

Amendment No. 1135

Senate Amendment to Assembly Bill No. 399 Second Reprint (BDR 35-1129)

Proposed by: Senate Committee on Transportation

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: Yes Digest: Yes

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.

JFD/EGO



Date: 6/4/2017

A.B. No. 399—Establishes the Nevada State Infrastructure Bank. (BDR 35-1129)



ASSEMBLY BILL NO. 399—ASSEMBLYWOMAN
BUSTAMANTE ADAMS

MARCH 20, 2017

JOINT SPONSORS: SENATORS HAMMOND AND MANENDO

Referred to Committee on Government Affairs

SUMMARY—Establishes the Nevada State Infrastructure Bank. (BDR 35-1129)

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

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

AN ACT relating to transportation; establishing the Nevada State Infrastructure Bank; providing for the governance of the Bank by a Board of Directors; establishing the powers and duties of the Board of Directors; providing for the administration of the Bank by an Executive Director to the extent that certain money is available; establishing the powers and duties of the Executive Director; establishing the Nevada State Infrastructure Bank Fund; authorizing the Bank to perform certain acts in connection with the financing of certain transportation facilities and utility infrastructure; providing civil immunity for certain persons for certain official actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-36.5 of this bill establish the Nevada State Infrastructure Bank. The purpose of the Bank is to provide loans and other financial assistance to various units of state and local government for the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of certain transportation facilities and utility infrastructure. **Sections 20 and 37.1** of this bill create the Bank within the Department of Transportation and provide for its governance by a Board of Directors. **Section 21** of this bill establishes certain powers and duties of the Board of Directors. **Section 21** further authorizes the Board of Directors to issue bonds or other securities to raise money to carry out its statutory purposes and powers. **Section 21 also requires the Board of Directors to act in a commercially reasonable manner and authorizes the Board of Directors to rely on certain information if it is prepared or presented by certain people or entities.** **Section 22** of this bill requires the Governor, to the extent that money is available from public or private sources for administrative costs, to appoint an Executive Director to administer, manage and conduct the affairs of the Bank and establishes the powers and duties of the Executive Director. **Section 22 also requires that the Executive Director and any employees hired be paid from money allocated to the Bank and appropriated or authorized by the Legislature or the Interim Finance Committee.** **Section 23** of this bill creates the Nevada

State Infrastructure Bank Fund to be administered by the Board of Directors and used exclusively to capitalize and carry out the statutory powers and purpose of the Bank.

Section 24 of this bill establishes certain procedures relating to: (1) applications for a loan or other financial assistance from the Bank in connection with a project to develop, construct, repair, improve, operate, maintain, decommission or own a transportation facility or utility infrastructure; (2) the determination by the Executive Director of eligible projects; and (3) selection by the Board of Directors of projects that qualify to obtain such a loan or assistance. **Section 25** of this bill requires a borrower whose project is qualified to receive a loan or other financial assistance to enter into a financing agreement with the Bank and, in case of a loan, to issue some kind of security to the Bank that evidences the borrower's obligation to repay the loan.

Section 26 of this bill authorizes the Bank to act as an insurer or reinsurer in connection with a loan or satisfaction of a related obligation made by the Bank. **Section 27** of this bill authorizes the Bank to provide security for any revenue bonds issued by the Bank.

Section 28 of this bill provides that any debt or obligation issued by the Bank is not a debt, liability or obligation of this State or of any political subdivision thereof, or a pledge of the faith and credit of this State or a political subdivision, other than the Bank itself.

If a borrower who has received a loan from the Bank fails to make a payment of any money owed to the Bank, **section 29** of this bill authorizes the Bank, under certain circumstances, to require other state agencies that are in possession of money of the State or other money that is allotted or appropriated to the borrower to withhold that money from that borrower and remit it to the Bank to use the money to make the necessary payment to the Bank.

Section 30 of this bill provides a grant of immunity from civil liability to the Board of Directors of the Bank or the officers and employees of the Bank for certain official acts under certain circumstances. **Section 31** of this bill exempts the Bank from certain procedural prerequisites that would otherwise be applicable to its actions. **Section 32** of this bill exempts the property of the Bank and its income from taxation. **Section 33** of this bill exempts the bonds and other securities issued by the Bank from most forms of taxation.

Section 34 of this bill provides that any authority given to a governmental borrower to issue bonds by this bill is supplemental to, and not in lieu of, any existing authority to issue bonds.

Section 35 of this bill also provides that the provisions of this bill are intended to supplement, not supplant, other existing laws concerning the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of transportation facilities and utility infrastructure and the issuance of bonds and other securities by this State and political subdivisions thereof. However, **section 35** also provides that if there is a conflict between those laws and this bill, the provisions of this bill control. **Section 35** also provides that a contract for construction on a qualified project funded in whole or in part by a loan or other financial assistance from the Bank is subject to the prevailing wage requirement.

Section 36 of this bill requires the Bank to submit an annual report concerning its activities to the Governor and the Legislature. **Section 36.5** of this bill authorizes the divisions of the Department of Transportation, to the extent that money is available for that purpose, to provide technical advice, support and assistance to the Bank.

