

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1155 Session of 2009

INTRODUCED BY EICHELBERGER, ROBBINS, ERICKSON, STOUT AND WOZNIAK, DECEMBER 14, 2009

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 27, 2010

AN ACT

1 Amending Title 16 (Counties) of the Pennsylvania Consolidated
2 Statutes, adding provisions for required fiscal security
3 through bonding, blanket bonding and insuring of elected and
4 appointed county officers and employees; providing for
5 determining the form, amount and payment of premiums for and
6 the filing and recording of the required security and, for
7 the subsequent issuance of official commissions, FOR THE
8 EFFECTS OF NATURAL GAS DRILLING AND FOR A MARCELLUS SHALE JOB
9 CREATION TAX CREDIT; and making related repeals.



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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Title 16 of the Pennsylvania Consolidated
3 Statutes is amended by adding parts to read:

4 PART ←

5 I. PRELIMINARY PROVISIONS (RESERVED)

6 II. CREATION, ALTERATION AND FUNCTIONS (RESERVED)

7 III. GOVERNMENT AND ADMINISTRATION

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9 V. REVENUE

10 PART I

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17 A. General Provisions

18 SUBPART A ←

19 PRELIMINARY PROVISIONS

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23 GENERAL PROVISIONS

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25 A. (Reserved)

26 B. Required Fiscal Security for Officers and Employees

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28 (RESERVED)

29 SUBCHAPTER B

30 REQUIRED FISCAL SECURITY

1 FOR OFFICERS AND EMPLOYEES

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10 1127. Bonds or blanket bond as security coverage.

11 1128. Insurance as security coverage.

12 1129. Form of required security.

13 1130. Amount of coverage.

14 1131. Custody and filing of required security documents.

15 1132. Payment of premiums and commissions on collections.

16 1133. Other requirements, references and approvals.

17 § 1121. Short title and scope of subchapter.

18 (a) Short title of subchapter.--This subchapter shall be
19 known and may be cited as the County Officer and Employee Fiscal
20 Security Act.

21 (b) Scope of subchapter.--This subchapter applies to
22 security coverage and additional coverage in the form of bonds,
23 blanket bonds or insurance, protecting against events of loss of
24 money or property as a result of misconduct by officers and
25 employees in counties of the second class, second class A, third
26 class, fourth class, fifth class, sixth class, seventh class or
27 eighth class, including counties of these classes which have
28 adopted a home rule charter or an optional plan.

29 (c) Inapplicability.--This subchapter shall not apply to
30 bonds of county treasurers acting as tax collectors as provided

1 in section 4 of the act of May 25, 1945 (P.L.1050, No.394),
2 known as the Local Tax Collection Law.
3 § 1122. Definitions.

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

7 "Additional coverage." Insurance that covers each county
8 officer or employee who is required to receive, account for or
9 hold any money or property by virtue of his or her office or
10 employment and which, at a minimum, indemnifies the county
11 against the loss of money and property through robbery, burglary
12 and larceny.

13 "Blanket bond." Security coverage in the form of a bond for
14 county officers and employees as follows:

15 (1) for county officers and employees as a comprehensive
16 group;

17 (2) for a group of named county officers and employees;
18 or

19 (3) for county officers and employees in scheduled
20 positions.

21 "Bond." Security coverage under which a surety guarantees
22 the performance of a duty by a county officer or employee in
23 compliance with this subchapter.

24 "County." A county of the second class, second class A,
25 third class, fourth class, fifth class, sixth class, seventh
26 class or eighth class, including counties of these classes which
27 have adopted or may adopt a home rule charter or an optional
28 plan.

29 "County officers and employees." Elected and appointed
30 county officials, the deputies and other appointees of county

1 elected and appointed officials and county employees, whether
2 acting on behalf of the county or as agents of a Commonwealth
3 agency or a governing authority, who are required to receive,
4 account for or hold any money or property by virtue of their
5 office or employment.

6 "Crime-fidelity insurance." Insurance that is endorsed with
7 faithful performance of duty coverage and which insures, at a
8 minimum, against events of loss of money or other property,
9 resulting from one or more fraudulent or dishonest acts,
10 including, but not limited to, embezzlement, theft, forgery,
11 similar acts of dishonesty or fraud by a county officer or
12 employee acting alone or in collusion with others, or from a
13 breach of fiduciary duty or a failure of a county officer or
14 employee to perform faithfully the officer's or employee's
15 duties or to account properly for all money and property
16 received, held or required to be accounted for, by virtue of
17 the officer's or employee's office or employment.

18 "Governing authority." Includes:

19 (1) The Supreme Court.

20 (2) Any agency or unit of the unified judicial system
21 exercising a power or performing a duty under 42 Pa.C.S. §
22 1721 (relating to delegation of powers).

23 "Governing body." The county board of commissioners or the
24 body vested with the legislative authority of the county in
25 counties which have adopted a home rule charter or an optional
26 plan.

27 "Home rule charter." A charter adopted under 53 Pa.C.S. Pt.
28 III Subpt. E (relating to home rule and optional plan
29 government) or its predecessor, the former act of April 13, 1972
30 (P.L.184, No.62), known as the Home Rule Charter and Optional

1 Plans Law, or Article XXXI-C of the act of July 28, 1953
2 (P.L.723, No.230), known as the Second Class County Code.

3 "Money." Coin or currency of the United States or of any
4 other country, travelers checks, personal checks, bank checks
5 and bank notes in current use and having a face value, money
6 orders and securities.

7 "Official security." Security on behalf of a county officer
8 to provide protection from events of loss or misconduct when the
9 officer fails to faithfully perform the duties of the office.

10 "Optional plan." An optional plan adopted under 53 Pa.C.S.
11 Pt. III Subpt. E (relating to home rule and optional plan
12 government) or its predecessor, the former act of April 13, 1972
13 (P.L.184, No.62), known as the Home Rule Charter and Optional
14 Plans Law.

15 "Required security." Security coverage and additional
16 coverage provided in compliance with this subchapter.

17 "Securities." All negotiable and nonnegotiable instruments
18 or contracts representing either money or other property,
19 including revenue and other stamps in current use, tokens and
20 tickets and evidences of debt issued in connection with credit
21 or charge cards, which cards are not issued by the county.

22 "Security coverage." A bond, a blanket bond or a crime-
23 fideliity insurance policy, which is endorsed with faithful
24 performance of duty coverage, provided in compliance with this
25 subchapter for the purpose of protecting against the loss of
26 money and other property sustained as a result of one or more
27 fraudulent or dishonest acts, including, but not limited to,
28 embezzlement, theft, forgery, similar acts of dishonesty or
29 fraud by a county officer or employee acting alone or in
30 collusion with others or from a breach of fiduciary duty or a

1 failure of a county officer or employee to perform faithfully
2 the officer's or employee's duties or to account properly for
3 all money and property received by virtue of the officer's or
4 employee's position or employment.

5 § 1123. Required security.

6 (a) In general.--A county shall obtain security coverage and
7 additional coverage for county officers and employees in
8 accordance with this subchapter.

9 (b) Security coverage.--Security coverage shall be provided
10 in accordance with the following:

11 (1) Section 1124 (relating to official security and
12 officers).

13 (2) Section 1125 (relating to other county officers and
14 employees; deputies and other appointees of county officers).

15 (3) Section 1126 (relating to county officers and
16 employees acting as agents).

17 (c) Additional coverage.--Supplemental to or as part of the
18 security coverage to be provided in accordance with this
19 subchapter, additional coverage in the form of adequate
20 insurance indemnifying against the loss of money and property
21 through robbery, burglary and larceny, shall be provided for
22 each county officer or employee who is required to receive,
23 account for or hold any money and other property by virtue of
24 the officer's or employee's office or employment.

25 (d) Primary liability.--

26 (1) Except as provided in paragraph (2), the county
27 shall be primarily liable for a claim for the loss of money
28 and property which a county officer or employee is required
29 to receive, account for or hold by virtue of the officer's or
30 employee's office or employment, to the extent that the loss

1 is or could have been the subject of required security under
2 this subchapter.

3 (2) The county shall not be primarily liable for a claim
4 for the loss of money and property under paragraph (1) to the
5 extent that recovery of the loss can be obtained from other
6 insurance or bond protection provided by the Commonwealth
7 agency or any other person or entity asserting a claim.

8 (3) With regard to the loss of money or property,
9 nothing in this subchapter shall be deemed to restrict or
10 diminish a county's right to reimbursement or subrogation or
11 to limit any right the county may have to be indemnified or
12 receive restitution for the loss.

13 § 1124. Official security and officers.

14 (a) Official security.--Each county shall obtain official
15 security in the form of bonds, a blanket bond or a crime-
16 fidelity insurance policy, which is endorsed with faithful
17 performance of duty coverage, on behalf of the officers set
18 forth in subsection (b) or the equivalent officers in home rule
19 or optional plans counties, whether elected, appointed or
20 appointed to fill a vacancy, before those officers begin their
21 official duties.

22 (b) Officers.--The following are the officers or equivalent
23 officers in home rule or optional plans counties upon whose
24 behalf official security shall be obtained in accordance with
25 subsection (a):

26 (1) Each county commissioner.

27 (2) The chief clerk of the county commissioners.

28 (3) The controller.

29 (4) The county treasurer.

30 (5) The prothonotary of the court of common pleas.

1 (6) The sheriff.

2 (7) The coroner.

3 (8) The clerk of the courts of the court of common
4 pleas.

5 (9) The clerk of the orphans' court division of the
6 court of common pleas.

7 (10) The recorder of deeds.

8 (11) The register of wills.

9 (12) Probation and parole officers, if required by order
10 of court to obtain official security.

11 (13) The fire marshal and deputy fire marshals, if
12 required by law to obtain official security.

13 (14) The secretary of the board of health and the health
14 officer in a county in which the secretary is required by law
15 to obtain official security.

16 § 1125. Other county officers and employees.

17 A county shall obtain security coverage with faithful
18 performance of duty coverage for all county officers and
19 employees who are not subject to section 1124 (relating to
20 official security and officers), including deputies and other
21 appointees in each county office, who are required to receive,
22 account for or hold any money and other property by virtue of
23 their office or employment.

24 § 1126. County officers and employees acting as agents.

25 Each county shall obtain security coverage for county
26 officers and employees acting as agents of a Commonwealth agency
27 or governing authority in accordance with this subchapter or any
28 other law, regulation or rule requiring the posting of security
29 in the form of a bond or otherwise.

30 § 1127. Bonds or blanket bond as security coverage.

1 (a) In general.--A county may comply with section 1123(b)
2 (relating to required security) by providing bonds or a blanket
3 bond in accordance with the following:

4 (1) The bond or blanket bond shall be joint and several,
5 with one or more surety companies authorized to do business
6 in this Commonwealth and licensed by the Insurance
7 Commissioner.

8 (2) The bond or blanket bond shall be conditioned upon
9 each of the following:

10 (i) The faithful performance of all duties required
11 of the person holding the office or position.

12 (ii) The just and faithful use, accounting or
13 payment over, according to law, of all moneys and
14 balances and other property, which is required to be
15 received, accounted for or held by the officer or
16 employee by virtue of the officer's or employee's office
17 or employment whether on behalf of the county, the
18 Commonwealth, a political subdivision or any other
19 person.

20 (iii) The delivery to the successor in office of all
21 books, papers, documents or other official things, whole,
22 safe and undefaced, held in right of the office.

23 (3) A bond or blanket bond shall be taken in the name of
24 the county and, in case of a breach of any of the conditions
25 thereof by the acts or neglect of a principal on the bond,
26 shall be for the use of the county, the Commonwealth, a
27 political subdivision or any other person as that person's
28 interest shall otherwise appear.

29 (4) The county, the Commonwealth, a political
30 subdivision or other interested persons may sue upon the bond

1 in its name or for its own use. Acts of the General Assembly
2 pertaining to actions and limitations of actions upon
3 official bonds given to the Commonwealth shall apply to the
4 bonds provided for in this subchapter just as if they were
5 given to the Commonwealth, except as otherwise specifically
6 provided in this subchapter.

7 (b) Combined offices.--In counties in which one or more of
8 the county offices set forth in section 1123(b) are combined, if
9 officers are covered by individual bonds, a single bond covering
10 the combined offices shall suffice for the officer holding the
11 combined offices.

12 § 1128. Insurance as security coverage.

13 A county may comply with section 1123(b) (relating to
14 required security) by providing crime-fidelity insurance for
15 county officers or employees in accordance with this subchapter.

16 § 1129. Form of required security.

17 The form and contents of a bond, a blanket bond or insurance
18 obtained in compliance with this subchapter shall be approved by
19 the governing body of the county, after review by the county
20 solicitor and consultation with the county risk manager, if any.
21 In cases in which required security is being provided for a
22 county officer or employee who is acting as an agent for a
23 Commonwealth agency or the governing authority, the Commonwealth
24 agency or the governing authority may review and comment on the
25 form of the required security. The governing body may refer to
26 sample forms that may be made available by the Department of
27 State in the approval process.

28 § 1130. Amount of coverage.

29 (a) Governing body.--The governing body shall establish a
30 procedure pursuant to which the governing body shall annually

1 determine the form and amount of required security that will be
2 reasonably sufficient to protect against the risks of loss in
3 compliance with this subchapter.

4 (b) Risk manager.--The governing body may appoint a risk
5 manager who, at the request of the governing body, shall compile
6 and submit information relevant to the determination of an
7 amount of required security under subsection (a).

8 (c) Consultation.--To determine the amount of security for a
9 county officer or employee who is acting as an agent for a
10 Commonwealth agency or governing authority, the governing body
11 may, or the risk manager shall, if directed by the governing
12 body, provide written notice to the secretary or head of the
13 Commonwealth agency or the governing authority. The Commonwealth
14 agency or governing authority may provide input concerning the
15 amount of security it believes is reasonably sufficient to
16 protect against the risks of loss required to comply with this
17 subchapter. Nothing in this subchapter shall impair the right of
18 a Commonwealth agency or governing authority from approving the
19 amount of required security, if it is explicitly authorized by
20 law to approve the amount of a bond or other security of a
21 county officer or employee acting as its agent.

22 § 1131. Custody and filing of required security documents.

23 (a) Custody.--The governing body shall direct the chief
24 clerk or equivalent officer in a home rule or optional plan
25 county to present the documents evidencing required security
26 obtained in accordance with this subchapter to the recorder of
27 deeds or equivalent officer in a home rule or optional plan
28 county for recording. No tax, fee or other charge shall be
29 imposed for the recording of documents in compliance with this
30 section. Following the recording, the documents shall be

1 returned to the chief clerk or equivalent officer in a home rule
2 or optional plan county, who shall maintain the custody of these
3 documents on behalf of the governing body.

