

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1489 Session of  
2009

INTRODUCED BY GEORGE, LEVDANSKY, BELFANTI, BRENNAN, CARROLL,  
FREEMAN, GOODMAN, GRUCELA, HORNAMAN, JOSEPHS, MAHONEY,  
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MIRABITO AND SEIP, MAY 13, 2009

AS RE-REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND  
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 21, 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 gas  
4 severance registration certificate, for duties of the  
5 Department of Revenue, for tax assessments and tax liens;  
6 imposing penalties; providing for service of process, for  
7 rulemaking, for cooperation with other governments and for  
8 bonds; ESTABLISHING THE NATURAL GAS SEVERANCE TAX ACCOUNT, ←  
9 THE LOCAL GOVERNMENT SERVICES ACCOUNT AND THE OIL AND GAS  
10 ENVIRONMENTAL DISASTER RECOVERY ACCOUNT; PROVIDING FOR THE  
11 ESTABLISHMENT, IMPLEMENTATION AND ADMINISTRATION OF THE  
12 MARCELLUS SHALE JOB CREATION TAX CREDIT; IMPOSING ADDITIONAL  
13 DUTIES ON THE DEPARTMENT OF COMMUNITY AND ECONOMIC  
14 DEVELOPMENT; and making an appropriation.

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

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

19 CHAPTER 15

20 SEVERANCE TAX

21 Sec.

22 1501. Short title of chapter.

- 1 1502. Definitions.
- 2 1503. Imposition of tax.
- 3 1503.1. NATURAL GAS BASE RATE ADJUSTMENT. ←
- 4 1504. Return and payment.
- 5 1505. Natural gas severance tax registration.
- 6 1505.1 Meters.
- 7 1506. Assessments.
- 8 1507. Time for assessment.
- 9 1508. Extension of ~~limitation~~ ASSESSMENT period. ←
- 10 1509. Reassessments.
- 11 1510. Interest.
- 12 1511. Penalties.
- 13 1512. Criminal acts.
- 14 1513. Abatement of additions or penalties.
- 15 1514. Bulk and auction sales.
- 16 1515. Collection upon failure to request reassessment, review
- 17           or appeal.
- 18 1516. Tax liens.
- 19 1517. Tax suit reciprocity.
- 20 1518. Service.
- 21 1519. Refunds.
- 22 1520. Refund petition.
- 23 1521. Rules and regulations.
- 24 1522. Recordkeeping.
- 25 1523. Examinations.
- 26 1524. Unauthorized disclosure.
- 27 1525. Cooperation with other governments.
- 28 1526. Bonds.
- 29 1527. ~~Natural Gas Severance Tax Fund~~ ACCOUNTS ESTABLISHED. ←
- 30 1528. ~~Administration of fund~~ TRANSFERS AND DISTRIBUTIONS. ←

1 1529. Appropriation.

2 § 1501. Short title of chapter.

3 This chapter shall be known and may be cited as the Natural  
4 Gas Severance Tax Act.

5 § 1502. Definitions.

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

9 "Accredited laboratory." A facility engaged in the testing  
10 and calibration of scientific measurement devices and certified  
11 by the Department of Environmental Protection as having met the  
12 department's standards for accreditation.

13 "Association." A partnership, limited partnership or any  
14 other form of unincorporated enterprise owned or conducted by  
15 two or more persons.

16 "BASE RATE ADJUSTMENT INDEX." THE AMOUNT CALCULATED UNDER  
17 SECTION 1503(B) (RELATING TO IMPOSITION OF TAX) BY WHICH THE  
18 RATE OF THE TAX IMPOSED UNDER SECTION 1503(A) IS ADJUSTED  
19 ANNUALLY.

←

20 "Corporation." A corporation, joint stock association,  
21 limited liability company, business trust or any other  
22 incorporated enterprise organized under the laws of this  
23 Commonwealth, the United States or any other state, territory or  
24 foreign country or dependency.

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

26 "Fund." The Natural Gas Severance Tax Fund established under  
27 section 1527.

28 ~~"Gross value." The volume weighted average market price for~~  
29 ~~all arms length transactions that a producer receives at the~~  
30 ~~sales meter for natural gas during a reporting period.~~

←

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

3 "Municipality." A city, borough, incorporated town or a ←  
4 township.

5 "Natural gas." A fossil fuel consisting of a mixture of  
6 hydrocarbon gases, primarily methane, possibly including ethane,  
7 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and  
8 hydrogen sulfide and other gas species. The term includes  
9 natural gas from oil fields known as associated gas or casing  
10 head gas, natural gas fields known as nonassociated gas, coal  
11 beds, shale beds and other formations. THE TERM DOES NOT INCLUDE ←  
12 "COALBED METHANE" WHICH, FOR THE PURPOSE OF THIS CHAPTER, SHALL  
13 MEAN GAS WHICH CAN BE PRODUCED FROM COAL BEDS, COAL SEAMS, MINED  
14 OUT AREAS OR GOB WELLS.

15 "Nonproducing site." A point of severance that is not  
16 capable of producing natural gas in paying quantities.

17 "Paying quantities." Profit to the producer, however small,  
18 over the producer's current operating expenses.

19 "Person." A natural person or a corporation, fiduciary,  
20 association or other entity, including the Commonwealth, its  
21 political subdivisions, instrumentalities and authorities. When  
22 the term is used in a clause prescribing and imposing a penalty  
23 or imposing a fine or imprisonment, or both, the term shall  
24 include the members, as applied to an association, and the  
25 officers, as applied to a corporation.

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

30 "Producing site." A point of severance capable of producing

1 natural gas in paying quantities.

2 "Reporting period." A calendar month in which natural gas is ←  
3 severed A PERIOD OF THREE SUCCESSIVE CALENDAR MONTHS BEGINNING ←  
4 WITH THE FIRST DAY OF JULY AND ENDING ON THE 30TH DAY OF  
5 SEPTEMBER AND EACH SUCCEEDING THREE SUCCESSIVE CALENDAR MONTHS.

6 "Sales meter." A meter at the point where natural gas is ←  
7 sold or transported to a purchaser or market.

8 "SECRETARY." THE SECRETARY OF REVENUE OF THE COMMONWEALTH. ←

9 "Sever," "severing" or "severance." The extraction or other  
10 removal of natural gas from the soil or water of this  
11 Commonwealth.

12 "Storage field." A natural formation or other site that is  
13 used to store natural gas that did not originate from and has  
14 been injected into the formation or site.

15 "Stripper well." A producing site or a nonproducing site  
16 that is not capable of producing and does not produce more than  
17 60,000 cubic feet of natural gas per day.

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 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 for which a wellhead meter certification has been issued.

27       "Wellhead meter certification." A report issued by an  
28 accredited laboratory certifying the accuracy of a wellhead  
29 meter.

30       § 1503. Imposition of tax.

1 (a) Establishment.--There is levied a natural gas severance  
2 tax on every producer.

3 ~~(b) Rate. The tax imposed in subsection (a) shall be 5% of~~ ←  
4 ~~the gross value of units severed at the wellhead during a~~  
5 ~~reporting period, plus 4.7 cents per unit severed, but shall not~~  
6 ~~be imposed on units severed from a stripper well.~~

7 (A.1) STRIPPER WELLS.--THE TAX SHALL NOT BE IMPOSED ON UNITS ←  
8 SEVERED FROM A STRIPPER WELL UNLESS THE FOLLOWING ARE TRUE:

9 (1) THE STRIPPER WELL IS ONE OF MULTIPLE PRODUCING SITES  
10 OR NONPRODUCING SITES, THE COMBINED VOLUMES OF GAS PRODUCED  
11 BY ALL OF WHICH SITES ARE MEASURED BY A SINGLE WELLHEAD METER  
12 AS PROVIDED IN SECTION 1505.1 (RELATING TO METERS).

13 (2) THE COMBINED VOLUMES OF GAS PRODUCED BY ALL THE  
14 PRODUCING SITES OR NONPRODUCING SITES DESCRIBED IN PARAGRAPH  
15 (1) IS MORE THAN 60,000 CUBIC FEET OF NATURAL GAS PER DAY.

16 (A.2) EXEMPTIONS.--THE TAX SHALL NOT BE IMPOSED ON THE  
17 FOLLOWING:

18 (1) UNITS SEVERED, SOLD AND DELIVERED BY A PRODUCER AT  
19 OR WITHIN FIVE MILES OF THE PRODUCING SITE FOR THE PROCESSING  
20 OR MANUFACTURE OF TANGIBLE PERSONAL PROPERTY, AS DEFINED  
21 UNDER SECTION 201 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),  
22 KNOWN AS THE TAX REFORM CODE OF 1971, WITHIN THIS  
23 COMMONWEALTH; OR

24 (2) UNITS PROVIDED FREE OF CHARGE TO THE OWNER OF THE  
25 SURFACE UNDER WHICH THE GAS IS SEVERED IF THE SURFACE OWNER  
26 IS THE END USER OF THE GAS.

