

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 367** Session of  
2011

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INTRODUCED BY D. WHITE, BROWNE, TOMLINSON, WAUGH, M. WHITE,  
WOZNIAK, EARLL, GREENLEAF AND SCARNATI, FEBRUARY 1, 2011

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SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
SEPTEMBER 26, 2011

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## AN ACT

1 Providing for indigenous mineral resource development; and  
2 imposing powers and duties on the Department of General  
3 Services and the State System of Higher Education.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Indigenous  
8 Mineral Resources Development Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Department." The Department of General Services of the  
14 Commonwealth.

15 "Mineral resources." Coal, oil, natural gas, coal bed  
16 methane, limestone and other valuable minerals.

17 "Right-of-way." Includes:

18 (1) a right of passage and haulage for a lawful purpose;

1           (2) a right of flowage or transmission for a lawful  
2           purpose; or

3           (3) the construction, operation and maintenance of  
4           infrastructure necessary to facilitate a lawful purpose.

5           "State-owned land." Land owned by the Commonwealth. The term  
6           does not include land owned and administered by the Department  
7           of Conservation and Natural Resources, the Pennsylvania Fish and  
8           Boat Commission or the Pennsylvania Game Commission.

9           "State system land." Land owned by the State System of  
10          Higher Education or controlled by the State System of Higher  
11          Education pursuant to a memorandum of understanding approved by  
12          the Department of General Services.

13          "System." The State System of Higher Education of the  
14          Commonwealth.

15          Section 3. Development of mineral resources on State-owned  
16          land.

17          (a) Authority.--The department has the following powers:

18                 (1) To make and execute contracts or leases in the name  
19                 of the Commonwealth for the mining or removal of valuable  
20                 mineral resources which may be found in or beneath State-  
21                 owned land and to convey Commonwealth rights to mineral  
22                 resources.

23                 (2) To grant a right-of-way through State-owned land to  
24                 any individual or corporation that applies if the department  
25                 determines that:

26                         (i) the grant will not so adversely affect the land  
27                         as to interfere with its usual and orderly  
28                         administration; and

29                         (ii) the interests of the Commonwealth or its  
30                         citizens will be promoted by the grant.

1 (3) TO COOPERATE WITH, CONSULT WITH OR DELEGATE TO THE ←  
2 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES IN CARRYING  
3 OUT THE PROVISIONS OF THIS ACT.

4 (b) Advertising.--

5 (1) A proposed contract, lease or conveyance of mineral  
6 resources exceeding \$1,000 in value must be advertised once a  
7 week for three weeks, in at least two newspapers of general  
8 circulation published nearest the locality indicated, in  
9 advance of awarding the contract or lease.

10 (2) If the proposed conveyance of the mineral resources  
11 is included in the proposed conveyance of the real property  
12 to which it is attached, the department shall comply with the  
13 advertising requirements for the conveyance of the real  
14 property.

15 (c) Bidding.--

16 (1) Except as set forth in paragraphs (2) and (3),  
17 contracts, leases and conveyances shall be awarded to the  
18 highest and best bidder. IF TITLE TO THE PROPERTY HAS ALREADY ←  
19 BEEN CONVEYED, BUT THE COMMONWEALTH HAS RESERVED THE RIGHT TO  
20 MINERAL RESOURCES, THE COMMONWEALTH MAY CONVEY THE MINERAL  
21 RESOURCES TO THE OWNER OF THE FEE WITHOUT BIDDING.

22 (2) The requirement for competitive bidding may be  
23 waived if the Commonwealth owns a fractional interest in the  
24 mineral resources in or beneath State-owned land; and the  
25 department may enter into a contract to lease that fractional  
26 interest, with the approval of the Governor and upon terms  
27 and conditions the department deems to be in the best  
28 interest of the Commonwealth.

29 (3) If a proposed conveyance of the mineral resources is  
30 included in the proposed conveyance of the real property to

1       which it is attached, the award shall be made to the selected  
2       buyer of the real property.

3       (d) Bond.--A party that enters into a contract or lease  
4       under this section must provide a bond satisfactory to the  
5       department for the proper performance of the contract or lease.  
6       Section 4. Development of mineral resources on State system  
7       land.

8       (a) Authority.--The ~~system~~ DEPARTMENT has the following  
9       powers:



10       (1) To make and execute contracts or leases in the name  
11       of the Commonwealth for the mining or removal of valuable  
12       mineral resources which may be found in or beneath State  
13       system land.

14       (2) To grant a right-of-way through State system land to  
15       any individual or corporation that applies if the system  
16       determines that:

17               (i) The grant will not so adversely affect the land  
18               as to interfere with its usual and orderly  
19               administration.

20               (ii) The interests of the Commonwealth or its  
21               citizens will be promoted by the grant.

22       (3) TO COOPERATE WITH, CONSULT WITH OR DELEGATE TO THE  
23       DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES IN CARRYING  
24       OUT THE PROVISIONS OF THIS ACT.



25       (b) Advertising.--A proposed contract or lease of mineral  
26       resources exceeding \$1,000 in value must be advertised for three  
27       weeks on the system's publicly accessible Internet website and  
28       at least once a week for three weeks, in at least two newspapers  
29       of general circulation published nearest the locality indicated,  
30       in advance of awarding the contract or lease.