4 (b) Department of State filing.--

5 (1) In compliance with section 809 of the act of April
6 9, 1929 (P.L.177, No.175), known as The Administrative Code
7 of 1929, it shall be sufficient for a copy of the recorded
8 documents evidencing the required security for county
9 officers to be filed with the Department of State in
10 accordance with deadlines established by the department.

11 (2) No other filing or approvals, except as provided in
12 section 1133(c) (2) (relating to other requirements,
13 references and approvals) of documents evidencing the
14 required security for county officers, except that required
15 in accordance with paragraph (1), shall be required as a
16 condition for the issuance of commissions to elected county
17 officials by the Department of State.

18 (3) Notwithstanding the provision of any other law, no
19 tax, fee or other charge shall be imposed as a result of the
20 issuance of commissions to elected county officials, and no
21 fee may be imposed for the recording of required security
22 documents or commissions.

23 (c) Copies.--If requested by the Commonwealth agency or
24 governing authority on whose behalf a county officer or employee
25 is acting as an agent, a copy of recorded documents evidencing
26 the required security shall be provided by the chief clerk or
27 the equivalent officer in a home rule or optional plans county
28 to the Commonwealth agency or governing authority. No charge or
29 fee shall be imposed for any copy provided in accordance with
30 this subsection.

1 (d) Filing by governing body.--The governing body shall have
2 the duty to file documents as required by this section.

3 (e) Retention of documents.--Documents evidencing required
4 security shall be held by the custodian thereof for the longer
5 of the following periods:

6 (1) For at least one year after the officer's term of
7 office or employee's period of employment and, in the case of
8 a county officer or employee who is acting as an agent for a
9 Commonwealth agency or governing authority, for at least one
10 year after the settlement of accounts with the Commonwealth
11 agency or the governing authority.

12 (2) For the period of time required by the act of August
13 14, 1963 (P.L.839, No.407), entitled "An act creating a
14 county records committee; imposing powers and duties upon it;
15 authorizing the Pennsylvania Historical and Museum Commission
16 to assist and cooperate with it; defining county records; and
17 authorizing the disposition of certain county records by
18 county officers in counties of the second to eighth class,"
19 or the rules and regulations adopted pursuant thereto.

20 (f) Evidence.--A copy of original documents evidencing
21 required security, certified as true and correct by the
22 custodian thereof, or a copy of the recorded documents
23 evidencing required security, certified as true and correct by
24 the recorder of deeds, shall be competent evidence thereof in
25 any judicial proceeding, in the same manner as the original
26 would be if produced and offered in evidence.

27 (g) Sufficiency of filing and recording.--Notwithstanding
28 any other provision of law, it shall be sufficient to file and
29 record documents evidencing required security in accordance with
30 this subchapter without further acknowledgment, filing or

1 recording of these documents with any other county officer or
2 with any other Commonwealth agency, except as required by this
3 subchapter.

4 § 1132. Payment of premiums and commissions on collections.

5 (a) Premiums and costs.--The premiums and costs for all
6 forms of required security for county officials and employees
7 shall be paid by the county. The requirement of this subchapter
8 that a county acquire and pay the premiums and costs for
9 required security shall not relieve a Commonwealth agency on
10 whose behalf a county officer or employee is acting as an agent
11 from an obligation, imposed by law, to procure insurance or
12 bonding protection.

13 (b) Commissions on collections.--Nothing in this subchapter
14 shall affect the right, provided for in any other law, of a
15 county officer or employee to retain a commission, for use of
16 the county, on amounts collected or transmitted as agent for a
17 Commonwealth agency. Notwithstanding the right to retain
18 commissions in accordance with this paragraph, no county officer
19 or employee shall be entitled to retain any additional sums from
20 amounts collected for or to be transmitted to the Commonwealth
21 agency for the purpose of paying premiums or costs related to
22 the acquisition of required security.

23 § 1133. Other requirements, references and approvals.

24 (a) Compliance.--A requirement in another law, regulation or
25 rule that a bond be provided by a county officer or employee to
26 secure the faithful performance of duty or to act as the agent
27 of a Commonwealth agency or governing authority may be satisfied
28 by including this obligation within the coverage of required
29 security supplied in accordance with this subchapter.

30 (b) Reference to bonds.--Reference to bonds of county

1 officers and employees in any other law shall be construed and
2 read together with this subchapter, and if a conflict exists
3 between this subchapter and the reference to bonds of county
4 officers and employees in any other law, the provisions of this
5 subchapter shall prevail.

6 (c) Other approvals.--Notwithstanding any other provision of
7 law, the following shall apply to required security in the form
8 of a bond, a blanket bond or insurance:

9 (1) Except as provided in paragraph (2), when required
10 security is obtained in compliance with this subchapter, it
11 shall not require the approval of any Commonwealth agency or
12 the Governor as to form, content or amount.

13 (2) If any other law explicitly authorizes a
14 Commonwealth agency or the Governor to approve the amount of
15 a bond or other security of a county officer or employee, the
16 amount of required security under this subchapter shall be
17 subject to approval by the Commonwealth agency or the
18 Governor, which approval shall not be unreasonably withheld.

19 PART IV

20 (RESERVED)

21 PART V

22 REVENUE

23 CHAPTER

24 15. EFFECTS OF NATURAL GAS DRILLING

25 17. MARCELLUS SHALE JOB CREATION TAX CREDIT

26 CHAPTER 15

27 EFFECTS OF NATURAL GAS DRILLING

28 SEC.

29 1501. SHORT TITLE AND SCOPE OF CHAPTER.

30 1502. DEFINITIONS.



- 1 1503. IMPOSITION OF TAX.
- 2 1503.1. TAX RATE ADJUSTMENT.
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- 28 1527. ACCOUNTS ESTABLISHED.
- 29 1528. TRANSFERS AND DISTRIBUTIONS.
- 30 1529. APPROPRIATION.

1 § 1501. SHORT TITLE AND SCOPE OF CHAPTER.

2 (A) SHORT TITLE.--THIS CHAPTER SHALL BE KNOWN AND MAY BE
3 CITED AS THE NATURAL GAS SEVERANCE TAX ACT.

4 (B) SCOPE OF CHAPTER.--THIS CHAPTER SHALL RELATE TO THE
5 ABILITY OF ALL COUNTIES WITHIN THIS COMMONWEALTH TO AMELIORATE
6 THE EFFECTS OF NATURAL GAS DRILLING THAT OCCURS WITHIN THEIR
7 BORDERS.

8 § 1502. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 "ACCREDITED LABORATORY." A FACILITY ENGAGED IN THE TESTING
13 AND CALIBRATION OF SCIENTIFIC MEASUREMENT DEVICES AND CERTIFIED
14 BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AS HAVING MET THE
15 DEPARTMENT'S STANDARDS FOR ACCREDITATION.

16 "ASSOCIATION." A PARTNERSHIP, LIMITED PARTNERSHIP OR ANY
17 OTHER FORM OF UNINCORPORATED ENTERPRISE OWNED OR CONDUCTED BY
18 TWO OR MORE PERSONS.

19 "BASE RATE." THE RATE UNDER SECTION 1503(A) (RELATING TO
20 IMPOSITION OF TAX).

21 "COAL BED METHANE." GAS WHICH CAN BE PRODUCED FROM COAL
22 BEDS, COAL SEAMS, MINED-OUT AREAS OR GOB WELLS.

23 "CORPORATION." A CORPORATION, JOINT STOCK ASSOCIATION,
24 LIMITED LIABILITY COMPANY, BUSINESS TRUST OR ANY OTHER
25 INCORPORATED ENTERPRISE ORGANIZED UNDER THE LAWS OF THIS
26 COMMONWEALTH, THE UNITED STATES OR ANY OTHER STATE, TERRITORY OR
27 FOREIGN COUNTRY OR DEPENDENCY.

28 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

29 "FUND." THE NATURAL GAS SEVERANCE TAX FUND ESTABLISHED UNDER
30 SECTION 1527 (RELATING TO ACCOUNTS ESTABLISHED).

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
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 COAL BED METHANE.

13 "NONPRODUCING SITE." A POINT OF SEVERANCE THAT IS NOT
14 CAPABLE OF PRODUCING NATURAL GAS IN PAYING QUANTITIES.

15 "PAYING QUANTITIES." PROFIT TO THE PRODUCER, HOWEVER SMALL,
16 OVER THE PRODUCER'S CURRENT OPERATING EXPENSES.

17 "PERSON." A NATURAL PERSON OR A CORPORATION, FIDUCIARY,
18 ASSOCIATION OR OTHER ENTITY, INCLUDING THE COMMONWEALTH, ITS
19 POLITICAL SUBDIVISIONS, INSTRUMENTALITIES AND AUTHORITIES. WHEN
20 THE TERM IS USED IN A CLAUSE PRESCRIBING AND IMPOSING A PENALTY
21 OR IMPOSING A FINE OR IMPRISONMENT, OR BOTH, THE TERM SHALL
22 INCLUDE THE MEMBERS, AS APPLIED TO AN ASSOCIATION, AND THE
23 OFFICERS, AS APPLIED TO A CORPORATION.

24 "PRODUCER." A PERSON WHO ENGAGES OR CONTINUES WITHIN THIS
25 COMMONWEALTH IN THE BUSINESS OF SEVERING NATURAL GAS FOR SALE,
26 PROFIT OR COMMERCIAL USE. THE TERM DOES NOT INCLUDE A PERSON WHO
27 SEVERS NATURAL GAS FROM A STORAGE FIELD.

28 "PRODUCING SITE." A POINT OF SEVERANCE CAPABLE OF PRODUCING
29 NATURAL GAS IN PAYING QUANTITIES.

30 "REPORTING PERIOD." A CALENDAR MONTH IN WHICH NATURAL GAS IS

1 SEVERED.

2 "SECRETARY." THE SECRETARY OF REVENUE OF THE COMMONWEALTH.

3 "SEVER." TO EXTRACT OR OTHERWISE REMOVE NATURAL GAS FROM THE
4 SOIL OR WATER OF THIS COMMONWEALTH.

5 "SEVERANCE." THE EXTRACTION OR OTHER REMOVAL OF NATURAL GAS
6 FROM THE SOIL OR WATER OF THIS COMMONWEALTH.

7 "SEVERING." EXTRACTING OR OTHERWISE REMOVING NATURAL GAS
8 FROM THE SOIL OR WATER OF THIS COMMONWEALTH.

9 "STORAGE FIELD." A NATURAL FORMATION OR OTHER SITE THAT IS
10 USED TO STORE NATURAL GAS THAT DID NOT ORIGINATE FROM AND HAS
11 BEEN INJECTED INTO THE FORMATION OR SITE.

12 "STRIPPER WELL." A PRODUCING SITE OR A NONPRODUCING SITE
13 THAT IS NOT CAPABLE OF PRODUCING AND DOES NOT PRODUCE MORE THAN
14 60,000 CUBIC FEET OF NATURAL GAS PER DAY.

15 "TAX." THE TAX IMPOSED UNDER THIS CHAPTER.

16 "TAX 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 "TAXPAYER." A PERSON SUBJECT TO THE TAX IMPOSED BY THIS
21 CHAPTER.

22 "UNIT." A THOUSAND CUBIC FEET OF NATURAL GAS MEASURED AT THE
23 WELLHEAD AT A TEMPERATURE OF 60 DEGREES FAHRENHEIT AND AN
24 ABSOLUTE PRESSURE OF 14.73 POUNDS PER SQUARE INCH IN ACCORDANCE
25 WITH AMERICAN GAS ASSOCIATION STANDARDS AND ACCORDING TO BOYLE'S
26 LAW FOR THE MEASUREMENT OF GAS UNDER VARYING PRESSURES WITH
27 DEVIATIONS AS FOLLOWS:

28 (1) THE AVERAGE ABSOLUTE ATMOSPHERIC PRESSURE SHALL BE
29 ASSUMED TO BE 14.4 POUNDS TO THE SQUARE INCH, REGARDLESS OF
30 ELEVATION OR LOCATION OF POINT OF DELIVERY ABOVE SEA LEVEL OR

1 VARIATIONS IN ATMOSPHERIC PRESSURE FROM TIME TO TIME.

2 (2) THE TEMPERATURE OF THE GAS PASSING THE METERS SHALL
3 BE DETERMINED BY THE CONTINUOUS USE OF A RECORDING
4 THERMOMETER INSTALLED TO PROPERLY RECORD THE TEMPERATURE OF
5 GAS FLOWING THROUGH THE METERS. THE ARITHMETIC AVERAGE OF THE
6 TEMPERATURE RECORDED EACH 24-HOUR DAY SHALL BE USED IN
7 COMPUTING GAS VOLUMES. IF A RECORDING THERMOMETER IS NOT
8 INSTALLED, OR IS INSTALLED AND NOT OPERATING PROPERLY, AN
9 AVERAGE FLOWING TEMPERATURE OF 60 DEGREES FAHRENHEIT SHALL BE
10 USED IN COMPUTING GAS VOLUME.

11 (3) THE SPECIFIC GRAVITY OF THE GAS SHALL BE DETERMINED
12 ANNUALLY BY TESTS MADE BY THE USE OF AN EDWARDS OR ACME
13 GRAVITY BALANCE, OR AT INTERVALS AS FOUND NECESSARY IN
14 PRACTICE. SPECIFIC GRAVITY DETERMINATIONS SHALL BE USED IN
15 COMPUTING GAS VOLUMES.

16 (4) THE DEVIATION OF THE NATURAL GAS FROM BOYLE'S LAW
17 SHALL BE DETERMINED BY ANNUAL TESTS OR AT OTHER SHORTER
18 INTERVALS AS FOUND NECESSARY IN PRACTICE. THE APPARATUS AND
19 METHOD USED IN MAKING THE TEST SHALL BE IN ACCORDANCE WITH
20 RECOMMENDATIONS OF THE NATIONAL BUREAU OF STANDARDS OR REPORT
21 NO. 3 OF THE GAS MEASUREMENT COMMITTEE OF THE AMERICAN GAS
22 ASSOCIATION, OR AMENDMENTS THERETO. THE RESULTS OF THE TESTS
23 SHALL BE USED IN COMPUTING THE VOLUME OF GAS DELIVERED UNDER
24 THIS CHAPTER.

25 "WELLHEAD METER." A METER PLACED AT A PRODUCING OR
26 NONPRODUCING SITE TO MEASURE THE VOLUME OF NATURAL GAS SEVERED
27 FOR WHICH A WELLHEAD METER CERTIFICATION HAS BEEN ISSUED.

