
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 833 Session of
2011

INTRODUCED BY GEORGE, HANNA, DEASY, BRADFORD, BRENNAN, BRIGGS,
CALTAGIRONE, CARROLL, DALEY, DeLUCA, DePASQUALE, DeWEESE,
FABRIZIO, FRANKEL, FREEMAN, GOODMAN, HARKINS, HORNAMAN,
JOHNSON, JOSEPHS, KAVULICH, KORTZ, KULA, MAHONEY, McGEEHAN,
MULLERY, MUNDY, MURPHY, M. O'BRIEN, PASHINSKI, PAYTON,
READSHAW, SANTARSIERO, SHAPIRO, K. SMITH, STABACK, STURLA,
VITALI, WAGNER, WATERS AND YOUNGBLOOD, MARCH 1, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 1, 2011

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, imposing a tax on the
3 extraction of natural gas; providing for natural gas
4 severance registration certificate, for duties of the
5 Department of Revenue, for tax assessments and tax liens;
6 imposing penalties; providing for service of process, for
7 rulemaking, for cooperation with other governments and for
8 bonds; establishing the Natural Gas Severance Tax Account,
9 the Local Government Services Account and the Oil and Gas
10 Environmental Disaster Recovery Account; providing for the
11 establishment, implementation and administration of the
12 Marcellus Shale Job Creation Tax Credit; imposing additional
13 duties on the Department of Community and Economic
14 Development; and making an appropriation.

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

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

19 CHAPTER 15

20 SEVERANCE TAX

21 Sec.

- 1 1501. Short title of chapter.
- 2 1502. Definitions.
- 3 1503. Imposition of tax.
- 4 1503.1. Natural gas base rate adjustment.
- 5 1504. Return and payment.
- 6 1505. Natural gas severance tax registration.
- 7 1505.1. Meters.
- 8 1506. Assessments.
- 9 1507. Time for assessment.
- 10 1508. Extension of assessment period.
- 11 1509. Reassessments.
- 12 1510. Interest.
- 13 1511. Penalties.
- 14 1512. Criminal acts.
- 15 1513. Abatement of additions or penalties.
- 16 1514. Bulk and auction sales.
- 17 1515. Collection upon failure to request reassessment, review
18 or appeal.
- 19 1516. Tax liens.
- 20 1517. Tax suit reciprocity.
- 21 1518. Service.
- 22 1519. Refunds.
- 23 1520. Refund petition.
- 24 1521. Rules and regulations.
- 25 1522. Recordkeeping.
- 26 1523. Examinations.
- 27 1524. Unauthorized disclosure.
- 28 1525. Cooperation with other governments.
- 29 1526. Bonds.
- 30 1527. Accounts established.

1 1528. Transfers and distributions.

2 1529. Appropriation.

3 § 1501. Short title of chapter.

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

6 § 1502. Definitions.

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

10 "Account." The Natural Gas Severance Tax Account established
11 under section 1527.

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 adjustment index." The amount calculated under
20 section 1503(b) (relating to imposition of tax) by which the
21 rate of the tax imposed under section 1503(a) is adjusted
22 annually.

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

1 "Municipality." A city, borough, incorporated town or
2 township.

3 "Natural gas." A fossil fuel consisting of a mixture of
4 hydrocarbon gases, primarily methane, possibly including ethane,
5 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
6 hydrogen sulfide and other gas species. The term includes
7 natural gas from oil fields known as associated gas or casing
8 head gas, natural gas fields known as nonassociated gas, coal
9 beds, shale beds and other formations. The term does not include
10 "coalbed methane" which, for the purpose of this chapter, shall
11 mean gas which can be produced from coal beds, coal seams, mined
12 out areas or gob wells.

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 period of three successive calendar

1 months beginning with the first day of July and ending on the
2 30th day of September and each succeeding three successive
3 calendar months.

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

5 "Sever," "severing" or "severance." The extraction or other
6 removal of natural gas from the soil or water of this
7 Commonwealth.

8 "Storage field." A natural formation or other site that is
9 used to store natural gas that did not originate from the
10 storage field and has been injected into the formation or site.

11 "Stripper well." A producing site or a nonproducing site
12 that is not capable of producing and does not produce more than
13 60,000 cubic feet of natural gas per day.

