

## AMENDMENTS TO HOUSE BILL NO. 1489

Sponsor: REPRESENTATIVE LEVDANSKY

Printer's No. 2241

1 Amend Bill, page 1, lines 1 through 8, by striking out all of  
2 said lines and inserting

3 Amending Title 72 (Taxation and Fiscal Affairs) of the  
4 Pennsylvania Consolidated Statutes, imposing a tax on the  
5 extraction of natural gas; providing for natural gas  
6 severance registration certificate, for duties of the  
7 Department of Revenue, for tax assessments and tax liens;  
8 imposing penalties; providing for service of process, for  
9 rulemaking, for cooperation with other governments and for  
10 bonds; and making an appropriation.

11 Amend Bill, page 1, lines 11 through 19; pages 2 through 28,  
12 lines 1 through 30; page 29, lines 1 through 10, by striking out  
13 all of said lines on said pages and inserting

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

16 CHAPTER 15

17 SEVERANCE TAX

18 Sec.

19 1501. Short title of chapter.

20 1502. Definitions.

21 1503. Imposition of tax.

22 1504. Return and payment.

23 1505. Natural gas severance tax registration.

24 1505.1 Meters.

25 1506. Assessments.

26 1507. Time for assessment.

27 1508. Extension of limitation period.

28 1509. Reassessments.

29 1510. Interest.

30 1511. Penalties.

31 1512. Criminal acts.

32 1513. Abatement of additions or penalties.

33 1514. Bulk and auction sales.

34 1515. Collection upon failure to request reassessment, review  
35 or appeal.

1 1516. Tax liens.  
2 1517. Tax suit reciprocity.  
3 1518. Service.  
4 1519. Refunds.  
5 1520. Refund petition.  
6 1521. Rules and regulations.  
7 1522. Recordkeeping.  
8 1523. Examinations.  
9 1524. Unauthorized disclosure.  
10 1525. Cooperation with other governments.  
11 1526. Bonds.  
12 1527. Natural Gas Severance Tax Fund.  
13 1528. Administration of fund.  
14 1529. Appropriation.  
15 § 1501. Short title of chapter.

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

18 § 1502. Definitions.

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

22 "Accredited laboratory." A facility engaged in the testing  
23 and calibration of scientific measurement devices and certified  
24 by the Department of Environmental Protection as having met the  
25 department's standards for accreditation.

26 "Association." A partnership, limited partnership or any  
27 other form of unincorporated enterprise owned or conducted by  
28 two or more persons.

29 "Corporation." A corporation, joint stock association,  
30 limited liability company, business trust or any other  
31 incorporated enterprise organized under the laws of this  
32 Commonwealth, the United States or any other state, territory or  
33 foreign country or dependency.

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

35 "Fund." The Natural Gas Severance Tax Fund established under  
36 section 1527.

37 "Gross value." The volume-weighted average market price for  
38 all arms-length transactions that a producer receives at the  
39 sales meter for natural gas during a reporting period.

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

42 "Municipality." A city, borough, incorporated town or a  
43 township.

44 "Natural gas." A fossil fuel consisting of a mixture of  
45 hydrocarbon gases, primarily methane, possibly including ethane,  
46 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and  
47 hydrogen sulfide and other gas species. The term includes  
48 natural gas from oil fields known as associated gas or casing  
49 head gas, natural gas fields known as nonassociated gas, coal  
50 beds, shale beds and other formations.

51 "Nonproducing site." A point of severance that is not

1 capable of producing natural gas in paying quantities.

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

4 "Person." A natural person or a corporation, fiduciary,  
5 association or other entity, including the Commonwealth, its  
6 political subdivisions, instrumentalities and authorities. When  
7 the term is used in a clause prescribing and imposing a penalty  
8 or imposing a fine or imprisonment, or both, the term shall  
9 include the members, as applied to an association, and the  
10 officers, as applied to a corporation.

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

15 "Producing site." A point of severance capable of producing  
16 natural gas in paying quantities.

