

**H. B. 4584**

(By Delegate Manypenny)

[Introduced February 17, 2014; referred to the  
Committee on Banking and Insurance then Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, §31A-8G-8, §31A-8G-9, §31A-8G-10, §31A-8G-11, §31A-8G-12, §31A-8G-13, §31A-8G-14, §31A-8G-15, §31A-8G-16, §31A-8G-17, §31A-8G-18, §31A-8G-19, §31A-8G-20, §31A-8G-21, §31A-8G-22, §31A-8G-23, §31A-8G-24, §31A-8G-25, §31A-8G-26, §31A-8G-27, §31A-8G-28 and §31A-8G-29, all relating to the creation of the "State Bank of West Virginia" owned, controlled and operated by the state for the purpose of encouraging and promoting agriculture, commerce and industry.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, §31A-8G-8,

1 §31A-8G-9, §31A-8G-10, §31A-8G-11, §31A-8G-12, §31A-8G-13,  
2 §31A-8G-14, §31A-8G-15, §31A-8G-16, §31A-8G-17, §31A-8G-18,  
3 §31A-8G-19, §31A-8G-20, §31A-8G-21, §31A-8G-22, §31A-8G-23,  
4 §31A-8G-24, §31A-8G-25, §31A-8G-26, §31A-8G-27, §31A-8G-28 and  
5 §31A-8G-29, all to read as follows:

6 **ARTICLE 8G. THE STATE BANK OF WEST VIRGINIA.**

7 **§31A-8G-1. Purpose and establishment of State Bank of West**  
8 **Virginia.**

9 For the purpose of encouraging and promoting agriculture,  
10 commerce and industry, the State of West Virginia shall engage in  
11 the business of banking, and for that purpose shall maintain a  
12 system of banking owned, controlled and operated by it, under the  
13 name of the State Bank of West Virginia.

14 **§31A-8G-2. West Virginia Board of Banking and Financial**  
15 **Institutions - Business of Bank.**

16 The West Virginia Board of Banking and Financial Institutions  
17 may authorize the operation, management and control the State Bank  
18 of West Virginia, its location or locations and its places of  
19 business, of which the principal place must be within the state,  
20 and make and enforce orders, rules, regulations and bylaws for the  
21 transaction of its business. The business and financial  
22 transactions of the bank, in addition to other matters specified in  
23 this article, may include anything that any bank or bank holding

1 company lawfully may do, except as it is restricted by the  
2 provisions of this article. This provision may not be held in any  
3 way to limit or qualify either the powers of the Board of Banking  
4 and Financial Institutions granted by or the functions of the bank  
5 as defined in this article. The powers of the State Bank of West  
6 Virginia and the functions of the bank must be implemented through  
7 actions taken and policies adopted by the Board of Banking and  
8 Financial Institutions.

9 **§31A-8G-3. Declaration and finding of public purpose - The State**  
10 **Bank of West Virginia advisory board of directors.**

11 To enlist the help of private enterprise and to encourage more  
12 active use of the purposes for which the State Bank of West  
13 Virginia was created, the Governor shall appoint an advisory board  
14 of directors to the State Bank of West Virginia consisting of seven  
15 persons, at least two of whom must be officers of banks, the  
16 majority of the stock of which is owned by West Virginia residents,  
17 and at least one of whom must be an officer of a state-chartered or  
18 federally chartered financial institution. The Governor shall  
19 appoint a chairman, vice chairman and secretary from the advisory  
20 board of directors. The term of a director is four years. The Board  
21 of Banking and Financial Institutions shall define the duties of  
22 the advisory board of directors.

23 **§31A-8G-4. Authority of the advisory board of directors to the**

1                   **State Bank of West Virginia.**

2           The advisory board of directors to the State Bank of West  
3 Virginia shall:

4           (a) Meet regularly with the management of the State Bank of  
5 West Virginia to review the bank's operations to determine whether  
6 recommendations should be made by the board to the Board of Banking  
7 and Financial Institutions relating to improved management  
8 performance, better customer service, and overall improvement in  
9 internal methods, procedures and operating policies of the bank.

10           (b) Make recommendations to the Board of Banking and Financial  
11 Institutions relating to the establishment of additional objectives  
12 for the operation of the State Bank of West Virginia.

13           (c) Make recommendations to the Board of Banking and Financial  
14 Institutions concerning the appointment of officers of the State  
15 Bank of West Virginia.

16           (d) Meet regularly with the Board of Banking and Financial  
17 Institutions to present any recommendations concerning the State  
18 Bank of West Virginia.

19           (e) In addition to the foregoing and pursuant to authorization  
20 from the Board of Banking and Financial Institutions, act on behalf  
21 of the bank with respect to the powers and functions of the bank.

22 **§31A-8G-5. Board to employ president and employees -**

23                   **compensation, operation, and maintenance**

1                   expenditures limited to appropriations,  
2                   revenue, or capital.

