
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1536 Session of
2015

INTRODUCED BY PETRI, CALTAGIRONE AND MURT, SEPTEMBER 4, 2015

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 4, 2015

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 an unconventional natural gas
11 severance tax.

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 articles to
16 read:

17 ARTICLE XVI-C

18 UNCONVENTIONAL NATURAL GAS SEVERANCE TAX

19 PART I

20 DEFINITIONS AND IMPOSITION

21 Section 1601-C. Definitions.

22 The following words and phrases when used in this part shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Bare drilling and completion costs." The actual cost to
4 prepare a site for drilling and to drill, complete and equip an
5 unconventional gas well for production, excluding the costs of
6 land acquisition, geophysical and geologic costs, internal
7 administrative costs and any costs incurred after production of
8 the gas.

9 "Date of first production." When used in reference to a
10 particular unconventional gas well, the first day in the month
11 an unconventional gas well produces natural gas for sale.

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

13 "Fund." The Unconventional Natural Gas Severance Tax Fund
14 established under Part II.

15 "Marginal gas well." An unconventional gas well incapable of
16 producing more than 4,500,000 cubic feet of gas per month during
17 a calendar month, including production from the zones and
18 multilateral well bores at a single well, without regard to
19 whether the production is separately metered.

20 "Market value." The producer's proceeds from the sale of gas
21 at arm's-length terms to the first purchaser less any payment
22 made to lessors holding a royalty interest and less the costs to
23 the producer of gathering, separating, processing,
24 fractionating, dehydrating, treating, compressing, marketing and
25 delivering the gas to the first purchaser. For purposes of
26 calculating the costs to the producer where costs are incurred
27 with an entity affiliated with the producer, the affiliated
28 entity may not charge more for the costs than the amount that
29 would be reasonably incurred in an arm's-length transaction with
30 a third party for the activities on a volumetric basis.

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

3 "Natural gas." A fossil fuel consisting of a mixture of
4 hydrocarbon gases, primarily methane, and possibly including
5 ethane, propane, butane, pentane, carbon dioxide, oxygen,
6 nitrogen and hydrogen sulfide and other gas species. The term
7 includes natural gas from oil fields known as associated gas or
8 casing head gas, natural gas fields known as nonassociated gas,
9 coal beds, shale beds and other formations. The term does not
10 include coal bed methane.

11 "Number of producing unconventional gas wells." The most
12 recent numerical count of producing unconventional gas wells on
13 the inventory maintained by the Department of Environmental
14 Protection as of the last day of a calendar month.

15 "Payout." When the proceeds from the sale of natural gas
16 produced by an unconventional gas well equal the bare drilling
17 and completion costs for the well.

18 "Producer." A person or its subsidiary, affiliate or holding
19 company that engages in the business of severing natural gas for
20 sale, profit or commercial use from an unconventional gas well
21 in this Commonwealth. The term does not include a producer that
22 severs natural gas from a site used to store natural gas that
23 did not originate from the site.

24 "Reporting period." A calendar month in which a producer
25 sells natural gas.

26 "Sales meter." A meter to measure natural gas located at the
27 point where natural gas is sold or transported to a purchaser or
28 market.

29 "Sever." Natural gas taken or removed for commercial
30 purposes from the soil or water. The term does not apply to:

1 (1) natural gas returned to a formation, in recycling,
2 repressuring, pressure maintenance operation or other
3 operation for the production of oil or other liquid
4 hydrocarbon; or

5 (2) hydrocarbons in gaseous or liquid form that are
6 burned, used, consumed or otherwise employed in oil and gas
7 operations, including, but not limited to, storage, secondary
8 recovery operations and fuel for equipment.

9 "Severance tax." The tax on natural gas imposed under
10 section 1602-C.

11 "Stripper well." An unconventional gas well incapable of
12 producing more than 2,700,000 cubic feet of gas per month during
13 a calendar month, including production from the zones and
14 multilateral well bores at a single well, without regard to
15 whether the production is separately metered.

16 "Unconventional formation." A geological shale formation
17 existing below the base of the Elk Sandstone or its geologic
18 equivalent stratigraphic interval where natural gas generally
19 cannot be produced at economic flow rates or in economic volumes
20 except by vertical or horizontal well bores stimulated by
21 hydraulic fracture treatments or using multilateral well bores
22 or other techniques to expose more of the formation to the well
23 bore.

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

27 "Wellhead meter." A meter located at a producing or
28 nonproducing well site used to measure the volume of severed
29 natural gas.

30 Section 1602-C. Imposition of tax.

1 (a) Establishment.--Beginning July 1, 2015, a natural gas
2 severance tax shall be levied on every producer.

3 (b) Rate.--The tax shall be imposed at the rate of 5% upon
4 the market value of natural gas sold during a reporting period.

5 (c) Well classification.--

6 (1) The producer of a proposed or existing gas well may
7 apply to the Department of Environmental Protection for a
8 letter ruling regarding whether the well qualifies as an
9 unconventional gas well, a marginal gas well or a stripper
10 well or to certify the date of first production of an
11 unconventional gas well.

12 (2) The Department of Environmental Protection shall
13 require an applicant to provide the information necessary to
14 issue a letter ruling under this subsection. The letter
15 ruling shall be issued within 15 calendar days of the receipt
16 of a complete application or a change to a previous
17 classification under paragraph (3).

18 (3) A producer shall notify the department of a change
19 in the classification of a well subject to a letter ruling
20 within 15 calendar days of the change.

