

No. _____

LEGISLATIVE REFERENCE BUREAU

INTRODUCED _____ 20____

By _____ District
NO. _____By _____ District
NO. _____By _____ District
NO. _____By _____ District
NO. _____

See next page for additional co-sponsors.

AN ACT

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in unconventional gas well fee, repealing expiration; providing for definitions, for imposition of tax, for registration, for meters, for assessments, for time for assessment, for extension of assessment period, for reassessments, for interest, for penalties, for criminal acts, for abatement of additions or penalties, for bulk and auction sales, for collection upon failure to request reassessment, review or appeal, for tax liens, for tax suit reciprocity, for service, for refunds, for refund petition, for rules and regulations, for recordkeeping, for examinations, for unauthorized disclosure, for cooperation with other governments, for bonds and for transfer and distributions; and * * *

Referred to Committee on

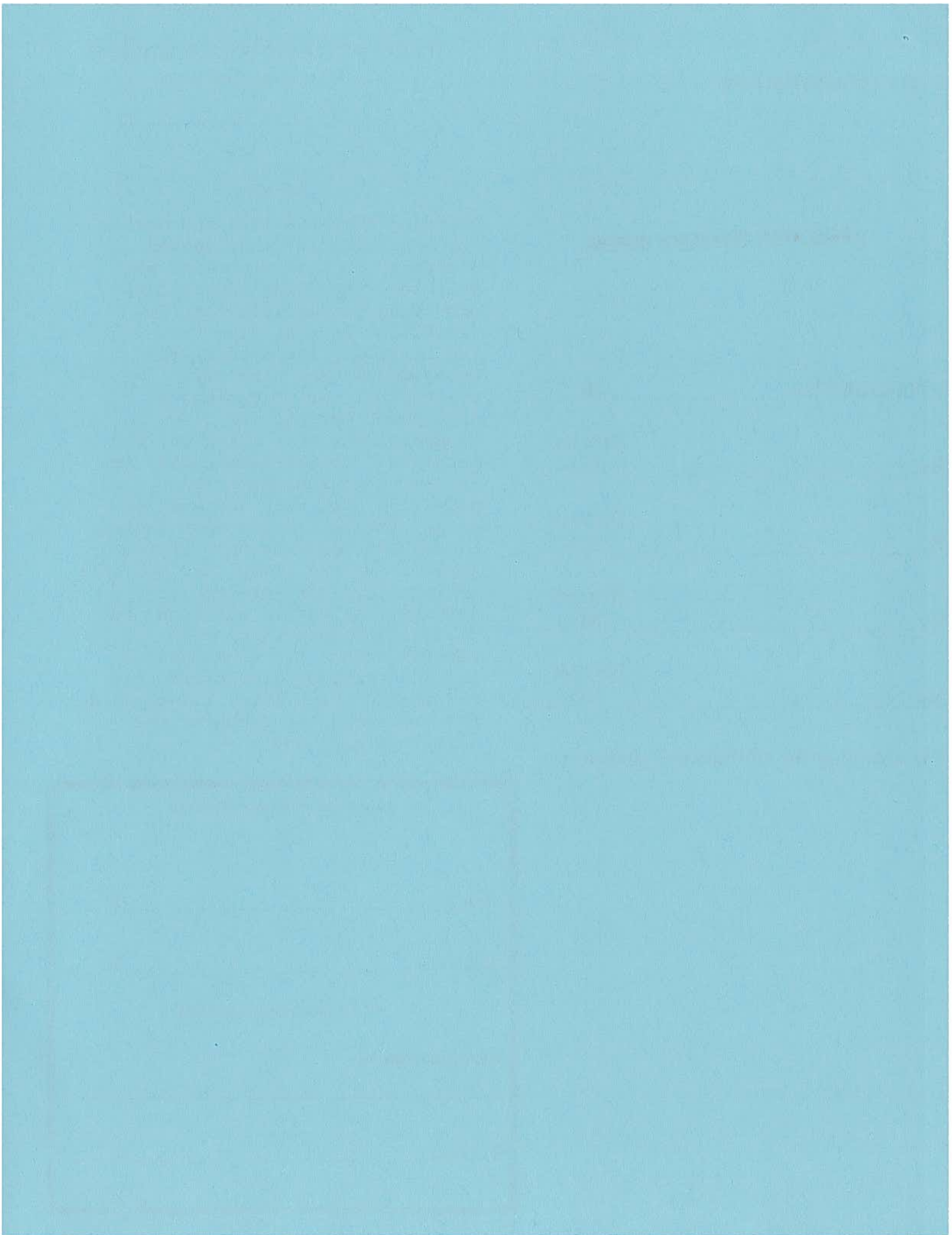
Date _____ 20____

Reported _____ 20____

As Committed-Amended

Recommendation

By Hon. _____



AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 expiration; providing for definitions, for imposition of tax,
4 for registration, for meters, for assessments, for time for
5 assessment, for extension of assessment period, for
6 reassessments, for interest, for penalties, for criminal
7 acts, for abatement of additions or penalties, for bulk and
8 auction sales, for collection upon failure to request
9 reassessment, review or appeal, for tax liens, for tax suit
10 reciprocity, for service, for refunds, for refund petition,
11 for rules and regulations, for recordkeeping, for
12 examinations, for unauthorized disclosure, for cooperation
13 with other governments, for bonds and for transfer and
14 distributions; and establishing the Natural Gas Severance Tax
15 Account.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 2318 of Title 58 of the Pennsylvania
19 Consolidated Statutes is repealed:

20 [§ 2318. Expiration.

21 (a) Notice.--The Secretary of the Commonwealth shall, upon
22 the imposition of a severance tax on unconventional gas wells in
23 this Commonwealth, submit for publication in the Pennsylvania
24 Bulletin notice of the imposition.

1 (b) Date.--This chapter shall expire on the date of the
2 publication of the notice under subsection (a).]

3 Section 2. Title 58 is amended by adding a part to read:

4 PART IV

5 TAXATION

6 Chapter

7 41. (Reserved)

8 43. Severance Tax

9 CHAPTER 41

