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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1100 Session of  
2011

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INTRODUCED BY SCARNATI, CORMAN, BROWNE, VOGEL, SMUCKER,  
D. WHITE, WARD, BRUBAKER, PIPPY, MENSCH AND YAW, MAY 16, 2011

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 16, 2011

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AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, imposing a natural gas impact fee and providing for  
3 a model zoning ordinance.

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

6 Section 1. Title 58 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a part to read:

8 PART I

9 UNCONVENTIONAL GAS WELLS

10 Chapter

11 23. Impact Fee

12 25. Model Ordinance

13 CHAPTER 23

14 IMPACT FEE

15 Sec.

16 2301. Definitions.

17 2302. Shale Impact Fee.

18 2303. Administration.

1 2304. Well information.  
2 2305. Duties of department.  
3 2306. Meters.  
4 2307. Commission.  
5 2308. Enforcement.  
6 2309. Criminal penalties.  
7 2310. Criminal grading.  
8 2311. Enforcement orders.  
9 2312. Administrative penalties.  
10 2313. Regulations.  
11 2314. Recordkeeping.  
12 2315. Examinations.  
13 2316. Local distribution of fee.  
14 2317. Statewide environmental initiatives.  
15 § 2301. Definitions.

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

19 "Account." The Shale Impact Account.

20 "Average annual price of natural gas." The arithmetic mean  
21 of the New York Mercantile Exchange (NYMEX) Henry Hub settled  
22 price on the last trading day of each month of a calendar year  
23 as reported by the Wall Street Journal for the 12-month period  
24 ending December 31.

25 "Barrel." A barrel of 42 U.S. gallons of natural gas  
26 liquids.

27 "Commission." The Pennsylvania Public Utility Commission.

28 "Department." The Department of Environmental Protection of  
29 the Commonwealth.

30 "Eligible applicants." A county, municipality, council of

1 governments, watershed organization, institution of higher  
2 education, nonprofit organization, Pennsylvania Fish and Boat  
3 Commission or an authorized organization as defined in 27  
4 Pa.C.S. § 6103 (relating to definitions).

5 "Fee." The Shale Impact Fee imposed under section 2302  
6 (relating to Shale Impact Fee).

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

12 "Marginal gas well." An unconventional gas well capable of  
13 severing more than 60,000 cubic feet of gas per day during a  
14 calendar month, but incapable of severing more than 90,000 cubic  
15 feet of gas per day during a calendar month, including  
16 production from the zones and multilateral well bores at a  
17 single well, regardless of whether the production is metered  
18 separately.

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

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

28 "Natural gas liquids." Hydrocarbons in natural gas which are  
29 separated from the gas as liquids through the process of  
30 absorption, condensation, adsorption or other methods in gas

1 processing of cycling plants.

2 "Number of producing unconventional wells." The most recent  
3 numerical count of producing unconventional wells on the  
4 inventory maintained and provided to the commission by the  
5 department as of the last day of each month.

6 "Price adjustment factor." One of a range of numerical  
7 values used to compute the adjusted fee under section 2302  
8 (relating to Shale Impact Fee). The price adjustment factor  
9 shall be determined as follows:

10 (1) If the average annual price of natural gas is less  
11 than \$5.01, the price adjustment factor shall be five.

12 (2) If the average annual price of natural gas is \$5.01  
13 to \$6.00, the price adjustment factor shall be equal to the  
14 sum of the average annual price plus one.

15 (3) If the average annual price of natural gas is \$6.01  
16 to \$7.00, the price adjustment factor shall be equal to the  
17 sum of the average annual price plus two.

18 (4) If the average annual price of natural gas is \$7.01  
19 to \$8.00, the price adjustment factor shall be equal to the  
20 sum of the average annual price plus three.

21 (5) If the average annual price of natural gas is  
22 greater than \$8.00, the price adjustment factor shall be  
23 equal to the sum of the average annual price plus five.

24 "Producer." A person or its subsidiary, affiliate or holding  
25 company that holds a permit or other authorization to engage in  
26 the business of severing natural gas for sale, profit or  
27 commercial use from an unconventional well in this Commonwealth.  
28 The term shall not include a producer that severs natural gas  
29 from a site used to store natural gas that did not originate  
30 from the site.

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

10 "Unit."