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

15 "Taxpayer." A person subject to the tax imposed by this
16 chapter.

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

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

27 (2) The temperature of the gas passing the meters shall
28 be determined by the continuous use of a recording
29 thermometer installed to properly record the temperature of
30 gas flowing through the meters. The arithmetic average of the

1 temperature recorded each 24-hour day shall be used in
2 computing gas volumes. If a recording thermometer is not
3 installed, or if installed and not operating properly, an
4 average flowing temperature of 60 degrees Fahrenheit shall be
5 used in computing gas volume.

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

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

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

23 "Wellhead meter certification." A report issued by an
24 accredited laboratory certifying the accuracy of a wellhead
25 meter.

26 § 1503. Imposition of tax.

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

29 (a.1) Stripper wells.--The tax shall not be imposed on units
30 severed from a stripper well unless the following are true:

1 (1) The stripper well is one of multiple producing sites
2 or nonproducing sites, the combined volumes of gas produced
3 by all of which sites are measured by a single wellhead meter
4 as provided in section 1505.1 (relating to meters).

5 (2) The combined volumes of gas produced by all the
6 producing sites or nonproducing sites described in paragraph
7 (1) is more than 60,000 cubic feet of natural gas per day.

8 (a.2) Exemptions.--The tax shall not be imposed on the
9 following:

10 (1) units severed, sold and delivered by a producer at
11 or within five miles of the producing site for the processing
12 or manufacture of tangible personal property, as defined
13 under section 201 of the act of March 4, 1971 (P.L.6, No.2),
14 known as the Tax Reform Code of 1971, within this
15 Commonwealth; or

16 (2) units provided free of charge to the owner of the
17 surface under which the gas is severed if the surface owner
18 is the end user of the gas.

19 (b) Rate.--Subject to the provisions of section 1503.1, the
20 rate shall be 30¢ per unit severed at the wellhead.

21 § 1503.1. Natural gas base rate adjustment.

22 (a) Annual adjustment.--The rate of tax imposed under
23 section 1503 (relating to imposition of tax) shall be adjusted
24 annually by the amount of the base rate adjustment index as
25 calculated under subsection (c), provided that the tax rate
26 shall never be less than 30¢ per unit severed. The adjusted tax
27 rate shall be effective for the next year.

28 (b) Determination of adjustment.--On or before April 30 of
29 each year following the effective date of this section, the
30 secretary shall calculate and determine the amount of the base

1 rate adjustment index.

2 (c) Calculation of adjustment.--The base rate adjustment
3 index shall be determined as follows:

4 (1) If 5% of the average of the New York Mercantile
5 Exchange (NYMEX) Henry Hub settled prices on the last trading
6 day of each month, as reported by the Wall Street Journal for
7 the previous 12-month period ending March 31, is less than
8 30¢, the base rate adjustment index shall be zero and the
9 adjusted tax rate shall be 30¢.

10 (2) If 5% of the average of the NYMEX Henry Hub settled
11 prices on the last trading day of each month, as reported by
12 the Wall Street Journal for the previous 12-month period
13 ending March 31, is greater than 30¢, the base rate
14 adjustment index shall be 50% of the difference between 5% of
15 the average of the NYMEX Henry Hub settled prices on the last
16 trading day of each month, as reported in the Wall Street
17 Journal for the previous 12-month period ending March 31, and
18 30¢. The adjusted tax rate shall be the resulting base rate
19 adjustment index plus 30¢.

20 (d) Publication of adjustment.--The secretary shall forward
21 the amount of the base rate adjustment index and the adjusted
22 tax rate, as determined under subsection (c), to the Legislative
23 Reference Bureau for publication in the Pennsylvania Bulletin by
24 May 1 of each year and shall simultaneously provide the
25 information to producers as required by written notice. Failure
26 of the amount of the base rate adjustment index and the adjusted
27 tax rate to be published or provided to producers as required by
28 this subsection shall not affect the effectiveness of the
29 adjusted tax rate under subsection (b).

30 (e) Discontinuance of data.--If publication of the NYMEX

1 Henry Hub average monthly gas price data is discontinued, the
2 tax rate then in effect shall not be adjusted until a comparable
3 method for determining the base rate adjustment index is adopted
4 by the General Assembly in legislation.