10 (Reserved)

11 CHAPTER 43

12 SEVERANCE TAX

13 Sec.

14 4301. Scope of chapter.

15 4302. Definitions.

16 4303. Imposition of tax.

17 4304. Registration.

18 4305. Meters.

19 4306. Assessments.

20 4307. Time for assessment.

21 4308. Extension of assessment period.

22 4309. Reassessments.

23 4310. Interest.

24 4311. Penalties.

25 4312. Criminal acts.

26 4313. Abatement of additions or penalties.

27 4314. Bulk and auction sales.

28 4315. Collection upon failure to request reassessment, review

29 or appeal.

30 4316. Tax liens.

- 1 4317. Tax suit reciprocity.
- 2 4318. Service.
- 3 4319. Refunds.
- 4 4320. Refund petition.
- 5 4321. Rules and regulations.
- 6 4322. Recordkeeping.
- 7 4323. Examinations.
- 8 4324. Unauthorized disclosure.
- 9 4325. Cooperation with other governments.
- 10 4326. Bonds.
- 11 4327. Natural Gas Severance Tax Account.
- 12 4328. Transfers and distributions.
- 13 § 4301. Scope of chapter.

14 This chapter relates to taxation of the severance of natural
15 gas.

16 § 4302. Definitions.

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

20 "Account." The Natural Gas Severance Tax Account established
21 in section 4327 (relating to natural gas severance tax account).

22 "Average price of natural gas." The arithmetic mean of the
23 market price for arm's-length transactions as reported to the
24 department for the previous reporting period. Within 20 days
25 after the end of each reporting period the department shall
26 calculate and publish the average price of natural gas from
27 returns received in the prior reporting period based on the
28 total units of gas severed and the total gross value of gas
29 reported by all producers for all arm's-length transactions on
30 returns filed with the department.

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

2 "Gross value." All of the following, calculated prior to the
3 payment of any royalties or other payments to a lessor and
4 without any other deduction or credit:

5 (1) The volume-weighted average market price for an
6 arm's-length transaction that a producer receives at the
7 point of sale for natural gas during a reporting period.

8 (2) The average price of natural gas if:

9 (i) the natural gas is not sold in an arm's-length
10 transaction, as reported by the producer or as determined
11 by the department;

12 (ii) if the natural gas is exchanged for something
13 other than cash; or

14 (iii) if there is no sale or exchange between the
15 time of severance and the end of the reporting period
16 during which the natural gas was severed.