27 (B) RATE.--SUBJECT TO THE PROVISIONS OF SECTION 1503.1, THE  
28 RATE SHALL BE 35¢ PER UNIT SEVERED AT THE WELLHEAD.

29 § 1503.1. NATURAL GAS BASE RATE ADJUSTMENT.

30 (A) ANNUAL ADJUSTMENT.--THE RATE OF TAX IMPOSED UNDER

1 SECTION 1503 (RELATING TO IMPOSITION OF TAX) SHALL BE ADJUSTED  
2 ANNUALLY BY THE AMOUNT OF THE BASE RATE ADJUSTMENT INDEX AS  
3 CALCULATED UNDER SUBSECTION (C), PROVIDED THAT THE TAX RATE  
4 SHALL NEVER BE LESS THAN 35¢ PER UNIT SEVERED. THE ADJUSTED TAX  
5 RATE SHALL BE EFFECTIVE FOR THE NEXT YEAR.

6 (B) DETERMINATION OF ADJUSTMENT.--ON OR BEFORE APRIL 30 OF  
7 EACH YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, THE  
8 SECRETARY SHALL CALCULATE AND DETERMINE THE AMOUNT OF THE BASE  
9 RATE ADJUSTMENT INDEX.

10 (C) CALCULATION OF ADJUSTMENT.--THE BASE RATE ADJUSTMENT  
11 INDEX SHALL BE DETERMINED AS FOLLOWS:

12 (1) IF 5% OF THE AVERAGE OF NEW YORK MERCANTILE EXCHANGE  
13 (NYMEX) HENRY HUB SETTLED PRICE ON THE LAST TRADING DAY OF  
14 THE MONTH, AS REPORTED BY THE WALL STREET JOURNAL FOR THE  
15 PREVIOUS 12-MONTH PERIOD ENDING MARCH 31, IS LESS THAN 35¢,  
16 THE BASE RATE ADJUSTMENT INDEX SHALL BE ZERO AND THE ADJUSTED  
17 TAX RATE SHALL BE 35¢.

18 (2) IF 5% OF THE AVERAGE OF THE NEW YORK MERCANTILE  
19 EXCHANGE (NYMEX) HENRY HUB SETTLED PRICE ON THE LAST TRADING  
20 DAY OF THE MONTH, AS REPORTED BY THE WALL STREET JOURNAL FOR  
21 THE PREVIOUS 12-MONTH PERIOD ENDING MARCH 31, IS GREATER THAN  
22 35¢, THE BASE RATE ADJUSTMENT INDEX SHALL BE 50% OF THE  
23 DIFFERENCE BETWEEN 5% OF THE AVERAGE OF THE NYMEX HENRY HUB  
24 SETTLED PRICE ON THE LAST TRADING DAY OF THE MONTH, AS  
25 REPORTED IN THE WALL STREET JOURNAL FOR THE PREVIOUS 12-MONTH  
26 PERIOD ENDING MARCH 31, AND 35¢. THE ADJUSTED TAX RATE SHALL  
27 BE THE RESULTING BASE RATE ADJUSTMENT INDEX PLUS 35¢.

28 (D) PUBLICATION OF ADJUSTMENT.--THE SECRETARY SHALL FORWARD  
29 THE AMOUNT OF THE BASE RATE ADJUSTMENT INDEX AND THE ADJUSTED  
30 TAX RATE, AS DETERMINED UNDER SUBSECTION (C), TO THE LEGISLATIVE



1 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN BY  
2 MAY 1 OF EACH YEAR AND SHALL SIMULTANEOUSLY PROVIDE THE  
3 INFORMATION TO PRODUCERS AS REQUIRED BY WRITTEN NOTICE. FAILURE  
4 OF THE AMOUNT OF THE BASE RATE ADJUSTMENT INDEX AND THE ADJUSTED  
5 TAX RATE TO BE PUBLISHED OR PROVIDED TO PRODUCERS AS REQUIRED BY  
6 THIS SUBSECTION SHALL NOT AFFECT THE EFFECTIVENESS OF THE  
7 ADJUSTED TAX RATE UNDER SUBSECTION (B).

8 (E) DISCONTINUANCE OF DATA.--IF PUBLICATION OF THE NYMEX  
9 HENRY HUB AVERAGE MONTHLY GAS PRICE DATA IS DISCONTINUED, THE  
10 TAX RATE THEN IN EFFECT SHALL NOT BE ADJUSTED UNTIL A COMPARABLE  
11 METHOD FOR DETERMINING THE BASE RATE ADJUSTMENT INDEX IS ADOPTED  
12 BY THE GENERAL ASSEMBLY IN LEGISLATION.

13 (F) OTHER ADJUSTMENTS.--IF THE BASE DATA OF THE NYMEX HENRY  
14 HUB AVERAGE MONTHLY GAS PRICE IS SUBSTANTIALLY REVISED, THE  
15 SECRETARY SHALL, WHEN DETERMINING THE AMOUNT OF THE BASE RATE  
16 ADJUSTMENT INDEX UNDER SUBSECTION (C), MAKE APPROPRIATE CHANGES  
17 TO ENSURE THAT THE BASE RATE ADJUSTMENT INDEX IS REASONABLY  
18 CONSISTENT WITH THE RESULT WHICH WOULD HAVE BEEN ATTAINED HAD  
19 SUCH SUBSTANTIAL REVISION NOT BEEN MADE. IF THE SECRETARY IS  
20 UNABLE TO MAKE REASONABLE CHANGES SUFFICIENT TO ENSURE A  
21 CONSISTENT RESULT, THE TAX RATE THEN IN EFFECT SHALL NOT BE  
22 ADJUSTED UNTIL A COMPARABLE METHOD FOR DETERMINING THE BASE RATE  
23 ADJUSTMENT INDEX IS ADOPTED BY THE GENERAL ASSEMBLY IN  
24 LEGISLATION.

25 (G) APPLICATION OF RATE DETERMINATIONS.--THE PROVISIONS OF  
26 THIS SECTION SHALL AFFECT ONLY THE DETERMINATION OF THE RATE OF  
27 THE TAX ON THE SEVERANCE UNITS OF NATURAL GAS IMPOSED IN SECTION  
28 1503. THE PROVISIONS OF THIS SECTION ARE NOT INTENDED, NOR SHALL  
29 THEY BE CONSTRUED, TO AFFECT ANY OTHER DETERMINATION WHATSOEVER,  
30 INCLUDING, BUT NOT LIMITED TO, THE DETERMINATION OF ROYALTY DUE

1 UNDER MINERAL LEASES. NOTWITHSTANDING ANY OTHER PROVISION OF  
2 LAW, THE TAX IMPOSED BY THIS CHAPTER SHALL NOT REDUCE ANY  
3 ROYALTY PAYMENTS DUE UNDER MINERAL LEASES AND THE PRODUCER MAY  
4 NOT RECOVER ANY PORTION OF THE TAX PAID FROM THE ROYALTY OWNER  
5 THROUGH OTHER MEANS OF DEDUCTION OR REALLOCATION,  
6 NOTWITHSTANDING ANY PROVISION IN THE LEASE, CONTRACT OR  
7 AGREEMENT.

8 § 1504. Return and payment.

9 (a) Requirement.--Every producer is required to file a  
10 return with the department, on a form to be prescribed by the  
11 department, reporting all severed natural gas per reporting ←  
12 period and the tax due under section 1503 (relating to  
13 imposition of tax). WHICH SHALL INCLUDE ALL OF THE FOLLOWING: ←

14 (1) THE NUMBER OF SEVERED NATURAL GAS UNITS FOR EACH  
15 REPORTING PERIOD.

16 (2) THE NUMBER OF PRODUCING SITES IN EACH COUNTY AND  
17 MUNICIPALITY.

18 (3) THE AMOUNT OF TAX DUE UNDER SECTION 1503 (RELATING TO  
19 IMPOSITION OF TAX).

20 (b) Filing.--The return required by subsection (a) shall be  
21 filed with the department within 15 50 days following the end of ←  
22 the second calendar month after a reporting period. ←

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

26 § 1505. Natural gas severance tax registration.

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

30 (a.1) Application fee.--The department may charge an

1 application fee to cover the administrative costs associated  
2 with the application and registration process. If the department  
3 charges an application fee, the department shall not issue a  
4 registration certificate until the producer has paid the  
5 application fee.

