

Senate Bill No. 478

(By Senators Plymale, Stollings, Snyder, Romano, Williams and Kessler)

[Introduced February 12, 2015; referred to the Committee on Transportation and Infrastructure;

and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3 and §11-15-18b of said code; to amend said code by adding thereto a new section, designated §11-15-27; to amend and reenact §17-3-1 of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding thereto a new section, designated §17A-10-17; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-2-11 of said code; to amend and reenact §17D-2-2 of said code; and to amend said code by adding thereto a new article, designated §31-15D-1, §31-15D-2, §31-15D-3, §31-15D-4, §31-15D-5, §31-15D-6, §31-15D-7, §31-15D-8, §31-15D-9 and §31-15D-10, all relating to generating and maintaining revenue for maintenance of roads and infrastructure through increases in certain taxes, changes in motor vehicle and license fees and the formation of a state infrastructure bank; changing the methods for

1 calculating taxes on motor fuels; raising rate of tax on diesel fuel; raising consumer's sales
2 tax and dedicating increased revenue to State Road Fund; dedicating taxes from motor
3 vehicle repairs, parts and service to State Road Fund; increasing registration fees for certain
4 motor vehicles; increasing fees for issuance and duplication of various documents by the
5 division, including titles, registrations, plates and decals; increasing fee for recording liens
6 and releases; increasing vehicle transfer fees; establishing an additional fee for registration
7 of alternative fuel vehicles; increasing fees for issuance, duplication and renewal of driver's
8 licenses; creating West Virginia Transportation Infrastructure Bank; creating a governing
9 board of the bank; providing for appointment, terms, qualifications, compensation and
10 expenses of board members; setting powers and duties of the bank; creating West Virginia
11 Transportation Infrastructure Bank Fund; defining deposits and parameters of capitalization;
12 outlining requirements for applications for, and administration of, loans and other financial
13 assistance and for approval of qualified projects; requiring annual reports to Governor and
14 Legislature; requiring annual audits; and removing outdated language.

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

16 That §11-14C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
17 that §11-15-3 and §11-15-18b of said code be amended and reenacted; that said code be amended
18 by adding thereto a new section, designated §11-15-27; that §17-3-1 of said code be amended and
19 reenacted; that §17A-2-13 of said code be amended and reenacted; that §17A-3-4 of said code be
20 amended and reenacted; that §17A-4-1 and §17A-4-10 of said code be amended and reenacted; that
21 §17A-4A-10 of said code be amended and reenacted; that §17A-10-3, §17A-10-10 and §17A-10-11
22 of said code be amended and reenacted; that said code be amended by adding thereto a new section,

1 designated §17A-10-17; that §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-2-11 of said code be
 2 amended and reenacted; that §17D-2-2 of said code be amended and reenacted; and that said code
 3 be amended by adding thereto a new article, designated §31-15D-1, §31-15D-2, §31-15D-3, §31-
 4 15D-4, §31-15D-5, §31-15D-6, §31-15D-7, §31-15D-8, §31-15D-9 and §31-15D-10, all to read as
 5 follows:

6 **CHAPTER 11. TAXATION.**

7 **ARTICLE 14C. MOTOR FUEL EXCISE TAX.**

8 **§11-14C-5. Taxes levied; rate.**

9 (a) There is hereby levied on all motor fuel an excise tax composed of a flat rate ~~equal to~~
 10 ~~\$.205 per invoiced gallon and, on alternative fuel, on each gallon equivalent per gallon or gallon~~
 11 ~~equivalent, plus a variable component, comprised of all determined as follows:~~

12 (1) On motor fuel other than diesel fuel, the flat rate portion shall be \$.205 per invoiced
 13 gallon and, on alternative fuel, on each gallon equivalent. On diesel fuel, the flat rate shall be \$.205
 14 per invoiced gallon through December 31, 2015. Beginning January 1, 2016, and for each of the
 15 years, 2016, 2017 and 2018, the flat tax rate portion for diesel fuel imposed in this section shall be
 16 increased an additional two cents per year in order to more closely match the ratio of federal tax on
 17 diesel fuel to the federal tax on gasoline.

18 (2) Determination of variable component. --

19 (A) On motor fuel other than alternative fuel, either the tax imposed by section eighteen-b,
 20 article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-a of this
 21 chapter, as applicable: *Provided*, That the motor fuel excise tax shall take effect January 1, 2004:
 22 *Provided, however*, That the variable component shall be equal to five percent of the average

1 wholesale price of the motor fuel; *Provided further, That the average wholesale price shall be no*
2 *less than 97¢ per invoiced gallon and is computed as hereinafter prescribed in this section: And*
3 *provided further, That on and after January 1, 2010, the average wholesale price shall be no less than*
4 *\$2.34 per invoiced gallon and is computed as hereinafter prescribed in this section; and*

5 ~~(2)~~ (B) On alternative fuel, either the tax imposed by section eighteen-b, article fifteen of this
6 chapter or the tax imposed under section thirteen-a, article fifteen-a of this chapter, as applicable.
7 The tax on alternative fuel takes effect on January 1, 2014, with a variable component equal to five
8 percent of the average wholesale price of the alternative fuel.

9 (b) *Determination of average wholesale price.* –

10 (1) To simplify determining the average wholesale price of all motor fuel, the Tax
11 Commissioner shall, effective with the period beginning the first day of the month of the effective
12 date of the tax and each January 1, thereafter, determine the average wholesale price of motor fuel
13 for each annual period on the basis of sales data gathered for the preceding period of July 1, through
14 October 31. Notification of the average wholesale price of motor fuel shall be given by the Tax
15 Commissioner at least thirty days in advance of each January 1, by filing notice of the average
16 wholesale price in the State Register and by other means as the Tax Commissioner considers
17 reasonable.

18 (2) The "average wholesale price" means the single, statewide average per gallon wholesale
19 price, rounded to the third decimal (thousandth of a cent), exclusive of state and federal excise taxes
20 on each gallon of motor fuel or on each gallon equivalent of alternative fuel as determined by the
21 Tax Commissioner from information furnished by suppliers, importers and distributors of motor fuel
22 and alternative-fuel providers, alternative-fuel bulk end users and retailers of alternative fuel in this

1 state, or other information regarding wholesale selling prices as the Tax Commissioner may gather
2 or a combination of information. In no event shall the average wholesale price be determined to be
3 less than 97¢ per gallon of motor fuel. For calendar year 2009, the average wholesale price of motor
4 fuel shall not exceed the average wholesale price of motor fuel for calendar year 2008 as determined
5 pursuant to the notice filed by the Tax Commissioner with the Secretary of State on November 21,
6 2007, and published in the State Register on November 30, 2007. On and after January 1, 2010, in
7 no event shall the average wholesale price be determined to be less than \$2.34 per gallon of motor
8 fuel. ~~On and after January 1, 2011, the average wholesale price shall not vary by more than ten~~
9 ~~percent from the average wholesale price of motor fuel as determined by the Tax Commissioner for~~
10 ~~the previous calendar year.~~ Any limitation on the average wholesale price of motor fuel contained
11 in this subsection shall not be applicable to alternative fuel.

12 (3) All actions of the Tax Commissioner in acquiring data necessary to establish and
13 determine the average wholesale price of motor fuel, in providing notification of his or her
14 determination prior to the effective date of a change in rate, and in establishing and determining the
15 average wholesale price of motor fuel may be made by the Tax Commissioner without compliance
16 with the provisions of article three, chapter twenty-nine-a of this code.

17 (4) In an administrative or court proceeding brought to challenge the average wholesale price
18 of motor fuel as determined by the Tax Commissioner, his or her determination is presumed to be
19 correct and shall not be set aside unless it is clearly erroneous.

20 (c) There is hereby levied a floorstocks tax on motor fuel held in storage outside the bulk
21 transfer/terminal system as of the close of the business day preceding January 1, 2004, and upon
22 which the tax levied by this section has not been paid. For the purposes of this section, "close of the

1 business day" means the time at which the last transaction has occurred for that day. The floorstocks
2 tax is payable by the person in possession of the motor fuel on January 1, 2004. The amount of the
3 floorstocks tax on motor fuel is equal to the sum of the tax rate specified in subsection (a) of this
4 section multiplied by the gallons in storage as of the close of the business day preceding January 1,
5 2004.

6 (1) Persons in possession of taxable motor fuel in storage outside the bulk transfer/terminal
7 system as of the close of the business day preceding January 1, 2004, shall:

8 (A) Take an inventory at the close of the business day preceding January 1, 2004, to
9 determine the gallons in storage for purposes of determining the floorstocks tax;

10 (B) Report no later than January 31, 2004, the gallons on forms provided by the
11 commissioner; and

12 (C) Remit the tax levied under this section no later than June 1, 2004.

13 (2) In the event the tax due is paid to the commissioner on or before January 31, 2004, the
14 person remitting the tax may deduct from their remittance five percent of the tax liability due.

15 (3) In the event the tax due is paid to the commissioner after June 1, 2004, the person
16 remitting the tax shall pay, in addition to the tax, a penalty in the amount of five percent of the tax
17 liability due.

18 (4) In determining the amount of floorstocks tax due under this section, the amount of motor
19 fuel in dead storage may be excluded. There are two methods for calculating the amount of motor
20 fuel in dead storage:

21 (A) If the tank has a capacity of less than ten thousand gallons, the amount of motor fuel in
22 dead storage is two hundred gallons and if the tank has a capacity of ten thousand gallons or more,

1 the amount of motor fuel in dead storage is four hundred gallons; or

2 (B) Use the manufacturer's conversion table for the tank after measuring the number of
3 inches between the bottom of the tank and the bottom of the mouth of the drainpipe: *Provided*, That
4 the distance between the bottom of the tank and the bottom of the mouth of the draw pipe is
5 presumed to be six inches.

6 (d) Every licensee who, on the effective date of any rate change, has in inventory any motor
7 fuel upon which the tax or any portion thereof has been previously paid shall take a physical
8 inventory and file a report thereof with the commissioner, in the format as required by the
9 commissioner, within thirty days after the effective date of the rate change, and shall pay to the
10 commissioner at the time of filing the report any additional tax due under the increased rate.

11 (e) The Tax Commissioner shall determine by January 1, 2014, the gasoline gallon equivalent
12 for each alternative fuel by filing a notice of the gasoline gallon equivalent in the State Register and
13 by other means that the Tax Commissioner considers reasonable. The Tax Commissioner may
14 redetermine the gasoline gallon equivalent for each alternative fuel by filing a notice of the gasoline
15 gallon equivalent in the State Register at least thirty days in advance of January 1, for the next
16 succeeding tax year. For purposes of this notice, the Tax Commissioner may adopt or incorporate
17 by reference provisions of the National Institute of Standards and Technology, United States
18 Department of Commerce, the Internal Revenue Code, United States Treasury Regulations, the
19 Internal Revenue Service publications or guidelines or other publications or guidelines which may
20 be useful in determining, setting or describing the gasoline gallon equivalent for each alternative fuel
21 used as motor fuel.

22 **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

1 **§11-15-3. Amount of tax; allocation of tax and transfers.**

2 (a) *Vendor to collect.* -- For the privilege of selling tangible personal property or custom
3 software and for the privilege of furnishing certain selected services defined in sections two and eight
4 of this article, the vendor shall collect from the purchaser the tax as provided under this article and
5 article fifteen-b of this chapter, and shall pay the amount of tax to the Tax Commissioner in
6 accordance with the provisions of this article or article fifteen-b of this chapter.