17 "Natural gas." As defined in section 2301 (relating to
18 definitions).

19 "Person." Any natural person, a corporation, fiduciary,
20 association or other entity. The term includes the Commonwealth
21 and any political subdivision, instrumentality and authority of
22 the Commonwealth.

23 "Producer." As defined in section 2301 (relating to
24 definitions).

25 "Reporting period." A calendar month in which natural gas is
26 severed.

27 "Sever." Extract or otherwise remove natural gas from the
28 soil or water of this Commonwealth.

29 "Taxpayer." A person subject to the tax imposed by this
30 chapter.

1 "Unconventional gas well." As defined in section 2301
2 (relating to definitions).

3 "Unit." A thousand cubic feet of natural gas measured at the
4 wellhead at a temperature of 60 degrees Fahrenheit and an
5 absolute pressure of 14.73 pounds per square inch in accordance
6 with American Gas Association Standards and according to Boyle's
7 Law for the measurement of gas under varying pressures with
8 deviations as follows:

9 (1) The average absolute atmospheric pressure shall be
10 assumed to be 14.4 pounds to the square inch, regardless of
11 elevation or location of point of delivery above sea level or
12 variations in atmospheric pressure.

13 (2) The temperature of the gas passing the meters shall
14 be determined by the continuous use of a recording
15 thermometer installed to properly record the temperature of
16 gas flowing through the meters. The arithmetic average of the
17 temperature recorded each 24-hour day shall be used in
18 computing gas volumes. If a recording thermometer is not
19 installed, or is installed and not operating properly, an
20 average flowing temperature of 60 degrees Fahrenheit shall be
21 used in computing gas volume.

22 (3) The specific gravity of the gas shall be determined
23 annually by tests made by the use of an Edwards or Acme
24 gravity balance, or at intervals as found necessary in
25 practice. Specific gravity determinations shall be used in
26 computing gas volumes.

27 (4) The deviation of the natural gas from Boyle's Law
28 shall be determined by annual tests or at other shorter
29 intervals as found necessary in practice. The apparatus and
30 method used in making the test shall be in accordance with

1 recommendations of the National Bureau of Standards or Report
2 No. 3 of the Gas Measurement Committee of the American Gas
3 Association. The results of the tests shall be used in
4 computing the volume of gas delivered under this chapter.

5 "Wellhead meter." A meter that measures the volume of
6 natural gas severed from an unconventional gas well.

7 § 4303. Imposition of tax.

8 (a) Establishment.--Beginning July 1, 2014, there shall be
9 levied a natural gas severance tax payable on every
10 unconventional gas well that is required to pay the fee payable
11 under Chapter 23 (relating to unconventional gas well fee).

12 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
13 the gross value of units severed at the wellhead during a
14 reporting period, plus 5¢ per unit severed.

15 (c) Return and payment.--Every producer subject to the
16 provisions of this chapter shall file a return with the
17 department, on a form prescribed by the department, which shall
18 include the following:

19 (1) The total number of natural gas units severed by the
20 producer for the reporting period broken down into:

21 (i) the number of such units sold by the producer
22 during the reporting period in arm's-length transactions;

23 (ii) the number of such units sold by the producer
24 during the reporting period in nonarm's-length
25 transactions or exchanged for something other than cash;

26 and

27 (iii) the number of such units not yet sold or
28 exchanged as of the end of the reporting period.

29 (2) The gross value of the units identified in paragraph

30 (1).

1 (3) The amount of tax due under subsection (b).

2 (4) Other information reasonably required by the
3 department.

4 (d) Filing.--The return required by subsection (c) shall be
5 filed with the department within 15 days following the end of a
6 reporting period. The tax is due on the day the return is
7 required to be filed under this subsection and shall become
8 delinquent if not remitted to the department by the required
9 date. A producer shall commence filing the returns required
10 under subsection (c) within 75 days following the effective date
11 of this section. The initial return shall include the
12 information required by subsection (c) for the reporting periods
13 that occurred between July 1, 2014, and the 75th day following
14 the effective date of this section. An initial return that
15 requires a calculation based upon the average price of natural
16 gas shall be due within 15 days following the first full
17 reporting period for which such data is available.

