

**Senate Bill No. 21**

(By Senators Helmick, Barnes, Sypolt and D. Facepire)

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[Introduced January 12, 2011; referred to the Committee on  
Energy, Industry and Mining; and then to the Committee on Finance  
.]

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A BILL to amend and reenact §31-15A-16 of the Code of West  
Virginia, 1931, as amended, relating to dedication of  
severance tax proceeds; specifying a minimum share of coalbed  
methane severance tax revenue be distributed to producing  
counties in an amount at least equal to the share received by  
nonproducing counties; specifying the distribution method for  
severance tax revenues for coalbed methane-producing and  
nonproducing counties; and specifying computation.

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

That §31-15A-16 of the Code of West Virginia, 1931, as  
amended, be amended and reenacted to read as follows:

**ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**

1                   **ACT.**

2 **§31-15A-16. Dedication of severance tax proceeds.**

3           (a) There shall be dedicated an annual amount from the  
4 collections of the tax collected pursuant to article thirteen-a,  
5 chapter eleven of this code for the construction, extension,  
6 expansion, rehabilitation, repair and improvement of water supply  
7 and sewage treatment systems and for the acquisition, preparation,  
8 construction and improvement of sites for economic development in  
9 this state as provided in this article.

10          (b) Notwithstanding any other provision of this code to the  
11 contrary, beginning on July 1, 1995, the first \$16 million of the  
12 tax collected pursuant to article thirteen-a, chapter eleven of  
13 this code shall be deposited to the credit of the West Virginia  
14 Infrastructure General Obligation Debt Service Fund created  
15 pursuant to section three, article fifteen-b of this chapter:

16 *Provided*, That beginning on July 1, 1998, the first \$24 million of  
17 the tax annually collected pursuant to article thirteen-a of this  
18 code shall be deposited to the credit of the West Virginia  
19 Infrastructure General Obligation Debt Service Fund created  
20 pursuant to section three, article fifteen-b of this chapter.

21          © Notwithstanding any provision of subsection (b) of this  
22 section to the contrary: (1) None of the collections from the tax

1 imposed pursuant to section six, article thirteen-a, chapter eleven  
2 of this code shall be so dedicated or deposited; and (2) the  
3 portion of the tax imposed by article thirteen-a, chapter eleven  
4 and dedicated for purposes of Medicaid and the Division of Forestry  
5 pursuant to section twenty-a of said article thirteen-a shall  
6 remain dedicated for the purposes set forth in said section twenty-  
7 a.

8 (d) On or before May 1 of each year, commencing May 1, 1995,  
9 the council, by resolution, shall certify to the Treasurer and the  
10 Water Development Authority the principal and interest coverage  
11 ratio and amount for the following fiscal year on any  
12 infrastructure general obligation bonds issued pursuant to the  
13 provisions of article fifteen-b of this chapter.

14 (e) Notwithstanding any provision of this article to the  
15 contrary, prior to the deposit of the proceeds of the tax on  
16 coalbed methane remitted by the Tax Commissioner for deposit in the  
17 West Virginia Infrastructure Fund pursuant to section twenty-a,  
18 article thirteen-a, chapter eleven of this code, shall be  
19 distributed as follows the Tax Commissioner shall undertake the  
20 following calculations:

21 (1) Seventy-five percent of the moneys ~~so~~ to be deposited  
22 shall be ~~distributed~~ provisionally allocated for ~~infrastructure~~

1 ~~projects in~~ the various counties of this state in which the coalbed  
2 methane was produced; and

3 (2) The remaining twenty-five percent of the moneys ~~so to be~~  
4 deposited shall be ~~distributed~~ provisionally allocated ~~equally~~ to  
5 the various counties of this state in which no coalbed methane was  
6 produced for ~~infrastructure~~ projects in accordance with subsection  
7 h of this section.

8 (3) Moneys shall be ~~distributed~~ provisionally allocated to  
9 each coalbed methane producing county in direct proportion to the  
10 amount of tax revenues derived from coalbed methane production in  
11 ~~paid by~~ the county. ~~using information provided by the Tax~~  
12 ~~Commissioner as required in section twenty-a, article thirteen-a,~~  
13 ~~chapter eleven of this code~~

14 (4) Portional adjustments.

15 (A) If, for any year, a coalbed methane producing county's  
16 share of money provisionally allocated to that county is computed  
17 to be an amount that is less than the amount provisionally  
18 allocated to each of the coalbed methane nonproducing counties,  
19 then for purposes of the computations set forth in this subsection,  
20 that coalbed methane producing county shall be redesignated a  
21 coalbed methane nonproducing county. The money that has been  
22 provisionally allocated to that coalbed methane producing county

1 out of the seventy-five percent portion specified in subdivision  
2 (1) of this section shall be subtracted out of the seventy-five  
3 percent portion specified in subdivision (1) and added to the  
4 twenty-five percent portion specified in subdivision (2).

