1   **Senate Bill No. 379**

2   (By Senators Walters, D. Hall, Beach and Miller)

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4   [Introduced January 30, 2015; referred to the Committee on Transportation and Infrastructure;

5   and then to the Committee on Finance.]

6   _____   **FISCAL NOTE**

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10   A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,

11   designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all relating to

12   authorizing the West Virginia Division of Highways to enter into cooperative agreements

13   with the United States Secretary of Transportation to establish infrastructure revolving funds

14   eligible to be capitalized with federal transportation funds; and creating State Infrastructure

15   Bank.

16   *Be it enacted by the Legislature of West Virginia:*

17   That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new

18   article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all to read as

19   follows:

20   **ARTICLE 17B. STATE INFRASTRUCTURE BANK PROGRAM.**

21   **§17-17B-1 Short title; legislative findings and purpose.**

1   (a) This article may be known and cited as the "State Infrastructure Bank Program."

2   (b) The Legislature finds and declares that new financing mechanisms will provide greater

3 flexibility and additional funds for needed transportation infrastructure projects in the state. The

4 creation of a financing mechanism, in conformance with the Federal State Infrastructure Bank

5 Program, will enable the state, counties and municipalities to use federal and state highway funds

6 to construct transportation projects eligible for assistance under the Federal State Infrastructure Bank

7 Program.

8 **§17-17B-2. Definitions.**

9   As used in this article, the following words and terms shall have the following meaning:

10   "Capitalized" means depositing funds as initial capital into a State Infrastructure Bank to

11 establish the infrastructure bank.

12   "Commissioner" means the West Virginia Commissioner of Highways.

13   "Cooperative agreement" means written consent between the state and the United States

14 Department of Transportation Secretary.

15   "Department" means the West Virginia Department of Transportation.

16   "Division" means the Division of Highways, a division within the West Virginia Department

17 of Transportation.

18   "Initial assistance" means the first round of funds that are loaned or used for credit

19 enhancement by the State Infrastructure Bank for projects eligible for assistance under this section.

20   "Loan" means any form of direct financial assistance from the infrastructure bank that is

21 required to be repaid over a period of time and that is provided to a project sponsor for all or part of

1 the costs of the project.

2   "US DOT Secretary" means the United States Department of Transportation Secretary.

3 **§17-17B-3. Purpose and scope.**

4   The West Virginia State Infrastructure Bank is created as a revolving fund in the division,

5 to be administered by the division and used for the purposes described in this article. The fund

6 consists of certain federal and state highway funds and other funds eligible for deposit under

7 applicable federal law, payments received by the division in connection with the State Infrastructure

8 Bank, investment earnings on money in state infrastructure bank accounts, and other funds as may

9 be provided by law. Separate accounts may be established within the State Infrastructure Bank if

10 required for its proper administration. The fund is a nonlapsing fund. The Commissioner of

11 Highways shall use the State Infrastructure Bank to make loans to municipalities, state agencies and

12 quasi-state government agencies for eligible transportation projects. For purposes of this article, a

13 project is an "eligible transportation project" and is "eligible for assistance" when it complies with

14 the eligibility criteria established in the National Highway System Designation Act of 1995, Public

15 Law 104-59, Section 350. Initial assistance provided with respect to a project from federal funds

16 deposited into an infrastructure bank under this article may not be made in the form of a grant.

17 **§17-17B-4. Authority to enter into agreements.**

18   The loans shall be made upon such terms as the commissioner shall determine, including

19 secured and unsecured loans, and in connection with the secured and unsecured loans. The

20 commissioner may enter into loan agreements, subordination agreements and other agreements;

21 accept notes and other forms of obligation to evidence the indebtedness, and mortgages, liens,

1 pledges, assignments or other security interest to secure the indebtedness, which may be prior or

2 subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments,

3 other security interests or liens or encumbrances, and take such actions as are appropriate to protect

4 the security and safeguard against losses, including foreclosure and the funds for other projects.

5 **§17-17B-5. Enforcement of provisions by commissioner; rules.**

6   It is the function and duty of the Commissioner of Highways to administer and enforce the

7 provisions of this article, and in the performance of duties hereunder, the commissioner may assign

8 to other employees in the department, such duties as he or she may deem proper. The commissioner

9 is authorized to propose legislative rules pursuant to article three, chapter twenty-nine-a of this code,

10 relating to the implementation and exercise of the authority granted by this article, including rules

11 permitting the State of West Virginia to comply with the provisions of Title 23, Chapter 6 of the

12 United States Code, relating to the State Infrastructure Bank Program; and for receiving, reviewing,

13 evaluating and selecting projects for which financial assistance will be approved.

      NOTE: The purpose of this bill is to establish the West Virginia State Infrastructure Bank within the Division of Highways, in cooperation with a federal program, to provide funds for transportation infrastructure projects within the state.

      This article is new; therefore, underscoring has been omitted.