *Any combination of subsections 1 to 4, inclusive.*

19 **Sec. 5.** *Whenever the governing body determines that a*
20 *modification authorized pursuant to section 4 of this act is*
21 *warranted, the engineer shall prepare and file with the clerk a*
22 *report showing:*

- 23 1. *The proposed modification of the project;*
- 24 2. *If the modified portion of the project is, as modified,*
25 *functionally equivalent to that portion of the project before*
26 *modification, a statement to that effect;*
- 27 3. *The estimated cost of the project, as modified;*
- 28 4. *The amount of maximum special benefits estimated to be*
29 *derived from the project, as modified, by each tract in the*
30 *improvement district;*
- 31 5. *The modification, if any, of the assessment on each tract in*
32 *the improvement district resulting from the modification of the*
33 *project;*
- 34 6. *The modification, if any, of the assessment installments*
35 *and the due dates of the assessment installments;*
- 36 7. *A revised map showing the location of the project, as*
37 *modified;*
- 38 8. *If the assessments on each tract in the improvement district*
39 *are proposed to be modified, an assessment plat with the modified*
40 *assessments, apportioned based on the project, as modified; and*
- 41 9. *Whether, upon modification of the project the assessment*
42 *on each tract in the improvement district will exceed the estimated*
43 *maximum special benefits to be derived by each such tract from*
44 *the project.*



1 **Sec. 6. 1.** *After receipt of the report required pursuant to*
2 *section 5 of this act, the governing body may, by ordinance and*
3 *without a protest hearing, modify the project, the assessments on*
4 *each tract in the improvement project, the assessment installments*
5 *and the due dates of the assessment installments as provided in the*
6 *report pursuant to the provisions of this section if:*

7 *(a) The governing body determines that the public convenience*
8 *and necessity require the modification;*

9 *(b) The owner of each tract in the improvement district which*
10 *is proposed to have its assessment modified or which derives*
11 *benefits from the portion of the project proposed to be eliminated*
12 *or modified or from the additions proposed to be made to the*
13 *project has filed written consent to the modification with the clerk*
14 *and there are no residential lots within 1,500 feet of the portion of*
15 *the project impacted;*

16 *(c) There has been filed with the clerk:*

17 *(1) Evidence that the modification has been consented to by*
18 *the owners of the bonds for the improvement district which are*
19 *payable from the assessments in the manner as provided in the*
20 *ordinance or in the indenture, fiscal agent agreement, resolution*
21 *or other instrument pursuant to which the bonds are issued; or*

22 *(2) An opinion from independent bond counsel stating that*
23 *the modification does not materially and adversely affect the*
24 *interests of the owners of the bonds; and*

25 *(d) The governing body determines that, upon modification of*
26 *the project and, if applicable, the assessments, the amount*
27 *assessed against each tract in the improvement district does not*
28 *exceed the maximum special benefits to be derived by each such*
29 *tract from the project.*

30 **2.** *A determination that is made pursuant to this section is*
31 *conclusive in the absence of fraud or gross abuse of discretion.*

32 **3.** *An ordinance adopted pursuant to this section may be*
33 *adopted as if an emergency existed.*

34 **Sec. 7. 1.** *After receipt of the report required pursuant to*
35 *section 5 of this act, if the governing body does not proceed*
36 *pursuant to section 6 of this act, the governing body may make a*
37 *provisional order by resolution to the effect that the project will be*
38 *modified.*

39 **2.** *In a provisional order made pursuant to subsection 1, the*
40 *governing body shall set a time, at least 20 days thereafter, and a*
41 *place at which the owner of each tract in the improvement district,*
42 *or any other interested person, may appear before the governing*
43 *body and be heard as to the propriety and advisability of modifying*
44 *the project and, if applicable, the assessments, the assessment*
45 *installments and the due dates of the assessment installments. If*



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1 *there are residential lots within 1,500 feet of the project or a*
2 *mobile home park is located on a tract in the improvement district,*
3 *the notice must be given to the owner of the tract and each owner*
4 *of a residential lot within 1,500 feet and each tenant of the mobile*
5 *home park.*

6 3. *Notice must be given:*

7 (a) *By publication.*

8 (b) *By mail.*

9 (c) *By posting.*

10 4. *Proof of publication must be by affidavit of the publisher.*

11 5. *Proof of mailing and proof of posting must be by affidavit*
12 *of the engineer, clerk, or any deputy mailing the notice and*
13 *posting the notice, respectively.*

14 6. *Proof of publication, proof of mailing and proof of posting*
15 *must be maintained in the records of the municipality until all the*
16 *assessments appertaining to the project have been paid in full,*
17 *including principal, interest, penalties and any collection costs.*

18 7. *The notice must be prepared by the engineer, ratified by*
19 *the governing body and state:*

20 (a) *In general terms, the proposed modification of the project.*

21 (b) *The estimated cost of the project, as modified, and the*
22 *amount by which that cost is greater or less than the original cost*
23 *of the project, as reflected in the ordinance creating the*
24 *improvement district and ordering the project to be acquired or*
25 *improved.*

26 (c) *The time and place of the hearing where the governing*
27 *body will consider all objections to the modification of the project*
28 *and, if applicable, the assessments, the assessment installments*
29 *and the due dates of the assessment installments.*

30 (d) *That all written objections to the modification of the project*
31 *and, if applicable, the assessments, the assessment installments*
32 *and the due dates of the assessment installments must be filed with*
33 *the clerk at least 3 days before the time set for the hearing.*

34 (e) *That if the owners of tracts in the improvement district*
35 *which:*

36 (1) *Are proposed to have assessments modified or which*
37 *derive benefits from the portion of the project proposed to be*
38 *eliminated or changed or from the additions proposed to be made*
39 *to the project; and*

40 (2) *Upon the modification of the project and, if applicable,*
41 *the assessments, will in the aggregate have assessments greater*
42 *than 50 percent of the aggregate amount of the assessments on the*
43 *tracts in the improvement district which are proposed to have*
44 *assessments modified or which derive benefits from the portion of*



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1 *the project proposed to be eliminated or changed or from the*
2 *additions proposed to be made to the project,*
3 *↳ object in writing, within the time stated in paragraph (d), to*
4 *such modification of the project and, if applicable, the*
5 *assessments, the assessment installments and the due dates of the*
6 *installments will not be made.*

7 *(f) That if the assessment on any tract is increased as a result*
8 *of the modification of the project, the modification of the project*
9 *and, if applicable, the assessments, the assessment installments*
10 *and the due dates of the assessment installments will not be made*
11 *unless the owner of each such tract has consented in writing to the*
12 *increase.*

13 *(g) That the modification of the project and, if applicable, the*
14 *assessments, the assessment installments and the due dates of the*
15 *assessment installments will not be made unless there has been*
16 *filed with the clerk:*

17 *(1) Evidence that the modification is consented to:*

18 *(I) By the owners of the bonds for the improvement*
19 *district which are payable from the assessments; and*

20 *(II) In the same manner as amendments to the*
21 *ordinance creating the improvement district and ordering the*
22 *project to be acquired or improved, as provided in the ordinance or*
23 *in the indenture, fiscal agent agreement, resolution or other*
24 *instrument pursuant to which the bonds are issued; or*