3           The Board of Banking and Financial Institutions shall appoint  
4 a president, and may appoint and employ such subordinate officers,  
5 employees and agents as it may judge expedient and in the interests  
6 of the state, and shall define the duties, designate the titles and  
7 fix the compensation of all such persons. The board may designate  
8 the president or other officers or employees as its agent in  
9 respect to the functions of the bank, subject to its supervision,  
10 limitation and control.

11           The total compensation of the appointees and employees,  
12 together with other expenditures for the operation and maintenance  
13 of the bank, shall remain within the appropriation, revenues or  
14 capital lawfully available for these purposes.

15 **§31A-8G-6. Removal and discharge of appointees.**

16           The Board of Banking and Financial Institutions may remove and  
17 discharge any person appointed in the exercise of the powers  
18 granted by this article, whether by the board or by the president  
19 of the bank. All appointments and removals contemplated by this  
20 article must be made as the board considers fit to promote the  
21 efficiency of the public service.

22 **§31A-8G-7. State funds must be deposited in The State Bank of**

23                   West Virginia - income of the bank.

1 State funds and funds of all state penal, educational, and  
2 industrial institutions may be deposited in the State Bank of West  
3 Virginia by the persons having control of these funds or must be  
4 deposited in accordance with constitutional and statutory  
5 provisions. All income earned by the bank for its own account on  
6 state moneys that are deposited in or invested with the bank to the  
7 credit of the state must be credited to and become a part of the  
8 revenues and income of the bank.

9 **§31A-8G-8. Nonliability of officers and sureties after deposit.**

10 Whenever any of the public funds herein designated are  
11 deposited in the State Bank of West Virginia, as herein provided,  
12 the official having control thereof and the sureties on the bond of  
13 every such official is exempt from all liability by reason of loss  
14 of any such funds while so deposited.

15 **§31A-8G-9. Guaranty of deposits - Exemption from all taxation.**

16 All deposits in the State Bank of West Virginia are guaranteed  
17 by the state. These deposits are exempt from state, county and  
18 municipal taxes of any and all kinds.

19 **§31A-8G-10. Bank a clearinghouse.**

20 For banks that make the State Bank of West Virginia a reserve  
21 depository, it may perform the functions and render the services of  
22 a clearinghouse, including all facilities for providing domestic  
23 and foreign exchange, and may rediscount paper, on such terms as  
24 the Board of Banking and Financial Institutions provides.

1 **§31A-8G-11. Powers.**

2 The State Bank of West Virginia may:

3 (a) Make, purchase, guarantee or hold loans:

4 (1) To state-chartered or federally chartered lending agencies  
5 or institutions or any other financial institutions.

6 (2) To holders of Bank of West Virginia certificates of  
7 deposit and savings accounts up to ninety percent of the value of  
8 the certificates and savings accounts offered as security.

9 (3) To actual farmers who are residents of this state, if the  
10 loans are secured by recorded mortgages giving the State Bank of  
11 West Virginia a first lien on real estate in West Virginia in  
12 amounts not to exceed eighty percent of the value of the security.

13 (4) That are insured or guaranteed, in whole or in part, by  
14 the United States, its agencies or instrumentalities.

15 (5) That are eligible to be guaranteed under any provision of  
16 this code. Loans made pursuant to this subdivision may provide for  
17 interest that remains unpaid at the end of any period specified in  
18 the loan to be added to the principal amount of the debt and  
19 thereafter accumulate interest.

20 (6) To individuals or bank holding companies for the purpose  
21 of purchasing or refinancing the purchase of bank stock of a bank  
22 located in the state.

23 (7) To nonprofit organizations that are exempt from federal  
24 taxation under section 501(c)(3) of the Internal Revenue Code

1 [26U.S.C.501(c)(3)],the proceeds of the loans to be used for  
2 construction, reconstruction, repair, renovation, maintenance and  
3 associated costs on property under the control of the parks and  
4 recreation department.

5 (8) Under Public Law No.99-198[99Stat.1534; 7U.S.C.1932 et  
6 seq.],as amended through December 31, 1996, to nonprofit  
7 corporations for the purpose of relending loan funds to rural  
8 businesses.

9 (9) Under title 7, Code of Federal Regulations, part 1948,  
10 subpart C; part 1951, subparts F and R; and part 1955, subparts A,  
11 B and C, as amended through December 31, 1996, to finance  
12 businesses and community development projects in rural areas.

13 (10) Obtained as security pledged for or originated in the  
14 restructuring of any other loan properly originated or participated  
15 in by the bank.

16 (11) To instrumentalities of this state.

17 (12) As otherwise provided by this article or other provisions  
18 of this code.

19 (b) If the bank is participating in the loan and the bank  
20 determines it is in the best interests of the bank to do so, it may  
21 purchase the remaining portion of the loan from a participating  
22 lender that is closed by regulatory action or from the receiver of  
23 the participating lender's assets:

24 (1) To an investment company created for completing a trust



1 preferred securities transaction for the benefit of a financial  
2 institution located in this state.

3 (2) Make agricultural real estate loans in order to  
4 participate in the agricultural mortgage secondary market program  
5 established pursuant to the Agricultural Credit Act [Pub. L.  
6 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended  
7 through December 31,1996.