28 "WELLHEAD METER CERTIFICATION." A REPORT ISSUED BY AN
29 ACCREDITED LABORATORY CERTIFYING THE ACCURACY OF A WELLHEAD
30 METER.

1 § 1503. IMPOSITION OF TAX.

2 (A) ESTABLISHMENT.--BEGINNING JANUARY 1, 2011, THERE SHALL
3 BE LEVIED A NATURAL GAS SEVERANCE TAX ON EVERY PRODUCER. THE TAX
4 SHALL NOT BE IMPOSED ON UNITS SEVERED FROM A STRIPPER WELL
5 UNLESS THE FOLLOWING ARE TRUE:

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

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

13 (A.1) EXEMPTIONS.--THE TAX SHALL NOT BE IMPOSED ON THE
14 FOLLOWING:

15 (1) UNITS SEVERED BY A PRODUCER AND SOLD AND DELIVERED
16 TO A MANUFACTURER OF TANGIBLE PERSONAL PROPERTY, AS DEFINED
17 IN SECTION 201(M) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),
18 KNOWN AS THE TAX REFORM CODE OF 1971, FOR THE MANUFACTURER'S
19 USE WITHIN THIS COMMONWEALTH IF THE UNITS HAVE BEEN SEVERED
20 FROM ONE OR MORE PRODUCING SITES OR NONPRODUCING SITES ON
21 PROPERTY OWNED BY THE MANUFACTURER.

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

25 (B) RATE.--SUBJECT TO THE PROVISIONS OF SECTION 1503.1
26 (RELATING TO NATURAL GAS BASE RATE ADJUSTMENT), THE RATE SHALL
27 BE 39¢ PER UNIT SEVERED AT THE WELLHEAD.

28 § 1503.1. TAX RATE ADJUSTMENT.

29 (A) ANNUAL ADJUSTMENT.--THE TAX RATE SHALL BE ADJUSTED
30 ANNUALLY BY THE AMOUNT OF THE TAX RATE ADJUSTMENT INDEX AS

1 CALCULATED UNDER SUBSECTION (C), PROVIDED THAT THE TAX RATE
2 SHALL NEVER BE LESS THAN THE BASE RATE. THE ADJUSTED TAX RATE
3 SHALL BE EFFECTIVE FOR THE NEXT YEAR.

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

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

10 (1) IF 7% OF THE AVERAGE OF NEW YORK MERCANTILE EXCHANGE
11 (NYMEX) HENRY HUB SETTLED PRICE ON THE LAST TRADING DAY OF
12 THE MONTH, AS REPORTED BY THE WALL STREET JOURNAL FOR THE
13 PREVIOUS 12-MONTH PERIOD ENDING MARCH 31, IS LESS THAN THE
14 BASE RATE, THE TAX RATE ADJUSTMENT INDEX SHALL BE ZERO AND
15 THE ADJUSTED TAX RATE SHALL BE THE BASE RATE.

16 (2) IF 7% OF THE AVERAGE OF THE NYMEX HENRY HUB SETTLED
17 PRICE ON THE LAST TRADING DAY OF THE MONTH, AS REPORTED BY
18 THE WALL STREET JOURNAL FOR THE PREVIOUS 12-MONTH PERIOD
19 ENDING MARCH 31, IS GREATER THAN THE BASE RATE, THE TAX RATE
20 ADJUSTMENT INDEX SHALL BE 50% OF THE DIFFERENCE BETWEEN 7% OF
21 THE AVERAGE OF THE NYMEX HENRY HUB SETTLED PRICE ON THE LAST
22 TRADING DAY OF THE MONTH, AS REPORTED IN THE WALL STREET
23 JOURNAL FOR THE PREVIOUS 12-MONTH PERIOD ENDING MARCH 31, AND
24 THE BASE RATE. THE ADJUSTED TAX RATE SHALL BE THE RESULTING
25 TAX RATE ADJUSTMENT INDEX PLUS THE BASE RATE.

26 (D) PUBLICATION OF ADJUSTMENT.--THE SECRETARY SHALL FORWARD
27 THE AMOUNT OF THE TAX RATE ADJUSTMENT INDEX AND THE ADJUSTED TAX
28 RATE, AS DETERMINED UNDER SUBSECTION (C), TO THE LEGISLATIVE
29 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN BY
30 MAY 1 OF EACH YEAR AND SHALL SIMULTANEOUSLY PROVIDE THE

1 INFORMATION TO PRODUCERS BY WRITTEN NOTICE. FAILURE OF THE
2 AMOUNT OF THE TAX RATE ADJUSTMENT INDEX AND THE ADJUSTED TAX
3 RATE TO BE PUBLISHED OR PROVIDED TO PRODUCERS AS REQUIRED BY
4 THIS SUBSECTION SHALL NOT AFFECT THE EFFECTIVENESS OF THE
5 ADJUSTED TAX RATE UNDER SUBSECTION (B).

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

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

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

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

6 § 1504. RETURN AND PAYMENT.

7 (A) REQUIREMENT.--EVERY PRODUCER IS REQUIRED TO FILE A
8 RETURN WITH THE DEPARTMENT, ON A FORM PRESCRIBED BY THE
9 DEPARTMENT, WHICH SHALL INCLUDE ALL OF THE FOLLOWING:

10 (1) THE NUMBER OF NATURAL GAS UNITS SEVERED BY THE
11 PRODUCER FOR THE REPORTING PERIOD.

12 (2) THE NUMBER OF PRODUCING SITES USED BY THE PRODUCER
13 FOR THE SEVERANCE OF NATURAL GAS IN EACH COUNTY AND
14 MUNICIPALITY.

15 (3) THE AMOUNT OF TAX DUE UNDER SECTION 1503 (RELATING
16 TO IMPOSITION OF TAX).

17 (B) FILING.--THE RETURN REQUIRED BY SUBSECTION (A) SHALL BE
18 FILED WITH THE DEPARTMENT WITHIN 15 DAYS FOLLOWING THE END OF A
19 REPORTING PERIOD.

20 (C) DEADLINE.--THE TAX IMPOSED UNDER SECTION 1503 IS DUE ON
21 THE DAY THE RETURN IS REQUIRED TO BE FILED AND BECOMES
22 DELINQUENT IF NOT REMITTED TO THE DEPARTMENT BY THAT DATE.

23 § 1505. NATURAL GAS SEVERANCE TAX REGISTRATION.

24 (A) APPLICATION.--BEFORE A PRODUCER SEVERS NATURAL GAS IN
25 THIS COMMONWEALTH, THE PRODUCER SHALL APPLY TO THE DEPARTMENT
26 FOR A NATURAL GAS SEVERANCE TAX REGISTRATION CERTIFICATE.

27 (A.1) APPLICATION FEE.--THE DEPARTMENT MAY CHARGE AN
28 APPLICATION FEE TO COVER THE ADMINISTRATIVE COSTS ASSOCIATED
29 WITH THE APPLICATION AND REGISTRATION PROCESS. IF THE DEPARTMENT
30 CHARGES AN APPLICATION FEE, THE DEPARTMENT SHALL NOT ISSUE A

1 REGISTRATION CERTIFICATE UNTIL THE PRODUCER HAS PAID THE
2 APPLICATION FEE.

3 (A.2) DECLARATION.--THE PRODUCER SHALL INCLUDE IN ITS
4 APPLICATION A DECLARATION OF ALL PRODUCING SITES AND
5 NONPRODUCING SITES USED BY THE PRODUCER FOR THE SEVERANCE OF
6 NATURAL GAS. THE DECLARATION SHALL INCLUDE COPIES OF WELLHEAD
7 METER CERTIFICATIONS FOR EACH SITE. THE PRODUCER IS REQUIRED TO
8 UPDATE THE DECLARATION WHEN THE PRODUCER ADDS OR REMOVES A
9 PRODUCING SITE OR NONPRODUCING SITE IN THIS COMMONWEALTH OR WHEN
10 THERE IS A CHANGE IN THE STATUS OF A PRODUCING SITE OR
11 NONPRODUCING SITE OR WHEN THE PRODUCER USES A DIFFERENT
12 ACCREDITED LABORATORY TO ISSUE A WELLHEAD METER CERTIFICATION.
13 THE PRODUCER SHALL UPDATE THE DECLARATION WITHIN 30 DAYS AFTER A
14 CALENDAR MONTH IN WHICH A CHANGE TO THE DECLARATION OCCURS.

15 (B) ISSUANCE.--EXCEPT AS PROVIDED IN SUBSECTION (C), AFTER
16 THE RECEIPT OF AN APPLICATION, THE DEPARTMENT SHALL ISSUE A
17 REGISTRATION CERTIFICATE UNDER SUBSECTION (A). THE REGISTRATION
18 CERTIFICATE SHALL BE NONASSIGNABLE. ALL REGISTRANTS SHALL BE
19 REQUIRED TO RENEW THEIR REGISTRATION CERTIFICATES AND WELLHEAD
20 METER CERTIFICATIONS ON A STAGGERED RENEWAL SYSTEM ESTABLISHED
21 BY THE DEPARTMENT. AFTER THE INITIAL STAGGERED RENEWAL PERIOD, A
22 REGISTRATION CERTIFICATE OR A WELLHEAD METER CERTIFICATION
23 ISSUED SHALL BE VALID FOR A PERIOD OF FIVE YEARS.

24 (C) REFUSAL, SUSPENSION OR REVOCATION.--THE DEPARTMENT MAY
25 REFUSE TO ISSUE, SUSPEND OR REVOKE A REGISTRATION CERTIFICATE IF
26 THE APPLICANT OR REGISTRANT HAS NOT FILED REQUIRED STATE TAX
27 REPORTS AND PAID STATE TAXES NOT SUBJECT TO A TIMELY PERFECTED
28 ADMINISTRATIVE OR JUDICIAL APPEAL OR SUBJECT TO A DULY
29 AUTHORIZED DEFERRED PAYMENT PLAN. THE DEPARTMENT SHALL NOTIFY
30 THE APPLICANT OR REGISTRANT OF ANY REFUSAL, SUSPENSION OR

1 REVOCAION. THE NOTICE SHALL CONTAIN A STATEMENT THAT THE
2 REFUSAL, SUSPENSION OR REVOCATION MAY BE MADE PUBLIC. THE NOTICE
3 SHALL BE MADE BY FIRST CLASS MAIL. AN APPLICANT OR REGISTRANT
4 AGGRIEVED BY THE DETERMINATION OF THE DEPARTMENT MAY FILE AN
5 APPEAL UNDER THE PROVISIONS FOR ADMINISTRATIVE APPEALS IN THE
6 ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE
7 OF 1971. IN THE CASE OF A SUSPENSION OR REVOCATION WHICH IS
8 APPEALED, THE REGISTRATION CERTIFICATE SHALL REMAIN VALID
9 PENDING A FINAL OUTCOME OF THE APPEALS PROCESS. NOTWITHSTANDING
10 SECTIONS 274, 353(F), 408(B), 603, 702, 802, 904 AND 1102 OF THE
11 TAX REFORM CODE OF 1971 OR ANY OTHER PROVISION OF LAW, IF NO
12 APPEAL IS TAKEN OR IF AN APPEAL IS TAKEN AND DENIED AT THE
13 CONCLUSION OF THE APPEAL PROCESS THE DEPARTMENT MAY DISCLOSE, BY
14 PUBLICATION OR OTHERWISE, THE IDENTITY OF A PRODUCER AND THE
15 FACT THAT THE PRODUCER'S REGISTRATION CERTIFICATE HAS BEEN
16 REFUSED, SUSPENDED OR REVOKED UNDER THIS SUBSECTION. DISCLOSURE
17 MAY INCLUDE THE BASIS FOR REFUSAL, SUSPENSION OR REVOCATION.

18 (D) VIOLATION.--A PERSON SEVERING NATURAL GAS IN THIS
19 COMMONWEALTH WITHOUT HOLDING A VALID REGISTRATION CERTIFICATE
20 UNDER SUBSECTION (B) SHALL BE GUILTY OF A SUMMARY OFFENSE AND
21 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS
22 THAN \$300 NOR MORE THAN \$1,500. IN THE EVENT THE PERSON
23 CONVICTED DEFAULTS IN THE PAYMENT OF THE FINE, HE SHALL BE
24 SENTENCED TO IMPRISONMENT FOR NOT LESS THAN FIVE DAYS NOR MORE
25 THAN 30 DAYS. THE PENALTIES IMPOSED BY THIS SUBSECTION SHALL BE
26 IN ADDITION TO ANY OTHER PENALTIES IMPOSED BY THIS CHAPTER. FOR
27 PURPOSES OF THIS SUBSECTION, THE SEVERING OF NATURAL GAS DURING
28 ANY CALENDAR DAY SHALL CONSTITUTE A SEPARATE VIOLATION. THE
29 SECRETARY MAY DESIGNATE EMPLOYEES OF THE DEPARTMENT TO ENFORCE
30 THE PROVISIONS OF THIS SUBSECTION. THE EMPLOYEES SHALL EXHIBIT

1 PROOF OF AND BE WITHIN THE SCOPE OF THE DESIGNATION WHEN
2 INSTITUTING PROCEEDINGS AS PROVIDED BY THE PENNSYLVANIA RULES OF
3 CRIMINAL PROCEDURE.

4 (E) FAILURE TO OBTAIN REGISTRATION CERTIFICATE.--FAILURE TO
5 OBTAIN OR HOLD A VALID REGISTRATION CERTIFICATE DOES NOT RELIEVE
6 A PERSON FROM LIABILITY FOR THE TAX IMPOSED BY THIS CHAPTER.
7 § 1505.1. METERS.

8 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), A
9 PRODUCER SHALL PROVIDE FOR AND MAINTAIN A DISCRETE WELLHEAD
10 METER WHERE NATURAL GAS IS SEVERED. A PRODUCER SHALL ENSURE THAT
11 THE METERS ARE MAINTAINED ACCORDING TO INDUSTRY STANDARDS. ANY
12 WELLHEAD METER INSTALLED AFTER THE EFFECTIVE DATE OF THIS
13 SECTION SHALL BE A DIGITAL METER.

14 (B) EXCEPTION.--IF A PRODUCER HAS MULTIPLE PRODUCING SITES
15 OR NONPRODUCING SITES, THE COMBINED VOLUMES OF GAS PRODUCED BY
16 ALL OF WHICH SITES ARE MEASURED BY A SINGLE WELLHEAD METER, THE
17 PRODUCER SHALL NOT BE REQUIRED TO PROVIDE FOR A DISCRETE
18 WELLHEAD METER AT ANY OF THOSE PRODUCING SITES OR NONPRODUCING
19 SITES THAT IS ALSO A STRIPPER WELL.

20 § 1506. ASSESSMENTS.