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

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

21 "Sever," "severing" or "severance." The extraction or other  
22 removal of natural gas from the soil or water of this  
23 Commonwealth.

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

27 "Stripper well." A producing site or a nonproducing site  
28 that is not capable of producing and does not produce more than  
29 60,000 cubic feet of natural gas per day.

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

31 "Taxpayer." A person subject to the tax imposed by this  
32 chapter.

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

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

43 (2) The temperature of the gas passing the meters shall  
44 be determined by the continuous use of a recording  
45 thermometer installed to properly record the temperature of  
46 gas flowing through the meters. The arithmetic average of the  
47 temperature recorded each 24-hour day shall be used in  
48 computing gas volumes. If a recording thermometer is not  
49 installed, or if installed and not operating properly, an  
50 average flowing temperature of 60 degrees Fahrenheit shall be  
51 used in computing gas volume.

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

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

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

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

21 § 1503. Imposition of tax.

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

24           (b) Rate.--The tax imposed in subsection (a) shall be 5% of  
25 the gross value of units severed at the wellhead during a  
26 reporting period, plus 4.7 cents per unit severed, but shall not  
27 be imposed on units severed from a stripper well.

28 § 1504. Return and payment.

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

32           (1) Reporting all severed natural gas per reporting  
33 period.

34           (2) Identify the units severed in each county.

35           (3) The tax due under section 1503 (relating to  
36 imposition of tax).

37           (b) Filing.--The return required by subsection (a) shall be  
38 filed with the department within 15 days following the end of  
39 the second calendar month after a reporting period.

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

43 § 1505. Natural gas severance tax registration.

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

47           (a.1) Application fee.--The department may charge an  
48 application fee to cover the administrative costs associated  
49 with the application and registration process. If the department  
50 charges an application fee, the department shall not issue a  
51 registration certificate until the producer has paid the

1 application fee.

2 (a.2) Declaration.--The producer shall include in its  
3 application a declaration of all sites in this Commonwealth used  
4 by the producer for the severance of natural gas. The  
5 declaration is to include all producing sites and nonproducing  
6 sites as well as wellhead meter certification for each. The  
7 producer is required to update the declaration when the producer  
8 adds or removes a producing site or nonproducing site in this  
9 Commonwealth or when there is a change in the status of a  
10 producing site or nonproducing site or when the producer uses a  
11 different accredited laboratory to certify the accuracy of the  
12 producer's wellhead meters. The producer shall update the  
13 declaration within 30 days after a calendar month in which a  
14 change to the declaration occurs.

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

24 (c) Refusal, suspension or revocation.--The department may  
25 refuse to issue, suspend or revoke a registration certificate if  
26 the applicant or registrant has not filed required State tax  
27 reports and paid State taxes not subject to a timely perfected  
28 administrative or judicial appeal or subject to a duly  
29 authorized deferred payment plan. The department shall notify  
30 the applicant or registrant of any refusal, suspension or  
31 revocation. The notice shall contain a statement that the  
32 refusal, suspension or revocation may be made public. The notice  
33 shall be made by first class mail. An applicant or registrant  
34 aggrieved by the determination of the department may file an  
35 appeal under the provisions for administrative appeals in the  
36 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
37 of 1971. In the case of a suspension or revocation which is  
38 appealed, the registration certificate shall remain valid  
39 pending a final outcome of the appeals process. Notwithstanding  
40 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the  
41 Tax Reform Code of 1971 or any other provision of law, if no  
42 appeal is taken or if an appeal is taken and denied at the  
43 conclusion of the appeal process, the department may disclose,  
44 by publication or otherwise, the identity of a producer and the  
45 fact that the producer's registration certificate has been  
46 refused, suspended or revoked under this subsection. Disclosure  
47 may include the basis for refusal, suspension or revocation.

