COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE

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PUBLIC HEARING IN RE: HOUSE BILL 2443

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BEFORE: DAVE LEVDANSKY, Chair
Representative Dave Reed, Representative Tim Briggs, Representative Jarret Gibbons.
Members

HEARING: Tuesday, May 11, 2010
Commencing at 7:10 p.m.

LOCATION: Philadelphia Street Playhouse
725 Philadelphia Street
Indiana, PA 15701

WITNESSES: Kevin West, Susan McClure, James Resh, Rodney Ruddock, Mike Bertolino, Shirl Barnhart, Beverly Braverman, Richard Stewart

Reporter: Lacey C. Gray

I N D E X

P R O C E E D I N G S

CHAIRMAN:

Good evening. I'm David Levdansky. I'm the Chairman of the House Committee and the House of Representatives, and I represent the 39th Legislative District in Allegheny and part of Washington County. We're here this evening as the first of three hearings this week of the Finance Committee traveling across the state to get the public input and testimony and thoughts about the idea of a natural gas severance tax, specifically legislation that I've introduced House Bill 2443. So we're beginning our statewide hearings on the subject here in beautiful warm, sunny Indiana. Not quite, huh?

But I just want to welcome all of you. And I first would like to recognize my colleague on the House Finance Committee, your State Representative here from Indiana County, Representative Dave Reed. Dave?

REPRESENTATIVE REED:

Thank you. I just want to express my gratitude to the Chairman for hosting this committee hearing here in Indiana County. You know, the severance tax has been a discussion over the last year and a half, two years. And no matter what you feel about the severance tax, I personally had hoped that it would have been part of a broader discussion on a restructuring of our entire business tax structure as to what is the appropriate way to tax any given industry and what's, you know, some taxes that maybe have seen their time, run its course. But if we're not going to discuss the entire business tax structure in a year like this, if we're going to discuss the severance tax, I think for a community that has seen the impacts of drilling for many decades now and continues to thrive both economically, as well as both trying to protect our environmental assets as a result of the industry.

I think one of the things that we want to ensure happens if there's severance tax, that those dollars, at least in large portion, come back to the local communities that see the impact. I think what we don't want to have happen is to see a severance tax just used to balance the budget in Harrisburg to be spent in far off places, more or less the southeastern portion of the state, for projects that are unrelated to the impacts of drilling. We'd like to see as much of this money go back locally to help offset those impacts and help ease the burden upon local governments, particularly townships, boroughs and counties that have to make up the differences for the impacts that have occurred over the years.

So I appreciate the Chairman for hosting this hearing and look forward to this discussion.

CHAIRMAN:

Thank you, Dave. Before we get started, just a bit of official housekeeping, I'd like to have my staff call the roll.

MR. FOREMAN:

Chairman Levdansky?

CHAIRMAN:

Here.

MR. FOREMAN:

Tim Briggs?

REPRESENTATIVE BRIGGS:

Here.

MR. FOREMAN:

Flo Fabrizio? On leave. Dan Frankel?

CHAIRMAN:

On leave.

MR. FOREMAN:

Jarret Gibbons?

REPRESENTATIVE GIBBONS:

Here.

MR. FOREMAN:

Dave Kessler? Leave. Bill Kortz? Leave. Richard Miribito? Leave. John Pallon? Leave. Sainato? Leave. Tim Seip? Leave. Josh Shapiro? Leave. Rick Taylor? Leave. Rosita Youngblood? Leave. John Yudichak? Leave. Sam Rohrer? Leave. John Bear? Leave. Scott Boyd? Leave. James Cox? Leave. Gordon Denlinger? Leave. Brian Ellis? Leave. Adam Harris? Leave. Michael Peifer? Leave. Thomas Quigley? Leave. Dave Reed?

REPRESENTATIVE REED:

Here.

MR. FOREMAN:

Mario Scavello? Leave.

CHAIRMAN:

I'd also like to have the other two members of the Committee sitting to my right and left introduce themselves.

REPRESENTATIVE BRIGGS:

Tim Briggs from the 149th District, which is in Montgomery County in southeastern Pennsylvania. And I'm really looking forward to a good discussion. We don't have drilling in my neck of the woods, but we're going to have some challenges ahead of us, and I'd like to get the take from Indiana County and from the testifiers today. So looking forward to it.

REPRESENTATIVE GIBBONS:

I'm Representative Jarret Gibbons from --- well, I'm from the Elwood City area, Lawrence, Beaver and Butler Counties. They're all made up of --- parts of those make up my district. And again, like Tim, I am very interested in hearing what you have to say today. They actually drilled the first Marcellus well in my district, in northeast Beaver County late last year. And we're looking forward to seeing what we can do with this growing industry in our region. So thank you, Mr. Chairman.

CHAIRMAN:

We appreciate, you know, all of you traveling to be here this evening. Before we begin the public testimony part of it, I'd just like to recognize my staff, Mark Foreman, as the research analyst that works for me in the House Finance Committee. Mark's assisted me over the last year looking at a whole lot of different aspects relative to Marcellus Shale and especially the severance tax issue, and has assisted me in developing House Bill 2443, which is a bit different than the two other pieces of legislation that have been introduced to date on this subject.

My aim in doing this is to start --- is to begin to get some discussion about how to implement a gas severance tax at least for myself. You know, I have already answered the question that I believe we should do it. Now, obviously the majority of the House and Senate members will weigh in and make that decision, but anticipating that enough --- that a majority of my colleagues will agree that we need to put in place a reasonable severance tax, the question then for me becomes how do you do it. How do you put a levy in place that is not overly burdensome on industry, that is relatively efficiently collected and importantly what do you do with the revenues that flow from it? And my proposal differs from the other two in those two areas, how do you collect the revenue and how do you distribute it.

So I'd just briefly like to have my staff explain the differences of my approach compared to the other two pieces of legislation introduced. Mark?

MR. FOREMAN:

Thank you, Chairman. As he said, we discussed beforehand that maybe the best way to start it off would be to just go over differences, no policy aspect, none of that. Just if you're going to assess the severance tax, there are two proposals really out there. One was brought up --- brought from the administration. It was mostly encapsuled in House Bill 1489, which was introduced by Chairman George and the Environmental Researches Committee. If you have this paper in front of you, it's a side-by-side comparison. You'll see 1489 on the top, House Bill 2438 is a bill introduced by Dwight Evans, Chairman of the Appropriations Committee. And House Bill 2443 is obviously the subject of tonight, and that's Dave's bill.

There are --- it started really as reviewing 1489 and determining that there were some concerns we had relative to how you would practically asses and collect the tax. And then we moved into, as the Chairman said, distribution, and we felt there was some differences you could make there, and that's what I'm going to go over.

