

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1254 Session of
2010

INTRODUCED BY DINNIMAN, O'PAKE, COSTA AND BOSCOLA, MARCH 4, 2010

REFERRED TO FINANCE, MARCH 4, 2010

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, imposing a tax on the
3 extraction of natural gas; providing for natural resource
4 severance tax license, for duties of the Department of
5 Revenue, for tax assessments and tax liens; imposing
6 penalties; providing for service of process, for rulemaking,
7 for cooperation with other governments and for bonds; and
8 establishing the Natural Gas Tax Relief, Conservation and
9 Community Investment Fund.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Title 72 of the Pennsylvania Consolidated
13 Statutes is amended by adding a chapter to read:

14 CHAPTER 15

15 SEVERANCE TAX

16 Sec.

17 1501. Scope of chapter.

18 1502. Definitions.

19 1503. Imposition of tax.

20 1504. Return and payment.

21 1505. Natural resource severance tax registration.

22 1505.1 Meters.

1 1506. Assessments.
2 1507. Time for assessment.
3 1508. Extension of limitation period.
4 1509. Reassessments.
5 1510. Interest.
6 1511. Penalties.
7 1512. Criminal acts.
8 1513. Abatement of additions or penalties.
9 1514. Bulk and auction sales.
10 1515. Collection upon failure to request reassessment, review
11 or appeal.
12 1516. Tax liens.
13 1517. Tax suit reciprocity.
14 1518. Service.
15 1519. Refunds.
16 1520. Refund petition.
17 1521. Rules and regulations.
18 1522. Recordkeeping.
19 1523. Examinations.
20 1524. Unauthorized disclosure.
21 1525. Cooperation with other governments.
22 1526. Bonds.
23 1527. Natural Gas Tax Relief, Conservation and Community
24 Investment Fund.

25 § 1501. Scope of chapter.

26 This chapter relates to the Natural Resource Severance Tax.

27 § 1502. Definitions.

28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Association." A partnership, limited partnership or any
2 other form of unincorporated enterprise owned or conducted by
3 two or more persons.

4 "Authority." The Commonwealth Financing Authority.

5 "Board." The board of the Commonwealth Financing Authority.

6 "Corporation." A corporation, joint stock association,
7 limited liability company, business trust or any other
8 incorporated enterprise organized under the laws of this
9 Commonwealth, the United States or any other state, territory or
10 foreign country or dependency.

11 "Department." The Department of Revenue of the Commonwealth.

12 "Fund." The Natural Gas Tax Relief, Conservation and
13 Community Investment Fund established in section 1527 (relating
14 to Natural Gas Tax Relief, Conservation and Community Investment
15 Fund).

16 "Gross value." The volume-weighted average market price for
17 all arms-length transactions that a producer receives at the
18 sales meter for natural gas during a reporting period.

19 "Meter." A device to measure the passage of volumes of gases
20 or liquids past a certain point.

21 "Natural gas." A fossil fuel consisting of a mixture of
22 hydrocarbon gases, primarily methane, possibly including ethane,
23 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
24 hydrogen sulfide and other gas species. The term includes
25 natural gas from oil fields known as associated gas or casing
26 head gas, natural gas fields known as nonassociated gas, coal
27 beds, shale beds and other formations.

28 "Nonproducing site." A point of severance that is not
29 capable of producing a natural gas in paying quantities.

30 "Paying quantities." Profit to the producer, however small,

1 over the producer's current operating expenses.

2 "Person." Every natural person, including a corporation,
3 limited liability company, business trust, trust, guardian or
4 other fiduciary, association, government entity or corporation.

5 "Producer." A person who engages or continues within this
6 Commonwealth in the business of severing natural gas for sale,
7 profit or commercial use. The term does not include a person who
8 severs natural gas from a storage field.

9 "Producing site." A point of severance capable of producing
10 natural gas in paying quantities.

11 "Reporting period." A calendar month in which natural gas is
12 severed.

13 "Sales meter." A meter at the point where natural gas is
14 sold or transported to a purchaser or market.

15 "Sever," "severing" or "severance." The extraction or other
16 removal of a natural resource from the soil or water of this
17 Commonwealth.

18 "Tax." The tax imposed under this chapter.

19 "Taxpayer." A person subject to the tax imposed by this
20 chapter.

