
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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SAMUELSON, SHAPIRO, K. SMITH, J. TAYLOR, WAGNER, WHEATLEY,
YOUNGBLOOD, SANTONI, DAVIS AND KAVULICH, FEBRUARY 9, 2011

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 9, 2011

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, providing for taxation of
3 natural gas drilling and for transfers and distributions.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

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

8 CHAPTER 15

9 EFFECTS OF NATURAL GAS DRILLING

10 Sec.

11 1501. Scope of chapter.

12 1502. Definitions.

13 1503. Imposition of tax.

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23 1525. Cooperation with other governments.
24 1526. Bonds.
25 1527. Accounts established.
26 1528. Transfers and distributions.
27 1529. Appropriation.
28 § 1501. Scope of chapter.
29 This chapter shall relate to the ability of all counties
30 within this Commonwealth to ameliorate the effects of natural

1 gas drilling that occur within their borders.

2 § 1502. Definitions.

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

6 "Account." The Natural Gas Severance Tax Account.

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

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

14 "Base rate." The rate under section 1503(b) (relating to
15 imposition of tax).

16 "Coal bed methane." Gas which can be produced from coal
17 beds, coal seams, mined-out areas or gob wells.

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

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

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

26 "Municipality." A city, borough, incorporated town or
27 township.

28 "Natural gas." A fossil fuel consisting of a mixture of
29 hydrocarbon gases, primarily methane, possibly including ethane,
30 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and

1 hydrogen sulfide and other gas species. The term includes
2 natural gas from oil fields known as associated gas or casing
3 head gas, natural gas fields known as nonassociated gas, coal
4 beds, shale beds and other formations. The term does not include
5 coal bed methane.

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

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

10 "Person." A natural person or a corporation, fiduciary,
11 association or other entity, including the Commonwealth, its
12 political subdivisions, instrumentalities and authorities. When
13 the term is used in a clause prescribing and imposing a penalty
14 or imposing a fine or imprisonment, or both, the term shall
15 include the members, as applied to an association, and the
16 officers, as applied to a corporation.

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

21 "Producing site." A point of severance capable of producing
22 natural gas in paying quantities.

23 "Reporting period." A calendar month in which natural gas is
24 severed.

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

26 "Sever." To extract or otherwise remove natural gas from the
27 soil or water of this Commonwealth.

28 "Severance." The extraction or other removal of natural gas
29 from the soil or water of this Commonwealth.

30 "Severing." Extracting or otherwise removing natural gas

1 from the soil or water of this Commonwealth.

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

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

6 "Tax rate adjustment index." The amount calculated under
7 section 1503(b) (relating to imposition of tax) by which the
8 rate of the tax imposed under section 1503(b) is adjusted
9 annually.

10 "Taxpayer." A person subject to the tax imposed by this
11 chapter.

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

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

22 (2) The temperature of the gas passing the meters shall
23 be determined by the continuous use of a recording
24 thermometer installed to properly record the temperature of
25 gas flowing through the meters. The arithmetic average of the
26 temperature recorded each 24-hour day shall be used in
27 computing gas volumes. If a recording thermometer is not
28 installed, or is installed and not operating properly, an
29 average flowing temperature of 60 degrees Fahrenheit shall be
30 used in computing gas volume.

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

6 (4) The deviation of the natural gas from Boyle's Law
7 shall be determined by annual tests or at other shorter
8 intervals as found necessary in practice. The apparatus and
9 method used in making the test shall be in accordance with
10 recommendations of the National Bureau of Standards or Report
11 No. 3 of the Gas Measurement Committee of the American Gas
12 Association, or amendments thereto. The results of the tests
13 shall be used in computing the volume of gas delivered under
14 this chapter.

15 "Wellhead meter." A meter placed at a producing or
16 nonproducing site to measure the volume of natural gas severed
17 for which a wellhead meter certification has been issued.

18 "Wellhead meter certification." A report issued by an
19 accredited laboratory certifying the accuracy of a wellhead
20 meter.

21 § 1503. Imposition of tax.