First of all, a little definition that would help everyone. If you were to go on, for instance, The Wall Street Journal website and you can look at Henry Height (phonetic) --- excuse me, Henry Hub commodity prices, so you could find gold, iron, everything that they trade as a commodity. One of them is natural gas. And you'll see a price, much like what is the price of gas at the pump, you know, if it's $2.85 per gallon. Natural gas is measured by a thousand cubic feet. That's how it's marketed. So if you were to go on that website and you'd see, like I did this morning, yesterday's price closed at $4.09. That's by thousand cubic feet. And that's called a unit. So you'll find in all of the bills, the way you would tax or the measurement would be by a unit and a unit is a thousand cubic feet, so that's important to keep in mind.

The tax rate under the administration's proposal, House Bill 1489, it's a two-part proposal. The first part would be per volume, they collect 4.7 cents per thousand cubic feet. That would be less significant than the second portion of the proposal, which would be five percent of what they determine is gross value per month. So every month you would have to, based on sales meters they have --- which would be --- they described that with a formula. It's called a gross value formula, where based on the readings from the sales meters, which is where gas hits the market, you would come up with a monthly average price of gas. And per unit that is severed from the wellhead, you would owe five percent of that monthly price. So that means every month producers would have to come up with their gross value, find five percent of that, and they would owe that amount on every thousand cubic feet plus the 4.7 cents on every thousand cubic feet. So for example, if gas were at $5, five percent would be 25 cents. So per unit, you would be paying 25 cents, which is the five percent. And you would be paying 4.7 cents, so effectively 29.7 cents if the price of gas that month was $5.

Now, that differs from House Bill 2443, because in House Bill 2443, there is only a per volume tax. So no matter what the price of gas is that month, it's purely on extraction at the wellhead. Every gas producer has a wellhead meter at the well. It would record the number. It would be as simple as taking that number and dividing it by a thousand and that's how many units were produced during a certain reporting period. In House Bill 2443, they would have to report quarterly, so four times a year. Under the other proposals, House Bill 1489, for instance, it's a monthly --- a monthly reporting period. So there's a big difference there between assessing really the gross receipts and then as opposed to per volume.

Also under House Bill 2443, under the per volume, you can look at it as instead of assuming inflation, instead what you would do to --- once a year annually, there would be an allowance for an adjustment. You would take those Henry Hub spot prices that you could find online, you take the last --- on the last trading day of every month. So March 31st, April 30th, May 31st, you would get 12 numbers for an entire year, and you'd find that average price of gas. Over the last year, the average would have been about $4. So you would do --- you would take that average number, let's say, $4 and divide that by five percent, which is 20 cents. And if the price is less than 25 cents, the rate would remain at 25 cents per thousand cubic feet. If that average price was higher than 25 cents, you would be able to adjust the rate for the next fiscal year at half of the difference. And I know that's confusing, but I'll try to put it in an example. If the price of gas were $8, if the average price of gas over an entire year were $8, you would take five percent of that number, which I'm sorry I'm trying to do the calculation in my head, I believe it would be 40 cents. Forty (40) cents. So the difference between 25 and 40 is roughly at about 32 and a half cents, and that would be the next fiscal year's rate, would be 32 and a half cents per thousand cubic feet. And if the next year the price of gas dipped down to $3, and therefore that five percent of the average would be less than 25 cents, the rate would remain at 25 cents.

So it creates a floor revenue for the state, but at the same time gives the industry some room to not have such a gamble with what tax rate they're going to pay. Because really if you use monthly prices of gas, you know, it's hard to predict that. In fact, it's hard to really come up with a projection for revenue, whereas if you told me exactly how much gas was being produced, I could tell you what this proposal will generate because, obviously, you could take that total amount divide it by a thousand and times it by the tax rate.

CHAIRMAN:

Mark, if you just move onto the distribution?

MR. FOREMAN:

Sure. And that's next, distribution.

CHAIRMAN:

Because I think that's probably what most people ---.

MR. FOREMAN:

Okay. Distribution. As you'll see on here, House Bill 1489 takes 60 percent of the overall revenue and give it to the General Fund. And House Bill 2438, they want to give 90 percent overall to the General Fund. In House Bill 1489, the local shares would be four and a half percent for counties and four and a half percent for municipalities, and that's based on production and the way you break that up to go to the various municipalities. That's a total of nine percent. Under House Bill 2438, it would be ten percent split in a half, so it's really 45 --- four and a half percent and five percent. Under House Bill 2443, the share is 20 percent to locals.

And that's broken down further, 30 percent of that amount goes to counties where drilling takes place, 60 percent would go to municipalities where drilling takes place, both host and nonhost. And there's a formula, so that if you're a host community, you would receive a prorata share slightly more than a nonhost. But if you're in a county where drilling is taking place, and you're a municipality, whether you have actual wells in your municipality or not, you would still receive a share of the funding. And a small portion of that set-aside amount for the local shares would go to volunteer fire and EMS services within those counties.

Also under House Bill 2443, which isn't in any of the other proposals, is money to go to the county Conservation Districts, which has been a point for many members that they'd like to see money go to that. So money was set aside for that under House Bill 2443 as well. Does anybody have any questions?

CHAIRMAN:

Representative Reed?

REPRESENTATIVE REED:

Just a couple questions, so I can make sure I understand the distribution side of the formula. Under your definition of producing site as it qualifies for credits, the severance tax you're not applying to so-called stripper wells, are they included as producing sites?

MR. FOREMAN:

No. Stripper wells would be exempt from the tax, and you actually bring up a technical point that would need to be fixed in an amendment for --- in the committee, which would be that the portion that --- the local share portion that talks about producing sites, it would have to be --- it would have to specifically say only on wells that are taxed under this tax. So stripper wells would not apply.

REPRESENTATIVE REED:

If you agree with that concept?

MR. FOREMAN:

Right.

REPRESENTATIVE REED:

Because a lot of us come from regions that have been drilling for decades and have those impacts that would qualify under stripper well, so they would not be taxed, but I think, you know, ---.

MR. FOREMAN:

In all of the proposals stripper wells up to 60,000 feet --- or 60,000 cubic feet per day are exempt.

REPRESENTATIVE REED:

Under the proposal as written, though, they would still count as credits toward a local municipality ---

MR. FOREMAN:

Yes.

REPRESENTATIVE REED:

--- or county share ---

MR. FOREMAN:

Yes.

REPRESENTATIVE REED:

--- unless it were changed?

MR. FOREMAN:

Yes.

REPRESENTATIVE REED:

Okay. My second question would be on the municipality allotment, where for each municipality with a producing site shall be given two credits per producing site.

MR. FOREMAN:

Right.

REPRESENTATIVE REED:

And then part B, each municipality where there's no producing site shall receive one credit.