21 "Unit." A thousand cubic feet of natural gas measured at the
22 wellhead at a temperature of 60 degrees Fahrenheit and an
23 absolute pressure of 14.73 pounds per square inch in accordance
24 with American Gas Association Standards and according to Boyle's
25 law for the measurement of gas under varying pressures with
26 deviations as follows:

27 (1) The average absolute atmospheric pressure shall be
28 assumed to be 14.4 pounds to the square inch, regardless of
29 elevation or location of point of delivery above sea level or
30 variations in atmospheric pressure from time to time.

1 (2) The temperature of the gas passing the meters shall
2 be determined by the continuous use of a recording
3 thermometer installed to properly record the temperature of
4 gas flowing through the meters. The arithmetic average of the
5 temperature recorded each 24-hour day shall be used in
6 computing gas volumes. If a recording thermometer is not
7 installed, or if installed and not operating properly, an
8 average flowing temperature of 60 degrees Fahrenheit shall be
9 used in computing gas volume.

10 (3) The specific gravity of the gas shall be determined
11 annually by tests made by the use of an Edwards or Acme
12 gravity balance, or at intervals as found necessary in
13 practice. Specific gravity determinations shall be used in
14 computing gas volumes.

15 (4) The deviation of the natural gas from Boyle's law
16 shall be determined by annual tests or at other shorter
17 intervals as found necessary in practice. The apparatus and
18 method used in making the test shall be in accordance with
19 recommendations of the National Bureau of Standards or Report
20 No. 3 of the Gas Measurement Committee of the American Gas
21 Association, or amendments thereto. The results of the tests
22 shall be used in computing the volume of gas delivered under
23 this chapter.

24 "Wellhead meter." A meter placed at a producing or
25 nonproducing site to measure the volume of natural gas severed.
26 § 1503. Imposition of tax.

27 (a) Establishment.--There is levied a privilege tax on every
28 producer who severs natural gas.

29 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
30 the gross value of units severed at the wellhead during a

reporting period, plus 4.7 cents per unit severed.

§ 1504. Return and payment.

(a) Requirement.--Every producer is required to file a return with the department, on a form to be prescribed by the department, reporting all severed natural gas resources per reporting period and the tax due as imposed under section 1503 (relating to imposition of tax).

(b) Filing.--The return required by subsection (a) shall be filed with the department within 15 days following the end of the second calendar month after a reporting period.

(c) Deadline.--The tax imposed under section 1503 is due on the day required to be filed and becomes delinquent if not remitted to the department by that date.

§ 1505. Natural resource severance tax registration.

(a) Application.--Before a producer severs natural gas in this Commonwealth, the producer shall apply to the department for a severance tax registration certificate.

(a.1) Application fee.--The department may charge an application fee to cover the administrative costs associated with the application and registration process. If the department charges an application fee, the department shall not register a producer or issue a certificate until the producer has paid the application fee.

(a.2) Declaration.--As part of the application for registration, the producer is required to provide a declaration of all sites in this Commonwealth used for the severance of natural gas. The declaration is to include all producing sites and nonproducing sites. The producer is required to update the declaration when the producer adds or removes a producing or nonproducing site in this Commonwealth or when there is a change

1 in the status of a producing or nonproducing site. The producer
2 shall update the declaration within 30 days after a calendar
3 month in which a change to the declaration occurs.

4 (b) Issuance.--After the receipt of an application, the
5 department shall issue the certificate applied for under
6 subsection (a), provided that said applicant shall have filed
7 all required State tax reports and paid any State taxes not
8 subject to a timely perfected administrative or judicial appeal
9 or subject to a duly authorized deferred payment plan. The
10 certificate shall be nonassignable. All registrants shall be
11 required to renew their registration on a staggered renewal
12 system established by the department. After the initial
13 staggered period, a certificate issued shall be valid for a
14 period of five years.

15 (c) Refusal, suspension or revocation.--The department may
16 refuse to issue, suspend or revoke the certificate if the
17 applicant or any person holding a certificate has not filed
18 required State tax reports and paid State taxes not subject to a
19 timely perfected administrative or judicial appeal or subject to
20 a duly authorized deferred payment plan. The department shall
21 notify the applicant or registrant of any refusal, suspension or
22 revocation. The notice shall contain a statement that the
23 refusal, suspension or revocation may be made public. The notice
24 shall be made by first class mail. An applicant or registrant
25 aggrieved by the determination of the department may file an
26 appeal under the provisions for administrative appeals in the
27 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
28 of 1971. In the case of a suspension or revocation which is
29 appealed, the registration and certificate shall remain valid
30 pending a final outcome of the appeals process. Notwithstanding

1 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the
2 Tax Reform Code of 1971 or any other provision of law, if no
3 appeal is taken or if an appeal is taken and denied at the
4 conclusion of the appeal process the department may disclose, by
5 publication or otherwise, the identity of a person and the fact
6 that the person's registration and certificate has been refused,
7 suspended or revoked under this subsection. Disclosure may
8 include the basis for refusal, suspension or revocation.