7 (b) *Amount of tax.* -- The general consumer sales and service tax imposed by this article shall
8 be at the rate of ~~6¢~~ 7¢ on the dollar of sales or services. ~~excluding gasoline and special fuel sales,~~
9 ~~which remain taxable at the rate of 5¢ on the dollar of sales.~~

10 (c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* -- There shall be
11 ~~no tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be~~
12 ~~computed as follows:~~

- 13 ~~(1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.~~
14 ~~(2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.~~
15 ~~(3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.~~
16 ~~(4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.~~
17 ~~(5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.~~
18 ~~(6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.~~
19 ~~(7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any~~
20 ~~fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the dollar~~
21 ~~if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢; 3¢ on the~~
22 ~~fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional part of the~~

1 dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in excess of 67¢
 2 but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For example, the
 3 tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33, both inclusive,
 4 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67, both inclusive,
 5 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to \$2, both inclusive,
 6 12¢: ~~Provided, That beginning January 1, 2004, tax due under this article shall be calculated as~~
 7 ~~provided in subsection (d) of this subsection and this subsection (c) does not apply to sales made~~
 8 ~~after December 31, 2003.~~

9 ~~(d)~~ (c) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* --
 10 Beginning January 1, 2004, the tax computation under subsection (b) of this section, and any
 11 amendments thereto, shall be carried to the third decimal place, and the tax rounded up to the next
 12 whole cent whenever the third decimal place is greater than four and rounded down to the lower
 13 whole cent whenever the third decimal place is four or less. The vendor may elect to compute the
 14 tax due on a transaction on a per item basis or on an invoice basis provided the method used is
 15 consistently used during the reporting period.

16 ~~(e)~~ (d) *No aggregation of separate sales transactions, exception for coin-operated devices.* --
 17 Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of
 18 computation of the tax even though the sales are aggregated in the billing or payment therefor.
 19 Notwithstanding any other provision of this article, coin-operated amusement and vending machine
 20 sales shall be aggregated for the purpose of computation of this tax.

21 ~~(f)~~ (e) *Rate of tax on certain mobile homes.* -- Notwithstanding any provision of this article
 22 to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the

1 owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to
 2 six percent of fifty percent of the sales price.

3 ~~(g)~~ (f) *Construction; custom software.* -- After December 31, 2003, whenever the words
 4 "tangible personal property" or "property" appear in this article, the same shall also include the words
 5 "custom software".

6 ~~(h)~~ (g) *Computation of tax on sales of gasoline and special fuel.* -- The method of
 7 computation of tax provided in this section does not apply to sales of gasoline and special fuel.

8 (h) Dedication of tax to the State Road Fund. -- The 1¢ increase in the tax imposed and
 9 collected under this section, after deducting the amount of any refunds lawfully paid, shall be
 10 deposited in the State Road Fund in the State Treasurer's office and used only for the purpose of
 11 construction, reconstruction, maintenance and repair of highways and payment of principal and
 12 interest on state bonds issued for highway purposes.

13 **§11-15-18b. Tax on motor fuel.**

14 (a) *General.* – All sales of motor fuel and alternative fuel subject to the flat rate of the tax
 15 imposed by section five, article fourteen-c of this chapter, are subject to the tax imposed by this
 16 article and comprises the variable component of the tax imposed by section five, article fourteen-c
 17 of this chapter and is collected and remitted at the time the tax imposed by said section is remitted.
 18 Sales of motor fuel and alternative fuel upon which the tax imposed by this article has been paid is
 19 not again taxed under the provisions of this article. This section means that all gallons of motor fuel
 20 and equivalent gallons of alternative fuel sold and delivered or delivered in this state are taxed one
 21 time.

22 (b) *Measure of tax.* – The measure of tax imposed by this article is as follows:

1 On sales of motor fuel, the average wholesale price as defined and determined in section five,
2 article fourteen-c of this chapter. For purposes of maintaining revenue for highways, and
3 recognizing that the tax imposed by this article is generally imposed on gross proceeds from sales
4 to ultimate consumers, whereas the tax on motor fuel herein is imposed on the average wholesale
5 price of the motor fuel; in no case, for the purposes of taxation under this article, may the average
6 wholesale price be determined to be less than 97¢ per gallon of motor fuel for all gallons of motor
7 fuel sold during the reporting period, notwithstanding any provision of this article to the contrary.
8 On and after January 1, 2010, for the purpose of taxation under this article, in no case may the
9 average wholesale price be determined to be less than \$2.34 per gallon of motor fuel for all gallons
10 of motor fuel sold during the reporting period notwithstanding any provision of this article to the
11 contrary. Any limitation on the average wholesale price of motor fuel contained in this subsection
12 shall not be applicable to alternative fuel.

13 (2) On sales of alternative fuel, the average wholesale price as defined and determined in
14 section five, article fourteen-c of this chapter.

15 (c) *Definitions.* – For purposes of this article, the terms "gasoline" and "special fuel" and
16 "alternative fuel" are defined as provided in section two, article fourteen-c of this chapter. Other
17 terms used in this section have the same meaning as when used in a similar context in said article.

18 (d) *Tax return and tax due.* –

19 (1) The tax imposed by this article on sales of motor fuel shall be paid by each taxpayer on
20 or before the last day of the calendar month by check, bank draft, certified check or money order
21 payable to the Tax Commissioner for the amount of tax due for the preceding month notwithstanding
22 any provision of this article to the contrary. The commissioner may require all or certain taxpayers

1 to file tax returns and payments electronically. The return required by the commissioner shall
2 accompany the payment of tax. If no tax is due, the return required by the commissioner shall be
3 completed and filed on or before the last day of the month.

4 (2) The tax due under this article comprising the variable component of the tax due under
5 article fourteen-c of this chapter on alternative fuel, is due and shall be collected and remitted at the
6 time the tax imposed by section five, article fourteen-c of this chapter is due, collected and remitted.

7 (e) *Compliance.* – To facilitate ease of administration and compliance by taxpayers, the Tax
8 Commissioner shall require persons liable for the tax imposed by this article on sales of motor fuel
9 to file a combined return and make a combined payment of the tax due under this article on sales of
10 motor fuel and the tax due under article fourteen-c of this chapter on motor fuel. In order to
11 encourage use of a combined return each month and the making of a single payment each month for
12 both taxes, the due date of the return and tax due under article fourteen-c of this chapter is the last
13 day of each month notwithstanding any provision in said article to the contrary. The Tax
14 Commissioner may prescribe reporting and payment requirements for tax due under this article on
15 alternative fuel which accommodate the due dates and requirements prescribed in this article and
16 article fourteen-c of this chapter, either under a separate return and payment or a combined return
17 and payment, within the discretion of the Tax Commissioner.

18 (f) *Dedication of tax.* – All tax collected under the provisions of this section, after deducting
19 the amount of refunds lawfully paid, shall be deposited in the road fund in the State Treasurer’s
20 office and used only for the purpose of construction, reconstruction, maintenance and repair of
21 highways and payment of principal and interest on state bonds issued for highway purposes.
22 Notwithstanding any provision to the contrary, tax collected on the sale of aviation fuel after

1 deducting the amount of refunds lawfully paid shall be deposited in the State Treasurer's office and
 2 transferred to the State Aeronautical Commission to be used for the purpose of matching federal
 3 funds available for the reconstruction, maintenance and repair of public airports and airport runways.

4 (g) *Construction.* – This section does not tax a sale of motor fuel which this state is
 5 prohibited from taxing under the Constitution of this state or the Constitution or laws of the United
 6 States.

7 (h) *Effective date.* – ~~The provisions of this section take effect on January 1, 2004. The~~
 8 ~~provisions of this section enacted during the 2007 legislative session take effect on January 1,~~
 9 ~~2008. The provisions of this section enacted during the 2013 regular legislative session take effect~~
 10 ~~on January 1, 2014. Any change to the rate of tax, or the calculated cost basis upon which the tax~~
 11 ~~rate is to be applied, that occurs as a result of amendments to this section shall take effect on~~
 12 ~~January 1 of the year following the enactment of the amendments to this section.~~

13 **§11-15-27. Sales tax on motor vehicle repairs, parts and services paid to State Road Fund.**

14 Notwithstanding any provision of this code to the contrary, all tax collected under the
 15 provisions of this section for motor vehicle repairs, parts and services, after deducting the amount
 16 of refunds lawfully paid, shall be deposited in the "State Road Fund" in the State Treasurer's office
 17 and used only for the purpose of construction, reconstruction, maintenance and repair of highways
 18 and payment of principal and interest on state bonds issued for highway purposes.

19 **CHAPTER 17. ROADS AND HIGHWAYS.**

20 **ARTICLE 3. STATE ROAD FUND.**

21 **§17-3-1. What constitutes fund; payments into fund; use of money in fund.**

22 There shall be a State Road Fund, which shall consist of the proceeds of all state license taxes

1 imposed upon automobiles or other motor or steam driven vehicles; the registration fees imposed
2 upon all owners, chauffeurs, operators and dealers in automobiles or other motor driven vehicles;
3 all sums of money which may be donated to ~~such~~ the fund; all proceeds derived from the sale of state
4 bonds issued pursuant to any resolution or act of the Legislature carrying into effect the "Better
5 Roads Amendment" to the Constitution of this state, adopted in November, 1964, except that the
6 proceeds from the sale of these bonds shall be kept in a separate and distinct account in the State
7 Road Fund; all proceeds from the sale of state bonds issued pursuant to any resolution or act of the
8 Legislature carrying into effect the "Safe Roads Amendment of 1996" to the Constitution of this
9 state, adopted in the November, 1996, except that the proceeds from the sale of these bonds shall be
10 kept in a separate and distinct account in the State Road Fund; all moneys and funds appropriated
11 to it by the Legislature; and all moneys allotted or appropriated by the federal government to this
12 state for road construction and maintenance pursuant to any act of the Congress of the United States;
13 the proceeds of all taxes imposed upon and collected from any person, firm or corporation and of
14 all taxes or charges imposed upon and collected from any county, district or municipality for the
15 benefit of the fund; the proceeds of all judgments, decrees or awards recovered and collected from
16 any person, firm or corporation for damages done to, or sustained by, any of the state roads or parts
17 thereof; all moneys recovered or received by reason of the violation of any contract respecting the
18 building, construction or maintenance of any state road; all penalties and forfeitures imposed,
19 recovered or received by reason thereof; and any and all other moneys and funds appropriated to,
20 imposed and collected for the benefit of ~~such~~ the fund, or collected by virtue of any statute and
21 payable to such fund, including sales tax on motor vehicle repairs, parts and services as set out in
22 section twenty-seven, article fifteen, chapter eleven of this code: *Provided*, That notwithstanding

1 any provisions of this code to the contrary, 50¢ of every license fee paid pursuant to the provisions
 2 of subdivision (2), subsection (a), section eight, article two, chapter seventeen-b of this code shall
 3 be paid to the special fund established pursuant to the provisions of subsection (a), section twelve,
 4 article two, chapter three of this code.

5 When any money is collected from any of the sources aforesaid, it shall be paid into the State
 6 Treasury by the officer whose duty it is to collect and account for the same, and credited to the State
 7 Road Fund, and shall be used only for the purposes named in this chapter, which are: (a) To pay the
 8 principal and interest due on all state bonds issued for the benefit of said fund, and set aside and
 9 appropriated for that purpose; (b) to pay the expenses of the administration of the road department;
 10 and (c) to pay the cost of maintenance, construction, reconstruction and improvement of all state
 11 roads.

12 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**
 13 **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

14 **ARTICLE 2. DIVISION OF MOTOR VEHICLES.**

15 **§17A-2-13. Authority to administer oaths and certify copies of records; information as to**
 16 **registration.**

17 (a) Officers and employees of the division designated by the commissioner are, for the
 18 purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge
 19 signatures, and shall do so without fee.

20 (b) The commissioner and such officers of the division as he or she may designate are hereby
 21 authorized to prepare under the seal of the division and deliver upon request in conformance with
 22 article two-a of this chapter a certified copy of any record of the division, charging a fee of ~~one dollar~~

1 \$3 for each document so authenticated, in addition to any applicable fee required by this code for
2 issuance, modification or duplication of a title, registration, operator's license, vehicle history, or
3 driving record, and every such certified copy is admissible in any proceeding in any court in like
4 manner as the original thereof.

5 (c) Subject to the provisions of article two-a of this chapter, the commissioner and such
6 officers of the division as he or she may designate may furnish the requested information to any
7 person making a written request for information regarding the registration of any vehicle at a fee of
8 ~~one dollar~~ \$7 for each registration about which information is furnished.