MR. FOREMAN:

Right.

REPRESENTATIVE REED:

Is that one credit total if there's producing sites in that county or is that one credit per producing site in that county?

MR. FOREMAN:

No. It would be one credit for that municipality.

REPRESENTATIVE REED:

Okay. So they'd get one credit total. If we've got a borough with no drilling, they're getting one credit total. If we've got a township with 50 wells, they're going to get a hundred credits?

MR. FOREMAN:

Yes. Yes.

REPRESENTATIVE REED:

Okay.

MR. FOREMAN:

Only within counties where drilling is taking place.

REPRESENTATIVE REED:

Yes. My third question would be, is there any difference between the credit allotment for traditional shallow well permitted wells and Marcellus Shale permitted wells?

MR. FOREMAN:

(Indicates no.)

REPRESENTATIVE REED:

And that's one suggestion that I would

have. I know the impacts of Marcellus Shale wells is somewhat much more significant than a traditional well. That what you may want to do is adjust the credit allotment. And I know DEP with the way they permit the wells, they can actually give you a breakdown of what are Marcellus Shale permitted well and what are conventional wells, so you may want to up the ante a little bit for the Marcellus Shale wells while keeping the traditional well credits in as is.

MR. FOREMAN:

One of the constructive criticisms that have come to the bill since we introduced it was better defining producing site under that definition. So you know, again, you know, I don't know where it will end up, but that was something we're aware of.

REPRESENTATIVE REED:

It's just a suggestion ---

MR. FOREMAN:

Yes.

REPRESENTATIVE REED:

--- to we do want to treat those two a little bit differently.

MR. FOREMAN:

We're aware.

REPRESENTATIVE REED:

The section, the 22 percent that goes to the Environmental Stewardship Fund, is that ---?

MR. FOREMAN:

I'm sorry. I forgot to mention that, so that's one --- under the other proposals --- well, under 2438, none would go to the Environmental Stewardship Fund. Under 1489, 15 percent would go there. So it's increased in this bill.

REPRESENTATIVE REED:

This bill, does it limit that that money going into the Environmental Stewardship Fund must come back to the communities that have producing sites or can that money go to ---

MR. FOREMAN:

There is no language.

REPRESENTATIVE REED:

--- whatever community out there? That would be another suggestion that I would have, if we're going to reap the revenues from this, that you restrict those funds to actually going back to projects in communities that have the impact of drilling. And I do apologize, Mr. Chairman, for bringing this up now, but I think a lot of the testifiers may want to comment on some of these topics as we go throughout the hearing.

My last question would be on the Conservation District section, the three percent dedicated to Conservation District. Are we carving that three percent out to the districts that actually have an impact for drilling or is that money going to each and every district whether they have an an impact from drilling or not?

MR. FOREMAN:

Again, the money would just be going to the Conservation District fund that the administers of that fund would be responsible for.

REPRESENTATIVE REED:

That would be another suggestion that I have for consideration, that we actually restrict the revenues going back to the communities that have felt the impact from drilling occurring. Thank you very much, Mr. Chairman. Thank you, Mark, for your comments.

CHAIRMAN:

Yes. With that, let me call as the first to testify, Kevin West. Kevin is the management director of external affairs with EQT Corporation of Pittsburgh.

MR. WEST:

Thank you, Mr. Chairman, members of the committee. If I could, I do have a handout that will just help you maybe follow my testimony a little bit better. Mr. Chairman and members of the Committee, my name is Kevin West. I'm the managing director of external affairs for EQT Corporation. EQT Corporation is a proud Pennsylvania company that has been operating in Pennsylvania for over 100 years. Our predecessor drilled the first natural gas well in Murraysville, Pennsylvania in 1878. And so we're very interested in participating in this legislative process, because we are a Pennsylvania company. We're headquartered in Pennsylvania, and our history and our tradition is Pennsylvania. We're the largest Appalachian producer of natural gas. We have a $4 billion economic impact in the four states we operate. A billion of that is --- almost a billion of that is in the Commonwealth of Pennsylvania.

We have 4,800 producing natural gas wells in Pennsylvania. We've been an industry leader in horizontal air drilling, which we're very proud of, because that has enabled us to maximize the recovery of the natural gas resource here in Pennsylvania while minimizing the impact on the surface, because you can drill a number of horizontal wells from a single pad and increase the recovery of the natural gas.

In 2009, we had capital investment in Pennsylvania of $138 million, charitable contributions of $2 million, paid state and local taxes of almost $11 million and had an economic impact of almost a billion dollars. We have 898 employees located in the Commonwealth, and that does not include the many contractors which we use to prepare roads, to do the drilling, to do completions, to build pipelines for our operations here in Pennsylvania.

We've been here a long time, but we --- really we're not involved in drilling as many wells as we have been in the last couple of years, because advances in technology have allowed us, as well as other companies, to access some shale reserves, namely the Marcellus, which were not available prior to the advent of horizontal drilling, which our company is proud to have been involved in, in helping perfect. We have almost a half a million acres overall in the Marcellus plain in Pennsylvania, looking at slide six. We drilled 46 wells, Marcellus wells, in Pennsylvania in 2009, and have plans to drill 47 in 2010.

We think this is a great opportunity for the Commonwealth of Pennsylvania, not just from the standpoint of the revenue that we'll realize from the natural gas production which will occur, but also because it's a great opportunity to help bring industry to Pennsylvania that would rely upon natural gases, heater type fuel source or feedstock for manufacturing. And we're working hard to do that.

Slide seven speaks a little bit to the economic impact of the Marcellus Shale. The first three items there, the 2008, the 2010 and the 2020 projections with regard to jobs and economic impact come from the Penn State study. Realizing there has been some debate as to, you know, what the actual economic impact will be with regard to the Marcellus Shale here in Pennsylvania. Suffice it to say that whatever position you take as to what the exact number is, certainly there is going to be, and has been, a positive impact as a result of the production of this mineral resource that Pennsylvania is blessed and lucky to have.

The new industry part of it, we have estimated could mean, you know, in a couple of decades producing up to a half million jobs. And that's not just related to the natural gas production but, as I've said, to industry that could be coaxed to come to Pennsylvania because of the ready availability of the natural gas resource here.

I guess that brings us to the issue at hand. At EQT, we have consistently, for a period of over a year now, advocated a comprehensive legislative approach with regard to the Marcellus Shale, which would include a balanced, fair severance tax with proceeds returned to local governments. I think my testimony with regard to that issue would probably echo Representative Reed's comments at the beginning of the hearing. We believe that it is important that the revenues that are generated as a result of any severance tax that would be enacted go back to the localities where the drilling occurs, because those are the folks that are living in the areas that both benefit and are impacted by the production of the natural gas.