9 (d) Violation.--A person severing natural gas in this
10 Commonwealth without holding a valid registration and
11 certificate under subsection (b) shall be guilty of a summary
12 offense and shall, upon conviction, be sentenced to pay a fine
13 of not less than \$300 nor more than \$1,500. In the event the
14 person convicted defaults, he shall be sentenced to imprisonment
15 for not less than five days nor more than 30 days. The penalties
16 imposed by this subsection shall be in addition to any other
17 penalties imposed by this chapter. For purposes of this
18 subsection, the severing of a natural gas during any calendar
19 day shall constitute a separate violation. The Secretary of
20 Revenue may designate employees of the department to enforce the
21 provisions of this subsection. The employees shall exhibit proof
22 of and be within the scope of the designation when instituting
23 proceedings as provided by the Pennsylvania Rules of Criminal
24 Procedure.

25 (e) Failure to obtain license.--Failure to obtain a
26 registration and certificate does not relieve a person from
27 liability for the tax imposed by this chapter.

28 § 1505.1. Meters.

29 A producer shall provide for and maintain a discrete wellhead
30 and sales meters. A producer shall ensure that the meters are

1 maintained according to industry standards.

2 § 1506. Assessments.

3 (a) Authorization and requirement.--The department is
4 authorized and shall make the inquiries, determinations and
5 assessments of the tax, including interest, additions and
6 penalties imposed under this chapter.

7 (b) Notice.--The notice of assessment and demand for payment
8 shall be mailed to the taxpayer. The notice shall set forth the
9 basis of the assessment. The department shall issue a notice of
10 the assessment to the producer. The notice shall set forth the
11 department's basis for the assessment. The department shall send
12 the notice of assessment to the producer at his registered
13 address via certified mail if the assessment increases the
14 producer's tax liability by \$300. Otherwise, the notice of
15 assessment may be sent via regular mail.

16 § 1507. Time for assessment.

17 (a) Requirement.--An assessment as provided under section
18 1506 (relating to assessments) shall be made within three years
19 after the date when the return provided for by section 1504
20 (relating to return and payment) is filed or the end of the year
21 in which the tax liability arises, whichever shall occur last.
22 For the purposes of this subsection and subsection (b), a return
23 filed before the last day prescribed for the filing period shall
24 be considered as filed on the last day.

25 (b) Exception.--The assessment may be made at any time
26 within six years after the return is filed if the total tax that
27 is properly included on the return is in excess of 25% of the
28 total tax reported on the return.

29 (c) Intent to evade.--Where no return is filed or where the
30 taxpayer files a false or fraudulent return with intent to evade

1 the tax imposed by this chapter, the assessment may be made at
2 any time.

3 (d) Erroneous credit or refund.--Within three years of the
4 granting of a refund or credit or within the period in which an
5 assessment or reassessment may have been filed by the department
6 for the taxable period for which the refund was granted,
7 whichever period shall last occur, the department may file an
8 assessment to recover a refund or credit made or allowed
9 erroneously.

10 § 1508. Extension of limitation period.

11 Notwithstanding the provisions of this chapter, the
12 assessment period may be extended where a taxpayer has provided
13 written consent before the expiration of the period provided in
14 section 1507 (relating to time for assessment) for a tax
15 assessment. The amount of tax due may be assessed at any time
16 within the extended period. The period extended may be extended
17 further by subsequent written consents made before the
18 expiration of the extended period.

19 § 1509. Reassessments.

20 A producer against whom an assessment is made may petition
21 the department for a reassessment under Article XXVII of the act
22 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
23 1971.

24 § 1510. Interest.

25 The department shall assess interest on any delinquent tax at
26 the rate prescribed under section 806 of the act of April 9,
27 1929 (P.L.343, No. 176), known as The Fiscal Code.

28 § 1511. Penalties.