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 36.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 36.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 19, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Bank" means the Nevada State Infrastructure Bank.*

Sec. 4. *"Board of Directors" means the Board of Directors of the Bank.*

1 **Sec. 5. “Eligible costs” means, as applied to a qualified project to be**
2 **financed from:**

3 1. *The federal highway account established by section 23 of this act, the*
4 *costs that are allowed under applicable federal laws, requirements, procedures*
5 *and guidelines in regard to establishing, operating and providing assistance from*
6 *the Bank.*

7 2. *The state and local highway account established by section 23 of this act,*
8 *costs including, without limitation, the cost of preliminary engineering, traffic*
9 *and revenue studies, environmental studies, right-of-way acquisition, legal and*
10 *financial services associated with the development of the qualified project,*
11 *construction, construction management, facilities, sustainability certification and*
12 *other costs necessary for the qualified project.*

13 3. *The federal utility infrastructure account established by section 23 of this*
14 *act, costs including, without limitation, the cost of preliminary engineering,*
15 *environmental studies, property right acquisition, legal and financial services*
16 *associated with the development of the qualified project, construction,*
17 *construction management, equipment, facilities and other nonoperating costs*
18 *necessary for the qualified project.*

19 4. *A federal or state and local nonhighway account established by section*
20 *23 of this act, costs including, without limitation, the cost of preliminary*
21 *engineering, traffic and revenue studies, environmental studies, right-of-way*
22 *acquisition, legal and financial services associated with the development of the*
23 *qualified project, construction, construction management, equipment, facilities*
24 *and other nonoperating costs necessary for the qualified project.*

25 5. *The state and local utility infrastructure account established by section*
26 *23 of this act, costs including, without limitation, the cost of preliminary*
27 *engineering, environmental studies, property right acquisition, legal and*
28 *financial services associated with the development of the qualified project,*
29 *construction, construction management, equipment, facilities, sustainability*
30 *certification and other nonoperating costs necessary for the qualified project.*

31 **Sec. 6. “Eligible project” means the development, construction, repair,**
32 **improvement, operation, maintenance, decommissioning or ownership of a**
33 **transportation facility or utility infrastructure.**

34 **Sec. 7. “Executive Director” means the Executive Director of the Bank.**

35 **Sec. 8. “Federal accounts” means the federal highway account, federal**
36 **nonhighway account and federal utility infrastructure account established**
37 **pursuant to section 23 of this act.**

38 **Sec. 9. 1. “Financing agreement” means any agreement entered into**
39 **between the Bank and a qualified borrower pertaining to a loan or other**
40 **financial assistance for a qualified project, which may or may not include**
41 **nonfinancial provisions relating to the qualified project, including, without**
42 **limitation, terms and conditions relating to the regulation and supervision of the**
43 **qualified project.**

44 2. *The term includes, without limitation:*

45 (a) *A loan agreement;*

46 (b) *A trust indenture;*

47 (c) *A security agreement;*

48 (d) *A reimbursement agreement;*

49 (e) *A guarantee agreement;*

50 (f) *A bond or note; and*

51 (g) *An ordinance or a resolution or similar instrument.*

52 **Sec. 10. “Governmental unit” means:**

1 *1. The State of Nevada, including, without limitation, any board,*
2 *commission, agency, department, division or instrumentality thereof;*

3 *2. A political subdivision of the State of Nevada, including, without*
4 *limitation, a county, city, town, school district, general or local improvement*
5 *district or a combination of two or more of those entities acting jointly, including,*
6 *without limitation, as a regional transportation commission as defined in NRS*
7 *482.1825; and*

8 *3. A ~~public or private~~ utility.*

9 *Sec. 11. "Loan" means any form of direct financial assistance that is*
10 *provided by the Bank to a qualified borrower to defray all or part of the*
11 *anticipated or actual costs of a qualified project and is required to be repaid by*
12 *the borrower over a period of time.*

13 *Sec. 12. "Loan obligation" means a bond, note or other evidence of a*
14 *qualified borrower's obligation to repay a loan given by the Bank.*

15 *Sec. 13. "Other financial assistance" means any use of money by the Bank*
16 *for the benefit of a qualified borrower, including, without limitation, a grant,*
17 *contribution, credit enhancement, capital or debt reserve for bonds or other debt*
18 *instrument financing, an interest rate subsidy, letter of credit or other credit*
19 *instrument, security for a bond or other debt financing instrument and other*
20 *lawful forms of financing and methods of leveraging funds that are approved by*
21 *the Board of Directors and, in the case of money made available to the State by*
22 *the Federal Government, as allowed by applicable federal law.*

23 *Sec. 14. "Project revenue" means any rate, rent, fee, assessment related*
24 *specifically to the project, charge or other receipt derived or to be derived by a*
25 *qualified borrower from a qualified project and, if so provided in the applicable*
26 *financing agreement, derived from any system of which the qualified project is a*
27 *part or from any other revenue producing facility under the ownership or control*
28 *of the qualified borrower, including, without limitation, the proceeds of a grant,*
29 *gift, appropriation or loan, including, without limitation, the proceeds of a loan*
30 *made by the Bank, investment earnings, payments to a reserve for capital or*
31 *current expenses, proceeds of insurance or condemnation and proceeds from the*
32 *sale or other disposition of property.*

33 *Sec. 15. "Qualified borrower" means a governmental unit, or an entity*
34 *established by an agreement between a governmental unit and a private entity,*
35 *that is authorized to develop, construct, repair, improve, maintain, decommission,*
36 *operate or own a qualified project.*

37 *Sec. 16. "Qualified project" means an eligible project that has been*
38 *selected by the Bank to receive a loan or other financial assistance.*

39 *Sec. 17. "State and local accounts" means the state and local highway*
40 *account, state and local nonhighway account and state and local utility*
41 *infrastructure account established by the Bank pursuant to section 23 of this act.*

42 *Sec. 18. "Transportation facility" means any existing, enhanced, upgraded*
43 *or new facility that is used or useful for the safe transport of people, information*
44 *or goods via one or more modes of transport, including, without limitation, any of*
45 *the following:*

46 *1. A road, railroad, bridge, tunnel, overpass, airport, mass transit, light or*
47 *commuter rail, conduit, ferry, boat, vessel, parking facility, intermodal or*
48 *multimodal system or any other mode of transport, including, without limitation,*
49 *those utilizing autonomous technology, and any rights of way necessary for any*
50 *eligible transportation facility.*

51 *2. Related or ancillary to, or used or useful to provide, operate, maintain or*
52 *generate revenue for, a facility described in subsection 1, including, without*
53 *limitation, administrative buildings and other buildings, structures, rest areas,*

1 maintenance yards, rail yards, ports of entry or storage facilities, vehicles, rolling
2 stock, energy systems, control, communications and information systems, parking
3 facilities and similar commercial facilities used for the support of or the
4 transportation of persons, information or goods or other related equipment, items
5 or property, including, without limitation, any other property that is needed to
6 operate the facility.