We also believe that it's important that any severance tax that is enacted be coupled with some legislative enactments, which take into --- would take into account that Pennsylvania's current natural gas statutes are a bit antiquated. Not because we're backwards, but because until a couple of years ago, there had not been as much natural gas production here as there has been in other states which have more moderate statutes which envision horizontal drilling, which envision developments with regard to production technologies that were not in existence when Pennsylvania's current statutes were enacted. Those would include state control of the regulatory process.

We believe it's important that there be a uniform system of regulation across the state with regard to production, fair pooling and utilization that would encourage maximization of the recovery of the resource, discourage waste, and very importantly would make sure that all mineral owners would be able to participate in any wells that are drilled and be able to benefit from royalty revenue from the natural gas production.

We advocate balanced surface owner rights legislation, which recognizes that surface owners should be given an opportunity to have an opportunity if there are impacts upon their surface lands, a mechanism to ensure that they have an opportunity to be heard with regard to any impacts that they have.

And then finally, an amendment of the Gas Coal Coronation Act to permit multiple wells per pad over coal producing areas. And we feel that this is of a very important provision, because it would enable an increase in the amount of horizontal wells that would be drilled, which would minimize the impact upon the surface because it would allow the production of more natural gas from a concentrated area than is possible under the current statute.

So all and all, you know, our position is that we do not appose the severance tax. We advocate that a severance tax be enacted by the General Assembly, as long as it is releasable tax, the tax revenues are returned to the local government and it's part of a comprehensive legislative package that addresses these other important issues with regard to what we ask, development in Pennsylvania. Thank you.

JUDGE GUYTON:

Thank you. Any questions from members? Representative Reed?

REPRESENTATIVE REED:

Just real quick, when you give the job estimate, the 500,000, half a million jobs, with the new industry and development in the state, what tax structure do you assume when doing that study? And I assume it wasn't EQD --- EQT who did the study.

MR. WEST:

Yeah.

REPRESENTATIVE REED:

But whoever did, did they assume the current tax structure? Did they assume A severance tax is applied? If they did assume a severance tax is applied, which model, West Virginia, Arkansas, Louisiana?

MR. WEST:

Sure. The figures with regard to jobs and economic impact are probably a little more precise than that. That is an educated guess with regard to --- it is not based upon any economic study that was done. I think that we would envision that any economic model that would be applied in doing such a job estimate would take into account that there would probably be a severance tax in most of the oil and gas states, where --- in most states where there is oil and gas production, there is a severance tax of some shape or form.

REPRESENTATIVE REED:

I would just assume that, you know, when you make those estimates, that you're looking not just at the severance tax but the corporate tax structure, the property tax structure, ---

MR. WEST:

Absolutely.

REPRESENTATIVE REED:

--- permitting fees, the regulatory process? So there's a little bit more involved than just saying, you know, we have a severance tax, we don't have a severance tax.

MR. WEST:

Right.

REPRESENTATIVE REED:

You're looking at the total tax burden to accomplish the goal of ---

MR. WEST:

Right.

REPRESENTATIVE REED:

--- natural gas exploration in a community or in state?

MR. WEST:

When you make decisions with regard to where you're going to locate your drilling capital and your drilling dollars, you have to package all those taxes together, as you know, and come up with an effective rate which relates, you know, which would accurately predict your cost of doing business.

REPRESENTATIVE REED:

If I could just ask one question to make sure.

MR. WEST:

Sure.

REPRESENTATIVE REED:

I think I understand one of your four initiatives, fair pooling legislation.

MR. WEST:

Correct.

REPRESENTATIVE REED:

Now, just in layman's terms, that someone can describe to me is if you've got 15 landowners who own the natural gas rights in a community and you've got one landowner that happens to be strategically located in the middle that would prevent the other landowners from successfully leasing and producing natural gas on their properties, that that holdout landowner would be forced into an agreement to recover the natural gas?

MR. WEST:

Right. There would be a statutory mechanism that would enable the production of that natural gas without that --- that minority landowner from preventing the others from being able to benefit from production. They would be compensated and would

would be given alternatives as far as how they were compensated, either by participating in the well, participating in the well on a basis where basically they would be financed or in receiving a royalty just like the other landowners would.

REPRESENTATIVE REED:

I will say I do have some concern with that initiative, just because it appears as though you're almost giving eminent domain rights to a private corporation for development within the Commonwealth of Pennsylvania. And that would certainly set a precedent for other industries that would probably love to have eminent domain rights as well. So I think of your four initiatives, in my mind, that's definitely the most controversial and has the most wide reaching impact on private property rights in the state. So I mean, that's a discussion for another day. But since you pointed out, I just did want to mention ---

MR. WEST:

Sure.

REPRESENTATIVE REED:

--- my concern with giving that sort of control over to a private sector company. But thank you very much for your testimony. Appreciate it.

MR. WEST:

Thank you.

CHAIRMAN:

Just a follow-up of Mr. West. EQT drills in other states as well, I see West Virginia, Kentucky.

MR. WEST:

And Virginia.

CHAIRMAN:

And Virginia. Do you pay severance tax in those states?

MR. WEST:

We do.

CHAIRMAN:

Okay. So to the extent that we would have a severance tax in Pennsylvania, as long as it is comparable to our competitor states, it wouldn't put you at a competitive disadvantage?

MR. WEST:

No. You know, it's a --- getting, I guess, back to Representative Reed's comments, you would have to look at the total tax structure of a particular jurisdiction. But you're right, we do pay severance tax in each of those other jurisdictions.

CHAIRMAN:

Okay. EQT, is it a registered C Corporation:

MR. WEST:

It is.

CHAIRMAN:

So you pay a corporate net income tax. And if we had a severance tax, you would pay that as well?

MR. WEST:

Correct.

CHAIRMAN:

That contrasts with a number of other drillers in the state. I believe two-thirds of the --- two-thirds of the Marcellus wells drilled in Pennsylvania last year were drilled by companies that had formed LLC subsidiaries, meaning they didn't pay corporate net income taxes. They paid the personal income tax, just like every worker in the state pays at 3.07. So we have a lot of drilling going on in Pennsylvania then, where they don't pay the corporate income tax. So it would seem to me even if we didn't have a severance tax, EQT is at a disadvantage insofar as you're paying corporate net income taxes and the others aren't.

MR. WEST:

I'm not familiar with what the others are doing. But you're correct we do, we pay the full load so ---.

CHAIRMAN:

Okay. Another factor in the cost of gas and doing business is transportation charges. My understanding that Federal Energy Regulatory Commission has basically done a study that indicated that about 40 percent of the cost of gas is transportation. EQT is a native Pennsylvania company. You drill for gas in Pennsylvania. We use it. But there's a lot of gas that --- most of the gas that's used in Pennsylvania comes from outside of Pennsylvania. So Pennsylvanians effectively are already paying the severance tax, they're just paying it in their gas bill to other states since most of the gas we use comes from those states outside of Pennsylvania that do have a severance tax.

