

ASSEMBLY BILL NO. 450—COMMITTEE ON TRANSPORTATION

MARCH 23, 2015

Referred to Committee on Transportation

SUMMARY—Creates the Interstate 11 Toll Road Project.
(BDR S-1086)

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

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

AN ACT relating to highways; authorizing the Department of Transportation to 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; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 14** of this bill authorizes the Department of Transportation to establish
2 toll road projects along the proposed route of the future Interstate 11 that will run
3 north from the Arizona-Mexico border, through Nevada, to the southern border of
4 Canada. **Section 14** also provides that any toll road must be and remain a public
5 highway owned by the State. **Section 16** of this bill authorizes the Department to
6 enter into contracts with one or more private partners for planning, designing,
7 financing, constructing, improving, maintaining, operating or acquiring rights-of-
8 way for a toll road project. **Section 22** of this bill requires the Department to
9 establish or include in a public-private partnership: (1) a schedule of user fees for
10 the use of a toll road project or a methodology for establishing such a schedule; and
11 (2) administrative fines and other penalties for nonpayment of user fees. **Section 22**
12 provides that certain motor vehicles are exempt, and authorizes the Department to
13 establish other exemptions, from the user fees. **Section 23** of this bill provides that
14 the registered owner of a motor vehicle is, with certain exceptions, subject to
15 administrative fines and penalties for failure to pay a required user fee. **Section 23**
16 also requires the Department of Motor Vehicles to place a hold on the renewal of
17 the registration of a motor vehicle if the Department of Transportation or a private



18 partner provides notice to the Department of Motor Vehicles that the registered
19 owner of the motor vehicle has failed to pay a required user fee.

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

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

36 **Section 27** of this bill provides that a private partner is exempt from any
37 assessment on property which the Department provides to the private partner
38 pursuant to a public-private partnership and on which a toll road project is located.

39 **Section 28** of this bill requires a private partner to use competitive bidding to award
40 contracts for construction work on a toll road project and to pay prevailing wages to
41 workers engaged in construction on the toll road project.

42 **Section 32** of this bill requires the Department to submit a report concerning
43 each toll road project to the Legislative Commission on or before February 1 of
44 each even-numbered year and to the Director of the Legislative Counsel Bureau for
45 transmittal to the Legislature on or before February 1 of each odd-numbered year.

46 **Section 34** of this bill requires the Department to submit quarterly reports relating
47 to each toll road project to the Legislative Commission and Interim Finance
48 Committee.

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

1 **Section 1.** Sections 1 to 34, inclusive, of this act may be cited
2 as the Interstate 11 Toll Road Project Act. This act shall only apply
3 to the proposed Interstate 11 and not to any other project of the
4 Department.

5 **Sec. 2.** As used in sections 1 to 34, inclusive, of this act,
6 unless the context otherwise requires, the words and terms defined
7 in sections 3 to 13, inclusive, of this act have the meanings ascribed
8 to them in those sections.

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

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



1 **Sec. 5.** “Department” means the Department of
2 Transportation.

3 **Sec. 6.** “Interstate 11” means Interstate Route I-11, designated
4 in the Moving Ahead for Progress in the 21st Century Act, Pub. L.
5 No. 112-141, § 1104(b)(2), that is proposed to extend north from the
6 border of Arizona and Mexico, through this State, to the southern
7 border of Canada.

8 **Sec. 7.** “Motor vehicle” has the meaning ascribed to it in
9 NRS 484A.130.

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

12 **Sec. 9.** “Public-private partnership” means a contract entered
13 into by the Department and a private partner under which the private
14 partner:

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

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

24 **Sec. 10.** “Registered owner” means a person whose name
25 appears in the records of the Department of Motor Vehicles as the
26 person to whom a motor vehicle is registered.

27 **Sec. 11.** “Toll road” means a highway and appurtenant
28 facilities for which a user must pay a user fee as a condition of use.

29 **Sec. 12.** “Toll road project” means an Interstate 11 toll road
30 project established by the Department pursuant to section 14 of this
31 act.

32 **Sec. 13.** “User fee” means a toll, fee, fare or other similar
33 charge, including, without limitation, any incidental, account
34 maintenance, administrative, credit card or video tolling fee or
35 charge authorized by the Department or a public-private partnership
36 and imposed on a person for his or her use of a toll road.

37 **Sec. 14.** 1. The Department may establish a toll road project
38 in connection with the proposed Interstate 11 project. The toll road
39 project may consist of a toll road directly connecting or comprising
40 any portion of the proposed route of Interstate 11 in this State and
41 may:

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



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

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

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

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

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

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

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

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

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

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

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

43 (h) Accept from any source any grant, donation, gift or other
44 form of conveyance of land, money, other real or personal property



1 or other thing of value made to the Department to carry out a toll
2 road project.