5 (f) Other adjustments.--If the base data of the NYMEX Henry
6 Hub average monthly gas price is substantially revised, the
7 secretary shall, when determining the amount of the base rate
8 adjustment index under subsection (c), make appropriate changes
9 to ensure that the base rate adjustment index is reasonably
10 consistent with the result which would have been attained had
11 such substantial revision not been made. If the secretary is
12 unable to make reasonable changes sufficient to ensure a
13 consistent result, the tax rate then in effect shall not be
14 adjusted until a comparable method for determining the base rate
15 adjustment index is adopted by the General Assembly in
16 legislation.

17 (g) Application of rate determinations.--The provisions of
18 this section shall affect only the determination of the rate of
19 the tax on the severance units of natural gas imposed in section
20 1503. The provisions of this section are not intended, nor shall
21 they be construed, to affect any other determination whatsoever,
22 including, but not limited to, the determination of royalty due
23 under mineral leases. Notwithstanding any other provision of
24 law, the tax imposed by this chapter shall not reduce any
25 royalty payments due under mineral leases and the producer may
26 not recover any portion of the tax paid from the royalty owner
27 through other means of deduction or reallocation,
28 notwithstanding any provision in the lease, contract or
29 agreement.

30 § 1504. Return and payment.

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

4 (1) The number of severed natural gas units for each
5 reporting period.

6 (2) The number of producing sites in each county and
7 municipality.

8 (3) The amount of tax due under section 1503 (relating to
9 imposition of tax).

10 (b) Filing.--The return required by subsection (a) shall be
11 filed with the department within 50 days following the end of a
12 reporting period.

13 (c) Deadline.--The tax imposed under section 1503 is due on
14 the day the return is required to be filed and becomes
15 delinquent if not remitted to the department by that date.
16 § 1505. Natural gas severance tax registration.

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

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

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

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

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

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

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

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

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

29 § 1505.1. Meters.

30 (a) General rule.--Except as provided in subsection (b), a

1 producer shall provide for and maintain a discrete wellhead
2 meter where natural gas is severed. A producer shall ensure that
3 the meters are maintained according to industry standards. Any
4 wellhead meter installed after the effective date of this
5 section shall be a digital meter.

6 (b) Exception.--If a producer has multiple producing sites
7 or nonproducing sites, the combined volumes of gas produced by
8 all of which sites are measured by a single wellhead meter, the
9 producer shall not be required to provide for a discrete
10 wellhead meter at any of those producing sites or nonproducing
11 sites that is also a stripper well.

12 § 1506. Assessments.

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

17 (b) Notice.--The notice of assessment and demand for payment
18 shall be mailed to the taxpayer. The notice shall set forth the
19 basis of the assessment. The department shall send the notice of
20 assessment to the taxpayer at its registered address via
21 certified mail if the assessment increases the taxpayer's tax
22 liability by \$300. Otherwise, the notice of assessment may be
23 sent via regular mail.

24 § 1507. Time for assessment.

25 (a) Requirement.--An assessment as provided under section
26 1506 (relating to assessments) shall be made within three years
27 after the date when the return provided for by section 1504
28 (relating to return and payment) is filed or the end of the year
29 in which the tax liability arises, whichever shall occur last.
30 For the purposes of this subsection and subsection (b), a return

1 filed before the last day prescribed for the filing period shall
2 be considered as filed on the last day.

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

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

10 (d) Erroneous credit or refund.--Within three years of the
11 granting of a refund or credit or within the period in which an
12 assessment or reassessment may have been issued by the
13 department for the taxable period for which the refund was
14 granted, whichever period shall last occur, the department may
15 issue an assessment to recover a refund or credit made or
16 allowed erroneously.

17 § 1508. Extension of assessment period.

18 Notwithstanding the provisions of this chapter, the
19 assessment period may be extended in the event a taxpayer has
20 provided written consent before the expiration of the period
21 provided in section 1507 (relating to time for assessment) for a
22 tax assessment. The amount of tax due may be assessed at any
23 time within the extended period. The period may be extended
24 further by subsequent written consents made before the
25 expiration of the extended period.

