

SENATE BILL NO. 517—COMMITTEE ON TRANSPORTATION

MARCH 27, 2017

Referred to Committee on Transportation

SUMMARY—Establishes the Nevada State Infrastructure Bank.
(BDR 35-602)

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 state financial administration; establishing the Nevada State Infrastructure Bank; providing for governance of the Bank by a Board of Directors; establishing the powers and duties of the Board; providing for administration of the Bank by an Executive Director; establishing the powers and duties of the Executive Director; authorizing the Bank to perform certain acts in connection with the financing of certain transportation facilities and utility infrastructure; authorizing certain governmental entities to perform certain acts in connection with certain transportation facilities and utility infrastructure; providing civil immunity for certain persons for certain official actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 2-36** 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,
4 improvement, operation and ownership of certain transportation facilities and utility
5 infrastructure. **Section 19** creates the Bank within the Department of Transportation
6 and provides for its governance by a Board of Directors. **Section 20** establishes
7 certain powers and duties of the Board. These powers include the authority to
8 accept money appropriated by the Legislature, made available by the Federal
9 Government and provided by certain other sources. **Section 20** further authorizes
10 the Bank to issue bonds or other securities to raise money to carry out its statutory
11 purposes and powers. **Section 21** provides for the appointment by the Governor of
12 an Executive Director to administer, manage and conduct the affairs of the Bank
13 and establishes the powers and duties of the Executive Director. **Section 22** creates



the Nevada State Infrastructure Bank Fund to be administered by the Board and used exclusively to capitalize and carry on the business of the Bank.

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

Section 25 authorizes the Bank to provide or arrange to enter into an agreement for insurance or reinsurance in connection with a loan or satisfaction of a related obligation made by the Bank. **Section 26** authorizes the Bank to provide security for any revenue bonds issued by the Bank.

Section 27 provides that any debt or obligation issued by the Bank is not a debt, liability or obligation of this State or of any political subdivision thereof, or a pledge of the faith and credit of this State or a political subdivision, other than the Bank itself.

Section 28 provides that if a borrower who has received a loan from the Bank fails to make a payment of any money owed to the Bank, the Bank may, under certain circumstances, require other state agencies that are in possession of State or other money that is allotted or appropriated to the borrower to withhold that money from that borrower and apply an amount necessary to pay the amount due.

Section 29 provides a grant of immunity from civil liability to the officers and employees of the Bank for certain official acts under certain circumstances. **Section 30** exempts the Bank from all notice, publication, hearing and other procedural requirements that may otherwise apply to its actions. **Section 31** exempts the property of the Bank and its income from taxation, and **section 32** exempts the bonds and other securities issued by the Bank from most forms of taxation.

Section 33 provides that any authority given to a qualified borrower to issue bonds by this bill is supplemental to, and not in lieu of, any existing authority to issue bonds.

Section 34 also provides that the provisions of this bill are intended to supplement, not supplant, other existing laws concerning the development, construction, improvement, operation and ownership of transportation facilities and utility infrastructure and the issuance of bonds and other securities by this State and political subdivisions thereof. However, **section 34** also provides that if there is a conflict between those laws and this bill, the provisions of this bill control.

Section 35 requires the Board of Directors of the Bank to submit an annual report concerning its operations to the Governor and the Legislature.

Section 36 authorizes the Department of Transportation, to the extent that money is available for that purpose, to provide technical advice, support and assistance to the Bank.

Sections 37-42 of this bill make various conforming changes.



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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 36, inclusive, of this act.

Sec. 2. *As used in sections 2 to 36, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 18.5, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 3. *“Bank” means the Nevada State Infrastructure Bank created by section 19 of this act.*

Sec. 4. *“Board of Directors” means the Board of Directors of the Bank established pursuant to section 19 of this act.*

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

1. The federal highway account, the costs that are permitted under applicable federal laws, requirements, procedures and guidelines in regard to establishing, operating and providing assistance from the Bank.