8 (3) Purchase participation interests in loans made or held by  
9 banks, bank holding companies, state-chartered or federally  
10 chartered lending agencies or institutions, any other financial  
11 institutions, or any other entity that provides financial services  
12 and that meets underwriting standards that are generally accepted  
13 by state or federal financial regulatory agencies.

14 (4) Invest its funds:

15 (A) In conformity with policies of the Board of Banking and  
16 Financial Institutions.

17 (B) In a public venture capital corporation organized and  
18 doing business in this state through the purchase of shares of  
19 stock.

20 (C) In West Virginia alternative and venture capital  
21 investments and early-stage capital funds, including the West  
22 Virginia Development Fund, incorporated, not to exceed \$15 million,  
23 for the purpose of providing funds for investment in West Virginia  
24 alternative and venture capital investments, early-stage capital

1 funds and entrepreneurship awards. The bank may invest a maximum  
2 of \$200,000 per biennium in West Virginia-based venture capital  
3 entities that make investments in companies located outside West  
4 Virginia. The bank may allow for third-party management of the  
5 funds invested under this subdivision if the management is provided  
6 by the West Virginia Development Fund, incorporated, or a third  
7 party that is located in the state and that has demonstrated fund  
8 management experience.

9 (D) Buy and sell federal funds.

10 (E) Lease, assign, sell, exchange, transfer, convey, grant,  
11 pledge or mortgage all real and personal property, title to which  
12 has been acquired in any manner.

13 (F) Acquire real or personal property or property rights by  
14 purchase, lease, or, subject to chapter fifty-four of this code,  
15 the exercise of the right of eminent domain and may construct,  
16 remodel and repair buildings.

17 (G) Receive deposits from any source and deposit its funds in  
18 any bank or other financial institution.

19 (H) Perform all acts and do all things necessary, convenient,  
20 advisable or desirable to carry out the powers expressly granted or  
21 necessarily implied in this article through or by means of its  
22 president, officers, agents or employees or by contracts with any  
23 person, firm or corporation.

24 (I) Purchase mortgage loans on residential real property

1 originated by financial institutions.

2 **§31A-8G-12. Loans to general fund authorized - Continuing**  
3 **appropriation.**

4 The State Treasurer and the Secretary of Administration may,  
5 when the balance in the State General Fund is insufficient to meet  
6 legislative appropriations, execute and issue on behalf of the  
7 state evidences of indebtedness on the State General Fund which at  
8 no time exceed the total principal amount of \$10 million with  
9 principal maturity of not more than twelve months. As a condition  
10 precedent to the issuance and sale of the evidences of  
11 indebtedness, the State Treasurer must request and obtain a  
12 statement from the Secretary of Administration and State Tax  
13 Commissioner certifying that anticipated general fund revenues for  
14 the balance of the fiscal year in which the evidences of  
15 indebtedness are to be issued will exceed the principal amount and  
16 interest on the evidences of indebtedness to be issued. The State  
17 Board of Banking and Financial Institutions may in turn direct the  
18 State Bank of West Virginia to make loans to the State General Fund  
19 by the purchase of the evidences of indebtedness at such rates of  
20 interest as the Board of Banking and Financial Institutions may  
21 prescribe. After evidences of indebtedness have been issued and  
22 sold pursuant to this section, the State Treasurer shall establish  
23 a fund for the repayment of the principal upon maturity and the  
24 interest when due. The State Treasurer shall place all available

1 general fund revenues into this fund until the fund contains a  
2 sufficient balance for the repayment of the principal at maturity  
3 and interest when due, which moneys are hereby appropriated for  
4 this purpose.

5 **§31A-8G-13. Bank loans to beginning farmers - Revolving loan fund**  
6 **- Requirements.**

7 (a) A revolving loan fund must be maintained in the State Bank  
8 of West Virginia for the purpose of making or participating in  
9 loans to West Virginia beginning farmers for the purchase of  
10 agricultural real estate, equipment and livestock. All moneys  
11 transferred into the fund, interest upon moneys in the fund, and  
12 payments to the fund of principal and interest on loans made from  
13 the fund are appropriated for the purpose of providing loans and to  
14 supplement the interest rate on loans to beginning farmers made by  
15 the State Bank of West Virginia under section eleven of this  
16 article and in accordance with this section.

17 (b) The revolving loan fund and loans made from the fund must  
18 be administered and supervised by the State Bank of West Virginia.  
19 The bank may deduct a service fee for administering the fund from  
20 interest payments received on loans. An application for a loan from  
21 the fund must be made to the bank and, upon approval, a loan must  
22 be made from the fund in accordance with this section.

23 (c) A loan made from the fund may not exceed eighty percent of  
24 the appraised value of the agricultural collateral, with the actual

1 percentage to be determined by the bank. The bank may do all things  
2 and acts and may establish additional terms and conditions  
3 necessary to make a loan under this section. A loan made from the  
4 fund must have a first security interest.