26 § 1509. Reassessments.

27 A taxpayer against whom an assessment is made may petition
28 the department for a reassessment under Article XXVII of the act
29 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
30 1971.

1 § 1510. Interest.

2 The department shall assess interest on any delinquent tax at
3 the rate prescribed under section 806 of the act of April 9,
4 1929 (P.L.343, No. 176), known as The Fiscal Code.

5 § 1511. Penalties.

6 The department shall enforce the following penalties:

7 (1) A penalty against a producer without a natural gas
8 severance tax registration certificate. The penalty shall be
9 \$1 for every unit severed without a valid registration
10 certificate. The department may assess this penalty
11 separately from or in conjunction with any assessment of the
12 natural gas severance tax.

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

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

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

26 § 1512. Criminal acts.

27 (a) Fraudulent return.--Any person with intent to defraud
28 the Commonwealth, who willfully makes or causes to be made a
29 return required by this chapter which is false, is guilty of a
30 misdemeanor and shall, upon conviction, be sentenced to pay a

1 fine of not more than \$2,000 or to imprisonment for not more
2 than three years, or both.

3 (b) Other crimes.--

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

9 (i) Willfully failing to timely remit the tax to the
10 department.

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

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

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

17 (v) Refusing to permit the department or its
18 authorized agents to examine its books, records or
19 papers.

20 (vi) Knowingly make any incomplete, false or
21 fraudulent return or report.

22 (vii) Preventing or attempting to prevent the full
23 disclosure of the amount of natural gas severance tax
24 due.

25 (viii) Providing any person with a false statement
26 as to the payment of natural gas severance tax with
27 respect to any pertinent facts.

28 (ix) Making, uttering or issuing a false or
29 fraudulent statement.

30 (2) The penalties imposed by this section shall be in

1 addition to other penalties imposed by this chapter.

2 § 1513. Abatement of additions or penalties.

3 Upon the filing of a petition for reassessment or a petition
4 for refund by a taxpayer as provided under this chapter,
5 additions or penalties imposed upon the taxpayer by this chapter
6 may be waived or abated in whole or in part where the petitioner
7 establishes that he acted in good faith, without negligence and
8 with no intent to defraud.

9 § 1514. Bulk and auction sales.

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

19 § 1515. Collection upon failure to request reassessment, review
20 or appeal.

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

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

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

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

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

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

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

5 (b) Prohibition.--In a case for the collection of taxes
6 under subsection (a), the taxpayer against whom they were
7 assessed shall not be permitted to set up a ground of defense
8 that might have been determined by the department, the Board of
9 Finance and Revenue or the courts, provided that the defense of
10 failure of the department to mail notice of assessment or
11 reassessment to the taxpayer and the defense of payment of
12 assessment or reassessment may be raised in proceedings for
13 collection by a motion to stay the proceedings.

14 § 1516. Tax liens.

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

1 (b) Priority of lien and effect on judicial sale.--Except
2 for the costs of the sale and the writ upon which the sale was
3 made and real estate taxes and municipal claims against the
4 property, a lien imposed under this section shall have priority
5 from the date of its recording and shall be fully paid and
6 satisfied out of the proceeds of any judicial sale of property
7 subject to the lien, before any other obligation, judgment,
8 claim, lien or estate to which the property may subsequently
9 become subject, but shall be subordinate to mortgages and other
10 liens existing and duly recorded or entered of record prior to
11 the recording of the lien.

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

1 business by the taxpayer against whom the lien has been entered,
2 unless and until a writ of execution has been issued and a levy
3 made upon said stock of goods, wares and merchandise.

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

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

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

1 § 1517. Tax suit reciprocity.

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

6 § 1518. Service.

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

23 § 1519. Refunds.

24 Under Article XXVII of the act of March 4, 1971 (P.L.6,
25 No.2), known as the Tax Reform Code of 1971, the department
26 shall refund all taxes, interest and penalties paid to the
27 Commonwealth under the provisions of this chapter to which the
28 Commonwealth is not rightfully entitled. The refunds shall be
29 made to the person or the person's heirs, successors, assigns or
30 other personal representatives who paid the tax, provided that

1 no refund shall be made under this section regarding a payment
2 made by reason of an assessment where a taxpayer has filed a
3 petition for reassessment under section 2702 of the Tax Reform
4 Code of 1971 to the extent the petition is adverse to the
5 taxpayer by a decision which is no longer subject to further
6 review or appeal. Nothing in this chapter shall prohibit a
7 taxpayer who has filed a timely petition for reassessment from
8 amending it to a petition for refund where the petitioner paid
9 the tax assessed.