9 **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF**
10 **CERTIFICATES OF TITLE.**

11 **§17A-3-4. Application for certificate of title; fees; abolishing privilege tax; prohibition of**
12 **issuance of certificate of title without compliance with consumer sales and**
13 **service tax provisions; exceptions.**

14 (a) Certificates of registration of any vehicle or registration plates for the vehicle, whether
15 original issues or duplicates, may not be issued or furnished by the Division of Motor Vehicles or
16 any other officer or agent charged with the duty, unless the applicant already has received, or at the
17 same time makes application for and is granted, an official certificate of title of the vehicle in either
18 an electronic or paper format. The application shall be upon a blank form to be furnished by the
19 Division of Motor Vehicles and shall contain a full description of the vehicle, which description shall
20 contain a manufacturer's serial or identification number or other number as determined by the
21 commissioner and any distinguishing marks, together with a statement of the applicant's title and
22 of any liens or encumbrances upon the vehicle, the names and addresses of the holders of the liens

1 and any other information as the Division of Motor Vehicles may require. The application shall be
2 signed and sworn to by the applicant. A duly certified copy of the division's electronic record of a
3 certificate of title is admissible in any civil, criminal or administrative proceeding in this state as
4 evidence of ownership.

5 (b) A tax is imposed upon the privilege of effecting the certification of title of each vehicle
6 in the amount equal to ~~five~~ six percent of the value of the motor vehicle at the time of the
7 certification, to be assessed as follows:

8 (1) If the vehicle is new, the actual purchase price or consideration to the purchaser of the
9 vehicle is the value of the vehicle. If the vehicle is a used or secondhand vehicle, the present market
10 value at time of transfer or purchase is the value of the vehicle for the purposes of this section:
11 *Provided*, That so much of the purchase price or consideration as is represented by the exchange of
12 other vehicles on which the tax imposed by this section has been paid by the purchaser shall be
13 deducted from the total actual price or consideration paid for the vehicle, whether the vehicle be new
14 or secondhand. If the vehicle is acquired through gift or by any manner whatsoever, unless
15 specifically exempted in this section, the present market value of the vehicle at the time of the gift
16 or transfer is the value of the vehicle for the purposes of this section.

17 (2) No certificate of title for any vehicle may be issued to any applicant unless the applicant
18 has paid to the Division of Motor Vehicles the tax imposed by this section which is ~~five~~ six percent
19 of the true and actual value of the vehicle whether the vehicle is acquired through purchase, by gift
20 or by any other manner whatsoever, except gifts between husband and wife or between parents and
21 children: *Provided*, That the husband or wife, or the parents or children, previously have paid the
22 tax on the vehicles transferred to the State of West Virginia.

1 (3) The Division of Motor Vehicles may issue a certificate of registration and title to an
2 applicant if the applicant provides sufficient proof to the Division of Motor Vehicles that the
3 applicant has paid the taxes and fees required by this section to a motor vehicle dealership that has
4 gone out of business or has filed bankruptcy proceedings in the United States bankruptcy court and
5 the taxes and fees so required to be paid by the applicant have not been sent to the division by the
6 motor vehicle dealership or have been impounded due to the bankruptcy proceedings: *Provided,*
7 That the applicant makes an affidavit of the same and assigns all rights to claims for money the
8 applicant may have against the motor vehicle dealership to the Division of Motor Vehicles.

9 (4) The Division of Motor Vehicles shall issue a certificate of registration and title to an
10 applicant without payment of the tax imposed by this section if the applicant is a corporation,
11 partnership or limited liability company transferring the vehicle to another corporation, partnership
12 or limited liability company when the entities involved in the transfer are members of the same
13 controlled group and the transferring entity has previously paid the tax on the vehicle transferred.
14 For the purposes of this section, control means ownership, directly or indirectly, of stock or equity
15 interests possessing fifty percent or more of the total combined voting power of all classes of the
16 stock of a corporation or equity interests of a partnership or limited liability company entitled to vote
17 or ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of
18 the value of the corporation, partnership or limited liability company.

19 (5) The tax imposed by this section does not apply to vehicles to be registered as Class H
20 vehicles or Class M vehicles, as defined in section one, article ten of this chapter, which are used or
21 to be used in interstate commerce. Nor does the tax imposed by this section apply to the titling of
22 Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to the titling

1 of Class C semitrailers, full trailers, pole trailers and converter gear: *Provided*, That if an owner of
2 a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand pounds
3 or more and the title was issued without the payment of the tax imposed by this section, then before
4 the owner may obtain registration for the vehicle at a gross weight less than fifty-five thousand
5 pounds, the owner shall surrender to the commissioner the exempted registration, the exempted
6 certificate of title and pay the tax imposed by this section based upon the current market value of the
7 vehicle: *Provided, however*, That notwithstanding the provisions of section nine, article fifteen,
8 chapter eleven of this code, the exemption from tax under this section for Class B vehicles in excess
9 of fifty-five thousand pounds and Class C semitrailers, full trailers, pole trailers and converter gear
10 does not subject the sale or purchase of the vehicles to the consumers sales and service tax.

11 (6) The tax imposed by this section does not apply to titling of vehicles leased by residents
12 of West Virginia. A tax is imposed upon the monthly payments for the lease of any motor vehicle
13 leased by a resident of West Virginia, which tax is equal to ~~five~~ six percent of the amount of the
14 monthly payment, applied to each payment, and continuing for the entire term of the initial lease
15 period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor
16 of the vehicle.

17 (7) The tax imposed by this section does not apply to titling of vehicles by a registered dealer
18 of this state for resale only, nor does the tax imposed by this section apply to titling of vehicles by
19 this state or any political subdivision thereof, or by any volunteer fire department or duly chartered
20 rescue or ambulance squad organized and incorporated under the laws of this state as a nonprofit
21 corporation for protection of life or property. The total amount of revenue collected by reason of this
22 tax shall be paid into the State Road Fund and expended by the Commissioner of Highways for

1 matching federal funds allocated for West Virginia. In addition to the tax, there is a charge of \$5 \$40
2 for each original certificate of title ~~or~~ and \$35 for each duplicate certificate of title so issued:
3 *Provided*, That this state or any political subdivision of this state or any volunteer fire department
4 or duly chartered rescue squad is exempt from payment of the charge.

5 (8) The certificate is good for the life of the vehicle, so long as the vehicle is owned or held
6 by the original holder of the certificate and need not be renewed annually, or any other time, except
7 as provided in this section.

8 (9) If, by will or direct inheritance, a person becomes the owner of a motor vehicle and the
9 tax imposed by this section previously has been paid to the Division of Motor Vehicles on that
10 vehicle, he or she is not required to pay the tax.

11 (10) A person who has paid the tax imposed by this section is not required to pay the tax a
12 second time for the same motor vehicle, but is required to pay a charge of \$5 \$40 for the certificate
13 of retitle of that motor vehicle, except that the tax shall be paid by the person when the title to the
14 vehicle has been transferred either in this or another state from the person to another person and
15 transferred back to the person.

16 (11) The tax imposed by this section does not apply to any passenger vehicle offered for rent
17 in the normal course of business by a daily passenger rental car business as licensed under the
18 provisions of article six-d of this chapter. For purposes of this section, a daily passenger car means
19 a Class A motor vehicle having a gross weight of eight thousand pounds or less and is registered in
20 this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax
21 of not less than \$1 nor more than \$1.50 for each day or part of the rental period. The commissioner
22 shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-

1 nine-a of this code to establish this tax.

2 (12) The tax imposed by this article does not apply to the titling of any vehicle purchased by
3 a senior citizen service organization which is exempt from the payment of income taxes under the
4 United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which is recognized to be a
5 bona fide senior citizen service organization by the senior services bureau existing under the
6 provisions of article five, chapter sixteen of this code.

7 (13) The tax imposed by this section does not apply to the titling of any vehicle operated by
8 an urban mass transit authority as defined in article twenty-seven, chapter eight of this code or a
9 nonprofit entity exempt from federal and state income tax under the Internal Revenue Code and
10 whose purpose is to provide mass transportation to the public at large designed for the transportation
11 of persons and being operated for the transportation of persons in the public interest.

12 (14) The tax imposed by this section does not apply to the transfer of a title to a vehicle
13 owned and titled in the name of a resident of this state if the applicant:

14 (A) Was not a resident of this state at the time the applicant purchased or otherwise acquired
15 ownership of the vehicle;

16 (B) Presents evidence as the commissioner may require of having titled the vehicle in the
17 applicant's previous state of residence;

18 (C) Has relocated to this state and can present such evidence as the commissioner may
19 require to show bona-fide residency in this state;

20 (D) Presents an affidavit, completed by the assessor of the applicant's county of residence,
21 establishing that the vehicle has been properly reported and is on record in the office of the assessor
22 as personal property; and

1 (E) Makes application to the division for a title and registration, and pays all other fees
2 required by this chapter within thirty days of establishing residency in this state as prescribed in
3 subsection (a), section one-a of this article: *Provided*, That a period of amnesty of three months be
4 established by the commissioner during the calendar year two thousand seven, during which time
5 any resident of this state, having titled his or her vehicle in a previous state of residence, may pay
6 without penalty any fees required by this chapter and transfer the title of his or her vehicle in
7 accordance with the provisions of this section.

8 (c) Notwithstanding any provisions of this code to the contrary, the owners of trailers,
9 semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior
10 to the enactment of this chapter are subject to the privilege tax imposed by this section: *Provided*,
11 That the certification of title of any recreational vehicle owned by the applicant on June 30, 1989,
12 is not subject to the tax imposed by this section: *Provided, however*, That mobile homes,
13 manufactured homes, modular homes and similar nonmotive propelled vehicles, except recreational
14 vehicles and house trailers, susceptible of being moved upon the highways but primarily designed
15 for habitation and occupancy, rather than for transporting persons or property, or any vehicle
16 operated on a nonprofit basis and used exclusively for the transportation of mentally retarded or
17 physically handicapped children when the application for certificate of registration for the vehicle
18 is accompanied by an affidavit stating that the vehicle will be operated on a nonprofit basis and used
19 exclusively for the transportation of mentally retarded and physically handicapped children, are not
20 subject to the tax imposed by this section, but are taxable under the provisions of articles fifteen and
21 fifteen-a, chapter eleven of this code.

22 (d) Beginning on July 1, 2008, the tax imposed under this subsection (b) of this section is

1 abolished and after that date no certificate of title for any motor vehicle may be issued to any
2 applicant unless the applicant provides sufficient proof to the Division of Motor Vehicles that the
3 applicant has paid the fees required by this article and the tax imposed under section three-b, article
4 fifteen, chapter eleven of this code.

5 (e) Any person making any affidavit required under any provision of this section who
6 knowingly swears falsely, or any person who counsels, advises, aids or abets another in the
7 commission of false swearing, or any person, while acting as an agent of the Division of Motor
8 Vehicles, issues a vehicle registration without first collecting the fees and taxes or fails to perform
9 any other duty required by this chapter or chapter eleven of this code to be performed before a
10 vehicle registration is issued is, on the first offense, guilty of a misdemeanor and, upon conviction
11 thereof, shall be fined not more than \$500 or be confined in jail for a period not to exceed six months
12 or, in the discretion of the court, both fined and confined. For a second or any subsequent conviction
13 within five years, that person is guilty of a felony and, upon conviction thereof, shall be fined not
14 more than \$5,000 or be imprisoned in a state correctional facility for not less than one year nor more
15 than five years or, in the discretion of the court, both fined and imprisoned.

16 (f) Notwithstanding any other provisions of this section, any person in the military stationed
17 outside West Virginia or his or her dependents who possess a motor vehicle with valid registration
18 are exempt from the provisions of this article for a period of nine months from the date the person
19 returns to this state or the date his or her dependent returns to this state, whichever is later.

20 (g) No person may transfer, purchase or sell a factory-built home without a certificate of title
21 issued by the commissioner in accordance with the provisions of this article:

22 (1) Any person who fails to provide a certificate of title upon the transfer, purchase or sale

1 of a factory-built home is guilty of a misdemeanor and, upon conviction thereof, shall for the first
2 offense be fined not less than \$100 nor more than \$1,000, or be confined in jail for not more than
3 one year, or both fined and confined. For each subsequent offense, the fine may be increased to not
4 more than \$2,000, with confinement in jail not more than one year, or both fined and confined.

5 (2) Failure of the seller to transfer a certificate of title upon sale or transfer of the factory-built
6 home gives rise to a cause of action, upon prosecution thereof, and allows for the recovery of
7 damages, costs and reasonable attorney fees.