7 3. All improvements, including equipment necessary to the full utilization of
8 a transportation facility, including, without limitation, site preparation, roads and
9 streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and
10 lead tracks, bridges, causeways, terminals for railroad, automotive and air
11 transportation and transportation facilities incidental to the project.

12 Sec. 18.5. "Utility" has the meaning ascribed to it in NRS 408.407.

13 Sec. 19. "Utility infrastructure" means any infrastructure which allows for
14 the connection of the transmission or distribution system of a utility to a
15 distribution facility installed by a master-planned industrial or business park in
16 conformance with the tariffs of the utility and includes, without limitation, the
17 engineering and construction of the infrastructure.

18 Sec. 20. 1. The Nevada State Infrastructure Bank is hereby created
19 within the Department.

20 2. The purpose of the Bank is to provide loans and other financial
21 assistance to various governmental units for the development, construction,
22 repair, improvement, operation, maintenance, decommissioning and ownership
23 of transportation facilities and utility infrastructure as necessary for public
24 purposes, including, without limitation, economic development.

25 3. The Bank is administered by a Board of Directors consisting of:

26 (a) The Director of the Department of Transportation or his or her designee;

27 (b) The State Treasurer or his or her designee;

28 (c) The Director of the Department of Business and Industry or his or her
29 designee;

30 (d) The Executive Director of the Office of Economic Development or his or
31 her designee; and

32 (e) Two representatives of the general public, at least one of whom must
33 reside in a county whose population is 700,000 or more, appointed by the
34 Governor.

35 4. Each member of the Board of Directors who is appointed pursuant to
36 subsection 3 serves at the pleasure of the appointing authority.

37 5. A vacancy on the Board of Directors in an appointed position must be
38 filled by the appointing authority in the same manner as the original
39 appointment.

40 6. The Board of Directors shall elect annually from among its members a
41 Chair and a Vice Chair.

42 7. Four members of the Board of Directors constitute a quorum for the
43 transaction of business, and the affirmative vote of at least four members of the
44 Board of Directors is required to take action.

45 8. The members of the Board of Directors are public officers and are
46 subject to all applicable provisions of law, including, without limitation, the
47 provisions of chapter 281A of NRS.

48 9. A meeting of the Board of Directors must be conducted in accordance
49 with the provisions of chapter 241 of NRS.

50 10. To the extent that money is available from public or private sources for
51 administrative costs:

1 (a) Each member of the Board of Directors who is not otherwise an officer
2 or employee of this State is entitled to receive \$100 for each full day of attending
3 a meeting of the Board of Directors.

4 (b) Each member of the Board of Directors is entitled, while engaged in the
5 business of the Board of Directors, to receive the per diem allowance and travel
6 expenses provided for state officers and employees generally. The per diem
7 allowance and travel expenses provided to a member of the Board of Directors
8 who is an officer or employee of this State or a political subdivision of this State
9 must be paid by the state agency or political subdivision that employs him or her.

10 ~~10.4~~ 11. A member of the Board of Directors who is an officer or employee
11 of this State or a political subdivision of this State must be relieved from his or
12 her duties without loss of regular compensation so that he or she may prepare for
13 and attend meetings of the Board of Directors and perform any work necessary to
14 carry out the duties of the Board of Directors in the most timely manner
15 practicable. A state agency or political subdivision of this State shall not require
16 an officer or employee who is a member of the Board of Directors to:

17 (a) Make up the time the member is absent from work to carry out his or her
18 duties as a member of the Board of Directors; or

19 (b) Take annual leave or compensatory time for the absence.

20 Sec. 21. 1. The Board of Directors may:

21 (a) Make, and from time to time amend and repeal, bylaws not inconsistent
22 with sections 2 to 36.5, inclusive, of this act to carry into effect the powers and
23 purposes of sections 2 to 36.5, inclusive, of this act.

24 (b) Sue and be sued in the name of the Bank.

25 (c) Have a seal and alter the same at the pleasure of the Board of Directors,
26 but the failure to affix the seal does not affect the validity of an instrument
27 executed on behalf of the Bank.

28 (d) Make loans to qualified borrowers to finance all or part of the eligible
29 costs of a qualified project.

30 (e) Provide qualified borrowers with other financial assistance necessary to
31 defray all or part of the eligible costs of a qualified project.

32 (f) Acquire, hold and sell loan obligations at such prices and in such a
33 manner as the Board of Directors deems advisable.

34 (g) Enter into contracts, arrangements and agreements with qualified
35 borrowers and other persons and execute and deliver all financing agreements
36 and other instruments necessary or convenient to carry out the powers and duties
37 of the Board of Directors.

38 (h) Enter into agreements with a department, agency or instrumentality of
39 the United States or governmental unit of this State or another state for the
40 purpose of providing for the financing of qualified projects.

41 (i) Establish:

42 (1) Policies and procedures to govern the selection of qualified projects
43 and the issuance and administration of loans and other financial assistance
44 provided by the Bank; and

45 (2) Fiscal controls and accounting procedures to ensure proper
46 accounting and reporting by the Bank and qualified borrowers.

