

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1401 Session of 2017

INTRODUCED BY DiGIROLAMO, DeLISSIO, MURT, READSHAW, DEAN, STURLA, O'BRIEN, KINSEY, FREEMAN, McNEILL, CHARLTON, DAVIS, D. COSTA, V. BROWN, DONATUCCI, PASHINSKI, SOLOMON, COMITTA, DALEY, McCARTER, SANTORA, KRUEGER-BRANEKY, GALLOWAY AND THOMAS, MAY 18, 2017

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 18, 2017

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for natural gas drilling tax investment <--
11 VOLUMETRIC SEVERANCE TAX; AND MAKING A RELATED REPEAL. <--

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. ~~The act of March 4, 1971 (P.L.6, No.2), known as <--~~
15 ~~the Tax Reform Code of 1971, is amended by adding an article to~~
16 ~~read:~~

ARTICLE XI E

NATURAL GAS DRILLING TAX INVESTMENT

PART I

NATURAL GAS DRILLING TAX

1 ~~Section 1101 E. Definitions.~~

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

5 ~~"Account." The Natural Gas Drilling Tax Restricted Account~~
6 ~~established under section 1129 E(b).~~

7 ~~"Association." A partnership, limited partnership or any~~
8 ~~other form of unincorporated enterprise owned or conducted by~~
9 ~~two or more persons.~~

10 ~~"Barrel." Forty two United States gallons at an atmospheric~~
11 ~~pressure of 231 cubic inches of liquid at a standard temperature~~
12 ~~of 60 degrees Fahrenheit.~~

13 ~~"Coal bed methane." Gas which is produced from coal beds,~~
14 ~~coal seams, mined out areas or gob wells.~~

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

20 ~~"Department." The Department of Revenue of the Commonwealth.~~

21 ~~"Dry natural gas." Hydrocarbon gases, consisting mostly of~~
22 ~~methane, that remain after the natural gas liquid portion of the~~
23 ~~natural gas stream has been removed and any volume of~~
24 ~~nonhydrocarbon gases have been removed in sufficient quantity to~~
25 ~~render the gas marketable. The term includes consumer grade~~
26 ~~natural gas or pipeline quality natural gas.~~

27 ~~"Gross proceeds." The value, whether in money or other~~
28 ~~property, actually proceeding from the sale of property, without~~
29 ~~a deduction for the cost of property sold or expenses of any~~
30 ~~kind.~~

1 ~~"Gross value." The gross proceeds received or receivable for~~
2 ~~property transferred, except as follows:~~

3 ~~(1) In a transaction involving related parties, gross~~
4 ~~proceeds of the property transferred may not be less than the~~
5 ~~fair market value of similar grade and quality property.~~

6 ~~(2) In the absence of a sale, gross proceeds of the~~
7 ~~property transferred may not be less than the fair market~~
8 ~~value of similar grade and quality property.~~

9 ~~(3) In a transaction where property is transferred for~~
10 ~~the purpose of processing and resale, gross proceeds of the~~
11 ~~property transferred may not be less than the fair market~~
12 ~~value of similar grade and quality property.~~

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

15 ~~"Natural gas." A fossil fuel consisting of a mixture of~~
16 ~~hydrocarbon gases, including methane, ethane, propane, butane,~~
17 ~~carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other~~
18 ~~gas species. The term includes natural gas from oil fields known~~
19 ~~as associated gas or casing head gas, natural gas fields known~~
20 ~~as nonassociated gas, coal beds, shale beds and other~~
21 ~~formations. The term does not include coal bed methane.~~

22 ~~"Natural gas liquids." Hydrocarbons, including ethane,~~
23 ~~propane, butane, isobutane and pentane, that are separated from~~
24 ~~natural gas as liquids through the process of absorption,~~
25 ~~condensation, adsorption, cooling in gas separators or gas~~
26 ~~processing of cycling plants.~~

27 ~~"Person." Includes a corporation, partnership, limited~~
28 ~~liability company, business trust, other association, a~~
29 ~~government entity other than the Commonwealth, estate, trust,~~
30 ~~foundation or natural person.~~

1 ~~"Producer." A person who engages or continues within this~~
2 ~~Commonwealth in the business of severing natural gas from~~
3 ~~unconventional formations for sale, profit or commercial use.~~

4 ~~"Producing site." A point of severance, including a well and~~
5 ~~its associated zones and multilateral well bores, that is~~
6 ~~capable of producing natural gas from an unconventional~~
7 ~~formation.~~

8 ~~"Related parties." Two or more people, organizations or~~
9 ~~businesses owned or controlled directly or indirectly by the~~
10 ~~same interests. Control exists if a contract or lease, either~~
11 ~~written or oral, is entered into where one party severs or~~
12 ~~processes natural gas owned or held by another party and the~~
13 ~~owner or lessor participates in the severing, processing or~~
14 ~~marketing of the natural gas or receives any value other than an~~
15 ~~arm's length passive royalty interest.~~

16 ~~"Reporting period." A calendar month in which natural gas is~~
17 ~~severed.~~

18 ~~"Sales meter." A meter at the point where natural gas is~~
19 ~~sold or transported to a purchaser or the market.~~

20 ~~"Sever." The extraction or other removal of natural gas from~~
21 ~~an unconventional formation in this Commonwealth.~~

22 ~~"Storage field." A natural formation or other site that is~~
23 ~~used to store natural gas that did not originate from and has~~
24 ~~been transplanted into the formation or site.~~

25 ~~"Stripper well." A producing site that produced an average~~
26 ~~of less than 50 units of natural gas per day during the calendar~~
27 ~~year immediately preceding a reporting period.~~

28 ~~"Tax." The tax imposed under this article.~~

29 ~~"Taxpayer." A person subject to the tax imposed by this~~
30 ~~article.~~

1 ~~"Unconventional formation." A geological shale formation~~
2 ~~existing below the base of the Elk Sandstone or its geologic~~
3 ~~equivalent stratigraphic interval where natural gas generally~~
4 ~~cannot be produced at economic flow rates or in economic volumes~~
5 ~~except by vertical or horizontal well bores stimulated by~~
6 ~~hydraulic fracture treatments or using multilateral well bores~~
7 ~~or other techniques to expose more of the formation to the well~~
8 ~~bore.~~

9 ~~"Unit." A thousand cubic feet (Mcf) of natural gas at a~~
10 ~~temperature of 60 degrees Fahrenheit and an absolute pressure of~~
11 ~~14.73 pounds per square inch, in accordance with American Gas~~
12 ~~Association (AGA) standards and according to Boyle's law for the~~
13 ~~measurement of gas under varying pressures with deviations~~
14 ~~therefrom as follows:~~

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

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

29 ~~(3) The specific gravity of the gas shall be determined~~
30 ~~by tests made by the use of an Edwards or Acme gravity~~

~~balance, annually, or at intervals as are found necessary in practice. Specific gravity shall be used in computing gas volumes.~~

~~(4) The deviation of the natural gas from Boyle's law shall be determined by tests annually or at other shorter intervals as are found necessary in practice. The apparatus and the method to be used in making the tests shall be in accordance with recommendations of the National Institute of Standards and Technology of the Department of Commerce, or Report No. 3 of the Gas Measurement Committee of the American Gas Association, or any amendments thereof. The results of the tests shall be used in computing the volume of gas delivered.~~

~~"Wellhead meter." A meter placed at a producing site to measure the actual volume of natural gas severed.~~

~~Section 1102 E. Imposition of tax.~~

~~(a) Imposition. There is hereby levied a privilege tax on every producer.~~

~~(b) Rate. The tax imposed under subsection (a) shall be the following:~~

~~(1) Three and two tenths percent of the gross value of the dry natural gas derived from the natural gas severed as shown by the gross proceeds derived from the sale by the producer.~~

~~(2) Three and two tenths percent of the gross value of the natural gas liquids derived from the natural gas severed as shown by the gross proceeds derived from the sale by the producer.~~