2. The state and local highway account, the costs necessary for the qualified project, including, without limitation, the costs of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, facilities and other costs necessary for the qualified project.

3. The federal utility infrastructure account, the costs necessary for the qualified projects, including, without limitation, the costs of preliminary engineering studies, environmental studies, property right acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.

4. A federal nonhighway account, the costs that are permitted under applicable federal laws, requirements, procedures and guidelines which may include, without limitation, the costs of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.

5. A state and local nonhighway account, the costs necessary for the qualified project, including, without limitation, the costs of



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1 *preliminary engineering, traffic and revenue studies,*
2 *environmental studies, right-of-way acquisition, legal and*
3 *financial services associated with the development of the qualified*
4 *project, construction, construction management, equipment,*
5 *facilities and other nonoperating costs necessary for the qualified*
6 *project.*

7 6. *The state and local utility infrastructure account, the costs*
8 *necessary for the qualified project, including, without limitation,*
9 *the costs of preliminary engineering studies, environmental*
10 *studies, property right acquisition, legal and financial services*
11 *associated with the development of the qualified project,*
12 *construction, construction management, equipment, facilities and*
13 *other nonoperating costs necessary for the qualified project.*

14 Sec. 6. *“Eligible project” means the development,*
15 *construction, repair, improvement, operation or ownership of a*
16 *transportation facility or utility infrastructure.*

17 Sec. 7. *“Executive Director” means the Executive Director*
18 *of the Bank appointed pursuant to section 21 of this act.*

19 Sec. 8. *“Federal highway account,” “federal nonhighway*
20 *account” and “federal utility infrastructure account” mean the*
21 *federal highway account, any federal nonhighway account and*
22 *the federal utility infrastructure account established pursuant to*
23 *section 22 of this act.*

24 Sec. 9. 1. *“Financing agreement” means any agreement*
25 *entered into between the Bank and a qualified borrower*
26 *pertaining to a loan or other financial assistance for a qualified*
27 *project and may include nonfinancial provisions relating to the*
28 *qualified project, including, without limitation, terms and*
29 *conditions relating to the regulation and supervision of a qualified*
30 *project.*

31 2. *The term includes, without limitation, a loan agreement, a*
32 *trust indenture, a security agreement, a reimbursement agreement,*
33 *a guarantee agreement, a bond or note, and an ordinance,*
34 *resolution or similar instrument.*

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

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

39 2. *A political subdivision of the State of Nevada, including,*
40 *without limitation, a county, city, town, school district, general or*
41 *local improvement district or a combination of two or more of*
42 *those entities acting jointly, including, without limitation, in*
43 *conjunction with a regional transportation commission; and*

44 3. *A utility.*



1 **Sec. 11.** *“Loan” means any form of direct financial*
2 *assistance that is provided by the Bank to a qualified borrower to*
3 *defray all or part of the anticipated or actual costs of a qualified*
4 *project and is required to be repaid by the borrower over a period*
5 *of time.*

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

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

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

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

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

40 **Sec. 17.** *“State and local highway account,” “state and local*
41 *nonhighway account” and “state and local utility infrastructure*
42 *account” mean the state and local highway account, any state and*
43 *local nonhighway account and the state and local utility*
44 *infrastructure account established pursuant to section 22 of this*
45 *act.*



1 **Sec. 18.** *“Transportation facility” means any existing,*
2 *enhanced, upgraded or new facility used or useful for the safe*
3 *transport of persons, information or goods by one or more modes*
4 *of transport, including, without limitation, a road, railroad, bridge,*
5 *tunnel, overpass, mass transit, light rail, commuter rail, conduit,*
6 *ferry, boat, vessel, intermodal or multimodal system, a system*
7 *using autonomous technology, as defined in NRS 482A.025, and*
8 *any rights-of-way necessary for the facility. The term includes:*