1 (c) Bidding.--

2 (1) Except as set forth in paragraph (2), contracts and  
3 leases shall be awarded to the highest and best bidder.

4 (2) The requirement for competitive bidding may be  
5 waived if the Commonwealth owns a fractional interest in the  
6 mineral resources in or beneath State system land and the  
7 ~~system~~ DEPARTMENT may enter into a contract to lease that ←  
8 fractional interest, with the approval of the Governor and  
9 upon terms and conditions the ~~system~~ DEPARTMENT deems to be ←  
10 in the best interest of the Commonwealth.

11 (d) Bond.--A party that enters into a contract or lease  
12 under this section must provide a bond satisfactory to the  
13 ~~system~~ DEPARTMENT for the proper performance of the contract or ←  
14 lease.

15 Section 5. Deposit of revenue.

16 ~~(a) Payments received by department. Not less than 50% of ←~~  
17 ~~payments or royalties received by the department pursuant to a~~  
18 ~~contract or lease under this act shall be deposited into the~~  
19 ~~Environmental Stewardship Fund or the Keystone Recreation, Park~~  
20 ~~and Conservation Fund. The remaining payments received by the~~  
21 ~~department shall be deposited into the General Fund.~~

22 (A) PAYMENTS.-- ←

23 (1) ALL PAYMENTS OR ROYALTIES RECEIVED BY THE DEPARTMENT  
24 PURSUANT TO A CONTRACT OR LEASE UNDER THIS ACT, EXCEPT FOR A  
25 CONTRACT OR LEASE UNDER SECTION 4, IN FISCAL YEAR 2011-2012  
26 THROUGH FISCAL YEAR 2013-2014 SHALL BE DEPOSITED IN THE OIL  
27 AND GAS LEASE FUND.

28 (2) ALL PAYMENTS OR ROYALTIES RECEIVED BY THE DEPARTMENT  
29 PURSUANT TO A CONTRACT OR LEASE UNDER THIS ACT, EXCEPT FOR A  
30 CONTRACT OR LEASE UNDER SECTION 4, IN FISCAL YEAR 2014-2015

1 AND EACH FISCAL YEAR THEREAFTER SHALL BE DEPOSITED AS  
2 FOLLOWS:

3 (I) THE FIRST \$50,000,000 OF PAYMENTS OR ROYALTIES  
4 RECEIVED BY THE DEPARTMENT SHALL BE DEPOSITED IN THE  
5 HAZARDOUS SITES CLEANUP FUND; AND

6 (II) ALL REMAINING PAYMENTS OR ROYALTIES SHALL BE  
7 DEPOSITED IN THE OIL AND GAS LEASE FUND.

8 (3) THE COSTS INCURRED BY THE DEPARTMENT OR THE  
9 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES IN  
10 ADVERTISING AND CONTRACTING, LEASING OR CONVEYING THE MINERAL  
11 RESOURCES, INCLUDING THE FEES OF ANY SURVEY, APPRAISAL OR  
12 REPORT, SHALL BE DEDUCTED FROM PAYMENTS OR ROYALTIES, AND  
13 THAT AMOUNT SHALL BE AN EXECUTIVELY AUTHORIZED AUGMENTATION  
14 TO THE APPROPRIATION TO THE DEPARTMENT OR THE DEPARTMENT OF  
15 CONSERVATION AND NATURAL RESOURCES.

16 (b) Payments derived by system.--All payments or royalties  
17 derived from any lease entered into by the system shall be ←  
18 ~~deposited in the Keystone Recreation, Park and Conservation Fund~~ ←

19 UNDER SECTION 4 SHALL BE ALLOCATED AS FOLLOWS:

20 (1) FORTY PERCENT SHALL BE RETAINED BY THE UNIVERSITY  
21 WHERE THE MINERAL RESOURCE IS LEASED OR EXTRACTED AND SHALL  
22 BE USED BY THE UNIVERSITY FOR DEFERRED MAINTENANCE PROJECTS  
23 OR ENERGY EFFICIENCY OR ENERGY COST SAVING IMPROVEMENTS.

24 (2) SIXTY PERCENT SHALL BE ALLOCATED TO THE STATE SYSTEM  
25 OF HIGHER EDUCATION FOR DISTRIBUTION AMONG THOSE UNIVERSITIES  
26 WHERE NO MINERAL RESOURCES HAVE BEEN LEASED OR EXTRACTED. THE  
27 DISTRIBUTION FORMULA SHALL BE DETERMINED BY THE BOARD OF  
28 GOVERNORS OF THE STATE SYSTEM OF HIGHER EDUCATION. FUNDS  
29 DISTRIBUTED UNDER THIS PARAGRAPH SHALL ONLY BE USED FOR  
30 DEFERRED MAINTENANCE OR ENERGY EFFICIENCY OR ENERGY COST

1        SAVING IMPROVEMENTS.

2        Section 6.    Condition relating to surplus property.

3        Notwithstanding the provisions of section 2405-A(6) of the  
4        act of April 9, 1929 (P.L.177, No.175), known as The  
5        Administrative Code of 1929, the department may convey all oil,  
6        gas and mineral rights to the purchaser of surplus Commonwealth  
7        real property along with the conveyance of the surplus real  
8        property when done so in accordance with this act.

9        Section 7.    Effective date.

10       This act shall take effect immediately.