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

6 (j) Enter into a bond indenture, loan agreement, interest rate
7 swap, financing agreement, security agreement, pledge agreement,
8 credit facility, trust agreement or other financial agreement in
9 connection with the financing of a toll road project.

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

13 (a) A public highway;

14 (b) A public use;

15 (c) A public facility; and

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

18 4. Before construction of a toll road project begins, existing
19 state and federal highways connecting with the toll road project
20 shall be deemed alternate routes to the toll road which do not require
21 a user fee and which accommodate all classes of vehicles. The
22 Department may establish one or more additional alternate routes to
23 the toll road which do not require a user fee and which can
24 accommodate all classes of vehicles that may be accommodated on
25 existing state and federal highways as of the date that construction
26 of the toll road project begins.

27 **Sec. 15.** The Department shall not, in connection with a toll
28 road project:

29 1. Request the Federal Government to prohibit or otherwise
30 seek to prohibit the use on existing state highways connecting with
31 the toll road project of any classes of vehicles which are authorized
32 on those highways as of October 1, 2015; and

33 2. Exercise any authority delegated to the Department to
34 prohibit the use on existing state highways connecting with the toll
35 road project of any classes of vehicles which are authorized on those
36 highways as of October 1, 2015.

37 **Sec. 16.** 1. The Department may enter into a public-private
38 partnership with one or more private partners for planning,
39 designing, financing, constructing, improving, maintaining,
40 operating or acquiring rights-of-way for a toll road project. A
41 public-private partnership entered into pursuant to this section may
42 include, without limitation, a concession and must be awarded
43 through one or more solicitations that must include, without
44 limitation, some or all of the requests for qualifications, short-listing



1 of qualified proposers, requests for proposals, negotiations and best
2 and final offers.

3 2. For any solicitation in which the Department issues a request
4 for qualifications, request for proposals or similar solicitation for a
5 public-private partnership, the Department may determine which
6 factors it will consider and, except as otherwise provided in
7 subsection 5, the relative weight of those factors in the evaluation
8 process for a toll road project to obtain the best value for the
9 Department.

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

18 4. The executive summary for each proposal must be released
19 to the public by the Department.

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

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

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

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

37 (2) Registered in this State;

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

43 (d) At least 25 percent of the suppliers of the materials used for
44 the toll road project will be located in this State unless the



1 Department requires the acquisition of materials or equipment that
2 cannot be obtained from a supplier located in this State; and

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

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

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

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

28 **Sec. 17.** 1. A public-private partnership awarded to an
29 applicant who receives a preference in bidding described in
30 subsection 5 of section 16 of this act must:

31 (a) Include a provision in the public-private partnership that
32 substantially incorporates the requirements of paragraphs (a) to (e),
33 inclusive, of subsection 5 of section 16 of this act; and

34 (b) Provide that a failure to comply with any requirement of
35 paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this
36 act is a material breach of the public-private partnership and entitles
37 the Department to liquidated damages only as provided in
38 subsections 5 and 6.

39 2. Any contract entered into between a private partner and a
40 contractor engaged on a toll road project and between a contractor
41 and any subcontractor engaged on a toll road project must:

42 (a) Include a provision in the contract that substantially
43 incorporates the requirements of paragraphs (a) to (e), inclusive, of
44 subsection 5 of section 16 of this act; and



1 (b) Provide that a failure to comply with any requirement of
2 paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this
3 act is a material breach of the contract.

4 3. A person or entity who believes that an applicant has
5 obtained a preference in bidding as described in subsection 5 of
6 section 16 of this act but has failed to comply with a requirement of
7 paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this
8 act may file a written objection with the Department. A written
9 objection authorized pursuant to this subsection must set forth proof
10 or substantiating evidence to support the belief of the person or
11 entity that the applicant has failed to comply with a requirement of
12 paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this
13 act.

14 4. If the Department receives a written objection pursuant to
15 subsection 3, the Department shall determine whether the objection
16 is accompanied by the proof or substantiating evidence required
17 pursuant to that subsection. If the Department determines that the
18 objection is not accompanied by the required proof or substantiating
19 evidence, the Department shall dismiss the objection. If the
20 Department determines that the objection is accompanied by the
21 required proof or substantiating evidence or if the Department
22 determines on its own initiative that proof or substantiating evidence
23 of a failure to comply with a requirement of paragraphs (a) to (e),
24 inclusive, of subsection 5 of section 16 of this act exists, the
25 Department shall determine whether the applicant has failed to
26 comply with a requirement of paragraphs (a) to (e), inclusive, of
27 subsection 5 of section 16 of this act and the Department may
28 proceed to award the contract accordingly or, if the contract has
29 already been awarded, seek the remedy authorized in subsection 5.