10 § 1520. Refund petition.

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

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

29 § 1521. Rules and regulations.

30 The department is charged with the enforcement of the

1 provisions of this chapter and is authorized and empowered to
2 prescribe, adopt, promulgate and enforce rules and regulations
3 not inconsistent with the provisions of this chapter relating to
4 any matter or thing pertaining to the administration and
5 enforcement of the provisions of this chapter and the collection
6 of taxes, penalties and interest imposed by this chapter. The
7 department may prescribe the extent, if any, to which any of the
8 rules and regulations shall be applied without retroactive
9 effect.

10 § 1522. Recordkeeping.

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

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

22 (1) Wellhead meter charts for each reporting period and
23 the meter calibration and maintenance records. If turbine
24 meters are in use, the maintenance records will be made
25 available to the department upon request.

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

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

1 (b) Records of nonresidents.--A nonresident who does
2 business in this Commonwealth as a producer shall keep adequate
3 records of the business and of the tax due as a result. The
4 records shall be retained within this Commonwealth unless
5 retention outside this Commonwealth is authorized by the
6 department. The department may require a taxpayer who desires to
7 retain records outside this Commonwealth to assume reasonable
8 out-of-State audit expenses.

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

19 § 1523. Examinations.

20 The department or any of its authorized agents are authorized
21 to examine the books, papers and records of any taxpayer in
22 order to verify the accuracy and completeness of any return made
23 or, if no return was made, to ascertain and assess the tax
24 imposed by this chapter. The department may require the
25 preservation of all books, papers and records for any period
26 deemed proper by it but not to exceed three years from the end
27 of the calendar year to which the records relate. Every taxpayer
28 is required to give to the department or its agent the means,
29 facilities and opportunity for examinations and investigation
30 under this section. The department is further authorized to

1 examine any person, under oath, concerning the taxable severing
2 of natural gas by any taxpayer or concerning any other matter
3 relating to the enforcement or administration of this chapter,
4 and to this end may compel the production of books, papers and
5 records and the attendance of all persons whether as parties or
6 witnesses whom it believes to have knowledge of relevant
7 matters. The procedure for the hearings or examinations shall be
8 the same as that provided by the act of April 9, 1929 (P.L.343,
9 No. 176), known as The Fiscal Code.

10 § 1524. Unauthorized disclosure.

11 Any information gained by the department as a result of any
12 return, examination, investigation, hearing or verification
13 required or authorized by this chapter shall be confidential
14 except for official purposes and except in accordance with
15 proper judicial order or as otherwise provided by law, and any
16 person unlawfully divulging the information shall be guilty of a
17 misdemeanor and shall, upon conviction, be sentenced to pay a
18 fine of not more than \$1000 and costs of prosecution or to
19 imprisonment for not more than one year, or both.

20 § 1525. Cooperation with other governments.

21 Notwithstanding the provisions of section 1517 (relating to
22 tax suit reciprocity), the department may permit the
23 Commissioner of the Internal Revenue Service of the United
24 States, the proper officer of any state or the authorized
25 representative of either of them to inspect the tax returns of
26 any taxpayer, or may furnish to the commissioner or officer or
27 to either of their authorized representative an abstract of the
28 return of any taxpayer, or supply him with information
29 concerning any item contained in any return or disclosed by the
30 report of any examination or investigation of the return of any

1 taxpayer. This permission shall be granted only if the laws of
2 the United States or another state grant substantially similar
3 privileges to the proper officer of the Commonwealth charged
4 with the administration of this chapter.

5 § 1526. Bonds.

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

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

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

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

22 § 1527. Accounts established.

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

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

26 (2) The proceeds of the tax imposed under section 1503
27 (relating to imposition of tax), penalties and interest
28 imposed under this chapter, less the amounts appropriated
29 under section 1529 (relating to appropriation), shall be
30 deposited into the account.