6 (a.2) Declaration.-- The producer shall include in its  
7 application a declaration of all sites in this Commonwealth ←  
8 PRODUCING SITES AND NONPRODUCING SITES used by the producer for ←  
9 the severance of natural gas. The declaration is to include all ←  
10 producing sites and nonproducing sites as well as wellhead meter  
11 certification for each SHALL INCLUDE COPIES OF WELLHEAD METER ←  
12 CERTIFICATIONS FOR EACH SITE. The producer is required to update  
13 the declaration when the producer adds or removes a producing  
14 site or nonproducing site in this Commonwealth or when there is  
15 a change in the status of a producing site or nonproducing site  
16 or when the producer uses a different accredited laboratory to  
17 certify the accuracy of the producer's wellhead meters ISSUE A ←  
18 WELLHEAD METER CERTIFICATION. The producer shall update the  
19 declaration within 30 days after a calendar month in which a  
20 change to the declaration occurs.

21 (b) Issuance.--Except as provided in subsection (c), after  
22 the receipt of an application, the department shall issue a  
23 registration certificate under subsection (a). The registration  
24 certificate shall be nonassignable. All registrants shall be  
25 required to renew their registration certificates and wellhead  
26 meter certifications on a staggered renewal system established  
27 by the department. After the initial staggered renewal period, a  
28 registration certificate or a wellhead meter certification  
29 issued shall be valid for a period of five years.

30 (c) Refusal, suspension or revocation.--The department may

1 refuse to issue, suspend or revoke a registration certificate if  
2 the applicant or registrant has not filed required State tax  
3 reports and paid State taxes not subject to a timely perfected  
4 administrative or judicial appeal or subject to a duly  
5 authorized deferred payment plan. The department shall notify  
6 the applicant or registrant of any refusal, suspension or  
7 revocation. The notice shall contain a statement that the  
8 refusal, suspension or revocation may be made public. The notice  
9 shall be made by first class mail. An applicant or registrant  
10 aggrieved by the determination of the department may file an  
11 appeal under the provisions for administrative appeals in the  
12 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
13 of 1971. In the case of a suspension or revocation which is  
14 appealed, the registration certificate shall remain valid  
15 pending a final outcome of the appeals process. Notwithstanding  
16 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the  
17 Tax Reform Code of 1971 or any other provision of law, if no  
18 appeal is taken or if an appeal is taken and denied at the  
19 conclusion of the appeal process the department may disclose, by  
20 publication or otherwise, the identity of a producer and the  
21 fact that the producer's registration certificate has been  
22 refused, suspended or revoked under this subsection. Disclosure  
23 may include the basis for refusal, suspension or revocation.

24 (d) Violation.--A person severing natural gas in this  
25 Commonwealth without holding a valid registration certificate  
26 under subsection (b) shall be guilty of a summary offense and  
27 shall, upon conviction, be sentenced to pay a fine of not less  
28 than \$300 nor more than \$1,500. In the event the person  
29 convicted defaults, he shall be sentenced to imprisonment for  
30 not less than five days nor more than 30 days. The penalties

1 imposed by this subsection shall be in addition to any other  
2 penalties imposed by this chapter. For purposes of this  
3 subsection, the severing of natural gas during any calendar day  
4 shall constitute a separate violation. The Secretary of Revenue ←  
5 SECRETARY may designate employees of the department to enforce ←  
6 the provisions of this subsection. The employees shall exhibit  
7 proof of and be within the scope of the designation when  
8 instituting proceedings as provided by the Pennsylvania Rules of  
9 Criminal Procedure.

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

13 § 1505.1. Meters.

14 A (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), A ←  
15 producer shall provide for and maintain a discrete wellhead  
16 meter and a discrete sales meter WHERE NATURAL GAS IS SEVERED. A ←  
17 producer shall ensure that the meters are maintained according  
18 to industry standards. Any wellhead meter installed after the  
19 effective date of this section shall be a digital meter.

20 (B) EXCEPTION.--IF A PRODUCER HAS MULTIPLE PRODUCING SITES ←  
21 OR NONPRODUCING SITES, THE COMBINED VOLUMES OF GAS PRODUCED BY  
22 ALL OF WHICH SITES ARE MEASURED BY A SINGLE WELLHEAD METER, THE  
23 PRODUCER SHALL NOT BE REQUIRED TO PROVIDE FOR A DISCRETE  
24 WELLHEAD METER AT ANY OF THOSE PRODUCING SITES OR NONPRODUCING  
25 SITES THAT IS ALSO A STRIPPER WELL.

26 § 1506. Assessments.

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

1 (b) Notice.--The notice of assessment and demand for payment  
2 shall be mailed to the taxpayer. The notice shall set forth the  
3 basis of the assessment. The department shall send the notice of  
4 assessment to the taxpayer at its registered address via  
5 certified mail if the assessment increases the taxpayer's tax  
6 liability by \$300. Otherwise, the notice of assessment may be  
7 sent via regular mail.

8 § 1507. Time for assessment.

9 (a) Requirement.--An assessment as provided under section  
10 1506 (relating to assessments) shall be made within three years  
11 after the date when the return provided for by section 1504  
12 (relating to return and payment) is filed or the end of the year  
13 in which the tax liability arises, whichever shall occur last.  
14 For the purposes of this subsection and subsection (b), a return  
15 filed before the last day prescribed for the filing period shall  
16 be considered as filed on the last day.

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

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

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



1 § 1508. Extension of ~~limitation~~ ASSESSMENT period.

2 Notwithstanding the provisions of this chapter, the  
3 assessment period may be extended in the event a taxpayer has  
4 provided written consent before the expiration of the period  
5 provided in section 1507 (relating to time for assessment) for a  
6 tax assessment. The amount of tax due may be assessed at any  
7 time within the extended period. The period may be extended  
8 further by subsequent written consents made before the  
9 expiration of the extended period.

10 § 1509. Reassessments.

11 A taxpayer against whom an assessment is made may petition  
12 the department for a reassessment under Article XXVII of the act  
13 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
14 1971.

15 § 1510. Interest.

16 The department shall assess interest on any delinquent tax at  
17 the rate prescribed under section 806 of the act of April 9,  
18 1929 (P.L.343, No. 176), known as The Fiscal Code.

19 § 1511. Penalties.

20 The department shall enforce the following penalties:

21 (1) A penalty against a ~~valid~~ producer without a natural ←  
22 gas severance tax registration certificate. The penalty shall  
23 be \$1 for every unit severed without a valid registration  
24 certificate. The department may assess this penalty  
25 separately from or in conjunction with any assessment of the  
26 natural gas severance tax.

27 (2) A penalty against a producer for failure to timely  
28 file a return as required under section 1504 (relating to  
29 return and payment). The penalty shall be 5% of the tax  
30 liability to be reported on the return for each day beyond

1 the due date that the return is not filed.

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

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

10 § 1512. Criminal acts.

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

17 (b) Other crimes.--

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

23 (i) Willfully failing to timely remit the tax to the  
24 department.

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

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

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



1           (v) Refusing to permit the department or its  
2           authorized agents to examine its books, records or  
3           papers.

4           (vi) Knowingly make any incomplete, false or  
5           fraudulent return or report.

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

9           (viii) Providing any person with a false statement  
10           as to the payment of natural gas severance tax with  
11           respect to any pertinent facts.

12           (ix) Making, uttering or issuing a false or  
13           fraudulent statement.

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

16 § 1513. Abatement of additions or penalties.

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

23 § 1514. Bulk and auction sales.

24           A person that sells or causes to be sold at auction, or that  
25           sells or transfers in bulk, 51% or more of a stock of goods,  
26           wares or merchandise of any kind, fixtures, machinery,  
27           equipment, buildings or real estate involved in a business for  
28           which the person holds a registration certificate or is required  
29           to obtain a registration certificate under the provisions of  
30           this chapter shall be subject to the provisions of section 1403

1 of the act of April 9, 1929 (P.L.343, No.176), known as The  
2 Fiscal Code.

3 § 1515. Collection upon failure to request reassessment, review  
4 or appeal.

5 (a) Power of department.--The department may collect the  
6 natural gas severance tax IMPOSED UNDER THIS CHAPTER: ←

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

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

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

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

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

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

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

28 § 1516. Tax liens.