25 *(2) An opinion from an independent bond counsel stating*
26 *that the modification does not materially adversely affect the*
27 *interests of the owners of the bonds.*

28 *(h) That all proceedings regarding and records of the*
29 *following are available for inspection at the office of the clerk:*

30 *(1) The amount of maximum special benefits estimated to*
31 *be derived from the project, as modified, by each tract in the*
32 *improvement district;*

33 *(2) If applicable, the modified assessment on each tract in*
34 *the improvement district resulting from the modification of the*
35 *project; and*

36 *(3) If applicable, the modified assessment installments and*
37 *the due dates of the assessment installments.*

38 *(i) That a person may object to the modification of the project*
39 *and, if applicable, the assessments, the assessment installments*
40 *and the due dates of the assessment installments using the*
41 *procedure outlined in the notice.*

42 *(j) That if a person objects to the amount of maximum special*
43 *benefits estimated to be derived from the project, as modified, or to*
44 *the legality of the proposed modification in any respect:*



(1) The person is entitled to be represented by counsel at the hearing;

(2) Any evidence the person wants to present must be presented at the hearing; and

(3) Evidence that is not presented at the hearing may not be presented in an action brought pursuant to section 10 of this act.

8. No substantial change in the proposed modification of the project or, if applicable, the assessments, the assessment installments or the due dates of the assessment installments may be made after the first publication, posting or mailing of notice to property owners, whichever occurs first.

Sec. 8. A modification may not be made pursuant to the provisions of section 7 of this act if, within the time specified in the notice pursuant to paragraph (d) of subsection 7 of section 7 of this act, the owners of tracts in the improvement district which:

1. Are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project; and

2. Upon the modification of the project and, if applicable, the assessments, will in the aggregate have assessments greater than 50 percent of the aggregate amount of the assessments on the tracts in the improvement district which are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project,

↪ file a written objection to the modification with the clerk.

Sec. 9. 1. On the date and at the place fixed for the hearing, any and all property owners and other interested persons may present their views to the governing body with respect to the proposed modification. The governing body may adjourn the hearing from time to time.

2. After the hearing has been concluded, all written complaints, protests and objections have been read and considered, and all persons desiring to be heard in person have been heard, the governing body shall consider the arguments, if any, and any other relevant material put forth, and shall by resolution or ordinance, as the governing body determines, pass upon the merits of each such complaint, protest or objection.

3. If the governing body determines that it is not in the public interest that the proposed modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments be made, the governing body shall make an order by resolution to that effect, and thereupon the proceedings for the modification of the project and,



1 *if applicable, the assessments, the assessment installments and the*
2 *due dates of the assessment installments determined against by the*
3 *order must stop and must not be begun again until the adoption of*
4 *a new resolution.*

5 **4. Any complaint, protest or objection to:**

6 (a) *The modification of the project or, if applicable, the*
7 *assessments, the assessment installments or the due dates of the*
8 *assessment installments;*

9 (b) *The estimated cost of the project, as modified;*

10 (c) *The method used to estimate the special benefits to be*
11 *derived from the project, as modified, generally or by any tract in*
12 *the improvement district;*

13 (d) *The basis established for the apportionment of the*
14 *assessments based on the project, as modified; or*

15 (e) *The regularity, validity and correctness of any other*
16 *proceedings or instruments taken, adopted or made before the date*
17 *of the hearing,*

18 *↪ shall be deemed waived unless presented at the hearing*
19 *described in this section or in writing at the time and in the*
20 *manner provided by section 8 of this act.*

21 **Sec. 10. 1. Any person filing a written complaint, protest or**
22 **objection as provided in section 8 of this act, within 30 days after**
23 **the governing body has finally passed on the complaint, protest or**
24 **objection by resolution or ordinance as provided in subsection 2 of**
25 **section 9 of this act, may commence an action or suit in any court**
26 **of competent jurisdiction to correct or set aside the determination,**
27 **but thereafter all actions or suits attacking the validity of the**
28 **proceedings and the amount of special benefits are perpetually**
29 **barred.**

30 **2. Any person who brings an action pursuant to this section**
31 **must plead with particularity and prove the facts upon which he or**
32 **she relies to establish:**

33 (a) *That the estimate of the cost of the project, as modified, the*
34 *special benefits to be derived from the project, as modified, or the*
35 *method used to apportion the cost of the project, as modified, has a*
36 *material adverse economic impact upon that person or is*
37 *fraudulent, arbitrary or unsupported by substantial evidence; or*

38 (b) *That a provision of sections 3 to 15, inclusive, of this act*
39 *has been violated.*

40 **3. Conclusory allegations of fact or law are insufficient to**
41 **comply with the requirements of subsections 1 and 2.**

42 **4. In any action brought pursuant to this section, judicial**
43 **review of the proceedings is confined to the record before the**
44 **governing body. Evidence that has not been presented to the**
45 **governing body must not be considered by the court.**



1 **Sec. 11. 1. After the hearing and after the governing body**
2 *has:*

3 (a) *Disposed of all verbal and written complaints, protests and*
4 *objections;*

5 (b) *Determined that no assessment on a tract in the*
6 *improvement district is increased as a result of the modification*
7 *or, if any such assessment is increased, that the written consent*
8 *described in paragraph (f) of subsection 7 of section 7 of this act*
9 *has been filed with the clerk;*

10 (c) *Determined that the written consent described in paragraph*
11 *(g) of subsection 7 of section 7 of this act has been filed with the*
12 *clerk; and*

13 (d) *Determined that no written objections to the modification*
14 *were filed pursuant to section 8 of this act,*

15 ↪ *and if the governing body has jurisdiction to proceed, the*
16 *governing body shall determine whether to proceed with the*
17 *modification of the project and, if applicable, the assessments,*
18 *the assessment installments and the due dates of the assessment*
19 *installments.*

20 2. *Any determination made pursuant to this section is*
21 *conclusive in the absence of fraud or gross abuse of discretion.*

22 **Sec. 12. 1. If the governing body determines pursuant to**
23 *section 11 of this act to proceed with the modification of the*
24 *project and, if applicable, the assessments, the assessment*
25 *installments and the due dates of the assessment installments, the*
26 *governing body may, by ordinance, modify the project and, if*
27 *applicable, the assessments, the assessment installments and the*
28 *due dates of the assessment installments as provided in the report*
29 *of the engineer filed pursuant to section 5 of this act if:*

30 (a) *The governing body determines that the public convenience*
31 *and necessity require the modification; and*

32 (b) *The governing body finds and determines that, upon the*
33 *modification, the amount assessed against each tract in the*
34 *improvement district does not exceed the maximum special*
35 *benefits to be derived by such tract from the project, as modified.*

36 2. *Any determination or finding made by the governing body*
37 *pursuant to this section is conclusive in the absence of fraud or*
38 *gross abuse of discretion.*

39 3. *An ordinance adopted pursuant to this section may be*
40 *adopted as if an emergency existed.*

41 **Sec. 13. 1. If assessments are modified pursuant to an**
42 *ordinance adopted pursuant to section 6 or 12 of this act, upon*
43 *adoption of the ordinance, the governing body shall cause to be*
44 *recorded in the office of the county recorder a certified copy of a*
45 *list of the tracts in the improvement district, the amount of the*