47 (j) Acquire, by purchase, lease, donation or other lawful means, real or
48 personal property and any interest therein.

49 (k) Sell, convey, pledge, lease, exchange, transfer and dispose of all or any
50 part of the property and assets of the Bank.

51 (l) Procure insurance, guarantees, letters of credit and other forms of
52 collateral or security or credit support for the payment of bonds or other
53 securities issued by the Bank and the payment of premiums or fees on such

1 *insurance, guarantees, letters of credit and other forms of collateral or security or*
2 *credit support.*

3 *(m) Collect or authorize the trustee under any trust indenture that secures*
4 *any bonds or other securities issued by the Bank to collect amounts due from a*
5 *qualified borrower under any loan obligation owned by the Bank, including,*
6 *without limitation, taking any lawful action required to obtain payment of any*
7 *sums in default.*

8 *(n) Unless restricted by the terms of an agreement with the holders of bonds*
9 *or other securities issued by the Bank, consent to any modification of the terms of*
10 *any loan obligations owned by the Bank, including, without limitation, the rate of*
11 *interest, period of repayment and payment of any installment of principal or*
12 *interest.*

13 *(o) Borrow money through the issuance of bonds and other securities as*
14 *provided in sections 2 to 36.5, inclusive, of this act.*

15 *(p) Incur expenses to obtain accounting, management, legal or financial*
16 *consulting and other professional services necessary to the operations of the*
17 *Bank.*

18 *(q) To the extent that money is available from public or private sources of*
19 *administrative costs, pay any costs incurred for the administration of the*
20 *operations of the Bank.*

21 *(r) Establish advisory committees, which may include persons from the*
22 *private sector with civil engineering, banking and financial expertise.*

23 *(s) Procure insurance against losses in connection with the Bank's property,*
24 *assets or activities, including, without limitation, insurance against liability for*
25 *any act of the Bank or its employees or agents, or establish cash reserves to*
26 *enable the Bank to act as a self-insurer against such losses.*

27 *(t) Impose and collect fees and charges in connection with the activities of*
28 *the Bank.*

29 *(u) Apply for, receive and accept from any source aid grants or contributions*
30 *of money, property, labor or other things of value to be used to carry out the*
31 *statutory purposes and powers of the Bank.*

32 *(v) Enter into contracts, arrangements or agreements for the servicing and*
33 *processing of financial agreements.*

34 *(w) Accept and hold, with payment of interest, money deposited with the*
35 *Bank.*

36 *(x) Request technical advice, support and assistance from the divisions of the*
37 *Department.*

38 *(y) Do all other things necessary or convenient to exercise any power granted*
39 *or reasonably implied by sections 2 to 36.5, inclusive, of this act.*

40 *2. Except as otherwise provided in sections 2 to 36.5, inclusive, of this act,*
41 *the Bank may exercise any fiscal power granted to the Bank in sections 2 to 36.5,*
42 *inclusive, of this act, without the review or approval of any other department,*
43 *division or agency of the State or any political subdivision thereof, except for the*
44 *Board of Directors.*

45 *3. In exercising the powers and performing the functions set forth in*
46 *sections 2 to 36.5, inclusive, of this act, the members of the Board of Directors:*

47 *(a) Must act in a commercially reasonable manner and in the interests of this*
48 *State. For the purposes of this paragraph, the interests of this State include,*
49 *without limitation, the public welfare and economy of this State and the long-*
50 *term and short-term interests of this State.*

51 *(b) May, unless a member of the Board of Directors has knowledge*
52 *concerning a matter in question that would cause reliance thereon to be*
53 *unwarranted, rely on information, opinions, reports, books of account or*

statements, including, without limitation, financial statements and other financial data, that are prepared or presented by:

(1) One or more members of the Board of Directors or officers or employees of the Bank reasonably believed to be reliable and competent in the matters prepared or presented;

(2) Counsel, public accountants, financial advisers, valuation advisers, investment bankers, engineers, architects or other persons as to matters reasonably believed to be within the professional or expert competence of the preparer or presenter; or

(3) A committee on which the director or officer relying thereon does not serve, as to matters within the designated authority of the committee and matters on which the committee is reasonably believed to merit confidence.

4. This section does not authorize the Bank to be or conduct business as a:

(a) Bank or trust company within the jurisdiction of title 55 of NRS or under the control of an agency of United States or this State; or

(b) Bank, banker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' laws of the United States or of this State.

~~4-4~~ 5. The Bank must, before accepting a deposit from any person or governmental unit, provide a notice to the depositor stating that the deposit is not insured by the Federal Deposit Insurance Corporation.

~~5-1~~ 6. The provisions of titles 55, 56 and 57 of NRS do not apply to the Bank.

Sec. 22. 1. The Governor shall, to the extent that money is available from public or private sources for administrative costs, appoint an Executive Director of the Bank. The Executive Director is in the unclassified service of the State and serves at the pleasure of the Governor.

2. The Executive Director shall administer, manage and conduct the business and affairs of the Bank subject to the direction of the Board of Directors, any conditions that the Board of Directors may from time to time prescribe or as delegated by the Board of Directors. Except as otherwise provided in this subsection, the Executive Director may exercise any power, function or duty conferred by law on the Bank in connection with the administration, management and conduct of the business and affairs of the Bank, including, without limitation:

(a) Hiring, to the extent that money is available from public or private sources for administrative costs, such employees in either the classified or unclassified service of the State as are necessary to carry out the statutory purposes and powers of the Bank.

(b) Entering into contracts concerning investments, guarantees or credit enhancements.

