

**Senate Bill No. 526**

(By Senators Unger and Klempa)

\_\_\_\_\_  
[Introduced February 6, 2012; referred to the Committee on  
Finance.]  
\_\_\_\_\_

**FISCAL  
NOTE**

10 A BILL to amend and reenact §11-22-2 of the Code of West Virginia,  
11 1931, as amended, relating to redistributing an existing  
12 excise tax paid upon the transfer of real property so that the  
13 tax is paid to the county where the property is situate  
14 instead of to the state; requiring counties to dedicate this  
15 excise tax to support regional jails and substance abuse  
16 programs; providing this be accomplished incrementally over a  
17 five-year period; and making stylistic changes.

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

19 That §11-22-2 of the Code of West Virginia, 1931, as amended,  
20 be amended and reenacted to read as follows:

21 **ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.**

22 **§11-22-2. Rate of tax; when and by whom payable; distribution and**  
23 **use.**

1 (a) Every person who delivers, accepts or presents for  
2 recording any document, or in whose behalf any document is  
3 delivered, accepted or presented for recording, is subject to pay  
4 for, and in respect to the transaction or any part thereof, ~~a state~~  
5 an excise tax upon the privilege of transferring title to real  
6 estate at the rate of \$1.10 for each \$500 value or fraction thereof  
7 as represented by the document as defined in section one of this  
8 article. The ~~state~~ tax is payable at the time of delivery,  
9 acceptance or presenting for recording of the document. Commencing  
10 July 1, 2012, the excise tax collected in this subsection shall be  
11 distributed in the following manner:

12 (1) For the first year, eighty percent to the state and twenty  
13 percent to the county;

14 (2) For the second year, sixty percent to the state and forty  
15 percent to the county;

16 (3) For the third year, forty percent to the state and sixty  
17 percent to the county;

18 (4) For the fourth year, twenty percent to the state and  
19 eighty percent to the county; and

20 (5) For the fifth and each succeeding year, one hundred  
21 percent to the county.

22 (b) The counties shall use seventy-five percent of the excise  
23 tax collected under subsection (a) of this section to support the

1 regional jail within their respective regions and twenty-five  
2 percent to support substance abuse treatment.

3 (1) The county commission in consultation with the chief  
4 circuit court judge shall determine how to disperse the money  
5 dedicated to support substance abuse treatment. The funding is to  
6 be used in the county or counties where it was collected.  
7 Treatment programs that are suitable for funding, include but are  
8 not limited to, substance abuse treatment and intervention such as  
9 ethics case management based addiction programs, short and long  
10 term residential treatment programs and out-patient programs as  
11 well as community corrections substance abuse treatment programs.

12 (c) In addition to the ~~state~~ excise tax described in ~~this~~  
13 subsection (a) of this section, there is assessed a fee of \$20 upon  
14 the privilege of transferring real estate for consideration. The  
15 clerk of the county commission shall collect the additional \$20 fee  
16 before recording a transfer of title to real estate and ~~shall~~  
17 deposit the moneys ~~from the additional fees~~ into the West Virginia  
18 Affordable Housing Trust Fund as provided in article eighteen-d,  
19 chapter thirty-one of this code. The moneys collected ~~from this~~  
20 ~~additional fee~~ shall be segregated from other funds in the West  
21 Virginia Affordable Housing Trust Fund and ~~shall be~~ accounted for  
22 separately. Not more than ten percent of these additional moneys  
23 may be expended by the West Virginia Affordable Housing Trust Fund

1 to defray administrative and operating costs and expenses actually  
2 incurred by the West Virginia Affordable Housing Trust Fund. The  
3 Housing Development Fund, as fiscal agent of the West Virginia  
4 Affordable Housing Trust Fund, shall publish monthly on the  
5 Internet site an accounting of all revenue deposited into the fund  
6 during the month and a full disclosure of all expenditures from the  
7 fund including the group receiving funds, their location and any  
8 contractor awarded the construction contract. Additionally, the  
9 West Virginia Affordable Housing Trust Fund is to provide an annual  
10 report to the Joint Committee on Government and Finance before  
11 December 1, 2007, and each year thereafter.

12 ~~(b) Effective January 1, 1968, and thereafter, there is~~  
13 ~~imposed an additional county excise tax for the privilege of~~  
14 ~~transferring title to real estate at the rate of 55¢ for each \$500~~  
15 ~~value or fraction thereof as represented by such document as~~  
16 ~~defined in section one of this article, which county tax shall be~~  
17 ~~payable at the time of delivery, acceptance or presenting for~~  
18 ~~recording of such document: Provided, That after July 1, 1989, the~~  
19 ~~county may increase said excise tax to an amount equal to the state~~  
20 ~~excise tax. The additional tax hereby imposed is declared to be a~~  
21 ~~county tax and to be used for county purposes: Provided, however,~~  
22 ~~That only one such state tax and one such county tax shall be paid~~  
23 ~~on any one document and shall be collected in the county where the~~

~~1 document is first admitted to record and the tax shall be paid by  
2 the grantor therein unless the grantee accepts the document without  
3 such tax having been paid, in which event such tax shall be paid by  
4 the grantee: *Provided further,* That on any transfer of real  
5 property from a trustee or a county clerk transferring real estate  
6 sold for taxes, such tax shall be paid by the grantee. The county  
7 excise tax imposed under this section may not be increased in any  
8 county unless the increase is approved by a majority vote of the  
9 members of the county commission of such county. Any county  
10 commission intending to increase the excise tax imposed in its  
11 county shall publish a notice of its intention to increase such tax  
12 not less than thirty days nor more than sixty days prior to the  
13 meeting at which such increase will be considered, such notice to  
14 be published as a Class I legal advertisement in compliance with  
15 the provisions of article three, chapter fifty-nine of this code  
16 and the publication area shall be the county in which such county  
17 commission is located.~~

18 (d) There is imposed an additional county excise tax for the  
19 privilege of transferring title to real estate at the rate of \$.55  
20 for each \$500 value or fraction thereof as represented by such  
21 document, as defined in section one of this article, and is payable  
22 at the time of delivery, acceptance or presenting for recording of  
23 such document. The additional tax hereby imposed is declared to be

1 a county tax and to be used for county purposes. The county may  
2 increase this excise tax to an amount equal to the tax set forth in  
3 subsection (a) of this section if approved by a majority vote of  
4 the members of the county commission. A county commission intending  
5 to increase the excise tax imposed in its county shall publish a  
6 notice of its intention to increase such tax not less than thirty  
7 days nor more than sixty days prior to the meeting at which the  
8 increase will be considered, such notice to be published as a Class  
9 I legal advertisement in compliance with the provisions of article  
10 three, chapter fifty-nine of this code and the publication area  
11 shall be the county in which such county commission is located.

12 (e) The taxes established by this section shall be collected  
13 in the county where the document is first admitted to record and  
14 paid by the grantor unless the grantee accepts the document without  
15 the tax having been paid, in which event the tax shall be paid by  
16 the grantee. On any transfer of real property from a trustee or a  
17 county clerk transferring real estate sold for taxes, such tax  
18 shall be paid by the grantee.

NOTE: The purpose of this bill is to incrementally redistribute an existing excise tax on the transfer of real property so that, over the course of five years, all moneys collected will be paid to the county where the property is situate instead of the state and to require that moneys paid to counties be dedicated to regional jails and substance abuse treatment.

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