18 § 4304. Registration.

19 (a) Application.--Before a producer severs natural gas or
20 continues to sever natural gas in this Commonwealth after the
21 date occurring 60 days following the effective date of this
22 section, the producer shall apply to the department for a
23 registration certificate. The department may charge an
24 application fee to cover the administrative costs associated
25 with the application and registration process.

26 (b) Issuance.--Except as provided in subsection (c), after
27 the receipt of an application and the required application fee,
28 the department shall issue a registration certificate to the
29 producer. The registration certificate is nonassignable. A
30 registrant is required to renew the registration certificate on

1 a staggered renewal system established by the department. After
2 the initial staggered renewal period, a registration certificate
3 is valid for a period of five years.

4 (c) Refusal, suspension or revocation.--

5 (1) The department may refuse to issue, suspend or
6 revoke a registration certificate if the applicant or
7 registrant has not filed required State tax reports and paid
8 State taxes not subject to a timely perfected administrative
9 or judicial appeal or an authorized deferred payment plan.

10 (2) The department shall notify the applicant or
11 registrant of a refusal, suspension or revocation. The notice
12 shall contain a statement that the refusal, suspension or
13 revocation may be made public. The notice shall be made by
14 first class mail.

15 (3) An applicant or registrant aggrieved by the
16 determination of the department may file an appeal under the
17 provisions for administrative appeals in the act of March 4,
18 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In
19 the case of a suspension or revocation which is appealed, the
20 registration certificate shall remain valid pending a final
21 outcome of the appeals process. Notwithstanding any other
22 provision of law, if no appeal is taken or if an appeal is
23 taken and denied at the conclusion of the appeal process, the
24 department may disclose, by publication or otherwise, the
25 identity of a producer and the fact that the producer's
26 registration certificate has been refused, suspended or
27 revoked under this subsection. Disclosure may include the
28 basis for refusal, suspension or revocation.

29 (d) Violation.--

30 (1) A person that severs natural gas in this

1 Commonwealth in violation of subsection (a) commits a summary
2 offense and shall, upon conviction, be sentenced to pay a
3 fine not less than \$300 nor more than \$1,500 or, in default
4 of the payment, to imprisonment for not less than five days
5 nor more than 30 days.

6 (2) For purposes of this subsection, each day in which
7 natural gas is severed shall constitute a separate violation.

8 (3) The penalties imposed by this subsection shall be in
9 addition to any other penalties imposed by this chapter.

10 (4) The Secretary of Revenue may designate employees of
11 the department to enforce the provisions of this subsection.
12 The employees shall exhibit proof of and be within the scope
13 of the designation when instituting proceedings as provided
14 by the Pennsylvania Rules of Criminal Procedure.

15 (e) Failure to obtain registration certificate.--Failure to
16 obtain or hold a valid registration certificate does not relieve
17 a person from liability for the tax imposed by this chapter.

18 § 4305. Meters.

19 A producer shall provide for and maintain a discrete wellhead
20 meter where natural gas is severed. A producer shall ensure that
21 the meters are maintained according to industry standards. Any
22 wellhead meter installed after the effective date of this
23 section shall be a digital meter.

24 § 4306. Assessments.

25 (a) Authorization and requirement.--The department is
26 authorized and shall make inquiries, determinations and
27 assessments of the tax imposed under this chapter, including
28 interest, additions and penalties imposed under this chapter.

29 (b) Notice.--The notice of assessment and demand for payment
30 shall be mailed to the taxpayer. The notice shall set forth the

1 basis of the assessment. The department shall send the notice of
2 assessment to the taxpayer at its registered address via
3 certified mail if the assessment increases the taxpayer's tax
4 liability by \$300. Otherwise, the notice of assessment may be
5 sent via regular mail.

6 § 4307. Time for assessment.

7 (a) Requirement.--An assessment as provided under section
8 4306 (relating to assessments) shall be made within three years
9 after the date when the return provided for by section 4303(c)
10 (relating to imposition of tax) is filed or the end of the year
11 in which the tax liability arises, whichever shall occur last.
12 For the purposes of this subsection and subsection (b), a return
13 filed before the last day prescribed for the filing period shall
14 be considered as filed on the last day.

