

Amendment No. 564

Assembly Amendment to Assembly Bill No. 450 (BDR S-1086)

Proposed by: Assembly Committee on Transportation**Amends:** Summary: Yes Title: Yes Preamble: Add Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 450 (§§ 52, 53, 57, 73).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAK/WLK



Date: 4/18/2015

A.B. No. 450—Creates the Interstate 11 Toll Road Project. (BDR S-1086)



ASSEMBLY BILL NO. 450—COMMITTEE ON TRANSPORTATION

MARCH 23, 2015

Referred to Committee on Transportation

SUMMARY—~~[Creates the Interstate 11 Toll Road Project.]~~ Revises provisions relating to transportation. (BDR ~~[S 1086]~~ 35-1086)

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

~

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

AN ACT relating to highways; authorizing the Department of Transportation to ~~establish projects for toll roads in connection with the proposed route of Interstate 11 through this State; authorizing the Department to enter into one or more public private partnerships to design, construct, develop, finance, operate or maintain such a toll road project; authorizing the issuance of certain bonds or notes of this State to finance a toll road project;~~ enter into a public-private partnership to plan, design, construct, improve, finance, operate and maintain an eligible transportation facility in this State; authorizing the Board of Directors of the Department to establish user fees, administrative fines and other penalties and charges relating to the use of such a facility; providing for the disposition of money which is received and is to be retained by the Department pursuant to a public-private partnership; authorizing the Department to grant to a private partner the use of certain real property; exempting such use of real property from all real property and ad valorem taxes; authorizing the Department to approve, upon request, the construction of a toll bridge or toll road by a person; requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay a user fee; authorizing the Department of Motor Vehicles to establish certain administrative fees; providing ~~to a civil penalty;~~ penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 ~~Section 14 of this bill authorizes the Department of Transportation to establish toll road~~
2 ~~projects along the proposed route of the future Interstate 11 that will run north from the~~
3 ~~Arizona-Mexico border, through Nevada, to the southern border of Canada. Section 14 also~~
4 ~~provides that any toll road must be and remain a public highway owned by the State. Section~~
5 ~~16 of this bill authorizes the Department to enter into contracts with one or more private~~
6 ~~partners for planning, designing, financing, constructing, improving, maintaining, operating or~~

7 acquiring rights of way for a toll road project. Section 22 of this bill requires the Department
8 to establish or include in a public-private partnership: (1) a schedule of user fees for the use of
9 a toll road project or a methodology for establishing such a schedule; and (2) administrative
10 fines and other penalties for nonpayment of user fees. Section 22 provides that certain motor
11 vehicles are exempt, and authorizes the Department to establish other exemptions, from the
12 user fees. Section 23 of this bill provides that the registered owner of a motor vehicle is, with
13 certain exceptions, subject to administrative fines and penalties for failure to pay a required
14 user fee. Section 22 also requires the Department of Motor Vehicles to place a hold on the
15 renewal of the registration of a motor vehicle if the Department of Transportation or a private
16 partner provides notice to the Department of Motor Vehicles that the registered owner of the
17 motor vehicle has failed to pay a required user fee.

18 ~~Section 24 of this bill requires that all money that is received and is to be retained by the~~
19 ~~Department of Transportation pursuant to a public-private partnership in connection with a~~
20 ~~toll road project that is derived from the imposition of any charge with respect to the operation~~
21 ~~of any motor vehicle upon any highway in this State must be deposited in the State Highway~~
22 ~~Fund and, except for costs of administration, must be used exclusively for the construction,~~
23 ~~maintenance and repair of the public highways of this State. Section 24 also provides that the~~
24 ~~money must first be used to defray the obligations of the Department under the public-private~~
25 ~~partnership, including, without limitation, the costs of administration, design, construction,~~
26 ~~operation, maintenance, financing and repair of a toll road project.~~

27 ~~Section 25 of this bill provides that a toll road project and any property improvement~~
28 ~~determined by the Department to be necessary or desirable therefor may be financed by the~~
29 ~~private partner to a public-private partnership using its own funds or obtaining funds in any~~
30 ~~lawful manner for that entity or by the issuance of revenue bonds or notes of the State.~~

31 ~~Section 27 of this bill provides that a private partner is exempt from any assessment on~~
32 ~~property which the Department provides to the private partner pursuant to a public-private~~
33 ~~partnership and on which a toll road project is located. Section 28 of this bill requires a private~~
34 ~~partner to use competitive bidding to award contracts for construction work on a toll road~~
35 ~~project and to pay prevailing wages to workers engaged in construction on the toll road~~
36 ~~project.~~

37 ~~Section 32 of this bill requires the Department to submit a report concerning each toll~~
38 ~~road project to the Legislative Commission on or before February 1 of each even-numbered~~
39 ~~year and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature on~~
40 ~~or before February 1 of each odd-numbered year. Section 34 of this bill requires the~~
41 ~~Department to submit quarterly reports relating to each toll road project to the Legislative~~
42 ~~Commission and Interim Finance Committee.~~

43 Section 46 of this bill authorizes the Department of Transportation to enter into one
44 or more public-private partnerships for planning, designing, financing, constructing,
45 improving, maintaining, operating or acquiring rights-of-way for certain transportation
46 facilities. Section 52 of this bill provides that a public-private partnership may authorize
47 the charging of user fees in certain circumstances and sets forth specific exceptions to the
48 charging of user fees.

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

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

61 Section 59 of this bill requires that all money which is received and retained by the
62 Department of Transportation pursuant to a public-private partnership: (1) be
63 deposited in the State Highway Fund; (2) be accounted for separately; (3) be used first to
64 defray the obligations of the Department under the public-private partnership; and (4)
65 except for costs of administration, be used exclusively for the design, construction,

operation, maintenance, financing and repair of the public highways of Nevada. Section 50 of this bill authorizes certain financing of an eligible transportation facility. Section 52 of this bill authorizes the Department to grant to a private partner the use of certain real property and exempts the use of that real property from all real property and ad valorem taxes.

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

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

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

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

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

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

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

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

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

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

Section 1. ~~[Sections 1 to 34, inclusive, of this act may be cited as the Interstate 11 Toll Road Project Act. This act shall only apply to the proposed Interstate 11 and not to any other project of the Department.] (Deleted by amendment.)~~

Sec. 2. ~~[As used in sections 1 to 34, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 13, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

1 Sec. 3. ~~["Authorized emergency vehicle" has the meaning ascribed to it in~~
2 ~~NRS 484A.020.]~~ (Deleted by amendment.)

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

7 Sec. 5. ~~["Department" means the Department of Transportation.]~~ (Deleted by
8 amendment.)

9 Sec. 6. ~~["Interstate 11" means Interstate Route 111, designated in the~~
10 ~~Moving Ahead for Progress in the 21st Century Act, Pub. L. No. 112-141, §~~
11 ~~1104(b)(2), that is proposed to extend north from the border of Arizona and~~
12 ~~Mexico, through this State, to the southern border of Canada.]~~ (Deleted by
13 amendment.)

14 Sec. 7. ~~["Motor vehicle" has the meaning ascribed to it in NRS 484A.130.]~~
15 (Deleted by amendment.)

16 Sec. 8. ~~["Private partner" means a person with whom the Department enters~~
17 ~~into a public private partnership.]~~ (Deleted by amendment.)