29 (a) Lien imposed.--If any taxpayer neglects or refuses to  
30 pay the natural gas severance tax TAX IMPOSED UNDER THIS CHAPTER ←

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

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

26 (c) No discharge by sale on junior lien.--In the case of a  
27 judicial sale of property subject to a lien imposed under this  
28 section, upon a lien or claim over which the lien imposed under  
29 this section has priority, the sale shall discharge the lien  
30 imposed under this section to the extent only that the proceeds

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

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

24 (e) Priority.--Except as provided in this chapter, the  
25 distribution, voluntary or compulsory, in receivership,  
26 bankruptcy or otherwise of the property or estate of any person,  
27 all taxes imposed by this chapter which are due and unpaid and  
28 are not collectible under the provisions of section 225 of the  
29 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
30 of 1971, shall be paid from the first money available for

1 distribution in priority to all other claims and liens, except  
2 as the laws of the United States may give priority to a claim to  
3 the Federal Government. A person charged with the administration  
4 or distribution of the property or estate who violates the  
5 provisions of this section shall be personally liable for the  
6 taxes imposed by this chapter which are accrued and unpaid and  
7 chargeable against the person whose property or estate is being  
8 administered or distributed.

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

15 § 1517. Tax suit reciprocity.

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

20 § 1518. Service.

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

1 shall be personally served upon any agent or representative of  
2 the producer who may be found within this Commonwealth or, where  
3 no agent or representative may be found, a copy of the process  
4 or notice shall be sent via registered mail to the producer at  
5 the last known address of its principal place of business, home  
6 office or residence.

7 § 1519. Refunds.

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

24 § 1520. Refund petition.

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

1 time limits of section 3003.1 of the Tax Reform Code of 1971.

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

13 § 1521. Rules and regulations.

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

24 § 1522. Recordkeeping.

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

1 the department may require a person, by notice served upon the  
2 person or by regulations, to make returns, render statements or  
3 keep records as the department deems sufficient to show whether  
4 or not a person is liable to pay tax under this chapter.

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

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

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

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

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

24 (c) Keeping of separate records.--A producer who is engaged  
25 in another business or businesses which do not involve the  
26 severing of natural gas taxable under this chapter, shall keep  
27 separate books and records of the businesses so as to show the  
28 taxable severing of natural gas under this chapter separately  
29 from other business activities not taxable hereunder. If any  
30 person fails to keep separate books and records, the person



1 shall be liable for a penalty equaling 100% of tax due under  
2 this chapter for the period where separate records were not  
3 maintained.

4 § 1523. Examinations.

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

25 § 1524. Unauthorized disclosure.

26 Any information gained by the department as a result of any  
27 return, examination, investigation, hearing or verification  
28 required or authorized by this chapter shall be confidential  
29 except for official purposes and except in accordance with  
30 proper judicial order or as otherwise provided by law, and any

1 person unlawfully divulging the information shall be guilty of a  
2 misdemeanor and shall, upon conviction, be sentenced to pay a  
3 fine of not more than \$1000 and costs of prosecution or to  
4 imprisonment for not more than one year, or both.

5 § 1525. Cooperation with other governments.

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

20 § 1526. Bonds.

21 (a) Taxpayer to file bond.--The department may require a  
22 nonresident natural person or any foreign corporation,  
23 association, fiduciary or other entity, not authorized to do  
24 business within this Commonwealth or not having an established  
25 place of business in this Commonwealth and subject to the tax  
26 imposed by section 1503 (relating to imposition of tax), to file  
27 a bond issued by a surety company authorized to do business in  
28 this Commonwealth and approved by the Insurance Commissioner as  
29 to solvency and responsibility, in amounts as it may fix, to  
30 secure the payment of any tax or penalties due or which may

1 become due from a nonresident natural person, corporation,  
2 association, fiduciary or other entity whenever it deems it  
3 necessary to protect the revenues obtained under this chapter.  
4 The department may also require a bond of a person petitioning  
5 the department for reassessment in the case of any assessment  
6 over \$500 or where, in its opinion, the ultimate collection is  
7 in jeopardy. For a period of three years, the department may  
8 require a bond of any person who has, on three or more occasions  
9 within a 12-month period, either filed a return or made payment  
10 to the department more than 30 days late. In the event the  
11 department determines a taxpayer is required to file a bond, it  
12 shall give notice to the taxpayer specifying the amount of the  
13 bond required. The taxpayer shall file the bond within five days  
14 after notice is given by the department unless, within five  
15 days, the taxpayer shall request in writing a hearing before the  
16 Secretary of Revenue SECRETARY or his representative. At the  
17 hearing, the necessity, propriety and amount of the bond shall  
18 be determined by the secretary or the secretary's  
19 representative. The determination shall be final and the  
20 taxpayer shall comply with it within 15 days after notice is  
21 mailed to the taxpayer.

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

1 (c) Failure to file bond.--The department may file a lien  
2 under section 1516 (relating to tax liens) against any taxpayer  
3 who fails to file a bond when required to do so under this  
4 section. All funds received upon execution of the judgment on  
5 the lien shall be refunded to the taxpayer with 3% interest,  
6 should a final determination be made that it does not owe any  
7 payment to the department.

8 § 1527. Natural Gas Severance Tax Fund. ←

9 (a) Establishment. The Natural Gas Severance Tax Fund is  
10 established as a separate fund in the State Treasury.

11 (b) Deposit. The proceeds of the natural gas severance tax,  
12 penalties and interest imposed by this chapter, less the amounts  
13 appropriated under section 1529 (relating to appropriation),  
14 shall be deposited into the fund.

15 (c) Restriction. The money in the fund shall only be used  
16 in accordance with section 1528 (relating to administration of  
17 fund).

18 § 1528. Administration of fund.

19 (a) Transfers. The State Treasurer shall make the following  
20 transfers from the fund on a quarterly basis commencing on the  
21 first business day of January 2010:

22 (1) Sixty percent to the General Fund.

23 (2) Three percent to the Department of Public Welfare to  
24 provide cash and crisis grants to low income households under  
25 the Low Income Home Energy Assistance Program.

26 (3) Fifteen percent to the Environmental Stewardship  
27 Fund.

28 (4) Four percent to the Hazardous Sites Cleanup Fund.

29 (5) Five percent to the Liquid Fuels Tax Fund for the  
30 reconstruction, maintenance and repair of State roadways and

1 ~~bridges. The funds under this paragraph shall be:~~

2 ~~(i) allocated in addition to and not in lieu of any~~  
3 ~~funds normally and customarily allocated to the~~  
4 ~~reconstruction, maintenance and repair of roadways and~~  
5 ~~bridges by the Department of Transportation; and~~

6 ~~(ii) distributed equally among all the 67 counties~~  
7 ~~of this Commonwealth.~~

8 ~~(b) Distributions.—~~

9 ~~(1) The State Treasurer shall distribute from the fund,~~  
10 ~~on a quarterly basis commencing on the first business day of~~  
11 ~~January 2010, 4.5% to municipalities where natural gas has~~  
12 ~~been severed and taxed under this chapter in the previous~~  
13 ~~quarter. The amount distributed shall be determined on a pro~~  
14 ~~rata basis as follows: The total amount to be distributed~~  
15 ~~under this paragraph is divided by the total number of~~  
16 ~~taxable gas units severed in the Commonwealth during the~~  
17 ~~preceding quarter; this quotient is then multiplied by the~~  
18 ~~total number of taxable gas units severed in the municipality~~  
19 ~~during the preceding quarter. The result equals the amount of~~  
20 ~~money to be distributed to the municipality, which shall be~~  
21 ~~used solely for any of the following:~~

22 ~~(i) Reconstruction, maintenance and repair of~~  
23 ~~municipal roadways and bridges which the municipality has~~  
24 ~~determined have been or are being used extensively to~~  
25 ~~transport natural gas or equipment related to the~~  
26 ~~production thereof.~~

27 ~~(ii) Parks and recreation.~~

28 ~~(iii) Industrial and commercial development.~~

29 ~~(iv) Preservation and improvement of municipal water~~  
30 ~~supplies.~~

1           ~~(v) Maintenance and capital improvements to the~~  
2           ~~municipal waste and sewage systems.~~

3           ~~(vi) Preservation and reclamation of the surface~~  
4           ~~waters of the municipality.~~

5           ~~(vii) Other lawful purposes reasonably related to~~  
6           ~~the consequences of severing natural gas in the~~  
7           ~~municipality.~~