15 (b) Exception.--If the taxpayer underpays the correct amount
16 of the tax due by 25% or more, the tax may be assessed within
17 six years after the date the return was filed.

18 (c) Intent to evade.--Where no return is filed or where the
19 taxpayer files a false or fraudulent return with intent to evade
20 the tax imposed by this chapter, the assessment may be made at
21 any time.

22 (d) Erroneous credit or refund.--Within three years of the
23 granting of a refund or credit or within the period in which an
24 assessment or reassessment may have been issued by the
25 department for the taxable period for which the refund was
26 granted, whichever period shall occur last, the department may
27 issue an assessment to recover a refund or credit made or
28 allowed erroneously.

29 § 4308. Extension of assessment period.

30 Notwithstanding the provisions of this chapter, the

1 assessment period may be extended in the event a taxpayer has
2 provided written consent before the expiration of the period
3 provided in section 4307 (relating to time for assessment) for a
4 tax assessment. The amount of tax due may be assessed at any
5 time within the extended period. The period may be extended
6 further by subsequent written consents made before the
7 expiration of the extended period.

8 § 4309. Reassessments.

9 A taxpayer against whom an assessment is made may petition
10 the department for a reassessment under Article XXVII of the act
11 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
12 1971.

13 § 4310. Interest.

14 The department shall assess interest on any delinquent tax at
15 the rate prescribed under section 806 of the act of April 9,
16 1929 (P.L.343, No.176), known as The Fiscal Code.

17 § 4311. Penalties.

18 The department shall enforce the following penalties:

19 (1) A penalty against a producer without a registration
20 certificate required under section 4304 (relating to
21 registration). The penalty shall be \$1 for every unit severed
22 without a valid registration certificate. The department may
23 assess this penalty separately from or in conjunction with
24 any assessment of the natural gas severance tax.

25 (2) A penalty against a producer for failure to timely
26 file a return as required under section 4303(c) (relating to
27 imposition of tax). The penalty shall be 5% of the tax
28 liability to be reported on the return for each day beyond
29 the due date that the return is not filed.

30 (3) In addition to the penalty under paragraph (2), a

1 penalty against the producer for a willful failure to timely
2 file a return. The penalty shall be 200% of the tax liability
3 required to be reported on the return.

4 (4) A penalty against a producer for failure to timely
5 pay the tax as required by section 4303(d). The penalty shall
6 be 5% of the amount of tax due for each day beyond the
7 payment date that the tax is not paid.

8 § 4312. Criminal acts.

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

15 (b) Other crimes.--

16 (1) Except as otherwise provided by subsection (a), a
17 person is guilty of a misdemeanor and shall, upon conviction,
18 be sentenced to pay a fine of not more than \$1,000 and costs
19 of prosecution or to imprisonment for not more than one year,
20 or both, for any of the following:

21 (i) Willfully failing to timely remit the tax to the
22 department.

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

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

27 (iv) Willfully failing to preserve its books, papers
28 and records as directed by the department.

29 (v) Refusing to permit the department or its
30 authorized agents to examine its books, records or

1 papers.

2 (vi) Knowingly making any incomplete, false or
3 fraudulent return or report.

4 (vii) Preventing or attempting to prevent the full
5 disclosure of the amount of natural gas severance tax
6 due.

7 (viii) Providing any person with a false statement
8 as to the payment of the tax imposed under this chapter
9 with respect to any pertinent facts.

10 (ix) Making, uttering or issuing a false or
11 fraudulent statement.

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

14 § 4313. Abatement of additions or penalties.

15 Upon the filing of a petition for reassessment or a petition
16 for refund by a taxpayer as provided under this chapter,
17 additions or penalties imposed upon the taxpayer by this chapter
18 may be waived or abated, in whole or in part, where the
19 petitioner establishes that he acted in good faith, without
20 negligence and with no intent to defraud.

21 § 4314. Bulk and auction sales.

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

1 § 4315. Collection upon failure to request reassessment, review
2 or appeal.