30 5. The Department may recover, by civil action against the
31 party responsible for a failure to comply with a requirement of
32 paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this
33 act, liquidated damages as described in subsection 6 for a breach of
34 a contract for the toll road project caused by a failure to comply with
35 a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of
36 section 16 of this act. If the Department recovers liquidated damages
37 pursuant to this subsection for a breach of a contract for the toll road
38 project, the Department shall report to the State Contractors' Board
39 the date of the breach, the name of each entity which breached the
40 contract and the cost of the public-private partnership. The Board
41 shall maintain this information for not less than 6 years. Upon
42 request, the Board shall provide this information to any public body
43 or its authorized representative.

44 6. If an applicant submits the affidavit described in subsection
45 1, receives a preference in bidding described in subsection 5 of



1 section 16 of this act and is awarded the public-private partnership,
2 the public-private partnership, each contract between the applicant
3 and a contractor or a subcontractor or supplier and each contract
4 between a subcontractor and a subcontractor or supplier must
5 provide that:

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

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

16 (c) No other party to the contract is liable to the Department for
17 liquidated damages.

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

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

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

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

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

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

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

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

43 **Sec. 19.** Information obtained by or disclosed to the
44 Department during the procurement or negotiation of a public-
45 private partnership may be kept confidential until the public-private



1 partnership is executed, except that the Department may exempt
2 from release any proprietary information obtained by or disclosed to
3 the Department during the procurement or negotiation.

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

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

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

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

14 (c) For additional terms upon the mutual agreement of the
15 private partner and the Department.

16 **Sec. 21.** 1. A public-private partnership entered into
17 pursuant to sections 1 to 34, inclusive, of this act may include
18 provisions that:

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

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

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

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

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

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

35 (6) Govern the enforcement of user fees, including, without
36 limitation, provisions for the use of cameras or other mechanisms to
37 ensure that users have paid user fees which are due and provisions
38 that allow the Department of Transportation and the private partner
39 to request information from relevant databases, including, without
40 limitation, databases of the Department of Motor Vehicles, pursuant
41 to the provisions of NRS 481.063, for enforcement purposes. The
42 Department of Transportation may impose a civil penalty of not
43 more than \$10,000 per violation for misuse of the data contained in
44 such databases, including, without limitation, negligence in securing



1 the data properly. Any civil penalty collected pursuant to this
2 subparagraph must be deposited in the State General Fund.

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

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

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

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

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

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

23 (h) Establish performance measurements, as described in section
24 22 of this act, or incentives, or both.

25 (i) Address the acquisition of rights-of-way and other property
26 interests that may be required for a toll road project, including,
27 without limitation, provisions that address the exercise of eminent
28 domain by the Department in the manner authorized pursuant to
29 NRS 277A.250 and chapter 37 of NRS.

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

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

37 (l) Provide for security and law enforcement.

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

43 (n) Specify remedies available and procedures for dispute
44 resolution, including, without limitation, the right of the private
45 partner to institute legal proceedings to obtain an enforceable



1 judgment or award against the Department in the event of a default
2 by the Department and procedures for the use of dispute review
3 boards, mediation, facilitated negotiation, nonbinding and binding
4 arbitration and other alternative dispute resolution procedures.

5 2. A public-private partnership entered into pursuant to
6 sections 1 to 34, inclusive, of this act must contain a provision by
7 which the private partner expressly agrees to be barred from seeking
8 injunctive or other equitable relief to delay, prevent or otherwise
9 hinder the Department from developing or constructing a facility
10 which was planned at the time the public-private partnership was
11 executed and which may impact the revenue that the private partner
12 derives from a toll road project developed under the public-private
13 partnership. The public-private partnership may provide for
14 reasonable compensation to the private partner for the adverse effect
15 on revenue from a toll road project developed under the public-
16 private partnership resulting from the development or construction
17 of another facility by the Department.

18 **Sec. 22.** 1. If the Department enters into a public-private
19 partnership pursuant to sections 1 to 34, inclusive, of this act, the
20 Department:

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

33 (b) Shall, consistent with the provisions of section 23 of this act,
34 establish or provide in the public-private partnership for the
35 establishment of administrative fines, late charges and other
36 penalties for any person who violates any regulation or rule
37 governing the use of a toll road project or who fails to pay a user
38 fee.