21 (A) AUTHORIZATION AND REQUIREMENT.--THE DEPARTMENT IS
22 AUTHORIZED AND SHALL MAKE THE INQUIRIES, DETERMINATIONS AND
23 ASSESSMENTS OF THE TAX IMPOSED UNDER THIS CHAPTER, INCLUDING
24 INTEREST, ADDITIONS AND PENALTIES IMPOSED UNDER THIS CHAPTER.

25 (B) NOTICE.--THE NOTICE OF ASSESSMENT AND DEMAND FOR PAYMENT
26 SHALL BE MAILED TO THE TAXPAYER. THE NOTICE SHALL SET FORTH THE
27 BASIS OF THE ASSESSMENT. THE DEPARTMENT SHALL SEND THE NOTICE OF
28 ASSESSMENT TO THE TAXPAYER AT ITS REGISTERED ADDRESS VIA
29 CERTIFIED MAIL IF THE ASSESSMENT INCREASES THE TAXPAYER'S TAX
30 LIABILITY BY \$300. OTHERWISE, THE NOTICE OF ASSESSMENT MAY BE

1 SENT VIA REGULAR MAIL.

2 § 1507. TIME FOR ASSESSMENT.

3 (A) REQUIREMENT.--AN ASSESSMENT AS PROVIDED UNDER SECTION
4 1506 (RELATING TO ASSESSMENTS) SHALL BE MADE WITHIN THREE YEARS
5 AFTER THE DATE WHEN THE RETURN PROVIDED FOR BY SECTION 1504
6 (RELATING TO RETURN AND PAYMENT) IS FILED OR THE END OF THE YEAR
7 IN WHICH THE TAX LIABILITY ARISES, WHICHEVER SHALL OCCUR LAST.
8 FOR THE PURPOSES OF THIS SUBSECTION AND SUBSECTION (B), A RETURN
9 FILED BEFORE THE LAST DAY PRESCRIBED FOR THE FILING PERIOD SHALL
10 BE CONSIDERED AS FILED ON THE LAST DAY.

11 (B) EXCEPTION.--IF THE TAXPAYER UNDERPAYS THE CORRECT AMOUNT
12 OF THE TAX DUE BY 25% OR MORE, THE TAX MAY BE ASSESSED WITHIN
13 SIX YEARS AFTER THE DATE THE RETURN WAS FILED.

14 (C) INTENT TO EVADE.--WHERE NO RETURN IS FILED OR WHERE THE
15 TAXPAYER FILES A FALSE OR FRAUDULENT RETURN WITH INTENT TO EVADE
16 THE TAX IMPOSED BY THIS CHAPTER, THE ASSESSMENT MAY BE MADE AT
17 ANY TIME.

18 (D) ERRONEOUS CREDIT OR REFUND.--WITHIN THREE YEARS OF THE
19 GRANTING OF A REFUND OR CREDIT OR WITHIN THE PERIOD IN WHICH AN
20 ASSESSMENT OR REASSESSMENT MAY HAVE BEEN ISSUED BY THE
21 DEPARTMENT FOR THE TAXABLE PERIOD FOR WHICH THE REFUND WAS
22 GRANTED, WHICHEVER PERIOD SHALL LAST OCCUR, THE DEPARTMENT MAY
23 ISSUE AN ASSESSMENT TO RECOVER A REFUND OR CREDIT MADE OR
24 ALLOWED ERRONEOUSLY.

25 § 1508. EXTENSION OF ASSESSMENT PERIOD.

26 NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER, THE
27 ASSESSMENT PERIOD MAY BE EXTENDED IN THE EVENT A TAXPAYER HAS
28 PROVIDED WRITTEN CONSENT BEFORE THE EXPIRATION OF THE PERIOD
29 PROVIDED IN SECTION 1507 (RELATING TO TIME FOR ASSESSMENT) FOR A
30 TAX ASSESSMENT. THE AMOUNT OF TAX DUE MAY BE ASSESSED AT ANY

1 TIME WITHIN THE EXTENDED PERIOD. THE PERIOD MAY BE EXTENDED
2 FURTHER BY SUBSEQUENT WRITTEN CONSENTS MADE BEFORE THE
3 EXPIRATION OF THE EXTENDED PERIOD.

4 § 1509. REASSESSMENTS.

5 A TAXPAYER AGAINST WHOM AN ASSESSMENT IS MADE MAY PETITION
6 THE DEPARTMENT FOR A REASSESSMENT UNDER ARTICLE XXVII OF THE ACT
7 OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF
8 1971.

9 § 1510. INTEREST.

10 THE DEPARTMENT SHALL ASSESS INTEREST ON ANY DELINQUENT TAX AT
11 THE RATE PRESCRIBED UNDER SECTION 806 OF THE ACT OF APRIL 9,
12 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

13 § 1511. PENALTIES.

14 THE DEPARTMENT SHALL ENFORCE THE FOLLOWING PENALTIES:

15 (1) A PENALTY AGAINST A PRODUCER WITHOUT A NATURAL GAS
16 SEVERANCE TAX REGISTRATION CERTIFICATE. THE PENALTY SHALL BE
17 \$1 FOR EVERY UNIT SEVERED WITHOUT A VALID REGISTRATION
18 CERTIFICATE. THE DEPARTMENT MAY ASSESS THIS PENALTY
19 SEPARATELY FROM OR IN CONJUNCTION WITH ANY ASSESSMENT OF THE
20 NATURAL GAS SEVERANCE TAX.

21 (2) A PENALTY AGAINST A PRODUCER FOR FAILURE TO TIMELY
22 FILE A RETURN AS REQUIRED UNDER SECTION 1504 (RELATING TO
23 RETURN AND PAYMENT). THE PENALTY SHALL BE 5% OF THE TAX
24 LIABILITY TO BE REPORTED ON THE RETURN FOR EACH DAY BEYOND
25 THE DUE DATE THAT THE RETURN IS NOT FILED.

26 (3) IN ADDITION TO THE PENALTY UNDER PARAGRAPH (2), A
27 PENALTY AGAINST THE PRODUCER FOR A WILLFUL FAILURE TO TIMELY
28 FILE A RETURN. THE PENALTY SHALL BE 200% OF THE TAX LIABILITY
29 REQUIRED TO BE REPORTED ON THE RETURN.

30 (4) A PENALTY AGAINST A PRODUCER FOR FAILURE TO TIMELY

1 PAY THE TAX AS REQUIRED BY SECTION 1504(C). THE PENALTY SHALL
2 BE 5% OF THE AMOUNT OF TAX DUE FOR EACH DAY BEYOND THE
3 PAYMENT DATE THAT THE TAX IS NOT PAID.

4 § 1512. CRIMINAL ACTS.

5 (A) FRAUDULENT RETURN.--ANY PERSON WITH INTENT TO DEFRAUD
6 THE COMMONWEALTH, WHO WILLFULLY MAKES OR CAUSES TO BE MADE A
7 RETURN REQUIRED BY THIS CHAPTER WHICH IS FALSE, IS GUILTY OF A
8 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
9 FINE OF NOT MORE THAN \$2,000 OR TO IMPRISONMENT FOR NOT MORE
10 THAN THREE YEARS, OR BOTH.

11 (B) OTHER CRIMES.--

12 (1) EXCEPT AS OTHERWISE PROVIDED BY SUBSECTION (A), A
13 PERSON IS GUILTY OF A MISDEMEANOR AND SHALL, UPON CONVICTION,
14 BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$1,000 AND COSTS
15 OF PROSECUTION OR TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR,
16 OR BOTH, FOR ANY OF THE FOLLOWING:

17 (I) WILLFULLY FAILING TO TIMELY REMIT THE TAX TO THE
18 DEPARTMENT.

19 (II) WILLFULLY FAILING OR NEGLECTING TO TIMELY FILE
20 A RETURN OR REPORT REQUIRED BY THIS CHAPTER.

21 (III) REFUSING TO TIMELY PAY A TAX, PENALTY OR
22 INTEREST IMPOSED OR PROVIDED FOR BY THIS CHAPTER.

23 (IV) WILLFULLY FAILING TO PRESERVE ITS BOOKS, PAPERS
24 AND RECORDS AS DIRECTED BY THE DEPARTMENT.

25 (V) REFUSING TO PERMIT THE DEPARTMENT OR ITS
26 AUTHORIZED AGENTS TO EXAMINE ITS BOOKS, RECORDS OR
27 PAPERS.

28 (VI) KNOWINGLY MAKING ANY INCOMPLETE, FALSE OR
29 FRAUDULENT RETURN OR REPORT.

30 (VII) PREVENTING OR ATTEMPTING TO PREVENT THE FULL

1 DISCLOSURE OF THE AMOUNT OF NATURAL GAS SEVERANCE TAX
2 DUE.

3 (VIII) PROVIDING ANY PERSON WITH A FALSE STATEMENT
4 AS TO THE PAYMENT OF THE TAX IMPOSED UNDER THIS CHAPTER
5 WITH RESPECT TO ANY PERTINENT FACTS.

6 (IX) MAKING, UTTERING OR ISSUING A FALSE OR
7 FRAUDULENT STATEMENT.

8 (2) THE PENALTIES IMPOSED BY THIS SECTION SHALL BE IN
9 ADDITION TO OTHER PENALTIES IMPOSED BY THIS CHAPTER.

10 § 1513. ABATEMENT OF ADDITIONS OR PENALTIES.

11 UPON THE FILING OF A PETITION FOR REASSESSMENT OR A PETITION
12 FOR REFUND BY A TAXPAYER AS PROVIDED UNDER THIS CHAPTER,
13 ADDITIONS OR PENALTIES IMPOSED UPON THE TAXPAYER BY THIS CHAPTER
14 MAY BE WAIVED OR ABATED IN WHOLE OR IN PART WHERE THE PETITIONER
15 ESTABLISHES THAT HE ACTED IN GOOD FAITH, WITHOUT NEGLIGENCE AND
16 WITH NO INTENT TO DEFRAUD.

17 § 1514. BULK AND AUCTION SALES.

18 A PERSON THAT SELLS OR CAUSES TO BE SOLD AT AUCTION, OR THAT
19 SELLS OR TRANSFERS IN BULK, 51% OR MORE OF A STOCK OF GOODS,
20 WARES OR MERCHANDISE OF ANY KIND, FIXTURES, MACHINERY,
21 EQUIPMENT, BUILDINGS OR REAL ESTATE INVOLVED IN A BUSINESS FOR
22 WHICH THE PERSON HOLDS A REGISTRATION CERTIFICATE OR IS REQUIRED
23 TO OBTAIN A REGISTRATION CERTIFICATE UNDER THE PROVISIONS OF
24 THIS CHAPTER SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 1403
25 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE
26 FISCAL CODE.

27 § 1515. COLLECTION UPON FAILURE TO REQUEST REASSESSMENT, REVIEW
28 OR APPEAL.

29 (A) POWER OF DEPARTMENT.--THE DEPARTMENT MAY COLLECT THE TAX
30 IMPOSED UNDER THIS CHAPTER:

1 (1) IF AN ASSESSMENT OF THE TAX IS NOT PAID WITHIN 30
2 DAYS AFTER NOTICE TO THE TAXPAYER WHEN NO PETITION FOR
3 REASSESSMENT HAS BEEN FILED.

4 (2) WITHIN 60 DAYS OF THE REASSESSMENT, IF NO PETITION
5 FOR REVIEW HAS BEEN FILED.

6 (3) IF NO APPEAL HAS BEEN MADE, WITHIN 30 DAYS OF:

7 (I) THE BOARD OF FINANCE AND REVENUE'S DECISION OF A
8 PETITION FOR REVIEW; OR

9 (II) THE EXPIRATION OF THE BOARD'S TIME FOR ACTING
10 UPON THE PETITION.

11 (4) IN ALL CASES OF JUDICIAL SALES, RECEIVERSHIPS,
12 ASSIGNMENTS OR BANKRUPTCIES.

13 (B) PROHIBITION.--IN A CASE FOR THE COLLECTION OF TAXES
14 UNDER SUBSECTION (A), THE TAXPAYER AGAINST WHOM THEY WERE
15 ASSESSED SHALL NOT BE PERMITTED TO SET UP A GROUND OF DEFENSE
16 THAT MIGHT HAVE BEEN DETERMINED BY THE DEPARTMENT, THE BOARD OF
17 FINANCE AND REVENUE OR THE COURTS, PROVIDED THAT THE DEFENSE OF
18 FAILURE OF THE DEPARTMENT TO MAIL NOTICE OF ASSESSMENT OR
19 REASSESSMENT TO THE TAXPAYER AND THE DEFENSE OF PAYMENT OF
20 ASSESSMENT OR REASSESSMENT MAY BE RAISED IN PROCEEDINGS FOR
21 COLLECTION BY A MOTION TO STAY THE PROCEEDINGS.

22 § 1516. TAX LIENS.

23 (A) LIEN IMPOSED.--IF ANY TAXPAYER NEGLECTS OR REFUSES TO
24 PAY THE TAX IMPOSED UNDER THIS CHAPTER FOR WHICH THE TAXPAYER IS
25 LIABLE UNDER THIS CHAPTER AFTER DEMAND, THE AMOUNT, INCLUDING
26 INTEREST, ADDITION OR PENALTY, TOGETHER WITH ADDITIONAL COSTS
27 THAT MAY ACCRUE, SHALL BE A LIEN IN FAVOR OF THE COMMONWEALTH
28 UPON THE REAL AND PERSONAL PROPERTY OF THE TAXPAYER BUT ONLY
29 AFTER THE SAME HAS BEEN ENTERED AND DOCKETED OF RECORD BY THE
30 PROTHONOTARY OF THE COUNTY WHERE THE PROPERTY IS SITUATED. THE

1 DEPARTMENT MAY, AT ANY TIME, TRANSMIT TO THE PROTHONOTARIES OF
2 THE RESPECTIVE COUNTIES CERTIFIED COPIES OF ALL LIENS IMPOSED BY
3 THIS SECTION. IT SHALL BE THE DUTY OF THE PROTHONOTARY RECEIVING
4 THE LIEN TO ENTER AND DOCKET THE SAME OF RECORD TO THE OFFICE OF
5 THE PROTHONOTARY. THE LIEN SHALL BE INDEXED AS JUDGMENTS ARE NOW
6 INDEXED. NO PROTHONOTARY SHALL REQUIRE AS A CONDITION PRECEDENT
7 TO THE ENTRY OF THE LIEN THE PAYMENT OF COSTS INCIDENTAL TO ITS
8 ENTRY.