(c) Establishing procedures, guidelines, criteria, terms, conditions or other requirements of any contract, bond, loan, grant or program in order to carry out the intents and purposes of the Bank in authorizing the contract, bond, loan, grant or other program.

(d) Declining to guarantee any risk or to enter into any contract.

(e) Reinsuring any risk or any part of any risk, as provided in section 26 of this act.

(f) Making rules for payments through the Bank and determining to whom and through whom the payments are to be made.

(g) Investing and reinvesting any money belonging to the Bank.

(h) Entering into any contract or agreement, executing any instrument, conducting all business and affairs and performing any act necessary or convenient to carrying out the statutory purposes and powers of the Bank.

(i) Executing any instrument or performing any act necessary or convenient to carry out his or her duties pursuant to sections 2 to 36.5, inclusive, of this act.

3. The Executive Director and any employees hired pursuant to this section must be paid by the Bank from money allocated to the Bank and appropriated or authorized by the Legislature or the Interim Finance Committee.

Sec. 23. 1. The Nevada State Infrastructure Bank Fund is hereby created as an enterprise fund. The Fund is a continuing fund without reversion.

2. The Fund is administered by the Board of Directors.

3. The Board of Directors may establish accounts and subaccounts within the Fund, but shall establish, without limitation:

(a) A federal highway account;

(b) A federal nonhighway account;

(c) A state and local highway account;

(d) A state and local nonhighway account;

(e) A state and local utility infrastructure account; and

(f) A federal utility infrastructure account.

4. Except as otherwise provided in subsection 7, all money received by the Bank pursuant to sections 2 to 36.5, inclusive, of this act must be deposited in the Fund.

5. The Bank may accept for deposit into the Fund:

(a) Any money appropriated by the Legislature or authorized for allocation by the Interim Finance Committee;

(b) Federal funds made available to the State;

(c) Gifts, grants, donations and contributions from a governmental unit, private entity or any other source;

(d) Any money paid or credited to the Bank, by contract or otherwise, including, without limitation:

(1) Payment of principal and interest on a loan or other financial assistance provided to a qualified borrower by the Bank; and

(2) Interest earned from the investment or reinvestment of the Bank's money pursuant to section 26 of this act;

(e) Proceeds from the issuance of bonds or other securities pursuant to section 21 of this act; and

(f) Any other lawful source of money that is made available to the Bank and is not already dedicated for another purpose.

6. The Bank shall comply with all applicable federal laws governing the use of federal funds, including, without limitation, statutes and regulations governing:

(a) Any conditions or limitations on expenditures;

(b) Reporting; and

(c) The commingling of federal funds.

7. Earnings on balances in the federal accounts must be credited and invested in accordance with federal law. Earnings on state and local accounts must be deposited in the Fund to the credit of the state and local highway account, state and local nonhighway account or state and local utility infrastructure account that generates the earnings.

8. Money in the Fund may be used only:

(a) For the capitalization of the Bank; and

(b) To carry out the statutory purposes and powers of the Bank.

1 9. *A local government may use money from any source that is made*
2 *available to the local government for the purposes of developing, constructing,*
3 *repairing, improving, operating, maintaining, decommissioning or owning a*
4 *transportation facility or utility infrastructure or for any other purpose set forth*
5 *in sections 2 to 36.5, inclusive, of this act, to make a gift, grant, donation or*
6 *contribution to the Bank or to satisfy any obligation owed by the local*
7 *government to the Bank, including, without limitation, payments of principal and*
8 *interest.*

9 Sec. 24. 1. *A governmental unit, or an entity established by agreement*
10 *between a governmental unit and a private entity, that wishes to obtain a loan or*
11 *other financial assistance from the Bank to develop, construct, repair, improve,*
12 *operate, maintain, decommission or own an eligible project must apply to the*
13 *Bank in the manner prescribed by the Bank.*

14 2. *The Executive Director shall:*

15 (a) *Review each application and determine whether the transportation*
16 *facility or utility infrastructure described in the application is an eligible project;*
17 *and*

18 (b) *At the request of the Board of Directors, submit information to the Board*
19 *of Directors concerning any eligible project.*

20 3. *The Board of Directors shall, from time to time, designate qualified*
21 *projects from among the eligible projects. The Board of Directors may give*
22 *preference to an eligible project that has demonstrated local financial support.*

23 4. *The Bank may provide a loan and other financial assistance to a*
24 *qualified borrower to pay for all or part of the eligible costs of a qualified project.*
25 *The term of the loan or other financial assistance may not exceed the anticipated*
26 *useful life of the qualified project. A loan or other financial assistance may be*
27 *provided in anticipation of reimbursement for or direct payment of all or part of*
28 *the eligible costs of a qualified project.*

29 5. *The Bank shall determine the form and content of a loan application,*
30 *financing agreement or loan obligation, including, without limitation:*

31 (a) *The period for repayment and the rate or rates of interest on a loan; and*

32 (b) *Any nonfinancial provisions included in a financing statement or loan*
33 *obligation, including, without limitation, terms and conditions relating to the*
34 *regulation and supervision of a qualified project.*

35 ↪ *Such form and content must substantially conform with the documents*
36 *typically used for such transactions.*

37 6. *The terms and conditions set forth in a financing agreement or loan*
38 *obligation for a loan or other financial assistance provided by the Bank using*
39 *money from a federal account must comply with all applicable federal*
40 *requirements.*

41 Sec. 25. 1. *A qualified borrower that wishes to obtain a loan or other*
42 *financial assistance from the Bank must enter into a financing agreement with*
43 *the Bank and may be required to issue a loan obligation to the Bank. Except as*
44 *otherwise provided by specific statute, a qualified borrower entering into a*
45 *financing agreement with the Bank or issuing a loan obligation to the Bank may*
46 *perform any act, take any action, adopt any proceedings and make and carry out*
47 *any contract or agreement with the Bank as may be agreed to by the Bank and*
48 *the qualified borrower for carrying out the purposes contemplated by sections 2*
49 *to 36.5, inclusive, of this act.*