22 (a) Establishment.--There is levied a privilege tax on every
23 producer that severs natural gas.

24 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
25 the gross value of units severed at the wellhead during a
26 reporting period, plus 4.6¢ per unit severed.

27 § 1504. Return and payment.

28 (a) Requirement.--Every producer is required to file a
29 return with the department, on a form prescribed by the
30 department, which shall include all of the following:

1 (1) The number of natural gas units severed by the
2 producer for the reporting period.

3 (2) The number of producing sites used by the producer
4 for the severance of natural gas in each county and
5 municipality.

6 (3) The amount of tax due under section 1503 (relating
7 to imposition of tax).

8 (b) Filing.--The return required by subsection (a) shall be
9 filed with the department within 15 days following the end of a
10 reporting period.

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

14 § 1505. Natural gas severance tax registration.

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

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

24 (a.2) Declaration.--The producer shall include in its
25 application a declaration of all producing sites and
26 nonproducing sites used by the producer for the severance of
27 natural gas. The declaration shall include copies of wellhead
28 meter certifications for each site. The producer is required to
29 update the declaration when the producer adds or removes a
30 producing site or nonproducing site in this Commonwealth or when

1 there is a change in the status of a producing site or
2 nonproducing site or when the producer uses a different
3 accredited laboratory to issue a wellhead meter certification.
4 The producer shall update the declaration within 30 days after a
5 calendar month in which a change to the declaration occurs.

6 (b) Issuance.--Except as provided in subsection (c), after
7 the receipt of an application, the department shall issue a
8 registration certificate under subsection (a). The registration
9 certificate shall be nonassignable. All registrants shall be
10 required to renew their registration certificates and wellhead
11 meter certifications on a staggered renewal system established
12 by the department. After the initial staggered renewal period, a
13 registration certificate or a wellhead meter certification
14 issued shall be valid for a period of five years.

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

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

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

25 (e) Failure to obtain registration certificate.--Failure to
26 obtain or hold a valid registration certificate does not relieve
27 a person from liability for the tax imposed by this chapter.
28 § 1505.1. Meters.

29 A producer shall provide for and maintain a discrete wellhead
30 meter where natural gas is severed. A producer shall ensure that

1 the meters are maintained according to industry standards. Any
2 wellhead meter installed after the effective date of this
3 section shall be a digital meter.

4 § 1506. Assessments.

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

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

16 § 1507. Time for assessment.

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

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

28 (c) Intent to evade.--Where no return is filed or where the
29 taxpayer files a false or fraudulent return with intent to evade
30 the tax imposed by this chapter, the assessment may be made at

1 any time.

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

9 § 1508. Extension of assessment period.

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

18 § 1509. Reassessments.

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

23 § 1510. Interest.

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

27 § 1511. Penalties.

28 The department shall enforce the following penalties:

29 (1) A penalty against a producer without a natural gas
30 severance tax registration certificate. The penalty shall be

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

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

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

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

18 § 1512. Criminal acts.

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

25 (b) Other crimes.--

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

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

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

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

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

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

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

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

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

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

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

24 § 1513. Abatement of additions or penalties.

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

1 § 1514. Bulk and auction sales.

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

11 § 1515. Collection upon failure to request reassessment, review
12 or appeal.

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

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

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

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

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

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

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

27 (b) Prohibition.--In a case for the collection of taxes
28 under subsection (a), the taxpayer against whom they were
29 assessed shall not be permitted to set up a ground of defense
30 that might have been determined by the department, the Board of

1 Finance and Revenue or the courts, provided that the defense of
2 failure of the department to mail notice of assessment or
3 reassessment to the taxpayer and the defense of payment of
4 assessment or reassessment may be raised in proceedings for
5 collection by a motion to stay the proceedings.

6 § 1516. Tax liens.

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

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

1 become subject, but shall be subordinate to mortgages and other
2 liens existing and duly recorded or entered of record prior to
3 the recording of the lien.

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

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

1 both.

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

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

23 § 1517. Tax suit reciprocity.