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1 *assessment on each such tract and the amount of maximum*
2 *special benefits to be derived from the project, as modified, by each*
3 *tract in the improvement district, as shown on the assessment plat*
4 *provided by the engineer pursuant to section 5 of this act.*

5 *2. Neither the failure to record the list as provided in this*
6 *section or any defect or omission in the list regarding any parcel*
7 *or parcels within the district affects the validity of any assessment,*
8 *the lien for the payment thereof or the priority of that lien.*

9 **Sec. 14.** *1. If assessments are reduced pursuant to an*
10 *ordinance adopted pursuant to section 6 or 12 of this act, the*
11 *governing body shall adopt an ordinance establishing a fair*
12 *procedure for providing payment or credit to any person who has*
13 *paid assessments that would have been reduced pursuant to the*
14 *ordinance which reduces assessments.*

15 *2. A determination regarding the fairness of the procedure*
16 *established by an ordinance adopted pursuant to this section is*
17 *conclusive in the absence of fraud or gross abuse of discretion.*

18 *3. An ordinance adopted pursuant to this section may be*
19 *adopted as if an emergency existed.*

20 **Sec. 15.** *If a governing body begins proceedings to modify a*
21 *project pursuant to the provisions of sections 3 to 15, inclusive, of*
22 *this act at the request of a person, before beginning those*
23 *proceedings, the governing body may require the person*
24 *requesting the modification to pay any expenses incurred by the*
25 *governing body in connection with the proceedings.*

26 **Sec. 16.** NRS 271.305 is hereby amended to read as follows:

27 271.305 1. In the provisional order the governing body shall
28 set a time, at least 20 days thereafter, and a place at which the
29 owners of the tracts to be assessed, or any other interested persons,
30 may appear before the governing body and be heard as to the
31 propriety and advisability of acquiring or improving, or acquiring
32 and improving, the project or projects provisionally ordered. If a
33 mobile home park is located on one or more of the tracts to be
34 assessed, the notice must be given to the owner of the tract and each
35 tenant of that mobile home park.

36 2. Notice must be given:

37 (a) By publication.

38 (b) By mail.

39 (c) By posting.

40 3. Proof of publication must be by affidavit of the publisher.

41 4. Proof of mailing and proof of posting must be by affidavit of
42 the engineer, clerk, or any deputy mailing the notice and posting the
43 notice, respectively.

44 5. Proof of publication, proof of mailing and proof of posting
45 must be maintained in the records of the municipality until all the



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1 assessments appertaining to the project have been paid in full,
2 including principal, interest, any penalties, and any collection costs.

3 6. The notice may be prepared by the engineer and ratified by
4 the governing body, and, except as otherwise provided in subsection
5 7, must state:

6 (a) The kind of project proposed.

7 (b) The estimated cost of the project, and the portion, if any, to
8 be paid from sources other than assessments.

9 (c) The basis for apportioning the assessments, which
10 assessments must be in proportion to the special benefits derived to
11 each of the several tracts comprising the assessable property and on
12 a front foot, area, zone or other equitable basis.

13 (d) The number of installments and time in which the
14 assessments will be payable.

15 (e) The maximum rate of interest on unpaid installments of
16 assessments.

17 (f) The extent of the improvement district to be assessed, by
18 boundaries or other brief description.

19 (g) The time and place of the hearing where the governing body
20 will consider all objections to the project.

21 (h) That all written objections to the project must be filed with
22 the clerk of the municipality at least 3 days before the time set for
23 the hearing.

24 (i) If the project is not a commercial area vitalization project,
25 that pursuant to NRS 271.306, if a majority of the property owners
26 to be assessed for a project proposed by a governing body object in
27 writing within the time stated in paragraph (h), the project must not
28 be acquired or improved unless:

29 (1) The municipality pays one-half or more of the total cost
30 of the project, other than a park project, with money derived from
31 other than the levy or assessments; or

32 (2) The project constitutes not more than 2,640 feet,
33 including intersections, remaining unimproved in any street,
34 including an alley, between improvements already made to either
35 side of the same street or between improvements already made to
36 intersecting streets.

37 (j) That the description of the tracts to be assessed, the
38 maximum amount of benefits estimated to be conferred on each
39 such tract and all proceedings in the premises are on file and can be
40 examined at the office of the clerk.

41 (k) Unless there will be no substantial change, that a substantial
42 change in certain existing street elevations or grades will result from
43 the project, without necessarily including any statement in detail of
44 the extent or location of any such change.



(l) That a person should object to the formation of the district using the procedure outlined in the notice if the person's support for the district is based upon a statement or representation concerning the project that is not contained in the language of the notice.

(m) That if a person objects to the amount of maximum benefits estimated to be assessed or to the legality of the proposed assessments in any respect:

(1) The person is entitled to be represented by counsel at the hearing;

(2) Any evidence the person desires to present on these issues must be presented at the hearing; and

(3) Evidence on these issues that is not presented at the hearing may not thereafter be presented in an action brought pursuant to NRS 271.315.

(n) If the project is a commercial area vitalization project, that:

(1) A person who owns or resides within a tract in the proposed improvement district and which is used exclusively for residential purposes may file a protest to inclusion in the assessment plat pursuant to NRS 271.392; and

(2) Pursuant to NRS 271.306, if written remonstrances by the owners of tracts constituting one-third or more of the basis for the computation of assessments for the commercial area vitalization project are presented to the governing body, the governing body shall not proceed with the commercial area vitalization project.

7. The notice need not state either or both of the exceptions stated in subsection 2 of NRS 271.306 unless either or both of the exceptions are determined by the governing body or the engineer to be relevant to the proposed improvement district to which the notice appertains.

8. All proceedings may be modified or rescinded wholly or in part by resolution adopted by the governing body, or by a document prepared by the engineer and ratified by the governing body, at any time before the passage of the ordinance adopted pursuant to NRS 271.325, creating the improvement district, and authorizing the project.

9. No substantial change in the improvement district, details, preliminary plans or specifications or estimates may be made after the first publication, posting or mailing of notice to property owners, whichever occurs first, except ~~for~~:

(a) *As otherwise provided in sections 3 to 15, inclusive, of this act; or*

(b) *For* the deletion of a portion of a project and property from the proposed program and improvement district or any assessment unit.



10. The engineer may make minor changes in time, plans and materials entering into the work at any time before its completion.

11. If the ordinance is for a commercial area vitalization project, notice sent pursuant to this section must be sent by mail to each person who owns real property which is located within the proposed improvement district and to each tenant who resides or owns a business located within the proposed improvement district.

Sec. 17. NRS 271.320 is hereby amended to read as follows:

271.320 1. After the hearing and after the governing body has:

(a) Disposed of all complaints, protests and objections, oral and in writing;

(b) Determined that it is not prevented from proceeding pursuant to subsection 3 or 4 of NRS 271.306; and

(c) Determined that:

(1) Either or both exceptions stated in subsection 2 of NRS 271.306 apply; or

(2) There were not filed with the clerk complaints, protests and objections in writing and signed by the owners of tracts constituting a majority of the frontage, of the area, of the zone, or of the other basis for the computation of assessments stated in the notice, of the tracts to be assessed in the improvement district or in the assessment unit, if any,

and the governing body has jurisdiction to proceed, the governing body shall determine whether to proceed with the improvement district, and with each assessment unit, if any, except as otherwise provided in this chapter.