48 (d) Violation.--A person severing natural gas in this  
49 Commonwealth without holding a valid registration certificate  
50 under subsection (b) shall be guilty of a summary offense and  
51 shall, upon conviction, be sentenced to pay a fine of not less

1 than \$300 nor more than \$1,500. In the event the person  
2 convicted defaults, he shall be sentenced to imprisonment for  
3 not less than five days nor more than 30 days. The penalties  
4 imposed by this subsection shall be in addition to any other  
5 penalties imposed by this chapter. For purposes of this  
6 subsection, the severing of natural gas during any calendar day  
7 shall constitute a separate violation. The Secretary of Revenue  
8 may designate employees of the department to enforce the  
9 provisions of this subsection. The employees shall exhibit proof  
10 of and be within the scope of the designation when instituting  
11 proceedings as provided by the Pennsylvania Rules of Criminal  
12 Procedure.

13 (e) Failure to obtain registration certificate.--Failure to  
14 obtain or hold a valid registration certificate does not relieve  
15 a person from liability for the tax imposed by this chapter.  
16 § 1505.1. Meters.

17 A producer shall provide for and maintain a discrete wellhead  
18 meter and a discrete sales meter. A producer shall ensure that  
19 the meters are maintained according to industry standards. Any  
20 wellhead meter installed after the effective date of this  
21 section shall be a digital meter.  
22 § 1506. Assessments.

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

27 (b) Notice.--The notice of assessment and demand for payment  
28 shall be mailed to the taxpayer. The notice shall set forth the  
29 basis of the assessment. The department shall send the notice of  
30 assessment to the taxpayer at its registered address via  
31 certified mail if the assessment increases the taxpayer's tax  
32 liability by \$300. Otherwise, the notice of assessment may be  
33 sent via regular mail.  
34 § 1507. Time for assessment.

35 (a) Requirement.--An assessment as provided under section  
36 1506 (relating to assessments) shall be made within three years  
37 after the date when the return provided for by section 1504  
38 (relating to return and payment) is filed or the end of the year  
39 in which the tax liability arises, whichever shall occur last.  
40 For the purposes of this subsection and subsection (b), a return  
41 filed before the last day prescribed for the filing period shall  
42 be considered as filed on the last day.

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

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

50 (d) Erroneous credit or refund.--Within three years of the  
51 granting of a refund or credit or within the period in which an

1 assessment or reassessment may have been issued by the  
2 department for the taxable period for which the refund was  
3 granted, whichever period shall last occur, the department may  
4 issue an assessment to recover a refund or credit made or  
5 allowed erroneously.

6 § 1508. Extension of limitation period.

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

15 § 1509. Reassessments.

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

20 § 1510. Interest.

21 The department shall assess interest on any delinquent tax at  
22 the rate prescribed under section 806 of the act of April 9,  
23 1929 (P.L.343, No. 176), known as The Fiscal Code.

24 § 1511. Penalties.

25 The department shall enforce the following penalties:

26 (1) A penalty against a valid producer without a natural  
27 gas severance tax registration certificate. The penalty shall  
28 be \$1 for every unit severed without a valid registration  
29 certificate. The department may assess this penalty  
30 separately from or in conjunction with any assessment of the  
31 natural gas severance tax.

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

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

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

45 § 1512. Criminal acts.

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

1 (b) Other crimes.--

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

7 (i) Willfully failing to timely remit the tax to the  
8 department.

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

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

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

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

18 (vi) Knowingly make any incomplete, false or  
19 fraudulent return or report.

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

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

26 (ix) Making, uttering or issuing a false or  
27 fraudulent statement.

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

30 § 1513. Abatement of additions or penalties.

31 Upon the filing of a petition for reassessment or a petition  
32 for refund by a taxpayer as provided under this chapter,  
33 additions or penalties imposed upon the taxpayer by this chapter  
34 may be waived or abated in whole or in part where the petitioner  
35 establishes that he acted in good faith, without negligence and  
36 with no intent to defraud.

37 § 1514. Bulk and auction sales.

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

47 § 1515. Collection upon failure to request reassessment, review  
48 or appeal.