5 (B) When the adjustment specified in paragraph (A) of this  
6 subdivision (4) has been made for each coalbed methane producing  
7 county that has been redesignated as a coalbed methane nonproducing  
8 county, then the Tax Department shall finalize the calculations of  
9 the amounts to be made available for distribution by the council to  
10 the coalbed methane producing counties that have not been  
11 redesignated as coalbed methane nonproducing counties under this  
12 subdivision (4) as follows: The amount remaining in the provisional  
13 seventy-five percent portion specified in subdivision (1), as  
14 adjusted in accordance with paragraph (A) of this subdivision (4),  
15 shall be allocated, in direct proportion to the amount that tax  
16 revenues derived from coalbed methane production in each such  
17 county not redesignated as a coalbed methane nonproducing county  
18 bears to the total amount of tax revenues derived from coalbed  
19 methane production in all coalbed methane producing counties that  
20 have not been redesignated as a coalbed methane nonproducing  
21 county.

22 (C) The Tax Commission shall then finalize the calculation of

1 the total amount in the twenty-five percent portion specified in  
2 subdivision (2), as adjusted in accordance with paragraph (A) of  
3 this subdivision (4).

4 (f) In addition to providing a breakdown of coalbed methane  
5 taxes paid and amount of coalbed methane produced by county, the  
6 Tax Commissioner shall provide to the Council the preliminary and  
7 final calculations undertaken pursuant to subsection (e) of this  
8 section when depositing the amount of tax on coalbed methane in the  
9 West Virginia Infrastructure Fund pursuant to section twenty-a,  
10 article thirteen-a, chapter eleven of this code.

11 (g) In no case may the total amount distributed in any fiscal  
12 year to the aggregate of all coalbed methane producing counties and  
13 all coalbed methane nonproducing counties calculated by the Tax  
14 Commissioner exceed the amount of tax on coalbed methane remitted  
15 by the Tax Commissioner for deposit in the West Virginia  
16 Infrastructure Fund pursuant to section twenty-a, article thirteen-  
17 a, chapter eleven of this code for the year.

18 (h) Distribution by council.

19 (1) For funds attributable to coalbed methane producing  
20 counties, the Water Development Authority shall distribute the  
21 moneys in the form of grants to Project sponsors in each of those  
22 counties in accordance with the calculations provided by the Tax

1 Department in subsection (e) of this section for Projects approved  
2 by the council. The council may award all or part of the amounts  
3 available for one or more Projects, based on applications made by  
4 Project sponsors in coalbed methane producing counties pursuant to  
5 the provisions of this article.

6 (2) For funds attributable to coalbed methane nonproducing  
7 counties after subsection (e) adjustments, the Water Development  
8 Authority shall make the total amount of moneys calculated pursuant  
9 to subsection (e) of this section available in the form of grants  
10 to Project sponsors from one or more of the coalbed methane  
11 nonproducing counties for Projects approved by the council. The  
12 council may award all or part of the amounts available for Project  
13 sponsors for one or more Projects, based on applications made by  
14 Project sponsors from coalbed methane nonproducing counties  
15 pursuant to the provisions of this article.

16 (i) Projects from counties that are deemed coalbed methane  
17 producing counties by the Tax Department are not eligible for  
18 distribution of moneys pursuant to subdivision two of subsection h  
19 of this section: Provided, That the council may continue to  
20 consider a pending application of a Project sponsor from a coalbed  
21 methane nonproducing county that is subsequently deemed a coalbed  
22 methane producing county by the Tax Commissioner.

1        (j) Notwithstanding any other provision of this code to the  
2 contrary, the moneys remitted by the Tax Department to the West  
3 Virginia Infrastructure Fund are not subject to the provisions of  
4 section eleven of this article and are not to be considered by the  
5 Council when determining the amount of moneys that may disbursed  
6 from the infrastructure fund in the form of grants pursuant to the  
7 provisions of section ten of this article.

8        (k) The moneys remitted by the Tax Department on the October  
9 1, 2010 for coalbed methane Project sponsors in nonproducing  
10 coalbed methane counties for infrastructure projects that have not  
11 been distributed shall not be distributed to Project sponsors in  
12 those counties but instead shall be available for distribution for  
13 Projects pursuant to the provisions of subdivision two of  
14 subsection h of this section.

NOTE: The purpose of this bill is to specify that a minimum share of coalbed methane severance tax revenue be distributed to producing counties in an amount at least equal to the share received by nonproducing counties and that the distribution method for severance tax revenues for coalbed methane producing and nonproducing counties be used.

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