50 2. *A qualified borrower may, in addition to any authorization set forth in*
51 *this section, use any authorization granted by any other statute that allows the*
52 *qualified borrower to borrow money and issue obligations in obtaining a loan or*
53 *other financial assistance from the Bank to the extent determined necessary or*

1 *useful by the qualified borrower in connection with any financing agreement or*
2 *the issuance, securing or sale of a loan obligation to the Bank.*

3 3. *A qualified borrower may:*

4 (a) *Receive, apply, pledge, assign and grant security interests in its project*
5 *revenues to secure its loan obligations as provided in sections 2 to 36.5, inclusive,*
6 *of this act; and*

7 (b) *Impose and collect fees, rates, rents, assessments and other charges of*
8 *general or special application for the operation of a qualified project, the system*
9 *of which the qualified project is a part and any other revenue producing facilities*
10 *from which the qualified borrower derives project revenues to meet its loan*
11 *obligations under a financing agreement or to otherwise provide for the*
12 *development, construction, repair, improvement, operation, maintenance,*
13 *decommissioning or ownership of a qualified project.*

14 Sec. 26. 1. *The Bank may provide insurance or reinsurance of loans or*
15 *portions thereof, or their debt service, including, without limitation, amounts*
16 *payable as premiums or penalties in the event of mandatory or optional*
17 *prepayment, made to finance a qualified project, and to provide insurance or*
18 *reinsurance or reserves, or portions thereof, or the yield therefrom, established to*
19 *secure bonds or other securities issued to fund those loans or reserves.*

20 2. *The Bank may:*

21 (a) *Arrange an agreement for insurance or reinsurance with a user,*
22 *mortgagor, lending institution, insurer or any other entity authorized to arrange*
23 *such agreements in this State; and*

24 (b) *Enter into an agreement for insurance or reinsurance with any insurer*
25 *authorized to reinsure or insure such risks in this State.*

26 3. *The Bank may fix a rate or rates of premium for insurance or*
27 *reinsurance. The rates are not required to be uniform and may reflect any risk*
28 *and classification of risk that the Bank determines to be reasonable.*

29 4. *The Bank may exercise any other power that is necessary or incidental to*
30 *insurance, reinsurance and related matters.*

31 5. *The Bank shall make reasonable provisions for the security of loans*
32 *made by the Bank, and any insurance, reinsurance and other financing*
33 *arrangements negotiated by the Bank.*

34 6. *Any insurance or reinsurance provided by the Bank does not constitute a*
35 *debt or pledge of the faith and credit of the State or any subdivision of the State.*

36 Sec. 27. *The Bank may provide security for any issue of revenue bonds by*
37 *the Bank through any commonly accepted financial instrument, including,*
38 *without limitation:*

39 1. *A deed of trust on the resources, facilities and revenues of one or more*
40 *qualified projects financed by the Bank;*

41 2. *A credit enhancement, including, without limitation, a letter of credit,*
42 *bond insurance or surety bond provided by a private financial institution; and*

43 3. *Insurance, reinsurance or a guarantee provided by the Bank itself.*

44 Sec. 28. 1. *Any obligation to a third person made by the Bank, including,*
45 *without limitation, a bond or other security issued by the Bank pursuant to*
46 *section 21 of this act and any insurance, reinsurance or reserve provided by the*
47 *Bank pursuant to section 26 of this act:*

48 (a) *Does not constitute a debt, liability or obligation of this State or any*
49 *political subdivision thereof, or a pledge of the faith and credit of this State or*
50 *any political subdivision thereof, but is payable solely from the revenues or assets*
51 *of the Bank; and*

52 (b) *Must contain on the face thereof a statement to the effect that the Bank is*
53 *not obligated to pay the obligation or any interest thereon except from the*

1 *revenues or assets, if any, pledged therefor and that neither the faith and credit*
2 *nor the taxing power of this State or any political subdivision thereof is pledged to*
3 *the payment of the principal of or the interest on the obligation.*

4 2. *Except as otherwise provided in subsection 3, this section does not*
5 *prohibit the Bank from:*

6 (a) *Pledging the full faith and credit of the Bank for the satisfaction of any*
7 *obligation to a third person made by the Bank; or*

8 (b) *Issuing a bond guarantee or credit enhancement for bonds issued by a*
9 *qualified borrower.*

10 3. *Notwithstanding any provision in sections 2 to 36.5, inclusive, of this act*
11 *to the contrary, the Bank shall not act as a surety or guarantor for a private*
12 *utility or any other private company, association or corporation.*

13 Sec. 29. 1. *Except as otherwise provided in this section, if a qualified*
14 *borrower that has obtained a loan or other financial assistance from the Bank*
15 *fails to remit in full any amount due to the Bank on the date on which the*
16 *amount is due under the terms of any note or other loan obligation given to the*
17 *Bank by the qualified borrower, the Bank shall notify the appropriate state*
18 *agencies or officers, including, without limitation, the State Controller, who shall*
19 *withhold all or a portion of any state money or other money administered by the*
20 *State and its agencies, boards and instrumentalities that is allotted or*
21 *appropriated to the qualified borrower and apply an amount necessary to the*
22 *payment of the amount due.*

23 2. *This section does not authorize the State or an agency, board or*
24 *instrumentality thereof, or the State Controller, to withhold any money allocated*
25 *or appropriated to a qualified borrower if to do so would violate the terms of:*