8 (3) This subsection does not apply to a mobile or manufactured home for which a certificate
9 of title has been canceled pursuant to section twelve-b of this article.

10 (h) Notwithstanding any other provision to the contrary, whenever reference is made to the
11 application for or issuance of any title or the recordation or release of any lien, it includes the
12 application, transmission, recordation, transfer of ownership and storage of information in an
13 electronic format.

14 (I) Notwithstanding any other provision contained in this section, nothing herein shall be
15 considered to include modular homes as defined in ~~subsection (I)~~ section two, article fifteen, chapter
16 thirty-seven of this code and built to the state Building Code as established by legislative rules
17 promulgated by the State Fire Commission pursuant to section five-b, article three, chapter twenty-
18 nine of this code.

19 (j) A person who seeks expedited processing of an application for certificate of title or a
20 request for a duplicate title and who appears in person at a regional office or other Division of Motor
21 Vehicles service area may receive same-day service of production of the certificate or duplicate after
22 paying a fee of \$10 in addition to the regular title fees required by this chapter.

1 **ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.**

2 **§17A-4-1. Registration expires on transfer by owner; transfer, surrender or retention of**
3 **plates.**

4 Whenever the owner of a registered vehicle transfers or assigns his or her title, or interest
5 thereto, the registration of such vehicle shall expire: *Provided*, That such owner, if he or she has
6 made application to the department within sixty days from the date of purchase to have said
7 registration plates transferred to be used on another vehicle owned by said owner, may then operate
8 the other vehicle for a period of sixty days, but in no event longer than sixty days from the date of
9 original transfer. Upon such transfer, it shall be the duty of the original owner to retain the
10 registration plates issued therefor and to immediately notify the commissioner of such transfer upon
11 such form as may be provided therefor and to deliver to him or her the certificate of registration,
12 whereupon the commissioner shall, upon the payment of a fee of \$5 \$15, issue a new certificate
13 showing the use to be made of such plates. Such plates may then be used by such owner on another
14 vehicle of the same class as the vehicle for which they were originally issued if such other vehicle
15 does not require a greater license fee than was required for such original vehicle. If such other
16 vehicle requires a greater license fee than such original vehicle, then such plates may be used by
17 paying such difference to the commissioner. When such transfer of ownership is made to a licensed
18 dealer in motor vehicles it shall be the duty of such dealer to immediately execute notification of
19 transfer, in triplicate, and to have this notification properly signed by the owner making the transfer.
20 The dealer shall immediately forward to the ~~department~~ division the original copy of the notification
21 of transfer. One copy of the notification of transfer shall be given to the owner and one shall be
22 retained by the dealer. The owner shall immediately send to the ~~department~~ division the transfer fee

1 of \$5 \$6 with any additional fee that may be required under the terms of this chapter. The owner's
2 copy, properly signed by the dealer, will be the owner's identification until he or she receives a new
3 registration card from the ~~department~~ division.

4 The owner of a set of registration plates may surrender them to the commissioner together
5 with the registration card and, upon the payment of \$5 \$15 as an exchange fee and upon the payment
6 of such additional fees as are necessary to equalize the value of the plates surrendered with the value
7 of registration plates desired, receive in exchange a set of plates and registration card for a vehicle
8 of a different class.

9 **§17A-4-10. Salvage certificates for certain wrecked or damaged vehicles; fee; penalty.**

10 (a) In the event a motor vehicle is determined to be a total loss or otherwise designated as
11 totaled by an insurance company or insurer, and upon payment of a total loss claim to an insured or
12 claimant owner for the purchase of the vehicle, the insurance company or the insurer, as a condition
13 of the payment, shall require the owner to surrender the certificate of title: *Provided*, That an insured
14 or claimant owner may choose to retain physical possession and ownership of a total loss vehicle.
15 If the vehicle owner chooses to retain the vehicle and the vehicle has not been determined to be a
16 cosmetic total loss in accordance with subsection (d) of this section, the insurance company or
17 insurer shall also require the owner to surrender the vehicle registration certificate. The term "total
18 loss" means a motor vehicle which has sustained damages equivalent to seventy-five percent or more
19 of the market value as determined by a nationally accepted used car value guide or meets the
20 definition of a flood-damaged vehicle as defined in this section.

21 (b) The insurance company or insurer shall, prior to the payment of the total loss claim,
22 determine if the vehicle is repairable, cosmetically damaged or nonrepairable. Within ten days of

1 payment of the total loss claim, the insurance company or insurer shall surrender the certificate of
2 title, a copy of the claim settlement, a completed application on a form prescribed by the
3 commissioner and the registration certificate if the owner has chosen to keep the vehicle to the
4 Division of Motor Vehicles.

5 (c) If the insurance company or insurer determines that the vehicle is repairable, the division
6 shall issue a salvage certificate, on a form prescribed by the commissioner, in the name of the
7 insurance company, the insurer or the vehicle owner if the owner has chosen to retain the vehicle.
8 The certificate shall contain, on the reverse, spaces for one successive assignment before a new
9 certificate at an additional fee is required. Upon the sale of the vehicle, the insurance company,
10 insurer or vehicle owner if the owner has chosen to retain the vehicle, shall complete the assignment
11 of ownership on the salvage certificate and deliver it to the purchaser. The vehicle may not be titled
12 or registered for operation on the streets or highways of this state unless there is compliance with
13 subsection (g) of this section. The division shall charge a fee of ~~\$15~~ \$40 for each salvage title
14 issued.

15 (d) If the insurance company or insurer determines the damage to a totaled vehicle is
16 exclusively cosmetic and no repair is necessary in order to legally and safely operate the motor
17 vehicle on the roads and highways of this state, the insurance company or insurer shall, upon
18 payment of the claim, submit the certificate of title to the division. Neither the insurance company
19 nor the division may require the vehicle owner to surrender the registration certificate in the event
20 of a cosmetic total loss settlement.

21 (1) The division shall, without further inspection, issue a title branded “cosmetic total loss”
22 to the insured or claimant owner if the insured or claimant owner wishes to retain possession of the

1 vehicle, in lieu of a salvage certificate. The division shall charge a fee of \$5 \$40 for each cosmetic
2 total loss title issued. The terms “cosmetically damaged” and “cosmetic total loss” do not include
3 any vehicle which has been damaged by flood or fire. The designation "cosmetic total loss" on a title
4 may not be removed.

5 (2) If the insured or claimant owner elects not to take possession of the vehicle and the
6 insurance company or insurer retains possession, the division shall issue a cosmetic total loss salvage
7 certificate to the insurance company or insurer. The division shall charge a fee of ~~\$15~~ \$40 for each
8 cosmetic total loss salvage certificate issued. The division shall, upon surrender of the cosmetic total
9 loss salvage certificate issued under the provisions of this paragraph and payment of the five percent
10 motor vehicle sales tax on the fair market value of the vehicle as determined by the commissioner,
11 issue a title branded "cosmetic total loss" without further inspection.

12 (e) If the insurance company or insurer determines that the damage to a totaled vehicle
13 renders it nonrepairable, incapable of safe operation for use on roads and highways and as having
14 no resale value except as a source of parts or scrap, the insurance company or vehicle owner shall,
15 in the manner prescribed by the commissioner, request that the division issue a nonrepairable motor
16 vehicle certificate in lieu of a salvage certificate. The division shall issue a nonrepairable motor
17 vehicle certificate without charge.

18 (f) Any owner who scraps, compresses, dismantles or destroys a vehicle without further
19 transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage
20 certificate has been issued shall, within forty-five days, surrender the certificate of title,
21 nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

22 (g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled,

1 compressed or destroyed, shall, within forty-five days, surrender to the division the certificate of title,
2 nonrepairable motor vehicle certificate, salvage certificate or a statement of cancellation signed by
3 the seller, on a form prescribed by the commissioner. Subsequent purchasers of salvage or scrap are
4 not required to comply with the notification requirement.

5 (h) If the motor vehicle is a "reconstructed vehicle" as defined in this section or section one,
6 article one of this chapter, it may not be titled or registered for operation until it has been inspected
7 by an official state inspection station and by the Division of Motor Vehicles. Following an approved
8 inspection, an application for a new certificate of title may be submitted to the division. The
9 applicant is required to retain all receipts for component parts, equipment and materials used in the
10 reconstruction. The salvage certificate shall also be surrendered to the division before a certificate
11 of title may be issued with the appropriate brand.

12 (I) The owner or title holder of a motor vehicle titled in this state which has previously been
13 branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic total loss
14 salvage, flood, fire, an equivalent term under another state's laws or a term consistent with the intent
15 of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. §30502
16 shall, upon becoming aware of the brand, apply for and receive a title from the Division of Motor
17 Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss", "cosmetic total loss
18 salvage", "flood", "fire" or other brand is shown. The division shall charge a fee of \$5 \$40 for each
19 title so issued.

20 (j) If application is made for title to a motor vehicle, the title to which has previously been
21 branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other
22 brand by the Division of Motor Vehicles under this section and said application is accompanied by

1 a title from another state which does not carry the brand, the division shall, before issuing the title,
2 affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss salvage", "flood", "fire" or
3 other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled as reconstructed,
4 cosmetic total loss, flood, fire or other brand under the provisions of this section shall be based on
5 fifty percent of the fair market value of the vehicle as determined by a nationally accepted used car
6 value guide to be used by the commissioner.

7 (k) The division shall charge a fee of ~~\$15~~ \$40 for the issuance of each salvage certificate or
8 cosmetic total loss salvage certificate but shall not require the payment of the five percent motor
9 vehicle sales tax. However, upon application for a certificate of title for a reconstructed, cosmetic
10 total loss, flood or fire damaged vehicle or other brand, the division shall collect the five percent
11 privilege tax on the fair market value of the vehicle as determined by the commissioner unless the
12 applicant is otherwise exempt from the payment of such privilege tax. A
13 wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five
14 percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of \$35 per
15 vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special fund
16 created in the State Treasurer's Office and may be expended by the division to carry out the
17 provisions of this article: *Provided*, That on and after July 1, 2007, any balance in the special fund
18 and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed
19 wreckers/dismantlers/rebuilders may charge a fee not to exceed \$25 for all vehicles owned by private
20 rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

21 (l) As used in this section:

22 (1) "Reconstructed vehicle" means the vehicle was totaled under the provisions of this section

1 or by the provisions of another state or jurisdiction and has been rebuilt in accordance with the
2 provisions of this section or in accordance with the provisions of another state or jurisdiction or
3 meets the provisions of subsection (m), section one, article one of this chapter.

4 (2) "Flood-damaged vehicle" means that the vehicle was submerged in water to the extent
5 that water entered the passenger or trunk compartment.

6 (3) "Other brand" means a brand consistent with the intent of the National Motor Vehicle
7 Title Information System established pursuant to 49 U. S. C. §30502 and rules promulgated by the
8 United States Department of Justice to alert consumers, motor vehicle dealers or the insurance
9 industry of the history of a vehicle.

10 (m) Every vehicle owner shall comply with the branding requirements for a totaled vehicle
11 whether or not the owner receives an insurance claim settlement for a totaled vehicle.

12 (n) A certificate of title issued by the division for a reconstructed vehicle shall contain
13 markings in bold print on the face of the title that it is for a reconstructed, flood- or fire damaged
14 vehicle.

15 (o) Any person who knowingly provides false or fraudulent information to the division that
16 is required by this section in an application for a title, a cosmetic total loss title, a reconstructed
17 vehicle title or a salvage certificate or who knowingly fails to disclose to the division information
18 required by this section to be included in the application or who otherwise violates the provisions
19 of this section is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be
20 fined not less than \$1,000 nor more than \$2,500, or imprisoned in jail for not more than one year,
21 or both fined and imprisoned.

22 **ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE SHOWN ON**

1 **CERTIFICATE OF TITLE; NOTICE TO CREDITORS AND**
2 **PURCHASERS.**

3 **§17A-4A-10. Fee for recording and release of lien.**

4 The Division of Motor Vehicles is hereby authorized to charge a fee of \$5 \$20 for the
5 recording of any lien either in an electronic or paper format created by the voluntary act of the owner
6 and endorsing it upon the title certificate issued pursuant to this article, and the Division of Motor
7 Vehicles is hereby authorized to charge a fee of ~~50¢~~ \$20 for recordation of any release of a lien
8 created by the voluntary act of the owner: *Provided*, That no charge shall be made for the
9 endorsement and recordation of liens or releases thereof as provided under section nine of this
10 article. No charge shall be made for the issuance of a title to the owner of a vehicle upon the receipt
11 of an electronic release of the final lien.