9 1. *Related or ancillary facilities used or useful for providing,*
10 *operating, maintaining or generating revenue for a transportation*
11 *facility, including, without limitation, administrative buildings,*
12 *structures, rest areas, maintenance yards and buildings, rail yards,*
13 *rolling stock, storage facilities, ports of entry, vehicles, control*
14 *systems, communication systems, information systems, energy*
15 *systems, parking facilities and other related equipment or property*
16 *needed or used to support the transportation facility or the*
17 *transportation of persons, information or goods; and*

18 2. *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. 18.3.** *“Utility” has the meaning ascribed to it in NRS*
26 *408.407.*

27 **Sec. 18.5.** *“Utility infrastructure” means any infrastructure*
28 *which allows for the connection of the transmission or distribution*
29 *system of a utility to a distribution facility installed by a master-*
30 *planned industrial or business park in conformance with the*
31 *tariffs of the utility and includes, without limitation, the*
32 *engineering and construction of the infrastructure.*

33 **Sec. 19.** 1. *The Nevada State Infrastructure Bank is hereby*
34 *created within the Department.*

35 2. *The purpose of the Bank is to provide loans and other*
36 *financial assistance to various units of State and local government*
37 *for the development, construction, improvement, operation and*
38 *ownership of transportation facilities and utility infrastructure.*

39 3. *The Bank is administered by a Board of Directors*
40 *consisting of seven members as follows:*

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

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

44 (c) *The Director of the Department of Transportation or his or*
45 *her designee;*



1 (d) *The Executive Director of the Office of Economic*
2 *Development;*

3 (e) *The Administrator of the State Public Works Division of*
4 *the Department of Administration; and*

5 (f) *Two representatives of the general public, appointed by the*
6 *Governor, at least one of whom must reside in a county whose*
7 *population is 700,000 or more.*

8 ↪ *A person designated or appointed to serve as a member of the*
9 *Board of Directors pursuant to this subsection serves at the*
10 *pleasure of the officer who designated or appointed him or her.*

11 4. *The Board shall elect annually, from among its members,*
12 *a Chair and Vice Chair.*

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

17 6. *The members of the Board of Directors are public officers*
18 *and are subject to all applicable provisions of law, including,*
19 *without limitation, the provisions of chapter 281A of NRS.*

20 7. *A meeting of the Board of Directors must be conducted in*
21 *accordance with the provisions of chapter 241 of NRS.*

22 8. *Except as otherwise provided in this subsection, members*
23 *of the Board of Directors serve without compensation, except that*
24 *each member of the Board of Directors is entitled, while engaged*
25 *in the business of the Board of Directors, to receive the per diem*
26 *allowance and travel expenses provided for state officers and*
27 *employees generally. The per diem allowance and travel expenses*
28 *provided to a member of the Board of Directors who is an officer*
29 *or employee of this State or a political subdivision of this State*
30 *must be paid by the state agency or political subdivision that*
31 *employs him or her. Each member of the Board of Directors who*
32 *is not an officer or employee of this State or a political subdivision*
33 *of this State is entitled to receive \$100 for each full day of*
34 *attending a meeting of the Board of Directors.*

35 9. *Each member of the Board of Directors who is an officer*
36 *or employee of this State or a political subdivision of this State*
37 *must be relieved from his or her duties without loss of regular*
38 *compensation so that the member may prepare for and attend*
39 *meetings of the Board of Directors and perform any work*
40 *necessary to carry out the duties of the Board of Directors in the*
41 *most timely manner practicable. A state agency or political*
42 *subdivision of this State shall not require an officer or employee*
43 *who is a member of the Board of Directors to make up the time*
44 *that he or she is absent from work to carry out his or her duties as*



1 *a member of the Board of Directors or to use annual vacation or*
2 *compensatory time for the absence.*

3 **Sec. 20.** 1. *In administering the affairs of the Bank, the*
4 *Board of Directors has all the powers necessary, useful or*
5 *appropriate to fund, operate and administer the Bank and to*
6 *perform its other functions, including, without limitation, the*
7 *power to:*

8 (a) *Have perpetual succession;*

9 (b) *Make, and from time to time amend and repeal bylaws,*
10 *rules and regulations to carry into effect the powers and purposes*
11 *of the Bank;*