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

42 (d) Shall adopt a plan for measuring the performance of the
43 private partner and, in the event of any unexcused failure by the
44 private partner to meet such performance measurements, provide for
45 the rights and remedies of the Department.



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

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

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

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

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

13 (2) Enforcing traffic laws.

14 (d) A vehicle used to provide maintenance of a toll road project.

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

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

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

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

34 (b) Account of a person who otherwise registers to use a toll
35 road project in accordance with the policies and procedures
36 established by the Department or set forth in the public-private
37 partnership; or

38 (c) Registered owner.

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



1 (a) As is necessary to collect a user fee and enforce any penalty
2 for a violation of sections 1 to 34, inclusive, of this act or any
3 policies and procedures established pursuant thereto or set forth in
4 the public-private partnership; and

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

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

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

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

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

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

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

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

32 **Sec. 23.** 1. Except as otherwise provided in subsection 3, a
33 registered owner who fails to pay a user fee is subject to an
34 administrative fine for nonpayment and is liable to the Department
35 or private partner for the payment of the user fee, the administrative
36 fine and any additional charges or penalties prescribed by the
37 Department or set forth in the public-private partnership.

38 2. If a driver or registered owner fails to pay a user fee, the
39 Department or private partner shall provide notice of nonpayment to
40 the registered owner. The notice must describe the claimed
41 nonpayment and the amount due, including any additional charges,
42 administrative fines or penalties, and explain that the registered
43 owner must, within 20 days after receiving the notice, pay the full
44 amount due or contest the claim in the manner described in the
45 notice. A registered owner who does not pay the full amount due or



1 contest the claim within 20 days after receiving the notice may not
2 challenge the claim in any proceeding or action brought by the
3 Department or the private partner.

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

18 4. The Department or a private partner may use a photo-
19 monitoring, video, image capture or other automated or technology-
20 based enforcement and collections system to detect the failure of a
21 motor vehicle to register payment of the required user fee, to detect
22 the failure of the driver or registered owner to pay a user fee or to
23 verify and assess the payment of a user fee. The data, including,
24 without limitation, photographs, images, videotapes and other
25 vehicle and owner information generated and obtained by the
26 system, may be used to establish the nonpayment of the user fee and
27 to enforce collection of the user fee and any administrative fines,
28 late charges and other penalties or charges imposed pursuant to the
29 public-private partnership. The Department or private partner shall
30 not use the information for any other purpose.

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

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

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

40 (c) The total amount owed to the Department or private partner
41 for the violation.

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



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

9 8. The Department of Motor Vehicles shall work cooperatively
10 with the Department of Transportation and any private partner to
11 establish a timely and efficient manner for providing the motor
12 vehicle registration of the registered owner, pursuant to the
13 provisions of NRS 481.063, to the Department of Transportation
14 and any private partner for the purposes of collecting and enforcing
15 any user fees and any administrative fines, late charges and other
16 penalties imposed pursuant to sections 1 to 34, inclusive, of this act.

17 **Sec. 24.** 1. All money that is received and is to be retained
18 by the Department pursuant to a public-private partnership in
19 connection with a toll road project that is derived from the
20 imposition of any charge with respect to the operation of any motor
21 vehicle upon any public highway in this State must be deposited in
22 the State Highway Fund and, except for costs of administration,
23 must be used exclusively for the design, construction, operation,
24 maintenance, financing and repair of the public highways of this
25 State. The money must first be used to defray the obligations of the
26 Department under the public-private partnership, including, without
27 limitation, the costs of administration, design, construction,
28 operation, maintenance, financing and repair of the toll road project.

29 2. Any other money received by the Department pursuant to
30 sections 1 to 34, inclusive, of this act or any policies or procedures
31 established by the Department or set forth in the public-private
32 partnership must be deposited in the State Highway Fund and
33 accounted for separately. The interest and income on the money in
34 the account, after deducting any applicable charges, must be
35 credited to the account. The money in the account may be used for:

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

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

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

43 (d) The costs of administration, construction, maintenance and
44 repair of the public highways located in this State.



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

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

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

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

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

14 (3) Payments from the private partner as described in section
15 24 of this act;

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

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

24 (6) Interest or other gain accruing on any of the money
25 deposited in the State Highway Fund pursuant to section 24 of this
26 act; and

27 (7) Any combination thereof,

28 ↪ as described in the resolution authorizing the issuance of the
29 bonds or notes. The bonds or notes may have a maturity of up to 40
30 years after the date of issuance. Any bonds or notes authorized by
31 this paragraph are special, limited obligations of the State payable
32 solely from the revenues specifically pledged to the payment of
33 those obligations, as specified in the resolution for the issuance of
34 the bonds or notes, and shall never be a debt of the State under
35 Section 3 of Article 9 of the Constitution of the State of Nevada.