~~(c) Exemptions. The tax imposed under subsection (a) shall not be imposed upon the following:~~

1 ~~(1) Natural gas, dry natural gas or natural gas liquids~~
2 ~~severed under a natural gas lease and provided to a lessor~~
3 ~~for no consideration for the lessor's own use.~~

4 ~~(2) Natural gas, dry natural gas or natural gas liquids~~
5 ~~severed from a stripper well.~~

6 ~~(3) Natural gas, dry natural gas or natural gas liquids~~
7 ~~severed from a storage field.~~

8 ~~Section 1103 E. Calculation and publication of average market~~
9 ~~price.~~

10 ~~The department shall calculate the average market price per~~
11 ~~unit of natural gas for each calendar quarter. The average~~
12 ~~market price shall be the weighted average price per unit for~~
13 ~~all major Commonwealth distribution hubs on the interstate~~
14 ~~natural gas pipeline system for the three months prior to the~~
15 ~~calendar quarter. The department shall publish a notice of the~~
16 ~~average market price for each calendar quarter in the~~
17 ~~Pennsylvania Bulletin not later than 30 days of the beginning of~~
18 ~~each calendar quarter.~~

19 ~~Section 1104 E. Prohibition.~~

20 ~~A producer may not make the tax imposed under section 1102 E~~
21 ~~on natural gas severed under a natural gas lease, an obligation,~~
22 ~~indebtedness or liability of a landowner, leaseholder or other~~
23 ~~person in possession of real property upon which the removal or~~
24 ~~extraction occurs and shall not otherwise require the landowner~~
25 ~~to pay or reimburse the producer for the amount of the tax.~~

26 ~~Section 1104.1 E. Existing agreements.~~

27 ~~A provision of an agreement, which is in existence prior to~~
28 ~~the effective date of this section, which violates section 1104~~
29 ~~E is declared to be illegal, contrary to public policy and null~~
30 ~~and void.~~

1 ~~Section 1104.2 E. Future agreements.~~

2 ~~On or after the effective date of this section, a provision~~
3 ~~of an agreement in violation of section 1104 E is declared to be~~
4 ~~illegal, contrary to public policy and null and void.~~

5 ~~Section 1105 E. Return and payment.~~

6 ~~(a) Return. Each producer is required to file a return with~~
7 ~~the department, on a form to be prescribed by the department,~~
8 ~~reporting all severed natural gas per reporting period and the~~
9 ~~tax due as imposed under section 1102 E.~~

10 ~~(b) Filing. The return required by subsection (a) must be~~
11 ~~filed with the department on or before the 20th day of the~~
12 ~~fourth calendar month after a reporting period.~~

13 ~~(c) Due date. The tax imposed under section 1102 E is due~~
14 ~~on the day the return is required to be filed and becomes~~
15 ~~delinquent if not remitted to the department by that date.~~

16 ~~Section 1106 E. Natural gas severance tax licensing.~~

17 ~~(a) License required. Each producer subject to tax under~~
18 ~~this part must apply to the department for a severance tax~~
19 ~~license before severing natural gas from this Commonwealth.~~
20 ~~Producers who have been severing natural gas from this~~
21 ~~Commonwealth prior to the effective date of this part must~~
22 ~~obtain a license from the department within six months from the~~
23 ~~effective date of this part. All other producers must obtain a~~
24 ~~license before severing natural gas from this Commonwealth. A~~
25 ~~producer is liable for the tax imposed by this article without~~
26 ~~regard to whether the producer obtains or is required to obtain~~
27 ~~a license.~~

28 ~~(b) Fee. The department may charge an application fee to~~
29 ~~cover the administrative costs associated with the application~~
30 ~~and licensing process. If the department charges an application~~

1 ~~fee, the department may not issue a license until the producer~~
2 ~~has paid the application fee.~~

3 ~~(c) Declaration. As part of the application for a license,~~
4 ~~the producer shall provide a declaration of all sites in this~~
5 ~~Commonwealth used by the producer for the severance of natural~~
6 ~~gas. The declaration shall include all producing sites and sites~~
7 ~~which are stripper wells. The producer shall update the~~
8 ~~declaration when the producer adds or removes a producing site~~
9 ~~in this Commonwealth or when there is a change in the status of~~
10 ~~a producing site. The producer shall update the declaration~~
11 ~~within 30 days after a calendar month in which a change to the~~
12 ~~declaration occurs.~~

13 ~~(d) Department duties. The department shall, after the~~
14 ~~receipt of an application, issue the license applied for under~~
15 ~~subsection (a), if the applicant filed all required State tax~~
16 ~~reports and paid any State taxes not subject to a timely~~
17 ~~perfected administrative or judicial appeal or subject to a duly~~
18 ~~authorized deferred payment plan. The license shall be~~
19 ~~nonassignable. Each producer shall be required to renew the~~
20 ~~license on a staggered renewal system established by the~~
21 ~~department. After the initial staggered period, a license issued~~
22 ~~shall be valid for a period of five years.~~

23 ~~(e) State taxes. If an applicant for a license or a person~~
24 ~~holding a license has not filed all required State tax reports~~
25 ~~and paid any State taxes not subject to a timely perfected~~
26 ~~administrative or judicial appeal or subject to a duly~~
27 ~~authorized deferred payment plan, the department may refuse to~~
28 ~~issue, suspend or revoke the license. The department shall~~
29 ~~notify the applicant or registrant of a refusal, suspension or~~
30 ~~revocation. The notice shall contain a statement that the~~

~~1 refusal, suspension or revocation may be made public. The notice
2 shall be made by first class mail. An applicant or licensee
3 aggrieved by the determination of the department may file an
4 appeal of the determination in the same manner as provided for
5 reassessments of tax under section 1108 E. In the case of a
6 suspension or revocation which is appealed, the license shall
7 remain valid pending a final outcome of the appeal.~~

~~8 Notwithstanding any other provision of law to the contrary, if
9 no appeal is taken or if an appeal is taken and denied at the
10 conclusion of the appeal process, the department may disclose,
11 by publication or otherwise, the identity of a person and
12 evidence that the person's license has been refused, suspended
13 or revoked under this subsection. Disclosure may include the
14 basis for refusal, suspension or revocation.~~

~~15 (f) Severing without a license. A person that severs
16 natural gas in this Commonwealth without holding a valid license
17 under this section shall be guilty of a summary offense and,
18 upon conviction thereof, be sentenced to pay a fine of not less
19 than \$300 nor more than \$1,500 and, in default thereof, to
20 undergo imprisonment of not less than five days nor more than 30
21 days. The penalties imposed by this subsection shall be in
22 addition to any other penalties imposed by law. For purposes of
23 this subsection, the severing of natural gas during any calendar
24 day shall constitute a separate violation. The Secretary of
25 Revenue may designate employees of the department to enforce the
26 provisions of this subsection. The employees shall exhibit proof
27 of and be within the scope of the designation when instituting
28 proceedings as provided by the Pennsylvania Rules of Criminal
29 Procedure.~~

~~30 (g) Liability. Failure to obtain a license does not relieve~~

1 ~~a person from liability for the tax imposed by this part.~~

2 ~~(h) Civil penalty. In addition to any tax, interest or~~
3 ~~other penalty due under this article, the department shall~~
4 ~~impose a civil penalty of 10¢ per unit severed during the period~~
5 ~~a producer is required to and does not have a license. The~~
6 ~~penalty shall be assessed and collected under this part.~~

7 ~~Section 1107 E. Meters.~~

8 ~~A producer shall provide for and maintain discrete wellhead~~
9 ~~and sales meters. A producer shall ensure that all meters are~~
10 ~~maintained according to industry standards.~~

11 ~~Section 1108 E. Administration of tax.~~

12 ~~Unless otherwise noted to the contrary, Chapters IV, V, VI,~~
13 ~~VII and VIII of Part VI of Article II shall apply to this~~
14 ~~article.~~

15 ~~Section 1109 E. Records.~~

16 ~~A producer shall maintain the following records:~~

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

21 ~~(2) All records, statements and other instruments~~
22 ~~furnished to a producer by a person to whom the producer~~
23 ~~delivers for sale, transport or other delivery of any natural~~
24 ~~gas.~~

25 ~~(3) Records, statements and other instruments as the~~
26 ~~department may prescribe by regulation.~~

27 ~~Section 1110 E. Enforcement of article.~~

28 ~~The department and the Department of Environmental Protection~~
29 ~~shall have the ability to inspect records and locations to~~
30 ~~ensure compliance with this article.~~

1 PART II

2 IMPACT FEE

3 Section 1121 E. Definitions.

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

7 "Commission." The Pennsylvania Public Utility Commission.