24 The courts of this Commonwealth shall recognize and enforce
25 liabilities for natural gas severance or extraction taxes
26 lawfully imposed by any other state, provided that the other
27 state recognizes and enforces the tax imposed under this
28 chapter.

29 § 1518. Service.

30 A producer is deemed to have appointed the Secretary of the

1 Commonwealth its agent for the acceptance of service of process
2 or notice in a proceeding for the enforcement of the civil
3 provisions of this chapter and service made upon the Secretary
4 of the Commonwealth as agent shall be of the same legal force
5 and validity as if the service had been personally made upon the
6 producer. Where service cannot be made upon the producer in the
7 manner provided by other laws of this Commonwealth relating to
8 service of process, service may be made upon the Secretary of
9 the Commonwealth. In that case, a copy of the process or notice
10 shall be personally served upon any agent or representative of
11 the producer who may be found within this Commonwealth or, where
12 no agent or representative may be found, a copy of the process
13 or notice shall be sent via registered mail to the producer at
14 the last known address of its principal place of business, home
15 office or residence.

16 § 1519. Refunds.

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

1 amending it to a petition for refund where the petitioner paid
2 the tax assessed.

3 § 1520. Refund petition.

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

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

22 § 1521. Rules and regulations.

23 The department is charged with the enforcement of the
24 provisions of this chapter and is authorized and empowered to
25 prescribe, adopt, promulgate and enforce rules and regulations
26 not inconsistent with the provisions of this chapter relating to
27 any matter or thing pertaining to the administration and
28 enforcement of the provisions of this chapter and the collection
29 of taxes, penalties and interest imposed by this chapter. The
30 department may prescribe the extent, if any, to which any of the

1 rules and regulations shall be applied without retroactive
2 effect.

3 § 1522. Recordkeeping.

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

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

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

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

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

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

1 out-of-State audit expenses.

2 (c) Keeping of separate records.--A producer who is engaged
3 in another business or businesses which do not involve the
4 severing of natural gas taxable under this chapter shall keep
5 separate books and records of the businesses so as to show the
6 taxable severing of natural gas under this chapter separately
7 from other business activities not taxable hereunder. If any
8 person fails to keep separate books and records, the person
9 shall be liable for a penalty equaling 100% of tax due under
10 this chapter for the period where separate records were not
11 maintained.

12 § 1523. Examinations.

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

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

3 § 1524. Unauthorized disclosure.

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

13 § 1525. Cooperation with other governments.

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

28 § 1526. Bonds.

29 (a) Taxpayer to file bond.--The department may require a
30 nonresident natural person or any foreign corporation,

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

29 (b) Securities in lieu of bond.--In lieu of the bond
30 required by this section securities approved by the department

1 or cash in a prescribed amount may be deposited. The securities
2 or cash shall be kept in the custody of the department. The
3 department may apply the securities or cash to the tax imposed
4 by this chapter and interest or penalties due without notice to
5 the depositor. The securities may be sold by the department to
6 pay the tax and/or interest or penalties due at public or
7 private sale upon five days' written notice to the depositor.

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

15 § 1527. Accounts established.

16 (a) Natural Gas Severance Tax Account.--

17 (1) The Natural Gas Severance Tax Account is established
18 as a restricted account within the General Fund.

19 (2) The proceeds of the tax imposed under section 1503
20 (relating to imposition of tax) and penalties and interest
21 imposed under this chapter, less the amounts appropriated
22 under section 1529 (relating to appropriation), shall be
23 deposited into the account.

24 (3) The money in the account shall only be used in
25 accordance with section 1528 (relating to transfers and
26 distributions).

27 (b) Local Government Services Account.--

28 (1) The Local Government Services Account is established
29 as a restricted account within the General Fund.

30 (2) The allocation under section 1528(a)(3) shall be

1 deposited into the Local Government Services Account and
2 shall be distributed as provided in section 1528(b).
3 § 1528. Transfers and distributions.

4 (a) Monthly transfers and distributions.--On the last
5 business day of each calendar month, the State Treasurer shall
6 make the following transfers and distributions of the money in
7 the Natural Gas Severance Tax Account:

8 (1) Thirty-two percent to the General Fund.

