

1 **H. B. 2544**

2
3 (By Delegates Walters, Craig, Hunt, White, Nelson, J.,
4 Folk, Raines, Paxton, Kump, Boggs and Miley)

5
6 [Introduced February 19, 2013; referred to the
7 Committee on Veterans' Affairs and Homeland Security then
8 Finance.]

**FISCAL
NOTE**

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §11-13DD-1,
12 §11-13DD-2 and §11-13DD-3; to amend and reenact §15-5-21 of
13 said code; to amend said code by adding thereto a new section,
14 designated §17-2A-8d; and to amend and reenact §55-7D-1 of
15 said code, all relating to improving state emergency
16 preparedness; creating an emergency generator tax credit for
17 gas or propane fueled machines; requiring the Office of
18 Emergency Services to coordinate with local radio and
19 television stations to broadcast public service announcements
20 with information as to the location of emergency shelters; to
21 authorizing the Commissioner of Highways to erect signs
22 relating to emergency shelters; providing tax credits for use
23 of emergency generators; and providing a protection from civil
24 or criminal liability to persons donating food during times of
25 emergencies.

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

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new article, designated §11-13DD-1, §11-13DD-2
3 and §11-13DD-3; that §15-5-21 of said code be amended and
4 reenacted; that said code be amended by adding thereto a new
5 section, designated §17-2A-8d; and that §55-7D-1 of said code be
6 amended and reenacted, all to read as follows:

7 **CHAPTER 11. TAXATION.**

8 **ARTICLE 13DD. EMERGENCY GENERATOR TAX CREDIT.**

9 **§11-13DD-1. Amount of credit.**

10 Any taxpayer who installs or causes to be installed an
11 emergency generator powered by natural gas or propane on property
12 located in this state and owned by the taxpayer and used as a place
13 of business or residence after July 1, 2013, shall be allowed a
14 credit against the taxes imposed in articles twenty-one,
15 twenty-three and twenty-four of this chapter in an amount equal to
16 thirty percent of the cost to purchase and install the system up to
17 a maximum amount of \$3,000.

18 **§11-13DD-2. Restrictions.**

19 In order to receive the credit for an emergency generator, the
20 generator may use natural gas or propane fueled machines for its
21 operation. The generator shall be permanently installed and wired
22 to the electrical panel in the residence or building with
23 insulating back-flow and shut off protection.

24 **§11-13DD-3. Carryover credit allowed; Tax Commissioner to**

1 **promulgate rules.**

2 If the amount of the credit exceeds the taxpayer's liability
3 for the taxable year, the amount which exceeds the tax liability
4 may be carried over and applied as a credit against the tax
5 liability of the taxpayer pursuant to the provisions of articles
6 twenty-one, twenty-three and twenty-four of this chapter to each of
7 the next taxable years unless sooner used.

8 The State Tax Commissioner shall promulgate rules for
9 legislative approval pursuant to the provisions of chapter
10 twenty-nine-a of this code regarding the applicability, method of
11 claiming of the credit, recapture of the credit and documentation
12 necessary to claim the credit allowed by this article. No taxpayer
13 may take a credit pursuant to this article for an emergency
14 generator placed in service by natural gas or propane after July 1,
15 2015.

16 **CHAPTER 15. PUBLIC SAFETY.**

17 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

18 **§15-5-21. Communications.**

19 (a) The Office of Emergency Services shall ascertain what
20 means exist for rapid and efficient communication in times of
21 disaster. The office shall consider the desirability of
22 supplementing such communication resources or of integrating them
23 into a comprehensive state or federal-state telecommunications or
24 other communications system or network. In studying the character

1 and feasibility of any system or its several parts, the office
2 shall evaluate the possibility of multipurpose use thereof for
3 various state, regional and local governmental purposes. The
4 office shall make recommendations to the Governor as appropriate.

5 (b) The Office of Emergency Services shall coordinate
6 planning with local radio and television stations to broadcast
7 public service announcements that inform the listening and viewing
8 areas as to the location of emergency shelters during stated
9 emergencies. The plans shall include the requirement that the
10 local radio and television stations broadcast the public service
11 announcements every thirty minutes, fifteen minutes before the hour
12 and fifteen minutes after the hour.

13 **CHAPTER 17. ROADS AND HIGHWAYS.**

14 **ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

15 §17-2A-8d. Authority to provide signs guiding travelers to
16 emergency shelters.

17 In addition to the other powers given and assigned to him or
18 her in this chapter, when an emergency exists, the Commissioner of
19 Highways may cause the placement of signs along the interstate
20 highways and other roadways guiding travelers to emergency
21 shelters. The commissioner along with the Director of Homeland
22 Security and Emergency Management shall develop a plan to start
23 implementation by July 1, 2014.

24 **CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.**

1 **ARTICLE 7D. GOOD SAMARITAN FOOD DONATION ACT.**

2 **§55-7D-1. Legislative findings.**

3 The Legislature finds that wholesale and retail food
4 distributors, shipping terminals and other establishments across
5 the state are disposing of food that could be made available to
6 those in need. However, many potential food donors are discouraged
7 from donating this food because of potential liability. The United
8 States Congress has recognized the need to encourage food
9 distributors to make otherwise disposed-of food products available
10 to those in need and has adopted Title 42 United States Code §1791
11 entitled the "Bill Emerson Good Samaritan Food Donation Act." This
12 federal law encourages state and local governments to enact good
13 samaritan or donor liability limitation laws to encourage private
14 cooperative efforts to provide food for hungry people within their
15 respective jurisdictions. The Legislature finds that this is a
16 worthy goal, and therefore it is appropriate for the state to
17 encourage participation in food donation programs by providing a
18 statutory framework to protect food donators from liability for
19 their good faith efforts, including food donators during declared
20 states of emergency to local emergency centers.

NOTE: The purpose of this bill is to improve state emergency preparedness. The bill requires the Commissioner of Highways to erect signs on the interstate highways and other roadways relating to directions to emergency shelters. It requires the Office of Emergency Services to coordinate with local radio and television

stations to broadcast public service announcements with information as to the location of emergency shelters. The bill provides tax credits for use of natural gas or propane fueled emergency generators. And, the bill provides a protection from civil or criminal liability to persons who donate food during times of emergencies.

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

§17-2A-8d is new; therefore, it has been completely underscored.

Article 13DD is new; therefore, it has been completely underscored.