18 Sec. 9. ~~["Public private partnership" means a contract entered into by the~~
19 ~~Department and a private partner under which the private partner:~~

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

25 2. ~~Assumes responsibility for planning, designing, financing, constructing,~~
26 ~~improving, maintaining, operating or acquiring rights of way for the toll road~~
27 ~~project, or any portion thereof.]~~ (Deleted by amendment.)

28 Sec. 10. ~~["Registered owner" means a person whose name appears in the~~
29 ~~records of the Department of Motor Vehicles as the person to whom a motor~~
30 ~~vehicle is registered.]~~ (Deleted by amendment.)

31 Sec. 11. ~~["Toll road" means a highway and appurtenant facilities for which a~~
32 ~~user must pay a user fee as a condition of use.]~~ (Deleted by amendment.)

33 Sec. 12. ~~["Toll road project" means an Interstate 11 toll road project~~
34 ~~established by the Department pursuant to section 14 of this act.]~~ (Deleted by
35 amendment.)

36 Sec. 13. ~~["User fee" means a toll, fee, fare or other similar charge, including,~~
37 ~~without limitation, any incidental, account maintenance, administrative, credit card~~
38 ~~or video tolling fee or charge authorized by the Department or a public private~~
39 ~~partnership and imposed on a person for his or her use of a toll road.]~~ (Deleted by
40 amendment.)

41 Sec. 14. ~~[1. The Department may establish a toll road project in connection~~
42 ~~with the proposed Interstate 11 project. The toll road project may consist of a toll~~
43 ~~road directly connecting or comprising any portion of the proposed route of~~
44 ~~Interstate 11 in this State and may:~~

45 (a) ~~Include, without limitation, highways, roads, bridges, on ramps, off ramps,~~
46 ~~direct connectors to or from other highways or arterials, tunnels, connectors to an~~
47 ~~airport, pavement, shoulders, structures, culverts, curbs, toll gantries and systems,~~
48 ~~drains, rights of way, buildings, communication facilities, equipment~~
49 ~~appurtenances, lighting, signage, service centers, operations centers, services,~~
50 ~~personal property and works incidental to, related to or desirable for highway~~
51 ~~design, construction, improvement, maintenance or operation required, laid out,~~
52 ~~constructed, improved, maintained or operated for highway purposes.~~

~~(b) Include any appurtenant facilities and facilities necessary for financing, connectivity, operations, maintenance, mobility or safety of a toll road project, which may include tolled and nontolled elements and on and off site facilities.~~

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

~~2. The Department may perform such tasks as are necessary and appropriate to plan, finance, design, construct, improve, maintain, operate and acquire rights of way for a toll road project, including, without limitation:~~

~~(a) Plan, design, finance, construct, maintain, operate and make such other improvements to existing highways as may be necessary and appropriate to accommodate, develop and own a toll road project.~~

~~(b) Determine the allowable uses of and the goals, standards, specifications and criteria of a toll road project.~~

~~(c) Enter into agreements with any local government or other political subdivision of this State, another state or the Federal Government for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights of way for a toll road project.~~

~~(d) Enter into contracts with a public private partnership for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights of way for a toll road project.~~

~~(e) Retain legal, financial, technical and other consultants to assist the Department concerning the toll road project.~~

~~(f) Secure financial and other assistance for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights of way for a toll road project.~~

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

~~(h) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the Department to carry out a toll road project.~~

~~(i) Pay any compensation to which a private partner is entitled, pursuant to the terms of a 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 a toll road project.~~

~~3. A toll road project, whether planned, designed, financed, constructed, improved, maintained or operated by the Department or private partner, must be and remain:~~

~~(a) A public highway;~~

~~(b) A public use;~~

~~(c) A public facility; and~~

~~(d) Owned by the Department or a political subdivision of this State.~~

~~4. Before construction of a toll road project begins, existing state and federal highways connecting with the toll road project shall be deemed alternate routes to the toll road which do not require a user fee and which accommodate all classes of vehicles. The Department 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 existing state and federal highways as of~~

1 ~~the date that construction of the toll road project begins.] (Deleted by~~
2 ~~amendment.)~~

3 **Sec. 15.** ~~[(The Department shall not, in connection with a toll road project:~~

4 ~~1. Request the Federal Government to prohibit or otherwise seek to prohibit~~
5 ~~the use on existing state highways connecting with the toll road project of any~~
6 ~~classes of vehicles which are authorized on those highways as of October 1, 2015;~~
7 ~~and~~

8 ~~2. Exercise any authority delegated to the Department to prohibit the use on~~
9 ~~existing state highways connecting with the toll road project of any classes of~~
10 ~~vehicles which are authorized on those highways as of October 1, 2015.]) (Deleted~~
11 ~~by amendment.)~~

12 **Sec. 16.** ~~[(1. The Department may enter into a public private partnership~~
13 ~~with one or more private partners for planning, designing, financing, constructing,~~
14 ~~improving, maintaining, operating or acquiring rights of way for a toll road project.~~
15 ~~A public private partnership entered into pursuant to this section may include,~~
16 ~~without limitation, a concession and must be awarded through one or more~~
17 ~~solicitations that must include, without limitation, some or all of the requests for~~
18 ~~qualifications, short listing of qualified proposers, requests for proposals,~~
19 ~~negotiations and best and final offers.~~

20 ~~2. For any solicitation in which the Department issues a request for~~
21 ~~qualifications, request for proposals or similar solicitation for a public private~~
22 ~~partnership, the Department may determine which factors it will consider and,~~
23 ~~except as otherwise provided in subsection 5, the relative weight of those factors in~~
24 ~~the evaluation process for a toll road project to obtain the best value for the~~
25 ~~Department.~~

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

32 ~~4. The executive summary for each proposal must be released to the public by~~
33 ~~the Department.~~

34 ~~5. After evaluation of the proposals submitted in response to a request for~~
35 ~~proposals, the Department may enter into negotiations with the applicant whose~~
36 ~~proposal appeared to have the best value to enter into a public private partnership.~~
37 ~~In determining the best value, the Department shall assign a relative weight of 5~~
38 ~~percent to an applicant who submits to the Department a signed affidavit which~~
39 ~~certifies that, for the planning, design, construction, improvement, maintenance and~~
40 ~~operation of the toll road project:~~

41 ~~(a) At least 65 percent of all workers employed on the toll road project,~~
42 ~~including, without limitation, any employees of the applicant, contractor and any~~
43 ~~subcontractors engaged in the toll road project, will hold a valid driver's license or~~
44 ~~identification card issued by the Department of Motor Vehicles;~~

45 ~~(b) All vehicles used primarily for the toll road project will be:~~

46 ~~(1) Registered and partially apportioned to Nevada pursuant to the~~
47 ~~International Registration Plan, as adopted by the Department of Motor Vehicles~~
48 ~~pursuant to NRS 706.826; or~~

49 ~~(2) Registered in this State;~~

50 ~~(c) At least 65 percent of the design professionals working on the toll road~~
51 ~~project, including, without limitation, any employees of the applicant, contractor~~
52 ~~and any subcontractor engaged on the toll road project, will have a valid driver's~~
53 ~~license or identification card issued by the Department of Motor Vehicles;~~