21 (4) A determination regarding the classification of a
22 gas well shall not expire unless notice is made under
23 paragraph (3).

24 (5) A letter ruling shall be binding upon the department
25 until revoked or the ruling expires. A producer shall not be
26 subject to a penalty or an additional tax based upon its good
27 faith reliance upon a letter ruling.

28 (d) Exclusions.--The tax shall not be imposed on the
29 following:

30 (1) natural gas severed through a stripper well;

1 (2) natural gas severed, sold and delivered by a
2 producer at or within five miles of the producing site for
3 the processing or manufacture of tangible personal property
4 as defined under section 201;

5 (3) natural gas provided free of charge to the owner of
6 the surface under which the gas is severed if the surface
7 owner is the end user of the gas; or

8 (4) a gas well collecting coal bed methane.

9 (e) Credit.--A credit against the severance tax shall be
10 allowed in the amount of 50% of the rate imposed in subsection
11 (b) upon the market value of natural gas sold and severed from
12 the earth through a marginal gas well.

13 (f) Deduction.--Except as provided in paragraphs (3), (4)
14 and (5), if a return is filed by a producer and the severance
15 tax shown to be due on the return less a deduction is paid
16 within the time prescribed, the producer shall be entitled to
17 apply against the market value of the natural gas sold for the
18 reporting period a deduction computed as follows:

19 (1) Multiply:

20 (i) seventy-five percent; by

21 (ii) the bare drilling and completion costs for each
22 unconventional gas well included in the return under
23 section 1603-C(b).

24 (2) Divide:

25 (i) the product under paragraph (1); by

26 (ii) thirty-six.

27 (3) The computation under paragraphs (1) and (2) shall
28 include unconventional gas wells for 36 months or until
29 payout, whichever occurs first.

30 (4) The computation under paragraphs (1) and (2) shall

1 not include an unconventional gas well drilled before July 1,
2 2014.

3 (5) A deduction computed under paragraphs (1) and (2)
4 shall not exceed the market value of natural gas sold for a
5 reporting period.

6 Section 1603-C. Administration.

7 (a) Registration.--A producer who is subject to the
8 severance tax shall, within 30 days of the date of first
9 production or 90 days of the effective date of this section,
10 whichever occurs later, apply for a certificate of registration
11 in the manner and subject to the requirements of section 208 to
12 the extent applicable to the severance tax. An application shall
13 include a list of unconventional gas wells in which the producer
14 has an interest and certification of the accuracy of the sales
15 meter at each unconventional gas well or well pad under
16 subsection (f).

17 (b) Returns and recordkeeping.--A producer shall file a
18 return with the department on a form prescribed by the
19 department. The return shall include the following:

20 (1) The market value of natural gas sold by the producer
21 for the reporting period.

22 (2) The volume of natural gas sold by the producer for
23 the reporting period.

24 (3) The number of producing unconventional gas wells
25 used by the producer for the sale of natural gas in each
26 county and municipality.

27 (4) The amount of severance tax due.

28 (5) Information to update the producer's registration
29 application submitted under subsection (a) occurring in the
30 month for which returns are filed relating to:

1 (i) The addition to or removal from production of an
2 unconventional gas well.

3 (ii) A change in the classification of an
4 unconventional gas well.

5 (c) Filing.--The return required by subsection (b) shall be
6 filed with the department within 20 days of the second month
7 following the end of a reporting period. The first return shall
8 be due September 20, 2015.

9 (d) Deadline.--The severance tax shall be due on the day the
10 return is required to be filed and shall become delinquent if
11 not remitted to the department by the date required under
12 subsection (c).

13 (e) Deposit.--The severance tax shall be deposited into the
14 fund.

15 (f) Meters.--A producer shall provide and maintain or cause
16 to be provided and maintained a wellhead meter and a sales meter
17 for an unconventional gas well that is tested, calibrated and
18 maintained in accordance with industry standards adopted by the
19 American Gas Association or other standard adopted by the
20 department by regulation or, if the sale of gas is to a public
21 utility, by the Pennsylvania Public Utility Commission.
22 Wellhead and sales meters shall not be subject to 3 Pa.C.S. Ch.
23 41 (relating to weights and measures). Multiple wells located on
24 the same drilling pad may utilize the same meter. A wellhead
25 meter installed after the effective date of this section shall
26 be a digital meter.

27 (g) Applicability.--To the extent applicable to the
28 severance tax, the provisions of sections 230, 231, 232, 272,
29 274, 407.3, 407.4, 408 and 408.1 shall apply to the assessment,
30 reassessment, enforcement, collection and the adoption of

1 regulations by the department.

2 (h) Interest, additions to tax, penalties and abatement.--

3 To the extent applicable to the severance tax, the provisions of
4 sections 266(a) and (b), 267, 268(a) and 269 and sections 806
5 and 806.1 of the act of April 9, 1929 (P.L.343, No. 176), known
6 as The Fiscal Code, shall apply to interest, additions to the
7 severance tax and penalties.

8 (i) Bulk and auction sales.--The following apply:

9 (1) A producer that sells or transfers or causes to be
10 sold at auction or in bulk 51% or more of the tangible assets
11 of a business association subject to the severance tax shall:

12 (i) give the department no less than ten days'
13 notice of the sale or transfer prior to the completion of
14 the transfer of the property; and

15 (ii) file severance tax reports with the department
16 up to and including the date of the proposed transfer of
17 property and pay the severance taxes due the Commonwealth
18 up to and including the date of the proposed transfer.