49 (a) Power of department.--The department may collect the  
50 natural gas severance tax:

51 (1) If an assessment of the tax is not paid within 30



1 days after notice to the taxpayer when no petition for  
2 reassessment has been filed.

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

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

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

8 (ii) the expiration of the board's time for acting  
9 upon the petition.

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

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

21 § 1516. Tax liens.

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

38 (b) Priority of lien and effect on judicial sale.--Except  
39 for the costs of the sale and the writ upon which the sale was  
40 made and real estate taxes and municipal claims against the  
41 property, a lien imposed under this section shall have priority  
42 from the date of its recording and shall be fully paid and  
43 satisfied out of the proceeds of any judicial sale of property  
44 subject to the lien, before any other obligation, judgment,  
45 claim, lien or estate to which the property may subsequently  
46 become subject, but shall be subordinate to mortgages and other  
47 liens existing and duly recorded or entered of record prior to  
48 the recording of the lien.

49 (c) No discharge by sale on junior lien.--In the case of a  
50 judicial sale of property subject to a lien imposed under this  
51 section, upon a lien or claim over which the lien imposed under

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

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

26 (e) Priority.--Except as provided in this chapter, the  
27 distribution, voluntary or compulsory, in receivership,  
28 bankruptcy or otherwise of the property or estate of any person,  
29 all taxes imposed by this chapter which are due and unpaid and  
30 are not collectible under the provisions of section 225 of the  
31 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
32 of 1971, shall be paid from the first money available for  
33 distribution in priority to all other claims and liens, except  
34 as the laws of the United States may give priority to a claim to  
35 the Federal Government. A person charged with the administration  
36 or distribution of the property or estate who violates the  
37 provisions of this section shall be personally liable for the  
38 taxes imposed by this chapter which are accrued and unpaid and  
39 chargeable against the person whose property or estate is being  
40 administered or distributed.

41 (f) Other remedies.--Subject to the limitations contained in  
42 this chapter as to the assessment of taxes, nothing contained in  
43 this section shall be construed to restrict, prohibit or limit  
44 the use by the department in collecting taxes due and payable of  
45 another remedy or procedure available at law or equity for the  
46 collection of debts.

47 § 1517. Tax suit reciprocity.

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

1 § 1518. Service.

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

17 § 1519. Refunds.

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

34 § 1520. Refund petition.

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

42 (b) Natural gas severance tax.--A refund or credit of tax,  
43 interest or penalty paid as a result of an assessment made by  
44 the department under section 1505 (relating to natural gas  
45 severance tax registration), shall be made only where the person  
46 who has paid the tax files with the department a petition for a  
47 refund with the department under Article XXVII within the time  
48 limits of section 3003.1 of the Tax Reform Code of 1971. The  
49 filing of a petition for refund, under the provisions of this  
50 subsection, shall not affect the abatement of interest,  
51 additions or penalties to which the person may be entitled by

1 reason of his payment of the assessment.

2 § 1521. Rules and regulations.

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

13 § 1522. Recordkeeping.

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

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

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

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

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

35 (b) Records of nonresidents.--A nonresident who does  
36 business in this Commonwealth as a producer shall keep adequate  
37 records of the business and of the tax due as a result. The  
38 records shall be retained within this Commonwealth unless  
39 retention outside this Commonwealth is authorized by the  
40 department. The department may require a taxpayer who desires to  
41 retain records outside this Commonwealth to assume reasonable  
42 out-of-State audit expenses.

43 (c) Keeping of separate records.--A producer who is engaged  
44 in another business or businesses which do not involve the  
45 severing of natural gas taxable under this chapter shall keep  
46 separate books and records of the businesses so as to show the  
47 taxable severing of natural gas under this chapter separately  
48 from other business activities not taxable under this chapter.  
49 If any person fails to keep separate books and records, the  
50 person shall be liable for a penalty equaling 100% of tax due  
51 under this chapter for the period where separate records were

1 not maintained.

2 § 1523. Examinations.