1 ~~— (d) At least 25 percent of the suppliers of the materials used for the toll road~~
2 ~~project will be located in this State unless the Department requires the acquisition~~
3 ~~of materials or equipment that cannot be obtained from a supplier located in this~~
4 ~~State; and~~

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

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

15 ~~— 7. After the award and execution of the public private partnership, the~~
16 ~~Department shall make available to the applicants and the public the results of the~~
17 ~~evaluations of proposals and the final rankings of the applicants.~~

18 ~~— 8. Notwithstanding any other law to the contrary, to maximize competition~~
19 ~~and to obtain the best value for the public, no part of a proposal other than the~~
20 ~~executive summary may be released or disclosed by the Department before the~~
21 ~~award and execution of the public private partnership and the conclusion of any~~
22 ~~specified period to protest or otherwise challenge the award, except pursuant to an~~
23 ~~administrative or judicial order requiring release or disclosure of any part of the~~
24 ~~proposal.] (Deleted by amendment.)~~

25 **Sec. 17. [1. A public private partnership awarded to an applicant who**
26 **receives a preference in bidding described in subsection 5 of section 16 of this act**
27 **must:**

28 ~~— (a) Include a provision in the public private partnership that substantially~~
29 ~~incorporates the requirements of paragraphs (a) to (c), inclusive, of subsection 5 of~~
30 ~~section 16 of this act; and~~

31 ~~— (b) Provide that a failure to comply with any requirement of paragraphs (a) to~~
32 ~~(c), inclusive, of subsection 5 of section 16 of this act is a material breach of the~~
33 ~~public private partnership and entitles the Department to liquidated damages only~~
34 ~~as provided in subsections 5 and 6.~~

35 ~~— 2. Any contract entered into between a private partner and a contractor~~
36 ~~engaged on a toll road project and between a contractor and any subcontractor~~
37 ~~engaged on a toll road project must:~~

38 ~~— (a) Include a provision in the contract that substantially incorporates the~~
39 ~~requirements of paragraphs (a) to (c), inclusive, of subsection 5 of section 16 of this~~
40 ~~act; and~~

41 ~~— (b) Provide that a failure to comply with any requirement of paragraphs (a) to~~
42 ~~(c), inclusive, of subsection 5 of section 16 of this act is a material breach of the~~
43 ~~contract.~~

44 ~~— 3. A person or entity who believes that an applicant has obtained a preference~~
45 ~~in bidding as described in subsection 5 of section 16 of this act but has failed to~~
46 ~~comply with a requirement of paragraphs (a) to (c), inclusive, of subsection 5 of~~
47 ~~section 16 of this act may file a written objection with the Department. A written~~
48 ~~objection authorized pursuant to this subsection must set forth proof or~~
49 ~~substantiating evidence to support the belief of the person or entity that the~~
50 ~~applicant has failed to comply with a requirement of paragraphs (a) to (c),~~
51 ~~inclusive, of subsection 5 of section 16 of this act.~~

52 ~~— 4. If the Department receives a written objection pursuant to subsection 3, the~~
53 ~~Department shall determine whether the objection is accompanied by the proof or~~

1 substantiating evidence required pursuant to that subsection. If the Department
2 determines that the objection is not accompanied by the required proof or
3 substantiating evidence, the Department shall dismiss the objection. If the
4 Department determines that the objection is accompanied by the required proof or
5 substantiating evidence or if the Department determines on its own initiative that
6 proof or substantiating evidence of a failure to comply with a requirement of
7 paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act exists, the
8 Department shall determine whether the applicant has failed to comply with a
9 requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this
10 act and the Department may proceed to award the contract accordingly or, if the
11 contract has already been awarded, seek the remedy authorized in subsection 5.

12 ~~5. The Department may recover, by civil action against the party responsible~~
13 ~~for a failure to comply with a requirement of paragraphs (a) to (e), inclusive,~~
14 ~~of subsection 5 of section 16 of this act, liquidated damages as described in subsection~~
15 ~~6 for a breach of a contract for the toll road project caused by a failure to comply~~
16 ~~with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16~~
17 ~~of this act. If the Department recovers liquidated damages pursuant to this~~
18 ~~subsection for a breach of a contract for the toll road project, the Department shall~~
19 ~~report to the State Contractors' Board the date of the breach, the name of each~~
20 ~~entity which breached the contract and the cost of the public private partnership.~~
21 ~~The Board shall maintain this information for not less than 6 years. Upon request,~~
22 ~~the Board shall provide this information to any public body or its authorized~~
23 ~~representative.~~

24 ~~6. If an applicant submits the affidavit described in subsection 1, receives a~~
25 ~~preference in bidding described in subsection 5 of section 16 of this act and is~~
26 ~~awarded the public private partnership, the public private partnership, each contract~~
27 ~~between the applicant and a contractor or a subcontractor or supplier and each~~
28 ~~contract between a subcontractor and a subcontractor or supplier must provide that:~~

29 ~~(a) If a party to the contract causes a material breach of the contract between~~
30 ~~the applicant and the Department as a result of a failure to comply with a~~
31 ~~requirement of subsection 5 of section 16 of this act, the party is liable to the~~
32 ~~Department for liquidated damages in the amount of 10 percent of the cost of the~~
33 ~~largest contract to which he or she is a party or \$50,000, whichever is less;~~

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

37 ~~(c) No other party to the contract is liable to the Department for liquidated~~
38 ~~damages.] (Deleted by amendment.)~~

39 **Sec. 18. [1. To be eligible as a private partner in connection with a public-**
40 **private partnership, a private partner must:**

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

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

45 ~~(2) Ensure completion of the toll road project without this State or its~~
46 ~~political subdivisions being liable for any of the direct costs of the toll road project;~~

47 ~~(b) Obtain insurance covering general liability and liability for errors and~~
48 ~~omissions, in amounts determined by the Department;~~

49 ~~(c) Not have been found liable for breach of contract with respect to a previous~~
50 ~~project with the Department, other than a breach for legitimate cause during the 5~~
51 ~~years immediately preceding the commencement of the solicitation of the public-~~
52 ~~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 a toll road 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.~~ **(Deleted by amendment.)**

Sec. 19. ~~Information obtained by or disclosed to the Department during the procurement or negotiation of a public private partnership may be kept confidential until the public private partnership is executed, except that the Department may exempt from release any proprietary information obtained by or disclosed to the Department during the procurement or negotiation.~~ **(Deleted by amendment.)**

Sec. 20. ~~1. Except as otherwise provided in subsection 2, notwithstanding any other law to the contrary, a public private partnership may be for a term of not more than 40 years after the opening of the toll road project to the public and the commencement of its full operations and collection of revenue.~~

~~2. A public private partnership may be extended:~~

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

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

~~(c) For additional terms upon the mutual agreement of the private partner and the Department.~~ **(Deleted by amendment.)**

Sec. 21. ~~1. A public private partnership entered into pursuant to sections 1 to 24, inclusive, of this act may include provisions that:~~

~~(a) Authorize the Department and the private partner to charge, collect, use, enforce and retain user fees, including, without limitation, provisions that:~~

~~(1) Specify the technology to be used in a toll road project;~~

~~(2) Establish circumstances under which the Department may receive the revenues or a share of the revenues from such user fees;~~