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

9 "Fund." The Unconventional Gas Well Fund established under
10 58 Pa.C.S. § 2314 (relating to distribution of fee).

11 "Highway mileage." The number of miles of public roads and
12 streets most recently certified by the Department of
13 Transportation as eligible for distribution of liquid fuels
14 funds under the act of June 1, 1956 (1955 P.L.1944, No.655),
15 referred to as the Liquid Fuels Tax Municipal Allocation Law.

16 "Municipality." A borough, city, town or township.

17 "Number of spud unconventional gas wells." The most recent
18 numerical count of spud unconventional gas wells on the
19 inventory maintained and provided to the commission by the
20 Department of Environmental Protection as of the last day of
21 each month.

22 "Population." As follows:

23 (1) Population of this Commonwealth and population of a
24 county shall be determined using the United States Census
25 Bureau's most recently released Annual Estimates of the
26 Resident Population for Counties of Pennsylvania.

27 (2) Population of a municipality shall be determined
28 using the United States Census Bureau's most recently
29 released Annual Estimates for the Resident Population for
30 Incorporated Places in Pennsylvania.

~~(3) Population of municipalities not included in the report referenced under paragraph (2) shall be determined using the United States Census Bureau's most recently released Annual Estimates of the Resident Population for Minor Civil Divisions in Pennsylvania.~~

~~"Spud." The actual start of drilling an unconventional gas well.~~

~~"Unconventional gas well." A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.~~

~~Section 1122 E. Powers of commission.~~

~~The commission may make inquiries and determinations necessary to make distributions under this part.~~

~~Section 1123 E. Well information.~~

~~(a) List of wells. The Department of Environmental Protection shall provide the commission and, upon request, a county with a list of all spud unconventional gas wells for which the department has issued permits. The Department of Environmental Protection shall update the list and provide it to the commission on a monthly basis.~~

~~(b) Notification to commission. A producer shall notify the commission of the following within 30 days after a calendar month in which the change occurs:~~

~~(1) The spudding of an unconventional gas well.~~

~~(2) The initiation of production at an unconventional gas well.~~

~~(3) The removal of an unconventional gas well from production.~~

~~(c) Notification to department. The commission shall notify the department each month of the information collected under~~

1 ~~subsection (b).~~

2 ~~Section 1124 E. Unconventional Gas Well Fund.~~

3 ~~(a) Expiration of fee. Notwithstanding provisions of 58~~
4 ~~Pa.C.S. § 2318 (relating to expiration) and except as provided~~
5 ~~in subsection (b), the provisions of 58 Pa.C.S. Ch. 23 (relating~~
6 ~~to unconventional gas well fee) shall continue in full force and~~
7 ~~effect until the day immediately prior to the effective date of~~
8 ~~this section. The unconventional gas well fee based upon~~
9 ~~activity in calendar year 2017 shall be due and payable by April~~
10 ~~1, 2018, and shall be deposited into the fund.~~

11 ~~(b) Unconventional Gas Well Fund. The fund shall continue~~
12 ~~beyond the expiration of the unconventional gas well fee~~
13 ~~provided in subsection (a) and shall continue to be administered~~
14 ~~by the commission. All money in the fund following the deposit~~
15 ~~provided in subsection (a) shall remain in the fund and be~~
16 ~~distributed as provided in this part.~~

17 ~~Section 1125 E. Distribution to conservation districts and~~
18 ~~State agencies.~~

19 ~~(a) Transfer. From revenue collected under this article for~~
20 ~~each calendar year, the department shall transfer to the fund,~~
21 ~~to the extent available, the following amounts which are~~
22 ~~appropriated and shall be distributed by the commission in the~~
23 ~~following order of priority:~~

24 ~~(1) To county conservation districts, \$8,000,000 as~~
25 ~~follows:~~

26 ~~(i) The amount of \$4,000,000 shall be distributed by~~
27 ~~dividing the amount equally among conservation districts~~
28 ~~for uses consistent with the act of May 15, 1945~~
29 ~~(P.L.547, No.217), known as the Conservation District~~
30 ~~Law.~~

1 ~~(ii) The amount of \$4,000,000 shall be distributed~~
2 ~~by the State Conservation Commission in a manner~~
3 ~~consistent with the Conservation District Law and the~~
4 ~~provisions of 25 Pa. Code Ch. 83 Subch. B (relating to~~
5 ~~Conservation District Fund Allocation Program Statement~~
6 ~~of Policy).~~

7 ~~(2) To the Pennsylvania Fish and Boat Commission,~~
8 ~~\$1,200,000 for costs relating to the review of applications~~
9 ~~for permits to drill unconventional gas wells.~~

10 ~~(3) To the Department of Environmental Protection,~~
11 ~~\$6,200,000 for the administration of this article and the~~
12 ~~enforcement of acts relating to clean air and clean water.~~

13 ~~(4) To the Pennsylvania Emergency Management Agency,~~
14 ~~\$950,000 for emergency response planning, training and~~
15 ~~coordination related to natural gas production from~~
16 ~~unconventional gas wells.~~

17 ~~(5) To the Office of the State Fire Commissioner,~~
18 ~~\$950,000 for the development, delivery and sustainment of~~
19 ~~training and grant programs for first responders and the~~
20 ~~acquisition of specialized equipment for response to~~
21 ~~emergencies relating to natural gas production from~~
22 ~~unconventional gas wells.~~

23 ~~(6) To the Department of Transportation, \$2,000,000 for~~
24 ~~rail freight assistance.~~

25 ~~(7) To the commission, \$1,200,000 for costs associated~~
26 ~~with implementing this chapter.~~

27 ~~(b) Report. An agency or organization that receives money~~
28 ~~under this section shall, by October 31, 2018, and October 31 of~~
29 ~~each year thereafter, submit to the Secretary of the Budget and~~
30 ~~the Appropriations Committee of the Senate and the~~

1 ~~Appropriations Committee of the House of Representatives a~~
2 ~~report itemizing and explaining the use of the money.~~

3 ~~(c) Distribution. Distribution of funds under this section~~
4 ~~shall be contingent on availability of funds. If sufficient~~
5 ~~funds are not available, the commission shall disburse funds on~~
6 ~~a pro rata basis.~~

7 ~~Section 1126 E. Appropriation and distribution to counties and~~
8 ~~municipalities.~~

9 ~~(a) Transfer. Beginning June 1, 2018, after the transfer of~~
10 ~~the amount under section 1125 E from revenue collected under~~
11 ~~this article for each calendar year, the department shall~~
12 ~~transfer to the fund, to the extent available and before any~~
13 ~~other funds from the tax are expended in a fiscal year, the~~
14 ~~funds necessary to satisfy the annual obligations of the~~
15 ~~Unconventional Gas Well Impact Fund for counties and~~
16 ~~municipalities for purposes authorized under subsection (d).~~
17 ~~Counties and municipalities, where appropriate, may jointly fund~~
18 ~~projects that cross jurisdictional lines. The commission shall~~
19 ~~distribute the funds appropriated in this subsection as follows~~
20 ~~by July 1, 2018, and each July 1 thereafter:~~