2. ~~§~~ *Except as otherwise provided in sections 3 to 15, inclusive, of this act, if* the governing body desires to proceed and desires any modification, by motion or resolution it shall direct the engineer to prepare and present to the governing body:

(a) A revised and detailed estimate of the total cost, including, without limiting the generality of the foregoing, the cost of acquiring or improving each proposed project and of each of the incidental costs. The revised estimate does not constitute a limitation for any purpose.

(b) Full and detailed plans and specifications for each proposed project designed to permit and encourage competition among the bidders, if any project is to be acquired by construction contract.

(c) A revised map and assessment plat showing respectively the location of each project and the tracts to be assessed therefor, not including any area or project not before the governing body at a provisional order hearing.

3. That resolution, a separate resolution, or the ordinance creating the improvement district may combine or divide the



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1 proposed project or projects into suitable construction units for the
2 purpose of letting separate and independent contracts, regardless of
3 the extent of any project constituting an assessment unit and
4 regardless of whether a portion or none of the cost of any project is
5 to be defrayed other than by the levy of special assessments. Costs
6 of unrelated projects must be segregated for assessment purposes as
7 provided in this chapter.

8 **Sec. 18.** NRS 271.325 is hereby amended to read as follows:

9 271.325 1. When an accurate estimate of cost, full and
10 detailed plans and specifications and map are prepared, are
11 presented and are satisfactory to the governing body, it shall, by
12 resolution, make a determination that:

13 (a) Public convenience and necessity require the creation of the
14 district; and

15 (b) The creation of the district is economically sound and
16 feasible.

17 ➡ This determination may be made part of the ordinance creating
18 the district adopted pursuant to subsection 2 and is conclusive in the
19 absence of fraud or gross abuse of discretion.

20 2. The governing body may, by ordinance, create the district
21 and order the proposed project to be acquired or improved. This
22 ordinance may be adopted and amended as if an emergency existed.

23 3. The ordinance must prescribe:

24 (a) The extent of the improvement district to be assessed, by
25 boundaries or other brief description, and similarly of each
26 assessment unit therein, if any.

27 (b) The kind and location of each project proposed, without
28 mentioning minor details.

29 (c) The amount or proportion of the total cost to be defrayed by
30 assessments, the method of levying assessments, the number of
31 installments and the times in which the costs assessed will be
32 payable.

33 (d) The character and extent of any construction units.

34 4. The engineer may further revise the cost, plans and
35 specifications and map from time to time for all or any part of any
36 project, and the ordinance may be appropriately amended. *Except*
37 *as otherwise provided in sections 3 to 15, inclusive, of this act,*
38 *such amendment must take place* before letting any construction
39 contract therefor and before any work being done other than by
40 independent contract let by the municipality.

41 5. The ordinance, if amended, must order the work to be done
42 as provided in this chapter.

43 6. Upon adoption or amendment of the ordinance, the
44 governing body shall cause to be recorded in the office of the county
45 recorder a certified copy of a list of the tracts to be assessed and the



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1 amount of maximum benefits estimated to be assessed against each
2 tract in the assessment area, as shown on the assessment plat as
3 revised and approved by the governing body pursuant to NRS
4 271.320. Neither the failure to record the list as provided in this
5 subsection nor any defect or omission in the list regarding any
6 parcel or parcels to be included within the district affects the validity
7 of any assessment, the lien for the payment thereof or the priority of
8 that lien.

9 7. The governing body may not adopt an ordinance creating or
10 modifying the boundaries of an improvement district for a
11 commercial area vitalization project if the boundaries of the
12 improvement district overlap an existing improvement district
13 created for a commercial area vitalization project.

14 **Sec. 19.** NRS 271.367 is hereby amended to read as follows:

15 271.367 Because the protection afforded by a security wall
16 benefits each tract in the subdivision, in addition to any other basis
17 for apportioning the assessments authorized in NRS 271.010 to
18 271.360, inclusive, *and sections 3 to 15, inclusive, of this act*, the
19 governing body may apportion the assessments for a security wall
20 on the basis that all tracts in the subdivision share equally in the cost
21 and maintenance of the project.

22 **Sec. 20.** NRS 361.157 is hereby amended to read as follows:

23 361.157 1. When any real estate or portion of real estate
24 which for any reason is exempt from taxation is leased, loaned or
25 otherwise made available to and used by a natural person,
26 association, partnership or corporation in connection with a business
27 conducted for profit or as a residence, or both, the leasehold interest,
28 possessory interest, beneficial interest or beneficial use of the lessee
29 or user of the property is subject to taxation to the extent the:

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

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

34 ➔ can be segregated and identified. The taxable value of the interest
35 or use must be determined in the manner provided in subsection 3 of
36 NRS 361.227 and in accordance with NRS 361.2275.

37 2. Subsection 1 does not apply to:

38 (a) Property located upon a public airport, park, market or
39 fairground, or any property owned by a public airport, unless the
40 property owned by the public airport is not located upon the public
41 airport and the property is leased, loaned or otherwise made
42 available for purposes other than for the purposes of a public airport,
43 including, without limitation, residential, commercial or industrial
44 purposes;



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

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

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

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

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

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

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

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

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

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

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

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

(n) Any lease, easement, operating agreement, license, permit or right of entry for any exempt state property granted by the Department or the Regional Transportation Commission of Southern Nevada pursuant to section 45 of this act.



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3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 21. NRS 482.2805 is hereby amended to read as follows:

482.2805 1. Except as otherwise provided in subsection 3, the Department *of Motor Vehicles* shall not renew the registration of a motor vehicle if a local authority has filed with the Department *of Motor Vehicles* a notice of nonpayment pursuant to NRS 484B.527 , *or if the Department of Transportation or a private partner under a public-private partnership has filed a notice of nonpayment pursuant to section 42 of this act*, unless, at the time for renewal of the registration, the registered owner of the motor vehicle provides to the Department *of Motor Vehicles* a receipt issued by the local authority pursuant to NRS 482.2807 ~~H~~ , *or a receipt issued by the Department of Transportation or a private partner under a public-private partnership*.

2. If the registered owner provides a receipt to the Department *of Motor Vehicles* pursuant to subsection 1 and complies with the other requirements of this chapter, the Department *of Motor Vehicles* shall renew the registration of the motor vehicle.

3. The Department *of Motor Vehicles* shall renew the registration of a motor vehicle owned by a short-term lessor for which the Department *of Motor Vehicles* has received a notice of nonpayment pursuant to NRS 484B.527 *or section 42 of this act* without requiring the short-term lessor to provide a receipt pursuant to subsection 1 if the short-term lessor submits to the Department *of Motor Vehicles* a certificate issued by a local authority , *the Department of Transportation or a private partner under a public-private partnership* pursuant to subsection 4.

4. A local authority , *the Department of Transportation or a private partner under a public-private partnership* shall, upon request, issue to a short-term lessor a certificate which requires the Department *of Motor Vehicles* to renew the registration of a motor vehicle owned by the short-term lessor without requiring the short-term lessor to provide a receipt pursuant to subsection 1 if the short-term lessor provides the local authority , *the Department of Transportation or a private partner under a public-private partnership* with the name, address and number of the driver's license of the short-term lessee who was leasing the vehicle at the time of the violation.