1 (3) The money in the account shall only be used in
2 accordance with section 1528 (relating to administration of
3 fund).

4 (b) Local Government Services Account.--

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

7 (2) The allocation under section 1528 shall be deposited
8 into the Local Government Services Account and shall be
9 distributed as provided by law.

10 (c) Oil and Gas Environmental Disaster Recovery Account.--

11 (1) The Oil and Gas Environmental Disaster Recovery
12 Account is established as a restricted account within the
13 General Fund.

14 (2) The money in the account shall only be used to
15 provide moneys to fund recovery costs associated with an
16 environmental disaster occurring as a result of oil and gas
17 drilling within this Commonwealth and shall only be expended
18 by special appropriation by the General Assembly.

19 § 1528. Transfers and distributions.

20 On the first business day of July each fiscal year, the State
21 Treasurer shall make the following transfers and distributions
22 of the money in the Natural Gas Severance Tax Account
23 established under section 1527(a) (relating to accounts
24 established):

25 (1) Thirty-five percent to the Local Government Services
26 Account established under section 1527(b), to be further
27 distributed by the State Treasurer as follows:

28 (i) Thirty percent to counties with producing sites.

29 The money under this subparagraph shall be distributed to
30 each eligible county based on a formula that divides the

1 number of producing sites in the county by the total
2 number of producing sites in all the counties in this
3 Commonwealth with the resulting percentage multiplied
4 times the money available for distribution.

5 (ii) Forty percent to municipalities with producing
6 sites. The money under this subparagraph shall be
7 distributed to each eligible municipality based on a
8 formula that divides the number of producing sites in the
9 municipality by the total number of producing sites in
10 all municipalities in this Commonwealth with the
11 resulting percentage multiplied times the money available
12 for distribution.

13 (iii) Twenty percent to municipalities with no
14 producing sites located in a county with producing sites.
15 The money under this subparagraph shall be distributed to
16 each eligible municipality based on a formula that
17 divides the number of producing sites in the county by
18 the total number of producing sites in all counties in
19 this Commonwealth with the resulting percentage
20 multiplied times the money available for distribution.
21 The State Treasurer shall distribute an equal share to
22 each eligible municipality within the same county.

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

29 (v) Only producing sites on which the tax is levied
30 under section 1503(a) (relating to imposition of tax)

1 shall be included in any of the calculations made under
2 this paragraph.

3 (2) Twenty percent to the Pennsylvania Infrastructure
4 Investment Authority. The funds under this paragraph shall be
5 used solely for the construction or upgrade of wastewater
6 treatment plants. Fifty percent of the money received under
7 this paragraph shall be used for wastewater treatment plants
8 that treat water from hydraulic fracturing during gas
9 drilling.

10 (3) Fifteen percent to the Environmental Stewardship
11 Fund.

12 (4) Ten percent to the Department of Transportation for
13 the reconstruction, maintenance and repair of State roadways
14 and bridges affected by Marcellus Shale gas drilling
15 activities. The funds under this paragraph shall be allocated
16 in addition to any funds normally and customarily allocated
17 to the reconstruction, maintenance and repair of roadways and
18 bridges by the Department of Transportation.

19 (5) Six percent to the Liquid Fuels Tax Fund for the
20 reconstruction, maintenance and repair of State roadways and
21 bridges. The funds under this paragraph shall be:

22 (i) Allocated in addition to and not in lieu of any
23 funds normally and customarily allocated to the
24 reconstruction, maintenance and repair of roads and
25 bridges by the Department of Transportation.

26 (ii) Distributed equally among all the 67 counties
27 of this Commonwealth.

28 (6) Three percent to the Conservation District Fund for
29 distribution to county conservation districts pursuant to
30 guidelines established by the State Conservation Commission.

1 § 3101. Definitions.

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

5 "Base period." As follows:

6 (1) Except as set forth in paragraph (2), the three
7 years immediately preceding the date on which a company may
8 begin creating new jobs which may be eligible for job
9 creation tax credits.

10 (2) If a company has been in business in this
11 Commonwealth for less than three years, the period which it
12 has been in business in this Commonwealth.

13 "Department." The Department of Community and Economic
14 Development of the Commonwealth.

