

ASSEMBLY BILL NO. 399—ASSEMBLYWOMAN
BUSTAMANTE ADAMS

MARCH 20, 2017

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; 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 projects; providing civil immunity for certain persons for certain official actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 2-36.5** of this bill establish the Nevada State Infrastructure Bank. The
2 purpose of the Bank is to provide loans and other financial assistance to various
3 units of state and local government for the development, construction, repair,
4 improvement, maintenance, decommissioning, operation and ownership of certain
5 transportation facilities and utility infrastructure projects. **Sections 20 and 37.1** of
6 this bill create the Bank within the Department of Transportation and provide for its
7 governance by a Board of Directors. **Section 21** of this bill establishes certain
8 powers and duties of the Board of Directors. **Section 21** further authorizes the
9 Board of Directors to issue bonds or other securities to raise money to carry out its
10 statutory purposes and powers. **Section 22** of this bill requires the Governor to
11 appoint an Executive Director to administer, manage and conduct the affairs of the
12 Bank and establishes the powers and duties of the Executive Director. **Section 23**
13 of this bill creates the Nevada State Infrastructure Bank Fund to be administered by



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14 the Board of Directors and used exclusively to capitalize and carry out the statutory
15 powers and purpose of the Bank.

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

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

28 **Section 27** of this bill authorizes the Bank to provide security for any revenue
29 bonds issued by the Bank.

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

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

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

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

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

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



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

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

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

8 **Sec. 3.** *“Bank” means the Nevada State Infrastructure Bank.*

9 **Sec. 4.** *“Board of Directors” means the Board of Directors of*
10 *the Bank.*

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

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

17 2. *The state and local highway account established by section*
18 *23 of this act, costs including, without limitation, the cost of*
19 *preliminary engineering, traffic and revenue studies,*
20 *environmental studies, right-of-way acquisition, legal and*
21 *financial services associated with the development of the qualified*
22 *project, construction, construction management, facilities,*
23 *sustainability certification and other costs necessary for the*
24 *qualified project.*

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

32 4. *A federal or state and local nonhighway account*
33 *established by section 23 of this act, costs including, without*
34 *limitation, the cost of preliminary engineering, traffic and revenue*
35 *studies, environmental studies, right-of-way acquisition, legal and*
36 *financial services associated with the development of the qualified*
37 *project, construction, construction management, equipment,*
38 *facilities and other nonoperating costs necessary for the qualified*
39 *project.*

40 5. *The state and local utility infrastructure account*
41 *established by section 23 of this act, costs including, without*
42 *limitation, the cost of preliminary engineering, environmental*



1 *studies, property right acquisition, legal and financial services*
2 *associated with the development of the qualified project,*
3 *construction, construction management, equipment, facilities,*
4 *sustainability certification and other nonoperating costs necessary*
5 *for the qualified project.*

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

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

12 **Sec. 8.** *“Federal accounts” means the federal highway*
13 *account, federal nonhighway account and federal utility*
14 *infrastructure account established pursuant to section 23 of this*
15 *act.*

16 **Sec. 9. 1.** *“Financing agreement” means any agreement*
17 *entered into between the Bank and a qualified borrower*
18 *pertaining to a loan or other financial assistance for a qualified*
19 *project, which may or may not include nonfinancial provisions*
20 *relating to the qualified project, including, without limitation,*
21 *terms and conditions relating to the regulation and supervision of*
22 *the qualified project.*

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

24 *(a) A loan agreement;*

25 *(b) A trust indenture;*

26 *(c) A security agreement;*

27 *(d) A reimbursement agreement;*

28 *(e) A guarantee agreement;*

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

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

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

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

35 *2. A political subdivision of the State of Nevada, including,*
36 *without limitation, a county, city, town, school district, general or*
37 *local improvement district or a combination of two or more of*
38 *those entities acting jointly, including, without limitation, as a*
39 *regional transportation commission as defined in NRS 482.1825;*
40 *and*

