

# **E N R O L L E D**

COMMITTEE SUBSTITUTE

for

## **H. B. 2778**

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(BY DELEGATE(S) GEARHEART,  
MCCUSKEY, STORCH, HAMRICK, ESPINOSA, E. NELSON,  
WESTFALL, MR. SPEAKER (MR. ARMSTEAD), O'NEAL,  
PETHTEL AND FERRO)

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[Passed March 9, 2015;  
in effect ninety days from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all relating to transportation funding; authorizing West Virginia Division of Highways to enter into cooperative agreements with United States Secretary of Transportation to establish infrastructure revolving funds; creating the State Transportation Infrastructure Fund

Program; creating State Transportation Infrastructure Fund; and permitting Commissioner of the Division of Highways to propose rules for legislative approval.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all to read as follows:

**ARTICLE 17B. STATE TRANSPORTATION INFRASTRUCTURE FUND PROGRAM.**

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

1 (a) This article may be known and cited as the “State  
2 Transportation Infrastructure Fund Program.”

3 (b) The Legislature finds and declares that new financing  
4 mechanisms will provide greater flexibility and additional funds  
5 for needed transportation infrastructure projects in the state. The  
6 creation of a financing mechanism, in conformance with the  
7 federal State infrastructure bank program, will enable the state,  
8 counties and municipalities to use federal and state highway  
9 funds to construct transportation projects eligible for assistance  
10 under the federal State infrastructure bank program.

**§17-17B-2. Definitions.**

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

3 (1) “Capitalized” means depositing funds as initial capital  
4 into a State Transportation Infrastructure Fund to establish the  
5 infrastructure fund.

6 (2) “Commissioner” means the West Virginia Commissioner  
7 of Highways.

8 (3) “Cooperative agreement” means written consent between  
9 the state and the United States Department of Transportation  
10 Secretary.

11 (4) “Department” means the West Virginia Department of  
12 Transportation.

13 (5) “Division” means the Division of Highways, a division  
14 within the West Virginia Department of Transportation.

15 (6) “Initial assistance” means the first round of funds that are  
16 loaned or used for credit enhancement by the State  
17 Transportation Infrastructure Fund for projects eligible for  
18 assistance under this section.

19 (7) “Loan” means any form of direct financial assistance  
20 from the infrastructure fund that is required to be repaid over a  
21 period of time and that is provided to a project sponsor for all or  
22 part of the costs of the project.

23 (8) “US DOT Secretary” means the United States  
24 Department of Transportation Secretary.

**§17-17B-3. Purpose and scope.**

1 (a) There is hereby created in the State Treasury the West  
2 Virginia State Transportation Infrastructure Fund. The special  
3 fund shall be a revolving fund, to be administered by the  
4 commissioner and used for the purposes described in this article.  
5 The fund consists of certain federal and state highway funds and  
6 other funds eligible for deposit under applicable federal law,  
7 payments received by the division in connection with the State  
8 Transportation Infrastructure Fund, investment earnings on  
9 money in state transportation infrastructure fund accounts, and  
10 other funds as may be provided by law. Separate accounts may  
11 be established within the State Transportation Infrastructure  
12 Fund if required for its proper administration. The account shall

13 retain all earnings and interest, and may not be expired into the  
14 General Revenue Fund at the end of the fiscal year.

15 (b) The Commissioner of Highways shall use the State  
16 Transportation Infrastructure Fund to make loans to  
17 municipalities, counties, state agencies and quasi-state  
18 government agencies for eligible transportation projects. For  
19 purposes of this article, a project is an “eligible transportation  
20 project” and is “eligible for assistance” when it complies with  
21 the eligibility criteria established in the National Highway  
22 System Designation Act of 1995, Public Law 104-59, Section  
23 350. Initial assistance provided with respect to a project from  
24 federal funds deposited into an infrastructure fund under this  
25 article may not be made in the form of a grant.

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

1 The loans shall be made upon such terms as the  
2 commissioner shall determine, including secured and unsecured  
3 loans, and in connection with the secured and unsecured loans.  
4 The commissioner may enter into loan agreements,  
5 subordination agreements and other agreements; accept notes  
6 and other forms of obligation to evidence the indebtedness, and  
7 mortgages, liens, pledges, assignments or other security interest  
8 to secure the indebtedness, which may be prior or subordinate to  
9 or on a parity with other indebtedness, obligations, mortgages,  
10 pledges, assignments, other security interests or liens or  
11 encumbrances, and take such actions as are appropriate to  
12 protect the security and safeguard against losses, including  
13 foreclosure and the funds for other projects.

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

1 It is the function and duty of the Commissioner of Highways  
2 to administer and enforce the provisions of this article, and in the  
3 performance of duties hereunder, the commissioner may assign

4 to other employees in the department, such duties as he or she  
5 may deem proper. The commissioner may propose rules for  
6 legislative approval in accordance with the provisions of article  
7 three, chapter twenty-nine-a of this code relating to the  
8 implementation and exercise of the authority granted by this  
9 article, including rules permitting the State of West Virginia to  
10 comply with the provisions of Title 23, Chapter 6 of the United  
11 States Code relating to the federal State infrastructure bank  
12 program; and for receiving, reviewing, evaluating and selecting  
13 projects for which financial assistance will be approved.



That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2015.

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*Governor*