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

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

~~(5) Allow a variety of strategies to be employed to manage traffic on a toll road project that the Department determines are appropriate based on the specific circumstances of the toll road project; and~~

~~(6) Govern the enforcement of user fees, including, without limitation, provisions for the use of cameras or other mechanisms to ensure that users have paid user fees which are due and provisions that allow the Department of Transportation and the private partner to request information from relevant databases, including, without limitation, databases of the Department of Motor Vehicles, pursuant to the provisions of NRS 481.063, for enforcement purposes. The Department of Transportation may impose a civil penalty of not more than \$10,000 per violation for misuse of the data contained in such databases, including, without limitation, negligence in securing the data properly. Any civil penalty collected pursuant to this subparagraph must be deposited in the State General Fund.~~

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

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

~~(d) Address the manner in which the Department and the private partner will share management of the risks of a toll road project.~~

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

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

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

~~(h) Establish performance measurements, as described in section 22 of this act, or incentives, or both.~~

~~(i) Address the acquisition of rights of way and other property interests that may be required for a toll road project, including, without limitation, provisions that address the exercise of eminent domain by the Department in the manner authorized pursuant to NRS 277A.250 and chapter 27 of NRS.~~

~~(j) Establish recordkeeping, accounting and auditing standards to be used for a toll road project.~~

~~(k) Upon termination of the public private partnership, address responsibility for repair, rehabilitation, reconstruction or renovations that are required for a toll road project to meet all applicable standards set forth in the public private partnership upon reversion of the toll road project to the Department.~~

~~(l) Provide for security and law enforcement.~~

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

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

~~2. A public private partnership entered into pursuant to sections 1 to 34, inclusive, of this act must contain a provision by which the private partner expressly agrees to be barred from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the Department from developing or constructing a facility which was planned at the time the public private partnership was executed and which may impact the revenue that the private partner derives from a toll road project developed under the public private partnership. The public private partnership may provide for reasonable compensation to the private partner for the adverse effect on revenue from a toll road project developed under the public private partnership resulting from the development or construction of another facility by the Department.] (Deleted by amendment.)~~

Sec. 22. ~~[1. If the Department enters into a public private partnership pursuant to sections 1 to 34, inclusive, of this act, the Department:~~

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

1 the performance of a toll road project. A schedule of user fees or methodology for
2 establishing user fees to be included in the public private partnership must be
3 adopted or established by the Department at a public hearing held in compliance
4 with chapter 241 of NRS.

5 ~~— (b) Shall, consistent with the provisions of section 22 of this act, establish or~~
6 ~~provide in the public private partnership for the establishment of administrative~~
7 ~~fees, late charges and other penalties for any person who violates any regulation or~~
8 ~~rule governing the use of a toll road project or who fails to pay a user fee.~~

9 ~~— (c) In addition to the exemptions provided in subsection 2, may establish or~~
10 ~~provide in the public private partnership for exemptions from the payment of a user~~
11 ~~fee.~~

12 ~~— (d) Shall adopt a plan for measuring the performance of the private partner and,~~
13 ~~in the event of any unexcused failure by the private partner to meet such~~
14 ~~performance measurements, provide for the rights and remedies of the Department.~~

15 ~~2. The following motor vehicles are exempt from any user fee established by~~
16 ~~the Department:~~

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

19 ~~— (b) A transit bus or vanpool vehicle owned or operated by an agency of the~~
20 ~~United States, to the extent that such vehicles are exempted pursuant to an~~
21 ~~agreement between the agency or political subdivision and the Department or a~~
22 ~~private partner.~~

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

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

25 ~~— (2) Enforcing traffic laws.~~

26 ~~— (d) A vehicle used to provide maintenance of a toll road project.~~

27 ~~— (e) A vehicle that is exempt pursuant to the terms of a public private~~
28 ~~partnership.~~

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

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

41 ~~— (a) Account of a person whose vehicle is equipped with a transponder~~
42 ~~approved by the Department or other automated payment technology approved by~~
43 ~~the Department;~~

44 ~~— (b) Account of a person who otherwise registers to use a toll road project in~~
45 ~~accordance with the policies and procedures established by the Department or set~~
46 ~~forth in the public private partnership; or~~

47 ~~— (c) Registered owner.~~

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

~~(a) As is necessary to collect a user fee and enforce any penalty for a violation of sections 1 to 34, inclusive, 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 Department or a private partner may solicit and contract with any person to provide services relating to the collection of a user fee.~~

~~7. The Department 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 charges 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 wishes 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.] (Deleted by amendment.)~~

Sec. 23. ~~1. Except as otherwise provided in subsection 2, a registered owner who fails to pay a user fee is subject to an administrative fine for nonpayment and is liable to the Department or private partner for the payment of the user fee, the administrative fine and any additional charges or penalties prescribed by the Department or set forth in the public-private partnership.~~

~~2. If a driver or registered owner fails to pay a user fee, the Department or private partner shall provide notice of nonpayment to the registered owner. The notice must describe the claimed nonpayment and the amount due, including any additional charges, administrative fines or penalties, and explain that the registered owner must, within 20 days after receiving the notice, pay the full amount due or contest the claim in the manner described in the notice. A registered owner who does not pay the full amount due or contest the claim within 20 days after receiving the notice may not challenge the claim in any proceeding or action brought by the Department or the private partner.~~

~~3. A short-term lessor of a motor vehicle that is the registered owner is not liable to the Department or a private partner for any failure to pay a user fee arising out of the use of a rented motor vehicle during any period in which the motor vehicle is not in the possession of the lessor if, within 45 days after receiving the written notice from the Department or private partner, the lessor provides to the Department or private partner the name, address, driver's license number and other identifying information of the person to whom the motor vehicle was rented at the time of the use of a toll road project. If the lessor provides such information, the person to whom the motor vehicle was rented at the time of the use of a toll road project is liable for the user fee or administrative fee, or both, and any late charges or other penalties or charges resulting from the failure to pay the user fee.~~

~~4. The Department or a private partner may use a photo monitoring, video, image capture or other automated or technology-based enforcement and collections system to detect the failure of a motor vehicle to register payment of the required user fee, to detect the failure of the driver or registered owner to pay a user fee or to~~

1 ~~verify and assess the payment of a user fee. The data, including, without limitation,~~
2 ~~photographs, images, videotapes and other vehicle and owner information~~
3 ~~generated and obtained by the system, may be used to establish the nonpayment of~~
4 ~~the user fee and to enforce collection of the user fee and any administrative fines,~~
5 ~~late charges and other penalties or charges imposed pursuant to the public private~~
6 ~~partnership. The Department or private partner shall not use the information for any~~
7 ~~other purpose.~~

8 ~~5. If the registered owner fails to respond to the notice described in subsection~~
9 ~~2, the Department of Transportation or private partner may file a notice of~~
10 ~~nonpayment with the Department of Motor Vehicles. The notice must include:~~

11 ~~(a) The place, time and date of the use of the toll road project which, through~~
12 ~~nonpayment of user fees, administrative fees, late charges or other penalties or~~
13 ~~charges, constitutes a violation;~~

14 ~~(b) The number of the license plate and the make and model year of the motor~~
15 ~~vehicle; and~~

16 ~~(c) The total amount owed to the Department or private partner for the~~
17 ~~violation.~~