MR. WEST:

Yes.

CHAIRMAN:

So we're already paying it, not all, but most people?

MR. WEST:

Pennsylvania is currently a net

importer of natural gas. And our hope is by 2012 or 2013, if this opportunity is pursued prudently that we can be become a net exporter.

CHAIRMAN:

And not only that, but to the extent that Pennsylvanians, our business, industry and customers, consumers and households can start using our own gas, ---

MR. WEST:

Sure.

CHAIRMAN:

--- I mean, we will have a considerable cost advantage there, because it won't be --- it will only be transported literally dozens or maybe a hundred or a couple hundred miles, rather than a thousand miles or so from the gulf states where we're presently importing most of our gas from?

MR. WEST:

That's correct. And that's one of the advantages that we think that we can promote as far as attracting industry here to Pennsylvania.

CHAIRMAN:

So just to sum up, you're not --- you'd support a severance tax, as long as it's reasonable --- it keeps you in the competitive mix with other states and you do have a list of other issues that you feel need to be addressed from the industry's perspective.

MR. WEST:

Correct. And the revenue goes back to localities, ---

CHAIRMAN:

Right.

MR. WEST:

--- as you've proposed.

CHAIRMAN:

Yes. Yeah. You know, we heard the summary in my staff's presentation, I have a good healthy portion coming back to the locals. I think that's really important. Okay. Well, thank you. Appreciate your testimony.

MR. WEST:

Thank you.

CHAIRMAN:

And your willingness to travel up here on a cold evening.

MR. WEST:

Thank you so much. It's a pleasure to be here.

CHAIRMAN:

Thank you. I can't believe it, we're actually running seven minutes early. That's fine. We have a lot of driving to do tonight. Next, I'd like to call Susan McClure. She's with the Marcellus Shale Committee of Indiana County League of Women Voters. Susan, welcome.

MS. MCCLURE:

Thank you. Welcome to Indiana. The League of Women Voters of Pennsylvania and of Indiana County thank you for holding a House of Representative Finance Committee Meeting in Indiana County and allowing us to speak about a severance tax on Marcellus Shale natural gas extraction. We will be addressing provisions in House Bills 1489 and 2443.

The League of Women Voters of Pennsylvania supports the tax on severing of natural gas in the Marcellus Shale formation. It is a fair and equitable tax that is related to the industry's ability to pay. The industry is not floundering, rather companies are paying bonuses to entice mineral rights owners to sign. Drilling companies have demonstrated financial resources in the bids they entered at auction for the right to drill on lands owned by the Commonwealth. Currently Pennsylvania is an importer of natural gas and its consumers pay severance taxes to states where the gas is extracted. Fourteen (14) states produce more natural gas than Pennsylvania, and all of them levy a severance tax.

The League does not support allocating the bulk of the money derived from taxing a finite resource to provide revenue for the General Fund.

The League of Women Voters supports the severance tax on the Marcellus Shale extraction as a revenue source primarily designated for the preservation and protection of natural resources, the monitoring and protection of public health and escrow fund for supporting community adjustment as the industry grows and declines, research on the effects of natural gas extraction from Marcellus Shale on the economy, environment and public health of Pennsylvanians.

The Pennsylvania Legislature should regulate very carefully the extraction of natural gas. We must not repeat the environmental damage that coal extraction has caused. Natural resources should be preserved and protected. Potential damage to the environment exists at all stages of drilling, production, distribution and site restoration. The Department of Environmental Protection and the

Conservation Districts must be funded to carry out their responsibilities. Monies need to be set aside for remediation when the finite mineral resource is gone and the damage remains.

Monies need to be set aside for potential health costs. Reports from Colorado and Wyoming indicate that natural gas extraction may cause health problems. The effects of extraction and natural gas well maintenance on health have not been studied. We do not know the long-term effects on health of drillers and well tenders or on the people living near the wells, compression stations, pipelines and storage facilities. There can be unanticipated problems. Money needs to be set aside to mediate these problems.

There will be economic needs in affected communities as the extraction industry expands and declines. Money from an extraction tax should be set aside to help those community adjust to their changing fortunes. In the meantime, communities with affected infrastructure will need more than their regular allocation of liquid fuels tax to maintain their roads and bridges.

Revenue needs to be used for research. Legislators need to make good decisions, which are based upon unbiased studies. Studies exist that calculate the monetary impact drilling has made in Texas and Louisiana, but any studies about the noneconomic effects of a burgeoning or declining drilling industry. Research in public health is scanty.

And here I shift to talking about the bill. The League of Women Voters supports transparency and legislation in regulations. How the severance tax is structured is important. Simplicity is crucial, ambiguous language may result in a court striking down the law, deductions will result in less tax being collected. House Bill 2443, modeled after Louisiana's severance tax, proposes a set base. A set base per thousand cubic feet creates a fixed revenue stream that is easier to predict for both the tax and the taxing body. House Bill 2443 addresses increasing revenues as gas prices go up by using a 12-month average based on the price of gas posted on the Henry Hub. Using Henry Hub figures makes the piece of --- the price of gas transparent. Drilling companies pay the tax quarterly, which should reduce bookkeeping costs for both the industry and the Commonwealth.

House Bill 1489 is modeled after West

Virginia's severance tax. It appears it would generate more revenue as the price per thousand cubic feet increases. However, the Commonwealth's cost of administration would be higher. The sale of gas at the wellhead would need to be monitored to ensure that drilling is selling at an arm's length, that is not selling at a low price to a subsidiary, which would then resell the gas for a higher price, thus depriving the Commonwealth of revenue. The tax is paid monthly to the Commonwealth, creating more paperwork than a quarterly payment.

It will be --- in conclusion, it will be very difficult for legislators to exist using Marcellus Shale natural gas severance tax revenue to balance a Pennsylvania state budget in a time of falling income with increasing expenses. But mineral extraction comes at a cost. These costs must be part of the revenue allocations.

CHAIRMAN:

Thank you. Thank you. Any questions from the members. Representative Reed?

REPRESENTATIVE REED:

Thank you, Susan, for joining us twice in a month.

MS. MCCLURE:

Different approach.

REPRESENTATIVE REED:

Different approach, same place, but same basic concept. When you talk about where the League believes the revenue should go to, does one of these categories include local governments, counties, township and boroughs? Because I guess maybe it's under the Escrow Fund for supporting community adjustment as the industry grows and declines, but I'm not sure. The other categories don't seem to dedicate the money to the local communities.