41 *3. A public or private utility.*

42 **Sec. 11.** *“Loan” means any form of direct financial*
43 *assistance that is provided by the Bank to a qualified borrower to*
44 *defray all or part of the anticipated or actual costs of a qualified*



1 *project and is required to be repaid by the borrower over a period*
2 *of time.*

3 **Sec. 12.** *“Loan obligation” means a bond, note or other*
4 *evidence of a qualified borrower’s obligation to repay a loan given*
5 *by the Bank.*

6 **Sec. 13.** *“Other financial assistance” means any use of*
7 *money by the Bank for the benefit of a qualified borrower,*
8 *including, without limitation, a grant, contribution, credit*
9 *enhancement, capital or debt reserve for bonds or other debt*
10 *instrument financing, an interest rate subsidy, letter of credit or*
11 *other credit instrument, security for a bond or other debt*
12 *financing instrument and other lawful forms of financing and*
13 *methods of leveraging funds that are approved by the Board of*
14 *Directors and, in the case of money made available to the State by*
15 *the Federal Government, as allowed by applicable federal law.*

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

28 **Sec. 15.** *“Qualified borrower” means a governmental unit,*
29 *or an entity established by an agreement between a governmental*
30 *unit and a private entity, that is authorized to develop, construct,*
31 *repair, improve, maintain, decommission, operate or own a*
32 *qualified project.*

33 **Sec. 16.** *“Qualified project” means an eligible project that*
34 *has been selected by the Bank to receive a loan or other financial*
35 *assistance.*

36 **Sec. 17.** *“State and local accounts” means the state and local*
37 *highway account, state and local nonhighway account and state*
38 *and local utility infrastructure account established by the Bank*
39 *pursuant to section 23 of this act.*

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



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

7 *2. Related or ancillary to, or used or useful to provide,*
8 *operate, maintain or generate revenue for, a facility described in*
9 *subsection 1, including, without limitation, administrative*
10 *buildings and other buildings, structures, rest areas, maintenance*
11 *yards, rail yards, ports of entry or storage facilities, vehicles,*
12 *rolling stock, energy systems, control, communications and*
13 *information systems, parking facilities and similar commercial*
14 *facilities used for the support of or the transportation of persons,*
15 *information or goods or other related equipment, items or*
16 *property, including, without limitation, any other property that is*
17 *needed to operate the facility.*

18 *3. All improvements, including equipment necessary to the*
19 *full utilization of a transportation facility, including, without*
20 *limitation, site preparation, roads and streets, sidewalks, water*
21 *supply, outdoor lighting, belt line railroad sidings and lead tracks,*
22 *bridges, causeways, terminals for railroad, automotive and air*
23 *transportation and transportation facilities incidental to the*
24 *project.*

25 **Sec. 19.** *“Utility infrastructure project” means off-site*
26 *infrastructure which allows for the engineering and construction*
27 *of utilities from the point of connection of existing utilities to the*
28 *boundary of a master-planned industrial or business park.*

29 **Sec. 20.** *1. The Nevada State Infrastructure Bank is hereby*
30 *created within the Department.*

31 *2. The purpose of the Bank is to provide loans and other*
32 *financial assistance to various governmental units for the*
33 *development, construction, repair, improvement, operation,*
34 *maintenance, decommissioning and ownership of transportation*
35 *facilities and utility infrastructure projects as necessary for public*
36 *purposes, including, without limitation, economic development.*

37 *3. The Bank is administered by a Board of Directors*
38 *consisting of:*

39 *(a) The Director of the Department of Transportation or his*
40 *or her designee;*

41 *(b) The State Treasurer or his or her designee;*

42 *(c) The Director of the Department of Business and Industry*
43 *or his or her designee;*

44 *(d) The Executive Director of the Office of Economic*
45 *Development or his or her designee; and*



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

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

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

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

12 7. Four members of the Board of Directors constitute a
13 quorum for the transaction of business, and the affirmative vote of
14 at least four members of the Board of Directors is required to take
15 action.