8           ~~(2) The State Treasurer shall distribute from the fund,~~  
9           ~~on a quarterly basis commencing on the first business day of~~  
10           ~~January 2010, 4.5% to counties where natural gas has been~~  
11           ~~severed and taxed under this chapter in the previous quarter.~~  
12           ~~The amount distributed to a county shall be determined on a~~  
13           ~~pro rata basis as follows: The total amount to be distributed~~  
14           ~~under this paragraph is divided by the total number of~~  
15           ~~taxable gas units severed in the Commonwealth during the~~  
16           ~~preceding quarter; this quotient is then multiplied by the~~  
17           ~~total number of taxable gas units severed in the county~~  
18           ~~during the preceding quarter. The result equals the amount of~~  
19           ~~money to be distributed to the county, which shall be~~  
20           ~~administered by a board comprised of the chairperson of the~~  
21           ~~board of county commissioners, a representative from the~~  
22           ~~natural gas producing municipalities within the county and a~~  
23           ~~county commissioner selected by the representative of the~~  
24           ~~natural gas producing municipalities. The board shall give~~  
25           ~~priority to the reconstruction, repair and maintenance of~~  
26           ~~county roadways and bridges determined by the board to have~~  
27           ~~been and are used to transport natural gas or equipment~~  
28           ~~related to the production thereof and may allocate the~~  
29           ~~remainder to the county or its municipalities for any of the~~  
30           ~~purposes enumerated in subsection (b)(1). A simple majority~~

~~vote of all the members of the board shall be required for any action under this paragraph.~~

~~(3) The State Treasurer shall distribute from the fund, on a quarterly basis commencing on the first day of January 2010, 2% to the Pennsylvania Game Commission, which shall be used for the commission's operational, administrative and enforcement costs.~~

~~(4) The State Treasurer shall distribute from the fund, on a quarterly basis commencing on the first day of January 2010, 2% to the Pennsylvania Fish and Boat Commission, which shall be used for the commission's operational, administrative and enforcement costs.~~

~~(c) Annual reports. Counties and municipalities receiving money from the fund under this section shall submit to the Department of Transportation, on a form to be provided by the Department of Transportation on its Internet website, within 30 days following the end of each fiscal year a report that accounts for the use of the money distributed to them under section 1528 in the fiscal year preceding the date of the report. The Department of Transportation shall submit to the Governor, to the chair and minority chair of the Transportation Committee of the Senate and the chair and minority chair of the Transportation Committee of the House of Representatives within 45 days following the end of each fiscal year a report that accounts for the use of the money distributed to the Department of Transportation under section 1528 in the fiscal year preceding the date of the report and that includes copies of the reports submitted to the Department of Transportation by the counties and municipalities receiving money from the fund.~~

~~§ 1527. ACCOUNTS ESTABLISHED.~~



1 (A) NATURAL GAS SEVERANCE TAX ACCOUNT.--

2 (1) THE NATURAL GAS SEVERANCE TAX ACCOUNT IS ESTABLISHED  
3 AS A RESTRICTED ACCOUNT WITHIN THE GENERAL FUND.

4 (2) THE PROCEEDS OF THE TAX IMPOSED UNDER SECTION 1503  
5 (RELATING TO IMPOSITION OF TAX), PENALTIES AND INTEREST  
6 IMPOSED UNDER THIS CHAPTER, LESS THE AMOUNTS APPROPRIATED  
7 UNDER SECTION 1529 (RELATING TO APPROPRIATION), SHALL BE  
8 DEPOSITED INTO THE ACCOUNT.

9 (3) THE MONEY IN THE ACCOUNT SHALL ONLY BE USED IN  
10 ACCORDANCE WITH SECTION 1528 (RELATING TO ADMINISTRATION OF  
11 FUND).

12 (B) LOCAL GOVERNMENT SERVICES ACCOUNT.--

13 (1) THE LOCAL GOVERNMENT SERVICES ACCOUNT IS ESTABLISHED  
14 AS A RESTRICTED ACCOUNT WITHIN THE GENERAL FUND.

15 (2) THE ALLOCATION UNDER SECTION 1528(A)(3) SHALL BE  
16 DEPOSITED INTO THE LOCAL GOVERNMENT SERVICES ACCOUNT AND  
17 SHALL BE DISTRIBUTED AS PROVIDED BY LAW.

18 (C) OIL AND GAS ENVIRONMENTAL DISASTER RECOVERY ACCOUNT.--

19 (1) THE OIL AND GAS ENVIRONMENTAL DISASTER RECOVERY  
20 ACCOUNT IS ESTABLISHED AS A RESTRICTED ACCOUNT WITHIN THE  
21 GENERAL FUND.

22 (2) THE MONEY IN THE ACCOUNT SHALL ONLY BE USED TO  
23 PROVIDE MONEYS TO FUND RECOVERY COSTS ASSOCIATED WITH AN  
24 ENVIRONMENTAL DISASTER OCCURRING AS A RESULT OF OIL AND GAS  
25 DRILLING WITHIN THIS COMMONWEALTH AND SHALL ONLY BE EXPENDED  
26 BY SPECIAL APPROPRIATION BY THE GENERAL ASSEMBLY.

27 § 1528. TRANSFERS AND DISTRIBUTIONS.

28 (A) FISCAL YEAR 2010-2011.--THE STATE TREASURER SHALL MAKE  
29 THE FOLLOWING TRANSFERS AND DISTRIBUTIONS OF THE MONEY IN THE  
30 NATURAL GAS SEVERANCE TAX ACCOUNT ESTABLISHED UNDER SECTION



1 1527(A) (RELATING TO ACCOUNTS ESTABLISHED) ON THE FIRST BUSINESS  
2 DAY OF JULY FOR FISCAL YEAR 2010-2011:

3 (1) THE FIRST \$75,000,000 GENERATED UNDER SECTION 1503  
4 (RELATING TO IMPOSITION OF TAX) SHALL BE DEPOSITED INTO THE  
5 GENERAL FUND. THE REMAINING PROCEEDS COLLECTED UNDER SECTION  
6 1503 SHALL BE DISTRIBUTED AS FOLLOWS:

7 (I) FIFTY PERCENT TO THE GENERAL FUND.

8 (II) FIFTEEN PERCENT TO THE ENVIRONMENTAL  
9 STEWARDSHIP FUND.

10 (III) TWENTY PERCENT TO THE LOCAL GOVERNMENT  
11 SERVICES ACCOUNT ESTABLISHED UNDER SECTION 1527(B), TO BE  
12 FURTHER DISTRIBUTED BY THE STATE TREASURER AS FOLLOWS:

13 (A) THIRTY PERCENT TO COUNTIES WITH PRODUCING  
14 SITES. THE MONEY UNDER THIS CLAUSE SHALL BE  
15 DISTRIBUTED TO EACH ELIGIBLE COUNTY BASED ON A  
16 FORMULA THAT DIVIDES THE NUMBER OF PRODUCING SITES IN  
17 THE COUNTY BY THE TOTAL NUMBER OF PRODUCING SITES IN  
18 ALL THE COUNTIES IN THIS COMMONWEALTH WITH THE  
19 RESULTING PERCENTAGE MULTIPLIED TIMES THE MONEY  
20 AVAILABLE FOR DISTRIBUTION.

21 (B) FORTY PERCENT TO MUNICIPALITIES WITH  
22 PRODUCING SITES. THE MONEY UNDER THIS CLAUSE SHALL BE  
23 DISTRIBUTED TO EACH ELIGIBLE MUNICIPALITY BASED ON A  
24 FORMULA THAT DIVIDES THE NUMBER OF PRODUCING SITES IN  
25 THE MUNICIPALITY BY THE TOTAL NUMBER OF PRODUCING  
26 SITES IN ALL MUNICIPALITIES IN THIS COMMONWEALTH WITH  
27 THE RESULTING PERCENTAGE MULTIPLIED TIMES THE MONEY  
28 AVAILABLE FOR DISTRIBUTION.

29 (C) TWENTY PERCENT TO MUNICIPALITIES WITH NO  
30 PRODUCING SITES LOCATED IN A COUNTY WITH PRODUCING

1           SITES. THE MONEY UNDER THIS CLAUSE SHALL BE  
2           DISTRIBUTED TO EACH ELIGIBLE MUNICIPALITY BASED ON A  
3           FORMULA THAT DIVIDES THE NUMBER OF PRODUCING SITES IN  
4           THE COUNTY BY THE TOTAL NUMBER OF PRODUCING SITES IN  
5           ALL COUNTIES IN THIS COMMONWEALTH WITH THE RESULTING  
6           PERCENTAGE MULTIPLIED TIMES THE MONEY AVAILABLE FOR  
7           DISTRIBUTION. THE STATE TREASURER SHALL DISTRIBUTE AN  
8           EQUAL SHARE TO EACH ELIGIBLE MUNICIPALITY WITHIN THE  
9           SAME COUNTY.

10           (D) TEN PERCENT TO THE PENNSYLVANIA EMERGENCY  
11           MANAGEMENT AGENCY TO BE DISTRIBUTED TO FIRE AND  
12           AMBULANCE SERVICES IN COUNTIES WITH PRODUCING SITES  
13           IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED IN THE  
14           ACT OF JULY 31, 2003 (P.L.73, NO.17), KNOWN AS THE  
15           VOLUNTEER FIRE COMPANY AND VOLUNTEER AMBULANCE  
16           SERVICE GRANT ACT.