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1 5. Upon the request of the registered owner of a motor vehicle,
2 the Department *of Motor Vehicles* shall provide a copy of the notice
3 of nonpayment filed with the Department *of Motor Vehicles* by the
4 local agency pursuant to NRS 484B.527 ~~or~~ *or the Department of*
5 *Transportation or a private partner under a public-private*
6 *partnership pursuant to section 42 of this act.*

7 6. If the registration of a motor vehicle that is identified in a
8 notice of nonpayment filed with the Department *of Motor Vehicles*
9 by a local authority pursuant to NRS 484B.527 *or the Department*
10 *of Transportation or a private partner under a public-private*
11 *partnership pursuant to section 42 of this act* is not renewed for
12 two consecutive periods of registration, the Department *of Motor*
13 *Vehicles* shall delete any records maintained by the Department *of*
14 *Motor Vehicles* concerning that notice.

15 7. The Department *of Motor Vehicles* may require a local
16 authority to pay a fee for the creation, maintenance or revision of a
17 record of the Department *of Motor Vehicles* concerning a notice of
18 nonpayment filed with the Department *of Motor Vehicles* by the
19 local authority pursuant to NRS 484B.527. *The Department of*
20 *Motor Vehicles may require the Department of Transportation or*
21 *a private partner under a public-private partnership to pay a fee*
22 *for the creation, maintenance or revision of a record of the*
23 *Department of Motor Vehicles concerning a notice of nonpayment*
24 *filed with the Department of Motor Vehicles by the Department of*
25 *Transportation or a private partner under a public-private*
26 *partnership pursuant to section 42 of this act.* The Department *of*
27 *Motor Vehicles* shall, by regulation, establish any fee required by
28 this subsection. Any fees collected by the Department pursuant to
29 this subsection must be:

30 (a) Deposited with the State Treasurer for credit to the Motor
31 Vehicle Fund; and

32 (b) Allocated to the Department to defray the cost of carrying
33 out the provisions of this section.

34 **Sec. 22.** Sections 22 to 52, inclusive, of this act may be cited
35 as the Boulder City Bypass Toll Road Demonstration Project Act.
36 This act shall only apply to the Boulder City Bypass Project and not
37 to any other project of the Commission.

38 **Sec. 23.** As used in this act, unless the context otherwise
39 requires, the words and terms defined in sections 24 to 33, inclusive,
40 of this act have the meanings ascribed to them in those sections.

41 **Sec. 24.** "Authorized emergency vehicle" has the meaning
42 ascribed to it in NRS 484A.020.

43 **Sec. 25.** "Commission" means the Regional Transportation
44 Commission of Southern Nevada.



1 **Sec. 26.** "Concession" means any lease, ground lease,
2 franchise, easement, permit, right of entry, operating agreement or
3 other binding agreement transferring rights for the use or control, in
4 whole or in part, of the demonstration project by the Commission to
5 a private partner.

6 **Sec. 27.** "Demonstration project" means the toll road
7 demonstration project established by the Commission pursuant to
8 section 34 of this act.

9 **Sec. 28.** "Motor vehicle" has the meaning ascribed to it in
10 NRS 484A.130.

11 **Sec. 29.** "Private partner" means a person with whom the
12 Commission enters into a public-private partnership.

13 **Sec. 30.** "Public-private partnership" means a contract entered
14 into by the Commission and a private partner under which the
15 private partner:

16 1. Assists the Commission in defining a potential project
17 concerning the demonstration project and negotiates terms for
18 potentially carrying out the planning, designing, financing,
19 constructing, improving, maintaining, operating or acquiring rights-
20 of-way for, or any combination thereof, the demonstration project,
21 or any portion thereof; or

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

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

28 **Sec. 32.** "Toll road" means a highway and appurtenant
29 facilities for which a user must pay a user fee as a condition of use.

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

35 **Sec. 34.** 1. The Commission shall establish a toll road
36 demonstration project in connection with the Boulder City Bypass
37 Project. The demonstration project is a toll road directly connecting
38 the area in the vicinity of U.S. 93/95 Mile Post 58.00 to the area in
39 the vicinity of U.S. 93 Mile Post 2.00 and may:

40 (a) Include, without limitation, highways, roads, bridges, on-
41 ramps, off-ramps, direct connectors to or from other highways or
42 arterials, tunnels, connectors to an airport, pavement, shoulders,
43 structures, culverts, curbs, toll gantries and systems, drains, rights-
44 of-way, buildings, communication facilities, equipment
45 appurtenances, lighting, signage, service centers, operations centers,



1 services, personal property and works incidental to, related to or
2 desirable for highway design, construction, improvement,
3 maintenance or operation required, laid out, constructed, improved,
4 maintained or operated for highway purposes.

5 (b) Include any appurtenant facilities and facilities necessary for
6 financing, connectivity, operations, maintenance, mobility or safety
7 of the demonstration project, which may include tolled and
8 nontolled elements and on- and off-site facilities.

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

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

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

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

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

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

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

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

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

41 (h) Accept from any source any grant, donation, gift or other
42 form of conveyance of land, money, other real or personal property
43 or other thing of value made to the Commission to carry out the
44 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, 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 Commission or private partner, must be and remain:

(a) A public highway;

(b) A public use;

(c) A public facility; and

(d) Owned by the Commission.

4. Before construction of the demonstration project begins, U.S. Highway 93 and U.S. Highway 95 shall be deemed alternate routes to the toll road which do not require a user fee and which accommodate all classes of vehicles. The Commission may establish one or more additional alternate routes to the toll road which do not require a user fee and which can accommodate all classes of vehicles that may be accommodated on U.S. Highway 93 and U.S. Highway 95 as of the date that construction of the demonstration project begins.

Sec. 34.5. The Commission and the Department of Transportation shall not:

1. Request the Federal Government to prohibit or otherwise seek to prohibit the use on U.S. Highway 93 or U.S. Highway 95 of any classes of vehicles which are authorized on those highways as of the effective date of this section; and

2. Exercise any authority delegated to the Commission or the Department to prohibit the use on U.S. Highway 93 or U.S. Highway 95 of any classes of vehicles which are authorized on those highways as of the effective date of this section.

Sec. 35. 1. The Commission may 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 Commission issues a request for qualifications, request for proposals or similar



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1 solicitation for a public-private partnership, the Commission may
2 determine which factors it will consider and, except as otherwise
3 provided in subsection 5, the relative weight of those factors in the
4 evaluation process for the demonstration project to obtain the best
5 value for the Commission.

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

14 4. The executive summary for each proposal must be released
15 to the public by the Commission.