11 (1) A thousand cubic feet of natural gas measured at the  
12 wellhead at a temperature of 60 degrees Fahrenheit and an  
13 absolute pressure of 14.73 pounds per square inch in  
14 accordance with American Gas Association Standards and  
15 according to Boyle's Law for the measurement of gas under  
16 varying pressures with deviations as follows:

17 (i) The average absolute atmospheric pressure shall  
18 be assumed to be 14.4 pounds to the square inch,  
19 regardless of elevation or location of point of delivery  
20 above sea level or variations in atmospheric pressure  
21 from time to time.

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

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

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

15           (2) In the case of natural gas produced in liquid form,  
16           a unit shall be measured on a 1,000 cubic feet equivalent  
17           basis, determined using the ratio of 6,000 cubic feet of  
18           natural gas to one barrel of natural gas liquids.

19           "Vertical gas well." An unconventional well which begins as  
20           a vertical linear bore and is not intentionally deviated from  
21           the vertical.

22           "Volume adjustment factor." One of a range of numerical  
23           values used to compute the adjusted fee under section 2302  
24           (relating to Shale Impact Fee). The volume adjustment factor  
25           shall be determined as follows:

26           (1) If the annual units of production are less than  
27           21,901, the volume adjustment factor shall be zero.

28           (2) If the annual units of production are 21,901 to  
29           90,000, the volume adjustment factor shall be 0.2.

30           (3) If the annual units of production are 90,001 to

1 180,000, the volume adjustment factor shall be 0.3.

2 (4) If the annual units of production are 180,001 to  
3 360,000, the volume adjustment factor is 0.4.

4 (5) If the annual units of production are 360,001 to  
5 750,000, the volume adjustment factor is 0.5.

6 (6) If the annual units of production are 750,001 to  
7 1,000,000, the volume adjustment factor is 0.6.

8 (7) If the annual units of production are 1,000,001 to  
9 1,350,000, the volume adjustment factor is 0.7.

10 (8) If the annual units of production are greater than  
11 1,350,001, the volume adjustment factor is 0.8.

12 § 2302. Shale Impact Fee.

13 (a) Imposition.--Beginning January 1, 2010, there shall be  
14 imposed a Shale Impact Fee on each unconventional well producing  
15 gas in this Commonwealth.

16 (b) Fee.--The fee shall consist of a base fee of \$10,000 for  
17 each unconventional well subject to the following adjustments:

18 (1) The fee shall be adjusted by multiplying the base  
19 fee amount times the volume adjustment factor times the price  
20 adjustment factor rounded to the nearest \$100.

21 (2) If the natural gas severed from more than one  
22 unconventional well is measured by a single wellhead meter,  
23 the combined volumes of gas produced shall be divided by the  
24 number of unconventional wells and each producer of an  
25 unconventional well shall use this quotient in determining  
26 its volume adjustment factor.

27 (3) The fee for a marginal gas well or vertical gas well  
28 shall be \$10,000 and shall not be subject to adjustment under  
29 paragraph (1).

30 § 2303. Administration.

1 (a) Commission.--On or before January 31 of each year, the  
2 commission shall calculate and determine the average annual  
3 price of natural gas for the previous calendar year.

4 (b) Notice.--Notice of the average annual price shall be  
5 provided to producers of unconventional wells and shall be  
6 published on the commission's Internet website.

7 (c) Method.--If publication of the New York Mercantile  
8 Exchange (NYMEX) Henry Hub settled price is discontinued, the  
9 average annual price of natural gas then in effect shall not be  
10 adjusted until a comparable method to determine the average  
11 annual price of natural gas is adopted by commission rule. If  
12 the base data of the NYMEX Henry Hub settled price is  
13 substantially revised, the commission shall make appropriate  
14 changes to ensure that the average annual price of natural gas  
15 is reasonably consistent with the result that would have been  
16 attained had the substantial revision not been made.

17 (d) Report.--By March 1, 2012, and each March 1 thereafter,  
18 each producer shall submit a report and payment of the fee with  
19 the commission on a form prescribed by the commission for the  
20 previous calendar year. The report shall include the following:

21 (1) Annual units of production severed by the producer  
22 for each unconventional well for the reporting period.

23 (2) The number of producing unconventional wells of a  
24 producer in each county and municipality.

25 (e) Report and fee for 2010.--For calendar year 2010, a  
26 report pursuant to subsection (d)(1) and (2) shall be filed by  
27 August 1, 2011, and the fee due shall be paid as follows:

28 (1) Fifty percent of the fee shall be paid by August 1,  
29 2011.