12 (c) *Sue and be sued in the name of the Bank;*

13 (d) *Have a seal and alter it at its pleasure, although the failure*
14 *to affix the seal does not affect the validity of an instrument*
15 *executed on behalf of the Bank;*

16 (e) *Make loans to qualified borrowers to finance the eligible*
17 *costs of qualified projects and to acquire, hold and sell loan*
18 *obligations at prices and in a manner as the Board of Directors*
19 *determines advisable;*

20 (f) *Provide qualified borrowers with other financial assistance*
21 *necessary to defray all or part of the eligible costs of a qualified*
22 *project;*

23 (g) *Enter into contracts, arrangements and agreements with*
24 *qualified borrowers and other persons and execute and deliver all*
25 *financing agreements and other instruments necessary or*
26 *convenient to carry out its statutory purposes and powers;*

27 (h) *Enter into agreements with a department, agency or*
28 *instrumentality of the United States or of this State or another*
29 *state for the purpose of providing for the financing of qualified*
30 *projects;*

31 (i) *Establish:*

32 (1) *Policies and procedures to govern the:*

33 (I) *Selection of qualified projects; and*

34 (II) *Issuance and administration of loans and other*
35 *financial assistance provided by the Bank; and*

36 (2) *Fiscal controls and accounting procedures to ensure*
37 *proper accounting and reporting by the Bank and eligible*
38 *borrowers;*

39 (j) *Acquire by purchase, lease, donation or other lawful means*
40 *property and other assets of every kind and character or any*
41 *interest in such property or assets and sell, convey, pledge, lease,*
42 *exchange, transfer and dispose of all or any part of such property*
43 *and assets;*

44 (k) *Procure insurance, guarantees, letters of credit and other*
45 *forms of collateral or security or credit support for the payment of*



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1 *bonds or other securities issued by the Bank and the payment of*
2 *premiums or fees on such insurance, guarantees, letters of credit*
3 *and other forms of collateral or security or credit support;*

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

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

15 *(n) Borrow money through the issuance of bonds and other*
16 *securities as provided in sections 2 to 36, inclusive, of this act;*

17 *(o) Incur expenses to obtain accounting, management, legal,*
18 *financial consulting and other professional services necessary to*
19 *the operations of the Bank;*

20 *(p) Incur expenses for the costs of administering the*
21 *operations of the Bank;*

22 *(q) Establish advisory committees, which may include persons*
23 *from the private sector with banking and financial expertise;*

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

29 *(s) Impose and collect fees and charges in connection with a*
30 *loan or other financial assistance provided by the Bank;*

31 *(t) Apply for, receive and accept from any source, aid, grants*
32 *or contributions of money, property, labor or other things of value*
33 *to be used to carry out the statutory purposes and powers of the*
34 *Bank;*

35 *(u) Enter into contracts or agreements for the servicing and*
36 *processing of financial agreements;*

37 *(v) Accept and hold, with or without payment of interest,*
38 *money deposited with the Bank;*

39 *(w) Request technical advice, support and assistance from the*
40 *Department of Transportation; and*

41 *(x) Do all other things necessary or convenient to exercise any*
42 *power granted or reasonably implied by sections 2 to 36, inclusive,*
43 *of this act.*

44 *2. Except as otherwise provided in sections 2 to 36, inclusive,*
45 *of this act, the Bank may exercise any fiscal power granted to the*



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1 *Bank in sections 2 to 36, inclusive, of this act, without the review*
2 *or approval of any other department, division or agency of the*
3 *State or political subdivision thereof.*

4 3. *In exercising the powers and performing the functions set*
5 *forth in sections 2 to 36, inclusive, of this act, the members of the*
6 *Board of Directors:*

7 (a) *Must act in a commercially reasonable manner and in the*
8 *interests of this State. For the purposes of this paragraph, the*
9 *interests of this State include, without limitation, the public*
10 *welfare and economy of this State and the long-term as well as the*
11 *short-term interests of this State.*