12 **ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**

13 **§17A-10-3. Registration fees for vehicles equipped with pneumatic tires.**

14 The following registration fees for the classes indicated shall be paid to the division for the
15 registration of vehicles subject to registration under this chapter when equipped with pneumatic tires:

16 (a) Registration fees for the following classes shall be paid to the division annually:

17 (1) *Class A.* -- The registration fee for motor vehicles of this class is ~~\$28.50~~ \$49.

18 ~~Provided, That~~ The registration fees and any other fees required by this chapter for Class A
19 vehicles under the optional biennial staggered registration system shall be multiplied by two and paid
20 biennially to the division.

21 No license fee may be charged for vehicles owned by churches, or by trustees for churches,
22 which are regularly used for transporting parishioners to and from church services. Notwithstanding

1 the exemption, the certificate of registration and license plates shall be obtained the same as other
2 cards and plates under this article.

3 (2) *Class B.* -- The registration fee for all motor vehicles of this class is as follows:

4 (A) For declared gross weights of ten thousand one pounds to sixteen thousand pounds -- \$28
5 plus \$5 for each one thousand pounds or fraction of one thousand pounds that the gross weight of
6 the vehicle or combination of vehicles exceeds ten thousand pounds.

7 (B) For declared gross weights greater than sixteen thousand pounds, but less than fifty-five
8 thousand pounds -- \$78.50 plus \$10 for each one thousand or fraction of one thousand pounds that
9 the gross weight of the vehicle or combination of vehicles exceeds sixteen thousand pounds.

10 (C) For declared gross weights of fifty-five thousand pounds or more -- \$737.50 plus \$15.75
11 for each one thousand pounds or fraction of one thousand pounds that the gross weight of the vehicle
12 or combination of vehicles exceeds fifty-five thousand pounds.

13 (3) *Class G.* -- The registration fee for each motorcycle or parking enforcement vehicle is \$8:
14 *Provided,* That the registration fee and any other fees required by this chapter for Class G vehicles
15 shall be for at least one year and under an optional biennial registration system the annual fee shall
16 be multiplied by two and paid biennially to the division.

17 (4) *Class H.* -- The registration fee for all vehicles for this class operating entirely within the
18 state is \$5; and for vehicles engaged in interstate transportation of persons, the registration fee is the
19 amount of the fees provided by this section for Class B, reduced by the amount that the mileage of
20 the vehicles operated in states other than West Virginia bears to the total mileage operated by the
21 vehicles in all states under a formula to be established by the Division of Motor Vehicles.

22 (5) *Class J.* -- The registration fee for all motor vehicles of this class is \$85. Ambulances and

1 hearses used exclusively as ambulances and hearses are exempt from the special fees set forth in this
2 section.

3 (6) *Class M.* -- The registration fee for all vehicles of this class is \$17.50.

4 (7) *Class X.* -- The registration fee for all motor vehicles of this class is as follows:

5 (A) For farm trucks of declared gross weights of eight thousand one pounds to sixteen
6 thousand pounds -- \$30.

7 (B) For farm trucks of declared gross weights of sixteen thousand one pounds to twenty-two
8 thousand pounds -- \$60.

9 (C) For farm trucks of declared gross weights of twenty-two thousand one pounds to twenty-
10 eight thousand pounds -- \$90.

11 (D) For farm trucks of declared gross weights of twenty-eight thousand one pounds to thirty-
12 four thousand pounds -- \$115.

13 (E) For farm trucks of declared gross weights of thirty-four thousand one pounds to forty-four
14 thousand pounds -- \$160.

15 (F) For farm trucks of declared gross weights of forty-four thousand one pounds to fifty-four
16 thousand pounds -- \$205.

17 (G) For farm trucks of declared gross weights of fifty-four thousand one pounds to eighty
18 thousand pounds -- \$250: *Provided*, That the provisions of subsection (a), section eight, article one,
19 chapter seventeen-e of this code do not apply if the vehicle exceeds sixty-four thousand pounds and
20 is a truck tractor or road tractor.

21 (b) Registration fees for the following classes shall be paid to the division for a maximum
22 period of three years, or portion of a year based on the number of years remaining in the three-year

1 period designated by the commissioner:

2 (1) *Class R.* -- The annual registration fee for all vehicles of this class is \$12.

3 (2) *Class T.* -- The annual registration fee for all vehicles of this class is \$8.

4 (c) The fees paid to the division for a multiyear registration provided by this chapter shall be
5 the same as the annual registration fee established by this section and any other fee required by this
6 chapter multiplied by the number of years for which the registration is issued.

7 (d) The registration fee for all Class C vehicles is \$50. All Class C trailers shall be registered
8 for the duration of the owner's interest in the trailer and do not expire until either sold or otherwise
9 permanently removed from the service of the owner: *Provided*, That a registrant may transfer a Class
10 C registration plate from a trailer owned less than thirty days to another Class C trailer titled in the
11 name of the registrant upon payment of the transfer fee prescribed in section ten of this article.

12 **§17A-10-10. Fees upon transfer of registration and issuance of certificates of title.**

13 A fee of \$5 \$15 shall be paid for a transfer of registration by an owner from one vehicle to
14 another vehicle of the same class or for surrender of registration of one vehicle in exchange for
15 registration of a vehicle of a different class in addition to the payment of any difference in fees as
16 provided in section one, article four of this chapter.

17 A fee of \$5 \$15 shall be paid for the transfer of registration from a deceased person to his
18 or her legal heir or legatee as provided in section five, article four of this chapter.

19 A fee of \$5 \$40 shall be paid for the issuance of a certificate of title.

20 **§17A-10-11. Fees for duplicate registration plates, registration cards and certificates of title.**

21 A fee of \$5 \$15 shall be paid for the issuance of duplicate or substitute ~~registration plates,~~
22 ~~registration cards, or certificates of title.~~ A fee of \$15 shall be paid for the issuance of duplicate or

1 substitute registration plates or decals. A fee of \$35 shall be paid for the issuance of duplicate
 2 certificates of title.

3 **§17A-10-17. Fee for Alternative Fuel Motor Vehicles.**

4 In addition to each fee provided in this article, an additional \$200 fee shall be imposed on
 5 the issuance of each certificate of registration and renewal for alternative fuel motor vehicle, as
 6 defined by section two, article six-d, chapter eleven of this code. The additional fee provided shall
 7 be imposed for an application for a certificate and renewal made on or after July 1, 2015.

8 **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

9 **ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.**

10 **§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local**
 11 **government license; motorcycle driver license; identification cards.**

12 (a)(1) No person, except those hereinafter expressly exempted, may drive any motor vehicle
 13 upon a street or highway in this state or upon any subdivision street used by the public generally
 14 unless the person has a valid driver's license issued pursuant to this code for the type or class of
 15 vehicle being driven.

16 (2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the
 17 privilege thereby granted in the manner provided in this code and, except as otherwise provided by
 18 law, is not required to obtain any other license to exercise the privilege by any county, municipality
 19 or local board or body having authority to adopt local police regulations.

20 (b) The division, upon issuing a driver's license, shall indicate on the license the type or
 21 general class or classes of vehicles the licensee may operate in accordance with this code, federal law
 22 or rule. Licenses shall be issued in different colors for those drivers under age eighteen, those drivers

1 age eighteen to twenty-one and adult drivers. The commissioner is authorized to select and assign
2 colors to the licenses of the various age groups.

3 (c) The following drivers licenses classifications are hereby established:

4 (1) A Class A, B or C license shall be issued to those persons eighteen years of age or older
5 with two years of driving experience who have qualified for the commercial driver's license
6 established by chapter seventeen-e of this code and the federal Motor Carrier Safety and
7 Improvement Act of 1999 and subsequent rules, and have paid the required fee.

8 (2) A Class D license shall be issued to those persons eighteen years and older with one year
9 of driving experience who operate motor vehicles other than those types of vehicles which require
10 the operator to be licensed under the provisions of chapter seventeen-e of this code and federal law
11 and rule and whose primary function or employment is the transportation of persons or property for
12 compensation or wages and have paid the required fee. For the purpose of regulating the operation
13 of motor vehicles, wherever the term "chauffeur's license" is used in this code, it shall be construed
14 to mean the Class A, B, C or D license described in this section or chapter seventeen-e of this code
15 or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions of
16 chapter seventeen-e of this code and federal law or rule and who operates a motor vehicle registered
17 or required to be registered as a Class A motor vehicle, as that term is defined in section one, article
18 ten, chapter seventeen-a of this code, with a gross vehicle weight rating of less than eight thousand
19 one pounds, is not required to obtain a Class D license.

20 (3) A Class E license shall be issued to those persons who have qualified for a driver's
21 license under the provisions of this chapter and who are not required to obtain a Class A, B, C or D
22 license and who have paid the required fee. The Class E license may be endorsed under the

1 provisions of section seven-b of this article for motorcycle operation. The Class E or (G) license for
2 any person under the age of eighteen may also be endorsed with the appropriate graduated driver
3 license level in accordance with the provisions of section three-a of this article.

4 (4) A Class F license shall be issued to those persons who successfully complete the
5 motorcycle examination procedure provided by this chapter and have paid the required fee, but who
6 do not possess a Class A, B, C, D or E driver's license.

7 (5) A Class G driver's license or instruction permit shall be issued to a person using bioptic
8 telescopic lenses who has successfully completed an approved driver training program and complied
9 with all other requirements of article two-b of this chapter.

10 (d) All licenses issued under this section may contain information designating the licensee
11 as a diabetic, organ donor, as deaf or hard-of-hearing, or as having any other handicap or disability,
12 or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the
13 United States according to criteria established by the division, if the licensee requests this
14 information on the license. An honorably discharged veteran may be issued a replacement license
15 without charge if the request is made before the expiration date of the current license and the only
16 purpose for receiving the replacement license is to get the veterans designation placed on the license.

17 (e) No person, except those hereinafter expressly exempted, may drive any motorcycle upon
18 a street or highway in this state or upon any subdivision street used by the public generally unless
19 the person has a valid motorcycle license, a valid license which has been endorsed under section
20 seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

21 (f) (1) An identification card may be issued to any person who:

22 (A) Is a resident of this state in accordance with the provisions of section one-a, article three,

1 chapter seventeen-a of this code;

2 (B) Has reached the age of two years. The division may also issue an identification card to
3 a person under the age of two years for good cause shown;

4 (C) Has paid the required fee of ~~two dollars and fifty cents~~ \$8 per year: *Provided*, That the
5 fee is not required if the applicant is sixty-five years or older or is legally blind; and

6 (D) Presents a birth certificate or other proof of age and identity acceptable to the division
7 with a completed application on a form furnished by the division.

8 (2) The identification card shall contain the same information as a driver's license except that
9 the identification card shall be clearly marked as an identification card. The division may issue an
10 identification card with less information to persons under the age of sixteen. An identification card
11 may be renewed annually on application and payment of the fee required by this section.

12 (A) Every identification card issued to a person who has attained his or her twenty-first
13 birthday expires on the licensee's birthday in those years in which the licensee's age is evenly
14 divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may
15 be issued for less than three years or for more than seven years and expires on the licensee's birthday
16 in those years in which the licensee's age is evenly divisible by five.

17 (B) Every identification card issued to a person who has not attained his or her twenty-first
18 birthday expires thirty days after the licensee's twenty-first birthday.

19 (C) Every identification card issued to persons under the age of sixteen shall be issued for
20 a period of two years and shall expire on the last day of the month in which the applicant's birthday
21 occurs.

22 (3) The division may issue an identification card to an applicant whose privilege to operate

1 a motor vehicle has been refused, canceled, suspended or revoked under the provisions of this code.

2 (g) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
3 conviction, shall be fined not more than \$500; and upon a second or subsequent conviction, shall be
4 fined not more than \$500 or confined in jail not more than six months, or both fined and confined.