29 The department shall enforce the following penalties:

30 (1) A penalty against a producer without a natural gas

1 severance tax registration and certificate. The penalty shall
2 be \$1 for every unit severed without a registration and
3 certificate. The department may assess this penalty
4 separately from or in conjunction with any assessment of tax.

5 (2) A penalty against a producer for failure to file a
6 return as required under section 1504 (relating to return and
7 payment). The penalty shall be 5% of the tax liability to be
8 reported on the return for each day beyond the due date that
9 the return is not filed.

10 (3) In addition to the penalty under paragraph (2), a
11 penalty against the producer for a willful failure to file a
12 return. The penalty shall be 200% of the tax liability
13 required to be reported on the return.

14 (4) A penalty against a producer for failure to timely
15 pay the tax as required by section 1504(c). The penalty shall
16 be 5% of the amount of tax due for each day beyond the
17 payment date that the tax is not paid.

18 § 1512. Criminal acts.

19 (a) Fraudulent return.--Any person with intent to defraud
20 the Commonwealth, who willfully makes or causes to be made a
21 return required by this chapter which is false, is guilty of a
22 misdemeanor and shall, upon conviction, be sentenced to pay a
23 fine of not more than \$2,000 or to imprisonment for not more
24 than three years, or both.

25 (b) Other crimes.--

26 (1) Except as otherwise provided by subsection (a), a
27 producer is guilty of a misdemeanor and shall, upon
28 conviction, be sentenced to pay a fine of not more than
29 \$1,000 and costs of prosecution or to imprisonment for not
30 more than one year, or both, for any of the following:

1 (i) Willfully failing to timely remit the tax to the
2 department.

3 (ii) Willfully failing or neglecting to timely file
4 a return or report required by this chapter.

5 (iii) Refusing to timely pay a tax, penalty or
6 interest imposed or provided for by this chapter.

7 (iv) Willfully failing to preserve his books, papers
8 and records as directed by the department.

9 (v) Refusing to permit the department or its
10 authorized agents to examine its books, records or
11 papers.

12 (vi) Knowingly make any incomplete, false or
13 fraudulent return or report.

14 (vii) Preventing or attempting to prevent the full
15 disclosure of the amount of tax due.

16 (viii) Providing any person with a false statement
17 as to the payment of tax with respect to any pertinent
18 facts.

19 (ix) Making, uttering or issuing a false or
20 fraudulent statement.

21 (2) The penalties imposed by this section shall be in
22 addition to other penalties imposed by this chapter.

23 § 1513. Abatement of additions or penalties.

24 Upon the filing of a petition for reassessment or a petition
25 for refund by a taxpayer as provided under this chapter,
26 additions or penalties imposed upon the taxpayer by this chapter
27 may be waived or abated in whole or in part where the petitioner
28 establishes that he acted in good faith, without negligence and
29 with no intent to defraud.

30 § 1514. Bulk and auction sales.

A person that sells or causes to be sold at auction, or that sells or transfers in bulk, 51% or more of a stock of goods, wares or merchandise of any kind, fixtures, machinery, equipment, buildings or real estate or is involved in a business for which the person is licensed or required to be licensed under the provisions of this chapter shall be subject to the provisions of section 1403 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

§ 1515. Collection upon failure to request reassessment, review or appeal.

(a) Power of department.--The department may collect a tax:

(1) If an assessment of tax is not paid within 30 days after notice to the taxpayer when no petition for reassessment has been filed.

(2) Within 60 days of the reassessment, if no petition for review has been filed.

(3) If no appeal has been made, within 30 days of:

(i) the Board of Finance and Revenue's decision of a petition for review; or

(ii) the expiration of the board's time for acting upon the petition.

(4) In all cases of judicial sales, receiverships, assignments or bankruptcies.

(b) Prohibition.--In a case for the collection of taxes under subsection (a), the person against whom they were assessed shall not be permitted to set up a ground of defense that might have been determined by the department, the Board of Finance and Revenue or the courts, provided that the defense of failure of the department to mail notice of assessment or reassessment to the taxpayer and the defense of payment of assessment or

1 reassessment may be raised in proceedings for collection by a
2 motion to stay the proceedings.

3 § 1516. Tax liens.