17           (E) ONLY PRODUCING SITES ON WHICH THE TAX IS  
18           LEVIED UNDER SECTION 1503(A) SHALL BE INCLUDED IN ANY  
19           OF THE CALCULATIONS MADE UNDER THIS PARAGRAPH.

20           (IV) TWO PERCENT TO THE HAZARDOUS SITES CLEANUP  
21           FUND.

22           (V) THREE PERCENT TO THE CONSERVATION DISTRICT FUND  
23           FOR DISTRIBUTION TO COUNTY CONSERVATION DISTRICTS  
24           PURSUANT TO GUIDELINES ESTABLISHED BY THE STATE  
25           CONSERVATION COMMISSION.

26           (VI) TWO PERCENT TO THE PENNSYLVANIA GAME  
27           COMMISSION.

28           (VII) THREE PERCENT TO THE PENNSYLVANIA FISH AND  
29           BOAT COMMISSION.

30           (VIII) TWO PERCENT TO THE DEPARTMENT OF PUBLIC

1 WELFARE TO PROVIDE CASH CRISIS GRANTS TO LOW-INCOME  
2 HOUSEHOLDS UNDER THE LOW INCOME HOME ENERGY ASSISTANCE  
3 PROGRAM.

4 (IX) TWO PERCENT TO THE OIL AND GAS ENVIRONMENTAL  
5 DISASTER RECOVERY ACCOUNT.

6 (X) ONE PERCENT TO THE DEPARTMENT OF ENVIRONMENTAL  
7 PROTECTION FOR STATE DAM REMOVAL, RESTORATION AND REPAIR  
8 PROJECTS.

9 (B) FOR FISCAL YEAR 2011-2012 AND THEREAFTER.--FOR FISCAL  
10 YEAR 2011-2012 AND THEREAFTER, THE STATE TREASURER SHALL MAKE  
11 THE FOLLOWING TRANSFERS AND DISTRIBUTIONS OF THE MONEY IN THE  
12 NATURAL GAS SEVERANCE TAX ACCOUNT ESTABLISHED UNDER SECTION  
13 1527(A) ON THE FIRST BUSINESS DAY OF JULY FOR THE FISCAL YEAR:

14 (1) FIFTY PERCENT TO THE GENERAL FUND.

15 (2) FIFTEEN PERCENT TO THE ENVIRONMENTAL STEWARDSHIP  
16 FUND.

17 (3) TWENTY PERCENT TO THE LOCAL GOVERNMENT SERVICES  
18 ACCOUNT ESTABLISHED UNDER SECTION 1527(B), TO BE FURTHER  
19 DISTRIBUTED BY THE STATE TREASURER AS FOLLOWS:

20 (I) THIRTY PERCENT TO COUNTIES WITH PRODUCING SITES.  
21 THE MONEY UNDER THIS SUBPARAGRAPH SHALL BE DISTRIBUTED TO  
22 EACH ELIGIBLE COUNTY BASED ON A FORMULA THAT DIVIDES THE  
23 NUMBER OF PRODUCING SITES IN THE COUNTY BY THE TOTAL  
24 NUMBER OF PRODUCING SITES IN ALL THE COUNTIES IN THIS  
25 COMMONWEALTH WITH THE RESULTING PERCENTAGE MULTIPLIED  
26 TIMES THE MONEY AVAILABLE FOR DISTRIBUTION.

27 (II) FORTY PERCENT TO MUNICIPALITIES WITH PRODUCING  
28 SITES. THE MONEY UNDER THIS SUBPARAGRAPH SHALL BE  
29 DISTRIBUTED TO EACH ELIGIBLE MUNICIPALITY BASED ON A  
30 FORMULA THAT DIVIDES THE NUMBER OF PRODUCING SITES IN THE

1 MUNICIPALITY BY THE TOTAL NUMBER OF PRODUCING SITES IN  
2 ALL MUNICIPALITIES IN THIS COMMONWEALTH WITH THE  
3 RESULTING PERCENTAGE MULTIPLIED TIMES THE MONEY AVAILABLE  
4 FOR DISTRIBUTION.

5 (III) TWENTY PERCENT TO MUNICIPALITIES WITH NO  
6 PRODUCING SITES LOCATED IN A COUNTY WITH PRODUCING SITES.  
7 THE MONEY UNDER THIS SUBPARAGRAPH SHALL BE DISTRIBUTED TO  
8 EACH ELIGIBLE MUNICIPALITY BASED ON A FORMULA THAT  
9 DIVIDES THE NUMBER OF PRODUCING SITES IN THE COUNTY BY  
10 THE TOTAL NUMBER OF PRODUCING SITES IN ALL COUNTIES IN  
11 THIS COMMONWEALTH WITH THE RESULTING PERCENTAGE  
12 MULTIPLIED TIMES THE MONEY AVAILABLE FOR DISTRIBUTION.  
13 THE STATE TREASURER SHALL DISTRIBUTE AN EQUAL SHARE TO  
14 EACH ELIGIBLE MUNICIPALITY WITHIN THE SAME COUNTY.

15 (IV) TEN PERCENT TO THE PENNSYLVANIA EMERGENCY  
16 MANAGEMENT AGENCY TO BE DISTRIBUTED TO FIRE AND AMBULANCE  
17 SERVICES IN COUNTIES WITH PRODUCING SITES IN ACCORDANCE  
18 WITH THE PROCEDURES ESTABLISHED IN THE VOLUNTEER FIRE  
19 COMPANY AND VOLUNTEER AMBULANCE SERVICE GRANT ACT.

20 (V) ONLY PRODUCING SITES ON WHICH THE TAX IS LEVIED  
21 UNDER SECTION 1503(A) SHALL BE INCLUDED IN ANY OF THE  
22 CALCULATIONS MADE UNDER THIS PARAGRAPH.

23 (4) TWO PERCENT TO THE HAZARDOUS SITES CLEANUP FUND.

24 (5) THREE PERCENT TO THE CONSERVATION DISTRICT FUND FOR  
25 DISTRIBUTION TO COUNTY CONSERVATION DISTRICTS PURSUANT TO  
26 GUIDELINES ESTABLISHED BY THE STATE CONSERVATION COMMISSION.

27 (6) TWO PERCENT TO THE PENNSYLVANIA GAME COMMISSION.

28 (7) THREE PERCENT TO THE PENNSYLVANIA FISH AND BOAT  
29 COMMISSION.

30 (8) TWO PERCENT TO THE DEPARTMENT OF PUBLIC WELFARE TO

1 PROVIDE CASH CRISIS GRANTS TO LOW-INCOME HOUSEHOLDS UNDER THE  
2 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

3 (9) TWO PERCENT TO THE OIL AND GAS ENVIRONMENTAL  
4 DISASTER RECOVERY ACCOUNT.

5 (10) ONE PERCENT OF THE PROCEEDS OF THE NATURAL GAS  
6 SEVERANCE TAX, PENALTIES AND INTEREST IMPOSED BY THIS  
7 CHAPTER, LESS THE AMOUNTS APPROPRIATED UNDER SECTION 1529  
8 (RELATING TO APPROPRIATIONS), SHALL BE ALLOCATED TO THE  
9 DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR STATE DAM REMOVAL,  
10 RESTORATION AND REPAIR PROJECTS.

11 § 1529. Appropriation.

12 The amount of the proceeds from the tax imposed by this  
13 chapter as shall be necessary for the payment of refunds,  
14 enforcement or administration under this chapter, is hereby  
15 appropriated for such purposes.

16 SECTION 2. TITLE 72 IS AMENDED BY ADDING A PART TO READ:

17 PART III

18 TAX CREDITS

19 CHAPTER

20 31. MARCELLUS SHALE JOB CREATION TAX CREDIT

21 CHAPTER 31

22 MARCELLUS SHALE JOB CREATION TAX CREDIT

23 SEC.

24 3101. DEFINITIONS.

25 3102. ELIGIBILITY.

26 3103. APPLICATION PROCESS.

27 3104. TAX CREDITS.

28 3105. PROHIBITIONS.

29 3106. PENALTIES.

30 3107. ANNUAL REPORTS.



1 3108. NOTICE OF AVAILABILITY OF TAX CREDITS.

2 § 3101. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 "BASE PERIOD." AS FOLLOWS:

7 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE THREE  
8 YEARS IMMEDIATELY PRECEDING THE DATE ON WHICH A COMPANY MAY  
9 BEGIN CREATING NEW JOBS WHICH MAY BE ELIGIBLE FOR JOB  
10 CREATION TAX CREDITS.