30 (2) Fifty percent of the fee shall be paid by November



1 1, 2011.

2 (f) Fee due date.--Except as provided under subsection  
3 (e) (2), the fee shall be due on the day the report is required  
4 to be filed. The fee shall become delinquent if not remitted to  
5 the commission on the reporting date.

6 (g) Cost.--Beginning March 2, 2012, and each March 2  
7 thereafter, the commission shall determine the reasonable annual  
8 cost to collect and distribute the fee in accordance with this  
9 chapter and shall deduct that amount from the total amount of  
10 fees collected under this chapter. On August 1, 2011, the amount  
11 to collect and distribute the fee may be deducted from the total  
12 amount of fees collected for 2010. Fees collected under this  
13 section are hereby annually appropriated to the commission to  
14 carry out its duties under this chapter.

15 § 2304. Well information.

16 (a) List.--The department shall provide the commission with  
17 a list of all unconventional wells that have received a drilling  
18 permit from the department. The list shall be updated on a  
19 monthly basis.

20 (b) Updates.--A producer subject to the fee shall notify the  
21 commission of the following within 30 days after a calendar  
22 month in which the change occurs:

23 (1) The initiation of production at a well or the  
24 removal of a well from production.

25 (2) The use of a different accredited laboratory to  
26 issue a wellhead meter certification.

27 § 2305. Duties of department.

28 (a) Confirmation of payment.--Prior to issuing a permit to  
29 drill an unconventional well in this Commonwealth, the  
30 department shall determine whether the producer has paid all

1 fees owed under section 2302 (relating to Shale Impact Fee).

2 (b) Prohibition.--The department shall not issue a permit to  
3 drill an unconventional well until all fees owed under section  
4 2302 that are not in dispute have been paid to the commission.  
5 § 2306. Meters.

6 A producer who drills an unconventional well in this  
7 Commonwealth shall provide and maintain a wellhead meter at the  
8 unconventional well that is tested, calibrated and maintained in  
9 accordance with industry standards approved by the commission. A  
10 wellhead meter installed after the effective date of this  
11 section shall be a digital meter. Wellhead meters shall not be  
12 subject to 3 Pa.C.S. Ch. 41 (relating to weights and measures).  
13 Multiple wells located on the same drilling pad may utilize the  
14 same meter subject to section 2302(b)(2) (relating to Shale  
15 Impact Fee).

16 § 2307. Commission.

17 (a) Powers.--The commission shall have the authority to make  
18 all inquiries and determinations necessary to calculate and  
19 collect the fee imposed under this chapter, including, if  
20 applicable, interest and penalties.

21 (b) Notice.--If the commission determines that the fee has  
22 not been paid in full, it may issue a notice of the amount due  
23 and demand for payment and shall set forth the basis for the  
24 determination.

25 (c) Address.--Notice of failure to pay the correct fee shall  
26 be sent to the producer at its registered address via certified  
27 mail.

28 (d) Time period.--The commission may challenge the amount of  
29 a fee paid under this chapter within three years after the date  
30 the report under section 2303(d) (relating to administration) is

1 filed.

2 (e) Intent.--If no report is filed or a producer files a  
3 false or fraudulent return with the intent to evade the fee, an  
4 assessment of the amount owed may be made at any time.

5 § 2308. Enforcement.

6 (a) Assessment.--The commission shall assess interest on any  
7 delinquent fee at the rate prescribed under section 806 of the  
8 act of April 9, 1929 (P.L.343, No.176), known as The Fiscal  
9 Code.

10 (b) Penalty.--In addition to the interest under subsection  
11 (a), if a producer fails to make timely payment of the fee,  
12 there shall be added to the amount of the fee due a penalty of  
13 5% of the amount of the fee if failure to file a timely payment  
14 is for not more than one month, with an additional 5% penalty  
15 for each additional month, or fraction of a month, during which  
16 the failure continues, not to exceed 25% in the aggregate.

17 (c) Timely payment.--If the commission determines that a  
18 producer has not made a timely payment of the fee, the  
19 commission shall send a written notice of the amount of the  
20 deficiency to the producer within 30 days from the date of  
21 determining the deficiency. If the producer has not provided a  
22 complete and accurate statement of the volume of gas extracted  
23 for the payment period, the commission may estimate the volume  
24 in its deficiency notice.

25 (d) Remedies.--The remedies provided under this chapter are  
26 in addition to any other remedies provided at law or in equity.