MS. MCCLURE:

Well, the League works with consensus, and we studied the issue for a year, and then the League drew up consensus questions which, you know, were available for all the leagues to respond to. And then from that, we drew our position. And here I am going to get in trouble probably. The people across the state were not as enthusiastic about what you're talking about as, say, the Indiana County league is.

REPRESENTATIVE REED:

Probably because they're not drilling in their areas.

MS. MCCLURE:

Precisely. Because some of our members went through and looked to see where the low numbers came from, and they were, indeed, in areas that did not have the drilling. Now, if you had pipelines, like in Montgomery County, they were very interested in it. And that's unfortunate that that was the way it turned out.

REPRESENTATIVE REED:

Then I would imagine my second and final question, the results would be ---?

MS. MCCLURE:

Excuse me, when I asked a State Board Member about that --- I'm sorry, Dave.

REPRESENTATIVE REED:

Go ahead.

MS. MCCLURE:

She said --- because I said something about being disappointed, blah, blah. And she said that she thought that was in supporting the community adjustment.

REPRESENTATIVE REED:

Okay. I'm guessing the answer to my second question would be similar where when I talked about earlier the money dedicated to the Environmental Stewardship Fund or the Conservation

Districts making sure that that money actually goes towards, you know, environmental or mediation in counties impacted by drilling. I would imagine that that answer would differ, you know, from, say, the Indiana County League members, as opposed to the statewide coalition, that you would have a similar breakdown that those not impacted by drilling want to see that money just go into a general pot of money that they have a chance at, whereas the communities that are impacted by drilling would certainly like to see it used to remediate the actual drilling costs?

MS. MCCLURE:

That narrow perspective was not addressed in our consensus questions. So no matter --- you know, Indiana League, of course, we'd like to see it come here. We would like to get rid of all of the acid mine drainage. We would like to see our roads and bridges in repair. We would like to see every stream running clean and pure, but ---.

REPRESENTATIVE REED:

And I think that's a key topic of discussion as we go forward. I know the League operates with consensus and you're restricted by that consensus. But from a public policy standpoint, I really do think we need to look at the approach of, you know, we've got an awful lot of folks around the state that like to use our energy and would like to use the revenue generated from the production of this energy for their own needs and oftentimes forget about what it takes in the local communities to produce that energy. And I wish more folks would --- not locally but across the state would realize that there is, you know, some impact out there locally and perhaps those folks should have, you know, first right to those revenues. I appreciate the perspective. And like I said, I understand the consensus part of the League process, so the answers may differ depending on the local league as opposed to the state league.

A. Precisely.

REPRESENTATIVE REED:

Thank you.

REPRESENTATIVE BRIGGS:

I have a question.

CHAIRMAN:

Representative Briggs?

REPRESENTATIVE BRIGGS:

I just wanted to point out that though in my district, in Montgomery County, we don't have drilling which affects our community, but as you mentioned through the questionnaire, the consensus, that people in my area are concerned about the pipelines. And I think we need to continue to be balanced so to protect and, you know, look out for --- where the drilling's happening, there is a lot of other industry effects throughout the Commonwealth that we should keep into account. It's not really a question. I just wanted to ---.

MS. MCCLURE:

Dave's topic was water when we were asked to testify before. And water flows throughout the state. The water from the drilling area is going to flow where there are no wells. And that, I think, is important to say that those areas could get the dirty water, but --- and the energy, but not have to share --- but --- how am I saying this? They would get the water, which needs to be cleaned up, and they want the clean water. So therefore, if they need clean water in their areas, I think they should get it, because it's related to the drilling. It's not quite that cut and dry as to whose roads are we going over, and the same goes for the air.

REPRESENTATIVE REED:

I think when you look at the key components when you dedicate money to the

Conservation District, we dedicate it to actually, you know, using it to regulate the industry or using it for the environmental protection related to the industry. You take care of a lot of those problems that may, you know, wander into nonproducing areas by getting into, you know, the root source of the problem.

MS. MCCLURE:

I do, too. Thanks.

CHAIRMAN:

Susan, let me just draw you into a conversation just on this idea of, you know, all the money that's --- all the revenue that's generated in a county ought to stay there. We have --- and you're obviously aware, we have a Growing Greener Program in the state. It is funded by a tipping fee, by a per ton fee on garbage that goes into our landfills. Now, that money that's derived from that fee isn't just used to fund Growing Greener only in those municipalities and counties. It's used to fund a statewide environmental cleanup and remediation program, okay.

So, you know, so we have a good statewide program, but if we limit the revenue to the use in the communities where it's derived from, then there's vast areas of the state that don't have landfills that would never receive any funding through Growing Greener. And logically as well, we have a wage tax collection system in this state. And if you paid your wage tax where you worked at, well then those employment centers in the state would generate a lot of wage tax revenue. The reality is we pay our wage tax where we live and not where we work. And there are impacts that, you know, communities that --- you know, where there are employment centers, there are public services that that local government has to provide for which they don't get any compensation.

So you know, if we're looking at a tax policy so that we drive the money only to the areas where it's generated, then we're not going to be much of a Commonwealth. We're just going to be a collection of individual municipalities and counties, you know, and we're not going to be able to have any statewide policy or system in place.

So that's why I think from my perspective, at least, we need to provide some revenue to fund Growing Greener, which has over the last years since --- and this is a good republican and democratic program that was created and has been sustained through bipartisan support. But the problem is with the loss of revenue from the fact that the tipping fee is generating less and less money and for other reasons why we have rated the Growing Greener funding stream, the revenue isn't there to fund those programs. So that's why we're trying to look at, you know, from my perspective, a way to fund Growing Greener, which is a program that, you know, is used to clean up acid mine drainage, you know, and promote land preservation in areas. It's a program that worked really well, but I think it needs to be placed on sustainable long-term financing. Your thoughts about it?

MS. MCCLURE:

Well, I wasn't --- I just --- excuse me. I thought you were telling us your views and I didn't think I was going to give mine. I am a firm believe that water doesn't stay --- that we all share the water, that we all share the lands. And if it turns out that you over here get rid of your garbage over here, well, you know, somehow it all comes back to us because the nature doesn't keep it in one spot if that makes sense of you.

CHAIRMAN:

We're part of the Commonwealth.

MS. MCCLURE:

Yes.

CHAIRMAN:

You know, we all have a stake in the environmental no matter where we live.

MS. MCCLURE:

I was also thinking that if you want to get the bill passed, you need to support everybody.

CHAIRMAN:

Thank you.

REPRESENTATIVE REED:

If I could just comment, I think that's probably good the way you balanced it, you gave 45 percent to the General Fund which the state can use for all of its citizens. And I think dedicating the other portion of the revenue to the communities impacted isn't somewhat unreasonable when the state's already going to get 45 percent that can go to Growing Greener, can go to, you know, DEP regulators, can go to the LIHEAP Program. You dedicate some of that money to Fish & Boat Commission, the Game Commission. So there's certainly more than enough revenue, and I think you've done a good job of balancing the percentage of the revenue going to the Commonwealth as a whole. Now we just go to make sure we take care of the communities that are impacted locally, too.