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

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

27 ~~8. The Department of Motor Vehicles shall work cooperatively with the~~
28 ~~Department of Transportation and any private partner to establish a timely and~~
29 ~~efficient manner for providing the motor vehicle registration of the registered~~
30 ~~owner, pursuant to the provisions of NRS 481.063, to the Department of~~
31 ~~Transportation and any private partner for the purposes of collecting and enforcing~~
32 ~~any user fees and any administrative fines, late charges and other penalties imposed~~
33 ~~pursuant to sections 1 to 34, inclusive, of this act.] (Deleted by amendment.)~~

34 **Sec. 24.** ~~[1. All money that is received and is to be retained by the~~
35 ~~Department pursuant to a public private partnership in connection with a toll road~~
36 ~~project that is derived from the imposition of any charge with respect to the~~
37 ~~operation of any motor vehicle upon any public highway in this State must be~~
38 ~~deposited in the State Highway Fund and, except for costs of administration, must~~
39 ~~be used exclusively for the design, construction, operation, maintenance, financing~~
40 ~~and repair of the public highways of this State. The money must first be used to~~
41 ~~defray the obligations of the Department under the public private partnership,~~
42 ~~including, without limitation, the costs of administration, design, construction,~~
43 ~~operation, maintenance, financing and repair of the toll road project.~~

44 ~~2. Any other money received by the Department pursuant to sections 1 to 24,~~
45 ~~inclusive, of this act or any policies or procedures established by the Department or~~
46 ~~set forth in the public private partnership must be deposited in the State Highway~~
47 ~~Fund and accounted for separately. The interest and income on the money in the~~
48 ~~account, after deducting any applicable charges, must be credited to the account.~~
49 ~~The money in the account may be used for:~~

50 ~~(a) The payment of the costs of planning, designing, financing, constructing,~~
51 ~~improving, maintaining, operating or acquiring rights of way for the toll road~~
52 ~~project;~~

~~(b) The payment of the costs of administering the toll road project and enforcing the collection of user fees;~~

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

~~(d) The costs of administration, construction, maintenance and repair of the public highways located in this State. (Deleted by amendment.)~~

Sec. 25. ~~[1. A toll road project and any property improvement determined by the Department to be necessary or desirable therefor may, as determined by the Department, be financed:~~

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

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

~~(1) Revenues from the toll road project, including, without limitation, user fees and payments established, due and collected pursuant to sections 22 and 23 of this act, other than subsection 7 of section 23 of this act;~~

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

~~(3) Payments from the private partner as described in section 24 of this act;~~

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

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

~~(6) Interest or other gain accruing on any of the money deposited in the State Highway Fund pursuant to section 24 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 State 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 State, to finance a toll road project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the Department and the private partner to secure the bonds or notes and provide for their payment. Any bonds or notes issued under this paragraph must be solely payable from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph may have a maturity of up to 40 years from the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of 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.~~

~~(d) By the issuance of private activity bonds or notes of the State or other eligible issuer, to finance a toll road project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the~~

~~Department and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph may have a maturity of up to 40 years from the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for 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.~~

~~(e) By any loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out a toll road project.~~

~~(f) With any grant, donation, gift or other form of conveyance of land, money or other real or personal property or other thing of value made to the Department to carry out a toll road project.~~

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

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

~~2. If so determined by the Department, 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 State may pledge those taxes to and use those taxes for the payment of any of its obligations under a public-private partnership. (Deleted by amendment.)~~

Sec. 26. ~~{1. The Department may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for a toll road project. The Department 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 Department to the private partner are exempt from all real property and ad valorem taxes to the full extent allowed under the Constitution of the State of Nevada. (Deleted by amendment.)~~

Sec. 27. ~~{Notwithstanding any specific statute to the contrary, a private partner is exempt from any assessment on property:~~

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

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

~~3. On which a toll road project is located. (Deleted by amendment.)~~

Sec. 28. ~~{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, a toll road 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 toll road project; and

~~(b) Pay the prevailing wage required pursuant to NRS 238.020 to 238.090, inclusive, and solely for the purposes of those provisions, a toll road project shall be deemed to be a public work and the Department shall be deemed to be a party to the contract and to be the public body advertising for bids for the toll road project and awarding the construction contract for the toll road project.~~

~~2. Nothing in this section requires the Department to use competitive bidding in accordance with the provisions of chapter 238 of NRS to award a public private partnership to a private partner. (Deleted by amendment.)~~

Sec. 29. ~~[1. In addition to complying with the provisions of section 28 of this act, a private partner who enters into a contract for construction work pursuant to a public private partnership shall:~~

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

~~(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the Department;~~

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

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

~~2. If the Department receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1, the Department:~~

~~(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the Department; and~~

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

~~3. The Department shall ensure that the private partner complies with the provisions of subsection 1. (Deleted by amendment.)~~

Sec. 30. ~~[1. The Department may include authority in a public private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right of way of a toll road project. The Department may incorporate the costs of such removal or relocation into the public private partnership.~~

~~2. A utility may not be required to pay any costs related to removing or relocating any property of the utility pursuant to subsection 1. (Deleted by amendment.)~~

Sec. 31. ~~[To the extent practicable, the provisions of sections 1 to 34, inclusive, 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 sections 1 to 34, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 1 to 34, inclusive, of this act, the provisions of sections 1 to 34, inclusive, of this act control. (Deleted by amendment.)~~

Sec. 32. ~~[1. On or before February 1 of each year, the Department shall prepare a written report concerning any toll road project commenced pursuant to sections 1 to 34, inclusive, of this act. The report must include, without limitation:~~

~~(a) The current status of all toll road projects.~~

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

~~(c) The amount of money received by the Department in connection with each toll road project from sources other than user fees.~~

~~(d) The amount paid by the Department under any public private partnership.~~

~~(e) An assessment of the compliance by a private partner with the performance measurements set forth in a public private partnership pursuant to sections 22 and 23 of this act.~~

~~(f) Such other information as the Department determines appropriate.~~

~~2. On or before February 1 of each even numbered year, the Department shall submit the report prepared pursuant to subsection 1 to the Legislative Commission. On or before February 1 of each odd numbered year, the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature. (Deleted by amendment.)~~

~~Sec. 33. Upon completion of a toll road project, the Department shall conduct a cost benefit analysis of the toll road project. The Department shall submit the analysis to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature. (Deleted by amendment.)~~

~~Sec. 34. 1. In addition to the requirements of section 22 of this act, the Department shall report on the status of any toll road project to the Legislative Commission and the Interim Finance Committee. The report must include, without limitation:~~

~~(a) The current status of each toll road project.~~

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

~~(c) The amount of money received by the Department in connection with each toll road project from sources other than user fees.~~

~~(d) The amount paid by the Department under any public private partnership.~~

~~(e) Such other information as the Legislative Commission or the Interim Finance Committee determines appropriate.~~

~~2. The report required pursuant to subsection 1 must be submitted at least quarterly and at such other times as the Legislative Commission or the Interim Finance Committee may require. (Deleted by amendment.)~~

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

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

~~Sec. 37. "Authorized emergency vehicle" has the meaning ascribed to it in NRS 484A.020.~~

~~Sec. 38. "Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible transportation facility by the Department to a private partner.~~

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

~~2. The term includes, without limitation, highways, roads, bridges, on-ramps, off-ramps, direct connectors to or from other highways or arterials, tunnels, connectors to an airport, pavement, shoulders, structures, culverts,~~

curbs, toll gantries and systems, drains, rights-of-way, buildings, communication facilities, equipment appurtenances, lighting, signage, service centers, operations centers, rest areas, services, personal property and works incidental to, related to or desirable for highway design, construction, improvement, financing, operation or maintenance.