4 (a) Lien imposed.--If any person liable to pay a tax
5 neglects or refuses to pay the tax after demand, the amount,
6 including interest, addition or penalty, together with
7 additional costs that may accrue, shall be a lien in favor of
8 the Commonwealth upon the real and personal property of the
9 person but only after the same has been entered and docketed of
10 record by the prothonotary of the county where the property is
11 situated. The department may, at any time, transmit to the
12 prothonotaries of the respective counties certified copies of
13 all liens for taxes imposed by this chapter and penalties and
14 interest. It shall be the duty of the prothonotary receiving the
15 lien to enter and docket the same of record to the office of the
16 prothonotary. The lien shall be indexed as judgments are now
17 indexed. No prothonotary shall require as a condition precedent
18 to the entry of the lien the payment of costs incidental to its
19 entry.

20 (b) Priority of lien and effect on judicial sale.--Except
21 for the costs of the sale and the writ upon which the sale was
22 made and real estate taxes and municipal claims against the
23 property, the lien imposed under this section shall have
24 priority from the date of its recording and shall be fully paid
25 and satisfied out of the proceeds of any judicial sale of
26 property subject to, before any other obligation, judgment,
27 claim, lien or estate to which the property may subsequently
28 become subject, but shall be subordinate to mortgages and other
29 liens existing and duly recorded or entered of record prior to
30 the recording of the tax lien.

1 (c) No discharge by sale on junior lien.--In the case of a
2 judicial sale of property subject to a lien imposed under this
3 section, upon a lien or claim over which the lien imposed under
4 this section has priority, the sale shall discharge the lien
5 imposed under this section to the extent only that the proceeds
6 are applied to its payment, and the lien shall continue in full
7 force and effect as to the balance remaining unpaid. There shall
8 be no inquisition or condemnation upon any judicial sale of real
9 estate made by the Commonwealth under the provisions of this
10 chapter. The lien of the taxes, interest and penalties shall
11 continue as provided in the act of April 9, 1929 (P.L.343,
12 No.176), known as The Fiscal Code, and a writ of execution may
13 directly issue upon the lien without the issuance and
14 prosecution to judgment of a writ of scire facias, provided that
15 not less than ten days before issuance of any execution on the
16 lien, notice of the filing and the effect of the lien shall be
17 sent by registered mail to the taxpayer at his last known post
18 office address, provided further that the lien shall have no
19 effect upon any stock of goods, wares or merchandise regularly
20 sold or leased in the ordinary course of business by the person
21 against whom the lien has been entered, unless and until a writ
22 of execution has been issued and a levy made upon said stock of
23 goods, wares and merchandise.

24 (d) Duty of prothonotary.--Any willful failure of any
25 prothonotary to carry out any duty imposed upon him by this
26 section shall be a misdemeanor. Upon conviction, he shall be
27 sentenced to pay a fine of not more than \$1,000 and costs of
28 prosecution or to imprisonment for not more than one year, or
29 both.

30 (e) Priority.--Except as provided in this chapter, the

distribution, voluntary or compulsory, in receivership,
bankruptcy or otherwise of the property or estate of any person,
all taxes imposed by this chapter which are due and unpaid and
are not collectible under the provisions of section 225 of the
act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
of 1971, shall be paid from the first money available for
distribution in priority to all other claims and liens, except
as the laws of the United States may give priority to a claim to
the Federal Government. A person charged with the administration
or distribution of the property or estate who violates the
provisions of this section shall be personally liable for the
taxes imposed by this chapter which are accrued and unpaid and
chargeable against the person whose property or estate is being
administered or distributed.

(f) Other remedies.--Subject to the limitations contained in
this chapter as to the assessment of taxes, nothing contained in
this section shall be construed to restrict, prohibit or limit
the use by the department in collecting taxes due and payable of
another remedy or procedure available at law or equity for the
collection of debts.

§ 1517. Tax suit reciprocity.

The courts of this Commonwealth shall recognize and enforce
liabilities for natural gas severance taxes lawfully imposed by
any other state, provided that the other state recognizes and
enforces the tax set forth in this chapter.

§ 1518. Service.

A producer is deemed to have appointed the Secretary of the
Commonwealth its agent for the acceptance of service of process
or notice in a proceeding for the enforcement of the civil
provisions of this chapter and service made upon the Secretary

of the Commonwealth as agent shall be of the same legal force
and validity as if the service had been personally made upon the
person. Where service cannot be made upon the person in the
manner provided by other laws of this Commonwealth relating to
service of process, service may be made upon the Secretary of
the Commonwealth. In that case, a copy of the process or notice
shall be personally served upon any agent or representative of
the person who may be found within this Commonwealth or, where
no agent or representative may be found, a copy of the process
or notice shall be sent via registered mail to the person at the
last known address of his principal place of business, home
office or residence.