5 **§17B-2-3a. Graduated driver's license.**

6 (a) Any person under the age of eighteen may not operate a motor vehicle unless he or she
7 has obtained a graduated driver's license in accordance with the three-level graduated driver's
8 license system described in the following provisions.

9 (b) Any person under the age of twenty-one, regardless of class or level of licensure, who
10 operates a motor vehicle with any measurable alcohol in his or her system is subject to the provisions
11 of section two, article five, chapter seventeen-c of this code and section two, article five-a of said
12 chapter. Any person under the age of eighteen, regardless of class or licensure level, is subject to
13 the mandatory school attendance and satisfactory academic progress provisions of section eleven,
14 article eight, chapter eighteen of this code.

15 (c) *Level one instruction permit.* -- An applicant who is fifteen years or older meeting all
16 other requirements prescribed in this code may be issued a level one instruction permit.

17 (1) *Eligibility.* -- The division shall not issue a level one instruction permit unless the
18 applicant:

19 (A) Presents a completed application, as prescribed by the provisions of section six of this
20 article, and which is accompanied by a writing, duly acknowledged, consenting to the issuance of
21 the graduated driver's license and executed by a parent or guardian entitled to custody of the
22 applicant;

1 (B) Presents a certified copy of a birth certificate issued by a state or other governmental
2 entity responsible for vital records unexpired, or a valid passport issued by the United States
3 government evidencing that the applicant meets the minimum age requirement and is of verifiable
4 identity;

5 (C) Passes the vision and written knowledge examination and completes the driving under
6 the influence awareness program, as prescribed in section seven of this article;

7 (D) Presents a driver's eligibility certificate or otherwise shows compliance with the
8 provisions of section eleven, article eight, chapter eighteen of this code; and

9 (E) Pays a fee of \$5, which shall permit the applicant two attempts at the written knowledge
10 test.

11 (2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under
12 the provisions of this section is valid until thirty days after the date the applicant attains the age of
13 eighteen and is not renewable. However, any permit holder who allows his or her permit to expire
14 prior to successfully passing the road skills portion of the driver examination, and who has not
15 committed any offense which requires the suspension, revocation or cancellation of the instruction
16 permit, may reapply for a new instruction permit under the provisions of section six of this article.
17 The division shall immediately revoke the permit upon receipt of a second conviction for a moving
18 violation of traffic regulations and laws of the road or violation of the terms and conditions of a level
19 one instruction permit, which convictions have become final unless a greater penalty is required by
20 this section or any other provision of this code. Any person whose instruction permit has been
21 revoked is disqualified from retesting for a period of ninety days. However, after the expiration of
22 ninety days, the person may retest if otherwise eligible. In addition to all other provisions of this

1 code for which a driver's license may be restricted, suspended, revoked or canceled, the holder of a
2 level one instruction permit may only operate a motor vehicle under the following conditions:

3 (A) Under the direct supervision of a licensed driver, twenty-one years of age or older, or a
4 driver's education or driving school instructor who is acting in an official capacity as an instructor,
5 who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be
6 operated with no more than two additional passengers, unless the passengers are family members;

7 (B) Between the hours of five a.m. and ten p.m.;

8 (C) All occupants must use safety belts in accordance with the provisions of section forty-
9 nine, article fifteen, chapter seventeen-c of this code;

10 (D) Without any measurable blood alcohol content, in accordance with the provisions of
11 subsection (h), section two, article five, chapter seventeen-c of this code; and

12 (E) Maintains current school enrollment and is making satisfactory academic progress or
13 otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of
14 this code.

15 (F) A holder of a level one instruction permit who is under the age of eighteen years shall be
16 prohibited from using a wireless communication device while operating a motor vehicle, unless the
17 use of the wireless communication device is for contacting a 9-1-1 system. A person violating the
18 provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the
19 first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense
20 be fined \$75.

21 (d) *Level two intermediate driver's license.* -- An applicant sixteen years of age or older,
22 meeting all other requirements of the code, may be issued a level two intermediate driver's license.

1 (1) *Eligibility.* -- The division shall not issue a level two intermediate driver's license unless
2 the applicant:

3 (A) Presents a completed application as prescribed in section six of this article;

4 (B) Has held the level one instruction permit conviction-free for the one hundred eighty days
5 immediately preceding the date of application for a level two intermediate license;

6 (C) Has completed either a driver's education course approved by the State Department of
7 Education or fifty hours of behind-the-wheel driving experience, including a minimum of ten hours
8 of nighttime driving, certified by a parent or legal guardian or other responsible adult over the age
9 of twenty-one as indicated on the form prescribed by the division: *Provided*, That nothing in this
10 paragraph shall be construed to require any school or any county board of education to provide any
11 particular number of driver's education courses or to provide driver's education training to any
12 student;

13 (D) Presents a driver's eligibility certificate or otherwise shows compliance with the
14 provisions of section eleven, article eight, chapter eighteen of this code;

15 (E) Passes the road skills examination as prescribed by section seven of this article; and

16 (F) Pays a fee of \$5.

17 (2) *Terms and conditions of a level two intermediate driver's license.* -- A level two
18 intermediate driver's license issued under the provisions of this section shall expire thirty days after
19 the applicant attains the age of eighteen, or until the licensee qualifies for a level three full Class E
20 license, whichever comes first. In addition to all other provisions of this code for which a driver's
21 license may be restricted, suspended, revoked or canceled, the holder of a level two intermediate
22 driver's license may only operate a motor vehicle under the following conditions:

- 1 (A) Unsupervised between the hours of five a.m. and ten p.m;
- 2 (B) Only under the direct supervision of a licensed driver, age twenty-one years or older,
3 between the hours of ten p.m. and five a.m. except when the licensee is going to or returning from:
- 4 (i) Lawful employment;
- 5 (ii) A school-sanctioned activity;
- 6 (iii) A religious event; or
- 7 (iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent
8 bodily injury or death of another;
- 9 (C) All occupants shall use safety belts in accordance with the provisions of section forty-
10 nine, article fifteen, chapter seventeen-c of this code;
- 11 (D) For the first six months after issuance of a level two intermediate driver's license, the
12 licensee may not operate a motor vehicle carrying any passengers less than twenty years old, unless
13 these passengers are family members of the licensee; for the second six months after issuance of a
14 level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more
15 than one passenger less than twenty years old, unless these passengers are family members of the
16 licensee;
- 17 (E) Without any measurable blood alcohol content in accordance with the provisions of
18 subsection (h), section two, article five, chapter seventeen-c of this code;
- 19 (F) Maintains current school enrollment and is making satisfactory academic progress or
20 otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of
21 this code;
- 22 (G) A holder of a level two intermediate driver's license who is under the age of eighteen

1 years shall be prohibited from using a wireless communication device while operating a motor
2 vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A
3 person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction
4 thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or
5 subsequent offense be fined \$75.

6 (H) Upon the first conviction for a moving traffic violation or a violation of paragraph (A),
7 (B), (C), (D) or (G), subdivision (1), subsection (d) of this section of the terms and conditions of a
8 level two intermediate driver's license, the licensee shall enroll in an approved driver improvement
9 program unless a greater penalty is required by this section or by any other provision of this code;
10 and

11 At the discretion of the commissioner, completion of an approved driver improvement
12 program may be used to negate the effect of a minor traffic violation as defined by the commissioner
13 against the one year conviction-free driving criteria for early eligibility for a level three driver's
14 license and may also negate the effect of one minor traffic violation for purposes of avoiding a
15 second conviction under paragraph (I) of this subdivision; and

16 (I) Upon the second conviction for a moving traffic violation or a violation of the terms and
17 conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor
18 vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's
19 eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any
20 other provision of this code. Any person whose driver's license has been revoked as a level two
21 intermediate driver, upon reaching the age of eighteen years and if otherwise eligible may reapply
22 for an instruction permit, then a driver's license in accordance with the provisions of sections five,

1 six and seven of this article.

2 (e) *Level three, full Class E license.* — The level three license is valid until thirty days after
3 the date the licensee attains his or her twenty-first birthday. Unless otherwise provided in this
4 section or any other section of this code, the holder of a level three full Class E license is subject to
5 the same terms and conditions as the holder of a regular Class E driver’s license.

6 A level two intermediate licensee whose privilege to operate a motor vehicle has not been
7 suspended, revoked or otherwise canceled and who meets all other requirements of the code may be
8 issued a level three full Class E license without further examination or road skills testing if the
9 licensee:

10 (1) Has reached the age of seventeen years; and

11 (A) Presents a completed application as prescribed by the provisions of section six of this
12 article;

13 (B) Has held the level two intermediate license conviction free for the twelve-month period
14 immediately preceding the date of the application;

15 (C) Has completed any driver improvement program required under paragraph (G),
16 subdivision (2), subsection (d) of this section; and

17 (D) Pays a fee of ~~\$2.50~~ \$6.50 for each year the license is valid. An additional fee of \$.50
18 shall be collected to be deposited in the Combined Voter Registration and Driver’s Licensing Fund
19 established in section twelve, article two, chapter three of this code;

20 (E) Presents a driver’s eligibility certificate or otherwise shows compliance with the
21 provisions of section eleven, article eight, chapter eighteen of this code; or

22 (2) Reaches the age of eighteen years; and

1 (A) Presents a completed application as prescribed by the provisions of section six of this
2 article; and

3 (B) Pays a fee of ~~\$2.50~~ \$6.50 for each year the license is valid. An additional fee of \$.50
4 shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
5 established in section twelve, article two, chapter three of this code.

6 (f) A person violating the provisions of the terms and conditions of a level one or level two
7 intermediate driver's license is guilty of a misdemeanor and, upon conviction thereof, shall for the
8 first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense
9 be fined \$75.

10 **§17B-2-8. Issuance and contents of licenses; fees.**

11 (a) The division shall, upon payment of the required fee, issue to every applicant qualifying
12 therefor a driver's license, which shall indicate the type or general class or classes of vehicle or
13 vehicles the licensee may operate in accordance with this chapter or chapter seventeen-e of this code,
14 or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the
15 full legal name, date of birth, residence address, a brief description and a color photograph of the
16 licensee and either a facsimile of the signature of the licensee or a space upon which the signature
17 of the licensee is written with pen and ink immediately upon receipt of the license. No license is
18 valid until it has been so signed by the licensee.

19 (b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle
20 endorsement. A driver's license which is valid for the operation of a commercial motor vehicle shall
21 be issued in accordance with chapter seventeen-e of this code.

22 (c) The division shall use such process or processes in the issuance of licenses that will,

1 insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction,
2 forging or modification of, or the superimposition of a photograph on, the license.

3 (d) The fee for the issuance of a Class E driver's license is ~~\$2.50~~ \$8 per year for each year
4 the license is valid. The fee for issuance of a Class D driver's license is ~~\$6.25~~ \$6.50 per year for
5 each year the license is valid. An additional fee of \$.50 shall be collected from the applicant at the
6 time of original issuance or each renewal and the additional fee shall be deposited in the Combined
7 Voter Registration and Driver's Licensing Fund established pursuant to the provisions of section
8 twelve, article two, chapter three of this code. The additional fee for adding a motorcycle
9 endorsement to a driver's license is \$1 per year for each year the license is issued.

10 (e) The fee for issuance of a motorcycle-only license is \$2.50 for each year for which the
11 motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license
12 shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as
13 established in section seven, article one-d of this chapter.

14 (f) The fee for the issuance of either the level one or level two graduated driver's license as
15 prescribed in section three-a of this article is \$5.

16 (g) The fee for issuance of a federally compliant driver's license or identification card for
17 federal use is \$10 in addition to any other fee required by this chapter. Any fees collected under the
18 provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established in
19 accordance with section twenty-one, article two, chapter seventeen-a of this code.

20 (h) The division may use an address on the face of the license other than the applicant's
21 address of residence if:

22 (1) The applicant has a physical address or location that is not recognized by the post office

1 for the purpose of receiving mail;

2 (2) The applicant is enrolled in a state address confidentiality program or the alcohol test and
3 lock program;

4 (3) The applicant's address is entitled to be suppressed under a state or federal law or
5 suppressed by a court order; or

6 (4) At the discretion of the commissioner, the applicant's address may be suppressed to
7 provide security for classes of applicants such as law-enforcement officials, protected witnesses and
8 members of the state and federal judicial systems.