19 (2) Severance tax liability arising between the date of
20 the notice and the date of the sale or transfer may be
21 estimated by the producer.

22 (3) Within 30 days of the receipt of the notice under
23 this subsection, the department shall review the severance
24 tax reports filed and issue a notice to the producer and the
25 purchaser regarding alleged deficiencies alleged to be
26 payable to the Commonwealth by the producer.

27 (4) Upon receipt of a timely notice from the department
28 regarding amounts due from the producer, the failure of the
29 purchaser or transferee to obtain evidence that the amounts
30 have been paid by the producer, or that a bond, letter of

1 credit or other security acceptable to the department has
2 been provided to ensure the payment of all or any portion of
3 the amounts found to be due upon the completion of
4 proceedings to review the department's determination, shall
5 render the purchaser or transferee liable to the Commonwealth
6 for the unpaid severance taxes determined in the notice to be
7 due.

8 (5) The requirements of this subsection shall not apply
9 to:

10 (i) sales or transfers made under an order of court;

11 or

12 (ii) sales or transfers made by:

13 (A) assignees for the benefit of creditors,
14 executors, administrators or receivers;

15 (B) a public officer in his official capacity;

16 or

17 (C) an officer of a court.

18 (6) Nothing in this subsection shall be construed to
19 prevent the department from subsequently determining that
20 additional amounts are due from the seller or transferor in
21 the manner otherwise authorized by law, but assessments or
22 reassessments shall not become the obligation of the
23 purchaser or transferee.

24 (7) The provisions of this section supersede and replace
25 the requirements of section 1403 of The Fiscal Code.

26 (j) Liens.--The provisions of section 242 shall apply to
27 liens for the severance tax.

28 (k) Service.--The provisions of section 245 shall apply to
29 service under this article.

30 (l) Refunds.--The provisions of sections 2703, 2704, 3003.1

1 and 3003.5 shall apply to severance tax refunds under this
2 article.

3 PART II

4 UNCONVENTIONAL NATURAL GAS SEVERANCE TAX

5 FUND AND DISTRIBUTION

6 Section 1621-C. Definitions.

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

10 "Commission." The Pennsylvania Public Utility Commission.

11 "Department." The Department of Environmental Protection of
12 the Commonwealth.

13 "Fund." The Unconventional Natural Gas Severance Tax Fund
14 established under section 1622-C.

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

20 "Municipality." A borough, city, incorporated town or
21 township.

22 "Natural gas." A fossil fuel consisting of a mixture of
23 hydrocarbon gases, primarily methane, and possibly including
24 ethane, propane, butane, pentane, carbon dioxide, oxygen,
25 nitrogen and hydrogen sulfide and other gas species. The term
26 includes natural gas from oil fields known as associated gas or
27 casing head gas, natural gas fields known as nonassociated gas,
28 coal beds, shale beds and other formations. The term does not
29 include coal bed methane.

30 "Number of spud unconventional gas wells." The most recent

1 numerical count of spud unconventional gas wells on the
2 inventory maintained and provided to the commission by the
3 department as of the last day of each month.

4 "Producer." A person or its subsidiary, affiliate or holding
5 company that holds a permit or other authorization to engage in
6 the business of severing natural gas for sale, profit or
7 commercial use from an unconventional gas well in this
8 Commonwealth. The term does not include a producer that severs
9 natural gas from a site used to store natural gas that did not
10 originate from the site.

11 "Severance tax." The tax imposed under section 1602-C.

12 "Small business." A company that is engaged in a for-profit
13 enterprise and that employs 100 or fewer individuals.

14 "Unconventional formation." A geological shale formation
15 existing below the base of the Elk Sandstone or its geologic
16 equivalent stratigraphic interval where natural gas generally
17 cannot be produced at economic flow rates or in economic volumes
18 except by vertical or horizontal well bores stimulated by
19 hydraulic fracture treatments or by using multilateral well
20 bores or other techniques to expose more of the formation to the
21 well bore.

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

25 Section 1622-C. Establishment of fund.

26 The Unconventional Natural Gas Severance Tax Fund is
27 established in the State Treasury. The money received by the
28 Commonwealth under the severance tax shall be deposited into the
29 fund.

30 Section 1623-C. Use of fund.

1 (a) Annual report.--The Governor shall report on the fund in
2 the State budget under section 613 of the act of April 9, 1929
3 (P.L.177, No.175), known as The Administrative Code of 1929,
4 that shall include the amounts appropriated to the fund.

5 (b) Distributions.--Taxes, fines, additions to severance
6 tax, penalties and interest imposed and collected under this
7 article shall be deposited into the fund and distributed for the
8 fiscal years for the purposes set forth in this section:

9 (1) For fiscal year 2015-2016, \$60,000,000 shall be
10 transferred to the Unconventional Gas Well Fund.

11 (2) For fiscal year 2016-2017 and each fiscal year
12 thereafter, \$120,000,000 shall be transferred to the
13 Unconventional Gas Well Fund.

14 (3) For fiscal year 2015-2016, \$40,000,000 shall be
15 transferred to the Marcellus Legacy Fund.

16 (4) For fiscal year 2016-2017 and each fiscal year
17 thereafter, \$80,000,000 shall be transferred to the Marcellus
18 Legacy Fund.

19 (5) For the payment of distributions under section 1630-
20 C.

21 (6) For distribution to the commission under subsection
22 1624-C(b).