9 (B) PRIORITY OF LIEN AND EFFECT ON JUDICIAL SALE.--EXCEPT
10 FOR THE COSTS OF THE SALE AND THE WRIT UPON WHICH THE SALE WAS
11 MADE AND REAL ESTATE TAXES AND MUNICIPAL CLAIMS AGAINST THE
12 PROPERTY, A LIEN IMPOSED UNDER THIS SECTION SHALL HAVE PRIORITY
13 FROM THE DATE OF ITS RECORDING AND SHALL BE FULLY PAID AND
14 SATISFIED OUT OF THE PROCEEDS OF ANY JUDICIAL SALE OF PROPERTY
15 SUBJECT TO THE LIEN, BEFORE ANY OTHER OBLIGATION, JUDGMENT,
16 CLAIM, LIEN OR ESTATE TO WHICH THE PROPERTY MAY SUBSEQUENTLY
17 BECOME SUBJECT, BUT SHALL BE SUBORDINATE TO MORTGAGES AND OTHER
18 LIENS EXISTING AND DULY RECORDED OR ENTERED OF RECORD PRIOR TO
19 THE RECORDING OF THE LIEN.

20 (C) NO DISCHARGE BY SALE ON JUNIOR LIEN.--IN THE CASE OF A
21 JUDICIAL SALE OF PROPERTY SUBJECT TO A LIEN IMPOSED UNDER THIS
22 SECTION, UPON A LIEN OR CLAIM OVER WHICH THE LIEN IMPOSED UNDER
23 THIS SECTION HAS PRIORITY, THE SALE SHALL DISCHARGE THE LIEN
24 IMPOSED UNDER THIS SECTION TO THE EXTENT ONLY THAT THE PROCEEDS
25 ARE APPLIED TO ITS PAYMENT, AND THE LIEN SHALL CONTINUE IN FULL
26 FORCE AND EFFECT AS TO THE BALANCE REMAINING UNPAID. THERE SHALL
27 BE NO INQUISITION OR CONDEMNATION UPON ANY JUDICIAL SALE OF REAL
28 ESTATE MADE BY THE COMMONWEALTH UNDER THE PROVISIONS OF THIS
29 CHAPTER. THE LIEN SHALL CONTINUE AS PROVIDED IN THE ACT OF APRIL
30 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, AND A WRIT

1 OF EXECUTION MAY DIRECTLY ISSUE UPON THE LIEN WITHOUT THE
2 ISSUANCE AND PROSECUTION TO JUDGMENT OF A WRIT OF SCIRE FACIAS,
3 PROVIDED THAT NOT LESS THAN TEN DAYS BEFORE ISSUANCE OF ANY
4 EXECUTION ON THE LIEN, NOTICE OF THE FILING AND THE EFFECT OF
5 THE LIEN SHALL BE SENT BY REGISTERED MAIL TO THE TAXPAYER AT ITS
6 LAST KNOWN POST OFFICE ADDRESS, PROVIDED FURTHER THAT THE LIEN
7 SHALL HAVE NO EFFECT UPON ANY STOCK OF GOODS, WARES OR
8 MERCHANDISE REGULARLY SOLD OR LEASED IN THE ORDINARY COURSE OF
9 BUSINESS BY THE TAXPAYER AGAINST WHOM THE LIEN HAS BEEN ENTERED,
10 UNLESS AND UNTIL A WRIT OF EXECUTION HAS BEEN ISSUED AND A LEVY
11 MADE UPON THE STOCK OF GOODS, WARES AND MERCHANDISE.

12 (D) DUTY OF PROTHONOTARY.--ANY WILLFUL FAILURE OF ANY
13 PROTHONOTARY TO CARRY OUT ANY DUTY IMPOSED UPON HIM BY THIS
14 SECTION SHALL BE A MISDEMEANOR. UPON CONVICTION, HE SHALL BE
15 SENTENCED TO PAY A FINE OF NOT MORE THAN \$1,000 AND COSTS OF
16 PROSECUTION OR TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR
17 BOTH.

18 (E) PRIORITY.--EXCEPT AS PROVIDED IN THIS CHAPTER, THE
19 DISTRIBUTION, VOLUNTARY OR COMPULSORY, IN RECEIVERSHIP,
20 BANKRUPTCY OR OTHERWISE OF THE PROPERTY OR ESTATE OF ANY PERSON,
21 ALL TAXES IMPOSED BY THIS CHAPTER WHICH ARE DUE AND UNPAID AND
22 ARE NOT COLLECTIBLE UNDER THE PROVISIONS OF SECTION 225 OF THE
23 ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE
24 OF 1971, SHALL BE PAID FROM THE FIRST MONEY AVAILABLE FOR
25 DISTRIBUTION IN PRIORITY TO ALL OTHER CLAIMS AND LIENS, EXCEPT
26 AS THE LAWS OF THE UNITED STATES MAY GIVE PRIORITY TO A CLAIM TO
27 THE FEDERAL GOVERNMENT. A PERSON CHARGED WITH THE ADMINISTRATION
28 OR DISTRIBUTION OF THE PROPERTY OR ESTATE WHO VIOLATES THE
29 PROVISIONS OF THIS SECTION SHALL BE PERSONALLY LIABLE FOR THE
30 TAXES IMPOSED BY THIS CHAPTER WHICH ARE ACCRUED AND UNPAID AND

1 CHARGEABLE AGAINST THE PERSON WHOSE PROPERTY OR ESTATE IS BEING
2 ADMINISTERED OR DISTRIBUTED.

3 (F) OTHER REMEDIES.--SUBJECT TO THE LIMITATIONS CONTAINED IN
4 THIS CHAPTER AS TO THE ASSESSMENT OF TAXES, NOTHING CONTAINED IN
5 THIS SECTION SHALL BE CONSTRUED TO RESTRICT, PROHIBIT OR LIMIT
6 THE USE BY THE DEPARTMENT IN COLLECTING TAXES DUE AND PAYABLE OF
7 ANOTHER REMEDY OR PROCEDURE AVAILABLE AT LAW OR EQUITY FOR THE
8 COLLECTION OF DEBTS.

9 § 1517. TAX SUIT RECIPROCITY.

10 THE COURTS OF THIS COMMONWEALTH SHALL RECOGNIZE AND ENFORCE
11 LIABILITIES FOR NATURAL GAS SEVERANCE OR EXTRACTION TAXES
12 LAWFULLY IMPOSED BY ANY OTHER STATE, PROVIDED THAT THE OTHER
13 STATE RECOGNIZES AND ENFORCES THE TAX IMPOSED UNDER THIS
14 CHAPTER.

15 § 1518. SERVICE.

16 A PRODUCER IS DEEMED TO HAVE APPOINTED THE SECRETARY OF THE
17 COMMONWEALTH ITS AGENT FOR THE ACCEPTANCE OF SERVICE OF PROCESS
18 OR NOTICE IN A PROCEEDING FOR THE ENFORCEMENT OF THE CIVIL
19 PROVISIONS OF THIS CHAPTER AND SERVICE MADE UPON THE SECRETARY
20 OF THE COMMONWEALTH AS AGENT SHALL BE OF THE SAME LEGAL FORCE
21 AND VALIDITY AS IF THE SERVICE HAD BEEN PERSONALLY MADE UPON THE
22 PRODUCER. WHERE SERVICE CANNOT BE MADE UPON THE PRODUCER IN THE
23 MANNER PROVIDED BY OTHER LAWS OF THIS COMMONWEALTH RELATING TO
24 SERVICE OF PROCESS, SERVICE MAY BE MADE UPON THE SECRETARY OF
25 THE COMMONWEALTH. IN THAT CASE, A COPY OF THE PROCESS OR NOTICE
26 SHALL BE PERSONALLY SERVED UPON ANY AGENT OR REPRESENTATIVE OF
27 THE PRODUCER WHO MAY BE FOUND WITHIN THIS COMMONWEALTH OR, WHERE
28 NO AGENT OR REPRESENTATIVE MAY BE FOUND, A COPY OF THE PROCESS
29 OR NOTICE SHALL BE SENT VIA REGISTERED MAIL TO THE PRODUCER AT
30 THE LAST KNOWN ADDRESS OF ITS PRINCIPAL PLACE OF BUSINESS, HOME

1 OFFICE OR RESIDENCE.

2 § 1519. REFUNDS.

3 UNDER ARTICLE XXVII OF THE ACT OF MARCH 4, 1971 (P.L.6,
4 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, THE DEPARTMENT
5 SHALL REFUND ALL TAXES, INTEREST AND PENALTIES PAID TO THE
6 COMMONWEALTH UNDER THE PROVISIONS OF THIS CHAPTER TO WHICH THE
7 COMMONWEALTH IS NOT RIGHTFULLY ENTITLED. THE REFUNDS SHALL BE
8 MADE TO THE PERSON OR THE PERSON'S HEIRS, SUCCESSORS, ASSIGNS OR
9 OTHER PERSONAL REPRESENTATIVES WHO PAID THE TAX, PROVIDED THAT
10 NO REFUND SHALL BE MADE UNDER THIS SECTION REGARDING A PAYMENT
11 MADE BY REASON OF AN ASSESSMENT WHERE A TAXPAYER HAS FILED A
12 PETITION FOR REASSESSMENT UNDER SECTION 2702 OF THE TAX REFORM
13 CODE OF 1971 TO THE EXTENT THE PETITION IS ADVERSE TO THE
14 TAXPAYER BY A DECISION WHICH IS NO LONGER SUBJECT TO FURTHER
15 REVIEW OR APPEAL. NOTHING IN THIS CHAPTER SHALL PROHIBIT A
16 TAXPAYER WHO HAS FILED A TIMELY PETITION FOR REASSESSMENT FROM
17 AMENDING IT TO A PETITION FOR REFUND WHERE THE PETITIONER PAID
18 THE TAX ASSESSED.

19 § 1520. REFUND PETITION.

20 (A) GENERAL RULE.--EXCEPT AS PROVIDED FOR IN SUBSECTION (B),
21 THE REFUND OR CREDIT OF TAX, INTEREST OR PENALTY PROVIDED FOR BY
22 SECTION 1519 (RELATING TO REFUNDS) SHALL BE MADE ONLY WHERE THE
23 PERSON WHO HAS PAID THE TAX FILES A PETITION FOR REFUND WITH THE
24 DEPARTMENT UNDER ARTICLE XXVII OF THE ACT OF MARCH 4, 1971
25 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, WITHIN THE
26 TIME LIMITS OF SECTION 3003.1 OF THE TAX REFORM CODE OF 1971.

27 (B) NATURAL GAS SEVERANCE TAX.--A REFUND OR CREDIT OF TAX,
28 INTEREST OR PENALTY PAID AS A RESULT OF AN ASSESSMENT MADE BY
29 THE DEPARTMENT UNDER SECTION 1505 (RELATING TO NATURAL GAS
30 SEVERANCE TAX REGISTRATION) SHALL BE MADE ONLY WHERE THE PERSON

1 WHO HAS PAID THE TAX FILES WITH THE DEPARTMENT A PETITION FOR A
2 REFUND WITH THE DEPARTMENT UNDER ARTICLE XXVII OF THE TAX REFORM
3 CODE OF 1971 WITHIN THE TIME LIMITS OF SECTION 3003.1 OF THE TAX
4 REFORM CODE OF 1971. THE FILING OF A PETITION FOR REFUND, UNDER
5 THE PROVISIONS OF THIS SUBSECTION, SHALL NOT AFFECT THE
6 ABATEMENT OF INTEREST, ADDITIONS OR PENALTIES TO WHICH THE
7 PERSON MAY BE ENTITLED BY REASON OF HIS PAYMENT OF THE
8 ASSESSMENT.

9 § 1521. RULES AND REGULATIONS.

10 THE DEPARTMENT IS CHARGED WITH THE ENFORCEMENT OF THE
11 PROVISIONS OF THIS CHAPTER AND IS AUTHORIZED AND EMPOWERED TO
12 PRESCRIBE, ADOPT, PROMULGATE AND ENFORCE RULES AND REGULATIONS
13 NOT INCONSISTENT WITH THE PROVISIONS OF THIS CHAPTER RELATING TO
14 ANY MATTER OR THING PERTAINING TO THE ADMINISTRATION AND
15 ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER AND THE COLLECTION
16 OF TAXES, PENALTIES AND INTEREST IMPOSED BY THIS CHAPTER. THE
17 DEPARTMENT MAY PRESCRIBE THE EXTENT, IF ANY, TO WHICH ANY OF THE
18 RULES AND REGULATIONS SHALL BE APPLIED WITHOUT RETROACTIVE
19 EFFECT.

20 § 1522. RECORDKEEPING.

21 (A) GENERAL RULE.--EVERY PERSON LIABLE FOR ANY TAX IMPOSED
22 BY THIS CHAPTER, OR FOR THE COLLECTION OF THE TAX, SHALL KEEP
23 RECORDS, INCLUDING THOSE ENUMERATED IN SUBSECTION (B), RENDER
24 STATEMENTS, MAKE RETURNS AND COMPLY WITH THE RULES AND
25 REGULATIONS AS THE DEPARTMENT MAY PRESCRIBE REGARDING MATTERS
26 PERTINENT TO THE PERSON'S BUSINESS. WHENEVER IT IS NECESSARY,
27 THE DEPARTMENT MAY REQUIRE A PERSON, BY NOTICE SERVED UPON THE
28 PERSON OR BY REGULATIONS, TO MAKE RETURNS, RENDER STATEMENTS OR
29 KEEP RECORDS AS THE DEPARTMENT DEEMS SUFFICIENT TO SHOW WHETHER
30 OR NOT A PERSON IS LIABLE TO PAY TAX UNDER THIS CHAPTER.

1 (A.1) RECORDS.--RECORDS TO BE MAINTAINED ARE:

2 (1) WELLHEAD METER CHARTS FOR EACH REPORTING PERIOD AND
3 THE METER CALIBRATION AND MAINTENANCE RECORDS. IF TURBINE
4 METERS ARE IN USE, THE MAINTENANCE RECORDS WILL BE MADE
5 AVAILABLE TO THE DEPARTMENT UPON REQUEST.

6 (2) RECORDS, STATEMENTS AND OTHER INSTRUMENTS FURNISHED
7 TO A PRODUCER BY A PERSON TO WHOM THE PRODUCER DELIVERS FOR
8 SALE, TRANSPORT OR DELIVERY OF NATURAL GAS.

9 (3) RECORDS, STATEMENTS AND OTHER INSTRUMENTS AS THE
10 DEPARTMENT MAY PRESCRIBE BY REGULATION.