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

11 (3) Thirty-two percent to the Local Government Services
12 Account, to be further distributed by the State Treasurer
13 under subsection (c).

14 (4) One and six-tenths percent to the Hazardous Sites
15 Cleanup Fund.

16 (5) One and three-tenths percent to the Conservation
17 District Fund for distribution to county conservation
18 districts pursuant to guidelines established by the State
19 Conservation Commission.

20 (6) One and four-tenths percent to the Pennsylvania Fish
21 and Boat Commission.

22 (7) One and three-tenths percent to the Department of
23 Public Welfare to provide cash and crisis grants to low-
24 income households under the Low Income Home Energy Assistance
25 Program.

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

29 (b) Quarterly distributions.--On the last business day of
30 each period of three calendar months, the State Treasurer shall

1 make the following distributions from the money in the Local
2 Government Services Account:

3 (1) Thirty percent to counties with producing sites to
4 be used as provided in subsection (c). The money under this
5 subparagraph shall be distributed to each eligible county
6 based on the following formula:

7 (i) Divide:

8 (A) the number of producing sites in the county;

9 by

10 (B) the total number of producing sites in all
11 of the counties in this Commonwealth.

12 (ii) Multiply:

13 (A) the quotient under subparagraph (i); by

14 (B) the amount of money available for
15 distribution under this paragraph.

16 (2) Forty-five percent to municipalities with producing
17 sites. Subject to paragraph (3), the money under this
18 paragraph shall be distributed to each eligible municipality
19 based on the following formula:

20 (i) Divide:

21 (A) the number of producing sites in the
22 municipality; by

23 (B) the total number of producing sites in all
24 municipalities in this Commonwealth.

25 (ii) Multiply:

26 (A) the quotient under subparagraph (i); by

27 (B) the amount of money available for
28 distribution under this paragraph.

29 (3) All of the following apply to the distribution under
30 paragraph (2):

1 (i) The amount distributed to a municipality shall
2 not exceed 50% of the municipality's total budget for
3 fiscal year 2011-2012, adjusted for inflation in
4 subsequent years by an amount not to exceed an annual
5 cost-of-living adjustment calculated by applying the
6 Annual Percent Change in the Consumer Price Index for all
7 Urban Consumers immediately prior to the date the
8 adjustment is due to take effect. The amount distributed
9 under this subparagraph shall be used for the following
10 purposes:

11 (A) Reconstruction, maintenance and repair of
12 municipal roadways and bridges, which the
13 municipality has determined have been or are being
14 used extensively to transport natural gas or
15 equipment related to the production of natural gas.

16 (B) Preservation and improvement of municipal
17 water supplies.

18 (C) Maintenance and capital improvements to
19 municipal waste and sewage systems.

20 (D) Preservation and reclamation of the surface
21 waters of the municipality.

22 (E) Other lawful purposes reasonably related to
23 the health, welfare and safety consequences of
24 severing natural gas in the municipality.

25 (ii) Any funds not distributed to the municipalities
26 in a county because of the budgetary limitations under
27 subparagraph (i) shall be distributed to the county to be
28 used solely for grants to municipalities to defer the
29 cost of regional cooperation endeavors undertaken by the
30 municipalities within the county.

1 (4) Fifteen percent to municipalities with no producing
2 sites located in a county with producing sites. Subject to
3 paragraph (5), the money under this paragraph shall be
4 distributed to each eligible municipality based on the
5 following formula:

6 (i) Divide:

7 (A) the number of producing sites in the county;

8 by

9 (B) the total number of producing sites in all
10 counties in this Commonwealth.

11 (ii) Multiply:

12 (A) the quotient under subparagraph (i); by

13 (B) the amount of money available for
14 distribution under this paragraph.

15 (5) All of the following apply to the distribution under
16 paragraph (4):

17 (i) Subject to the limitation in subparagraph (ii),
18 the State Treasurer shall distribute an equal share to
19 each eligible municipality within the same county.