23 (7) For fiscal year 2015-2016, 95% of the remaining
24 money following the transfer or payment under paragraphs (1),
25 (3), (5) and (6) shall be transferred to the General Fund.

26 (8) For fiscal year 2015-2016, 5% of the remaining money
27 following the transfer or payment under paragraphs (1), (3),
28 (5) and (6) shall be transferred to the Unconventional Gas
29 Well Fund and the Marcellus Legacy Fund as follows:

30 (i) Sixty percent to the Unconventional Gas Well

1 Fund for distribution under section 1631-C(a).

2 (ii) Forty percent to the Marcellus Legacy Fund.

3 (9) For fiscal year 2016-2017 and each fiscal year
4 thereafter, 90% of the remaining money following the transfer
5 or payment under paragraphs (2), (4), (5) and (6) shall be
6 transferred to the General Fund.

7 (10) For fiscal year 2016-2017 and each fiscal year
8 thereafter, 10% of the remaining money following the transfer
9 or payment under paragraphs (2), (4), (5) and (6) shall be
10 transferred to the Unconventional Gas Well Fund and the
11 Marcellus Legacy Fund as follows:

12 (i) Sixty percent to the Unconventional Gas Well
13 Fund for distribution under section 1631-C(a).

14 (ii) Forty percent to the Marcellus Legacy Fund.

15 Section 1624-C. Report to commission.

16 (a) Report.--By April 1, 2016, and April 1 of each year
17 thereafter, each producer shall submit to the commission a
18 report on a form prescribed by the commission for the previous
19 calendar year. The report shall include the following:

20 (1) Number of spud unconventional gas wells of a
21 producer in each municipality within each county.

22 (2) Date each unconventional gas well identified under
23 paragraph (1) was spud or ceased the production of natural
24 gas.

25 (b) Costs of commission.--The costs of the commission to
26 implement and administer the provisions of this part shall be
27 paid from the fund.

28 Section 1625-C. Well information.

29 (a) List.--Within 30 days of the effective date of this
30 section, the department shall provide the commission and, upon

1 request, a county, with a list of all spud unconventional gas
2 wells from the department. The department shall update the list
3 and provide it to the commission on a monthly basis.

4 (b) Updates.--A producer shall notify the commission of the
5 following within 30 days after a calendar month in which the
6 change occurs:

7 (1) Spudding of an unconventional gas well.

8 (2) Initiation of production at an unconventional gas
9 well.

10 (3) Removal of an unconventional gas well from
11 production.

12 Section 1626-C. Duties of department.

13 (a) Confirmation of payment.--Prior to issuing a permit to
14 drill an unconventional gas well in this Commonwealth, the
15 department shall establish whether the producer has paid the
16 severance taxes owed. The Department of Revenue shall determine
17 whether the producer has paid the severance taxes owed and
18 notify the department of the determination.

19 (b) Permits and other authorizations.--With respect to the
20 equipment or facilities necessary for placing an unconventional
21 gas well subject to the severance tax into production and
22 maintaining production the following apply:

23 (1) The applications for permits and other
24 authorizations shall receive priority review by the
25 applicable Commonwealth agencies. An application receiving
26 priority consideration shall include, but not be limited to,
27 permits for site preparation, drilling and completion of a
28 well, and the construction of the equipment necessary to
29 place the well into production, including the construction of
30 pipelines.

1 (2) The permits or other authorizations shall be granted
2 within 45 days of application concurrent with the well permit
3 provided for in 58 Pa.C.S. § 3211 (relating to well permits),
4 if applied for concurrently, or within 45 days of
5 application, if submitted separately, unless denied for
6 reasons duly authorized by law. An application for coverage
7 under an applicable general permit shall be acted upon within
8 30 days of submission. Failure to act within the time
9 specified shall result in a deemed approval of the permit or
10 other authorization.

11 (3) A permit issued under 58 Pa.C.S. § 3211 shall be
12 valid for a period of two years from issuance.

13 (4) A permit required under 58 Pa.C.S. § 3211 may not be
14 required prior to earth disturbance for site preparation,
15 including access roads, provided that a permit applicable to
16 the earth disturbance activity has been issued.

17 (5) An extension granted under 58 Pa.C.S. § 3216(g)
18 (relating to well site restoration) may be granted for
19 successive two-year periods if the requirements for the
20 extensions are met.

21 (c) Prohibition.--The department shall not issue a permit to
22 drill an unconventional gas well unless the producer meets the
23 following requirements:

24 (1) filed severance tax reports required under this
25 article; and

26 (2) paid severance taxes that are not in dispute.

27 Section 1627-C. Powers of commission.

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

30 Section 1628-C. Producers.

1 A producer subject to this part shall comply with regulations
2 of the commission and make reports, render statements and keep
3 records as the commission deems sufficient to make distributions
4 under this part.

5 Section 1629-C. Examinations.

6 (a) Access and examination.--

7 (1) The commission shall have access to the relevant
8 documents and records of a producer in order to verify the
9 accuracy and completeness of a report filed under this part.

10 (2) The commission may do all of the following:

11 (i) Require preservation of documents and records
12 for an appropriate period not to exceed three years from
13 the end of the calendar year to which the records relate.

14 (ii) Under 66 Pa.C.S. § 309 (relating to oaths and
15 subpoenas):

16 (A) examine an employee of a producer under oath
17 concerning the severing of natural gas subject to
18 severance tax or a matter relating to the enforcement
19 of this part; and

20 (B) compel the production of a relevant document
21 or record and the attendance of a witness whom the
22 commission believes to have knowledge of a relevant
23 matter.