27 (e) Lien.--Fines, fees, interest and penalties shall be  
28 collectible in the manner provided by law for the collection of  
29 debts. If the producer liable to pay any amount neglects or  
30 refuses to pay the amount after demand, the amount, together

1 with costs which may accrue, shall be a judgment in favor of the  
2 Commonwealth upon the property of the producer, but only after  
3 the judgment has been entered and docketed of record by the  
4 prothonotary of the county where the property is situated. The  
5 Commonwealth may transmit to the prothonotaries of the  
6 respective counties certified copies of the judgments, and it  
7 shall be the duty of each prothonotary to enter and docket the  
8 same of record in his office and to index each judgment, without  
9 requiring the payment of costs as a condition precedent to the  
10 entry of the judgment.

11 § 2309. Criminal penalties.

12 (a) Offense defined.--It shall be unlawful for any producer  
13 to:

14 (1) Intentionally make or cause to be made a false or  
15 fraudulent report under this chapter with the intent to  
16 defraud the Commonwealth.

17 (2) Refuse to permit the commission or its authorized  
18 agents to examine books, records or papers or hinder or  
19 obstruct the commission in the performance of a duty under  
20 this chapter.

21 (3) Violate 18 Pa.C.S. § 4903 (relating to false  
22 swearing) or 4904 (relating to unsworn falsification to  
23 authorities), including a violation in providing or preparing  
24 information required by this chapter.

25 (4) Intentionally fail to make timely payment of the  
26 fee.

27 (b) Probable cause.--If the commission believes that  
28 probable cause of a violation under this section exists, the  
29 commission shall refer the case to the Attorney General for  
30 investigation.

1 § 2310. Criminal grading.

2 (a) Summary offense.--Except as set forth in subsection (b),  
3 a producer that willfully violates this chapter or an order  
4 issued under this chapter commits a summary offense and shall,  
5 upon conviction, be sentenced to pay a fine of not less than  
6 \$100 nor more than \$1,000 and costs or to a term of imprisonment  
7 for not more than 30 days, or both.

8 (b) Misdemeanor offense.--A producer that commits a second  
9 or subsequent violation of this chapter or an order of the  
10 commission commits a misdemeanor and shall, upon conviction, be  
11 sentenced to pay a fine of not less than \$1,000 but not more  
12 than \$10,000 per day for each violation or to imprisonment for a  
13 period of not more than one year, or both.

14 (c) Violations.--Each violation for each separate day and  
15 each violation of this chapter or order issued under this  
16 chapter shall constitute a separate offense under subsection (a)  
17 or (b).

18 § 2311. Enforcement orders.

19 (a) Issuance.--The commission may issue an order as  
20 necessary to enforce this chapter. An order issued under this  
21 section shall take effect upon notice, unless the order  
22 specifies otherwise. An appeal of the order must be in  
23 accordance with 66 Pa.C.S. Ch. 3 Subch. B (relating to  
24 investigations and hearings).

25 (b) Compliance.--A producer has the duty to proceed  
26 diligently to comply with an order issued under subsection (a).  
27 If a producer fails to proceed diligently or to comply with an  
28 order within the time required, the producer shall be guilty of  
29 contempt and shall be punished by the court in an appropriate  
30 manner. The commission shall apply to the Commonwealth Court,

1 which shall have jurisdiction over matters relating to contempt.

2 § 2312. Administrative penalties.

3 (a) Civil penalties.--In addition to any other proceeding  
4 authorized by law, the commission may assess a civil penalty  
5 upon a producer for the violation of this chapter. In  
6 determining the amount of the penalty, the commission shall  
7 consider the willfulness of the violation and other relevant  
8 factors.

9 (b) Separate offense.--Each violation for each separate day  
10 and each violation of this chapter shall constitute a separate  
11 offense.

12 (c) Limitation of actions.--Notwithstanding any limitation  
13 in 42 Pa.C.S. Ch. 55 Subch. B (relating to civil actions and  
14 proceedings), an action under this section must be brought  
15 within three years of the violation.

16 (d) Procedure.--A penalty under this chapter is subject to  
17 66 Pa.C.S. Ch. 3 Subch. B (relating to investigations and  
18 hearings).

19 § 2313. Regulations.

20 The commission shall promulgate regulations necessary to  
21 enforce this chapter.

22 § 2314. Recordkeeping.