21 ~~(1) Thirty six percent shall be distributed to counties~~
22 ~~in which a spud unconventional gas well is located. The~~
23 ~~amount distributed to each county shall be determined under~~
24 ~~the following formula:~~

25 ~~(i) Divide:~~

26 ~~(A) the number of spud unconventional gas wells~~
27 ~~in the county; by~~

28 ~~(B) the number of spud unconventional gas wells~~
29 ~~in this Commonwealth.~~

30 ~~(ii) Multiply:~~

1 ~~(A) the quotient under subparagraph (i); by~~
2 ~~(B) the amount available for distribution under~~
3 ~~paragraph (3).~~

4 ~~(2) Thirty seven percent shall be distributed to~~
5 ~~municipalities in which a spud unconventional gas well is~~
6 ~~located. The amount distributed to each municipality shall be~~
7 ~~determined under the following formula:~~

8 ~~(i) Divide:~~

9 ~~(A) the number of spud unconventional gas wells~~
10 ~~in the municipality; by~~

11 ~~(B) the number of spud unconventional gas wells~~
12 ~~in this Commonwealth.~~

13 ~~(ii) Multiply:~~

14 ~~(A) the quotient under subparagraph (i); by~~

15 ~~(B) the amount available for distribution under~~
16 ~~this paragraph.~~

17 ~~(3) Twenty seven percent shall be distributed to~~
18 ~~municipalities located in a county in which a spud~~
19 ~~unconventional gas well is located. The amount distributed to~~
20 ~~each municipality shall be made as follows:~~

21 ~~(i) Divide:~~

22 ~~(A) the number of spud unconventional gas wells~~
23 ~~in the county; by~~

24 ~~(B) the number of spud unconventional gas wells~~
25 ~~in this Commonwealth.~~

26 ~~(ii) Multiply:~~

27 ~~(A) the quotient under subparagraph (i); by~~

28 ~~(B) the amount available for distribution under~~
29 ~~this paragraph.~~

30 ~~(iii) Fifty percent of the product under~~

~~subparagraph (ii) shall be distributed to each municipality in which a spud unconventional gas well is located, that is contiguous with a municipality in which a spud unconventional gas well is located or that is located within five linear miles of a spud unconventional gas well. The distribution shall be made as follows:~~

~~(A) Fifty percent of the amount available under this subparagraph to each municipality under the following formula:~~

~~(I) Divide:~~

~~(a) the population of the eligible municipality within the county; by~~

~~(b) the total population of the eligible municipalities within the county.~~

~~(II) Multiply:~~

~~(a) the quotient under subclause (I); by~~

~~(b) the amount allocated to the county under this subparagraph.~~

~~(B) Fifty percent of the amount available under this subparagraph shall be distributed to each municipality under the following formula:~~

~~(I) Divide:~~

~~(a) the highway mileage of the eligible municipality within the county; by~~

~~(b) the total highway mileage of the eligible municipalities within the county.~~

~~(II) Multiply:~~

~~(a) the quotient under subclause (I); by~~

~~(b) the amount allocated to the county under this subparagraph.~~

1 ~~(iv) Fifty percent of the product under subparagraph~~
2 ~~(ii) shall be distributed to each municipality in the~~
3 ~~county regardless of whether an unconventional gas well~~
4 ~~is located in the municipality. The distribution shall be~~
5 ~~made as follows:~~

6 ~~(A) Fifty percent of the amount available under~~
7 ~~this subparagraph shall be distributed to each~~
8 ~~municipality under the following formula:~~

9 ~~(I) Divide:~~

10 ~~(a) the population of the municipality~~
11 ~~within the county; by~~

12 ~~(b) the total population of the county.~~

13 ~~(II) Multiply:~~

14 ~~(a) the quotient under subclause (I); by~~

15 ~~(b) the amount allocated to the county~~
16 ~~under this paragraph.~~

17 ~~(B) Fifty percent of the amount available under~~
18 ~~this subparagraph shall be distributed to each~~
19 ~~municipality under the following formula:~~

20 ~~(I) Divide:~~

21 ~~(a) the highway mileage of the~~
22 ~~municipality within the county; by~~

23 ~~(b) the total highway mileage of the~~
24 ~~county.~~

25 ~~(II) Multiply:~~

26 ~~(a) the quotient under subclause (I); by~~

27 ~~(b) the amount allocated to the county~~
28 ~~under this subparagraph.~~

29 ~~(b) Restriction. The following shall apply:~~

30 ~~(1) The amount allocated to each municipality under~~

1 ~~subsection (a) may not exceed the greater of \$500,000 or 50%~~
2 ~~of the total budget for the prior fiscal year beginning with~~
3 ~~the 2010 budget year and continuing every year thereafter,~~
4 ~~adjusted to reflect any upward changes in the Consumer Price~~
5 ~~Index for All Urban Consumers for the Pennsylvania, New~~
6 ~~Jersey, Delaware and Maryland area in the preceding 12~~
7 ~~months. The remaining money after allocation under subsection~~
8 ~~(a) shall be retained by the commission and transferred to~~
9 ~~the Commonwealth Financing Authority.~~

10 ~~(2) The remaining funds under paragraph (1) shall be~~
11 ~~used for grants to schools, hospitals and small businesses to~~
12 ~~obtain access to natural gas:~~

13 ~~(i) The Commonwealth Financing Authority shall give~~
14 ~~priority to applications that will result in adjoining~~
15 ~~residential and nonresidential properties obtaining~~
16 ~~natural gas.~~

17 ~~(ii) Grants may provide for up to 50% of the cost of~~
18 ~~the project.~~

19 ~~(c) Use of funds. A county or municipality receiving funds~~
20 ~~under subsection (a) shall use the funds received only for the~~
21 ~~following purposes associated with natural gas production from~~
22 ~~unconventional gas wells within the county or municipality and~~
23 ~~in a manner consistent with the provisions of 58 Pa.C.S. Ch. 33~~
24 ~~(relating to local ordinances relating to oil and gas~~
25 ~~operations):~~

26 ~~(1) Construction, reconstruction, maintenance and repair~~
27 ~~of roadways, bridges and public infrastructure.~~

28 ~~(2) Water, storm water and sewer systems, including~~
29 ~~construction, reconstruction, maintenance and repair.~~

30 ~~(3) Emergency preparedness and public safety, including~~

1 ~~law enforcement and fire services, hazardous material~~
2 ~~response, 911 service operations, equipment acquisition and~~
3 ~~other services.~~

4 ~~(4) Environmental programs, including trails, parks and~~
5 ~~recreation, open space, flood plain management, conservation~~
6 ~~districts and agricultural preservation.~~

7 ~~(5) Preservation and reclamation of surface and~~
8 ~~subsurface waters and water supplies.~~

9 ~~(6) Tax reductions, including homestead exclusions.~~

10 ~~(7) Projects to increase the availability of safe and~~
11 ~~affordable housing to residents.~~

12 ~~(8) Records management systems and personnel in the~~
13 ~~office of recorder of deeds, geographic information systems~~
14 ~~and information technology.~~

15 ~~(9) The delivery of social services.~~

16 ~~(10) Judicial services.~~

17 ~~(11) For deposit into the county or municipality's~~
18 ~~capital reserve fund if the funds are used solely for a~~
19 ~~purpose under this subsection.~~

20 ~~(12) Career and technical centers for training of~~
21 ~~workers in the oil and gas industry.~~

22 ~~(13) Local or regional planning initiatives under the~~
23 ~~act of July 31, 1968 (P.L.805, No.247), known as the~~
24 ~~Pennsylvania Municipalities Planning Code.~~

25 ~~(14) Grants to residential property owners, schools,~~
26 ~~hospitals and small businesses to obtain access to natural~~
27 ~~gas.~~