24 (b) Unauthorized disclosure.--Information obtained by the
25 commission as a result of any report, examination, investigation
26 or hearing under this part shall be confidential and shall not
27 be disclosed, except for official purposes, in accordance with
28 judicial order or as otherwise provided by law. A commissioner
29 or an employee of the commission who, without authorization,
30 divulges confidential information shall be subject to

1 disciplinary action by the commission.

2 Section 1630-C. Distributions from fund.

3 Money deposited into the fund under section 1623-C(b) shall
4 be distributed by the commission as follows:

5 (1) The following apply to conservation districts:

6 (i) From taxes collected in a fiscal year, the
7 following amount shall be distributed from the fund to
8 county conservation districts under subparagraph (ii):

9 (A) In fiscal year 2015-2016, \$7,500,000.

10 (B) In each succeeding fiscal year, the amount
11 under clause (A), increased by the percentage
12 increase in the Consumer Price Index for All Urban
13 Consumers for the most recent 12-month period for
14 which figures have been officially reported by the
15 Bureau of Labor Statistics immediately prior to
16 October 1.

17 (ii) Money under subparagraph (i) shall be
18 distributed in accordance with the following:

19 (A) One-half shall be distributed by dividing
20 the amount equally among conservation districts for
21 uses consistent with the act of May 15, 1945
22 (P.L.547, No.217), known as the Conservation District
23 Law.

24 (B) One-half shall be distributed by the State
25 Conservation Commission in a manner consistent with
26 the Conservation District Law and the provisions of
27 the State Conservation Commission's Conservation
28 District Fund Allocation Program-Statement of Policy
29 under 25 Pa. Code Ch. 83 Subch. B (relating to
30 Conservation District Fund Allocation Program-

1 Statement of Policy).

2 (2) From severance taxes collected under this article
3 and deposited in the fund under section 1623-C(b), for fiscal
4 year 2016-2017 and each fiscal year thereafter, the following
5 shall apply:

6 (i) One million dollars shall be distributed to the
7 Pennsylvania Fish and Boat Commission for costs relating
8 to the review of applications for permits to drill
9 unconventional gas wells.

10 (ii) Six million dollars shall be distributed to the
11 department for the administration of this article and the
12 enforcement of acts relating to clean air and clean
13 water.

14 (iii) Seven hundred fifty thousand dollars shall be
15 distributed to the Pennsylvania Emergency Management
16 Agency for emergency response planning, training and
17 coordination related to natural gas production from
18 unconventional gas wells.

19 (iv) Seven hundred fifty thousand dollars shall be
20 distributed to the Office of the State Fire Commissioner
21 for the development, delivery and sustainment of training
22 and grant programs for first responders and the
23 acquisition of specialized equipment for response to
24 emergencies relating to natural gas production from
25 unconventional gas wells.

26 (v) One million dollars shall be distributed to the
27 Department of Transportation for rail freight assistance.

28 (vi) One million dollars shall be distributed to the
29 Department of Health for disseminating information,
30 preparing and conducting health care provider outreach

1 and education and other uses associated with
2 unconventional natural gas production activity within
3 this Commonwealth.

4 (3) An agency or organization that receives money under
5 this subsection shall, by December 31, 2017, and December 31
6 of each year thereafter, submit to the Secretary of the
7 Budget and the Appropriations Committee of the Senate and the
8 Appropriations Committee of the House of Representatives a
9 report itemizing and explaining the use of the money.

10 Section 1631-C. Unconventional Gas Well Fund.

11 (a) Distribution.--The money transferred to the
12 Unconventional Gas Well Fund in fiscal year 2015-2016 and each
13 fiscal year thereafter pursuant to section 1623-C shall be
14 distributed to counties and municipalities for purposes
15 authorized under subsection (d). It is the intent of this
16 section that counties and municipalities, where appropriate,
17 jointly fund projects that cross jurisdictional lines. The
18 commission, after making a disbursement under subsection (c),
19 shall distribute the remaining funds appropriated as follows by
20 October 1, 2016, and each October 1 thereafter:

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

24 (i) Divide:

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

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

29 (ii) Multiply:

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

1 (B) the amount available for distribution under
2 this paragraph.

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

7 (i) Divide:

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

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

12 (ii) Multiply:

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

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

16 (3) Twenty-seven percent shall be distributed to each
17 municipality located in a county in which a spud
18 unconventional gas well is located. Distribution shall be
19 made as follows:

20 (i) Divide:

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

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

25 (ii) Multiply:

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

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

29 (iii) Fifty percent of the product under
30 subparagraph (ii) shall be distributed to each

1 municipality in which a spud unconventional gas well is
2 located, that is contiguous with a municipality in which
3 a spud unconventional gas well is located or that is
4 located within five linear miles of a spud unconventional
5 gas well. The distribution shall be made as follows:

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

9 (I) Divide:

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

12 (b) the total population of all eligible
13 municipalities within the county.

14 (II) Multiply:

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

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

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

21 (I) Divide:

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

24 (b) the total highway mileage of all
25 eligible municipalities within the county.

26 (II) Multiply:

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

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

30 (iv) Fifty percent of the product under subparagraph

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

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

8 (I) Divide:

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

11 (b) the total population of the county.

12 (II) Multiply:

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

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

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

19 (I) Divide:

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

22 (b) the total highway mileage of the
23 county.