26 (a) *An appropriation by the Legislature;*

27 (b) *Any federal law;*

28 (c) *A contract to which the State is a party;*

29 (d) *A contract to which a governmental unit or qualified borrower is a party;*
30 *or*

31 (e) *A judgment of a court that is binding upon the State.*

32 Sec. 30. *The Board of Directors and any member thereof, and any officer,*
33 *employee, agent or committee member of the Bank is not liable in a civil action*
34 *for any act performed on behalf of the Bank in good faith and within the scope of*
35 *their duties or the exercise of their authority pursuant to sections 2 to 36.5,*
36 *inclusive, of this act.*

37 Sec. 31. *Except as otherwise provided in sections 2 to 36.5, inclusive, of this*
38 *act, and notwithstanding any other provision of law, the Bank is not required to*
39 *provide any notice or publication or to conduct any hearing or other proceeding*
40 *before performing any act authorized in sections 2 to 36.5, inclusive, of this act.*

41 Sec. 32. *The Bank is an instrumentality of this State, and its property and*
42 *income are exempt from all taxation by this State and any political subdivision*
43 *thereof.*

44 Sec. 33. 1. *Except as otherwise provided in subsection 2, bonds and other*
45 *securities issued by the Bank pursuant to the provisions of sections 2 to 36.5,*
46 *inclusive, of this act, their transfer and the income therefrom must forever be and*
47 *remain free and exempt from taxation by this State or any subdivision thereof.*

48 2. *The provisions of subsection 1 do not apply to the tax on estates imposed*
49 *pursuant to the provisions of chapter 375A of NRS or the tax on generation-*
50 *skipping transfers imposed pursuant to the provisions of chapter 375B of NRS.*

51 Sec. 34. *Notwithstanding any provision in sections 2 to 36.5, inclusive, of*
52 *this act to the contrary, sections 2 to 36.5, inclusive, of this act are supplemental*
53 *to, and not in lieu of, the right of any qualified borrower to issue general*

obligation bonds or other bonds that the qualified borrower is otherwise lawfully authorized to issue.

Sec. 35. *1. To the extent possible, the provisions of sections 2 to 36.5, inclusive, of this act are intended to supplement other statutory provisions governing the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of transportation facilities and utility infrastructure and the issuance of bonds and other securities by this State or a political subdivision thereof, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of sections 2 to 36.5, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 2 to 36.5, inclusive, of this act, the provisions of sections 2 to 36.5, inclusive, of this act control.*

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to any contract for construction work on a qualified project if all or part of the costs of the qualified project are paid for using a loan or other financial assistance from the Bank. The Bank, the qualified borrower, any contractor who is awarded a contract or enters into an agreement to perform construction work on the qualified project, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the qualified project or had awarded the contract.

Sec. 36. *The Board of Directors shall, not later than 90 days after the end of each fiscal year:*

1. Prepare a report on the operations of the Bank during that year.

2. Submit the report prepared pursuant to subsection 1 to:

(a) The Governor; and

(b) The Director of the Legislative Counsel Bureau for transmittal to:

(1) If the report is prepared in an even-numbered year, the next regular session of the Legislature; or

(2) If the report is prepared in an odd-numbered year, the Legislative Commission.

Sec. 36.5. *Any division of the Department may, to the extent that money is available for that purpose, provide technical advice, support and assistance to the Bank.*

Sec. 36.6. NRS 408.111 is hereby amended to read as follows:

408.111 1. The Department consists of a Director, two Deputy Directors, a Chief Engineer and the following ~~divisions~~:

(a) Administrative Division.

(b) Operations Division.

(c) Engineering Division.

(d) Planning Division.

(e) Nevada State Infrastructure Bank.

2. The head of a Division is an assistant director. Assistant directors are in the unclassified service of the State.

Sec. 36.7. NRS 408.116 is hereby amended to read as follows:

408.116 *Except as otherwise provided in sections 2 to 36.5, inclusive, of this act:*

1. All legal notices, writs, service and process issued or ordered by a court of competent jurisdiction wherein the Department is named as a defendant must be personally served upon both the Director and the Chair of the Board or, in the absence of the Director and the Chair of the Board, the process must be served personally upon both the Secretary of State and one of the Deputy Directors.

2. All legal actions brought and defended by the Department must be in the name of the State of Nevada on relation of its Department.

3. This section is not a consent on the part of the Department to be sued.

Sec. 36.8. NRS 408.131 is hereby amended to read as follows:

408.131 ~~1. The~~ *Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, the* Board shall:

1. Consider, at its meetings, all questions relating to the general policy of the Department and transact such business as properly comes before it.

2. Receive and consider, at such time as the Board selects, an annual report by the Director.

3. Except as otherwise provided in NRS 408.203, act for the Department in all matters relating to recommendations, reports and such other matters as the Board finds advisable to submit to the Legislature.

4. Maintain a record of all proceedings of the Board.

5. Execute or approve all instruments and documents in the name of the State or the Department necessary to carry out the provisions of this chapter.

6. Except as otherwise provided in NRS 408.389, delegate to the Director such authority as it deems necessary under the provisions of this chapter.

7. Act by resolution, vote or order entered in its records.

Sec. 36.9. NRS 408.172 is hereby amended to read as follows:

408.172 1. Subject to the approval of the Board, the Attorney General shall, immediately upon request by the Board, appoint an attorney at law as the Chief Counsel of the Department, and such assistant attorneys as are necessary. Attorneys so appointed are deputy attorneys general.

2. ~~The~~ *Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, the* Chief Counsel shall act as the attorney and legal adviser of the Department in all actions, proceedings, hearings and all matters relating to the Department and to the powers and duties of its officers.