CHAIRMAN:

Thank you.

MS. MCCLURE:

Thank you.

CHAIRMAN:

Next I'd like to have --- invite Mr. James Resh. Mr. Resh is the manager of the Indiana County Conservation District.

MR. RESH:

Well first of all, my name is Jim Resh. I'm the manager of the Indiana County Conservation District. And I do like this House bill, because it's the only one that specifically identifies Conservation Districts as having some funding for us. Another thing I like about this bill is the fact that we see 55 percent of the funds associated --- or the revenue generated from this going back to local governments, our communities, emergency services and as far as protecting our resources. I like that. It's very well defined. I think those are very good points that I'm seeing here.

I think maybe --- let's get a little bit into --- again, I'm here as a Conservation

District, and why we're here pushing this and the importance of it. First of all, maybe I need to define what our mission is here. In Indiana County our mission is to basically promote sustainable agriculture in communities and wisely use the resources of Indiana County, which is natural gas. And basically also to promote our communities, be it our agriculture or rural communities, our townships. We have a lot of rural townships. They've been impacted by all the gas well drilling we have had over the years. And you know, I think this bill is going to offer some help to them, and so that's why I'm here looking at that.

Why we need to see the three percent funding for Conservation Districts? Just to give you an idea of where our funding stream comes from, if you're not familiar with it. Right now, we're a line item in the Department of Environmental Protection's budget and the Department of Agriculture. That has been flat for the past eight years and has dropped in a lot of cases.

Another thing which I'm kind of proud, which we try to do in our district, is we do have fee for services. So I'm not really looking at handouts. I'm looking at the ways the Conservation District, itself, could generate funds. And one of those are we do have --- we review the roads control plans. We do some permits and we charge fees to industry for that. A little while back, we used to with be able to charge --- we used to do a service for the oil and gas industry. Unfortunately, the Department decided to take that back into the House. We lost quite a bit of revenue and, quite frankly, I think the industry was a little disappointed by that decision, because they liked to deal with somebody locally. Now they're having to deal with a regional office, things take longer. So it really is no benefit to them. And actually, in our case, we have lost quite a revenue stream from that, that helped us, you know, stand on our own two feet as opposed to having to rely on funds from that.

Another thing which this bill does address is the Environmental Stewardship Fund, which I think is a very good program. Indiana County has taken advantage of it as far as dealing with mine draining issues. One project we have is up in the Bear Run Watershed, northeast corner up by Jefferson County. It's a fairly large watershed when we get that back in shape. It's an undeveloped watershed, but it's affected by mine drainage. We're working on that. We get that back into shape, we could bring tourism into that area. We can create other industries. Same thing just along Two Lick Creek. We're working on a project to create a waterworks conservation area. I can see when it's done, we're going to see canoeing and kayaking along Two Lick Creek, again creating another industry and revenue, you know, for the county. We're creating jobs for the county.

The third, as far as what we're doing in agriculture. Actually, we see, again, through the Environmental Stewardship Fund, some money to leverage a watershed implementation plan in the south branch of Plum Creek. This is a high quality watershed that's impacted with sediment, basically due from agriculture and in a lot of cases from our rural roads. And then what's nice about this, the work we're doing is going to enable us to leverage EPA money to, again, bring that back into the county and do additional work.

And so that gives you an idea of some places we have used it. And that's how we get --- so we get some revenue from that, so if that Environmental Stewardship Program isn't in place, we're potentially loosing some potential funding there or potential sources of revenue for the district.

And then finally, we get support from the county that helps us along on our way. But you know, our county is strapped, too. When counties go down and in turn the budget remains flat. And having this three percent go to the --- and I think it would go to the State Conservation Commission. And it would be up to them, from what I read in the House bill, it'd be up to them to more or less determine how it's allocated to the districts. I think that's how that would work. From what I saw in the language, there is something to that effect.

So that's where --- you know, why do the conservation --- you know, is it important to the Conservation Districts to be --- you know, why do you want to give us three percent? You know, what do we do for your constituents, things like that? I think I identified some of the stuff we're doing on water quality issues. But also I think we find that a lot of times, we're a lot of the go-to people for environmental questions in the county. People have some questions, they're calling the Conservation District. They're calling us, where do I go from here. They're looking for help. So we're a good place to get that. That's not a revenue generator, but that's something that the people need answers to, and the Conservation District is the place to get them.

Another one is, I think, the Department of Environmental Protection says we're very cost effective in administering programs. We do their 102 Program, and for a while back, the 105, introduced your management program. Those were left up to the state to administer. Their costs would be considerably higher, you know. And right now, they're probably funding us maybe 40 percent or 30 percent of what the costs are to run those programs. So you see that three percent would definitely have some benefit for the Conservation Districts.

And I think we are really affected players with this Environmental stewardship Fund to use that money. I think Conservation District are very creative. We know where our environmental problems are. We know how to work with them. We have Mike Bertolino out there. We work with the townships on dirt and --- on road issues and deal with that. So they know we're out there helping them and we have some answers for them there. So that's some benefit.

So you can see, that's a lot of the things I like about this bill is that it really puts 55 percent of that money to the people that are impacted by this Marcellus drilling. I do like one thing in there, the fact that you do --- and this is the reason for the natural gas stuff in there. You know, Indiana County, I think, at one time had the reputation of being the most drilled county in Pennsylvania. If you go outside, we have a gas well --- every 1,000 feet there's a gas well in Indiana County, and those are shallow wells. And I think they would qualify as a stripper well under this. Most of them produce less than 60 units of gas a day. In fact, I think that chart there will define it. I think 98 percent of them are less than that, and 30 percent, I think it was, produced less than five units of gas a day.

One provision, and I think Representative Reed brought it out, is that clause regarding producing wells and paying wells. Right now the way that that legislation is written, I think it's going to be a real burden to someone in industry, because it goes into metering issues which in talking, again, from that representative, you're looking at a cost of probably $33,000 for a meter on every one of these wells. Right now what they'll do is, say we have a farm out there, there's four or five wells on that farm, there's one meter when it leaves that farm measuring the gas off those four wells that determines basically the royalty that goes to the landowner.