24 (II) Multiply:

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

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

28 (b) Restriction.--

29 (1) The amount allocated to each municipality under
30 subsection (a) may not exceed the greater of \$500,000 or 50%

1 of the total budget for the prior fiscal year beginning with
2 the 2010 budget year and continuing every year thereafter,
3 adjusted to reflect any upward changes in the Consumer Price
4 Index for all Urban Consumers for the Pennsylvania, New
5 Jersey, Delaware and Maryland area in the preceding 12
6 months. Any remaining money after allocation under subsection
7 (a) shall be retained by the commission and transferred to
8 the Commonwealth Financing Authority.

9 (2) Remaining funds under paragraph (1) shall be used
10 for grants to schools, hospitals and small businesses to
11 obtain access to natural gas as follows:

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

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

18 (c) Housing Affordability and Rehabilitation Enhancement
19 Fund.--

20 (1) From severance taxes collected in fiscal year 2015-
21 2016 and each fiscal year thereafter, \$5,000,000 from the
22 fund shall be transferred to the Housing Affordability and
23 Rehabilitation Enhancement Fund.

24 (2) Funds under paragraph (1) shall be used for the
25 following purposes:

26 (i) To provide support to projects in a county in
27 which producing unconventional gas wells are located that
28 increase availability of quality, safe, affordable
29 housing for low-income and moderate-income individuals or
30 families, persons with disabilities or elderly persons.

1 (ii) To provide rental assistance in a county in
2 which producing unconventional gas wells are located to
3 persons or families whose household income does not
4 exceed the area median income.

5 (3) No less than 50% of the funds available under this
6 subsection may be used in fifth, sixth, seventh and eighth
7 class counties.

8 (d) Use of funds.--A county or municipality receiving funds
9 under subsection (c) shall use the funds received only for the
10 following purposes associated with natural gas production from
11 unconventional gas wells within the county or municipality and
12 in a manner consistent with the provisions of 58 Pa.C.S. Ch.33
13 (relating to local ordinances relating to oil and gas
14 operations):

15 (1) Construction, reconstruction, maintenance and repair
16 of roadways, bridges and public infrastructure.

17 (2) Water, storm water and sewer systems, including
18 construction, reconstruction, maintenance and repair.

19 (3) Emergency preparedness and public safety, including
20 law enforcement and fire services, hazardous material
21 response, 911 service operations, equipment acquisition and
22 other services.

23 (4) Environmental programs, including trails, parks and
24 recreation, open space, flood plain management, conservation
25 districts and agricultural preservation.

26 (5) Preservation and reclamation of surface and
27 subsurface waters and water supplies.

28 (6) Tax reductions, including homestead exclusions.

29 (7) Projects to increase the availability of safe and
30 affordable housing to residents.

1 (8) Records management systems and personnel in the
2 office of recorder of deeds, geographic information systems
3 and information technology.

4 (9) The delivery of social services.

5 (10) Judicial services.

6 (11) For deposit into the county or municipality's
7 capital reserve fund, if the funds are used solely for a
8 purpose under this subsection.

9 (12) Career and technical centers for training of
10 workers in the oil and gas industry.

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

14 (14) Grants to residential property owners, schools,
15 hospitals and small businesses to obtain access to natural
16 gas.

17 (e) Prohibition.--Funds distributed under subsection (a) may
18 not be used for the purpose of public relations.

19 (f) Reporting.--

20 (1) The commission shall submit an annual report on all
21 funds in the Unconventional Gas Well Fund. The report shall
22 include a detailed listing of all deposits and expenditures
23 of the fund and be submitted to the chairman and the minority
24 chairman of the Appropriations Committee of the Senate, the
25 chairman and the minority chairman of the Environmental
26 Resources and Energy Committee of the Senate, the chairman
27 and the minority chairman of the Appropriations Committee of
28 the House of Representatives and the chairman and the
29 minority chairman of the Environmental Resources and Energy
30 Committee of the House of Representatives. The report shall

1 be submitted by October 31, 2016, and by October 31 of each
2 year thereafter.

3 (2) Each county and municipality receiving funds from
4 the Unconventional Gas Well Fund under this section shall
5 submit information to the commission on a form prepared by
6 the commission that sets forth the amount and use of the
7 funds received in the prior calendar year. The form shall
8 state whether or not the funds received were committed to a
9 specific project or use as authorized in this section. Each
10 report shall be published annually on the county's or
11 municipality's publicly accessible Internet website. The
12 commission may examine the relevant documents and records of
13 a county or municipality in order to verify the accuracy and
14 completeness of a report submitted under this paragraph. The
15 commission may withhold funds in future years from a county
16 or municipality that does not file accurate and timely
17 reports under this paragraph.

18 (g) Availability of funds.--Distribution of funds under this
19 section shall be contingent on availability of funds in the
20 Unconventional Gas Well Fund. If sufficient funds are not
21 available, the commission shall disburse funds on a pro rata
22 basis.

23 (h) Population.--For the purposes of this section, the
24 following apply:

25 (1) A population of a county shall be determined using
26 the United States Census Bureau's most recently released
27 Annual Estimates of the Resident Population for Counties of
28 Pennsylvania.

29 (2) A population of a municipality shall be determined
30 using the United States Census Bureau's most recently

1 released Annual Estimates for the Resident Population for
2 Incorporated Places in Pennsylvania.

3 (3) A population of a municipality not included in the
4 report referenced under paragraph (2) shall be determined
5 using the United States Census Bureau's most recently
6 released Annual Estimates of the Resident Population for
7 Minor Civil Divisions in Pennsylvania.