28 ~~(d) Prohibition. Funds distributed under subsection (a) may~~
29 ~~not be used for the purpose of litigation.~~

30 ~~(e) Availability of funds. Distribution of funds under this~~

~~1 section shall be contingent on availability of funds. If
2 sufficient funds are not available, the commission shall
3 disburse funds on a pro rata basis.~~

~~4 Section 1127 E. Housing Affordability and Rehabilitation
5 Enhancement Fund.~~

~~6 (a) Transfer to Housing Affordability and Rehabilitation
7 Fund. After the transfer of the amount under section 1125 E and
8 section 1126 E, from revenue collected under this article for
9 each calendar year, the department shall transfer \$9,647,000 to
10 the Housing Affordability and Rehabilitation Enhancement Fund.~~

~~11 (b) Purposes. Funds under subsection (a) shall be used for
12 the following purposes:~~

~~13 (1) To provide support to projects in a county in which
14 producing unconventional gas wells are located that increase
15 availability of quality, safe, affordable housing for low
16 income and moderate income individuals or families, persons
17 with disabilities or elderly persons.~~

~~18 (2) To provide rental assistance in a county in which
19 producing unconventional gas wells are located to persons or
20 families whose household income does not exceed the area
21 median income.~~

~~22 (c) Amount. No less than 50% of the funds available under
23 this section may be used in fifth, sixth, seventh and eighth
24 class counties.~~

~~25 Section 1128 E. Projects of Statewide significance.~~

~~26 (a) Distribution. After the transfer of the amount under
27 sections 1125 E, 1126 E and 1127 E from revenue collected under
28 this article for each calendar year, the department shall
29 transfer, to the extent available, \$83,469,000 to the fund,
30 which amount is appropriated and shall be distributed by the~~

1 commission by July 1, as follows:

2 (1) To the Commonwealth Financing Authority, \$16,420,000
3 for grants to eligible applicants for the following:

4 (i) Acid mines, including damage, abatement and
5 cleanup and mine reclamation, with priority given to
6 projects that recycle and treat water for use in drilling
7 operations.

8 (ii) Orphan or abandoned oil and gas well plugging.

9 (iii) Complying with the act of January 24, 1966
10 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage
11 Facilities Act.

12 (iv) Planning acquisition, development,
13 rehabilitation and repair of green ways, recreational
14 trails, open space, parks and beautification projects.

15 (v) Programs to establish baseline water quality
16 data on private water supplies.

17 (vi) Watershed programs and related projects.

18 (vii) Flood control projects. Up to 25% of the funds
19 distributed to the Commonwealth Financing Authority under
20 this paragraph may be utilized for projects under this
21 subparagraph.

22 (2) To the Environmental Stewardship Fund, \$8,210,000.

23 (3) To the Highway Bridge Improvement Restricted Account
24 within the Motor License Fund, \$20,525,000 to counties to be
25 distributed to fund the cost of the replacement or repair of
26 locally owned at risk deteriorated bridges. Funds shall be
27 distributed to counties proportionately based on the
28 population of the county as follows:

29 (i) In each county, the distribution shall be
30 according to the following formula:

1 ~~(A) Divide:~~

2 ~~(I) the total population of the county; by~~

3 ~~(II) the total population of this~~

4 ~~Commonwealth.~~

5 ~~(B) Express the quotient under clause (A) as a~~
6 ~~percentage.~~

7 ~~(C) Multiply:~~

8 ~~(I) the percentage under clause (B); by~~

9 ~~(II) the amount of money to be distributed~~

10 ~~under this paragraph.~~

11 ~~(ii) Each county shall receive a minimum of \$40,000,~~
12 ~~to the extent funds are available.~~

13 ~~(iii) The Department of Transportation shall release~~
14 ~~money under this paragraph upon approval of a plan~~
15 ~~submitted by a county or municipality to repair an at~~
16 ~~risk deteriorated bridge. The plan must include funding~~
17 ~~for replacement or repair.~~

18 ~~(iv) A county of the first or second class may~~
19 ~~submit a plan to use the county's funds under this~~
20 ~~paragraph for at risk deteriorated bridges owned by a~~
21 ~~public transportation authority.~~

22 ~~(4) For water and sewer projects, \$20,526,000. The~~
23 ~~following shall apply:~~

24 ~~(i) Fifty percent of the amount distributed under~~
25 ~~this paragraph shall be transferred to the Pennsylvania~~
26 ~~Infrastructure Investment Authority to be used in~~
27 ~~accordance with the act of March 1, 1988 (P.L.82, No.16),~~
28 ~~known as the Pennsylvania Infrastructure Investment~~
29 ~~Authority Act.~~

30 ~~(ii) Fifty percent of the amount distributed under~~

~~this paragraph shall be transferred to the H2O PA program to be used by the Commonwealth Financing Authority in accordance with section 301 of the act of July 9, 2008 (P.L.908, No.63), known as the H2O PA Act. The prohibition on grants for projects located in a city or county of the first or second class under section 301 of the H2O PA Act shall not apply to funds distributed to the H2O PA program under this subparagraph.~~

~~(5) For the planning, acquisition, development, rehabilitation and repair of green ways, recreational trails, open space, natural areas, community conservation and beautification projects, community and heritage parks and water resource management, \$12,316,000. Funds may be used to acquire lands for recreational or conservation purposes and land damaged or prone to drainage by storms or flooding. Funds shall be distributed to counties proportionately based on the population of the county as follows:~~

~~(i) In each county, the distribution shall be according to the following formula:~~

~~(A) Divide:~~

~~(I) the total population of the county; by~~

~~(II) the total population of this~~

~~Commonwealth.~~

~~(B) Express the quotient under clause (A) as a percentage.~~

~~(C) Multiply:~~

~~(I) the percentage under clause (B); by~~

~~(II) the amount of funds available under~~

~~this paragraph.~~

~~(ii) Each county shall receive a minimum of \$25,000~~

1 ~~to the extent funds are available.~~

2 ~~(b) Availability of funds. Distribution of funds under this~~
3 ~~section shall be contingent on availability of funds. If~~
4 ~~sufficient funds are not available, the commission shall~~
5 ~~disburse funds on a pro rata basis.~~

6 ~~(c) Restriction on use of proceeds.~~

7 ~~(1) Funds distributed under subsection (a) may not be~~
8 ~~used for the purpose of public relations, outreach not~~
9 ~~directly related to project implementation, communications,~~
10 ~~lobbying or litigation.~~

11 ~~(2) Funds distributed under subsection (a) may not be~~
12 ~~used by an authorized organization as defined in 27 Pa.C.S. §~~
13 ~~6103 (relating to definitions) for land acquisition unless~~
14 ~~the authorized organization has obtained the written consent~~
15 ~~of the county and municipality in which the land is situated.~~

16 ~~(d) Coordination. The Department of Environmental~~
17 ~~Protection and the Department of Conservation and Natural~~
18 ~~Resources shall review each application for funding as requested~~
19 ~~by the Commonwealth Financing Authority and provide~~
20 ~~recommendations on priority of projects and project approval.~~

21 ~~(e) Remaining funds. Any funds remaining after the~~
22 ~~transfers under this section shall be transferred to the~~
23 ~~Hazardous Sites Cleanup Fund.~~

24 ~~Section 1129 E. Purposes of Statewide importance.~~

25 ~~(a) Transfer. After the transfer of the amounts under~~
26 ~~sections 1125 E, 1126 E, 1127 E and 1128 E from revenue~~
27 ~~collected under this article for each calendar year, the~~
28 ~~department shall transfer all remaining money to the Natural Gas~~
29 ~~Drilling Tax Restricted Account established in subsection (b).~~

30 ~~(b) Account. There is established the Natural Gas Drilling~~

1 ~~Tax Restricted Account in the General Fund.~~

2 ~~(c) Distribution. Funds in the account shall be distributed~~
3 ~~as follows:~~