23 A producer liable for the fee imposed under this chapter  
24 shall keep records, make reports and comply with regulations of  
25 the commission. If necessary, the commission may require a  
26 producer to make reports, render statements or keep records as  
27 the commission deems sufficient to determine liability for the  
28 fee.

29 § 2315. Examinations.

30 (a) Access.--The commission or its authorized agents or

1 representatives shall:

2 (1) Have access to the books, papers and records of any  
3 producer in order to verify the accuracy and completeness of  
4 a report filed or fee paid under this chapter.

5 (2) Require the preservation of all books, papers and  
6 records for any period deemed proper not to exceed three  
7 years from the end of the calendar year to which the records  
8 relate.

9 (3) Examine any employee of a producer under oath  
10 concerning the severing of natural gas subject to a fee or  
11 any matter relating to the enforcement of this chapter.

12 (4) Compel the production of books, papers and records  
13 and the attendance of all individuals who the commission  
14 believes to have knowledge of relevant matters in accordance  
15 with 66 Pa.C.S. (relating to public utilities).

16 (b) Unauthorized disclosure.--Any information obtained by  
17 the commission as a result of any report, examination,  
18 investigation or hearing under this chapter shall be  
19 confidential, except for official purposes, in accordance with  
20 judicial order or as otherwise provided by law. An individual  
21 unlawfully divulging the information commits a misdemeanor and  
22 shall, upon conviction, be sentenced to pay a fine or not more  
23 than \$1,000 and costs of prosecution or to imprisonment for not  
24 more than one year, or both.

25 § 2316. Local distribution of fee.

26 (a) Establishment.--There is hereby established a restricted  
27 receipts account to be known as the Shale Impact Account to be  
28 administered by the commission.

29 (b) Deposit.--All fees imposed shall be deposited into the  
30 account.

1 (c) Conservation districts.--

2 (1) For 2010, \$2,500,000 from the account shall be  
3 distributed to county conservation districts.

4 (2) For 2011, \$5,000,000 from the account shall be  
5 distributed to county conservation districts.

6 (3) For 2012, and every year thereafter, \$7,500,000 from  
7 the account shall be distributed to county conservation  
8 districts.

9 (4) Funds under paragraphs (1), (2) and (3) shall be  
10 distributed in accordance with the following:

11 (i) One-half shall be distributed by dividing the  
12 amount equally among conservation districts.

13 (ii) One-half shall be distributed using a formula  
14 that divides the annual amount appropriated to each  
15 county conservation district by the county from the  
16 county general fund, special fund and grant sources by  
17 the amount appropriated to county conservation districts  
18 by counties from the county general fund, special fund  
19 and grant sources and multiplying the resulting  
20 percentage by the funds available.

21 (d) Distribution.--Following distribution under subsection  
22 (c), 60% of the revenues remaining in the account are hereby  
23 appropriated for the purposes authorized under this section.  
24 Local governments are encouraged, where appropriate, to jointly  
25 fund projects that cross jurisdictional lines. The commission  
26 shall distribute the funds appropriated under this subsection as  
27 follows within 45 days after the date the fee is remitted:

28 (1) Thirty-six percent shall be distributed to counties  
29 in which producing unconventional gas wells are located. The  
30 amount for each county shall be determined using a formula



1 that divides the number of producing unconventional gas wells  
2 in the county by the number of producing unconventional gas  
3 wells in this Commonwealth and multiplies the resulting  
4 percentage by the amount available for distribution under  
5 this paragraph.

6 (2) Thirty-seven percent shall be distributed to  
7 municipalities in which producing unconventional gas wells  
8 are located. The amount for each municipality shall be  
9 determined using a formula that divides the number of  
10 producing unconventional gas wells in the municipality by the  
11 number of producing unconventional gas wells in this  
12 Commonwealth and multiplies the resulting percentage by the  
13 amount available for distribution under this paragraph.

14 (3) Twenty-seven percent shall be distributed to  
15 municipalities located in a county in which producing  
16 unconventional gas wells are located. The amount available  
17 for distribution in each county shall be determined by  
18 dividing the number of producing unconventional gas wells in  
19 the county by the number of producing unconventional gas  
20 wells in this Commonwealth and multiplying the resulting  
21 percentage by the amount available for distribution under  
22 this paragraph. The resulting amount available for  
23 distribution in each county in which producing unconventional  
24 gas wells are located shall be distributed to each  
25 municipality in the county regardless of whether an  
26 unconventional gas well is located in the municipality as  
27 follows:

28 (i) One-half shall be distributed to each  
29 municipality using a formula that divides the population  
30 of the municipality within the county by the total

1 population of the county and multiplies the resulting  
2 percentage by the amount available for distribution to  
3 the county under this subparagraph.