16 8. Each member of the Board of Directors who is not
17 otherwise an officer or employee of this State is entitled to receive
18 \$100 for each full day of attending a meeting of the Board of
19 Directors. Each member of the Board of Directors is entitled,
20 while engaged in the business of the Board of Directors, to receive
21 the per diem allowance and travel expenses provided for state
22 officers and employees generally. The per diem allowance and
23 travel expenses provided to a member of the Board of Directors
24 who is an officer or employee of this State or a political
25 subdivision of this State must be paid by the state agency or
26 political subdivision that employs him or her.

27 9. A member of the Board of Directors who is an officer or
28 employee of this State or a political subdivision of this State must
29 be relieved from his or her duties without loss of regular
30 compensation so that he or she may prepare for and attend
31 meetings of the Board of Directors and perform any work
32 necessary to carry out the duties of the Board of Directors in the
33 most timely manner practicable. A state agency or political
34 subdivision of this State shall not require an officer or employee
35 who is a member of the Board of Directors to:

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

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

39 **Sec. 21. 1. The Board of Directors may:**

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

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



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

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

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

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

11 (g) Enter into contracts, arrangements and agreements with
12 qualified borrowers and other persons and execute and deliver all
13 financing agreements and other instruments necessary or
14 convenient to carry out the powers and duties of the Board of
15 Directors.

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

20 (i) Establish:

21 (1) Policies and procedures to govern the selection of
22 qualified projects and the issuance and administration of loans
23 and other financial assistance provided by the Bank; and

24 (2) Fiscal controls and accounting procedures to ensure
25 proper accounting and reporting by the Bank and qualified
26 borrowers.

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

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

31 (l) Procure insurance, guarantees, letters of credit and other
32 forms of collateral or security or credit support for the payment of
33 bonds or other securities issued by the Bank and the payment of
34 premiums or fees on such insurance, guarantees, letters of credit
35 and other forms of collateral or security or credit support.

36 (m) Collect or authorize the trustee under any trust indenture
37 that secures any bonds or other securities issued by the Bank to
38 collect amounts due from a qualified borrower under any loan
39 obligation owned by the Bank, including, without limitation,
40 taking any lawful action required to obtain payment of any sums
41 in default.

42 (n) Unless restricted by the terms of an agreement with the
43 holders of bonds or other securities issued by the Bank, consent to
44 any modification of the terms of any loan obligations owned by the



1 *Bank, including, without limitation, the rate of interest, period of*
2 *repayment and payment of any installment of principal or interest.*

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

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

8 *(q) Pay any costs incurred for the administration of the*
9 *operations of the Bank.*

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

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

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

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

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

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

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

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

33 *2. Except as otherwise provided in sections 2 to 36.5,*
34 *inclusive, of this act, the Bank may exercise any fiscal power*
35 *granted to the Bank in sections 2 to 36.5, inclusive, of this act,*
36 *without the review or approval of any other department, division*
37 *or agency of the State or any political subdivision thereof, except*
38 *for the Board of Directors.*

39 *3. This section does not authorize the Bank to be or conduct*
40 *business as a:*

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



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

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

8 **5. The provisions of titles 55, 56 and 57 of NRS do not apply**
9 **to the Bank.**

10 **Sec. 22. 1. The Governor shall appoint an Executive**
11 **Director of the Bank. The Executive Director is in the unclassified**
12 **service of the State and serves at the pleasure of the Governor.**

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

22 **(a) Hiring such employees in either the classified or**
23 **unclassified service of the State as are necessary to carry out the**
24 **statutory purposes and powers of the Bank.**