20 (ii) The amount distributed to a municipality shall
21 not exceed 50% of the municipality's total budget for
22 fiscal year 2011-2012, adjusted for inflation in
23 subsequent years by an amount not to exceed an annual
24 cost-of-living adjustment calculated by applying the
25 Annual Percent Change in the Consumer Price Index for all
26 Urban Consumers immediately prior to the date the
27 adjustment is due to take effect. The amount distributed
28 under this subparagraph shall be used for the following
29 purposes:

30 (A) Reconstruction, maintenance and repair of

1 municipal roadways and bridges, which the
2 municipality has determined have been or are being
3 used extensively to transport natural gas or
4 equipment related to the production of natural gas.

5 (B) Preservation and improvement of municipal
6 water supplies.

7 (C) Maintenance and capital improvements to
8 municipal waste and sewage systems.

9 (D) Preservation and reclamation of surface
10 waters of the municipality.

11 (E) Other lawful purposes reasonably related to
12 the health, welfare and safety consequences of
13 severing natural gas in municipalities within the
14 county.

15 (iii) Any funds not distributed to the
16 municipalities in a county because of the budgetary
17 limitations under subparagraph (ii) shall be distributed
18 to the county to be used solely for grants to
19 municipalities to defer the cost of regional cooperation
20 endeavors undertaken by the municipalities within the
21 county.

22 (6) Ten percent to the Pennsylvania Emergency Management
23 Agency to be distributed to fire and ambulance services in
24 counties with producing sites in accordance with the
25 procedures established in 35 Pa.C.S. Ch. 78 (relating to
26 grants to volunteer fire companies and volunteer services).

27 (7) Only producing sites and nonproducing sites on which
28 the tax is levied under section 1503(a) (relating to
29 imposition of tax) during the three-month period for which
30 transfers and distributions are made shall be included in any

1 of the calculations made under paragraphs (1), (2) and (4)
2 for that three-month period.

3 (c) Distributions to counties.--

4 (1) The governing body of counties receiving
5 distributions under subsection (b)(1) shall administer the
6 funds received. The governing body shall give priority to the
7 reconstruction, repair and maintenance of county roadways and
8 bridges, which the governing body has determined have been or
9 are being used to transport natural gas or equipment related
10 to the production of natural gas. The governing body shall
11 allocate the remainder to the county or its municipalities
12 for any of the purposes enumerated in subsection (b)(3) or
13 (5). A simple majority vote of all of the members of the
14 governing body shall be required for any action under this
15 paragraph.

16 (2) Commencing in 2013, before February 1, each county
17 receiving distributions under subsection (b)(1) shall prepare
18 and deliver a report to the Governor, the Secretary of the
19 Senate and the Chief Clerk of the House of Representatives
20 detailing the expenditure of funds. The Department of
21 Community and Economic Development shall have the authority
22 to audit a county's use of such funds and each county
23 receiving funds shall make their financial records and other
24 documents relating to its use of funds available to the
25 department.

26 (d) Distributions to municipalities.--

27 (1) Commencing in 2013, before February 1, each
28 municipality receiving distributions under subsection (b)(2)
29 or (4) shall prepare and deliver a report to the Governor,
30 the Secretary of the Senate and the Chief Clerk of the House

1 of Representatives detailing the expenditure of funds.

2 (2) The Department of Community and Economic Development
3 shall have the authority to audit a municipality's use of the
4 funds. Each municipality receiving funds shall make financial
5 records and other documents relating to its use of the funds
6 available to to the Department of Community and Economic
7 Development.

8 (e) Administration.--The department shall make the
9 calculations required for the transfers and distributions under
10 this section and shall submit the calculations to the State
11 Treasurer in sufficient time for the State Treasurer to make the
12 transfers and distributions as required by this section.

13 § 1529. Appropriation.

14 The amount of the proceeds from the tax imposed by this
15 chapter as shall be necessary for the payment of refunds,
16 enforcement or administration under this chapter is hereby
17 appropriated to the department for those purposes.

18 Section 2. This act shall take effect immediately.