5 (d) A loan made from the fund must have the interest rate  
6 fixed at one percent below the bank's then current base rate for  
7 the first five years with a maximum rate of six percent per year  
8 and variable at one percent below the bank's then current base rate  
9 for the second five years. During the second five years, the  
10 variable rate must be adjusted annually on the anniversary date.  
11 The rate during the remaining term of the loan floats at the bank's  
12 base rate as in effect from time to time.

13 (e) The maximum term of a real estate loan is thirty years.  
14 The maximum term of a farm equipment or livestock loan is seven  
15 years.

16 (f) The Board of Banking and Financial Institutions shall  
17 contract with a certified public accounting firm to audit the fund  
18 as necessary. The cost of the audit, and any other actual costs  
19 incurred by the bank on behalf of the fund, must be paid for by  
20 the fund.

21 (g) The bank shall adopt policies to implement this section.

22 (h) Notwithstanding any other provision of law, the bank may  
23 transfer any unobligated funds between funds that have been  
24 appropriated by the Legislature for interest buy down in the

1 beginning farmers loan fund and the agriculture partnership in  
2 assisting community expansion fund.

3 (i) Notwithstanding any other provision of law, the bank may  
4 transfer any unobligated funds to the value-added agriculture  
5 equity loan program for the purpose of interest buy down on a loan  
6 made for investment in a feedlot or dairy operation. Fund transfers  
7 under this subsection may not exceed \$1 million during a biennium.

8 **§31A-8G-14. Limitations on loans by The State Bank of West**  
9 **Virginia - Disclosure of interests in certain**  
10 **loans.**

11 Notwithstanding any other provision of law, the State Bank of  
12 West Virginia may not make any loan or otherwise give its credit to  
13 a member of the Board of Banking and Financial Institutions during  
14 the member's term on the Board of Banking and Financial  
15 Institutions. Before taking office, a member of the Board of  
16 Banking and Financial Institutions shall file a statement with the  
17 State Bank of West Virginia indicating any personal interest that  
18 the member has in any loan or loan application in existence or  
19 pending at any time during the member's term on the Board of  
20 Banking and Financial Institutions.

21 **§31A-8G-15. Name in which business conducted and titles taken -**  
22 **Execution of instruments.**

23 (a) All business of the bank must be conducted under the name

1 of "The State Bank of West Virginia". Title to property pertaining  
2 to the operation of the bank must be obtained and conveyed in the  
3 name of "The State of West Virginia, doing business as The State  
4 Bank of West Virginia".

5 (b) Instruments must be executed in the name of the State of  
6 West Virginia. Within the scope of authority granted by the Board  
7 of Banking and Financial Institutions, the president may execute  
8 instruments on behalf of the bank, including any instrument  
9 granting, conveying or otherwise affecting any interest in or lien  
10 upon real or personal property. Other officers or employees of, and  
11 legal counsel to, the bank may execute instruments on behalf of the  
12 bank when authorized by the Board of Banking and Financial  
13 Institutions.

14 (c) Any instrument executed prior to July 1,2014, by the  
15 president, an attorney for the bank or an officer or employee of  
16 the bank, and otherwise proper, is valid and effective.

17 **§31A-8G-16. Civil actions on bank transactions - Name of parties**

18 **- Service - Venue.**

19 (a) Civil actions may be brought against the State of West  
20 Virginia on account of claims for relief claimed to have arisen out  
21 of transactions connected with the operation of the State Bank of  
22 West Virginia upon condition that the provisions of this section  
23 are complied with. In such actions, the state must be designated  
24 as "The State of West Virginia, doing business as The State Bank of

1 West Virginia". The actions may be brought in the same manner and  
2 are subject to the same provisions of law as other civil actions.  
3 The action must be brought in Kanawha County.

4 (b) If the bank seeks to participate in a loan that involves  
5 multiple banks and if the loan documents require the bank to agree  
6 that civil actions will be commenced in a state outside of West  
7 Virginia, the bank may agree to venue outside of West Virginia if  
8 approved by the Attorney General.

9 **§31A-8G-17. Surety on appeal, attachment, claim and delivery, and**  
10 **other cases in which undertaking required, not**  
11 **required of Bank of West Virginia.**

12 Provisions of law requiring that a surety or sureties be given  
13 on undertakings in actions on appeal, attachment, claim and  
14 delivery and other cases in which an undertaking is required, are  
15 not applicable to the State of West Virginia, doing business as the  
16 State Bank of West Virginia, as the party seeking such relief. It  
17 is required to give its own undertaking without surety and to  
18 reimburse the adverse party when required by law.