8 Section 1632-C. Marcellus Legacy Fund.

9 (a) Distribution.--The money transferred to the Marcellus
10 Legacy Fund in fiscal year 2015-2016 and each fiscal year
11 thereafter pursuant to section 1623-C shall be distributed by
12 the commission by October 1, 2016, and each October 1 thereafter
13 as follows:

14 (1) Twenty percent to the Commonwealth Financing
15 Authority for grants to eligible applicants for the
16 following:

17 (i) Acid mines, including damage, abatement and
18 cleanup and mine reclamation, with priority given to
19 projects that recycle and treat water for use in drilling
20 operations.

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

22 (iii) Complying with the act of January 24, 1966
23 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage
24 Facilities Act.

25 (iv) Planning acquisition, development,
26 rehabilitation and repair of greenways, recreational
27 trails, open space, parks and beautification projects.

28 (v) Programs to establish baseline water quality
29 data on private water supplies.

30 (vi) Watershed programs and related projects.

1 (vii) Flood control projects. Up to 25% of the funds
2 distributed to the Commonwealth Financing Authority under
3 this paragraph may be utilized for projects under this
4 subparagraph.

5 (2) Ten percent to the Environmental Stewardship Fund.

6 (3) Twenty-five percent to the Highway Bridge
7 Improvement Restricted Account within the Motor License Fund
8 to counties to be distributed to fund the cost of the
9 replacement or repair of locally owned at-risk deteriorated
10 bridges. Funds shall be distributed to counties
11 proportionately based on the population of the county as
12 follows:

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

15 (A) Divide:

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

17 (II) the total population of the

18 Commonwealth;

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

21 (C) Multiply:

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

23 (II) the amount of money to be distributed

24 under this paragraph.

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

27 (iii) The Department of Transportation shall release
28 money under this paragraph upon approval of a plan
29 submitted by a county or municipality to repair an at-
30 risk deteriorated bridge. The plan must include funding

1 for replacement or repair.

2 (iv) A county of the first or second class may
3 submit a plan to use the county's funds under this
4 paragraph for at-risk deteriorated bridges owned by a
5 public transportation authority.

6 (4) Twenty-five percent for water and sewer projects.

7 The following shall apply:

8 (i) Fifty percent of the amount distributed under
9 this paragraph shall be transferred to the Pennsylvania
10 Infrastructure Investment Authority to be used in
11 accordance with the act of March 1, 1988 (P.L.82, No.16),
12 known as the Pennsylvania Infrastructure Investment
13 Authority Act.

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

23 (5) Fifteen percent for the planning, acquisition,
24 development, rehabilitation and repair of greenways,
25 recreational trails, open space, natural areas, community
26 conservation and beautification projects, community and
27 heritage parks and water resource management. Funds may be
28 used to acquire lands for recreational or conservation
29 purposes and land damaged or prone to drainage by storms or
30 flooding. Funds shall be distributed to counties

1 proportionately based on the population of the county as
2 follows:

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

5 (A) Divide:

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

7 (II) the total population of the

8 Commonwealth.

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

11 (C) Multiply:

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

13 (II) the amount of funds available under

14 this paragraph.

15 (ii) Each county shall receive a minimum of \$25,000
16 to the extent funds are available.

17 (6) Five percent for transfer to the Hazardous Sites
18 Cleanup Fund.

19 (b) Availability of funds.--Distribution of funds under this
20 section shall be contingent on availability of funds in the
21 Marcellus Legacy Fund. If sufficient funds are not available,
22 the commission shall disburse funds on a pro rata basis.

23 (c) Restriction on use of proceeds.--

24 (1) Funds distributed under subsection (a) may not be
25 used for the purpose of public relations, outreach not
26 directly related to project implementation, communications,
27 lobbying or litigation.

28 (2) Funds distributed under subsection (a) may not be
29 used by an authorized organization as defined in 27 Pa.C.S. §
30 6103 (relating to definitions) for land acquisition unless

1 the authorized organization has obtained the written consent
2 of the county and municipality in which the land is situated.

3 (d) Coordination.--The department and the Department of
4 Conservation and Natural Resources shall review each application
5 for funding as requested by the Commonwealth Financing Authority
6 and provide recommendations on priority of projects and project
7 approval.

8 (e) Population.--For the purposes of this section, the
9 population of this Commonwealth and population of a county shall
10 be determined using the United States Census Bureau's most
11 recently released Annual Estimates of the Resident Population
12 for Counties of Pennsylvania.

13 PART III

14 RESPONSIBILITY FOR TAX

15 Section 1651-C. Prohibition.

16 The severance tax liability imposed on producers may not be
17 passed onto lessors who hold a royalty interest.

18 PART IV

19 ADJUSTMENT TO AND EXPIRATION OF UNCONVENTIONAL

20 GAS WELL FEE

21 Section 1671-C. Adjustment.

22 Notwithstanding 58 Pa.C.S. § 2302 (relating to unconventional
23 gas well fee), the amount of the unconventional gas well fee due
24 from every producer for calendar year 2015 shall be 50% of the
25 amount due under 58 Pa.C.S. § 2302 for an unconventional gas
26 well spud prior to July 1, 2015. An unconventional gas well spud
27 on or after July 1, 2015, shall not be subject to the fee
28 imposed under 58 Pa.C.S. § 2302.