3 (a) Power of department.--The department may collect the tax
4 imposed under this chapter:

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

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

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

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

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

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

17 (b) Prohibition.--In a case for the collection of taxes
18 under subsection (a), the taxpayer against whom they were
19 assessed shall not be permitted to set up a ground of defense
20 that might have been determined by the department, the Board of
21 Finance and Revenue or the courts, provided that the defense of
22 failure of the department to mail notice of assessment or
23 reassessment to the taxpayer and the defense of payment of
24 assessment or reassessment may be raised in proceedings for
25 collection by a motion to stay the proceedings.

26 § 4316. Tax liens.

27 (a) Lien imposed.--If any taxpayer neglects or refuses to
28 pay the tax imposed under this chapter for which the taxpayer is
29 liable under this chapter after demand, the amount, including
30 interest, addition or penalty, together with additional costs

1 that may accrue, shall be a lien in favor of the Commonwealth
2 upon the real and personal property of the taxpayer, but only
3 after the same has been entered and docketed of record by the
4 prothonotary of the county where the property is situated. The
5 department may, at any time, transmit to the prothonotaries of
6 the respective counties certified copies of all liens imposed by
7 this section. It shall be the duty of the prothonotary receiving
8 the lien to enter and docket the same of record to the office of
9 the prothonotary. The lien shall be indexed as judgments are now
10 indexed. No prothonotary shall require as a condition precedent
11 to the entry of the lien the payment of costs incidental to its
12 entry.

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

24 (c) No discharge by sale on junior lien.--In the case of a
25 judicial sale of property subject to a lien imposed under this
26 section, upon a lien or claim over which the lien imposed under
27 this section has priority, the sale shall discharge the lien
28 imposed under this section to the extent only that the proceeds
29 are applied to its payment, and the lien shall continue in full
30 force and effect as to the balance remaining unpaid. There shall

1 be no inquisition or condemnation upon any judicial sale of real
2 estate made by the Commonwealth under the provisions of this
3 chapter. The lien shall continue as provided in the act of April
4 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ
5 of execution may directly issue upon the lien without the
6 issuance and prosecution to judgment of a writ of scire facias,
7 provided that not less than ten days before issuance of any
8 execution on the lien, notice of the filing and the effect of
9 the lien shall be sent by registered mail to the taxpayer at its
10 last known post office address, provided further that the lien
11 shall have no effect upon any stock of goods, wares or
12 merchandise regularly sold or leased in the ordinary course of
13 business by the taxpayer against whom the lien has been entered,
14 unless and until a writ of execution has been issued and a levy
15 made upon the stock of goods, wares and merchandise.

16 (d) Penalty.--A prothonotary who intentionally violates this
17 section commits a misdemeanor of the third degree and shall,
18 upon conviction, be sentenced to pay a fine of not more than
19 \$1,000 and costs of prosecution or to imprisonment for not more
20 than one year, or both.

21 (e) Priority.--Except as provided in this chapter, the
22 distribution, voluntary or compulsory, in receivership,
23 bankruptcy or otherwise of the property or estate of any person,
24 all taxes imposed by this chapter which are due and unpaid and
25 are not collectible under the provisions of section 225 of the
26 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
27 of 1971, shall be paid from the first money available for
28 distribution in priority to all other claims and liens, except
29 as the laws of the United States may give priority to a claim to
30 the Federal Government. A person charged with the administration

1 or distribution of the property or estate who violates the
2 provisions of this section shall be personally liable for the
3 taxes imposed by this chapter which are accrued and unpaid and
4 chargeable against the person whose property or estate is being
5 administered or distributed.

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

12 § 4317. Tax suit reciprocity.

13 The courts of the Commonwealth shall recognize and enforce
14 liabilities for natural gas severance or extraction taxes
15 lawfully imposed by any other state, provided that the other
16 state recognizes and enforces the tax imposed under this
17 chapter.

18 § 4318. Service.

19 A producer is deemed to have appointed the Secretary of the
20 Commonwealth its agent for the acceptance of service of process
21 or notice in a proceeding for the enforcement of the civil
22 provisions of this chapter, and service made upon the Secretary
23 of the Commonwealth as agent shall be of the same legal force
24 and validity as if the service had been personally made upon the
25 producer. Where service cannot be made upon the producer in the
26 manner provided by other laws of this Commonwealth relating to
27 service of process, service may be made upon the Secretary of
28 the Commonwealth. In that case, a copy of the process or notice
29 shall be personally served upon any agent or representative of
30 the producer who may be found within this Commonwealth or, where

1 no agent or representative may be found, a copy of the process
2 or notice shall be sent via registered mail to the producer at
3 the last known address of its principal place of business, home
4 office or residence.