15 "Job creation tax credits." Tax credits for job creation for
16 which the department has issued a certificate under this
17 chapter.

18 "New job." A full-time job, the average hourly rate,
19 excluding benefits, for which must be at least 350% of the
20 Federal minimum wage, created within a municipality located in
21 this Commonwealth by a company within three years from the start
22 date. The term includes a job which was previously held by a
23 nonresident and is filled by a resident. The term does not
24 include a temporary or seasonal job.

25 "Nonresident." An individual who does not reside in this
26 Commonwealth.

27 "Qualified apprenticeship training program." A program
28 registered with the Apprenticeship and Training council within
29 the Department of Labor and Industry that is in compliance with
30 applicable Federal and State laws and regulations and which

1 requires at least 2,000 but not more than 10,000 hours of on-
2 the-job apprenticeship training.

3 "Resident." Any natural person who is considered a resident
4 of this Commonwealth under the act of March 4, 1971 (P.L.6,
5 No.2), known as the Tax Reform Code of 1971.

6 "Start date." The date on which a company may begin creating
7 new jobs which may be eligible for job creation tax credits.

8 "Year one." A one-year period immediately following the
9 start date.

10 "Year three." A one-year period immediately following the
11 end of year two.

12 "Year two." A one-year period immediately following the end
13 of year one.

14 § 3102. Eligibility.

15 In order to be eligible to receive job creation tax credits
16 under this chapter, a company must demonstrate to the department
17 the following:

18 (1) The company's financial stability and the project's
19 financial viability.

20 (2) The company's express intent to maintain operations
21 in this Commonwealth for a period of five years from the date
22 the company submits its tax credit certificate to the
23 Department of Revenue.

24 (3) The company is in conformity with industry laws and
25 regulations overseen and enforced by the Department of
26 Environmental Protection.

27 § 3103. Application process.

28 (a) Application.--A company must complete and submit to the
29 department a job creation tax credit application along with a
30 copy of the permit issued by the Department of Environmental

1 Protection providing that the company has obtained the necessary
2 permit allowing the company to drill in this Commonwealth or a
3 statement from the Department of Environmental Protection
4 stating the same. The Department of Environmental Protection
5 shall notify the Department of Labor and Industry, the
6 Department of Revenue and the department upon suspension or
7 revocation of drilling permits or other changes that affect the
8 company's ability to continuously drill in this Commonwealth.

9 (b) Applicant priority.--The department shall give priority
10 to eligible applicants that will place the following workers in
11 new jobs:

12 (1) Workers who have completed a qualified
13 apprenticeship training program or a job training program
14 approved by the Department of Labor and Industry.

15 (2) Dislocated workers under the act of December 18,
16 2001 (P.L.949, No.114), known as the Workforce Development
17 Act, who meet any one of the following conditions:

18 (i) Have been terminated or laid off or have
19 received notice of termination or layoff, and are
20 eligible for or have exhausted unemployment compensation
21 benefits.

22 (ii) Are unlikely to return to the industry or
23 occupation in which the individuals were employed.

24 (iii) Have been terminated or received notice of
25 termination as a result of the permanent closure or
26 relocation of a plant, facility or plant operation in
27 which the individuals were employed.

28 (iv) Are chronically unemployed.

29 (v) Have limited opportunities of employment in the
30 geographic area in which the individuals reside.

1 (vi) Are individuals who may face substantial
2 barriers to employment because of age or disability.

3 (3) Workers who have been unemployed for at least six
4 months.

5 (4) Underemployed workers who require skill training to
6 meet industry demands or increase employment opportunities.

7 (c) Approval.--If the department approves the company's
8 application, the department and the company shall execute a
9 commitment letter containing the following:

10 (1) A description of the project.

11 (2) The number of new jobs to be created.

12 (3) The amount of private capital investment in the
13 project.

14 (4) The maximum job creation tax credit amount the
15 company may claim.

16 (5) A signed statement that the company intends to
17 maintain its operation in this Commonwealth for five years
18 from the start date.

19 (6) A signed statement from the company that the company
20 will provide to the department a list of workers which
21 satisfies the requirements of subsection (b) for which the
22 company will claim tax credit, including documentation of
23 each worker's status as a resident of this Commonwealth.