3. Under the direction of or in the absence of the Chief Counsel, the assistant attorneys may perform any duty required or permitted by law to be performed by the Chief Counsel.

4. The Chief Counsel and assistant attorneys are in the unclassified service of the State.

5. ~~All~~ *Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, all* contracts, instruments and documents executed by the Department must be first approved and endorsed as to legality and form by the Chief Counsel.

Sec. 37. (Deleted by amendment.)

Sec. 37.1. NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department. The Deputy Director described in this paragraph shall coordinate the implementation of NRS 408.441 to 408.451, inclusive, with the State Department of Conservation and Natural Resources.

(d) ~~Employ~~ *Except as otherwise provided in section 22 of this act, employ* such engineers, engineering and technical assistants, clerks and other personnel as

1 in the Director's judgment may be necessary to the proper conduct of the
2 Department and to carry out the provisions of this chapter.

3 2. Except as otherwise provided in NRS 284.143, the Deputy Directors shall
4 devote their entire time and attention to the business of the office and shall not
5 pursue any other business or occupation or hold any other office of profit.

6 3. The Director may delegate such authority as may be necessary for the
7 Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out
8 his or her duties.

9 **Sec. 37.2.** NRS 408.205 is hereby amended to read as follows:

10 408.205 1. With the approval of the Board, the Director may execute all
11 plans, specifications, contracts and instruments in the name of the State of Nevada
12 necessary for the carrying out of the provisions of this chapter, except *as otherwise*
13 *provided in sections 2 to 36.5, inclusive, of this act and except* those construction
14 contracts as provided in NRS 408.327 and 408.347.

15 2. The Director has such other power and authority as is necessary and proper
16 under the provisions of this chapter, or as the Board delegates to the Director.

17 3. The Director shall provide for the purchase of United States Savings Bonds
18 or similar United States obligations by salary or wage deductions for officers and
19 employees of the Department who make written requests for such deductions and
20 purchases. To allow all Department officers and employees the opportunity of
21 requesting salary or wage deductions for the purchase of United States obligations,
22 the Director shall provide forms authorizing the deductions and purchases and shall
23 make them readily available to all Department officers and employees.

24 **Sec. 37.3.** NRS 408.215 is hereby amended to read as follows:

25 408.215 1. The Director has charge of all the records of the Department,
26 keeping records of all proceedings pertaining to the Department and keeping on file
27 information, plans, specifications, estimates, statistics and records prepared by the
28 Department, except *as otherwise provided in sections 2 to 36.5, inclusive, of this*
29 *act and except* those financial statements described in NRS 408.333 and the
30 financial or proprietary information described in paragraph (c) of subsection 6 of
31 NRS 408.3886, which must not become matters of public record.

32 2. The Director may photograph, film, place an image of on microfilm, save
33 as an image in an electronic recordkeeping system or dispose of the records of the
34 Department referred to in subsection 1 as provided in NRS 239.051, 239.080 and
35 239.085.

36 3. The Director shall maintain an index or record of deeds or other references
37 of title or interests in and to all lands or interests in land owned or acquired by the
38 Department.

39 4. The Director shall adopt such regulations as may be necessary to carry out
40 and enforce the provisions of this chapter.

41 **Sec. 37.4.** NRS 408.225 is hereby amended to read as follows:

42 408.225 Except as otherwise provided in NRS 408.323 ~~H~~ *and in sections 2*
43 *to 36.5, inclusive, of this act*, the Director, with the approval of the Board, may
44 rent, lease, purchase and contract for all equipment, materials, supplies, vehicles,
45 road machinery, tools, implements and technical services required for the purpose
46 of this chapter. Such equipment, supplies and services must be managed and used
47 under the control of the Director.

48 **Sec. 37.5.** NRS 408.265 is hereby amended to read as follows:

49 408.265 ~~HAH~~ *Except as otherwise provided in sections 2 to 36.5, inclusive,*
50 *of this act*, all money received from the Government of the United States and by
51 virtue of the provisions of any Act of Congress for the engineering, planning,
52 surveying, acquiring of property, constructing, reconstructing or improving of any

highway in the State must be put into the State Treasury and become a part of the State Highway Fund and that Fund must not be used for any other purpose.

Sec. 37.6. NRS 408.389 is hereby amended to read as follows:

408.389 1. Except as otherwise provided in subsection 2 ~~H~~ *and sections 2 to 36.5, inclusive, of this act*, the Department shall not purchase any equipment which exceeds \$50,000, unless the purchase is first approved by the Board.

2. Before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department shall:

(a) Prepare and present to the Board an analysis of the costs and benefits, including, without limitation, all related personnel costs, that are associated with:

(1) Purchasing, operating and maintaining the same item of equipment;

(2) Leasing, operating and maintaining the same item of mobile equipment; or

(3) Contracting for the performance of the work which would have been performed using the mobile equipment; and

(b) Justify the need for the purchase based on that analysis.

3. The Board shall not:

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1; or

(b) Approve any purchase of mobile equipment which exceeds \$50,000 and for which the Department is unable to provide justification pursuant to subsection 2.

Sec. 37.7. NRS 338.080 is hereby amended to read as follows:

338.080 ~~None~~ *Except as otherwise provided in section 35 of this act, none* of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than \$250,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below \$250,000.

4. Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a charter school is a party, notwithstanding any other provision of law.

5. A public work of, or constructed by, a charter school, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a charter school, notwithstanding any other provision of law.

Sec. 38. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 39. 1. This act becomes effective upon passage and approval for the purposes of establishing the Nevada State Infrastructure Bank and appointing the Board of Directors.

2. For all other purposes, this act becomes effective on the date on which the Director of the Department of Transportation notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient money is available to capitalize and carry out the business of the Nevada State Infrastructure Bank created by section 20 of this act.