5 § 4319. Refunds.

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

22 § 4320. Refund petition.

23 (a) General rule.--Except as provided for in subsection (b),
24 the refund or credit of tax, interest or penalty provided for by
25 section 4319 (relating to refunds) shall be made only where the
26 person who has paid the tax files a petition for refund with the
27 department under Article XXVII of the act of March 4, 1971
28 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
29 time limits of section 3003.1 of the Tax Reform Code of 1971.

30 (b) Natural gas severance tax.--A refund or credit of tax,

1 interest or penalty paid as a result of an assessment made by
2 the department under section 4306 (relating to assessments)
3 shall be made only where the person who has paid the tax files
4 with the department a petition for a refund with the department
5 under Article XXVII of the Tax Reform Code of 1971 within the
6 time limits of section 3003.1 of the Tax Reform Code of 1971.
7 The filing of a petition for refund under the provisions of this
8 subsection shall not affect the abatement of interest, additions
9 or penalties to which the person may be entitled by reason of
10 his payment of the assessment.

11 § 4321. Rules and regulations.

12 The department is charged with the enforcement of the
13 provisions of this chapter and is authorized and empowered to
14 prescribe, adopt, promulgate and enforce rules and regulations
15 not inconsistent with the provisions of this chapter relating to
16 any matter or thing pertaining to the administration and
17 enforcement of the provisions of this chapter and the collection
18 of taxes, penalties and interest imposed by this chapter. The
19 department may prescribe the extent, if any, to which any of the
20 rules and regulations shall be applied without retroactive
21 effect.

22 § 4322. Recordkeeping.

23 (a) General rule.--Every person liable for any tax imposed
24 by this chapter, or for the collection of the tax, shall keep
25 records, including those enumerated in subsection (b), render
26 statements, make returns and comply with the rules and
27 regulations as the department may prescribe regarding matters
28 pertinent to the person's business. Whenever it is necessary,
29 the department may require a person, by notice served upon the
30 person or by regulations, to make returns, render statements or

1 keep records as the department deems sufficient to show whether
2 or not a person is liable to pay tax under this chapter.

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

4 (1) Wellhead meter charts for each reporting period and
5 the meter calibration and maintenance records. If turbine
6 meters are in use, the maintenance records will be made
7 available to the department upon request.

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

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

13 (b) Records of nonresidents.--A nonresident who does
14 business in this Commonwealth as a producer shall keep adequate
15 records of the business and of the tax due as a result. The
16 records shall be retained within this Commonwealth unless
17 retention outside this Commonwealth is authorized by the
18 department. The department may require a taxpayer who desires to
19 retain records outside this Commonwealth to assume reasonable
20 out-of-State audit expenses.

21 (c) Keeping of separate records.--A producer who is engaged
22 in another business or businesses which do not involve the
23 severing of natural gas taxable under this chapter shall keep
24 separate books and records of the businesses so as to show the
25 taxable severing of natural gas under this chapter separately
26 from other business activities not taxable hereunder. If any
27 person fails to keep separate books and records, the person
28 shall be liable for a penalty equaling 100% of tax due under
29 this chapter for the period where separate records were not
30 maintained.

1 § 4323. Examinations.

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

22 § 4324. Unauthorized disclosure.

23 Any information gained by the department as a result of any
24 return, examination, investigation, hearing or verification
25 required or authorized by this chapter shall be confidential
26 except for official purposes and except in accordance with
27 proper judicial order or as otherwise provided by law, and any
28 person unlawfully divulging the information shall be guilty of a
29 misdemeanor and shall, upon conviction, be sentenced to pay a
30 fine of not more than \$1,000 and costs of prosecution or to

1 imprisonment for not more than one year, or both.

2 § 4325. Cooperation with other governments.