4 ~~(1) Thirty percent shall be distributed to the~~
5 ~~Department of Education for basic education funding of school~~
6 ~~districts, including supplemental payments for certain~~
7 ~~distressed school districts.~~

8 ~~(2) Ten percent shall be distributed to the Department~~
9 ~~of Education for accountability block grants.~~

10 ~~(3) Fifteen percent shall be distributed to the State~~
11 ~~Employees' Retirement Fund for the purpose of reducing~~
12 ~~accrued unfunded liabilities.~~

13 ~~(4) Fifteen percent shall be distributed to the Public~~
14 ~~School Employees' Retirement Fund for the purpose of reducing~~
15 ~~accrued unfunded liabilities.~~

16 ~~(5) Three and six tenths percent shall be distributed to~~
17 ~~the Department of Drug and Alcohol Programs for drug and~~
18 ~~alcohol programs.~~

19 ~~(6) Three and six tenths percent shall be distributed to~~
20 ~~the Department of Human Services for intellectual disability~~
21 ~~programs.~~

22 ~~(7) Two and thirty five one hundredths percent shall be~~
23 ~~distributed to the Department of Human Services for~~
24 ~~behavioral health services.~~

25 ~~(8) Two and thirty five one hundredths percent shall be~~
26 ~~distributed to the Department of Human Services for the Human~~
27 ~~Services Development Fund.~~

28 ~~(9) One and three tenths percent shall be distributed to~~
29 ~~the Pennsylvania Housing Finance Agency for the Homeowner's~~
30 ~~Emergency Mortgage Assistance Program.~~

1 ~~(10) Nine tenths of one percent shall be distributed to~~
2 ~~the Department of Human Services for use for victims of rape~~
3 ~~and domestic violence in accordance with section 2333 of the~~
4 ~~act of April 9, 1929 (P.L.177, No.175), known as The~~
5 ~~Administrative Code of 1929.~~

6 ~~(11) Nine tenths of one percent shall be distributed to~~
7 ~~the Department of Military and Veterans Affairs for the~~
8 ~~operation and maintenance of veterans' homes.~~

9 ~~(12) Six and twenty five one hundredths percent shall be~~
10 ~~distributed to the Environmental Stewardship Fund.~~

11 ~~(13) Two percent shall be distributed to the Department~~
12 ~~of Environmental Protection, with half of the money going to~~
13 ~~the well plugging account and half of the money to supplement~~
14 ~~the operations under section 1901 A of The Administrative~~
15 ~~Code of 1929.~~

16 ~~(14) Five and twenty five one hundredths percent shall~~
17 ~~be distributed to the Department of Environmental Protection~~
18 ~~for making low interest loans to support the development of~~
19 ~~solar energy.~~

20 ~~(15) One and five tenths percent shall be distributed to~~
21 ~~the Keystone Home Energy Loan Program in the Treasury~~
22 ~~Department to support home energy efficiency loans.~~

23 Section 2. This act shall take effect as follows:

24 ~~(1) The addition of sections 1103 E and 1106 E of the~~
25 ~~act shall take effect July 1, 2017, or immediately, whichever~~
26 ~~is later.~~

27 ~~(2) The remainder of this act shall take effect January~~
28 ~~1, 2018, or immediately, whichever is later.~~

29 SECTION 1. THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS <--
30 THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING AN ARTICLE TO

1 READ:

2 ARTICLE XXIV

3 VOLUMETRIC SEVERANCE TAX

4 SECTION 2401. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "AVERAGE ANNUAL PRICE OF NATURAL GAS." AS DEFINED IN 58
9 PA.C.S. § 2301 (RELATING TO DEFINITIONS).

10 "COMMISSION." THE PENNSYLVANIA PUBLIC UTILITY COMMISSION.

11 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
12 THE COMMONWEALTH.

13 "GROSS PROCEEDS." MONEY GENERATED FROM THE SALE BY A LESSEE
14 OF OIL, NATURAL GAS OR GAS OF ANY OTHER DESIGNATION OR THEIR
15 CONSTITUENTS REMOVED OR RECOVERED UNDER A LEASE IN AN ARMS-
16 LENGTH TRANSACTION DESIGNATED AND FIXED AT THE ACTUAL POINT OF
17 SALE.

18 "LEASE." AN AGREEMENT CONVEYING TO A LESSEE THE RIGHT TO
19 REMOVE OR RECOVER OIL, NATURAL GAS OR GAS OF ANY OTHER
20 DESIGNATION FROM LAND OF THE LESSOR.

21 "METER." A DEVICE TO MEASURE THE PASSAGE OF VOLUMES OF GASES
22 OR LIQUIDS PAST A CERTAIN POINT.

23 "NATURAL GAS." AS DEFINED IN 58 PA.C.S. § 2301.

24 "PRODUCER." AS DEFINED IN 58 PA.C.S. § 2301.

25 "ROYALTY PAYMENT." A PAYMENT MADE BY A LESSEE TO A LESSOR IN
26 ACCORDANCE WITH A LEASE.

27 "SEVER." THE EXTRACTION OR OTHER REMOVAL OF NATURAL GAS FROM
28 AN UNCONVENTIONAL FORMATION IN THIS COMMONWEALTH. THE TERM DOES
29 NOT INCLUDE NATURAL GAS, IN GASEOUS OR LIQUID FORM, WHICH IS
30 BURNED, USED, CONSUMED OR OTHERWISE EMPLOYED IN OIL AND GAS

1 OPERATIONS AT A NATURAL GAS WELL SITE:

2 (1) FOR SECONDARY RECOVERY;

3 (2) FOR RE-PRESSURING;

4 (3) FOR PRESSURE MAINTENANCE; OR

5 (4) AS FUEL FOR EQUIPMENT.

6 "STORAGE FIELD." A NATURAL GAS FORMATION OR OTHER SIDE THAT
7 IS USED TO STORE NATURAL GAS THAT DID NOT ORIGINATE FROM AND HAS
8 BEEN TRANSPLANTED INTO THE FORMATION OR SITE.

9 "TRIGGER DATE." THE DATE 60 DAYS AFTER THE EFFECTIVE DATE OF
10 THIS SECTION.

11 "UNCONVENTIONAL FORMATION." AS DEFINED IN 58 PA.C.S. § 2301.

12 "UNCONVENTIONAL GAS WELL." AS DEFINED IN 58 PA.C.S. § 2301.

13 "UNIT." A THOUSAND CUBIC FEET (MCF) OF NATURAL GAS AT A
14 TEMPERATURE OF 60 DEGREES FAHRENHEIT AND AN ABSOLUTE PRESSURE OF
15 14.73 POUNDS PER SQUARE INCH, IN ACCORDANCE WITH AMERICAN GAS
16 ASSOCIATION (AGA) STANDARDS AND ACCORDING TO BOYLE'S LAW FOR THE
17 MEASUREMENT OF GAS UNDER VARYING PRESSURES WITH DEVIATIONS
18 THEREFROM AS FOLLOWS:

19 (1) THE AVERAGE ABSOLUTE ATMOSPHERIC PRESSURE SHALL BE
20 ASSUMED TO BE 14.4 POUNDS TO THE SQUARE INCH, NOTWITHSTANDING
21 THE ACTUAL ELEVATION OR LOCATION OF POINT OF DELIVERY ABOVE
22 SEA LEVEL OR VARIATIONS IN THE ATMOSPHERIC PRESSURE.