12 (b) *May, unless a member of the Board has knowledge*
13 *concerning a matter in question that would cause reliance thereon*
14 *to be unwarranted, rely on information, opinions, reports, books*
15 *of account or statements, including financial statements and other*
16 *financial data, that are prepared or presented by:*

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

20 (2) *Counsel, public accountants, financial advisers,*
21 *valuation advisers, investment bankers, engineers, architects or*
22 *other persons as to matters reasonably believed to be within the*
23 *preparer's or presenter's professional or expert competence; or*

24 (3) *A committee on which the director or officer relying*
25 *thereon does not serve, as to matters within the committee's*
26 *designated authority and matters on which the committee is*
27 *reasonably believed to merit confidence.*

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

30 (a) *Bank or trust company within the jurisdiction or under the*
31 *control of an agency of United States or this State; or*

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

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

39 6. *For the purposes of this section, the provisions of titles 55*
40 *and 56 of NRS do not apply to the Bank.*

41 **Sec. 21.** 1. *The Governor shall appoint an Executive*
42 *Director of the Bank. The Executive Director is in the unclassified*
43 *service of the State and serves at the pleasure of the Governor.*

44 2. *The Executive Director shall administer, manage and*
45 *conduct the business and affairs of the Bank subject to the*



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

8 *(a) Hiring such employees in either the classified or*
9 *unclassified service of the State as are necessary to carry out the*
10 *statutory purposes and powers of the Bank;*

11 *(b) Entering into contracts concerning investments,*
12 *guarantees or credit enhancements;*

13 *(c) Establishing procedures, guidelines, criteria, terms,*
14 *conditions or other requirements of any contract, bond, loan,*
15 *grant or other program in order to carry out the intents and*
16 *purposes of the Bank in authorizing the contract, bond, loan,*
17 *grant or other program;*

18 *(d) Declining to guarantee any risk or to enter into any*
19 *contract;*

20 *(e) Reinsuring any risk or any part of any risk, as provided in*
21 *section 25 of this act;*

22 *(f) Making rules for payments through the Bank and*
23 *determining to whom and through whom the payments are to be*
24 *made;*

25 *(g) Investing and reinvesting any money belonging to the*
26 *Bank;*

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

31 *(i) Executing any instrument or performing any act necessary*
32 *or convenient to carry out his or her duties pursuant to sections 2*
33 *to 36, inclusive, of this act.*

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

38 **Sec. 22.** *1. The Nevada State Infrastructure Bank Fund is*
39 *hereby created as an enterprise fund. The Fund is a continuing*
40 *fund without reversion.*

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

42 *3. The Bank may establish accounts and subaccounts within*
43 *the Fund, but must establish:*

44 *(a) A federal highway account;*

45 *(b) One or more federal nonhighway accounts;*



- (c) *A state and local highway account;*
- (d) *One or more state and local nonhighway accounts;*
- (e) *A federal utility infrastructure account; and*
- (f) *A state and local utility infrastructure account.*

4. *Except as otherwise provided in subsection 7, all money received by the Bank pursuant to sections 2 to 36, inclusive, of this act must be deposited in the Fund.*

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

- (a) *Any money appropriated by the Legislature;*
- (b) *Federal funds made available to the State;*
- (c) *Gifts, grants, donations and contributions from a governmental unit, private entity and any other source;*
- (d) *Any money paid or credited to the Bank, by contract or otherwise, including, without limitation:*

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

(2) *Interest earned from the investment or reinvestment of the Bank's money;*

(e) *Proceeds from the issuance of bonds or other securities pursuant to section 20 of this act; and*

(f) *Money from any other lawful source that is made available to the Bank and is not already dedicated for another purpose.*

6. *The Bank shall comply with all applicable federal law governing the use of federal funds, including, without limitation:*

- (a) *Any conditions or limitations on expenditures;*
- (b) *Reporting; and*
- (c) *The commingling of federal funds.*