19 **§31A-8G-18. Examinations and audit reports.**

20 The State Auditor shall contract with an independent certified  
21 public accounting firm for an annual audit of the State Bank of  
22 West Virginia in accordance with generally accepted government  
23 auditing standards. The State Auditor shall audit annually or



1 contract for an annual audit of the separate programs and funds  
2 administered by the State Bank of West Virginia. On request of the  
3 State Auditor, the Board of Banking and Financial Institutions  
4 shall assist the State Auditor in the auditing firm selection  
5 process, but the selection of the auditing firm is the State  
6 Auditor's responsibility. The auditor selected shall prepare an  
7 audit report that includes financial statements presented in  
8 accordance with the audit and accounting guide for banks and  
9 savings institutions issued by the American Institute of Certified  
10 Public Accountants. The auditor also shall prepare audited  
11 financial statements for inclusion in the comprehensive annual  
12 financial report for the state. The State Auditor may conduct  
13 performance audits of the State Bank of West Virginia, including  
14 the separate programs and funds administered by the bank. The  
15 auditor shall report the results of the audit to the Board of  
16 Banking and Financial Institutions and to the Legislature. The  
17 State Bank of West Virginia or its separate programs and funds  
18 shall pay the costs of the audit. The Board of Banking and  
19 Financial Institutions, through the commissioner, shall examine the  
20 State Bank of West Virginia at least once each twenty-four months  
21 and conduct any investigation of the bank which may be necessary.  
22 The commissioner shall report the examination results, and the  
23 results of any necessary investigation, to the Board of Banking and  
24 Financial Institutions as soon as practicable and to the

1 legislative assembly. The Board of Banking and Financial  
2 Institutions shall charge a fee for any examination or  
3 investigation at an hourly rate to be set by the commissioner,  
4 sufficient to cover all reasonable expenses of the department  
5 associated with the examinations and investigations provided by  
6 this section.

7 **§31A-8G-19. Electronic fund transfer systems.**

8 The State Bank of West Virginia may establish, under such  
9 rules as adopted by the Board of Banking and Financial  
10 Institutions, a system to provide fund transfer services to its  
11 customers and to the customers of state-chartered and federally  
12 chartered banks located within the State of West Virginia, and to  
13 other financial institutions otherwise authorized to utilize the  
14 services of electronic fund transfer systems, to acquire such  
15 equipment as is necessary to establish electronic fund transfer  
16 systems, and to make such reasonable charges for services rendered  
17 to other banks hereunder as may be established by the Board of  
18 Banking and Financial Institutions.

19 **§31A-8G-20. Confidentiality of Bank records.**

20 The following records of the State Bank of West Virginia are  
21 confidential:

22 (a) Commercial or financial information of a customer, whether  
23 obtained directly or indirectly, except for routine credit  
24 inquiries or unless required by due legal process. As used in this

1 subsection, "customer" means any person who has transacted or is  
2 transacting business with, or has used or is using the services of,  
3 the State Bank of West Virginia or for whom the State Bank of West  
4 Virginia has acted as a fiduciary with respect to trust property.

5 (b) Internal or interagency memorandums or letters which would  
6 not be available by law to a party other than in litigation with  
7 the bank.

8 (c) Information contained in or related to examination,  
9 operating, or condition reports prepared by, on behalf of or for  
10 the use of a state or federal agency responsible for the regulation  
11 or supervision of any bank activity.

12 (d) Information obtained from the state department of  
13 financial institutions which would not be available from that  
14 agency under article two-a, chapter thirty-one-a of this code.

15 (e) The report by a bank officer or member of the bank's  
16 advisory board of directors concerning personal financial  
17 statements.

18 **§31A-8G-21. Bank of West Virginia - Custodian of securities.**

19 Notwithstanding any other provision of law to the contrary,  
20 the State Bank of West Virginia shall replace the State Treasurer  
21 as the custodian of all securities that are required to be  
22 deposited with the state except that the State Treasurer is the  
23 custodian of all securities resulting from the investment of funds  
24 by the State Treasurer, or except as otherwise required by this

1 section and chapter twelve of this code.

2 **§31A-8G-22. Sale and leasing of acquired agricultural real estate.**

3 The sale and leasing of agricultural real estate  
4 with an appraised value of \$10,000 or more acquired by the State  
5 Bank of West Virginia through foreclosure or deed in lieu of  
6 foreclosure must be done in accordance with article one, chapter  
7 thirty-eight of this code and policies adopted by the Board of  
8 Banking and Financial Institutions. The sale and leasing of  
9 agricultural real estate with an appraised value of less than  
10 \$10,000, acquired by the State Bank of West Virginia through  
11 foreclosure or deed in lieu of foreclosure, may be done in a manner  
12 as the bank determines is appropriate given the circumstances. In  
13 the case of a lease by the party holding the right of redemption,  
14 that party has the right to purchase at any time.

15 **§31A-8G-23. West Virginia higher education savings plan -**

16 **Administration - Rules continuing appropriation.**

17 The State Bank of West Virginia shall propose rules for  
18 legislative approval in accordance with the provisions of article  
19 three, chapter twenty-nine-a of this code to administer, manage,  
20 promote and market a West Virginia higher education savings plan.  
21 The bank shall ensure that the West Virginia Higher Education  
22 Savings Plan is maintained in compliance with internal revenue  
23 service standards for qualified state tuition programs. The bank,  
24 as trustee of the West Virginia higher education savings plan, may

1 impose an annual administrative fee to recover expenses incurred in  
2 connection with operation of the plan or for other programs deemed  
3 to promote attendance at an institution of higher education.  
4 Administrative fees received by the bank are appropriated on a  
5 continuing basis to be used as provided in this section.  
6 Contributions made during the taxable year to a higher education  
7 savings plan administered by the bank, pursuant to the provisions  
8 of the plan, are eligible for an income tax deduction as provided  
9 in article twenty-one, chapter eleven of this code. Information  
10 related to contributions is confidential except as is needed by the  
11 Tax Commissioner for determining compliance with the income tax  
12 deduction provided in article twenty-one, chapter eleven of this  
13 code.