11 (2) IF A COMPANY HAS BEEN IN BUSINESS IN THIS  
12 COMMONWEALTH FOR LESS THAN THREE YEARS, THE PERIOD WHICH IT  
13 HAS BEEN IN BUSINESS IN THIS COMMONWEALTH.

14 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC  
15 DEVELOPMENT OF THE COMMONWEALTH.

16 "JOB CREATION TAX CREDITS." TAX CREDITS FOR JOB CREATION FOR  
17 WHICH THE DEPARTMENT HAS ISSUED A CERTIFICATE UNDER THIS  
18 CHAPTER.

19 "NEW JOB." A FULL-TIME JOB, THE AVERAGE HOURLY RATE,  
20 EXCLUDING BENEFITS, FOR WHICH MUST BE AT LEAST 350% OF THE  
21 FEDERAL MINIMUM WAGE, CREATED WITHIN A MUNICIPALITY LOCATED IN  
22 THIS COMMONWEALTH BY A COMPANY WITHIN THREE YEARS FROM THE START  
23 DATE. THE TERM INCLUDES A JOB WHICH WAS PREVIOUSLY HELD BY A  
24 NONRESIDENT AND IS FILLED BY A RESIDENT. THE TERM DOES NOT  
25 INCLUDE A TEMPORARY OR SEASONAL JOB.

26 "NONRESIDENT." AN INDIVIDUAL WHO DOES NOT RESIDE IN THIS  
27 COMMONWEALTH.

28 "QUALIFIED APPRENTICESHIP TRAINING PROGRAM." A PROGRAM  
29 REGISTERED WITH THE APPRENTICESHIP AND TRAINING COUNCIL WITHIN  
30 THE DEPARTMENT OF LABOR AND INDUSTRY THAT IS IN COMPLIANCE WITH

1 APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS AND WHICH  
2 REQUIRES AT LEAST 2,000 BUT NOT MORE THAN 10,000 HOURS OF ON-  
3 THE-JOB APPRENTICESHIP TRAINING.

4 "RESIDENT." ANY NATURAL PERSON WHO IS CONSIDERED A RESIDENT  
5 OF THIS COMMONWEALTH UNDER THE ACT OF MARCH 4, 1971 (P.L.6,  
6 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

7 "START DATE." THE DATE ON WHICH A COMPANY MAY BEGIN CREATING  
8 NEW JOBS WHICH MAY BE ELIGIBLE FOR JOB CREATION TAX CREDITS.

9 "YEAR ONE." A ONE-YEAR PERIOD IMMEDIATELY FOLLOWING THE  
10 START DATE.

11 "YEAR THREE." A ONE-YEAR PERIOD IMMEDIATELY FOLLOWING THE  
12 END OF YEAR TWO.

13 "YEAR TWO." A ONE-YEAR PERIOD IMMEDIATELY FOLLOWING THE END  
14 OF YEAR ONE.

15 § 3102. ELIGIBILITY.

16 IN ORDER TO BE ELIGIBLE TO RECEIVE JOB CREATION TAX CREDITS  
17 UNDER THIS CHAPTER, A COMPANY MUST DEMONSTRATE TO THE DEPARTMENT  
18 THE FOLLOWING:

19 (1) THE COMPANY'S FINANCIAL STABILITY AND THE PROJECT'S  
20 FINANCIAL VIABILITY.

21 (2) THE COMPANY'S EXPRESS INTENT TO MAINTAIN OPERATIONS  
22 IN THIS COMMONWEALTH FOR A PERIOD OF FIVE YEARS FROM THE DATE  
23 THE COMPANY SUBMITS ITS TAX CREDIT CERTIFICATE TO THE  
24 DEPARTMENT OF REVENUE.

25 (3) THE COMPANY IS IN CONFORMITY WITH INDUSTRY LAWS AND  
26 REGULATIONS OVERSEEN AND ENFORCED BY THE DEPARTMENT OF  
27 ENVIRONMENTAL PROTECTION.

28 § 3103. APPLICATION PROCESS.

29 (A) APPLICATION.--A COMPANY MUST COMPLETE AND SUBMIT TO THE  
30 DEPARTMENT A JOB CREATION TAX CREDIT APPLICATION ALONG WITH A

1 COPY OF THE PERMIT ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL  
2 PROTECTION PROVIDING THAT THE COMPANY HAS OBTAINED THE NECESSARY  
3 PERMIT ALLOWING THE COMPANY TO DRILL IN THIS COMMONWEALTH OR A  
4 STATEMENT FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
5 STATING THE SAME. THE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
6 SHALL NOTIFY THE DEPARTMENT OF LABOR AND INDUSTRY, THE  
7 DEPARTMENT OF REVENUE AND THE DEPARTMENT UPON SUSPENSION OR  
8 REVOCAION OF DRILLING PERMITS OR OTHER CHANGES THAT AFFECT THE  
9 COMPANY'S ABILITY TO CONTINUOUSLY DRILL IN THIS COMMONWEALTH.

10 (B) APPLICANT PRIORITY.--THE DEPARTMENT SHALL GIVE PRIORITY  
11 TO ELIGIBLE APPLICANTS THAT WILL PLACE THE FOLLOWING WORKERS IN  
12 NEW JOBS:

13 (1) WORKERS WHO HAVE COMPLETED A QUALIFIED  
14 APPRENTICESHIP TRAINING PROGRAM OR A JOB TRAINING PROGRAM  
15 APPROVED BY THE DEPARTMENT OF LABOR AND INDUSTRY.

16 (2) DISLOCATED WORKERS UNDER THE ACT OF DECEMBER 18,  
17 2001 (P.L.949, NO.114), KNOWN AS THE WORKFORCE DEVELOPMENT  
18 ACT, WHO MEET ANY ONE OF THE FOLLOWING CONDITIONS:

19 (I) HAVE BEEN TERMINATED OR LAID OFF OR HAVE  
20 RECEIVED NOTICE OF TERMINATION OR LAYOFF, AND ARE  
21 ELIGIBLE FOR OR HAVE EXHAUSTED UNEMPLOYMENT COMPENSATION  
22 BENEFITS.

23 (II) ARE UNLIKELY TO RETURN TO THE INDUSTRY OR  
24 OCCUPATION IN WHICH THE INDIVIDUALS WERE EMPLOYED.

25 (III) HAVE BEEN TERMINATED OR RECEIVED NOTICE OF  
26 TERMINATION AS A RESULT OF THE PERMANENT CLOSURE OR  
27 RELOCATION OF A PLANT, FACILITY OR PLANT OPERATION IN  
28 WHICH THE INDIVIDUALS WERE EMPLOYED.

29 (IV) ARE CHRONICALLY UNEMPLOYED.

30 (V) HAVE LIMITED OPPORTUNITIES OF EMPLOYMENT IN THE



1 GEOGRAPHIC AREA IN WHICH THE INDIVIDUALS RESIDE.

2 (VI) ARE INDIVIDUALS WHO MAY FACE SUBSTANTIAL  
3 BARRIERS TO EMPLOYMENT BECAUSE OF AGE OR DISABILITY.

4 (3) WORKERS WHO HAVE BEEN UNEMPLOYED FOR AT LEAST SIX  
5 MONTHS.

6 (4) UNDEREMPLOYED WORKERS WHO REQUIRE SKILL TRAINING TO  
7 MEET INDUSTRY DEMANDS OR INCREASE EMPLOYMENT OPPORTUNITIES.

8 (C) APPROVAL.--IF THE DEPARTMENT APPROVES THE COMPANY'S  
9 APPLICATION, THE DEPARTMENT AND THE COMPANY SHALL EXECUTE A  
10 COMMITMENT LETTER CONTAINING THE FOLLOWING:

11 (1) A DESCRIPTION OF THE PROJECT.

12 (2) THE NUMBER OF NEW JOBS TO BE CREATED.

13 (3) THE AMOUNT OF PRIVATE CAPITAL INVESTMENT IN THE  
14 PROJECT.

15 (4) THE MAXIMUM JOB CREATION TAX CREDIT AMOUNT THE  
16 COMPANY MAY CLAIM.

17 (5) A SIGNED STATEMENT THAT THE COMPANY INTENDS TO  
18 MAINTAIN ITS OPERATION IN THIS COMMONWEALTH FOR FIVE YEARS  
19 FROM THE START DATE.