16 5. After evaluation of the proposals submitted in response to a
17 request for proposals, the Commission may enter into negotiations
18 with the applicant whose proposal appeared to have the best value to
19 enter into a public-private partnership. In determining the best value,
20 the Commission shall assign a relative weight of 5 percent to an
21 applicant who submits to the Commission a signed affidavit which
22 certifies that, for the planning, design, construction, improvement,
23 maintenance and operation of the demonstration project:

24 (a) At least 65 percent of all workers employed on the
25 demonstration project, including, without limitation, any employees
26 of the applicant, contractor and any subcontractors engaged in the
27 demonstration project will hold a valid driver's license or
28 identification card issued by the Department of Motor Vehicles;

29 (b) All vehicles used primarily for the demonstration project
30 will be:

31 (1) Registered and partially apportioned to Nevada pursuant
32 to the International Registration Plan, as adopted by the Department
33 of Motor Vehicles pursuant to NRS 706.826; or

34 (2) Registered in this State;

35 (c) At least 65 percent of the design professionals working on
36 the demonstration project, including, without limitation, any
37 employees of the applicant, contractor and any subcontractor
38 engaged on the demonstration project, will have a valid driver's
39 license or identification card issued by the Department of Motor
40 Vehicles;

41 (d) At least 25 percent of the suppliers of the materials used for
42 the demonstration project will be located in this State unless the
43 Commission requires the acquisition of materials or equipment that
44 cannot be obtained from a supplier located in this State; and



(e) The applicant, contractor and any subcontractor engaged on the demonstration project will maintain and make available for inspection within this State his or her records concerning payroll relating to the demonstration project.

6. If the Commission is unable to negotiate a public-private partnership with the applicant whose proposal appeared to have the best value, upon such terms and conditions that the Commission determines to be in the best interest of the public, the Commission may suspend or terminate negotiations with that applicant. The Commission may then undertake negotiations with the next highest-ranked applicant in sequence until a public-private partnership is entered into or a determination is made by the Commission to reject all applicants that submitted proposals.

7. After the award and execution of the public-private partnership, the Commission shall make available to the applicants and the public the results of the evaluations of proposals and the final rankings of the applicants.

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

Sec. 36. 1. A public-private partnership awarded to an applicant who receives a preference in bidding described in subsection 5 of section 35 of this act must:

(a) Include a provision in the public-private partnership that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act is a material breach of the public-private partnership and entitles the Commission to liquidated damages only as provided in subsections 5 and 6.

2. Any contract entered into between a private partner and a contractor engaged on the demonstration project and between a contractor and any subcontractor engaged on the demonstration project must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act; and



(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act is a material breach of the contract.

3. A person or entity who believes that an applicant has obtained a preference in bidding as described in subsection 5 of section 35 of this act but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act may file a written objection with the Commission. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the applicant has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act.

4. If the Commission receives a written objection pursuant to subsection 3, the Commission shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the Commission determines that the objection is not accompanied by the required proof or substantiating evidence, the Commission shall dismiss the objection. If the Commission determines that the objection is accompanied by the required proof or substantiating evidence or if the Commission determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act exists, the Commission shall determine whether the applicant has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act and the Commission may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. The Commission may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act, liquidated damages as described in subsection 6 for a breach of a contract for the demonstration project caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act. If the Commission recovers liquidated damages pursuant to this subsection for a breach of a contract for the demonstration project, the Commission shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the public-private partnership. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If an applicant submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 5 of



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section 35 of this act and is awarded the public private partnership, the public-private partnership, each contract between the applicant and a contractor or a subcontractor or supplier and each contract between a subcontractor and a subcontractor or supplier must provide that:

(a) If a party to the contract causes a material breach of the contract between the applicant and the Commission as a result of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 35 of this act, the party is liable to the Commission for liquidated damages in the amount of 10 percent of the cost of the largest contract to which he or she is a party or \$50,000, whichever is less;

(b) The right to recover the amount determined pursuant to paragraph (a) by the Commission pursuant to subsection 5 may be enforced by the Commission directly against the party that causes the material breach; and

(c) No other party to the contract is liable to the Commission for liquidated damages.

Sec. 37. 1. To be eligible as a private partner in connection with a public-private partnership, a private partner must:

(a) Obtain a performance bond, payment bond, letter of credit, parent guarantee or other security acceptable to the Commission, or any combination thereof, which the Commission determines is adequate to:

(1) Protect the interests of this State and its political subdivisions; and

(2) Ensure completion of the demonstration project without this State or its political subdivisions being liable for any of the direct costs of the demonstration project;

(b) Obtain insurance covering general liability and liability for errors and omissions, in amounts determined by the Commission;

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

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

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



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1 **Sec. 38.** Information obtained by or disclosed to the
2 Commission during the procurement or negotiation of a public-
3 private partnership may be kept confidential until the public-private
4 partnership is executed, except that the Commission may exempt
5 from release any proprietary information obtained by or disclosed to
6 the Commission during the procurement or negotiation.

7 **Sec. 39.** 1. Except as otherwise provided in subsection 2,
8 notwithstanding any other law to the contrary, a public-private
9 partnership may be for a term of not more than 40 years after the
10 opening of the demonstration project to the public and the
11 commencement of its full operations and collection of revenue.

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

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

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

17 (c) For additional terms upon the mutual agreement of the
18 private partner and the Commission.

19 **Sec. 40.** 1. A public-private partnership entered into
20 pursuant to this act may include provisions that:

21 (a) Authorize the Commission and the private partner to charge,
22 collect, use, enforce and retain user fees, including, without
23 limitation, provisions that:

24 (1) Specify the technology to be used in the demonstration
25 project;

26 (2) Establish circumstances under which the Commission
27 may receive the revenues or a share of the revenues from such user
28 fees;

29 (3) State that the user fees may be collected directly by the
30 Commission, the private partner or by a third party engaged for that
31 purpose;

32 (4) Prescribe a formula, indexation or mechanism for the
33 adjustment of user fees during the term of the public-private
34 partnership;

35 (5) Allow a variety of strategies to be employed to manage
36 traffic on the demonstration project that the Commission determines
37 are appropriate based on the specific circumstances of the
38 demonstration project; and

39 (6) Govern the enforcement of user fees, including, without
40 limitation, provisions for the use of cameras or other mechanisms to
41 ensure that users have paid user fees which are due and provisions
42 that allow the Commission and private partner to request
43 information from relevant databases, including, without limitation,
44 databases of the Department of Motor Vehicles, pursuant to the
45 provisions of NRS 481.063, for enforcement purposes. The



1 Commission may impose a civil penalty of not more than \$10,000
2 per violation for misuse of the data contained in such databases,
3 including, without limitation, negligence in securing the data
4 properly. Any civil penalty collected pursuant to this subparagraph
5 must be deposited in the State General Fund.

6 (b) Allow for payments to be made by the Commission to the
7 private partner, including, without limitation, periodic payments,
8 construction payments, payments for attaining milestones, progress
9 payments, payments based on availability or other performance-
10 based payments, payments relating to events for which the public-
11 private partnership requires payment of compensation and payments
12 relating to or arising out of the termination of the public-private
13 partnership.

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

17 (d) Address the manner in which the Commission and the
18 private partner will share management of the risks of the
19 demonstration project.

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

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

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

27 (h) Establish performance measurements, as described in section
28 41 of this act, or incentives, or both.

29 (i) Address the acquisition of rights-of-way and other property
30 interests that may be required for the demonstration project,
31 including, without limitation, provisions that address the exercise of
32 eminent domain by the Commission in the manner authorized
33 pursuant to NRS 277A.250 and chapter 37 of NRS.

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

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

41 (l) Provide for security and law enforcement.

42 (m) Identify any specifications of the Commission that must be
43 satisfied, including, without limitation, provisions allowing the
44 private partner to request and receive authorization to deviate from



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1 the specifications on making a showing satisfactory to the
2 Commission.