Sec. 40. "Managed lanes" means a highway facility or a set of lanes in which operational and traffic management strategies, including, without limitation, access control, vehicle eligibility and pricing, are implemented and managed in response to changing conditions, traffic and usage and which may include the assessment of a user fee. The term includes, without limitation, express lanes.

Sec. 41. "Motor vehicle" has the meaning ascribed to it in NRS 484A.130.

Sec. 42. "Private partner" means a person with whom the Department enters into a public-private partnership.

Sec. 43. "Public-private partnership" means a contract entered into by the Department with a private partner under which the private partner:

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

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

Sec. 44. "Registered owner" means a person whose name appears in the records of the Department of Motor Vehicles as the person to whom a motor vehicle is registered.

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

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

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

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

(b) A design-build agreement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (1) The private partner; and

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

22 5. An eligible transportation facility must:

23 (a) Be owned by the Department; and

24 (b) Remain a public use, a public facility or a public highway, or any
25 combination thereof.

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

29 1. Retain legal, financial, technical and other consultants to assist the
30 Department concerning the eligible transportation facility.

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

36 3. Accept from any source any grant, donation, gift or other form of
37 conveyance of land, money, other real or personal property or other thing of
38 value made to the Department to carry out the eligible transportation facility.

39 4. Enter into a bond indenture, loan agreement, interest rate swap or
40 financing agreement, security agreement, pledge agreement, credit facility, trust
41 agreement or other financial agreement in connection with the financing of the
42 eligible transportation facility pursuant to sections 36 to 65, inclusive, of this act.

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

45 (a) Obtain a performance bond and payment bond, letter of credit, parent
46 company guarantee or other security acceptable to the Department, or any
47 combination thereof, in amounts determined by the Department;

48 (b) Obtain insurance covering general liability and liability for errors and
49 omissions in amounts determined by the Department;

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

1 (d) Not be disqualified from being awarded a contract pursuant to NRS
2 338.017, 338.13895, 338.1475 or 408.333.

3 2. A private partner is not required to hold the licenses and certifications
4 required to undertake the work for the eligible transportation facility as a
5 condition of eligibility to be a private partner but must ensure that any work
6 which requires a license or certification is performed by a person that possesses
7 the required license or certification.

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

11 Sec. 49. 1. A public-private partnership entered into pursuant to section
12 46 of this act must be awarded through one or more solicitations. The
13 Department may solicit a public-private partnership through:

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

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

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

20 3. For any solicitation in which the Department issues a request for
21 statements of qualifications, request for proposals or similar request, the
22 Department may establish an evaluation process to obtain the best value for the
23 Department. The Department may determine:

24 (a) The method of evaluation;

25 (b) The factors the Department will consider, including, without limitation,
26 qualifications, experience, cost, price, financial plan, financial commitment,
27 innovative financing and technology, technical approach and management
28 approach; and

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

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

34 5. Each request for proposals issued for an eligible transportation facility
35 must require each person submitting a proposal to include with the proposal an
36 executive summary. The executive summary must address the major elements of
37 the proposal but must not include the financial terms of the proposal, the
38 financing plan or other confidential or proprietary information or trade secrets
39 that the person submitting the proposal intends to be exempt from disclosure.

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

42 7. After evaluation of the proposals submitted in response to a request for
43 proposals, the Department may enter into negotiations with the applicant whose
44 proposal appeared to have the best value to enter into a public-private
45 partnership. If the Department is unable to negotiate a public-private partnership
46 with that applicant upon such terms and conditions that the Department
47 determines to be in the best interest of the public, the Department shall suspend
48 or terminate negotiations with that applicant. The Department may then
49 undertake negotiations with the next highest-ranked applicant in sequence until a
50 public-private partnership is entered into or a determination is made by the
51 Department to reject all applicants who submitted proposals.

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

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

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

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

16 (b) Met all the requirements set by the Department for the eligible
17 transportation facility.

18 2. If the Department intends to make such a reimbursement, the
19 Department shall set forth the terms, conditions and estimated amount of the
20 reimbursement in the request for statements of qualifications or in the request for
21 proposals, as applicable, for the eligible transportation facility.

22 3. In exchange for the reimbursement, the Department shall require the
23 recipient to grant to the Department the nonexclusive right to use any work
24 product contained in the proposal, including, without limitation, technologies,
25 techniques, methods, processes and information contained in the project design.
26 Such use by the Department is at the sole risk of the Department, and the
27 recipient does not have any responsibility for such use.

28 Sec. 51. 1. Except as otherwise provided in this subsection, information
29 obtained by or disclosed to the Department during the procurement or
30 negotiation of a public-private partnership may be kept confidential until the
31 public-private partnership is awarded and executed. The Department may exempt
32 from release to the public any confidential or proprietary information obtained by
33 or disclosed to the Department during the procurement or negotiation.

34 2. To make confidential and proprietary information exempt from
35 disclosure pursuant to subsection 1, the person who submits a proposal or other
36 response to a solicitation for an eligible transportation facility must:

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

39 (b) Identify the data or other materials for which protection is sought with
40 conspicuous labeling;

41 (c) State the reasons why protection is necessary for each document for
42 which protection is sought;

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

45 (e) Defend any action seeking release of records that the person submitting
46 the proposal or response believes are protected from disclosure, and indemnify,
47 defend and hold harmless the State, the Department, its agents and its employees
48 from any judgments awarded against the State or the Department in favor of the
49 party requesting the records, including any and all costs connected with that
50 defense. Under no circumstances will the Department be responsible or liable to
51 the person submitting the proposal or response or any other person for the
52 disclosure of any such labeled materials, whether the disclosure is required by

1 law or court order or occurs through inadvertence, mistake or negligence on the
2 part of the Department or its officers, employees, contractors or consultants.

3 Sec. 52. 1. A public-private partnership entered into pursuant to section
4 46 of this act may include provisions that:

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

8 (1) Specify the technology to be used in or the technology standards that
9 must be met in connection with the eligible transportation facility.

10 (2) Establish circumstances under which the Department may receive the
11 revenues or a share of the revenues from such user fees.

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

14 (4) Prescribe a formula, indexation or mechanism for the adjustment of
15 user fees during the term of the public-private partnership.

16 (5) Allow a variety of strategies to be employed to manage traffic on the
17 eligible transportation facility, including, without limitation:

18 (I) High-occupancy vehicle lanes where single- or low-occupancy
19 vehicles may use higher-occupancy vehicle lanes by paying a user fee.

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

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

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

37 (b) Allow for payments to be made by this State to the private partner,
38 including, without limitation, periodic payments, construction payments,
39 milestone payments, progress payments, payments based on availability or any
40 other performance-based payments, payments relating to compensation events
41 specified in the public-private partnership and payments relating to or arising out
42 of the termination of the public-private partnership.

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

46 (d) Address the manner in which the Department and the private partner will
47 share management of the risks of the eligible transportation facility.