14 **§31A-8G-24. Health information technology loan fund -**

15 **Appropriation.**

16 (a) The Health Information Technology Loan Fund is established  
17 in the bank for the purpose of providing loans to health care  
18 providers to purchase and upgrade electronic health record  
19 technology, train personnel in its use, improve security of  
20 information exchange, and for other purposes as established by the  
21 "West Virginia Health Care Cost Review Authority" created by  
22 article twenty-nine-b, chapter sixteen of this code. This fund is  
23 a revolving loan fund. All moneys transferred into the fund,  
24 interest upon moneys in the fund, and collections of interest and

1 principal on loans made from the fund are appropriated for  
2 disbursement according to this section.

3 (b) The bank shall make loans from this fund to health care  
4 providers as approved by the Health Care Cost Review Authority  
5 board, in accordance with the criteria established by the Health  
6 Care Cost Review Authority board. A loan made under this fund must  
7 be repayable over a period that may not exceed ten years.

8 (c) The bank shall administer the Health Information  
9 Technology Loan Fund. Funds in the loan fund may be used for loans  
10 as provided under this section and the costs of administration of  
11 the fund. Annually, the bank may deduct a service fee for  
12 administering the revolving loan fund maintained under this  
13 section.

14 (d) An application for a loan under this section must be made  
15 to the Health Care Cost Review Authority board. The Health Care  
16 Cost Review Authority board may approve the application of a  
17 qualified applicant that meets the criteria established by the  
18 Health Information Technology Office Director. The Health Care Cost  
19 Review Authority board shall forward approved applications to the  
20 bank. Upon approval of the application by the bank, the bank shall  
21 make the loan from the revolving loan fund as provided under this  
22 section.

23 (e) The bank may do all acts necessary to negotiate loans and  
24 preserve security as deemed necessary, to exercise any right of

1 redemption, and to bring suit in order to collect interest and  
2 principal due the revolving loan fund under mortgages, contracts  
3 and notes executed to obtain loans under this section. If the  
4 applicant's plan for financing provides for a loan of funds from  
5 sources other than the State of West Virginia, the bank may take a  
6 subordinate security interest. The bank may recover from the  
7 revolving loan fund amounts actually expended by the bank for legal  
8 fees and to effect a redemption.

9 **§31A-8G-25. Residential mortgages.**

10 (a) The bank may establish a residential mortgage loan program  
11 under which the bank may originate residential mortgages if private  
12 sector mortgage loan services are not reasonably available. Under  
13 this program a local financial institution or credit union may  
14 assist the bank in taking a loan application, gathering required  
15 documents, ordering required legal documents, and maintaining  
16 contact with the borrower.

17 (b) If the bank establishes a program under this section, at  
18 a minimum the program must provide:

19 (c) An applicant must be referred to the bank by a local  
20 financial institution or credit union;

21 (d) The loan application must be for an owner-occupied primary  
22 residence;

23 (e) The bank provide all regulatory disclosures, process and  
24 underwrite the loan, prepare closing documents, and disburse the

1 loan; and

2 (f) The terms of the loan originated by the bank must provide:

3 (1) The amount of the loan may not exceed an amount to be  
4 established by bank policy;

5 (2) The term of the loan may not exceed thirty years;

6 (3) The rate of the loan must be equal to the bank's market  
7 rate;

8 (4) The maximum loan to value may not exceed eighty percent of  
9 appraised value; however, a local financial institution or credit  
10 union may take a second mortgage that does not exceed a combined  
11 loan to value of ninety-five percent; and

12 (5) Standard credit underwriting and documentation applies.

13 (g) The bank may sell eligible first-time home buyer loans to  
14 the West Virginia Housing Finance Agency.

15 **§31A-8G-26. Required transfer - Special education contract costs.**

16 If the Board of Banking and Financial Institutions is notified  
17 by the State Superintendent of Free Schools that, using all  
18 available sources, there are insufficient moneys with which to  
19 fully reimburse school districts for the excess costs of serving  
20 the one percent of special education students statewide who require  
21 the greatest school district expenditures in order to be provided  
22 with special education and related services, the Board of Banking  
23 and Financial Institutions shall transfer from the earnings and  
24 accumulated and undivided profits of the State Bank of West



1 Virginia the amount that the State Superintendent of Free Schools  
2 certifies is necessary to provide the statutorily required level of  
3 reimbursement. The State Superintendent of Free Schools shall file  
4 for introduction legislation requesting that the ensuing  
5 Legislature return any amount transferred under this section to the  
6 State Bank of West Virginia.