§ 1519. Refunds.

Under Article XXVII of the act of March 4, 1971 (P.L.6,
No.2), known as the Tax Reform Code of 1971, the department
shall refund all taxes, interest and penalties paid to the
Commonwealth under the provisions of this chapter to which the
Commonwealth is not rightfully entitled. The refunds shall be
made to the person or the person's heirs, successors, assigns or
other personal representatives who paid the tax, provided that
no refund shall be made under this section regarding a payment
made by reason of an assessment where a taxpayer has filed a
petition for reassessment under section 2702 of the Tax Reform
Code of 1971 to the extent the petition is adverse to the
taxpayer by a decision which is no longer subject to further
review or appeal. Nothing in this chapter shall prohibit a
taxpayer who has filed a timely petition for reassessment from
amending it to a petition for refund where the petitioner paid
the tax assessed.

§ 1520. Refund petition.

1 (a) General rule.--Except as provided for in subsection (b),
2 the refund or credit of tax, interest or penalty provided for by
3 section 1519 (relating to refunds) shall be made only where the
4 person who has paid the tax files a petition for refund with the
5 department under Article XXVII of the act of March 4, 1971
6 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
7 time limits of section 3003.1 of the Tax Reform Code of 1971.

8 (b) Severance tax license.--A refund or credit of tax,
9 interest or penalty paid as a result of an assessment made by
10 the department under section 1505 (relating to natural resource
11 severance tax registration), shall be made only where the person
12 who has paid the tax files with the department a petition for a
13 refund with the department under Article XXVII within the time
14 limits of section 3003.1 of the Tax Reform Code of 1971. The
15 filing of a petition for refund, under the provisions of this
16 subsection, shall not affect the abatement of interest,
17 additions or penalties to which the person may be entitled by
18 reason of his payment of the assessment.

19 § 1521. Rules and regulations.

20 The department is charged with the enforcement of the
21 provisions of this chapter and is authorized and empowered to
22 prescribe, adopt, promulgate and enforce rules and regulations
23 not inconsistent with the provisions of this chapter relating to
24 any matter or thing pertaining to the administration and
25 enforcement of the provisions of this chapter and the collection
26 of taxes, penalties and interest imposed by this chapter. The
27 department may prescribe the extent, if any, to which any of the
28 rules and regulations shall be applied without retroactive
29 effect.

30 § 1522. Recordkeeping.

1 (a) General rule.--Every person liable for any tax imposed
2 by this chapter, or for the collection, shall keep records,
3 including those enumerated in subsection (b), render statements,
4 make returns and comply with the rules and regulations as the
5 department may prescribe regarding matters pertinent to the
6 person's business. Whenever it is necessary, the department may
7 require a person, by notice served upon the person or by
8 regulations, to make returns, render statements or keep records
9 as the department deems sufficient to show whether or not a
10 person is liable to pay tax under this chapter.

11 (a.1) Records.--Records to be maintained are:

12 (1) Wellhead and sales meter charts for each reporting
13 period and the meter calibration and maintenance records. If
14 turbine meters are in use, the maintenance records will be
15 made available to the department upon request.

16 (2) Records, statements and other instruments furnished
17 to a producer by a person to whom the producer delivers for
18 sale, transport or delivery of natural gas.

19 (3) Records, statements and other instruments as the
20 department may prescribe by regulation.

21 (b) Records of nonresidents.--A nonresident who does
22 business in this Commonwealth as a producer shall keep adequate
23 records of the business and of the tax due as a result. The
24 records shall be retained within this Commonwealth unless
25 retention outside this Commonwealth is authorized by the
26 department. The department may require a taxpayer who desires to
27 retain records outside this Commonwealth to assume reasonable
28 out-of-State audit expenses.

29 (c) Keeping of separate records.--A person doing business as
30 a producer, who at the same time is engaged in another business

1 or businesses which do not involve the severing of natural gas
2 taxable under this chapter, shall keep separate books and
3 records of the businesses so as to show the taxable severing of
4 natural gas under this chapter separately from other business
5 activities not taxable hereunder. If any person fails to keep
6 separate books and records, the person shall be liable for a
7 penalty equaling 100% of tax due under this chapter for the
8 period where separate records were not maintained.