3 Notwithstanding the provisions of section 4317 (relating to
4 tax suit reciprocity), the department may permit the
5 Commissioner of the Internal Revenue Service of the United
6 States, the proper officer of any state or the authorized
7 representative of either of them to inspect the tax returns of
8 any taxpayer, or may furnish to the commissioner or officer or
9 to either of their authorized representative an abstract of the
10 return of any taxpayer, or supply him with information
11 concerning any item contained in any return or disclosed by the
12 report of any examination or investigation of the return of any
13 taxpayer. This permission shall be granted only if the laws of
14 the United States or another state grant substantially similar
15 privileges to the proper officer of the Commonwealth charged
16 with the administration of this chapter.

17 § 4326. Bonds.

18 (a) Taxpayer to file bond.--The department may require a
19 nonresident natural person or any foreign corporation,
20 association, fiduciary or other entity, not authorized to do
21 business within this Commonwealth or not having an established
22 place of business in this Commonwealth and subject to the tax
23 imposed by section 4303 (relating to imposition of tax), to file
24 a bond issued by a surety company authorized to do business in
25 this Commonwealth and approved by the Insurance Commissioner as
26 to solvency and responsibility, in amounts as it may fix, to
27 secure the payment of any tax or penalties due or which may
28 become due from a nonresident natural person, corporation,
29 association, fiduciary or other entity whenever it deems it
30 necessary to protect the revenues obtained under this chapter.

1 The department may also require a bond of a person petitioning
2 the department for reassessment in the case of any assessment
3 over \$500 or where, in its opinion, the ultimate collection is
4 in jeopardy. For a period of three years, the department may
5 require a bond of any person who has, on three or more occasions
6 within a 12-month period, either filed a return or made payment
7 to the department more than 30 days late. In the event the
8 department determines a taxpayer is required to file a bond, it
9 shall give notice to the taxpayer specifying the amount of the
10 bond required. The taxpayer shall file the bond within five days
11 after notice is given by the department unless, within five
12 days, the taxpayer shall request in writing a hearing before the
13 Secretary of Revenue or his representative. At the hearing, the
14 necessity, propriety and amount of the bond shall be determined
15 by the Secretary of Revenue or his representative. The
16 determination shall be final and the taxpayer shall comply with
17 it within 15 days after notice is mailed to the taxpayer.

18 (b) Securities in lieu of bond.--In lieu of the bond
19 required by this section securities approved by the department
20 or cash in a prescribed amount may be deposited. The securities
21 or cash shall be kept in the custody of the department. The
22 department may apply the securities or cash to the tax imposed
23 by this chapter and interest or penalties due without notice to
24 the depositor. The securities may be sold by the department to
25 pay the tax and/or interest or penalties due at public or
26 private sale upon five days' written notice to the depositor.

27 (c) Failure to file bond.--The department may file a lien
28 under section 4316 (relating to tax liens) against any taxpayer
29 who fails to file a bond when required to do so under this
30 section. All funds received upon execution of the judgment on

1 the lien shall be refunded to the taxpayer with 3% interest,
2 should a final determination be made that it does not owe any
3 payment to the department.

4 § 4327. Natural Gas Severance Tax Account.

5 (a) Account established.--The Natural Gas Severance Tax
6 Account is established as a restricted account within the
7 General Fund.

8 (b) Deposits.--The proceeds of the tax imposed under section
9 4303 (relating to imposition of tax) and penalties and interest
10 imposed under this chapter shall be deposited into the account.

11 (c) Use of moneys.--The money in the account shall only be
12 used in accordance with section 4328 (relating to transfers and
13 distributions).

14 § 4328. Transfers and distributions.

15 On the last business day of each calendar month, the State
16 Treasurer shall make the following transfers and distributions
17 of the money in the Natural Gas Severance Tax Account:

18 (1) Sixteen percent to the General Fund.

19 (2) Twenty-nine and six-tenths percent to the
20 Environmental Stewardship Fund.

21 (3) Seventeen and three-tenths percent to the Department
22 of Health.

23 (3.1) Thirty-two percent to the Department of Education.

24 (4) Four and three-tenths percent to the Hazardous Sites
25 Cleanup Fund.

26 (5) Eight-tenths of one percent to the Department of
27 Environmental Protection for State dam removal, restoration
28 and repair projects.

29 Section 3. This act shall take effect immediately.