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

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

- (a) *For the capitalization of the Bank; and*
- (b) *To carry out the statutory purposes and powers of the Bank.*

9. *A local government may use money from any source that is made available to the local government for the purposes of developing, constructing, improving, operating or owning a transportation facility or utility infrastructure or any other purpose set forth in sections 2 to 36, inclusive, of this act, to make a gift, grant, donation or contribution to the Bank or to satisfy any*



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1 *obligation owed by the local government to the Bank, including,*
2 *without limitation, payments of principal and interest.*

3 **Sec. 23.** 1. *A governmental unit, or an entity established by*
4 *agreement between a governmental unit and a private entity, that*
5 *wishes to obtain a loan or other financial assistance from the*
6 *Bank to develop, construct, improve, operate or own an eligible*
7 *project must apply to the Bank in the manner prescribed by the*
8 *Bank.*

9 2. *The Executive Director shall:*

10 (a) *Review each application and determine whether the*
11 *transportation facility or utility infrastructure described in the*
12 *application is an eligible project; and*

13 (b) *As requested by the Board of Directors, submit information*
14 *to the Board of Directors concerning any eligible project.*

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

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

26 5. *The Bank shall determine the form and content of loan*
27 *applications, financing agreements and loan obligations,*
28 *including, without limitation:*

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

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

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

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

41 **Sec. 24.** 1. *A qualified borrower that wishes to obtain a*
42 *loan or other financial assistance from the Bank must enter into*
43 *a financing agreement with the Bank and may be required to issue*
44 *a loan obligation to the Bank. Except as otherwise provided by*
45 *specific statute, a qualified borrower entering into a financing*



1 *agreement with the Bank or issuing a loan obligation to the Bank*
2 *may perform any act, take any action, adopt any proceedings and*
3 *make and carry out any contract or agreement with the Bank as*
4 *may be agreed to by the Bank and the qualified borrower for*
5 *carrying out the purposes contemplated by sections 2 to 36,*
6 *inclusive, of this act.*

7 2. *A qualified borrower may, in addition to any authorization*
8 *set forth in this section, use any authorization granted by any*
9 *other statute that permits the qualified borrower to borrow money*
10 *and issue obligations in obtaining a loan or other financial*
11 *assistance from the Bank to the extent determined necessary or*
12 *useful by the qualified borrower in connection with any financing*
13 *agreement and the issuance, securing or sale of a loan obligation*
14 *to the Bank.*

15 3. *A qualified borrower may:*

16 (a) *Receive, apply, pledge, assign and grant security interests*
17 *in its project revenues to secure its obligations as provided in*
18 *sections 2 to 36, inclusive, of this act; and*

19 (b) *Fix, revise, charge and collect fees, rates, rents,*
20 *assessments and other charges of general or special application*
21 *for the operation or services of a qualified project, the system of*
22 *which it is a part and any other revenue-producing facilities from*
23 *which the qualified borrower derives project revenues to meet its*
24 *obligations under a financing agreement or to otherwise provide*
25 *for the development, construction, improvement, operation or*
26 *ownership of a qualified project.*

27 **Sec. 25.** 1. *The Bank may provide insurance or*
28 *reinsurance for loans or portions thereof made by the Bank to*
29 *finance a qualified project, or for their debt service, including,*
30 *without limitation, amounts payable as premiums of penalties in*
31 *the event of mandatory or optional prepayment, and for reserves,*
32 *or portions thereof, or the yield therefrom, established to secure*
33 *bonds or other securities issued to fund those loans or reserves.*

34 2. *The Bank may:*

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

38 (b) *Enter into an agreement for insurance or reinsurance with*
39 *any authorized insurer to reinsure or insure those risks in this*
40 *State.*

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



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

3 5. The Bank shall make reasonable provisions for the
4 security of loans made by the Bank, and any insurance,
5 reinsurance and other financing arrangements negotiated by the
6 Bank.

7 6. Any insurance or reinsurance provided by the Bank does
8 not constitute a debt or pledge of the faith and credit of the State
9 or any subdivision of the State.