7 **§31A-8G-27. Rebuilders loan program - Loan fund - Continuing**  
8 **appropriation requirements.**

9 (a) The State Bank of West Virginia shall maintain a loan fund  
10 to make or participate in loans to West Virginia residents affected  
11 by a presidentially declared disaster in the state for the purpose  
12 of the resident rebuilding the resident's flood-damaged home,  
13 rebuilding nonowner-occupied property, or purchasing a new home or  
14 federal emergency management agency temporary housing unit located  
15 in a community-approved group housing site in the disaster-impacted  
16 community. For a resident rebuilding the resident's flood-damaged  
17 home or purchasing a new home, up to twenty percent of the loan  
18 proceeds disbursed under this program may be used for debt service,  
19 debt retirement, or other credit obligations. All moneys  
20 transferred into the fund, interest upon moneys in the fund and  
21 payments to the fund of principal and interest on loans made from  
22 the fund are appropriated for the purpose of providing loans in  
23 accordance with this section.

24 (b) The bank shall administer and supervise the loan fund and

1 loans made from the fund.

2 (c) The bank may deduct, from interest payments received on  
3 loans, a service fee for administering the fund for the bank and  
4 originating financial institutions. An application for a loan from  
5 the fund must be made to the bank or originating financial  
6 institution and, upon approval, a loan must be made from the fund  
7 in accordance with this section.

8 (d) A loan may be made from the fund only to a resident of a  
9 federal emergency management agency temporary housing unit located  
10 in a community-approved group housing site, a homeowner residing,  
11 or owner of nonowner-occupied property in an area in this state in  
12 which federal emergency management agency individual assistance was  
13 available to homeowners after a presidentially declared disaster in  
14 the state as a result of a flood event occurring during 2013. A  
15 loan may be made from the fund only to a resident of a federal  
16 emergency management agency temporary housing unit located in a  
17 community-approved group housing site or a homeowner residing in  
18 this state whose home, or owner of nonowner-occupied property whose  
19 property, was granted a reduction in 2013 in true and full  
20 valuation from the individual's property's preflood value by an  
21 assessment reduction pursuant to the Governor's executive order in  
22 2013 or by an abatement for flood-damaged property granted by  
23 county commissioners. In order for an owner of nonowner-occupied  
24 property to qualify for a loan under this section, the owner of the

1 property must have been the owner at the time of the presidentially  
2 declared disaster and the number of households in the property  
3 rebuilt under this section must remain the same as before the  
4 presidentially declared disaster. The owner of nonowner-occupied  
5 property is eligible for only one loan for nonowner-occupied  
6 property under this section and that loan must be secured by the  
7 property for which the loan is made. An initial loan made to a  
8 home owner or owner of nonowner-occupied property under this  
9 section from state funds may not exceed \$30,000 or the actual  
10 amount of documented damage not paid by flood insurance, whichever  
11 is less. A supplemental loan of up to \$20,000 may be made to a  
12 homeowner who has received an initial loan under this section if  
13 the full amount of the initial loan and supplemental loan is  
14 secured by the property and does not exceed the actual amount of  
15 documented damage not paid by flood insurance. A loan made to a  
16 resident of a federal emergency management agency temporary housing  
17 unit located in a community-approved group housing site may not  
18 exceed \$30,000 or the purchase price as established by the federal  
19 emergency management agency, whichever is less. For purposes of  
20 this section, "nonowner-occupied property" means property  
21 consisting of one or more rental dwelling units, none of which is  
22 occupied by the owner, and does not include hotel or motel  
23 accommodations or any other commercial property.

24 (e) A loan from the fund must have the interest rate fixed at

1 one percent per year for no more than twenty years.

2 (f) For every loan made from the fund to a homeowner to  
3 rebuild or replace that individual's flood-damaged home, principal  
4 and interest payments must be deferred for the first twenty-four  
5 months of the loan. There is no deferral of principal and interest  
6 payments for a loan for nonowner-occupied property.

7 (g) A loan application for an initial loan to a homeowner or  
8 for a federal emergency management agency temporary housing unit or  
9 for a loan for nonowner-occupied property under this section may  
10 not be accepted after September 30, 2016. A loan application for a  
11 supplemental loan to a homeowner may not be accepted before October  
12 1, 2016, nor after December 31, 2016.

13 (h) If, subsequent to receiving a loan from the fund, the  
14 property for which the loan was made is purchased for flood  
15 mitigation purposes or otherwise sold, the balance of the loan and  
16 any interest accrued on the loan must be repaid to the fund upon  
17 the closing of the sale. If the rebuilders loan borrower provides  
18 financial evidence satisfactory to the State Bank of West Virginia  
19 to show that the borrower does not have the financial ability to  
20 repay the rebuilders loan in full upon sale of the property, after  
21 the sale of the property the State Bank of West Virginia may allow  
22 the borrower to continue to make payments based on the loan terms.