23 (2) THE TEMPERATURE OF THE GAS PASSING THE METERS SHALL
24 BE DETERMINED BY THE CONTINUOUS USE OF A RECORDING
25 THERMOMETER INSTALLED SO THAT THE THERMOMETER MAY PROPERLY
26 RECORD THE TEMPERATURE OF THE GAS FLOWING THROUGH THE METERS.
27 THE ARITHMETIC AVERAGE OF THE TEMPERATURE RECORDED EACH 24-
28 OUR DAY SHALL BE USED IN COMPUTING GAS VOLUMES. IF A
29 RECORDING THERMOMETER IS NOT INSTALLED, OR IF INSTALLED AND
30 NOT OPERATING PROPERLY, AN AVERAGE FLOWING TEMPERATURE OF 60

1 DEGREES FAHRENHEIT SHALL BE USED IN COMPUTING GAS VOLUME.

2 (3) THE SPECIFIC GRAVITY OF THE GAS SHALL BE DETERMINED
3 BY TESTS MADE BY THE USE OF AN EDWARDS OR ACME GRAVITY
4 BALANCE ANNUALLY OR AT INTERVALS AS ARE FOUND NECESSARY IN
5 PRACTICE. SPECIFIC GRAVITY SHALL BE USED IN COMPUTING GAS
6 VOLUMES.

7 (4) THE DEVIATION OF THE NATURAL GAS FROM BOYLE'S LAW
8 SHALL BE DETERMINED BY TESTS ANNUALLY OR AT OTHER SHORTER
9 INTERVALS AS ARE FOUND NECESSARY IN PRACTICE. THE APPARATUS
10 AND THE METHOD TO BE USED IN MAKING THE TESTS SHALL BE IN
11 ACCORDANCE WITH RECOMMENDATIONS OF THE NATIONAL BUREAU OF
12 STANDARDS OF THE DEPARTMENT OF COMMERCE OR REPORT NO. 3 OF
13 THE GAS MEASUREMENT COMMITTEE OF THE AMERICAN GAS
14 ASSOCIATION, OR ANY AMENDMENTS OF THE REPORT. THE RESULTS OF
15 THE TESTS SHALL BE USED IN COMPUTING THE VOLUME OF GAS
16 DELIVERED.

17 "WELLHEAD METER." A METER PLACED AT A PRODUCING SITE TO
18 MEASURE THE ACTUAL VOLUME OF NATURAL GAS SEVERED.

19 SECTION 2402. VOLUMETRIC SEVERANCE TAX.

20 (A) IMPOSITION.--EACH PRODUCER SUBJECT TO THE UNCONVENTIONAL
21 GAS WELL FEE IMPOSED UNDER 58 PA.C.S. § 2302 (RELATING TO
22 UNCONVENTIONAL GAS WELL FEE) SHALL PAY A VOLUMETRIC SEVERANCE
23 TAX.

24 (B) COMPUTATION.--THE VOLUMETRIC SEVERANCE TAX FOR EACH
25 UNCONVENTIONAL GAS WELL SHALL BE CALCULATED BY APPLYING THE
26 APPLICABLE RATE UNDER SUBSECTION (B.1) TO NATURAL GAS SEVERED
27 FROM THE UNCONVENTIONAL GAS WELL DURING THE IMPOSITION PERIOD
28 UNDER SUBSECTION (B.2).

29 (B.1) TAX RATE.--THE TAX RATE SHALL BE AS FOLLOWS:

30 (1) IF THE AVERAGE ANNUAL PRICE OF NATURAL GAS FOR THE

1 CALENDAR YEAR IMMEDIATELY PRECEDING THE START OF THE
2 IMPOSITION PERIOD IS NOT MORE THAN \$3.00, THE SURCHARGE RATE
3 SHALL BE \$0.02 PER UNIT SEVERED.

4 (2) IF THE AVERAGE ANNUAL PRICE OF NATURAL GAS FOR THE
5 CALENDAR YEAR IMMEDIATELY PRECEDING THE START OF THE
6 IMPOSITION PERIOD IS GREATER THAN \$3.00 AND LESS THAN \$5.00,
7 THE TAX RATE SHALL BE \$0.025 PER UNIT SEVERED.

8 (3) IF THE AVERAGE ANNUAL PRICE OF NATURAL GAS FOR THE
9 CALENDAR YEAR IMMEDIATELY PRECEDING THE START OF THE
10 IMPOSITION PERIOD IS GREATER THAN \$4.99 AND LESS THAN \$6.00,
11 THE TAX RATE SHALL BE \$0.03 PER UNIT SEVERED.

12 (4) IF THE AVERAGE ANNUAL PRICE OF NATURAL GAS FOR THE
13 CALENDAR YEAR IMMEDIATELY PRECEDING THE START OF THE
14 IMPOSITION PERIOD IS MORE THAN \$5.99, THE TAX RATE SHALL BE
15 \$0.035 PER UNIT SEVERED.

16 (B.2) IMPOSITION PERIOD.--THE IMPOSITION PERIOD SHALL BE AS
17 FOLLOWS:

18 (1) FOR FISCAL YEAR 2017-2018, THE IMPOSITION PERIOD
19 SHALL BE FROM OCTOBER 1, 2017, TO APRIL 30, 2018.

20 (2) FOR FISCAL YEAR 2018-2019, AND EACH FISCAL YEAR
21 THEREAFTER, THE IMPOSITION PERIOD SHALL BE FROM MAY 1 OF THE
22 PRECEDING FISCAL YEAR TO APRIL 30 OF THE CURRENT FISCAL YEAR.

23 (B.3) PAYMENT.--THE VOLUMETRIC SEVERANCE TAX IMPOSED UNDER
24 THIS ARTICLE SHALL BE DUE ON THE SAME DAY THE REPORT IS DUE
25 UNDER SUBSECTION (B.4). THE TAX SHALL BECOME DELINQUENT IF NOT
26 REMITTED TO THE COMMISSION ON THE REPORTING DATE.

27 (B.4) REPORT.--BY JUNE 15, 2018, AND JUNE 15 OF EACH YEAR
28 THEREAFTER, EACH PRODUCER SHALL SUBMIT PAYMENT OF THE VOLUMETRIC
29 SEVERANCE TAX TO THE COMMISSION AND A REPORT ON A FORM
30 PRESCRIBED BY THE COMMISSION FOR THE IMPOSITION PERIOD.

1 (B.5) EXEMPTIONS.--THE VOLUMETRIC SEVERANCE TAX IMPOSED
2 UNDER THIS ARTICLE SHALL NOT BE IMPOSED ON THE FOLLOWING:

3 (1) NATURAL GAS SEVERED, SOLD AND DELIVERED BY A
4 PRODUCER AT OR WITHIN FIVE MILES OF THE PRODUCING SITE FOR
5 THE PROCESSING OR MANUFACTURE OF TANGIBLE PERSONAL PROPERTY
6 AS DEFINED UNDER SECTION 201;

7 (2) NATURAL GAS SEVERED UNDER A NATURAL GAS LEASE AND
8 PROVIDED TO A LESSOR FOR NO CONSIDERATION FOR THE LESSOR'S
9 OWN USE; OR

10 (3) NATURAL GAS SEVERED FROM A STORAGE FIELD.

11 (C) VOLUME MEASUREMENT.--

12 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), FOR PURPOSES
13 OF COMPUTING THE VOLUMETRIC SEVERANCE TAX, NATURAL GAS
14 SEVERED SHALL BE MEASURED AT THE WELLHEAD METER.

15 (2) NATURAL GAS SEVERED PRIOR TO THE TRIGGER DATE SHALL
16 BE MEASURED ACCORDING TO THE STANDARDS AND METHODS USED FOR
17 REPORTING NATURAL GAS PRODUCTION TO THE DEPARTMENT.

18 (D) ADMINISTRATION.--THE VOLUMETRIC SEVERANCE TAX SHALL BE
19 ADMINISTERED AND ENFORCED IN THE SAME MANNER AS THE
20 UNCONVENTIONAL GAS WELL FEE UNDER 58 PA.C.S. CH. 23 (RELATING TO
21 UNCONVENTIONAL GAS WELL FEE).

22 (E) USE OF FUNDS.--MONEY COLLECTED FROM THE VOLUMETRIC
23 SEVERANCE TAX UNDER THIS SECTION SHALL BE TRANSFERRED TO THE
24 STATE TREASURER TO BE DEPOSITED INTO THE GENERAL FUND.