11 (B) RECORDS OF NONRESIDENTS.--A NONRESIDENT WHO DOES
12 BUSINESS IN THIS COMMONWEALTH AS A PRODUCER SHALL KEEP ADEQUATE
13 RECORDS OF THE BUSINESS AND OF THE TAX DUE AS A RESULT. THE
14 RECORDS SHALL BE RETAINED WITHIN THIS COMMONWEALTH UNLESS
15 RETENTION OUTSIDE THIS COMMONWEALTH IS AUTHORIZED BY THE
16 DEPARTMENT. THE DEPARTMENT MAY REQUIRE A TAXPAYER WHO DESIRES TO
17 RETAIN RECORDS OUTSIDE THIS COMMONWEALTH TO ASSUME REASONABLE
18 OUT-OF-STATE AUDIT EXPENSES.

19 (C) KEEPING OF SEPARATE RECORDS.--A PRODUCER WHO IS ENGAGED
20 IN ANOTHER BUSINESS OR BUSINESSES WHICH DO NOT INVOLVE THE
21 SEVERING OF NATURAL GAS TAXABLE UNDER THIS CHAPTER SHALL KEEP
22 SEPARATE BOOKS AND RECORDS OF THE BUSINESSES SO AS TO SHOW THE
23 TAXABLE SEVERING OF NATURAL GAS UNDER THIS CHAPTER SEPARATELY
24 FROM OTHER BUSINESS ACTIVITIES NOT TAXABLE HEREUNDER. IF ANY
25 PERSON FAILS TO KEEP SEPARATE BOOKS AND RECORDS, THE PERSON
26 SHALL BE LIABLE FOR A PENALTY EQUALING 100% OF TAX DUE UNDER
27 THIS CHAPTER FOR THE PERIOD WHERE SEPARATE RECORDS WERE NOT
28 MAINTAINED.

29 § 1523. EXAMINATIONS.

30 THE DEPARTMENT OR ANY OF ITS AUTHORIZED AGENTS ARE AUTHORIZED

1 TO EXAMINE THE BOOKS, PAPERS AND RECORDS OF ANY TAXPAYER IN
2 ORDER TO VERIFY THE ACCURACY AND COMPLETENESS OF ANY RETURN MADE
3 OR, IF NO RETURN WAS MADE, TO ASCERTAIN AND ASSESS THE TAX
4 IMPOSED BY THIS CHAPTER. THE DEPARTMENT MAY REQUIRE THE
5 PRESERVATION OF ALL BOOKS, PAPERS AND RECORDS FOR ANY PERIOD
6 DEEMED PROPER BY IT BUT NOT TO EXCEED THREE YEARS FROM THE END
7 OF THE CALENDAR YEAR TO WHICH THE RECORDS RELATE. EVERY TAXPAYER
8 IS REQUIRED TO GIVE TO THE DEPARTMENT OR ITS AGENT THE MEANS,
9 FACILITIES AND OPPORTUNITY FOR EXAMINATIONS AND INVESTIGATION
10 UNDER THIS SECTION. THE DEPARTMENT IS FURTHER AUTHORIZED TO
11 EXAMINE ANY PERSON, UNDER OATH, CONCERNING THE TAXABLE SEVERING
12 OF NATURAL GAS BY ANY TAXPAYER OR CONCERNING ANY OTHER MATTER
13 RELATING TO THE ENFORCEMENT OR ADMINISTRATION OF THIS CHAPTER,
14 AND TO THIS END MAY COMPEL THE PRODUCTION OF BOOKS, PAPERS AND
15 RECORDS AND THE ATTENDANCE OF ALL PERSONS WHETHER AS PARTIES OR
16 WITNESSES WHOM IT BELIEVES TO HAVE KNOWLEDGE OF RELEVANT
17 MATTERS. THE PROCEDURE FOR THE HEARINGS OR EXAMINATIONS SHALL BE
18 THE SAME AS THAT PROVIDED BY THE ACT OF APRIL 9, 1929 (P.L.343,
19 NO. 176), KNOWN AS THE FISCAL CODE.

20 § 1524. UNAUTHORIZED DISCLOSURE.

21 ANY INFORMATION GAINED BY THE DEPARTMENT AS A RESULT OF ANY
22 RETURN, EXAMINATION, INVESTIGATION, HEARING OR VERIFICATION
23 REQUIRED OR AUTHORIZED BY THIS CHAPTER SHALL BE CONFIDENTIAL
24 EXCEPT FOR OFFICIAL PURPOSES AND EXCEPT IN ACCORDANCE WITH
25 PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, AND ANY
26 PERSON UNLAWFULLY DIVULGING THE INFORMATION SHALL BE GUILTY OF A
27 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
28 FINE OF NOT MORE THAN \$1,000 AND COSTS OF PROSECUTION OR TO
29 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

30 § 1525. COOPERATION WITH OTHER GOVERNMENTS.

1 NOTWITHSTANDING THE PROVISIONS OF SECTION 1517 (RELATING TO
2 TAX SUIT RECIPROCITY), THE DEPARTMENT MAY PERMIT THE
3 COMMISSIONER OF THE INTERNAL REVENUE SERVICE OF THE UNITED
4 STATES, THE PROPER OFFICER OF ANY STATE OR THE AUTHORIZED
5 REPRESENTATIVE OF EITHER OF THEM TO INSPECT THE TAX RETURNS OF
6 ANY TAXPAYER, OR MAY FURNISH TO THE COMMISSIONER OR OFFICER OR
7 TO EITHER OF THEIR AUTHORIZED REPRESENTATIVE AN ABSTRACT OF THE
8 RETURN OF ANY TAXPAYER, OR SUPPLY HIM WITH INFORMATION
9 CONCERNING ANY ITEM CONTAINED IN ANY RETURN OR DISCLOSED BY THE
10 REPORT OF ANY EXAMINATION OR INVESTIGATION OF THE RETURN OF ANY
11 TAXPAYER. THIS PERMISSION SHALL BE GRANTED ONLY IF THE LAWS OF
12 THE UNITED STATES OR ANOTHER STATE GRANT SUBSTANTIALLY SIMILAR
13 PRIVILEGES TO THE PROPER OFFICER OF THE COMMONWEALTH CHARGED
14 WITH THE ADMINISTRATION OF THIS CHAPTER.

15 § 1526. BONDS.

16 (A) TAXPAYER TO FILE BOND.--THE DEPARTMENT MAY REQUIRE A
17 NONRESIDENT NATURAL PERSON OR ANY FOREIGN CORPORATION,
18 ASSOCIATION, FIDUCIARY OR OTHER ENTITY, NOT AUTHORIZED TO DO
19 BUSINESS WITHIN THIS COMMONWEALTH OR NOT HAVING AN ESTABLISHED
20 PLACE OF BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO THE TAX
21 IMPOSED BY SECTION 1503 (RELATING TO IMPOSITION OF TAX), TO FILE
22 A BOND ISSUED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN
23 THIS COMMONWEALTH AND APPROVED BY THE INSURANCE COMMISSIONER AS
24 TO SOLVENCY AND RESPONSIBILITY, IN AMOUNTS AS IT MAY FIX, TO
25 SECURE THE PAYMENT OF ANY TAX OR PENALTIES DUE OR WHICH MAY
26 BECOME DUE FROM A NONRESIDENT NATURAL PERSON, CORPORATION,
27 ASSOCIATION, FIDUCIARY OR OTHER ENTITY WHENEVER IT DEEMS IT
28 NECESSARY TO PROTECT THE REVENUES OBTAINED UNDER THIS CHAPTER.
29 THE DEPARTMENT MAY ALSO REQUIRE A BOND OF A PERSON PETITIONING
30 THE DEPARTMENT FOR REASSESSMENT IN THE CASE OF ANY ASSESSMENT

1 OVER \$500 OR WHERE, IN ITS OPINION, THE ULTIMATE COLLECTION IS
2 IN JEOPARDY. FOR A PERIOD OF THREE YEARS, THE DEPARTMENT MAY
3 REQUIRE A BOND OF ANY PERSON WHO HAS, ON THREE OR MORE OCCASIONS
4 WITHIN A 12-MONTH PERIOD, EITHER FILED A RETURN OR MADE PAYMENT
5 TO THE DEPARTMENT MORE THAN 30 DAYS LATE. IN THE EVENT THE
6 DEPARTMENT DETERMINES A TAXPAYER IS REQUIRED TO FILE A BOND, IT
7 SHALL GIVE NOTICE TO THE TAXPAYER SPECIFYING THE AMOUNT OF THE
8 BOND REQUIRED. THE TAXPAYER SHALL FILE THE BOND WITHIN FIVE DAYS
9 AFTER NOTICE IS GIVEN BY THE DEPARTMENT UNLESS, WITHIN FIVE
10 DAYS, THE TAXPAYER SHALL REQUEST IN WRITING A HEARING BEFORE THE
11 SECRETARY OR HIS REPRESENTATIVE. AT THE HEARING, THE NECESSITY,
12 PROPRIETY AND AMOUNT OF THE BOND SHALL BE DETERMINED BY THE
13 SECRETARY OR THE SECRETARY'S REPRESENTATIVE. THE DETERMINATION
14 SHALL BE FINAL AND THE TAXPAYER SHALL COMPLY WITH IT WITHIN 15
15 DAYS AFTER NOTICE IS MAILED TO THE TAXPAYER.

16 (B) SECURITIES IN LIEU OF BOND.--IN LIEU OF THE BOND
17 REQUIRED BY THIS SECTION SECURITIES APPROVED BY THE DEPARTMENT
18 OR CASH IN A PRESCRIBED AMOUNT MAY BE DEPOSITED. THE SECURITIES
19 OR CASH SHALL BE KEPT IN THE CUSTODY OF THE DEPARTMENT. THE
20 DEPARTMENT MAY APPLY THE SECURITIES OR CASH TO THE TAX IMPOSED
21 BY THIS CHAPTER AND INTEREST OR PENALTIES DUE WITHOUT NOTICE TO
22 THE DEPOSITOR. THE SECURITIES MAY BE SOLD BY THE DEPARTMENT TO
23 PAY THE TAX AND/OR INTEREST OR PENALTIES DUE AT PUBLIC OR
24 PRIVATE SALE UPON FIVE DAYS' WRITTEN NOTICE TO THE DEPOSITOR.

25 (C) FAILURE TO FILE BOND.--THE DEPARTMENT MAY FILE A LIEN
26 UNDER SECTION 1516 (RELATING TO TAX LIENS) AGAINST ANY TAXPAYER
27 WHO FAILS TO FILE A BOND WHEN REQUIRED TO DO SO UNDER THIS
28 SECTION. ALL FUNDS RECEIVED UPON EXECUTION OF THE JUDGMENT ON
29 THE LIEN SHALL BE REFUNDED TO THE TAXPAYER WITH 3% INTEREST,
30 SHOULD A FINAL DETERMINATION BE MADE THAT IT DOES NOT OWE ANY

1 PAYMENT TO THE DEPARTMENT.

2 § 1527. ACCOUNTS ESTABLISHED.

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

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

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

11 (3) THE MONEY IN THE ACCOUNT SHALL ONLY BE USED IN
12 ACCORDANCE WITH SECTION 1528 (RELATING TO TRANSFERS AND
13 DISTRIBUTIONS).

14 (B) LOCAL GOVERNMENT SERVICES ACCOUNT.--

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

17 (2) THE ALLOCATION UNDER SECTION 1528(B)(3) SHALL BE
18 DEPOSITED INTO THE LOCAL GOVERNMENT SERVICES ACCOUNT AND
19 SHALL BE DISTRIBUTED AS PROVIDED IN SECTION 1528(C).

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

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

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

29 § 1528. TRANSFERS AND DISTRIBUTIONS.

30 (A) INITIAL TRANSFERS.--

1 (1) DURING FISCAL YEARS 2010-2011, 2011-2012 AND
2 2012-2013, THE STATE TREASURER SHALL TRANSFER THE FIRST
3 \$75,000,000 OF REVENUE DEPOSITED INTO THE NATURAL GAS
4 SEVERANCE TAX ACCOUNT AS FOLLOWS:

5 (I) FIVE MILLION DOLLARS TO THE GENERAL FUND, WHICH
6 IS HEREBY APPROPRIATED TO THE DEPARTMENT OF LABOR AND
7 INDUSTRY ON A CONTINUING BASIS FOR JOB TRAINING FOR
8 SKILLS IDENTIFIED BY THE DEPARTMENT OF LABOR AND INDUSTRY
9 WITH THE NATURAL GAS PRODUCING INDUSTRY. THE DEPARTMENT
10 OF LABOR AND INDUSTRY SHALL CONTRACT WITH EXISTING PUBLIC
11 INSTITUTIONS OF HIGHER EDUCATION, INCLUDING COMMUNITY
12 COLLEGES, IN REGIONS WHERE NATURAL GAS DRILLING OCCURS
13 FOR THESE JOB TRAINING PROGRAMS.

14 (II) SEVENTY MILLION DOLLARS TO THE GENERAL FUND.

15 (2) AFTER THE TRANSFERS UNDER PARAGRAPH (1) ARE MADE,
16 THE MONEY REMAINING IN THE ACCOUNT SHALL BE TRANSFERRED AND
17 DISTRIBUTED UNDER SUBSECTIONS (B) AND (C).

18 (B) MONTHLY TRANSFERS AND DISTRIBUTIONS.--FOLLOWING THE
19 TRANSFERS UNDER SUBSECTION (A), ON THE LAST BUSINESS DAY OF EACH
20 CALENDAR MONTH, THE STATE TREASURER SHALL MAKE THE FOLLOWING
21 TRANSFERS AND DISTRIBUTIONS OF THE MONEY IN THE NATURAL GAS
22 SEVERANCE TAX ACCOUNT:

23 (1) SIXTY PERCENT TO THE GENERAL FUND.

24 (2) TWELVE PERCENT TO THE ENVIRONMENTAL STEWARDSHIP
25 FUND.

26 (3) SIXTEEN PERCENT TO THE LOCAL GOVERNMENT SERVICES
27 ACCOUNT, TO BE FURTHER DISTRIBUTED BY THE STATE TREASURER
28 UNDER SUBSECTION (C).

29 (4) ONE AND SIX-TENTHS PERCENT TO THE HAZARDOUS SITES
30 CLEANUP FUND.

1 (5) TWO AND FOUR-TENTHS PERCENT TO THE CONSERVATION
2 DISTRICT FUND FOR DISTRIBUTION TO COUNTY CONSERVATION
3 DISTRICTS PURSUANT TO GUIDELINES ESTABLISHED BY THE STATE
4 CONSERVATION COMMISSION.

5 (6) ONE AND SIX-TENTHS PERCENT TO THE PENNSYLVANIA GAME
6 COMMISSION.

7 (7) TWO AND FOUR-TENTHS PERCENT TO THE PENNSYLVANIA FISH
8 AND BOAT COMMISSION.