36 (c) By the issuance of revenue bonds or notes of the State, to
37 finance a toll road project directly or by making a loan to the private
38 partner, pursuant to a financing agreement entered into between the
39 Department and the private partner to secure the bonds or notes and
40 provide for their payment. Any bonds or notes issued under this
41 paragraph must be solely payable from and secured by payments
42 made by and property of and other security provided by the private
43 partner, including, without limitation, any payments made to the
44 private partner by the Department pursuant to the public-private
45 partnership. Any bonds or notes issued pursuant to this paragraph



1 may have a maturity of up to 40 years from the date of issuance.
2 Any bonds or notes authorized by this paragraph are special, limited
3 obligations of the State payable solely from the revenues
4 specifically pledged to the payment of those obligations, as
5 specified in the resolution for the issuance of bonds or notes, and
6 shall never be a debt of the State under Section 3 of Article 9 of the
7 Constitution of the State of Nevada.

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

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

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

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

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

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



1 **Sec. 26.** 1. The Department may acquire, condemn or hold
2 real property and related appurtenances under fee title, lease,
3 easement, dedication or license for a toll road project. The
4 Department may grant to a private partner a lease, easement,
5 operating agreement, license, permit or right of entry for such real
6 property and related appurtenances, and such grant and use shall be
7 deemed for all purposes:

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

11 2. The real property and related appurtenances, or the use
12 thereof, that are granted by the Department to the private partner are
13 exempt from all real property and ad valorem taxes to the full extent
14 allowed under the Constitution of the State of Nevada.

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

- 17 1. Which the Department owns or acquires or in which the
18 Department has a possessory interest;
- 19 2. Which the Department provides to the private partner
20 pursuant to a public-private partnership; and
- 21 3. On which a toll road project is located.

22 **Sec. 28.** 1. A private partner who enters into a contract for
23 construction work pursuant to a public-private partnership shall:

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

30 (b) Pay the prevailing wage required pursuant to NRS 338.020
31 to 338.090, inclusive, and solely for the purposes of those
32 provisions, a toll road project shall be deemed to be a public work
33 and the Department shall be deemed to be a party to the contract and
34 to be the public body advertising for bids for the toll road project
35 and awarding the construction contract for the toll road project.

36 2. Nothing in this section requires the Department to use
37 competitive bidding in accordance with the provisions of chapter
38 338 of NRS to award a public-private partnership to a private
39 partner.

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

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



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

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

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

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

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

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

14 3. The Department shall ensure that the private partner
15 complies with the provisions of subsection 1.

16 **Sec. 30.** 1. The Department may include authority in a
17 public-private partnership or otherwise authorize a private partner to
18 remove any encroachments or relocate any utility from the right-of-
19 way of a toll road project. The Department may incorporate the
20 costs of such removal or relocation into the public-private
21 partnership.

22 2. A utility may not be required to pay any costs related to
23 removing or relocating any property of the utility pursuant to
24 subsection 1.

25 **Sec. 31.** To the extent practicable, the provisions of sections 1
26 to 34, inclusive, of this act are intended to supplement other
27 statutory provisions governing the administration of highways in
28 this State, and such other provisions must be given effect to the
29 extent that those provisions do not conflict with the provisions of
30 sections 1 to 34, inclusive, of this act. If there is a conflict between
31 such other provisions and the provisions of sections 1 to 34,
32 inclusive, of this act, the provisions of sections 1 to 34, inclusive, of
33 this act control.

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

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

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

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

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



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

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

6 2. On or before February 1 of each even-numbered year, the
7 Department shall submit the report prepared pursuant to subsection
8 1 to the Legislative Commission. On or before February 1 of each
9 odd-numbered year, the Department shall submit the report to the
10 Director of the Legislative Counsel Bureau for transmittal to the
11 next regular session of the Legislature.

12 **Sec. 33.** Upon completion of a toll road project, the
13 Department shall conduct a cost-benefit analysis of the toll road
14 project. The Department shall submit the analysis to the Director of
15 the Legislative Counsel Bureau for transmittal to the next regular
16 session of the Legislature.

17 **Sec. 34.** 1. In addition to the requirements of section 32 of
18 this act, the Department shall report on the status of any toll road
19 project to the Legislative Commission and the Interim Finance
20 Committee. The report must include, without limitation:

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

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

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

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

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

31 2. The report required pursuant to subsection 1 must be
32 submitted at least quarterly and at such other times as the
33 Legislative Commission or the Interim Finance Committee may
34 require.