10 7. For the purposes of this section, the provisions of title 57 of
11 NRS do not apply to the Bank.

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

15 1. A deed of trust on the resources, facilities and revenues of
16 one or more projects;

17 2. A credit enhancement, including, but not limited to, a letter
18 of credit, bond insurance or surety bond provided by a private
19 financial institution; and

20 3. Insurance, reinsurance or a guarantee provided by the
21 Bank itself.

22 **Sec. 27.** 1. Any obligation to a third person made by the
23 Bank, including, without limitation, a bond or other security
24 issued by the Bank pursuant to section 20 of this act and any
25 insurance, reinsurance or reserve provided by the Bank pursuant
26 to section 25 of this act:

27 (a) Does not constitute a debt, liability or obligation of this
28 State or of any political subdivision thereof, or a pledge of the
29 faith and credit of this State or of any political subdivision thereof,
30 but is payable solely from the revenues or assets of the Bank; and

31 (b) Must contain on the face thereof a statement to the effect
32 that the Bank is not obligated to pay the obligation or any interest
33 thereon except from the revenues or assets, if any, pledged
34 therefor and that neither the faith and credit nor the taxing power
35 of this State or of any political subdivision thereof is pledged to the
36 payment of the principal of or the interest on the obligation.

37 2. This section does not prohibit the Bank from:

38 (a) Pledging the full faith and credit of the Bank for the
39 satisfaction of any obligation to a third person made by the Bank;
40 or

41 (b) Issuing a bond guarantee or credit enhancement for bonds
42 issued by a qualified borrower.

43 3. The Bank shall not act as a surety or guarantor for a
44 private utility or any other private entity including, without
45 limitation, an association, company or corporation, and the



1 *provisions of sections 2 to 36, inclusive, of this act, must be*
2 *construed to deem the Bank to be such a surety or guarantor.*

3 **Sec. 28.** 1. *Except as otherwise provided in this section, if a*
4 *qualified borrower that has obtained a loan or other financial*
5 *assistance from the Bank fails to remit in full any amount due to*
6 *the Bank on the date the amount is due under the terms of any*
7 *note or other loan obligation given to the Bank by the qualified*
8 *borrower, the Bank shall notify the appropriate state agencies or*
9 *officers, including, without limitation, the State Controller, who*
10 *shall withhold all or a portion of any state money or other money*
11 *administered by the State and its agencies, boards and*
12 *instrumentalities that is allotted or appropriated to the qualified*
13 *borrower and apply an amount necessary to the payment of the*
14 *amount due.*

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

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

20 (b) *Any federal law;*

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

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

24 (e) *A judgment of a court that is binding on the State.*

25 **Sec. 29.** *The Board of Directors and any member thereof,*
26 *and any officer, employee, agent or committee member is not*
27 *liable in a civil action for any act performed on behalf of the Bank*
28 *in good faith and within the scope of their duties or the exercise of*
29 *their authority pursuant to sections 2 to 36, inclusive, of this act.*

30 **Sec. 30.** *Except as otherwise provided in sections 2 to 36,*
31 *inclusive, of this act, and notwithstanding any other provision of*
32 *law, the Bank is not required to provide any notice or publication*
33 *or to conduct any hearing or other proceeding before performing*
34 *any act authorized in sections 2 to 36, inclusive, of this act.*

35 **Sec. 31.** *The Bank is an instrumentality of this State, and its*
36 *property and income are exempt from all taxation by this State*
37 *and any political subdivision thereof.*

38 **Sec. 32.** 1. *Except as otherwise provided in subsection 2,*
39 *bonds and other securities issued by the Bank pursuant to the*
40 *provisions of sections 2 to 36, inclusive, of this act, their transfer*
41 *and the income therefrom must forever be and remain free and*
42 *exempt from taxation by this State or any subdivision thereof.*

43 2. *The provisions of subsection 1 do not apply to the tax on*
44 *estates imposed pursuant to the provisions of chapter 375A of NRS*