25 (F) INDEPENDENT FISCAL OFFICE.--BEGINNING SEPTEMBER 30,
26 2018, AND QUARTERLY THEREAFTER, THE INDEPENDENT FISCAL OFFICE
27 SHALL PUBLISH A REPORT ON ITS PUBLICLY ACCESSIBLE INTERNET
28 WEBSITE THAT SHOWS THE CALCULATION OF AN AVERAGE EFFECTIVE TAX
29 RATE OF THE VOLUMETRIC SEVERANCE TAX IMPOSED UNDER THIS ARTICLE
30 AND THE UNCONVENTIONAL GAS WELL FEE IMPOSED UNDER 58 PA.C.S. CH.

1 23, IMPOSED FOR THE PRECEDING IMPOSITION PERIOD. THE AVERAGE
2 EFFECTIVE TAX RATE SHALL QUANTIFY THE IMPLICIT TAX BURDEN
3 IMPOSED ON A PRODUCER BY BOTH THE VOLUMETRIC SEVERANCE TAX AND
4 THE UNCONVENTIONAL GAS WELL FEE IN A GIVEN YEAR. THE AVERAGE
5 EFFECTIVE TAX RATE SHALL BE BASED UPON THE MARKET VALUE OF
6 NATURAL GAS AT THE WELLHEAD USING REGIONAL PRICE INFORMATION
7 FROM HUBS LOCATED IN THIS COMMONWEALTH AND POSTPRODUCTION COSTS
8 SHALL BE DEDUCTED TO APPROXIMATE THE VALUE OF NATURAL GAS AT THE
9 WELLHEAD. THE REPORT SHALL INCLUDE THE METHODOLOGY USED TO
10 CALCULATE THE AVERAGE EFFECTIVE TAX RATE.

11 (G) PAYMENT OF TAX.--A PRODUCER MAY NOT MAKE THE TAX IMPOSED
12 UNDER THIS SECTION ON NATURAL GAS SEVERED UNDER A LEASE AN
13 OBLIGATION, INDEBTEDNESS OR LIABILITY OF THE LESSOR AND MAY NOT
14 OTHERWISE REQUIRE THE LESSOR TO REIMBURSE THE PRODUCER FOR THE
15 AMOUNT OF THE TAX.

16 SECTION 2403. MINIMUM ROYALTY.

17 (A) AMOUNT.--

18 (1) THE MINIMUM ROYALTY PAYMENT MADE UNDER THE ACT OF
19 JULY 20, 1979 (P.L.183, NO.60), KNOWN AS THE OIL AND GAS
20 LEASE ACT, TO A LESSOR UNDER A LEASE MAY NOT BE LESS THAN
21 ONE-EIGHTH OF THE GROSS PROCEEDS RECEIVED BY THE LESSEE FOR
22 THE OIL, NATURAL GAS OR GAS OF ANY OTHER DESIGNATION
23 RECOVERED BY THE LESSEE UNDER THE LEASE.

24 (2) A DEDUCTION OR ALLOCATION OF COSTS, EXPENSES OR
25 OTHER ADJUSTMENTS MAY NOT BE TAKEN OR MADE TO GROSS PROCEEDS
26 BEFORE CALCULATING THE AMOUNT OF A ROYALTY PAYMENT DUE TO A
27 LESSOR UNDER PARAGRAPH (1).

28 (B) APPLICABILITY.--THE REQUIREMENT TO PAY A MINIMUM ROYALTY
29 UNDER SUBSECTION (A) SHALL ONLY APPLY TO OIL, NATURAL GAS OR GAS
30 OF ANY OTHER DESIGNATION RECOVERED AND SOLD BY A LESSEE AFTER

1 THE EFFECTIVE DATE OF THIS SECTION.

2 SECTION 2404. REMEDY.

3 (A) CIVIL ACTION AND VENUE.--A LESSOR WHO IS PARTY TO A
4 LEASE MAY FILE AN ACTION FOR FAILURE OF THE LESSEE TO PAY THE
5 MINIMUM ROYALTY UNDER SECTION 2403 IN THE COURT OF COMMON PLEAS
6 OF THE COUNTY WHERE THE LAND OF THE LESSOR IS LOCATED OR THE
7 COUNTY IN THIS COMMONWEALTH IN WHICH THE LESSOR RESIDES.

8 (B) BURDEN OF PROOF.--

9 (1) DEMONSTRATION BY A LESSOR WHO IS PARTY TO A LEASE
10 THAT THE LESSEE HAS MADE A ROYALTY PAYMENT WHICH IS LESS THAN
11 THE AMOUNT REQUIRED UNDER SECTION 2403(A) SHALL CREATE A
12 PRESUMPTION THAT A VIOLATION OF SECTION 2403 HAS OCCURRED.

13 (2) THE PRESUMPTION UNDER PARAGRAPH (1) MAY BE REBUTTED
14 IF THE LESSEE PRESENTS CLEAR AND CONVINCING EVIDENCE THAT THE
15 REQUIRED MINIMUM ROYALTY PAYMENT WAS MADE.

16 (C) EFFECT OF NOTICE AND FAILURE TO CURE.--IN AN ACTION IN
17 WHICH A COURT FINDS THAT THE LESSEE WHO IS PARTY TO A LEASE HAS
18 VIOLATED THE TERMS OF SECTION 2403, THE LESSOR SHALL BE ENTITLED
19 TO THE REMEDIES UNDER SUBSECTIONS (D) AND (E) IF, BEFORE FILING
20 SUIT, THE LESSOR GAVE TO THE LESSEE 30 DAYS' WRITTEN NOTICE BY
21 CERTIFIED MAIL OF THE DEFICIENCY AND THE LESSEE FAILED TO CURE
22 THE DEFICIENCY.

23 (D) ADDITIONAL REMEDIES.--IN ADDITION TO ACTUAL DAMAGES AND
24 ANY OTHER REMEDY DEEMED APPROPRIATE BY THE COURT, THE COURT
25 SHALL AWARD TO THE LESSOR REASONABLE ATTORNEY FEES AND COSTS IN
26 BRINGING THE ACTION, INCLUDING EXPERT WITNESS FEES.

27 (E) TREBLE DAMAGES.--IF THE COURT FINDS THAT THE LESSEE
28 ACTED WILLFULLY IN FAILING TO PAY THE MINIMUM ROYALTY PAYMENT
29 DUE OR WHERE A LESSEE HAS BEEN PREVIOUSLY FOUND TO HAVE FAILED
30 TO PAY THE MINIMUM ROYALTY PAYMENT DUE, THE COURT MAY AWARD

1 TREBLE DAMAGES TO THE LESSOR.

2 (F) OTHER REMEDIES NOT PRECLUDED.--THE REMEDIES PROVIDED
3 UNDER THIS SECTION ARE NOT EXCLUSIVE OF, DO NOT REQUIRE
4 EXHAUSTION OF AND SHALL BE IN ADDITION TO ANY OTHER REMEDIES
5 PROVIDED BY THE LEASE, BY LAW OR IN EQUITY.

6 SECTION 2405. SEVERABILITY.

7 THE PROVISIONS OF THIS ARTICLE ARE SEVERABLE. IF ANY
8 PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR
9 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
10 OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE WHICH CAN BE
11 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

12 SECTION 2. THE FOLLOWING SHALL APPLY RETROACTIVELY TO
13 OCTOBER 1, 2017:

14 (1) THE ADDITION OF ARTICLE XXIV OF THE ACT, EXCEPT FOR
15 SECTIONS 2403 AND 2404.

16 (2) SECTION 3 OF THIS ACT.

17 SECTION 3. REPEALS ARE AS FOLLOWS:

18 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
19 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF
20 ARTICLE XXIV OF THE ACT.

21 (2) 58 PA.C.S. § 2318 IS REPEALED.

22 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.