3 The department or any of its authorized agents are authorized  
4 to examine the books, papers and records of any taxpayer in  
5 order to verify the accuracy and completeness of any return made  
6 or, if no return was made, to ascertain and assess the tax  
7 imposed by this chapter. The department may require the  
8 preservation of all books, papers and records for any period  
9 deemed proper by it but not to exceed three years from the end  
10 of the calendar year to which the records relate. Every taxpayer  
11 is required to give to the department or its agent the means,  
12 facilities and opportunity for examinations and investigation  
13 under this section. The department is further authorized to  
14 examine any person, under oath, concerning the taxable severing  
15 of natural gas by any taxpayer or concerning any other matter  
16 relating to the enforcement or administration of this chapter,  
17 and to this end may compel the production of books, papers and  
18 records and the attendance of all persons whether as parties or  
19 witnesses whom it believes to have knowledge of relevant  
20 matters. The procedure for the hearings or examinations shall be  
21 the same as that provided by the act of April 9, 1929 (P.L.343,  
22 No. 176), known as The Fiscal Code.

23 § 1524. Unauthorized disclosure.

24 Any information gained by the department as a result of any  
25 return, examination, investigation, hearing or verification  
26 required or authorized by this chapter shall be confidential  
27 except for official purposes and except in accordance with  
28 proper judicial order or as otherwise provided by law, and any  
29 person unlawfully divulging the information shall be guilty of a  
30 misdemeanor and shall, upon conviction, be sentenced to pay a  
31 fine of not more than \$1,000 and costs of prosecution or to  
32 imprisonment for not more than one year, or both.

33 § 1525. Cooperation with other governments.

34 Notwithstanding the provisions of section 1517 (relating to  
35 tax suit reciprocity), the department may permit the  
36 Commissioner of the Internal Revenue Service, the proper officer  
37 of any state or the authorized representative of either of them  
38 to inspect the tax returns of any taxpayer, or may furnish to  
39 the commissioner or officer or to either of their authorized  
40 representative an abstract of the return of any taxpayer, or  
41 supply the taxpayer with information concerning any item  
42 contained in any return or disclosed by the report of any  
43 examination or investigation of the return of any taxpayer. This  
44 permission shall be granted only if the laws of the United  
45 States or another state grant substantially similar privileges  
46 to the proper officer of the Commonwealth charged with the  
47 administration of this chapter.

48 § 1526. Bonds.

49 (a) Taxpayer to file bond.--The department may require a  
50 nonresident natural person or any foreign corporation,  
51 association, fiduciary or other entity, not authorized to do

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

28 (b) Securities in lieu of bond.--In lieu of the bond  
29 required by this section, securities approved by the department  
30 or cash in a prescribed amount may be deposited. The securities  
31 or cash shall be kept in the custody of the department. The  
32 department may apply the securities or cash to the tax imposed  
33 by this chapter and interest or penalties due without notice to  
34 the depositor. The securities may be sold by the department to  
35 pay the tax and/or interest or penalties due at public or  
36 private sale upon five days' written notice to the depositor.

37 (c) Failure to file bond.--The department may file a lien  
38 under section 1516 (relating to tax liens) against any taxpayer  
39 who fails to file a bond when required to do so under this  
40 section. All funds received upon execution of the judgment on  
41 the lien shall be refunded to the taxpayer with 3% interest,  
42 should a final determination be made that the taxpayer does not  
43 owe any payment to the department.

44 § 1527. Natural Gas Severance Tax Fund.

45 (a) Establishment.--The Natural Gas Severance Tax Fund is  
46 established as a separate fund in the State Treasury.

47 (b) Deposit.--The proceeds of the natural gas severance tax,  
48 penalties and interest imposed by this chapter, less the amounts  
49 appropriated under section 1529 (relating to appropriation),  
50 shall be deposited into the fund. The State Treasurer shall  
51 establish a subaccount for each county identified in section

1 1504(a)(2) (relating to return and payment).

2 (c) Restriction.--The money in the fund shall only be used  
3 in accordance with section 1528 (relating to administration of  
4 fund).

5 § 1528. Administration of fund.