1 *or the tax on generation-skipping transfers imposed pursuant to*
2 *the provisions of chapter 375B of NRS.*

3 **Sec. 33.** *Notwithstanding any provision of sections 2 to 36,*
4 *inclusive, of this act to the contrary, this act is supplemental to,*
5 *and not in lieu of, the right of any qualified borrower to issue*
6 *general obligation bonds or other bonds that it is otherwise*
7 *lawfully authorized to issue.*

8 **Sec. 34.** *To the extent possible, the provisions of sections 2 to*
9 *36, inclusive, of this act are intended to supplement other statutory*
10 *provisions governing the development, construction, improvement,*
11 *operation and ownership of transportation facilities and utility*
12 *infrastructure and the issuance of bonds and other securities by*
13 *this State and political subdivisions thereof, and such other*
14 *provisions must be given effect to the extent that those provisions*
15 *do not conflict with the provisions of sections 2 to 36, inclusive of*
16 *this act. If there is a conflict between such other provisions and*
17 *the provisions of sections 2 to 36, inclusive, of this act, the*
18 *provisions of sections 2 to 36, inclusive, of this act control.*

19 **Sec. 35.** *The Board of Directors shall, not later than 90 days*
20 *after the end of each fiscal year:*

21 1. *Prepare a report on the operations of the Bank during that*
22 *year; and*

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

24 (a) *The Governor; and*

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

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

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

31 **Sec. 36.** *The Department of Transportation may, to the*
32 *extent that money is available for that purpose, provide technical*
33 *advice, support and assistance to the Bank.*

34 **Sec. 37.** *NRS 408.111 is hereby amended to read as follows:*

35 408.111 1. *The Department consists of a Director, two*
36 *Deputy Directors, a Chief Engineer and the : ~~following divisions:~~*

37 (a) *Administrative Division.*

38 (b) *Operations Division.*

39 (c) *Engineering Division.*

40 (d) *Planning Division.*

41 (e) *Nevada State Infrastructure Bank.*

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



Sec. 38. NRS 408.116 is hereby amended to read as follows:

408.116 *Except as otherwise provided in sections 2 to 36, inclusive, of this act:*

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

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

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

Sec. 39. NRS 408.172 is hereby amended to read as follows:

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

2. *Except as otherwise provided in sections 2 to 36, inclusive, of this act:*

(a) The Chief Counsel shall act as the attorney and legal adviser of the Department in all actions, proceedings, hearings and all matters relating to the Department and to the powers and duties of its officers.

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

~~(c)~~ (c) The Chief Counsel and assistant attorneys are in the unclassified service of the State.

~~(d)~~ (d) All contracts, instruments and documents executed by the Department must be first approved and endorsed as to legality and form by the Chief Counsel.

Sec. 40. NRS 408.265 is hereby amended to read as follows:

408.265 ~~(A)(1)~~ *Except as otherwise provided in sections 2 to 36, inclusive, of this act, all* money received from the Government of the United States and by virtue of the provisions of any Act of Congress for the engineering, planning, surveying, acquiring of property, constructing, reconstructing or improving of any highway in the State must be put into the State Treasury and become a part of the State Highway Fund and that Fund must not be used for any other purpose.



* S B 5 1 7 R 2 *

Sec. 41. NRS 408.389 is hereby amended to read as follows:

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

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

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

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

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

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

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

3. The Board shall not:

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

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

Sec. 42. As soon as practicable after the effective date of this section, the Governor shall appoint two members to the Board of Directors of the Nevada State Infrastructure Bank as required by section 19 of this act and an Executive Director of the Nevada State Infrastructure Bank as required by section 21 of this act.

Sec. 43. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 44. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 43, inclusive, of this act become effective only upon the Director of the Department of Transportation providing notice to the Governor and the Director of the Legislative Counsel Bureau that sufficient money is available to capitalize and carry on the business of the Nevada State Infrastructure Bank created by section 19 of this act.



