

H. B. 2111

(By Delegates Shaver and Williams)

[Introduced January 12, 2011; referred to the
Committee on Roads and Transportation then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-15-3a of the Code of West Virginia,
1931, as amended, relating to the dedication of a portion of
the receipts from the food tax to the Commissioner of Highways
to be distributed equally to each district of the Division of
Highways for the maintenance of secondary roads.

Be it enacted by the Legislature of West Virginia:

That §11-15-3a of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

**§11-15-3a. Rate of tax on food and food ingredients intended for
human consumption; reductions of tax beginning
January 1, 2006, July 1, 2007 and July 1, 2008.**

(a) *Rate of tax on food and food ingredients. --*

Notwithstanding any provision of this article or article fifteen-a

1 of this chapter to the contrary, the rate of tax on sales,
2 purchases and uses of food and food ingredients intended for human
3 consumption after December 31, 2005, shall be five percent of its
4 sales price, as defined in section two, article fifteen-b of this
5 chapter: *Provided*, That the rate of tax on sales, purchases and
6 uses of food and food ingredients, as defined in said section, that
7 is intended for human consumption after June 30, 2007, shall be
8 four percent of its sales price, as defined in said section:
9 *Provided, however*, That the rate of tax on sales, purchases and
10 uses of food and food ingredients as defined in said section that
11 is intended for human consumption after June 30, 2008, shall be
12 three percent of its sales price, as defined in said section.

13 (b) *Calculation of tax on fractional parts of a dollar.* -- The
14 tax computation under this section shall be carried to the third
15 decimal place and the tax rounded up to the next whole cent
16 whenever the third decimal place is greater than four and rounded
17 down to the lower whole cent whenever the third decimal place is
18 four or less. The seller may elect to compute the tax due on a
19 transaction on a per item basis or on an invoice basis provided the
20 method used is consistently used during the reporting period.

21 (c) *Federal food stamp and women, infants and children*
22 *programs, other exemptions.* -- Nothing in this section shall affect
23 application of the exemption from tax provided in section nine of
24 this article for food purchased by an eligible person using food

1 stamps, electronic benefits transfer cards or vouchers issued by or
2 pursuant to authorization of the United States Department of
3 Agriculture to individuals participating in the federal food stamp
4 program, by whatever name called, or the women, infants and
5 children (WIC) program, or application of any other exemption from
6 tax set forth in this article or article fifteen-a of this chapter.

7 (d) Effective July 1, 2011, and at the end of each month
8 thereafter, the Tax Commissioner shall remit to the Division of
9 Highways, a portion of all the proceeds of the tax imposed by this
10 section which represents an amount equal to one cent of each \$1.00
11 of each sale. The Commissioner of Highways shall establish a fund
12 within the division for deposit of the proceeds received from the
13 Tax Commissioner and shall dedicate these funds for maintaining
14 secondary roads only, including, but not limited to, road repair,
15 tar and chipping, gravel replacement, ditch cleaning and brush
16 removal. The commissioner shall annually distribute the moneys
17 from these funds equally to each of the Division of Highways
18 districts for the purposes set forth in this subdivision only.

NOTE: The purpose of this bill is to dedicate a portion of the receipts from the tax on food products to be distributed equally to each district of the Division of Highways for the maintenance of secondary roads.

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