24 (7) Such other information as the department deems
25 appropriate.

26 (d) Commitment letter.--After a commitment letter has been
27 signed by both the Commonwealth and the company, the company
28 shall receive a job creation tax credit certificate and filing
29 information.

30 § 3104. Tax credits.

1 (a) Maximum amount.--A company may claim a tax credit of
2 \$2,500 per new job created and up to the maximum job creation
3 tax credit amount specified in the commitment letter.

4 (b) Determination of new jobs created.--

5 (1) New jobs shall be deemed created in year one to the
6 extent that the company's average employment by quarter
7 during year one exceeds the company's average employment
8 level during the company's base period, as adjusted for any
9 job held by a nonresident during the period which is no
10 longer held by a nonresident.

11 (2) New jobs shall be deemed created in year two to the
12 extent that the company's average employment by quarter
13 during year two exceeds the company's average employment by
14 quarter during year one.

15 (3) New jobs shall be deemed created in year three to
16 the extent that the company's average employment by quarter
17 during year three exceeds the company's average employment by
18 quarter during year two.

19 (c) Applicable taxes.--A company may apply the tax credit to
20 100% of the company's corporate net income tax, capital stock
21 and franchise tax or the capital stock and franchise tax of a
22 shareholder of the company if the company is a Pennsylvania S
23 corporation, personal income tax or the personal income tax of
24 shareholders of a Pennsylvania S corporation or any combination
25 thereof.

26 (d) Tax credit term.--A company may claim the job creation
27 tax credit for each new job created, as approved by the
28 department, for a period determined by the department but not to
29 exceed five years from the date the company first submits a job
30 creation tax credit certificate.

1 (e) Availability of tax credits.--Each fiscal year,
2 \$25,000,000 in tax credits shall be made available to the
3 department and may be awarded by the department in accordance
4 with this chapter.

5 § 3105. Prohibitions.

6 The following actions with regard to job creation tax credits
7 are prohibited:

8 (1) Approval of jobs that have been created prior to the
9 start date, unless the job was held by a nonresident who has
10 been replaced by a resident.

11 (2) The assignment, transfer or use of credits by any
12 other company, provided, however, that tax credits may be
13 assigned in whole or in part to an affiliated entity. As used
14 in this paragraph, the term "affiliated entity" means an
15 entity which is part of the same "affiliated group," as
16 defined by section 1504(a) (1) of the Internal Revenue Code of
17 1986 (Public Law 99-514, 26 U.S.C. § 1504(a) (1)), as the
18 company awarded the credit.

19 § 3106. Penalties.

20 (a) Failure to create jobs.--A company which receives job
21 creation tax credits and fails to create the approved number of
22 new jobs within three years of the start date will be required
23 to refund to the Commonwealth the total amount of credit or
24 credits granted.

25 (b) Waiver.--The department may waive the penalties outlined
26 in subsection (a) if it is determined that a company's
27 operations were not maintained or the new jobs were not created
28 because of circumstances beyond the company's control. Such
29 circumstances include natural disasters or unforeseen industry
30 trends.

1 § 3107. Annual reports.

2 (a) Contents.--The department shall provide an annual report
3 on job creation tax credits which at a minimum shall include:

4 (1) A list of all job creation tax credit certificates
5 provided during the previous fiscal year.

6 (2) The name and location of each company receiving job
7 creation tax credit certificates.

8 (3) An analysis of the job creation tax credits' ability
9 to create jobs in this Commonwealth.

10 (4) Any other information that may be deemed relevant by
11 the department.

12 (b) Submission.--The annual report shall be submitted to the
13 Governor, the Majority Leader of the Senate, the Minority Leader
14 of the Senate, the Majority Leader of the House of
15 Representatives and the Minority Leader of the House of
16 Representatives by March 1 of the first full year following the
17 effective date of this section and March 1 of each year
18 thereafter.

19 § 3108. Notice of availability of tax credits.

20 The department shall publish notice of the availability of
21 the job creation tax credit on its publicly accessible Internet
22 website and make information available annually to the
23 Department of Labor and Industry Workforce Investment Board for
24 distribution to local boards.

25 Section 3. This act shall take effect in 60 days.