9 § 1523. Examinations.

10 The department or any of its authorized agents are authorized
11 to examine the books, papers and records of any taxpayer in
12 order to verify the accuracy and completeness of any return made
13 or, if no return was made, to ascertain and assess the tax
14 imposed by this chapter. The department may require the
15 preservation of all books, papers and records for any period
16 deemed proper by it but not to exceed three years from the end
17 of the calendar year to which the records relate. Every taxpayer
18 is required to give to the department or its agent the means,
19 facilities and opportunity for examinations and investigation
20 under this section. The department is further authorized to
21 examine any person, under oath, concerning the taxable severing
22 of natural gas by any taxpayer or concerning any other matter
23 relating to the enforcement or administration of this chapter,
24 and to this end may compel the production of books, papers and
25 records and the attendance of all persons whether as parties or
26 witnesses whom it believes to have knowledge of relevant
27 matters. The procedure for the hearings or examinations shall be
28 the same as that provided by the act of April 9, 1929 (P.L.343,
29 No. 176), known as The Fiscal Code.

30 § 1524. Unauthorized disclosure.

1 Any information gained by the department as a result of any
2 return, examination, investigation, hearing or verification
3 required or authorized by this chapter shall be confidential
4 except for official purposes and except in accordance with
5 proper judicial order or as otherwise provided by law, and any
6 person unlawfully divulging the information shall be guilty of a
7 misdemeanor and shall, upon conviction, be sentenced to pay a
8 fine of not more than \$1,000 and costs of prosecution or to
9 imprisonment for not more than one year, or both.

10 § 1525. Cooperation with other governments.

11 Notwithstanding the provisions of section 1517 (relating to
12 tax suit reciprocity), the department may permit the
13 Commissioner of the Internal Revenue Service of the United
14 States, the proper officer of any state or the authorized
15 representative of either officer to inspect the tax returns of
16 any taxpayer, or may furnish to the officer or to his authorized
17 representative an abstract of the return of any taxpayer, or
18 supply him with information concerning any item contained in any
19 return or disclosed by the report of any examination or
20 investigation of the return of any taxpayer. This permission
21 shall be granted only if the statutes of the United States or
22 another state grant substantially similar privileges to the
23 proper officer of the Commonwealth charged with the
24 administration of this chapter.

25 § 1526. Bonds.

26 (a) Taxpayer to file bond.--The department may require a
27 nonresident natural person or any foreign corporation,
28 association, fiduciary, partnership or other entity, not
29 authorized to do business within this Commonwealth or not having
30 an established place of business in this Commonwealth and

1 subject to the tax imposed by section 1503 (relating to
2 imposition of tax), to file a bond issued by a surety company
3 authorized to do business in this Commonwealth and approved by
4 the Insurance Commissioner as to solvency and responsibility, in
5 amounts as it may fix, to secure the payment of any tax or
6 penalties due or which may become due from a natural person or
7 corporation whenever it deems it necessary to protect the
8 revenues obtained under this chapter. In order to protect the
9 revenues obtained under this chapter, the department shall
10 require a nonresident natural person or a foreign corporation,
11 association, fiduciary, partnership or entity who is not
12 authorized to do business or does not have an established place
13 of business in this Commonwealth and is subject to the tax
14 imposed by section 1503, to file a bond issued by a surety
15 company authorized to do business in this Commonwealth and
16 approved by the Insurance Commissioner as to solvency and
17 responsibility, in amounts as it may fix, to secure the payments
18 of any tax or penalties due or which may become due from a
19 natural person, corporation or other entity. The department may
20 also require a bond of a person petitioning the department for
21 reassessment in the case of any assessment over \$500 or where,
22 in its opinion, the ultimate collection is in jeopardy. For a
23 period of three years, the department may require a bond of any
24 person who has, on three or more occasions within a 12-month
25 period, either filed a return or made payment to the department
26 more than 30 days late. In the event the department determines a
27 taxpayer is required to file a bond, it shall give notice to the
28 taxpayer specifying the amount of the bond required. The
29 taxpayer shall file the bond within five days after notice is
30 given by the department unless, within five days, the taxpayer

1 shall request in writing a hearing before the Secretary of
2 Revenue or his representative. At the hearing, the necessity,
3 propriety and amount of the bond shall be determined by the
4 secretary or the secretary's representative. The determination
5 shall be final and the taxpayer shall comply with it within 15
6 days after notice is mailed to the taxpayer.