9 (i) Notwithstanding any provision in this article to the contrary, a valid military identification
10 card with an expiration date issued by the United States Department of Defense for active duty,
11 reserve or retired military personnel containing a digitized photo and the holder's full legal name
12 may be used to establish current full legal name and legal presence. The commissioner may at his
13 or her discretion expand the use of military identification cards for other uses as permitted under this
14 code or federal rule.

15 **§17B-2-11. Duplicate permits and licenses.**

16 In the event that an instruction permit or driver's license issued under the provisions of this
17 chapter is lost or destroyed, or if the information contained on the license has changed, the person
18 to whom the permit or license was issued may upon making proper application and upon payment
19 of a fee of \$5 \$20 obtain a duplicate thereof upon furnishing proof satisfactory to the division that
20 the permit or license has been lost or destroyed.

21 **CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.**

22 **ARTICLE 2. ADMINISTRATION OF LAW.**

1 **§17D-2-2. Commissioner to furnish abstract of operating record; fee for abstract.**

2 The commissioner shall upon request and subject to the provisions of article two-a, chapter
3 seventeen-a of this code, furnish any person a certified abstract of the operating record of any person
4 subject to the provisions of this chapter, and if there is no record of any conviction of the person of
5 a violation of any law relating to the operation of a motor vehicle or of any injury or damage caused
6 by the person, the commissioner shall so certify. The commissioner shall collect \$5 \$25 for each
7 abstract.

8 **CHAPTER 31. CORPORATIONS.**

9 **ARTICLE 15D. WEST VIRGINIA TRANSPORTATION INFRASTRUCTURE BANK.**

10 **§31-15D-1. Legislative Findings.**

11 The West Virginia Legislature finds that:

12 (1) Adequate transportation facilities are an important element in the ability of the state to
13 provide for the health and welfare of its citizens and the continuing economic growth and
14 development that will provide jobs for the citizens of West Virginia;

15 (2) Traditional transportation financing methods in West Virginia cannot generate the
16 resources necessary to fund the cost of transportation facilities which are required for the continued
17 economic viability and future economic expansion;

18 (3) The State of West Virginia has the ability to provide alternative methods of financing
19 highway and transportation projects;

20 (4) Loans and other financial assistance to government units can play an important part in
21 meeting transportation needs, and this assistance is in the public interest and for the public benefit;

22 and

1 (5) This article provides an instrumentality to assist government units in constructing and
2 improving highway and other transportation facilities by providing loans and other financial
3 assistance.

4 **§31-15D-2. Definitions.**

5 (a) "Bank" means the West Virginia Transportation Infrastructure Bank created in section
6 three of this article;

7 (b) "Board" means the Board of Directors of the bank;

8 (c) "Bond" means a revenue bond, note, or other evidence of indebtedness;

9 (d) "Department of Transportation " means the Department of Transportation established in
10 section one, article two, chapter five-f of this code, or any successor to all or any substantial part of
11 its powers and duties;

12 (e) "Division of Highways" means the Division of Highways, established in section one,
13 article two-a, chapter seventeen of this code, or any successor to all or any substantial part of its
14 powers and duties;

15 (f) "Eligible costs" means, as applied to a qualified project to be financed, in whole or in part,
16 from funds provided from federal accounts, the costs that are permitted under applicable federal
17 laws, requirements, procedures, and guidelines in regard to establishing, operating and providing
18 assistance from the bank. As applied to a qualified project to be financed from other funds otherwise
19 provided by this article, eligible costs include the costs of preliminary engineering, traffic and
20 revenue studies, environmental studies, rights-of-way, legal and financial services associated with
21 the development of a qualified project, construction, construction management, facilities, and other
22 costs necessary for the start up of the qualified project. As applied to any qualified project to be

1 financed from the State Road Fund, eligible projects costs are limited to capital expenditures for
2 highway facilities;

3 (g) "Eligible project" means any public transportation project to acquire, plan, engineer,
4 design, construct, reconstruct, improve, repair, restore, maintain or rehabilitate any highway, road,
5 bridge, tunnel, public transit facility, aviation facility, rail facility, port or public port defined in
6 section five, article sixteen-b, chapter seventeen of this code; a transportation project eligible for
7 financing or aid under any federal or state program; or any transportation project used for the
8 transportation of people or goods within this state, and all structures, equipment, facilities,
9 improvements, appurtenances or activities necessary or incident thereto;

10 (h) "Federal accounts" means federal highway funds;

11 (i) "Financing agreement" means an agreement entered into between the bank and a qualified
12 borrower pertaining to or evidencing a loan or other financial assistance. This agreement may
13 contain, in addition to financial terms, provisions relating to the regulation and supervision of a
14 qualified project, or other provisions as the board may determine. The term includes, without
15 limitation, a loan agreement, trust agreement, trust indenture, security agreement, reimbursement
16 agreement, guarantee agreement, bond or note, ordinance or resolution, or similar instrument;

17 (j) "Federal agency" means the United States of America and any department, corporation,
18 agency or instrumentality created, designated or established by the United States of America;

19 (k) "Fund" means the West Virginia Transportation Infrastructure Bank Fund established in
20 section five of this article;

21 (l) "Government unit" means a municipal corporation, county, port, port authority, transit
22 authority and any other state or local authority, board or other political subdivision of the state which

1 may construct, own or operate a qualified project;

2 (m) "Loan" means an obligation subject to repayment which is provided by the bank to a
3 qualified borrower for all or a part of the cost of a qualified project. A loan may be disbursed in
4 anticipation of reimbursement for or direct payment of eligible costs of a qualified project;

5 (n) "Loan obligation" means a bond, note or other evidence of obligation issued by a qualified
6 borrower;

7 (o) "Other financial assistance" means, but is not limited to, credit enhancement, capital or
8 debt reserves for bonds or debt instrument financing, interest rate subsidies, provision of letters of
9 credit and credit instruments, provisions of bond or other debt financing instrument security, and
10 other lawful forms of financing and methods of leveraging funds that are approved by the board and
11 as allowed by law;

12 (p) "Qualified borrower" means any government unit which is authorized to construct,
13 operate or own a qualified project;

14 (q) "Qualified project" means an eligible project that is compatible with the state
15 transportation plan and with the local comprehensive plan or plans, has been approved by the
16 Department of Transportation and has been selected by the bank to receive a loan or other financial
17 assistance from the bank to defray eligible costs.

18 **§31-15D-3. West Virginia Transportation Infrastructure Bank established; composition and**
19 **appointment of bank board; compensation and expenses of board members.**

20 (a) The West Virginia Transportation Infrastructure Bank is hereby created as a body
21 corporate and politic, constituting a public corporation and agency of the state.

22 (b) The governing body of the bank shall be a board consisting of seven voting members as

1 follows:

2 (1) The Secretary of the Department of Transportation or his or her designee; and

3 (2) Six members appointed by the Governor with the advice and consent of the Senate who
4 are citizens of this state and meet the requirements and qualifications prescribed in subsections (c)
5 and (d) of this section. No more than four members appointed by the Governor may be of the same
6 political party. Appointments shall be made in a manner that each congressional district is
7 represented and so that no less than one member and not more than three members of the board
8 reside in any one congressional district.

9 (c)(1) The six members appointed by the Governor pursuant to subdivision (2), subsection (b)
10 of this section shall be appointed by the Governor for terms that begin July 1, 2015 and expire as
11 follows:

12 (A) Two members shall be appointed for a term ending June 30, 2017;

13 (B) Two members shall be appointed for a term ending June 30, 2018; and

14 (C) Two members shall be appointed for a term ending June 30, 2019.

15 (2) Except for appointments to fill vacancies, each subsequent appointment shall be for a
16 term ending June 30 of the fourth year following the year the preceding term expired. In the event
17 a vacancy occurs, it shall be filled by appointment for the unexpired term. A member whose term
18 has expired shall continue in office until a successor has been duly appointed and qualified.

19 (3) No member appointed by the Governor pursuant to subdivision (2), subsection (b) of this
20 section may be a candidate for or hold elected office. These members may be reappointed for no
21 more than two full terms.

22 (d) Each of the members of the board appointed by the Governor pursuant to subdivision (2),

1 subsection (b) of this section shall be appointed based upon his or her demonstrated knowledge and
2 experience to effectively accomplish the purposes of this article, and shall meet the following
3 qualifications:

4 (1) At least two shall be persons who have demonstrated knowledge and experience in
5 banking and financial services in the private sector;

6 (2) At least one shall be a person who has demonstrated knowledge and experience in public
7 finance of government units in the state;

8 (3) At least two shall be persons with demonstrated knowledge and experience in the
9 construction and administration of eligible projects;

10 (e) The Secretary of the Department of Transportation shall serve as chairperson. The board
11 shall hold meetings at the request of the chairperson or at the request of at least three of the members
12 of the board, but no less frequently than once every month. The chairperson shall determine the date
13 and time of each meeting.

14 (f) The board shall appoint a vice-chairperson and a secretary from among the members.
15 Four members of the board constitute a quorum and the affirmative vote of at least a majority of
16 those members present shall be necessary for any action taken by vote of the board: *Provided*, That
17 approval or rejection of an application for a loan or other financial assistance shall be made by
18 majority vote of the full membership of the board.

19 (g) Members of the board are not entitled to compensation for services performed as
20 members but are entitled to reimbursement for all reasonable and necessary expenses actually
21 incurred in the performance of their duties.

22 **§31-15D-4. Powers and duties of the West Virginia Transportation Infrastructure Bank.**

1 (a) In addition to the powers contained elsewhere in this article, the bank shall have all power
2 necessary, useful, or appropriate to fund, operate and administer the bank, and to perform its other
3 functions including, but not limited to, the power to:

4 (1) Have perpetual succession;

5 (2) Adopt, promulgate, amend and repeal bylaws, not inconsistent with this article for the
6 administration of its affairs and the implementation of its functions;

7 (3) Sue and be sued in its own name;

8 (4) Adopt a seal and alter it at its pleasure, although the failure to affix the seal does not
9 affect the validity of an instrument executed on behalf of the bank;

10 (5) Make loans to qualified borrowers to finance the eligible costs of qualified projects and
11 to acquire, hold and sell loan obligations at prices and in a manner as the board determines advisable;

12 (6) Provide qualified borrowers with other financial assistance necessary to defray the eligible
13 costs of a qualified project;

14 (7) Enter into contracts, arrangements, and agreements with qualified borrowers and other
15 persons and to execute and deliver all financing agreements and other instruments necessary or
16 convenient to the exercise of the powers granted in this article;

17 (8) Enter into agreements with a department, agency or instrumentality of the United States,
18 this state or another state for the purpose of planning and providing for the financing of qualified
19 projects;

20 (9) Establish policies and procedures for the making and administering of loans and other
21 financial assistance;

22 (10) Establish fiscal controls and accounting procedures to ensure proper accounting and

1 reporting by the bank and government units and to ensure proper oversight of all financing
2 agreements, loans, loan obligations and other financial assistance established or issued for financial
3 assistance of a qualified project throughout the course of the financial assistance;

4 (11) Acquire by purchase, lease, donation or other lawful means and to sell, convey, pledge,
5 lease, exchange, transfer and dispose of all or any part of its properties or assets of every kind and
6 character or any interest in it, to further the public purpose of the bank;

7 (12) Expend funds to obtain accounting, management, legal, financial consulting and other
8 professional services necessary to the operations of the bank;

9 (13) Expend funds credited to the bank as the board determines necessary for the costs of
10 administering the operations of the bank: *Provided*, That the costs of administering the operations
11 are approved by the Department of Transportation;

12 (14) Establish advisory committees as the board determines appropriate, which may include
13 individuals from the private sector with banking and financial expertise or transportation
14 infrastructure expertise;

15 (15) Procure insurance against losses in connection with its property, assets or activities,
16 including insurance against liability for its acts or the acts of its employees or agents or to establish
17 cash reserves to enable it to act as a self-insurer against any and all such losses;

18 (16) Collect fees and charges in connection with its loans and other financial assistance;

19 (17) Apply for, receive and accept from any source, aid, grants and contributions of money,
20 property, labor or other things of value to be used to carry out the purposes of this article subject to
21 the conditions upon which the aid, grants or contributions are made;

22 (18) Enter into contracts or agreements for the servicing and processing of financial

1 agreements; and

2 (19) Do all other things necessary or convenient to exercise the powers granted or reasonably
3 implied by this article.