23 (i) The Board of Banking and Financial Institutions shall  
24 contract with a certified public accounting firm to audit the fund

1 as necessary. The cost of the audit, and any other actual costs  
2 incurred by the bank on behalf of the fund, must be paid by the  
3 fund. The bank shall adopt policies to implement this section.

4 **§31A-8G-28. Medical facility infrastructure loan program -**  
5 **Continuing appropriation - Audit and costs of**  
6 **administration.**

7 (a) The State Bank of West Virginia shall administer a loan  
8 program to provide loans to medical facilities to conduct  
9 construction that improves the health care infrastructure in the  
10 state or improves access to existing nonprofit health care  
11 providers in the state. The construction project may include land  
12 purchases and may include purchase, lease, erection or improvement  
13 of any structure or facility to the extent the governing board of  
14 the health care facility has the authority to authorize such  
15 activity.

16 (b) In order to be eligible under this loan program, the  
17 applicant must be the governing board of the health care facility  
18 which submits an application to the bank. The application must:

19 (1) Detail the proposed construction project, which must be a  
20 project of at least \$1 million and which is expected to be  
21 utilized for at least thirty years;

22 (2) Demonstrate the need and long-term viability of the  
23 construction project; and

24 (3) Include financial information as the bank may determine

1 appropriate to determine eligibility, such as whether there are  
2 alternative financing methods.

3 (c) The Governor shall establish a task force to review loan  
4 applications under this section and to make recommendations to the  
5 bank on the loan applications. The task force must include  
6 representation of medical providers and medical facilities from the  
7 gas and coal-producing counties in the state. The task force shall  
8 work with the bank to establish criteria for eligibility for a loan  
9 under the program. The criteria established by the task force and  
10 the bank must give priority to applicants that are located in coal  
11 and gasproducing counties.

12 (d) A loan provided under this section:

13 (1) May not exceed the lesser of \$15 million or seventy-five  
14 percent of the actual cost of the project;

15 (2) Must have an interest rate equal to one percent; and

16 (3) Must provide a repayment schedule of no longer than  
17 twenty-five years.

18 (e) A recipient of a loan under this section shall complete  
19 the financed construction project within twenty-four months of  
20 approval of the loan. Failure to comply with this subsection may  
21 result in forfeiture of the entire loan received under this  
22 section.

23 (f) The medical facility infrastructure fund is a special fund  
24 in the State Treasury. All moneys in the medical facility

1 infrastructure fund are appropriated to the bank on a continuing  
2 basis for the purpose of providing loans under this section.

3 (g) Funds in the medical facility infrastructure fund may be  
4 used for loans as provided under this section and to pay the costs  
5 of administration of the fund. Annually, the bank may deduct a  
6 service fee for administering the medical facility infrastructure  
7 fund maintained under this section.

8 (h) The medical facility infrastructure fund must be audited  
9 in accordance with section eighteen of this article. The cost of  
10 the audit and any other actual costs incurred by the bank on behalf  
11 of the fund must be paid from the fund.

12 (i) The bank shall deposit loan repayment funds in the medical  
13 facility infrastructure fund.

14 (j) After deduction of fees and costs as provided in this  
15 section, the bank shall make an annual transfer of repayment funds  
16 deposited in the medical facility infrastructure fund to the State  
17 Treasurer for deposit in the strategic investment and improvements  
18 fund.

19 (k) The State Bank of West Virginia shall service loans made  
20 under the medical facility infrastructure loan program. The  
21 repayment schedule of these loans may not exceed twenty-five years.

22 (l) Funds in the medical facility infrastructure fund may be  
23 used for loans as provided under this section and to pay the costs  
24 of administration of the fund. Annually, the bank may deduct a

1 service fee for administering the medical facility infrastructure  
2 fund maintained under this section.

3 (m) The medical facility infrastructure fund must be audited  
4 in accordance with section eighteen of this article. The cost of  
5 the audit and any other actual costs incurred by the bank on behalf  
6 of the fund must be paid from the fund.

7 (n) The bank shall deposit loan repayment funds in the medical  
8 facility infrastructure fund.

9 (o) After deduction of fees and costs as provided in this  
10 section, the bank shall make an annual transfer of repayment funds  
11 deposited in the medical facility infrastructure fund to the State  
12 Treasurer for deposit in the strategic investment and improvements  
13 fund.

14 **§31A-8G-29. Funds received in relation to federal student loan**  
15 **program - Administration continuing appropriation.**

16 (a) The State Bank of West Virginia shall administer and  
17 manage the funds received in relation to the federal student loan  
18 program under section 2212 of the Health Care and Education  
19 Reconciliation Act of 2010 [Pub.L.111-152].

20 (b) The funds shall be used to support the functions of the  
21 bank related to higher education.

22 (c) The funds received by the bank under this section are  
23 appropriated on a continuing basis to be used as provided in this  
24 section.



NOTE: The purpose of this bill is to create "The State Bank of West Virginia" owned, controlled and operated by the state for the purpose of encouraging and promoting agriculture, commerce and industry.

This article is new; therefore, it has been completely underscored.