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

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

23 **Sec. 41.** 1. If the Commission enters into a public-private
24 partnership pursuant to this act, the Commission:

25 (a) Shall adopt, establish or include in the public-private
26 partnership a schedule of user fees or a methodology for
27 establishing the user fees that may be charged by the Commission or
28 a private partner for the use of the demonstration project, which may
29 include, without limitation, provisions for adjusting the user fees
30 based on the types of motor vehicle, time of day, traffic conditions
31 or other factors determined necessary by the Commission or a
32 private partner to implement, finance or improve the performance of
33 the demonstration project. A schedule of user fees or methodology
34 for establishing user fees to be included in the public-private
35 partnership must be adopted or established by the Commission at a
36 public hearing held in compliance with chapter 241 of NRS.

37 (b) Shall, consistent with the provisions of section 42 of this act,
38 establish or provide in the public-private partnership for the
39 establishment of administrative fines, late charges and other
40 penalties for any person who violates any regulation or rule
41 governing the use of the demonstration project or who fails to pay a
42 user fee.

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



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(d) Shall adopt a plan for measuring the performance of the private partner subject to the approval of the Department of Transportation, and, in the event of any unexcused failure by the private partner to meet such performance measurements, provide for the rights and remedies of the Commission.

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

(a) A vehicle owned or operated by this State or any of its political subdivisions.

(b) A transit bus or vanpool vehicle owned or operated by an agency of the United States, to the extent that such vehicles are exempted pursuant to an agreement between the agency or political subdivision and the Commission 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.

(d) A vehicle used to provide maintenance of the demonstration project.

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

3. Not less frequently than once each calendar year, the Commission shall review any fee schedule established pursuant to this section and any adjustments to the fee schedule made by the Commission or a private partner to determine whether the user fees effectively manage travel times, speed and reliability with regard to the demonstration project. The Commission shall review and, if applicable, make any necessary adjustments at a public hearing held in compliance with chapter 241 of NRS.

4. The Commission or a private partner may use any method it determines appropriate to collect a user fee, including, without limitation, the issuance of invoices, prepayment requirements and the use of an electronic, video or automated collection system. An electronic, video or automated collection system may be used to verify payment or to charge the user fee to the:

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

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

(c) Registered owner.



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

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

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

6. The Commission or a private partner may solicit and contract with any person to provide services relating to the collection of a user fee.

7. The Commission shall establish a privacy policy regarding the collection and use of personal identifying information pursuant to this section. The policy must include, without limitation, provisions requiring that:

(a) Except as otherwise provided in paragraph (b), any personal identifying information used to collect and enforce user fees be destroyed not later than 30 days after the person has paid the user fee and any administrative fines, late fees or other penalties and charges imposed;

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

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

(2) Destroyed within 30 days after receiving written notice that the person who established the account wants to close the account; and

(c) Each person establishing an account for use in an automated collection system be provided a copy, in a clear and conspicuous manner, of the privacy policy required by this subsection and all other applicable privacy laws.

Sec. 42. 1. Except as otherwise provided in subsection 3, a registered owner who fails to pay a user fee is subject to an administrative fine for nonpayment and is liable to the Commission or private partner for the payment of the user fee, the administrative fine and any additional charges or penalties prescribed by the Commission or set forth in the public-private partnership.

2. If a driver or registered owner fails to pay a user fee, the Commission or private partner shall provide notice of nonpayment to the registered owner. The notice must describe the claimed



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1 nonpayment and the amount due, including any additional charges,
2 administrative fines or penalties, and explain that the registered
3 owner must, within 20 days after receiving the notice, pay the full
4 amount due or contest the claim in the manner described in the
5 notice. A registered owner who does not pay the full amount due or
6 contest the claim within 20 days after receiving the notice may not
7 challenge the claim in any proceeding or action brought by the
8 Commission or the private partner.

9 3. A short-term lessor of a motor vehicle that is the registered
10 owner is not liable to the Commission or a private partner for any
11 failure to pay a user fee arising out of the use of a rented motor
12 vehicle during any period in which the motor vehicle is not in the
13 possession of the lessor if, within 45 days after receiving the written
14 notice from the Commission or private partner, the lessor provides
15 to the Commission or private partner the name, address, driver's
16 license number and other identifying information of the person to
17 whom the motor vehicle was rented at the time of the use of the
18 demonstration project. If the lessor provides such information, the
19 person to whom the motor vehicle was rented at the time of the use
20 of the demonstration project is liable for the user fee or
21 administrative fee, or both, and any late charges or other penalties or
22 charges resulting from the failure to pay the user fee.

23 4. The Commission or a private partner may use a photo-
24 monitoring, video, image capture or other automated or technology-
25 based enforcement and collections system to detect the failure of a
26 motor vehicle to register payment of the required user fee, to detect
27 the failure of the driver or registered owner to pay a user fee or to
28 verify and assess the payment of a user fee. The data, including
29 photographs, images, videotapes and other vehicle and owner
30 information generated and obtained by the system, may be used to
31 establish the nonpayment of the user fee and to enforce collection of
32 the user fee and any administrative fines, late charges and other
33 penalties or charges imposed pursuant to the public-private
34 partnership. The Commission or private partner shall not use the
35 information for any other purpose.

36 5. If the registered owner fails to respond to the notice
37 described in subsection 2, the Commission or private partner may
38 file a notice of nonpayment with the Department of Motor Vehicles.
39 The notice must include:

40 (a) The place, time and date of the use of the demonstration
41 project which, through nonpayment of user fees, administrative fees,
42 late charges or other penalties or charges, constitutes a violation;

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



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(c) The total amount owed the Commission or private partner for the violation.

6. Upon receipt of the notice described in subsection 5, the Department of Motor Vehicles shall place a hold on the renewal of the registration of the motor vehicle described in the notice pursuant to the provisions of NRS 482.2805.

7. In addition to any administrative fine, late charge or other penalty or charge for nonpayment of a user fee established pursuant to the public-private partnership which is payable to the Commission or a private partner, the Department of Motor Vehicles may impose an additional administrative fee of not more than \$15 upon any person who applies for the renewal of the registration of a motor vehicle subject to a hold pursuant to this section.

8. The Department of Motor Vehicles shall work cooperatively with the Commission and any private partner to establish a timely and efficient manner for providing the motor vehicle registration of the registered owner, pursuant to the provisions of NRS 481.063, to the Commission and any private partner for the purposes of collecting and enforcing any user fees and any administrative fines, late charges and other penalties imposed pursuant to this act.

Sec. 43. 1. All money that is received and is to be retained by the Commission pursuant to a public-private partnership 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 design, construction, operation, maintenance, financing and repair of the public highways of this State. The money must first be used to defray the obligations of the Commission under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the demonstration project.

2. Any other money received by the Commission pursuant to this act or any policies or procedures established by the Commission 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:

(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 user fees;



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(c) Satisfaction of any obligations of the Commission 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. 44. 1. The demonstration project and any property improvement determined by the Commission to be necessary or desirable therefor may, as determined by the Commission 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 Commission which are payable from and secured by:

(1) Revenues from the demonstration project, including, without limitation, user fees and payments established, due and collected pursuant to sections 41 and 42 of this act, other than subsection 7 of section 42 of this act;

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

(3) Payments from the private partner as described in section 43 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 34 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 43 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 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 Commission payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.