20 (6) A SIGNED STATEMENT FROM THE COMPANY THAT THE COMPANY  
21 WILL PROVIDE TO THE DEPARTMENT A LIST OF WORKERS WHICH  
22 SATISFIES THE REQUIREMENTS OF SUBSECTION (B) FOR WHICH THE  
23 COMPANY WILL CLAIM TAX CREDIT, INCLUDING DOCUMENTATION OF  
24 EACH WORKER'S STATUS AS A RESIDENT OF THIS COMMONWEALTH.

25 (7) SUCH OTHER INFORMATION AS THE DEPARTMENT DEEMS  
26 APPROPRIATE.

27 (D) COMMITMENT LETTER.--AFTER A COMMITMENT LETTER HAS BEEN  
28 SIGNED BY BOTH THE COMMONWEALTH AND THE COMPANY, THE COMPANY  
29 SHALL RECEIVE A JOB CREATION TAX CREDIT CERTIFICATE AND FILING  
30 INFORMATION.

1 § 3104. TAX CREDITS.

2 (A) MAXIMUM AMOUNT.--A COMPANY MAY CLAIM A TAX CREDIT OF  
3 \$2,500 PER NEW JOB CREATED AND UP TO THE MAXIMUM JOB CREATION  
4 TAX CREDIT AMOUNT SPECIFIED IN THE COMMITMENT LETTER.

5 (B) DETERMINATION OF NEW JOBS CREATED.--

6 (1) NEW JOBS SHALL BE DEEMED CREATED IN YEAR ONE TO THE  
7 EXTENT THAT THE COMPANY'S AVERAGE EMPLOYMENT BY QUARTER  
8 DURING YEAR ONE EXCEEDS THE COMPANY'S AVERAGE EMPLOYMENT  
9 LEVEL DURING THE COMPANY'S BASE PERIOD, AS ADJUSTED FOR ANY  
10 JOB HELD BY A NONRESIDENT DURING THE PERIOD WHICH IS NO  
11 LONGER HELD BY A NONRESIDENT.

12 (2) NEW JOBS SHALL BE DEEMED CREATED IN YEAR TWO TO THE  
13 EXTENT THAT THE COMPANY'S AVERAGE EMPLOYMENT BY QUARTER  
14 DURING YEAR TWO EXCEEDS THE COMPANY'S AVERAGE EMPLOYMENT BY  
15 QUARTER DURING YEAR ONE.

16 (3) NEW JOBS SHALL BE DEEMED CREATED IN YEAR THREE TO  
17 THE EXTENT THAT THE COMPANY'S AVERAGE EMPLOYMENT BY QUARTER  
18 DURING YEAR THREE EXCEEDS THE COMPANY'S AVERAGE EMPLOYMENT BY  
19 QUARTER DURING YEAR TWO.

20 (C) APPLICABLE TAXES.--A COMPANY MAY APPLY THE TAX CREDIT TO  
21 100% OF THE COMPANY'S CORPORATE NET INCOME TAX, CAPITAL STOCK  
22 AND FRANCHISE TAX OR THE CAPITAL STOCK AND FRANCHISE TAX OF A  
23 SHAREHOLDER OF THE COMPANY IF THE COMPANY IS A PENNSYLVANIA S  
24 CORPORATION, PERSONAL INCOME TAX OR THE PERSONAL INCOME TAX OF  
25 SHAREHOLDERS OF A PENNSYLVANIA S CORPORATION OR ANY COMBINATION  
26 THEREOF.

27 (D) TAX CREDIT TERM.--A COMPANY MAY CLAIM THE JOB CREATION  
28 TAX CREDIT FOR EACH NEW JOB CREATED, AS APPROVED BY THE  
29 DEPARTMENT, FOR A PERIOD DETERMINED BY THE DEPARTMENT BUT NOT TO  
30 EXCEED FIVE YEARS FROM THE DATE THE COMPANY FIRST SUBMITS A JOB

1 CREATION TAX CREDIT CERTIFICATE.

2 (E) AVAILABILITY OF TAX CREDITS.--EACH FISCAL YEAR,  
3 \$25,000,000 IN TAX CREDITS SHALL BE MADE AVAILABLE TO THE  
4 DEPARTMENT AND MAY BE AWARDED BY THE DEPARTMENT IN ACCORDANCE  
5 WITH THIS CHAPTER.

6 § 3105. PROHIBITIONS.

7 THE FOLLOWING ACTIONS WITH REGARD TO JOB CREATION TAX CREDITS  
8 ARE PROHIBITED:

9 (1) APPROVAL OF JOBS THAT HAVE BEEN CREATED PRIOR TO THE  
10 START DATE, UNLESS THE JOB WAS HELD BY A NONRESIDENT WHO HAS  
11 BEEN REPLACED BY A RESIDENT.

12 (2) THE ASSIGNMENT, TRANSFER OR USE OF CREDITS BY ANY  
13 OTHER COMPANY, PROVIDED, HOWEVER, THAT TAX CREDITS MAY BE  
14 ASSIGNED IN WHOLE OR IN PART TO AN AFFILIATED ENTITY. AS USED  
15 IN THIS PARAGRAPH, THE TERM "AFFILIATED ENTITY" MEANS AN  
16 ENTITY WHICH IS PART OF THE SAME "AFFILIATED GROUP," AS  
17 DEFINED BY SECTION 1504(A) (1) OF THE INTERNAL REVENUE CODE OF  
18 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1504(A) (1)), AS THE  
19 COMPANY AWARDED THE CREDIT.

20 § 3106. PENALTIES.

21 (A) FAILURE TO CREATE JOBS.--A COMPANY WHICH RECEIVES JOB  
22 CREATION TAX CREDITS AND FAILS TO CREATE THE APPROVED NUMBER OF  
23 NEW JOBS WITHIN THREE YEARS OF THE START DATE WILL BE REQUIRED  
24 TO REFUND TO THE COMMONWEALTH THE TOTAL AMOUNT OF CREDIT OR  
25 CREDITS GRANTED.

26 (B) WAIVER.--THE DEPARTMENT MAY WAIVE THE PENALTIES OUTLINED  
27 IN SUBSECTION (A) IF IT IS DETERMINED THAT A COMPANY'S  
28 OPERATIONS WERE NOT MAINTAINED OR THE NEW JOBS WERE NOT CREATED  
29 BECAUSE OF CIRCUMSTANCES BEYOND THE COMPANY'S CONTROL. SUCH  
30 CIRCUMSTANCES INCLUDE NATURAL DISASTERS OR UNFORESEEN INDUSTRY

1 TRENDS.

2 § 3107. ANNUAL REPORTS.

3 (A) CONTENTS.--THE DEPARTMENT SHALL PROVIDE AN ANNUAL REPORT  
4 ON JOB CREATION TAX CREDITS WHICH AT A MINIMUM SHALL INCLUDE:

5 (1) A LIST OF ALL JOB CREATION TAX CREDIT CERTIFICATES  
6 PROVIDED DURING THE PREVIOUS FISCAL YEAR.

7 (2) THE NAME AND LOCATION OF EACH COMPANY RECEIVING JOB  
8 CREATION TAX CREDIT CERTIFICATES.

9 (3) AN ANALYSIS OF THE JOB CREATION TAX CREDITS' ABILITY  
10 TO CREATE JOBS IN THIS COMMONWEALTH.

11 (4) ANY OTHER INFORMATION THAT MAY BE DEEMED RELEVANT BY  
12 THE DEPARTMENT.

13 (B) SUBMISSION.--THE ANNUAL REPORT SHALL BE SUBMITTED TO THE  
14 GOVERNOR, THE MAJORITY LEADER OF THE SENATE, THE MINORITY LEADER  
15 OF THE SENATE, THE MAJORITY LEADER OF THE HOUSE OF  
16 REPRESENTATIVES AND THE MINORITY LEADER OF THE HOUSE OF  
17 REPRESENTATIVES BY MARCH 1 OF THE FIRST FULL YEAR FOLLOWING THE  
18 EFFECTIVE DATE OF THIS SECTION AND MARCH 1 OF EACH YEAR  
19 THEREAFTER.

20 § 3108. NOTICE OF AVAILABILITY OF TAX CREDITS.

21 THE DEPARTMENT SHALL PUBLISH NOTICE OF THE AVAILABILITY OF  
22 THE JOB CREATION TAX CREDIT ON ITS PUBLICLY ACCESSIBLE INTERNET  
23 WEBSITE AND MAKE INFORMATION AVAILABLE ANNUALLY TO THE  
24 DEPARTMENT OF LABOR AND INDUSTRY WORKFORCE INVESTMENT BOARD FOR  
25 DISTRIBUTION TO LOCAL BOARDS.

26 Section ~~2~~ 3. This act shall take effect ~~October 1, 2009~~ IN  
27 60 DAYS.