7 (b) Securities in lieu of bond.--In lieu of the bond
8 required by this section securities approved by the department
9 or cash in a prescribed amount may be deposited. The securities
10 or cash shall be kept in the custody of the department. The
11 department may apply the securities or cash to a tax and
12 interest or penalties due without notice to the depositor. The
13 securities may be sold by the department to pay a tax and/or
14 interest or penalties due at public or private sale upon five
15 days' written notice to the depositor.

16 (c) Failure to file bond.--The department may file a lien
17 under section 1516 (relating to tax liens) against any taxpayer
18 who fails to file a bond when required to do so under this
19 section. All funds received upon execution of the judgment on
20 the lien shall be refunded to the taxpayer with 3% interest,
21 should a final determination be made that he does not owe any
22 payment to the department.

23 § 1527. Natural Gas Tax Relief, Conservation and Community
24 Investment Fund.

25 (a) Establishment.--The Natural Gas Tax Relief, Conservation
26 and Community Investment Fund is established as a special fund
27 in the State Treasury.

28 (b) Sources.--Money appropriated by the General Assembly,
29 interest earned by the fund, interest accrued and penalties
30 assessed under the provisions of this chapter, money received

from other sources and money received from the tax established
in section 1503 (relating to imposition of tax) shall be
deposited into the fund.

(c) Appropriations.--The money in the fund is hereby
appropriated, upon approval of the Governor, for payment of
refunds, enforcement or administration under this chapter and
then for allocation as provided under subsection (d) for the
purpose of implementing the provisions of this chapter.

(d) Allocation.--The money appropriated in subsection (c)
shall be allocated annually as follows:

(1) Twenty-two million dollars to the Environmental
Stewardship Fund, where moneys shall be allocated according
to the provisions of 27 Pa.C.S. § 6104(d) (relating to fund).

(2) Twenty-two million dollars to the Commonwealth
Financing Authority for distribution to eligible
municipalities in this Commonwealth to assist with the costs
and burdens associated with natural gas drilling and
extraction located within or adjacent to their borders and to
assist municipalities with the costs and burdens associated
with natural gas transmission lines located within their
borders. The authority shall, within 120 days of the
effective date of this section, develop and publish program
guidelines for the eligible uses, distribution, oversight,
reporting and other relevant provisions relating to the use
of these moneys. The board shall, no later than June 30 of
each year, provide an annual report detailing the specific
use and allocation of these moneys to the Majority Leader of
the Senate, the Minority Leader of the Senate, the chairman
and minority chairman of the Environmental Resources and
Energy Committee of the Senate, the chairman and minority

1 chairman of the Local Government Committee of the Senate, the
2 Majority Leader of the House of Representatives, the Minority
3 Leader of the House of Representatives, the chairman and
4 minority chairman of the Environmental Resources and Energy
5 Committee of the House of Representatives and the chairman
6 and minority chairman of the Local Government Committee of
7 the House of Representatives.

8 (3) Three million dollars to the Pennsylvania Fish and
9 Boat Commission for habitat conservation and public access
10 projects. The executive director of the Pennsylvania Fish and
11 Boat Commission shall, no later than June 30 of each year,
12 provide an annual allocation plan detailing the projects to
13 be funded under this paragraph, the amount of each project
14 and the anticipated environmental benefit of each project, to
15 the chairman and minority chairman of the Game and Fisheries
16 Committee of the Senate and the chairman and minority
17 chairman of the Game and Fisheries Committee of the House of
18 Representatives.

19 (4) Three million dollars to the Pennsylvania Game
20 Commission for habitat conservation and public access
21 projects. The executive director of the Pennsylvania Game
22 Commission shall, no later than June 30 of each year, provide
23 an annual allocation plan detailing the projects to be funded
24 under this paragraph, the amount of each project and the
25 anticipated environmental benefit of each project, to the
26 chairman and minority chairman of the Game and Fisheries
27 Committee of the Senate and the chairman and minority
28 chairman of the Game and Fisheries Committee of the House of
29 Representatives.

30 (5) The balance of the money to the Property Tax Relief

1 Fund for the purpose of local property and wage tax relief.

2 Section 2. This act shall take effect October 1, 2010.