9 (8) ONE AND SIX-TENTHS PERCENT TO THE DEPARTMENT OF
10 PUBLIC WELFARE TO PROVIDE CASH AND CRISIS GRANTS TO LOW-
11 INCOME HOUSEHOLDS UNDER THE LOW INCOME HOME ENERGY ASSISTANCE
12 PROGRAM.

13 (9) ONE AND SIX-TENTHS PERCENT TO THE OIL AND GAS
14 ENVIRONMENTAL DISASTER RECOVERY ACCOUNT.

15 (10) EIGHT-TENTHS OF ONE PERCENT TO THE DEPARTMENT OF
16 ENVIRONMENTAL PROTECTION FOR STATE DAM REMOVAL, RESTORATION
17 AND REPAIR PROJECTS.

18 (C) QUARTERLY DISTRIBUTIONS.--FOLLOWING THE TRANSFERS UNDER
19 SUBSECTION (A), ON THE LAST BUSINESS DAY OF EACH PERIOD OF THREE
20 CALENDAR MONTHS, THE STATE TREASURER SHALL MAKE THE FOLLOWING
21 DISTRIBUTIONS FROM THE MONEY IN THE LOCAL GOVERNMENT SERVICES
22 ACCOUNT:

23 (1) THIRTY PERCENT TO COUNTIES WITH PRODUCING SITES TO
24 BE USED AS PROVIDED IN SUBSECTION (D). THE MONEY UNDER THIS
25 SUBPARAGRAPH SHALL BE DISTRIBUTED TO EACH ELIGIBLE COUNTY
26 BASED ON THE FOLLOWING FORMULA:

27 (I) DIVIDE:

28 (A) THE NUMBER OF PRODUCING SITES IN THE COUNTY;

29 BY

30 (B) THE TOTAL NUMBER OF PRODUCING SITES IN ALL

1 THE COUNTIES IN THIS COMMONWEALTH.

2 (II) MULTIPLY:

3 (A) THE QUOTIENT UNDER SUBPARAGRAPH (I); BY

4 (B) THE AMOUNT OF MONEY AVAILABLE FOR

5 DISTRIBUTION UNDER THIS PARAGRAPH.

6 (2) FORTY-FIVE PERCENT TO MUNICIPALITIES WITH PRODUCING
7 SITES. SUBJECT TO PARAGRAPH (3), THE MONEY UNDER THIS
8 SUBPARAGRAPH SHALL BE DISTRIBUTED TO EACH ELIGIBLE
9 MUNICIPALITY BASED ON THE FOLLOWING FORMULA:

10 (I) DIVIDE:

11 (A) THE NUMBER OF PRODUCING SITES IN THE
12 MUNICIPALITY; BY

13 (B) THE TOTAL NUMBER OF PRODUCING SITES IN ALL
14 MUNICIPALITIES IN THIS COMMONWEALTH.

15 (II) MULTIPLY:

16 (A) THE QUOTIENT UNDER SUBPARAGRAPH (I); BY

17 (B) THE AMOUNT OF MONEY AVAILABLE FOR

18 DISTRIBUTION UNDER THIS PARAGRAPH.

19 (3) ALL OF THE FOLLOWING APPLY TO THE DISTRIBUTION UNDER
20 PARAGRAPH (2):

21 (I) THE AMOUNT DISTRIBUTED TO A MUNICIPALITY SHALL
22 NOT EXCEED 50% OF THE MUNICIPALITY'S TOTAL BUDGET FOR
23 FISCAL YEAR 2010-2011, ADJUSTED FOR INFLATION IN
24 SUBSEQUENT YEARS BY AN AMOUNT NOT TO EXCEED AN ANNUAL
25 COST-OF-LIVING ADJUSTMENT CALCULATED BY APPLYING THE
26 ANNUAL PERCENT CHANGE IN THE CONSUMER PRICE INDEX FOR ALL
27 URBAN CONSUMERS IMMEDIATELY PRIOR TO THE DATE THE
28 ADJUSTMENT IS DUE TO TAKE EFFECT. THE AMOUNT DISTRIBUTED
29 UNDER THIS SUBPARAGRAPH SHALL BE USED FOR THE FOLLOWING
30 PURPOSES:

1 (A) RECONSTRUCTION, MAINTENANCE AND REPAIR OF
2 MUNICIPAL ROADWAYS AND BRIDGES, WHICH THE
3 MUNICIPALITY HAS DETERMINED HAVE BEEN OR ARE BEING
4 USED EXTENSIVELY TO TRANSPORT NATURAL GAS OR
5 EQUIPMENT RELATED TO THE PRODUCTION OF NATURAL GAS.

6 (B) PRESERVATION AND IMPROVEMENT OF MUNICIPAL
7 WATER SUPPLIES.

8 (C) MAINTENANCE AND CAPITAL IMPROVEMENTS TO
9 MUNICIPAL WASTE AND SEWAGE SYSTEMS.

10 (D) PRESERVATION AND RECLAMATION OF THE SURFACE
11 WATERS OF THE MUNICIPALITY.

12 (E) OTHER LAWFUL PURPOSES REASONABLY RELATED TO
13 THE HEALTH, WELFARE AND SAFETY CONSEQUENCES OF
14 SEVERING NATURAL GAS IN THE MUNICIPALITY.

15 (II) ANY FUNDS NOT DISTRIBUTED TO THE MUNICIPALITIES
16 IN A COUNTY BECAUSE OF THE BUDGETARY LIMITATIONS UNDER
17 SUBPARAGRAPH (I) SHALL BE DISTRIBUTED TO THE COUNTY TO BE
18 USED SOLELY FOR GRANTS TO MUNICIPALITIES TO DEFER THE
19 COST OF REGIONAL COOPERATION ENDEAVORS UNDERTAKEN BY THE
20 MUNICIPALITIES WITHIN THE COUNTY.

21 (4) FIFTEEN PERCENT TO MUNICIPALITIES WITH NO PRODUCING
22 SITES LOCATED IN A COUNTY WITH PRODUCING SITES. SUBJECT TO
23 PARAGRAPH (5), THE MONEY UNDER THIS SUBPARAGRAPH SHALL BE
24 DISTRIBUTED TO EACH ELIGIBLE MUNICIPALITY BASED ON THE
25 FOLLOWING FORMULA:

26 (I) DIVIDE:

27 (A) THE NUMBER OF PRODUCING SITES IN THE COUNTY;

28 BY

29 (B) THE TOTAL NUMBER OF PRODUCING SITES IN ALL
30 COUNTIES IN THIS COMMONWEALTH.

1 (II) MULTIPLY:

2 (A) THE QUOTIENT UNDER SUBPARAGRAPH (I); BY

3 (B) THE AMOUNT OF MONEY AVAILABLE FOR

4 DISTRIBUTION UNDER THIS PARAGRAPH.

5 (5) ALL OF THE FOLLOWING APPLY TO THE DISTRIBUTION UNDER
6 PARAGRAPH (4):

7 (I) SUBJECT TO THE LIMITATION IN SUBPARAGRAPH (II),
8 THE STATE TREASURER SHALL DISTRIBUTE AN EQUAL SHARE TO
9 EACH ELIGIBLE MUNICIPALITY WITHIN THE SAME COUNTY.

10 (II) THE AMOUNT DISTRIBUTED TO A MUNICIPALITY SHALL
11 NOT EXCEED 50% OF THE MUNICIPALITY'S TOTAL BUDGET FOR
12 FISCAL YEAR 2010-2011, ADJUSTED FOR INFLATION IN
13 SUBSEQUENT YEARS BY AN AMOUNT NOT TO EXCEED AN ANNUAL
14 COST-OF-LIVING ADJUSTMENT CALCULATED BY APPLYING THE
15 ANNUAL PERCENT CHANGE IN THE CONSUMER PRICE INDEX FOR ALL
16 URBAN CONSUMERS IMMEDIATELY PRIOR TO THE DATE THE
17 ADJUSTMENT IS DUE TO TAKE EFFECT. THE AMOUNT DISTRIBUTED
18 UNDER THIS SUBPARAGRAPH SHALL BE USED FOR THE FOLLOWING
19 PURPOSES:

20 (A) RECONSTRUCTION, MAINTENANCE AND REPAIR OF
21 MUNICIPAL ROADWAYS AND BRIDGES, WHICH THE
22 MUNICIPALITY HAS DETERMINED HAVE BEEN, OR ARE BEING,
23 USED EXTENSIVELY TO TRANSPORT NATURAL GAS OR
24 EQUIPMENT RELATED TO THE PRODUCTION OF NATURAL GAS.

25 (B) PRESERVATION AND IMPROVEMENT OF MUNICIPAL
26 WATER SUPPLIES.

27 (C) MAINTENANCE AND CAPITAL IMPROVEMENTS TO
28 MUNICIPAL WASTE AND SEWAGE SYSTEMS.

29 (D) PRESERVATION AND RECLAMATION OF SURFACE
30 WATERS OF THE MUNICIPALITY.

1 (E) OTHER LAWFUL PURPOSES REASONABLY RELATED TO
2 THE HEALTH, WELFARE AND SAFETY CONSEQUENCES OF
3 SEVERING NATURAL GAS IN MUNICIPALITIES WITHIN THE
4 COUNTY.

5 (III) ANY FUNDS NOT DISTRIBUTED TO THE
6 MUNICIPALITIES IN A COUNTY BECAUSE OF THE BUDGETARY
7 LIMITATIONS UNDER SUBPARAGRAPH (II) SHALL BE DISTRIBUTED
8 TO THE COUNTY TO BE USED SOLELY FOR GRANTS TO
9 MUNICIPALITIES TO DEFER THE COST OF REGIONAL COOPERATION
10 ENDEAVORS UNDERTAKEN BY THE MUNICIPALITIES WITHIN THE
11 COUNTY.

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

18 (7) ONLY PRODUCING SITES AND NONPRODUCING SITES ON WHICH
19 THE TAX IS LEVIED UNDER SECTION 1503(A) (RELATING TO
20 IMPOSITION OF TAX) DURING THE THREE-MONTH PERIOD FOR WHICH
21 TRANSFERS AND DISTRIBUTIONS ARE MADE SHALL BE INCLUDED IN ANY
22 OF THE CALCULATIONS MADE UNDER PARAGRAPHS (1), (2) AND (4)
23 FOR THAT THREE-MONTH PERIOD.

24 (D) DISTRIBUTIONS TO COUNTIES.--

25 (1) THE GOVERNING BODY OF COUNTIES RECEIVING
26 DISTRIBUTIONS UNDER SUBSECTION (C) (1) SHALL ADMINISTER THE
27 FUNDS RECEIVED. THE GOVERNING BODY SHALL GIVE PRIORITY TO THE
28 RECONSTRUCTION, REPAIR AND MAINTENANCE OF COUNTY ROADWAYS AND
29 BRIDGES, WHICH THE GOVERNING BODY HAS DETERMINED HAVE BEEN OR
30 ARE BEING USED TO TRANSPORT NATURAL GAS OR EQUIPMENT RELATED

1 TO THE PRODUCTION OF NATURAL GAS. THE GOVERNING BODY SHALL
2 ALLOCATE THE REMAINDER TO THE COUNTY OR ITS MUNICIPALITIES
3 FOR ANY OF THE PURPOSES ENUMERATED IN SUBSECTION (C) (3) OR
4 (5). A SIMPLE MAJORITY VOTE OF ALL OF THE MEMBERS OF THE
5 GOVERNING BODY SHALL BE REQUIRED FOR ANY ACTION UNDER THIS
6 PARAGRAPH.

7 (2) COMMENCING IN 2012, BEFORE FEBRUARY 1, EACH COUNTY
8 RECEIVING DISTRIBUTIONS UNDER SUBSECTION (C) (1) SHALL PREPARE
9 AND DELIVER A REPORT TO THE GOVERNOR, THE SECRETARY OF THE
10 SENATE AND THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES
11 DETAILING THE EXPENDITURE OF FUNDS. THE DEPARTMENT OF
12 COMMUNITY AND ECONOMIC DEVELOPMENT SHALL HAVE THE AUTHORITY
13 TO AUDIT A COUNTY'S USE OF SUCH FUNDS AND EACH COUNTY
14 RECEIVING FUNDS SHALL MAKE THEIR FINANCIAL RECORDS AND OTHER
15 DOCUMENTS RELATING TO ITS USE OF FUNDS AVAILABLE TO THE
16 DEPARTMENT.

17 (E) DISTRIBUTIONS TO MUNICIPALITIES.--

18 (1) COMMENCING IN 2012, BEFORE FEBRUARY 1, EACH
19 MUNICIPALITY RECEIVING DISTRIBUTIONS UNDER SUBSECTION (C) (2)
20 OR (4) SHALL PREPARE AND DELIVER A REPORT TO THE GOVERNOR,
21 THE SECRETARY OF THE SENATE AND THE CHIEF CLERK OF THE HOUSE
22 OF REPRESENTATIVES DETAILING THE EXPENDITURE OF FUNDS.

23 (2) THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
24 SHALL HAVE THE AUTHORITY TO AUDIT A MUNICIPALITY'S USE OF THE
25 FUNDS. EACH MUNICIPALITY RECEIVING FUNDS SHALL MAKE FINANCIAL
26 RECORDS AND OTHER DOCUMENTS RELATING TO ITS USE OF THE FUNDS
27 AVAILABLE TO TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC
28 DEVELOPMENT.

29 (F) ADMINISTRATION.--THE DEPARTMENT SHALL MAKE THE
30 CALCULATIONS REQUIRED FOR THE TRANSFERS AND DISTRIBUTIONS UNDER

1 THIS SECTION AND SHALL SUBMIT THE CALCULATIONS TO THE STATE
2 TREASURER IN SUFFICIENT TIME FOR THE STATE TREASURER TO MAKE THE
3 TRANSFERS AND DISTRIBUTIONS AS REQUIRED BY THIS SECTION.
4 § 1529. APPROPRIATION.

5 THE AMOUNT OF THE PROCEEDS FROM THE TAX IMPOSED BY THIS
6 CHAPTER AS SHALL BE NECESSARY FOR THE PAYMENT OF REFUNDS,
7 ENFORCEMENT OR ADMINISTRATION UNDER THIS CHAPTER IS HEREBY
8 APPROPRIATED TO THE DEPARTMENT FOR THOSE PURPOSES.

9 CHAPTER 17

10 MARCELLUS SHALE JOB CREATION TAX CREDIT

11 SEC.

12 1701. DEFINITIONS.

13 1702. ELIGIBILITY.

14 1703. APPLICATION PROCESS.

15 1704. TAX CREDITS.

16 1705. PROHIBITIONS.

17 1706. PENALTIES.

18 1707. ANNUAL REPORTS.