48 (e) Specify the manner in which the Department and the private partner will
49 share the costs of any development of the eligible transportation facility.

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

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

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

2 (i) Address the acquisition of rights-of-way and other property interests that
3 may be required for the eligible transportation facility, including, without
4 limitation, provisions that address the exercise of eminent domain by the
5 Department in the manner authorized pursuant to this chapter and chapter 37 of
6 NRS.

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

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

14 (l) Provide for security and law enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

4 (a) Shall establish a schedule or methodology for the charging of user fees
5 by the Department or the private partner for the use of the eligible transportation
6 facility. Such a schedule or methodology may include, without limitation,
7 provisions for adjusting the user fees based on the type of motor vehicle, time of
8 day, traffic conditions or other factors determined necessary by the Department
9 or the private partner to implement, finance or improve the performance of the
10 eligible transportation facility;

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

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

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

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

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

27 (c) An authorized emergency vehicle if:

28 (1) It is responding to an emergency and its emergency lights are in use;
29 or

30 (2) It is enforcing traffic laws; and

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

33 3. The Board may review annually any fee schedule or methodology
34 established pursuant to this section and any adjustments to the user fees made by
35 the Department or the private partner to determine whether the user fees
36 effectively manage travel times, speed and reliability with regard to the eligible
37 transportation facility. Such a review does not entitle the Department to modify
38 the terms of a binding public-private partnership or bond indenture.

39 Sec. 54. 1. The Department or private partner may use any method that it
40 determines appropriate to charge, assess and collect a user fee, including, without
41 limitation, the issuance of invoices, collection by means of toll booths,
42 prepayment requirements and the use of an electronic, video or automated
43 collection system. An electronic, video or automated collection system may be
44 used to verify payment or to charge or assess the user fee to:

45 (a) The account of a person whose vehicle is equipped with a transponder or
46 other automated payment technology approved by the Department;

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

49 (c) The registered owner of a motor vehicle.

50 2. Except as otherwise provided in this subsection, the name, address and
51 any other personal identifying information and any trip data of a user of an
52 eligible transportation facility is confidential and the Department, a private
53 partner, consultant, contractor or representative thereof shall not release, sell or

1 distribute such information without the express written consent of the user. The
2 Department and the private partner may use and release such information;

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

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

7 3. The Department or the private partner may solicit and contract with a
8 person to provide services relating to the enforcement and collection of a user fee
9 and any administrative fines, late charges or other penalties and charges imposed
10 pursuant to the public-private partnership.

11 4. The Department or the private partner may:

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

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

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

18 5. The Department shall adopt regulations establishing a privacy policy
19 regarding the collection and use of personal identifying information pursuant to
20 this section. The regulations must include, without limitation, provisions
21 requiring that:

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

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

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

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

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

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

42 2. The data, including, without limitation, photographs, images, videotapes
43 and other information about the motor vehicle and its owner, generated and
44 obtained by a system described in subsection 1 may only be used by the
45 Department or the private partner to establish the nonpayment of a user fee and
46 to enforce collection of a user fee and any administrative fines, late charges and
47 other penalties or charges imposed pursuant to the public-private partnership and
48 for no other purpose.

49 Sec. 56. 1. Except as otherwise provided in subsection 3, the registered
50 owner of a motor vehicle who fails to pay a user fee is subject to an
51 administrative fine for nonpayment and is liable to the Department or a private
52 partner for the payment of the user fee, administrative fine, late charge and any

1 other penalties or charges established by the Board or pursuant to the public-
2 private partnership.

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

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

26 Sec. 57. 1. If a registered owner of a motor vehicle fails to respond to the
27 notice of nonpayment provided pursuant to section 56 of this act, the Department
28 of Transportation or a private partner may file a notice with the Department of
29 Motor Vehicles. The notice must include:

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

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

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

37 2. Upon receipt of the notice described in subsection 1, the Department of
38 Motor Vehicles shall place a hold on the renewal of the registration of the motor
39 vehicle described in the notice. The Department of Motor Vehicles shall not
40 renew the registration of the motor vehicle unless the registered owner:

41 (a) Pays to the Department of Motor Vehicles the total amount owed to the
42 Department of Transportation or the private partner, which amount the
43 Department of Motor Vehicles shall forward, as directed by the Department of
44 Transportation, to the Department of Transportation or the private partner, along
45 with an accounting indicating the amount paid, from whom, for which motor
46 vehicle and the corresponding license plate number of the motor vehicle; or

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

49 3. In addition to any administrative fine, late charge or other penalty or
50 charge for nonpayment of a user fee established pursuant to a public-private
51 partnership, the Department of Motor Vehicles may impose an additional
52 administrative fee of not more than \$15 upon any person who applies for the

1 renewal of the registration of a motor vehicle subject to a hold placed on the
2 renewal pursuant to this section.

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

8 Sec. 58. 1. The Department of Motor Vehicles shall work cooperatively
9 with the Department of Transportation and any private partner to establish a
10 timely and efficient manner for providing information concerning motor vehicles,
11 including, without limitation, the name, address and driver's license number of
12 the registered owner and the registration number of the vehicle, to the
13 Department of Transportation and the private partner for the purpose of
14 collecting and enforcing user fees and any administration fines, late charges and
15 other penalties and charges imposed pursuant to sections 56 and 57 of this act.
16 To the extent practicable, such information must be transmitted electronically.

17 2. The Department of Motor Vehicles shall work cooperatively with the
18 departments of motor vehicles and similar agencies of other jurisdictions and
19 states to:

20 (a) Assist the Department of Transportation and the private partner with the
21 collection and enforcement of user fees charged against a motor vehicle operated
22 on the eligible transportation facility by a person from such other jurisdiction or
23 state; and

24 (b) Assist such other departments of motor vehicles and similar agencies with
25 the collection and enforcement of user fees charged against a motor vehicle
26 operated on the toll facilities of such other jurisdiction or state by a motor vehicle
27 registered in this State.

28 ↪ The cooperation must include providing information concerning motor
29 vehicles, including, without limitation, the name, address and driver's license
30 number of the registered owner and the registration number of the vehicle, to
31 such departments of motor vehicles and similar agencies of other jurisdictions
32 and states and forwarding such information received from such other
33 departments of motor vehicles and similar agencies of other jurisdictions and
34 states to the Department of Transportation or the private partner.

35 Sec. 59. 1. All money which is received and is to be retained by the
36 Department pursuant to a public-private partnership and which is derived from
37 the imposition of any charge with respect to the operation of any motor vehicle
38 upon any public highway in this State must be deposited in the State Highway
39 Fund, accounted for separately and, except for costs of administration, be used
40 exclusively for the design, construction, operation, maintenance, financing and
41 repair of the public highways of this State. The money must first be used to defray
42 the obligations for which the Department is responsible under the public-private
43 partnership, including, without limitation, the costs of administration, design,
44 construction, operation, maintenance, financing and repair of the eligible
45 transportation facility from which the money is derived.