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

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

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

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

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

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

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



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

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

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

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

11 *(a) A federal highway account;*

12 *(b) A federal nonhighway account;*

13 *(c) A state and local highway account;*

14 *(d) A state and local nonhighway account;*

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

16 *(f) A federal utility infrastructure account.*

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

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

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

23 *(b) Federal funds made available to the State;*

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

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

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

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

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

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

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

40 *(a) Any conditions or limitations on expenditures;*

41 *(b) Reporting; and*

42 *(c) The commingling of federal funds.*

43 7. *Earnings on balances in the federal accounts must be*
44 *credited and invested in accordance with federal law. Earnings on*
45 *state and local accounts must be deposited in the Fund to the*



1 *credit of the state and local highway account, state and local*
2 *nonhighway account or state and local utility infrastructure*
3 *account that generates the earnings.*

4 **8. Money in the Fund may be used only:**

5 *(a) For the capitalization of the Bank; and*

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

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

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

23 **2. The Executive Director shall:**

24 *(a) Review each application and determine whether the*
25 *transportation facility or utility infrastructure project described in*
26 *the application is an eligible project; and*

27 *(b) At the request of the Board of Directors, submit*
28 *information to the Board of Directors concerning any eligible*
29 *project.*

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

34 **4. The Bank may provide a loan and other financial**
35 *assistance to a qualified borrower to pay for all or part of the*
36 *eligible costs of a qualified project. The term of the loan or other*
37 *financial assistance may not exceed the anticipated useful life of*
38 *the qualified project. A loan or other financial assistance may be*
39 *provided in anticipation of reimbursement for or direct payment of*
40 *all or part of the eligible costs of a qualified project.*

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



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

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

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

11 **Sec. 25.** 1. *A qualified borrower that wishes to obtain a*
12 *loan or other financial assistance from the Bank must enter into a*
13 *financing agreement with the Bank and may be required to issue*
14 *a loan obligation to the Bank. Except as otherwise provided by*
15 *specific statute, a qualified borrower entering into a financing*
16 *agreement with the Bank or issuing a loan obligation to the Bank*
17 *may perform any act, take any action, adopt any proceedings and*
18 *make and carry out any contract or agreement with the Bank as*
19 *may be agreed to by the Bank and the qualified borrower for*
20 *carrying out the purposes contemplated by sections 2 to 36.5,*
21 *inclusive, of this act.*

22 2. *A qualified borrower may, in addition to any authorization*
23 *set forth in this section, use any authorization granted by any*
24 *other statute that allows the qualified borrower to borrow money*
25 *and issue obligations in obtaining a loan or other financial*
26 *assistance from the Bank to the extent determined necessary or*
27 *useful by the qualified borrower in connection with any financing*
28 *agreement or the issuance, securing or sale of a loan obligation to*
29 *the Bank.*

30 3. *A qualified borrower may:*

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

34 (b) *Impose and collect fees, rates, rents, assessments and other*
35 *charges of general or special application for the operation of a*
36 *qualified project, the system of which the qualified project is a part*
37 *and any other revenue producing facilities from which the*
38 *qualified borrower derives project revenues to meet its loan*
39 *obligations under a financing agreement or to otherwise provide*
40 *for the development, construction, repair, improvement, operation,*
41 *maintenance, decommissioning or ownership of a qualified*
42 *project.*

43 **Sec. 26.** 1. *The Bank may provide insurance or*
44 *reinsurance of loans or portions thereof, or their debt service,*
45 *including, without limitation, amounts payable as premiums or*



1 *penalties in the event of mandatory or optional prepayment, made*
2 *to finance a qualified project, and to provide insurance or*
3 *reinsurance or reserves, or portions thereof, or the yield*
4 *therefrom, established to secure bonds or other securities issued to*
5 *fund those loans or reserves.*

6 **2. The Bank may:**

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

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

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

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

19 **5. The Bank shall make reasonable provisions for the**
20 *security of loans made by the Bank, and any insurance,*
21 *reinsurance and other financing arrangements negotiated by the*
22 *Bank.*