29 Section 1672-C. Expiration.

30 The unconventional gas well fee imposed under 58 Pa.C.S. §

1 2302 (relating to unconventional gas well fee) may not be
2 imposed after July 1, 2015.

3 ARTICLE XVI-D

4 UNCONVENTIONAL GAS WELL EMPLOYMENT TAX CREDIT

5 Section 1601-D. Establishment.

6 The Unconventional Gas Well Employment Tax Credit Program is
7 established.

8 Section 1602-D. Definitions.

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

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

13 "Pass-through entity." A partnership as defined under
14 section 301(n.0) or a Pennsylvania S corporation as defined
15 under section 301(n.1).

16 "Qualified tax liability." The liability for taxes imposed
17 under Article III, IV or VI. The term shall not include any tax
18 withheld by an employer from an employee under Article III.

19 "Taxpayer." An entity subject to tax under Article III, IV
20 or VI.

21 "Unconventional gas well." As defined in section 1601-C.

22 "Unconventional gas well employment tax credit." The credit
23 provided under this article.

24 Section 1603-D. Eligible applicants.

25 (a) General rule.--A taxpayer who has a permit from the
26 Department of Environmental Protection to drill for natural gas
27 by means of an unconventional gas well in this Commonwealth may
28 apply for an unconventional gas well employment tax credit as
29 provided under this article. By September 15, 2016, a taxpayer
30 shall submit an application to the department on a form

1 prescribed by the department, setting forth the type of job in
2 this Commonwealth that will be filled and the salary that will
3 be paid in the taxable year that ended in the prior calendar
4 year.

5 (b) Application.--An application shall be developed by the
6 department and shall include:

7 (1) Type and location in this Commonwealth of the
8 position.

9 (2) Permits issued by the Department of Environmental
10 Protection to allow the company to drill in this
11 Commonwealth.

12 (3) Total cost of salary and benefits.

13 (4) Other information deemed appropriate by the
14 department.

15 Section 1604-D. Award of tax credits.

16 If the department approves the company's application, the
17 department and the company shall execute a commitment letter
18 containing the following:

19 (1) A description of the project.

20 (2) The number of new jobs to be created in this
21 Commonwealth.

22 (3) The amount of private capital investment in the
23 project.

24 (4) The maximum job creation tax credit amount the
25 company may claim.

26 (5) A signed statement from the company that the company
27 will provide to the department a list of workers for which
28 the company will claim tax credit, including documentation of
29 each worker's status as a resident of and job location in
30 this Commonwealth.

1 (6) Other information as the department deems
2 appropriate.

3 Section 1605-D. Tax credit.

4 (a) Maximum amount.--A company may claim a tax credit of
5 \$1,000 per new job created in this Commonwealth and up to the
6 maximum job creation tax credit amount specified in a commitment
7 letter from the department.

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

9 (1) New jobs shall be deemed created in year one to the
10 extent that the company's average employment by quarter
11 during year one exceeds the company's average employment
12 level during the company's base period, as adjusted for jobs
13 held by nonresidents during the period which are no longer
14 held by nonresidents.

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

19 (3) New jobs shall be deemed created in year three to
20 the extent that the company's average employment by quarter
21 during year three exceeds the company's average employment by
22 quarter during year two.

23 (c) Applicability.--A company may apply the tax credit to
24 100% of the company's corporate net income tax, capital stock
25 and franchise tax or the capital stock and franchise tax of a
26 shareholder of the company if the company is a Pennsylvania S
27 corporation, personal income tax or the personal income tax of
28 shareholders of a Pennsylvania S corporation or any combination
29 thereof.

30 (d) Term.--A company may claim the job creation tax credit

1 for each new job created as approved by the department for a
2 period determined by the department but not to exceed five years
3 from the date the company first submits a job creation tax
4 credit certificate.

5 (e) Availability.--Each fiscal year, \$2,000,000 in tax
6 credits shall be made available to the department and may be
7 awarded by the department in accordance with this article.

8 Section 1606-D. Prohibitions.

9 (a) Prohibitions.--The following actions with regard to job
10 creation tax credits are prohibited:

11 (1) Approval of jobs created prior to the start date,
12 unless the job was held by a nonresident who has been
13 replaced by a resident.

14 (2) The assignment, transfer or use of credits by
15 another company, however, tax credits may be assigned in
16 whole or in part to an affiliated entity.

17 (b) Definition.--As used in this section, the term
18 "affiliated entity" means an entity which is part of the same
19 "affiliated group," as defined by section 1504(a)(1) of the
20 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
21 1504(a)(1)), as the company awarded the credit.

22 Section 1607-D. Penalties.

23 (a) Failure to create jobs.--A company which receives a job
24 creation tax credit and fails to create the approved number of
25 new jobs in this Commonwealth within three years of the start
26 date shall refund to the Commonwealth the amount of credit
27 granted.

28 (b) Waiver.--The department may waive the penalties outlined
29 in subsection (a) if it is determined that a company's
30 operations were not maintained or the new jobs were not created

1 in this Commonwealth because of circumstances beyond the
2 company's control. The circumstances include natural disasters
3 or unforeseen industry trends.

4 Section 1608-D. Notice.

5 The department shall publish notice of the availability of
6 the job creation tax credit on its publicly accessible Internet
7 website and make information available annually to the Workforce
8 Investment Board of the Department of Labor and Industry for
9 distribution to local boards.

10 Section 2. The tax imposed under Article XVI-C of the act
11 shall apply to natural gas sold after June 30, 2016.

12 Section 3. This act shall take effect immediately.