WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2778

(By Delegate(s) Gearheart, McCuskey, Storch, Hamrick, Espinosa, E. Nelson, Westfall, Mr. Speaker (Mr. Armstead), O'Neal, Pethel and Ferro)

Passed March 9, 2015

In effect ninety days from passage.
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
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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.

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

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

§17-17B-2. Definitions.

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

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

(2) “Commissioner” means the West Virginia Commissioner of Highways.
(3) "Cooperative agreement" means written consent between the state and the United States Department of Transportation Secretary.

(4) "Department" means the West Virginia Department of Transportation.

(5) "Division" means the Division of Highways, a division within the West Virginia Department of Transportation.

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

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

(8) "US DOT Secretary" means the United States Department of Transportation Secretary.

§17-17B-3. Purpose and scope.

(a) There is hereby created in the State Treasury the West Virginia State Transportation Infrastructure Fund. The special fund shall be a revolving fund, to be administered by the commissioner and used for the purposes described in this article. The fund consists of certain federal and state highway funds and other funds eligible for deposit under applicable federal law, payments received by the division in connection with the State Transportation Infrastructure Fund, investment earnings on money in state transportation infrastructure fund accounts, and other funds as may be provided by law. Separate accounts may be established within the State Transportation Infrastructure Fund if required for its proper administration. The account shall
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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
to other employees in the department, such duties as he or she may deem proper. The commissioner may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code relating to the implementation and exercise of the authority granted by this article, including rules permitting the State of West Virginia to comply with the provisions of Title 23, Chapter 6 of the United States Code relating to the federal State infrastructure bank program; and for receiving, reviewing, evaluating and selecting projects for which financial assistance will be approved.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 25th
day of March, 2015.

Governor