4 (b) The bank is not, nor is it authorized or empowered to be or to constitute a bank or trust
5 company within the jurisdiction or under the control of the state or any agency thereof or the
6 Comptroller of the Currency or the Treasury Department of the United States, or a bank, banker or
7 dealer in securities within the meaning of, or subject to the provisions of, any securities, securities
8 exchange or securities dealers' law of the United States or of the State of West Virginia.

9 **§31-15D-5. West Virginia Transportation Infrastructure Bank Fund; deposits in fund;**
10 **disbursements to provide loans and other assistance; subaccounts.**

11 (a) There is hereby established in the State Treasury a special revenue account to be known
12 as the "West Virginia Transportation Infrastructure Bank Fund", which shall be governed,
13 administered and accounted for by the board. All proceeds and revenues of the bank shall be
14 deposited or credited to the fund.

15 (b) Funds from the following resources may be deposited to the fund and used to capitalize
16 the bank:

17 (1) Funds appropriated to the fund by the Legislature;

18 (2) Notwithstanding any provisions of article three, chapter seventeen of this code to the
19 contrary, annual contributions by the Division of Highways or the Department of Transportation of
20 funds appropriated for the construction and maintenance of state highways, not to exceed a
21 maximum of \$10 million. These funds may be used to match federal capitalization grants to the
22 bank and provide capital for the state accounts of the bank;

1 (3) Federal funds that may be made available to the state for the bank;

2 (4) Contributions and donations from public authorities, government units and private
3 entities;

4 (5) All moneys paid or credited to the bank, by contract or otherwise; payments of principal
5 and interest on loans or other financial assistance made from the bank, and interest earnings which
6 may accrue from the investment or reinvestment of the bank moneys; and

7 (6) Other lawful sources as determined appropriate by the board.

8 (c) Earnings on balances in the federal accounts must be credited and invested according to
9 federal law. Earnings on state accounts must be credited to the account that generates the earnings.

10 The bank may establish accounts and subaccounts within the fund as considered desirable to
11 effectuate the purposes of this article, or to meet the requirements of any state or federal programs.

12 (d) For the necessary and convenient administration of the bank, the board shall direct the
13 State Treasurer to establish accounts and subaccounts within the fund account necessary to meet any
14 applicable federal law requirements or as the bank shall determine necessary or desirable in order
15 to implement the provisions of this article.

16 (e) The bank shall comply will all federal and state laws and regulations prohibiting the
17 commingling of funds deposited in the bank. Amounts in the fund that are prohibited from being
18 commingled with other amounts in the fund shall be segregated and administered separate and apart
19 from other amounts in the fund and may not be transferred to any other account.

20 **§31-15D-6. Requirements for loans and other financial assistance.**

21 (a) Subject to the provisions of this article, the bank may provide loans and other financial
22 assistance to a government unit to pay for all or a portion of the eligible cost of a qualified project.

1 The term of the loan or other financial assistance shall not exceed forty years. The bank shall require
2 the government unit to enter into an agreement to evidence all of the terms and conditions of the loan
3 obligation. The bank may require that the government unit obtain or provide matching funds for the
4 qualified project from sources other than the loan from the bank. The board shall determine the form
5 and content of loan applications, financing agreements and loan obligations including the term and
6 rate or rates of interest on a financing agreement. The terms and conditions of a loan or other
7 financial assistance from a federal account shall comply with applicable federal requirements.

8 (b) To implement and carry out the intent of this article, the board shall propose rules for
9 legislative approval in accordance with article three, chapter twenty-nine-a of this code to develop
10 comprehensive uniform guidelines for use by the board in evaluating any request by a government
11 unit for funding assistance from the bank. The guidelines shall include, but are not limited to, the
12 following criteria:

13 (1) The feasibility of the project and the amount and degree of risk assumed by the bank;

14 (2) The local support of the project, expressed by resolutions by the governing bodies in the
15 areas in which the project will be located, and the financial or in-kind contributions to the project;

16 (3) Whether the project is consistent with the adopted transportation plan of the appropriate
17 planning organization, including any metropolitan planning organization whose jurisdiction includes
18 the location of the project, and the transportation plan of the division;

19 (4) Whether the existing transportation infrastructure of the area served by the project is
20 adversely affected by the project;

21 (5) The economic development benefits of the project;

22 (6) The degree to which the project will correct deficiencies or will supplement the existing

1 transportation infrastructure of the area served by the project;

2 (7) The cost effectiveness of the project as compared with alternatives which achieve
3 substantially the same public transportation or economic development benefits;

4 (8) The availability of alternative sources of funding which could finance all or a part of the
5 project, and the need for the assistance of the bank to finance the project or for the applicant to attract
6 other sources of funding;

7 (9) The applicant's ability to operate and maintain the transportation facilities if the project
8 is approved;

9 (10) The degree to which the project achieves other state or regional planning goals;

10 (11) The estimated date upon which the project could commence if the loan or other financial
11 assistance were available and the estimated completion date of the project; and

12 (12) Whether the governing bodies of the county or the incorporated municipality in which
13 the project is to be located provides to the bank a resolution which makes a finding that the project
14 is essential to or necessary for the transportation needs of the public.

15 The board may also promulgate emergency rules pursuant to the provisions of section fifteen,
16 article three, chapter twenty-nine-a of this code to develop and establish guidelines pursuant to this
17 subsection.

18 (c) The board shall create a preliminary application form which shall be used by all
19 government units requesting funding assistance from the bank for a qualified project. The
20 preliminary application form shall contain all information required by all state agencies that will be
21 required to issue permits and/or certificates regarding the project. The preliminary application shall
22 require the applicant to set forth the type and proposed location of the project; the estimated total

1 cost of the project; the amount of funding assistance required and the specific uses of the funding;
2 the proposed method of repayment of any loans or other financial assistance for the project provided
3 by the bank; other sources of funding available or potentially available for the project; information
4 demonstrating the need for the project and that the proposed funding of the project is the most
5 economically feasible and viable alternative to completing the project; and such other information
6 as the board considers necessary to enable it to evaluate the project financing, in terms of the kind,
7 amount and source of funding, and to otherwise carry out the intent of this article.

8 **§31-15D-7. Finance agreements; repayment of loans.**

9 (a) Qualified borrowers are authorized to obtain loans or other financial assistance from the
10 bank through financing agreements. Qualified borrowers entering into financing agreements and
11 issuing loan obligations to the bank may perform any acts, take any action, adopt any proceedings,
12 and make and carry out any contracts or agreements with the bank as may be agreed to by the bank
13 and the qualified borrower for the purposes of carrying out the provisions contemplated by this
14 article.

15 (b) Each loan or other financial assistance made or provided by the bank shall be evidenced
16 by a written finance agreement between the bank and the qualified borrower to which the loan or
17 other financial assistance shall be made or provided, setting forth the terms of the loan or other
18 financial assistance, which agreement shall include, without limitation and to the extent applicable,
19 the following provisions:

20 (1) The estimated cost of the qualified project, the amount of the loan or the nature of the
21 financial assistance, and in the case of a loan, the terms of repayment and the security therefor, if
22 any;

1 (2) The specific purposes for which the loan proceeds shall be expended or the benefits to
2 accrue from the financial assistance, and the conditions and procedure for disbursing loan proceeds;

3 (3) The duties and obligations imposed upon the government unit regarding the acquisition,
4 construction, improvement or operation of the qualified project;

5 (4) The agreement of the governmental unit to the withholding of payments pursuant to the
6 finance agreement that are owed by the governmental unit to the bank which are in default, in
7 accordance with the provisions of section eight of this article; and

8 (5) The agreement of the governmental unit to comply with all applicable federal and state
9 laws, and all rules and regulations issued or imposed by the bank or other state, federal or local
10 bodies regarding the acquisition, construction, improvement or operation of the qualified project and
11 granting the bank the right to appoint a receiver for the qualified project if the governmental unit
12 should default on any terms of the agreement.

13 (c) In addition to the authorizations contained in this article, all other statutes or provisions
14 permitting qualified borrowers to borrow money and issue obligations may be used by a qualified
15 borrower in obtaining a loan or other financial assistance from the bank to the extent determined
16 necessary or useful by the qualified borrower in connection with any financing agreement and the
17 issuance, securing or sale of loan obligations to the bank.

18 (d) A qualified borrower may receive, apply, pledge, assign and grant a security interest in
19 project revenues or any other revenues of the governmental unit which may otherwise be lawfully
20 pledged or assigned as security, to secure its obligations as provided in this article; and may fix,
21 revise, charge and collect fees, rates, rent, assessments and other charges of general or special
22 application for the operation or services of a qualified project, the system of which it is a part, and

1 any other revenue producing facilities from which the qualified borrower derives project revenues,
2 to meet its obligations under a financing agreement or to provide for the construction and improving
3 of a qualified project.

4 (e) Any resolution of the bank approving loan or other financial assistance shall include a
5 finding and determination that the requirements of this section have been met.

6 **§31-15D-8. Interception and withholding of defaulted payments from funds allotted or**
7 **payable to a defaulting government unit.**

8 (a) Any payment owed by a government unit to the bank pursuant to a financing agreement
9 that is in default may be intercepted and withheld from any funds administered or in the custody of
10 the Treasurer which are owned by, allotted or payable to the government unit in default. In the event
11 of default by a government unit upon any payment due, the bank may notify the Treasurer of the
12 default. Upon receipt of a notification of default, the Treasurer shall withhold the amount of the
13 payment in default and payable to the bank from any funds administered or in the custody of the
14 Treasurer which are owned by, allotted or payable to the government unit in default. The amount
15 withheld shall be remitted by the Treasurer to the bank and applied toward the payment in default.

16 (b) Withholdings or interceptions pursuant to this section may not be made from funds owned
17 by, allotted or payable to a government unit in default which are restricted to use for a particular
18 purpose by law or which violate the terms of any agreement governing the funds, or which would
19 be in violation of the laws of this state or of the United States.

20 (c) The bank and the Treasurer may enter into an agreement to effect the provisions of this
21 section.

22 **§31-15D-9. Annual reports; audits.**

1 On October 1, of each year, the bank shall submit an annual report of its activities for the
2 preceding fiscal year to the Governor and the Legislature. Each report shall set forth a complete
3 operating and financial statement of the bank's operation during the preceding fiscal year. The bank
4 shall also submit an annual report to the appropriate federal agencies in accordance with the
5 requirements of the federal agencies. The bank shall cause an audit of its books and records to be
6 made by an independent certified public accountant for each fiscal year.

7 **§31-15D-10. Department of Transportation assistance to the bank.**

8 The Department of Transportation shall provide staff and assist the bank in the administration
9 of the program and the performance of the bank under this article. In providing this assistance, the
10 department may:

11 (1) Assist in the formulation, establishment, and structuring of programs undertaken by the
12 bank pursuant to this article;

13 (2) Provide government units with information as to the bank and the procedures for
14 obtaining the assistance intended by this article;

15 (3) Assist government units in making applications to state and federal agencies, including
16 the bank, as may be necessary or helpful in order to avail themselves of this program;

17 (4) Assist the bank in analyzing and evaluating requests for assistance pursuant to this article;

18 (5) Assist in the structuring and negotiating of financing agreements;

19 (6) Administer the fund, including any accounts in it;

20 (7) Administer the bank's accounts, loans and other financial assistance, including
21 monitoring compliance by government units or private entities with any rules, regulations or other
22 requirements of the bank with respect to the programs and compliance with covenants and

- 1 agreements made by the government units or private entities with respect to a financing agreement;
- 2 and
- 3 (8) Provide other assistance and perform other duties as may be requested or directed by the
- 4 bank.

NOTE: The purpose of this bill is to generate and maintain funds for highway construction by raising taxes on motor fuels, raising the consumer sales tax and dedicating the additional proceeds to the State Road Fund, raise fees for motor vehicle registration and salvage, driver licenses, and document fees of the Division of Motor Vehicles, and to establish a state infrastructure bank and state infrastructure fund.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§11-15-27, §17A-10-17 and Article 15D, chapter 31, are new; therefore strike-throughs and underscoring have been omitted.