19 1708. NOTICE OF AVAILABILITY OF TAX CREDITS.

20 § 1701. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
22 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 "BASE PERIOD." AS FOLLOWS:

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

29 (2) IF A COMPANY HAS BEEN IN BUSINESS IN THIS
30 COMMONWEALTH FOR LESS THAN THREE YEARS, THE PERIOD WHICH IT

1 HAS BEEN IN BUSINESS IN THIS COMMONWEALTH.

2 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
3 DEVELOPMENT OF THE COMMONWEALTH.

4 "JOB CREATION TAX CREDITS." TAX CREDITS FOR JOB CREATION FOR
5 WHICH THE DEPARTMENT HAS ISSUED A CERTIFICATE UNDER THIS
6 CHAPTER.

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

14 "NONRESIDENT." AN INDIVIDUAL WHO DOES NOT RESIDE IN THIS
15 COMMONWEALTH.

16 "QUALIFIED APPRENTICESHIP TRAINING PROGRAM." A PROGRAM
17 REGISTERED WITH THE APPRENTICESHIP AND TRAINING COUNCIL WITHIN
18 THE DEPARTMENT OF LABOR AND INDUSTRY THAT IS IN COMPLIANCE WITH
19 APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS AND WHICH
20 REQUIRES AT LEAST 2,000 BUT NOT MORE THAN 10,000 HOURS OF ON-
21 THE-JOB APPRENTICESHIP TRAINING.

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

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

27 "YEAR ONE." A ONE-YEAR PERIOD IMMEDIATELY FOLLOWING THE
28 START DATE.

29 "YEAR THREE." A ONE-YEAR PERIOD IMMEDIATELY FOLLOWING THE
30 END OF YEAR TWO.

1 "YEAR TWO." A ONE-YEAR PERIOD IMMEDIATELY FOLLOWING THE END
2 OF YEAR ONE.

3 § 1702. ELIGIBILITY.

4 IN ORDER TO BE ELIGIBLE TO RECEIVE JOB CREATION TAX CREDITS
5 UNDER THIS CHAPTER, A COMPANY MUST DEMONSTRATE TO THE DEPARTMENT
6 THE FOLLOWING:

7 (1) THE COMPANY'S FINANCIAL STABILITY AND THE PROJECT'S
8 FINANCIAL VIABILITY.

9 (2) THE COMPANY'S EXPRESS INTENT TO MAINTAIN OPERATIONS
10 IN THIS COMMONWEALTH FOR A PERIOD OF FIVE YEARS FROM THE DATE
11 THE COMPANY SUBMITS ITS TAX CREDIT CERTIFICATE TO THE
12 DEPARTMENT OF REVENUE.

13 (3) THE COMPANY IS IN CONFORMITY WITH INDUSTRY LAWS AND
14 REGULATIONS OVERSEEN AND ENFORCED BY THE DEPARTMENT OF
15 ENVIRONMENTAL PROTECTION.

16 § 1703. APPLICATION PROCESS.

17 (A) APPLICATION.--A COMPANY MUST COMPLETE AND SUBMIT TO THE
18 DEPARTMENT A JOB CREATION TAX CREDIT APPLICATION ALONG WITH A
19 COPY OF THE PERMIT ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL
20 PROTECTION PROVIDING THAT THE COMPANY HAS OBTAINED THE NECESSARY
21 PERMIT ALLOWING THE COMPANY TO DRILL IN THIS COMMONWEALTH OR A
22 STATEMENT FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
23 STATING THE SAME. THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
24 SHALL NOTIFY THE DEPARTMENT OF LABOR AND INDUSTRY, THE
25 DEPARTMENT OF REVENUE AND THE DEPARTMENT UPON SUSPENSION OR
26 REVOCATION OF DRILLING PERMITS OR OTHER CHANGES THAT AFFECT THE
27 COMPANY'S ABILITY TO CONTINUOUSLY DRILL IN THIS COMMONWEALTH.

28 (B) APPLICANT PRIORITY.--THE DEPARTMENT SHALL GIVE PRIORITY
29 TO ELIGIBLE APPLICANTS THAT WILL PLACE THE FOLLOWING WORKERS IN
30 NEW JOBS:

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

4 (2) DISLOCATED WORKERS UNDER THE ACT OF DECEMBER 18,
5 2001 (P.L.949, NO.114), KNOWN AS THE WORKFORCE DEVELOPMENT
6 ACT, WHO MEET ANY ONE OF THE FOLLOWING CONDITIONS:

7 (I) HAVE BEEN TERMINATED OR LAID OFF OR HAVE
8 RECEIVED NOTICE OF TERMINATION OR LAYOFF, AND ARE
9 ELIGIBLE FOR OR HAVE EXHAUSTED UNEMPLOYMENT COMPENSATION
10 BENEFITS.

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

13 (III) HAVE BEEN TERMINATED OR RECEIVED NOTICE OF
14 TERMINATION AS A RESULT OF THE PERMANENT CLOSURE OR
15 RELOCATION OF A PLANT, FACILITY OR PLANT OPERATION IN
16 WHICH THE INDIVIDUALS WERE EMPLOYED.

17 (IV) ARE CHRONICALLY UNEMPLOYED.

18 (V) HAVE LIMITED OPPORTUNITIES OF EMPLOYMENT IN THE
19 GEOGRAPHIC AREA IN WHICH THE INDIVIDUALS RESIDE.

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

22 (3) WORKERS WHO HAVE BEEN UNEMPLOYED FOR AT LEAST SIX
23 MONTHS.

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

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

29 (1) A DESCRIPTION OF THE PROJECT.

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

1 (3) THE AMOUNT OF PRIVATE CAPITAL INVESTMENT IN THE
2 PROJECT.

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

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

8 (6) A SIGNED STATEMENT FROM THE COMPANY THAT THE COMPANY
9 WILL PROVIDE TO THE DEPARTMENT A LIST OF WORKERS WHICH
10 SATISFIES THE REQUIREMENTS OF SUBSECTION (B) FOR WHICH THE
11 COMPANY WILL CLAIM TAX CREDIT, INCLUDING DOCUMENTATION OF
12 EACH WORKER'S STATUS AS A RESIDENT OF THIS COMMONWEALTH.

13 (7) OTHER INFORMATION AS THE DEPARTMENT DEEMS
14 APPROPRIATE.

15 (D) COMMITMENT LETTER.--AFTER A COMMITMENT LETTER HAS BEEN
16 SIGNED BY BOTH THE COMMONWEALTH AND THE COMPANY, THE COMPANY
17 SHALL RECEIVE A JOB CREATION TAX CREDIT CERTIFICATE AND FILING
18 INFORMATION.

19 § 1704. TAX CREDITS.

20 (A) MAXIMUM AMOUNT.--A COMPANY MAY CLAIM A TAX CREDIT OF
21 \$1,000 PER NEW JOB CREATED AND UP TO THE MAXIMUM JOB CREATION
22 TAX CREDIT AMOUNT SPECIFIED IN THE COMMITMENT LETTER.

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

24 (1) NEW JOBS SHALL BE DEEMED CREATED IN YEAR ONE TO THE
25 EXTENT THAT THE COMPANY'S AVERAGE EMPLOYMENT BY QUARTER
26 DURING YEAR ONE EXCEEDS THE COMPANY'S AVERAGE EMPLOYMENT
27 LEVEL DURING THE COMPANY'S BASE PERIOD, AS ADJUSTED FOR ANY
28 JOB HELD BY A NONRESIDENT DURING THE PERIOD WHICH IS NO
29 LONGER HELD BY A NONRESIDENT.

30 (2) NEW JOBS SHALL BE DEEMED CREATED IN YEAR TWO TO THE

1 EXTENT THAT THE COMPANY'S AVERAGE EMPLOYMENT BY QUARTER
2 DURING YEAR TWO EXCEEDS THE COMPANY'S AVERAGE EMPLOYMENT BY
3 QUARTER DURING YEAR ONE.

4 (3) NEW JOBS SHALL BE DEEMED CREATED IN YEAR THREE TO
5 THE EXTENT THAT THE COMPANY'S AVERAGE EMPLOYMENT BY QUARTER
6 DURING YEAR THREE EXCEEDS THE COMPANY'S AVERAGE EMPLOYMENT BY
7 QUARTER DURING YEAR TWO.

8 (C) APPLICABLE TAXES.--A COMPANY MAY APPLY THE TAX CREDIT TO
9 100% OF THE COMPANY'S CORPORATE NET INCOME TAX, CAPITAL STOCK
10 AND FRANCHISE TAX OR THE CAPITAL STOCK AND FRANCHISE TAX OF A
11 SHAREHOLDER OF THE COMPANY IF THE COMPANY IS A PENNSYLVANIA S
12 CORPORATION, PERSONAL INCOME TAX OR THE PERSONAL INCOME TAX OF
13 SHAREHOLDERS OF A PENNSYLVANIA S CORPORATION OR ANY COMBINATION
14 THEREOF.

15 (D) TAX CREDIT TERM.--A COMPANY MAY CLAIM THE JOB CREATION
16 TAX CREDIT FOR EACH NEW JOB CREATED, AS APPROVED BY THE
17 DEPARTMENT, FOR A PERIOD DETERMINED BY THE DEPARTMENT BUT NOT TO
18 EXCEED FIVE YEARS FROM THE DATE THE COMPANY FIRST SUBMITS A JOB
19 CREATION TAX CREDIT CERTIFICATE.

20 (E) AVAILABILITY OF TAX CREDITS.--EACH FISCAL YEAR,
21 \$10,000,000 IN TAX CREDITS SHALL BE MADE AVAILABLE TO THE
22 DEPARTMENT AND MAY BE AWARDED BY THE DEPARTMENT IN ACCORDANCE
23 WITH THIS CHAPTER.

24 § 1705. PROHIBITIONS.

25 THE FOLLOWING ACTIONS WITH REGARD TO JOB CREATION TAX CREDITS
26 ARE PROHIBITED:

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

30 (2) THE ASSIGNMENT, TRANSFER OR USE OF CREDITS BY ANY

1 OTHER COMPANY, PROVIDED, HOWEVER, THAT TAX CREDITS MAY BE
2 ASSIGNED IN WHOLE OR IN PART TO AN AFFILIATED ENTITY. AS USED
3 IN THIS PARAGRAPH, THE TERM "AFFILIATED ENTITY" MEANS AN
4 ENTITY WHICH IS PART OF THE SAME "AFFILIATED GROUP," AS
5 DEFINED BY SECTION 1504(A) (1) OF THE INTERNAL REVENUE CODE OF
6 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1504(A) (1)), AS THE
7 COMPANY AWARDED THE CREDIT.

8 § 1706. PENALTIES.

9 (A) FAILURE TO CREATE JOBS.--A COMPANY WHICH RECEIVES JOB
10 CREATION TAX CREDITS AND FAILS TO CREATE THE APPROVED NUMBER OF
11 NEW JOBS WITHIN THREE YEARS OF THE START DATE WILL BE REQUIRED
12 TO REFUND TO THE COMMONWEALTH THE TOTAL AMOUNT OF CREDIT OR
13 CREDITS GRANTED.

14 (B) WAIVER.--THE DEPARTMENT MAY WAIVE THE PENALTIES OUTLINED
15 IN SUBSECTION (A) IF IT IS DETERMINED THAT A COMPANY'S
16 OPERATIONS WERE NOT MAINTAINED OR THE NEW JOBS WERE NOT CREATED
17 BECAUSE OF CIRCUMSTANCES BEYOND THE COMPANY'S CONTROL.
18 CIRCUMSTANCES INCLUDE NATURAL DISASTERS OR UNFORESEEN INDUSTRY
19 TRENDS.

20 § 1707. ANNUAL REPORTS.

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

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

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

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

29 (4) ANY OTHER INFORMATION THAT MAY BE DEEMED RELEVANT BY
30 THE DEPARTMENT.

1 (B) SUBMISSION.--THE ANNUAL REPORT SHALL BE SUBMITTED TO THE
2 GOVERNOR, THE MAJORITY LEADER OF THE SENATE, THE MINORITY LEADER
3 OF THE SENATE, THE MAJORITY LEADER OF THE HOUSE OF
4 REPRESENTATIVES AND THE MINORITY LEADER OF THE HOUSE OF
5 REPRESENTATIVES BY MARCH 1 OF THE FIRST FULL YEAR FOLLOWING THE
6 EFFECTIVE DATE OF THIS SECTION AND MARCH 1 OF EACH YEAR
7 THEREAFTER.

8 § 1708. NOTICE OF AVAILABILITY OF TAX CREDITS.

9 THE DEPARTMENT SHALL PUBLISH NOTICE OF THE AVAILABILITY OF
10 THE JOB CREATION TAX CREDIT ON ITS PUBLICLY ACCESSIBLE INTERNET
11 WEBSITE AND MAKE INFORMATION AVAILABLE ANNUALLY TO THE
12 DEPARTMENT OF LABOR AND INDUSTRY WORKFORCE INVESTMENT BOARD FOR
13 DISTRIBUTION TO LOCAL BOARDS.

14 Section 2. Repeals are as follows:

15 (1) The General Assembly declares that the repeals under
16 paragraph (2) are necessary to effectuate the amendment or
17 addition of 16 Pa.C.S. Ch. 11 Subch. B.

18 (2) The following acts and parts of acts are repealed:

19 (i) Sections 420, 421, 422, 423, 424, 425, 426, 427,
20 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 802,
21 803, 804 of the act of August 9, 1955 (P.L.323, No.130),
22 known as The County Code.

23 (ii) Sections 420, 421, 422, 423, 424, 425, 426,
24 427, 428, 429, 430, 431, 802, 803, 804, 1261 and 1262 of
25 the act of July 28, 1953 (P.L.723, No.230), known as the
26 Second Class County Code.

27 (iii) As much of section 3103 of the Second Class
28 County Code, as reads as follows: "The bond of the fire
29 marshal shall be in the sum of ten thousand dollars
30 (\$10,000) and the bonds of the deputy fire marshals shall

1 be in the sum of five thousand dollars (\$5000)."

2 (3) All acts and parts of acts are repealed insofar as
3 they are inconsistent with this act.

4 Section 3. A county may, at any time after the effective
5 date of this section, obtain required security in accordance
6 with 16 Pa.C.S. Ch.11 Subch. B. A county shall have in place
7 required security in accordance with 16 Pa.C.S. Ch.11 Subch. B
8 prior to the time that any elected county official takes office
9 after the municipal election next following the effective date
10 of this section. Bonds and insurance, which, on the effective
11 date of this section, cover county officers and employees, shall
12 remain in force and effect until required security is purchased.

13 Section 4. This act shall take effect immediately.