6 (a) First fiscal year.--Before July 1, 2010, all of the  
7 money in the fund shall be transferred to the General Fund.

8 (b) Second fiscal year.--After June 30, 2010, and before  
9 July 1, 2011, \$100,000,000 from the fund shall be transferred to  
10 the General Fund; and the remainder of the money shall be  
11 allocated under subsection (d).

12 (c) Subsequent fiscal years.--After June 30, 2011, all of  
13 the money in the fund shall be allocated under subsection (d).

14 (d) The money in the fund shall be allocated annually as  
15 follows:

16 (1) Fifty percent to the General Fund.

17 (2) Twenty percent to the Environmental Stewardship  
18 Fund, where money shall be allocated according to the  
19 provisions of 27 Pa.C.S. § 6104(d) (relating to fund).

20 (3) Twenty percent to the Commonwealth Financing  
21 Authority for distribution to eligible counties and  
22 municipalities in this Commonwealth to assist with the costs  
23 and burdens associated with natural gas drilling and  
24 extraction located within or adjacent to their borders. The  
25 following apply:

26 (i) The authority shall distribute the money under  
27 this paragraph in counties where there is severance of  
28 natural gas units under a formula, promulgated as  
29 regulation, which provides distribution to:

30 (A) the county itself;

31 (B) each municipality in the county in which  
32 there is a severance of natural gas units;

33 (C) each municipality in the county in which  
34 there is no severance of natural gas units;

35 (D) county conservation districts in the county;

36 and

37 (E) fire and emergency services in the county.

38 (ii) The authority shall promulgate regulations for  
39 eligible uses, oversight, reporting and other relevant  
40 provisions relating to the use of the money under this  
41 paragraph.

42 (iii) The authority shall, by June 30, provide an  
43 annual report detailing the specific use and allocation  
44 of the money under this paragraph to the Secretary of the  
45 Senate and the Chief Clerk of the House of  
46 Representatives.

47 (4) Three percent to the Pennsylvania Fish and Boat  
48 Commission for habitat conservation and public access  
49 projects. The executive director of the Pennsylvania Fish and  
50 Boat Commission shall, no later than June 30 of each year,  
51 provide an annual allocation plan detailing the projects to

1 be funded under this paragraph, the amount of each project  
2 and the anticipated environmental benefit of each project, to  
3 the chairman and minority chairman of the Game and Fisheries  
4 Committee of the Senate and the chairman and minority  
5 chairman of the Game and Fisheries Committee of the House of  
6 Representatives.

7 (5) Three percent to the Pennsylvania Game Commission  
8 for habitat conservation and public access projects. The  
9 executive director of the Pennsylvania Game Commission shall,  
10 no later than June 30 of each year, provide an annual  
11 allocation plan detailing the projects to be funded under  
12 this paragraph, the amount of each project and the  
13 anticipated environmental benefit of each project, to the  
14 chairman and minority chairman of the Game and Fisheries  
15 Committee of the Senate and the chairman and minority  
16 chairman of the Game and Fisheries Committee of the House of  
17 Representatives.

18 (6) Four percent to the Department of Public Welfare to  
19 provide cash and crisis grants to low-income households under  
20 the Low Income Home Energy Assistance Program.

21 § 1529. Appropriation.

22 The amount of the proceeds from the tax imposed by this  
23 chapter as shall be necessary for the payment of refunds,  
24 enforcement or administration under this chapter, is hereby  
25 appropriated for such purposes.

26 Section 2. Regulations under 72 Pa.C.S. § 1528(d)(3)(i) and  
27 (ii) shall be exempt from the act of June 25, 1982 (P.L.633,  
28 No.181), known as the Regulatory Review Act.

29 Section 3. This act shall take effect as follows:

30 (1) The following provisions shall take effect in 60  
31 days:

32 (i) The addition of 72 Pa.C.S. § 1503.

33 (ii) The addition of 72 Pa.C.S. § 1504.

34 (2) The remainder of this act shall take effect  
35 immediately.