4 (ii) One-half shall be distributed to each  
5 municipality using a formula that divides the highway  
6 mileage of the municipality within the county by the  
7 total highway mileage of the county and multiplies the  
8 resulting percentage by the amount available for  
9 distribution to the county under this subparagraph.

10 (e) Use of funds.--A county or municipality receiving funds  
11 under this subsection shall make use of funds received only for  
12 the following purposes:

13 (1) Construction, reconstruction, maintenance and repair  
14 of roadways, bridges and public infrastructure.

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

17 (3) Emergency preparedness and public safety, including  
18 police and fire services.

19 (4) Environmental programs, including trails, parks and  
20 recreation, open space, flood plain management, conservation  
21 districts and agricultural preservation.

22 (5) Preservation and reclamation of surface and  
23 subsurface waters and water supplies.

24 (6) Tax reductions, including homestead exclusions.

25 (7) Records management, geographic information systems  
26 and information technology.

27 (8) To provide safe and affordable housing to residents.

28 § 2317. Statewide environmental initiatives.

29 (a) Deposit and distribution.--Following distribution under  
30 section 2316(c), 40% of the revenues in the account are hereby

1 appropriated for distribution by the commission as follows:

2 (1) Eighty percent to the Commonwealth Financing  
3 Authority to be utilized for grants to eligible applicants  
4 for the following purposes:

5 (i) To implement acid mine drainage abatement and  
6 cleanup efforts, mine reclamation and to plug abandoned  
7 and orphaned oil and gas wells.

8 (ii) Grants for watershed protection as defined in  
9 27 Pa.C.S. § 6103 (relating to definitions).

10 (iii) Planning and enforcement authorized under  
11 section 6 of the act of January 24, 1966 (1965 P.L.1535,  
12 No.537), known as the Pennsylvania Sewage Facilities Act.

13 (iv) Water, storm water and sewer systems, including  
14 construction, reconstruction, maintenance and repair.

15 (v) The planning, acquisition, development,  
16 rehabilitation and repair of greenways, recreational  
17 trails, open space, natural areas, community conservation  
18 and beautification projects, community and heritage parks  
19 and forest conservation.

20 (vi) Flood control and dam safety projects,  
21 including the removal of dams where appropriate.

22 (2) Ten percent to the Motor License Fund.

23 (3) Ten percent to the Hazardous Sites Cleanup Fund.

24 (b) Restriction on use of proceeds.--

25 (1) Funds shall not be granted to an eligible applicant  
26 for the purpose of public relations, outreach,  
27 communications, lobbying or litigation.

28 (2) No property purchased using revenue generated under  
29 this section may be conveyed or resold to another entity  
30 without approval from the Department of Conservation and

1 Natural Resources.

2 (3) Grants may not be used by an authorized organization  
3 as defined in 27 Pa.C.S. § 6103 for land acquisition unless  
4 the authorized organization has obtained the written consent  
5 of the county and municipality in which the land is situated.

6 (c) Coordination with other agencies.--The department and  
7 the Department of Conservation and Natural Resources shall  
8 review applications for funding as requested by the Commonwealth  
9 Financing Authority and provide recommendations on priority of  
10 projects and project approval for consideration by the  
11 Commonwealth Financing Authority.

12 CHAPTER 25

13 MODEL ORDINANCE

14 Sec.

15 2501. Model municipal ordinance.

16 2502. Local ordinance.

17 § 2501. Model municipal ordinance.

18 (a) Purposes.--The purposes of this section are as follows:

19 (1) To optimize the development and use of this  
20 Commonwealth's oil and gas reserves by increasing reasonable  
21 consistency in zoning and other municipal regulation.

22 (2) To foster expeditious and efficient handling of  
23 municipal oil and gas permitting procedures.

24 (3) To allow municipalities to enact regulations under  
25 the act of July 31, 1968 (P.L.805, No.247), known as the  
26 Pennsylvania Municipalities Planning Code, and the act of  
27 October 4, 1978 (P.L.851, No.166), known as the Flood Plain  
28 Management Act, insofar as the regulation is authorized by  
29 section 2502 (relating to local ordinance) and this section.