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

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

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

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

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

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

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



1 ***(b) Must contain on the face thereof a statement to the effect***
2 ***that the Bank is not obligated to pay the obligation or any interest***
3 ***thereon except from the revenues or assets, if any, pledged***
4 ***therefor and that neither the faith and credit nor the taxing power***
5 ***of this State or any political subdivision thereof is pledged to the***
6 ***payment of the principal of or the interest on the obligation.***

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

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

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

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

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

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

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

35 ***(b) The terms of any federal law;***

36 ***(c) The terms of a contract to which the State is a party;***

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

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

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



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

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

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

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

18 **Sec. 34.** *Notwithstanding any provision in sections 2 to 36.5,*
19 *inclusive, of this act to the contrary, sections 2 to 36.5, inclusive,*
20 *of this act are supplemental to, and not in lieu of, the right of any*
21 *qualified borrower to issue general obligation bonds or other*
22 *bonds that the qualified borrower is otherwise lawfully authorized*
23 *to issue.*

24 **Sec. 35. 1.** *To the extent possible, the provisions of sections*
25 *2 to 36.5, inclusive, of this act are intended to supplement other*
26 *statutory provisions governing the development, construction,*
27 *repair, improvement, maintenance, decommissioning, operation*
28 *and ownership of transportation facilities and utility*
29 *infrastructure projects and the issuance of bonds and other*
30 *securities by this State or a political subdivision thereof, and such*
31 *other provisions must be given effect to the extent that those*
32 *provisions do not conflict with the provisions of sections 2 to 36.5,*
33 *inclusive, of this act. If there is a conflict between such other*
34 *provisions and the provisions of sections 2 to 36.5, inclusive, of*
35 *this act, the provisions of sections 2 to 36.5, inclusive, of this act*
36 *control.*

37 **2.** *The provisions of NRS 338.013 to 338.090, inclusive, apply*
38 *to any contract for construction work on a qualified project if all*
39 *or part of the costs of the qualified project are paid for using a*
40 *loan or other financial assistance from the Bank. The Bank, the*
41 *qualified borrower, any contractor who is awarded a contract or*
42 *enters into an agreement to perform construction work on the*
43 *qualified project, and any subcontractor who performs any portion*
44 *of the construction work shall comply with the provisions of NRS*
45 *338.013 to 338.090, inclusive, in the same manner as if a public*



1 *body had undertaken the qualified project or had awarded the*
2 *contract.*

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

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

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

8 (a) *The Governor; and*

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

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

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

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

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

19 408.111 1. The Department consists of a Director, two
20 Deputy Directors, a Chief Engineer and the following ~~divisions~~ :

21 (a) Administrative Division.

22 (b) Operations Division.

23 (c) Engineering Division.

24 (d) Planning Division.

25 (e) *Nevada State Infrastructure Bank.*

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

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

29 408.116 *Except as otherwise provided in sections 2 to 36.5,*
30 *inclusive, of this act:*

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

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

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

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

44 408.131 ~~The~~ *Except as otherwise provided in sections 2 to*
45 *36.5, inclusive, of this act, the Board shall:*



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

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

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

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

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

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

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

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

19 408.172 1. Subject to the approval of the Board, the Attorney
20 General shall, immediately upon request by the Board, appoint an
21 attorney at law as the Chief Counsel of the Department, and such
22 assistant attorneys as are necessary. Attorneys so appointed are
23 deputy attorneys general.

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

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

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

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

38 **Sec. 37.** (Deleted by amendment.)

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

40 408.175 1. The Director shall:

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



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

4 (c) Appoint one Deputy Director with full authority to perform
5 any duty required or allowed by law to be performed by the Director
6 to implement, manage, oversee and enforce any environmental
7 program of the Department. The Deputy Director described in this
8 paragraph shall coordinate the implementation of NRS 408.441 to
9 408.451, inclusive, with the State Department of Conservation and
10 Natural Resources.