46 2. Any other money received and to be retained by the Department pursuant
47 to sections 36 to 65, inclusive, of this act or pursuant to any policies or
48 procedures established by the Department or set forth in the public-private
49 partnership must be deposited in the State Highway Fund and accounted for
50 separately. The interest and income on the money in the account, after deducting
51 any applicable charges, must be credited to the account. The money in the
52 account may be used for:

1 (a) The payment of the costs of planning, designing, financing, constructing,
2 improving, maintaining, operating or acquiring rights-of-way for, or any
3 combination thereof, the eligible transportation facility;

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

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

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

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

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

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

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

22 (2) Payments from the Department to the private partner pursuant to a
23 public-private partnership, including any availability payments;

24 (3) Payments from the private partner as described in section 52 of this
25 act;

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

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

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

35 (7) Any other funds and revenues of the Department that are eligible for
36 such use; or

37 (8) Any combination thereof;

38 ↪ as described in the resolution authorizing the issuance of the bonds or notes.
39 The bonds or notes must be authorized and issued under the procedure described
40 in NRS 408.273, but the bonds or notes must be secured as provided in this
41 section and may have a maturity of up to 40 years after the date of issuance. Any
42 bonds or notes authorized by this paragraph are special, limited obligations of the
43 State payable solely from the revenues specifically pledged to the payment of
44 those obligations, as specified in the resolution for the issuance of the bonds or
45 notes, and do not create a debt of the State for the purposes of Section 3 of Article
46 9 of the Nevada Constitution.

47 (c) By the issuance of revenue bonds or notes of the State, to finance the
48 eligible transportation facility directly or by making a loan to the private partner,
49 pursuant to a financing agreement entered into between the State and the private
50 partner for the purpose of securing the bonds or notes and providing for their
51 payment. Any bonds or notes issued pursuant to this paragraph must be payable
52 solely from and secured by payments made by and property of and other security
53 provided by the private partner, including, without limitation, any payments made

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

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

28 (e) By any loan, grant, line of credit, loan guarantee, credit instrument,
29 private activity bond allocation, credit assistance from the Federal Government
30 or other type of assistance that is available to carry out the eligible transportation
31 facility.

32 (f) With any grant, donation, gift or other form of conveyance of land,
33 money or other real or personal property or other thing of value made to the
34 Department to carry out the eligible transportation facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 65. To the extent practicable, the provisions of sections 36 to 65, inclusive, 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 sections 36 to 65, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 36 to 65, inclusive, of this act, the provisions of sections 36 to 65, inclusive, of this act control.

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

408.317 1. Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive, and sections 36 to 65, inclusive, of this act, all work of construction, reconstruction, improvement and maintenance of highways as provided under the provisions of this chapter is under the supervision and direction of the Director and must be performed in accordance with the plans, specifications and contracts prepared by the Director.

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

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

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

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

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

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

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

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

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

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

3. Whenever the Director is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement, the Director may refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. If the Director determines that the person has, within the preceding year, materially breached a contract for a public work for which the cost exceeds \$25,000,000, the Director shall refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. Any bid of any person to whom plans and specifications and the official proposal forms have not been issued in accordance with this section must be disregarded, and the certified check, cash or undertaking of such a bidder returned forthwith.

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

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

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

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

1. All bids must be accompanied by an undertaking executed by a corporate surety authorized to do business in the State, or by cash or a certified check in an

1 amount equal to at least 5 percent of the amount bid. Such undertaking, cash or
2 check furnished to accompany a bid submitted on-line pursuant to NRS 408.343
3 must be furnished in accordance with the procedures set forth by the Director.

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

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

12 4. If the Director deems it is for the best interests of the State, the Director
13 may, on refusal or failure of the successful bidder to execute the contract, award it
14 to the second lowest responsible bidder. If the second lowest responsible bidder
15 fails or refuses to execute the contract, the Director may likewise award it to the
16 third lowest responsible bidder. On the failure or refusal to execute the contract of
17 the second or third lowest bidder to whom a contract is so awarded, their bidder's
18 security is likewise forfeited to the State.

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

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

25 408.343 1. Except as otherwise provided in NRS 408.3875 to 408.3887,
26 inclusive **H, and sections 36 to 65, inclusive, of this act;**

27 (a) All bids must be submitted:

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

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

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

36 (c) Any bid may be withdrawn by request at any time before the time stated in
37 the advertisement. The withdrawal must be filed with the Director and executed by
38 the bidder or the bidder's duly authorized representative. The withdrawal may be
39 filed electronically. The withdrawal of a bid does not prejudice the right of the
40 bidder to file a new bid before the time stated in the advertisement.

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

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

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

50 2. The Director may adopt regulations to carry out the provisions of this
51 section.

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

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

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

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

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

2. The performance bonds must:

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

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

3. The labor and material bonds must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. As used in this section:

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

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

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

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,

372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, and sections 51 and 54 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

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

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

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

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

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

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

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.1685 to 338.1695, inclusive; or
- (d) NRS 338.1711 to 338.173, inclusive.

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

3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, **and sections 36 to 65, inclusive, of this act.** that provision of this chapter does not apply to the Department of Transportation or the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 9. This section does not apply to:

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

45 (b) Any work of construction, reconstruction, improvement and maintenance
46 of highways subject to ~~NRS 408.223 or 408.227;~~ the provisions of chapter 408 of
47 NRS;

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

49 (d) The Las Vegas Valley Water District created pursuant to chapter 167,
50 Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to
51 chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created
52 pursuant to chapter 100, Statutes of Nevada 1993;

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

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

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.1695, inclusive.

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

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

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

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

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

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

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

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

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

(a) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination

1 that the public interest would be served by rejecting any bids received in response
2 to an advertisement for bids, the local government shall prepare and make available
3 for public inspection a written statement containing:

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

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

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

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

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

17 8. This section does not apply to:

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

19 (b) Any work of construction, reconstruction, improvement and maintenance
20 of highways subject to ~~NRS 408.323 or 408.327;~~ the provisions of chapter 408 of
21 NRS;

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

23 (d) The Las Vegas Valley Water District created pursuant to chapter 167,
24 Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to
25 chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created
26 pursuant to chapter 100, Statutes of Nevada 1993;

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

30 (f) A constructability review of a public work, which review a local
31 government or its authorized representative is required to perform pursuant to NRS
32 338.1435; or

33 (g) The preconstruction or construction of a public work for which a public
34 body enters into a contract with a construction manager at risk pursuant to NRS
35 338.1685 to 338.1695, inclusive.

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

37 361.157 1. When any real estate or portion of real estate which for any
38 reason is exempt from taxation is leased, loaned or otherwise made available to and
39 used by a natural person, association, partnership or corporation in connection with
40 a business conducted for profit or as a residence, or both, the leasehold interest,
41 possessory interest, beneficial interest or beneficial use of the lessee or user of the
42 property is subject to taxation to the extent the:

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

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

46 ➤ can be segregated and identified. The taxable value of the interest or use must be
47 determined in the manner provided in subsection 3 of NRS 361.227 and in
48 accordance with NRS 361.2275.

49 2. Subsection 1 does not apply to:

50 (a) Property located upon a public airport, park, market or fairground, or any
51 property owned by a public airport, unless the property owned by the public airport
52 is not located upon the public airport and the property is leased, loaned or otherwise

1 made available for purposes other than for the purposes of a public airport,
2 including, without limitation, residential, commercial or industrial purposes;

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

5 (c) Property of any state-supported educational institution, except any part of
6 such property located within a tax increment area created pursuant to NRS
7 278C.155;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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