30 (b) Authority.--The commission shall develop and adopt a

1 model ordinance to fulfill the purposes of this section.

2 (c) Adoption of provisions.--

3 (1) Within 120 days of the effective date of this  
4 section, the commission shall, by majority vote, adopt a  
5 model ordinance for counties and municipalities pertaining to  
6 oil and gas drilling activities in accordance with the  
7 Pennsylvania Municipalities Planning Code, as applicable, the  
8 Flood Plain Management Act and this section.

9 (2) The model zoning ordinance shall do all of the  
10 following:

11 (i) Authorize oil and gas development as a permitted  
12 use by right in all zoning districts except residential  
13 districts. The commission may develop a model zoning  
14 ordinance that allows oil and gas development in  
15 residential zoning districts by conditional use or  
16 special exception with conditions dependent on the  
17 density of existing uses within the district and the  
18 isolation distances achievable in each residential  
19 district.

20 (ii) Authorize natural gas compression stations:

21 (A) as a permitted use by right in all  
22 agricultural, industrial and commercial districts;  
23 and

24 (B) as a conditional use in all other zoning  
25 districts.

26 (iii) Authorize natural gas processing plants:

27 (A) as a permitted use by right in all  
28 industrial districts; and

29 (B) as a conditional use or special exception in  
30 agricultural districts.

1           (3) The model zoning ordinance shall not do any of the  
2 following:

3           (i) Impose limitations on the hours of operation on  
4 drilling operations.

5           (ii) Impose limitations on noise, light, height or  
6 security or fencing on drilling operations, natural gas  
7 compressor stations or natural gas processing plants if  
8 the limitations are more stringent than limitations  
9 imposed on construction activities for other similar land  
10 uses. The model zoning ordinance may include limitations  
11 on noise, light, height and security and fencing for  
12 equipment or processes which are unique to the gas  
13 industry and which are rational, nondiscriminatory and  
14 reasonably defensible in the particular zone where they  
15 apply.

16           (iii) Have a permit review period for uses by right  
17 that exceeds 30 days for complete and responsive  
18 submissions.

19           (iv) Impose restrictions on vehicular access routes  
20 for overweight vehicles except as authorized under:

21                   (A) 75 Pa.C.S. (relating to vehicles); or

22                   (B) the Pennsylvania Municipalities Planning  
23 Code.

24           (v) Regulate storm water, erosion and sedimentation  
25 control or grading where the use is subject to regulation  
26 by the department through an Erosion and Sedimentation  
27 Control General Permit or similar permit.

28           (4) Nothing in this subsection shall limit or preempt a  
29 county or municipality from action pursuant to the act of  
30 October 4, 1978 (P.L.864, No.167), known as the Storm Water

1 Management Act.

2 (d) Effect of model ordinance.--An ordinance adopted by a  
3 county or municipality to regulate oil and gas shall not contain  
4 more stringent standards than the model ordinance adopted by the  
5 commission.

6 (e) Timing.--The commission shall publish the adopted model  
7 ordinance in the Pennsylvania Bulletin immediately after its  
8 adoption and shall disseminate information about the model  
9 ordinance through the Department of Community and Economic  
10 Development, municipal associations and other means as the  
11 commission shall deem appropriate. The costs of the notification  
12 shall be borne by the Department of Community and Economic  
13 Development.

14 (f) Miscellaneous.--The commission shall review the model  
15 ordinance annually. Proposed amendments shall be published in  
16 the Pennsylvania Bulletin within 30 days after their adoption.

17 (g) Ordinance.--If an ordinance adopted by a county or  
18 municipality contains more stringent standards than the model  
19 ordinance, the county or municipality shall be ineligible to  
20 receive funding under sections 2316 (relating to local  
21 distribution of fee) and 2317 (relating to environmental  
22 initiatives).

23 (h) Effective date of model ordinance.--The model ordinance  
24 shall take effect 70 days following the commission's publication  
25 of the ordinance in the Pennsylvania Bulletin under this  
26 section.

27 § 2502. Local ordinance.

28 Nothing in this chapter shall impair or infringe upon the  
29 preemption or supersedure of the regulation of gas wells under  
30 section 602 of the act of December 19, 1984 (P.L.1140, No.223),

1 known as the Oil and Gas Act.

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

3 (1) This section shall take effect immediately.

4 (2) The addition of 58 Pa.C.S. § 2501 shall take effect  
5 immediately.

6 (3) The remainder of this act shall take effect in 30  
7 days.