11 (d) ~~Employ~~ *Except as otherwise provided in section 22 of this*
12 *act, employ* such engineers, engineering and technical assistants,
13 clerks and other personnel as in the Director's judgment may be
14 necessary to the proper conduct of the Department and to carry out
15 the provisions of this chapter.

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

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

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

24 408.205 1. With the approval of the Board, the Director may
25 execute all plans, specifications, contracts and instruments in the
26 name of the State of Nevada necessary for the carrying out of the
27 provisions of this chapter, except *as otherwise provided in sections*
28 *2 to 36.5, inclusive, of this act and except* those construction
29 contracts as provided in NRS 408.327 and 408.347.

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

33 3. The Director shall provide for the purchase of United States
34 Savings Bonds or similar United States obligations by salary or
35 wage deductions for officers and employees of the Department who
36 make written requests for such deductions and purchases. To allow
37 all Department officers and employees the opportunity of requesting
38 salary or wage deductions for the purchase of United States
39 obligations, the Director shall provide forms authorizing the
40 deductions and purchases and shall make them readily available to
41 all Department officers and employees.

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

43 408.215 1. The Director has charge of all the records of the
44 Department, keeping records of all proceedings pertaining to the
45 Department and keeping on file information, plans, specifications,



1 estimates, statistics and records prepared by the Department, except
2 *as otherwise provided in sections 2 to 36.5, inclusive, of this act*
3 *and except* those financial statements described in NRS 408.333 and
4 the financial or proprietary information described in paragraph (c) of
5 subsection 6 of NRS 408.3886, which must not become matters of
6 public record.

7 2. The Director may photograph, film, place an image of on
8 microfilm, save as an image in an electronic recordkeeping system
9 or dispose of the records of the Department referred to in subsection
10 1 as provided in NRS 239.051, 239.080 and 239.085.

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

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

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

17 408.225 Except as otherwise provided in NRS 408.323 ~~†~~ *and*
18 *in sections 2 to 36.5, inclusive, of this act*, the Director, with the
19 approval of the Board, may rent, lease, purchase and contract for all
20 equipment, materials, supplies, vehicles, road machinery, tools,
21 implements and technical services required for the purpose of this
22 chapter. Such equipment, supplies and services must be managed
23 and used under the control of the Director.

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

25 408.265 ~~†A†~~ *Except as otherwise provided in sections 2 to*
26 *36.5, inclusive, of this act*, all money received from the
27 Government of the United States and by virtue of the provisions of
28 any Act of Congress for the engineering, planning, surveying,
29 acquiring of property, constructing, reconstructing or improving of
30 any highway in the State must be put into the State Treasury and
31 become a part of the State Highway Fund and that Fund must not be
32 used for any other purpose.

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

34 408.389 1. Except as otherwise provided in subsection 2 ~~†~~
35 *and sections 2 to 36.5, inclusive, of this act*, the Department shall
36 not purchase any equipment which exceeds \$50,000, unless the
37 purchase is first approved by the Board.

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

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

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



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

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

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

6 3. The Board shall not:

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

9 (b) Approve any purchase of mobile equipment which exceeds
10 \$50,000 and for which the Department is unable to provide
11 justification pursuant to subsection 2.

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

14 338.080 ~~None~~ *Except as otherwise provided in section 35 of*
15 *this act, none* of the provisions of NRS 338.020 to 338.090,
16 inclusive, apply to:

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

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

25 3. Any contract for a public work whose cost is less than
26 \$250,000. A unit of the project must not be separated from the total
27 project, even if that unit is to be completed at a later time, in order to
28 lower the cost of the project below \$250,000.

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

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

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

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

43 2. For all other purposes, this act becomes effective on the date
44 on which the Director of the Department of Transportation notifies
45 the Governor and the Director of the Legislative Counsel Bureau



- 1 that sufficient money is available to capitalize and carry out the
- 2 business of the Nevada State Infrastructure Bank created by section
- 3 20 of this act.

30