(c) By the issuance of revenue bonds or notes of the Commission, to finance the demonstration project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the Commission and the private



1 partner to secure the bonds or notes and provide for their payment.
2 Any bonds or notes issued under this paragraph must be solely
3 payable from and secured by payments made by and property of and
4 other security provided by the private partner, including, without
5 limitation, any payments made to the private partner by the
6 Commission pursuant to the public-private partnership. Any bonds
7 or notes issued pursuant to this paragraph may have a maturity of up
8 to 40 years from the date of issuance. Any bonds or notes authorized
9 by this paragraph are special, limited obligations of the Commission
10 payable solely from the revenues specifically pledged to the
11 payment of those obligations, as specified in the resolution for the
12 issuance of bonds or notes, and shall never be a debt of the State
13 under Section 3 of Article 9 of the Constitution of the State of
14 Nevada.

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

33 (e) By any loan, grant, line of credit, loan guarantee, credit
34 instrument, private activity bond allocation, credit assistance from
35 the Federal Government or other type of assistance that is available
36 to carry out the demonstration project.

37 (f) With any grant, donation, gift or other form of conveyance of
38 land, money or other real or personal property or other thing of
39 value made to the Commission to carry out the demonstration
40 project.

41 (g) With legally available money from any other source,
42 including a source described in paragraph (f), (g) or (h) of
43 subsection 2 of section 34 of this act, or from user fees.

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



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

Sec. 45. 1. The Commission may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for the demonstration project. The Commission may grant to a private partner a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances, and such grant and use shall be deemed for all purposes:

- (a) A public use;
- (b) A public facility; and
- (c) A public highway.

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

3. The Department of Transportation shall assist the Commission in any way necessary for the Commission to carry out the provisions of this section, including, without limitation, granting to the Commission or a private partner a lease, easement, operating agreement, license, permit or right of entry.

Sec. 46. Notwithstanding any specific statute to the contrary, a private partner is exempt from any assessment on property:

1. Which the Department of Transportation or the Commission owns or acquires or in which the Department or the Commission has a possessory interest;

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

3. On which the demonstration project is located.

Sec. 47. 1. A private partner who enters into a contract for construction work pursuant to a public-private partnership shall:

(a) Award contracts using competitive bidding in accordance with the provisions of chapter 338 of NRS, and solely for the purposes of those provisions regarding competitive bidding, the demonstration project shall be deemed to be a public work and the private partner shall be deemed to be a public body awarding the contracts for the demonstration project; and

(b) Pay the prevailing wage required pursuant to NRS 338.013 to 338.090, inclusive, and solely for the purposes of those provisions, the demonstration project shall be deemed to be a public



1 work and the Commission shall be deemed to be a party to the
2 contract and to be the public body advertising for bids for the
3 demonstration project and awarding the construction contract for
4 the demonstration project.

5 2. Nothing in this section requires the Commission to use
6 competitive bidding in accordance with the provisions of chapter
7 338 of NRS to award a public-private partnership to a private
8 partner.

9 **Sec. 47.5.** 1. In addition to complying with the provisions of
10 section 47 of this act, a private partner who enters into a contract for
11 construction work pursuant to a public-private partnership shall:

12 (a) Advertise for at least 7 calendar days for bids on each
13 contract for the performance of any portion of the construction work
14 for the public-private partnership;

15 (b) At least 2 business days before the first day of that
16 advertisement, provide notice of that advertisement to the
17 Commission, the Board of County Commissioners of Clark County,
18 the City Council of the City of Las Vegas and the City Council of
19 the City of Boulder City;

20 (c) Make available to all prospective bidders on the contract a
21 written set of plans and specifications for the pertinent work; and

22 (d) Provide public notice of the name and address of each
23 person who submits a bid on the contract.

24 2. If the Commission, the Board of County Commissioners of
25 Clark County, the City Council of the City of Las Vegas or the City
26 Council of the City of Boulder City receives a notice of an
27 advertisement for bids pursuant to paragraph (b) of subsection 1, the
28 Commission, Board or City Council:

29 (a) Shall, upon such receipt, post notice of the advertisement on
30 an Internet website maintained by the Commission, county or city;
31 and

32 (b) May otherwise provide notice of the advertisement to local
33 trade organizations and the general public.

34 3. The Commission shall ensure that the private partner
35 complies with the provisions of subsection 1.

36 **Sec. 48.** 1. The Commission may include authority in a
37 public-private partnership or otherwise authorize a private partner to
38 remove any encroachments or relocate any utility from the right-of-
39 way of the demonstration project. The Commission may incorporate
40 the costs of such removal or relocation into the public-private
41 partnership.

42 2. A utility may not be required to pay any costs related to
43 removing or relocating any property of the utility pursuant to
44 subsection 1.



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Sec. 49. To the extent practicable, the provisions of this act are intended to supplement other statutory provisions governing the administration of highways in this State, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of this act. If there is a conflict between such other provisions and the provisions of this act, the provisions of this act control.

Sec. 50. 1. On or before February 1 of each year, the Commission shall prepare a written report concerning the demonstration project. The report must include, without limitation:

(a) The current status of the demonstration project.

(b) The amount of user fees collected by the Commission and any private partners.

(c) The amount of money received by the Commission in connection with the demonstration project from sources other than user fees.

(d) The amount paid by the Commission under any public-private partnership.

(e) An assessment of the compliance by a private partner with the performance measurements set forth in the public-private partnership pursuant to sections 41 and 42 of this act.

(f) Such other information as the Commission determines appropriate.

2. On or before February 1 of each even-numbered year, the Regional Transportation Commission of Southern Nevada shall submit the report prepared pursuant to subsection 1 to the Legislative Commission. On or before February 1 of each odd-numbered year, the Regional Transportation Commission of Southern Nevada shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 51. Upon completion of the demonstration project, the Commission shall:

1. Subject to review by the Department of Transportation, conduct a cost-benefit analysis of the demonstration project; or

2. Request that the Department of Transportation conduct a cost-benefit analysis of the demonstration project.

➤ The Commission shall submit the analysis to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 52. 1. In addition to the requirements of section 50 of this act, the Regional Transportation Commission of Southern Nevada shall report on the status of the demonstration project to the Legislative Commission and the Interim Finance Committee. The report must include, without limitation:



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- 1 (a) The current status of the demonstration project.
2 (b) The amount of user fees collected by the Regional
3 Transportation Commission of Southern Nevada and any private
4 partners.
5 (c) The amount of money received by the Regional
6 Transportation Commission of Southern Nevada in connection with
7 the demonstration project from sources other than user fees.
8 (d) The amount paid by the Regional Transportation
9 Commission of Southern Nevada under any public-private
10 partnership.
11 (e) Such other information as the Legislative Commission or the
12 Interim Finance Committee determines appropriate.
13 2. The report required pursuant to subsection 1 must be
14 submitted at least quarterly and at such other times as the
15 Legislative Commission or the Interim Finance Committee may
16 require.
17 **Sec. 53.** The provisions of NRS 354.599 do not apply to any
18 additional expenses of a local government that are related to the
19 provisions of this act.
20 **Sec. 54.** 1. This section and sections 1 and 34.5 of this act
21 become effective upon passage and approval.
22 2. Sections 2 to 34, inclusive, and 35 to 53, inclusive, of this
23 act become effective on July 1, 2011.