And then also that meter is used, because now we have industry down the line, they're selling that gas to somebody else, so they're watching each other out here. So I really question a lot of this stuff as far as what's the Department's role and how much they have to be doing as far as metering and watching. Or is it even necessary to even require meters on wells that we're never going to collect any of this tax from? It's creating really a lot of burden for in industry. And I'm going to step one step back to our mission statement promotes sustainable agriculture and communities. We have a lot of rural communities. There's a lot of gas wells. We have a lot of gas well tenders that are working on these wells that are producing small amounts of gas. If we get to the point that they're forced to meter and do things like this, you're going to see --- they're going to start deciding, well, this well's not productive. It's time to shut it in.

And they shut that well in. We lose the well tender production, all the other industries associated with it. And if that's a farmer, he all of a sudden loses his royalties he gets, be it they're small. He also loses the free gas he used to get to his house. Those wells start getting plugged and that'll be the end of that. And there's a lot of people in our rural communities, you know, they depend on that. And that's a point that needs to be considered.

And if we want to look at the resource side of this, granted these wells are only producing five, six cubic of gas --- units of gas a day. They've been doing that for 70 years. You know, we don't know what's going to happen with Marcellus Shale. You could be drilling a well. It can make a million cubic feet of gas for one year and the next year, there could be nothing in it. But we have wells that have been producing for 70 years consistently producing, granted it's only five units a day, but it's a consistent supply. So I really think for --- in this bill, we need to really look at that issue and definitely support the fact that --- I'd like to see the support for the Conservation Districts. Do you have any questions?

CHAIRMAN:

Well, that's the next thing. Any questions from members? Representative Reed?

REPRESENTATIVE REED:

Jim, thanks for taking the time.

MR. RESH:

Sure.

REPRESENTATIVE REED:

As you know, you kind of started the discussion on funding Conservation Districts last year, ---

MR. RESH:

Yeah.

REPRESENTATIVE REED:

--- when we looked at some of the leasing proposals on the state forestland and actually started the distribution model discussion, because the Governor had originally proposed just taking all of the money from several expenditures leasing whatever the revenue source was, and just balancing the General Fund by taking money away from the Oil and Gas Lease Fund and transferring it over. How much do the Conservation Districts get from the state right now? Because I know it's gone down dramatically during this administration.

MR. RESH:

Well, it's --- I think it was --- well, it was two years ago $3.7 million. It's down to $2.92 or $2.9 million, so that's dropped. Our funding from Department of Agriculture was $1.5 million. They're proposing to drop that down to $1 million. So those are some big hits we've been experiencing.

REPRESENTATIVE REED:

So basically, I mean, if this proposal brings in $100 million dollars, which I think on the low end of what some of the revenue folks are looking at, you're looking at three percent, $3 million, you're almost doubling the state's support of Conservation Districts?

MR. RESH:

Oh, yeah.

REPRESENTATIVE REED:

Which is significant.

MR. RESH:

Which is --- well, which is helpful. Right now what funding we get doesn't even come close to covering 50 percent of the cost of having, you know, a manager, a technician and a staff there. It doesn't even come close. Doesn't even come halfway.

REPRESENTATIVE REED:

If you just want to highlight one of the programs you did mention that really impacts local communities with drilling for certain gravel road program?

MR. RESH:

Yes.

REPRESENTATIVE REED:

I know you guys have implemented that very successfully here in the county, and that --- I mean, a lot of it's truck traffic in rural communities going over dirt and gravel roads.

MR. RESH:

Right.

REPRESENTATIVE REED:

And the job that you guys have done with that has been tremendous. And also, I think the local permitting issue that you discussed with Secretary Hanger had taken away about a year, year and half ago. I know you and I have had discussions about that, that I brought up with the Secretary. I'm hoping that the new DEP secretary with the new administration next year will revisit that. And I hope the Conservation Districts will be part of that discussion, because I think nobody's better to know the local impact of the permits than at least getting some input from the Conservation Districts that know those communities best. Thanks, Jim.

A. Exactly. That's kind of ironic, because here we are, a lot of our issues are streams and all this permitting with the oil and gas is all related to that, and that was gone. And the irony was, too, that a lot of the industry representatives would rather go locally, and now they're not. So ---.

CHAIRMAN:

Thank you. Mr. Resh, just a couple of questions. You mentioned about the DEP has changed the permitting process relative to, you know, drilling sites. My understanding is that primarily affects the erosion and sedimentation permitting process; is that correct?

MR. RESH:

And the other one has to do with which is called the 105 or the stream impacts ---

CHAIRMAN:

The stream impacts.

MR. RESH:

--- that have to put culverts into cross streams or pipelines have to go under streams, things like that. That used to be locally administered program. Very quickly done. You do it locally. We do the stream. We knew everything was taking place. Now that's handled in a regional office. No one is even out there to see what's going on out there now.

CHAIRMAN:

Do you feel as though that there's not appropriate staffing in DEP to look at the 105 permitting process as well as the ENS?

MR. RESH:

I would --- I hate to --- well, let's put it that way. There's no fuel presence. You know it's basically a review. They don't even know if there's a permit issued. If it's on the paper is how they issue the permit, you know. In our county, we knew what was going on. We knew the stream budget. We knew where the crossing was, what issues may be involved. My staff in this case went out and looked at those. You know, granted it got to the point, you know, you're working in a small county, oh, yeah, I know where that's at.

It gets to be that point, you know where there may be potential problems. But right, there's no field permits. Those permits come into the office, they've identified a location on a map, basically they look that they're administerially completely and the permit's issued. And that's the procedure.

CHAIRMAN:

Correct me if I'm wrong, say if there's a commercial or an industrial development somewhere in the county, the Conservation District still does the ENS and the stream encroachment permitting. They still do it there?

MR. RESH:

Yes. The oil and gas industry basically that --- all the activity to do with that got pulled away.

CHAIRMAN:

Okay. But you still do ---?

MR. RESH:

Still do other industry, yes. If a Wal-Mart's moving in or anything like that, we still do that, yes.

CHAIRMAN:

So any other industrial or business or commercial development with, you know, --- or logging or what have you, you still do all of the ENS work for everything else?

MR. RESH:

Associated with that, yes.

CHAIRMAN:

The Department has just carved out ---

MR. RESH:

The oil and gast industry.

CHAIRMAN:

--- the oil and gas? Okay. And just let me ask you this from a practitioner's perspective. I mean, in terms of the issue of metering, if a landowner, a farmer or whoever, you know, traditionally has stripper wells on their property and they have an agreement, you know, with the gas company relative to royalties, how do they know? I mean, doesn't the fact that you have an existing system in place for royalty, doesn't that require that metering be put in place so that the landowner knows how much gas is being, you know, pumped so that they get the right data on which to calculate their royalty income?

MR. RESH:

Okay. Could I --- not to --- I have representatives of the industry that could maybe answer the question better than I have, in the audience, or would you rather me answer --- from what I understand, ---

CHAIRMAN:

Yes, just your perspective.

MR. RESH:

---- if we have a farm and there's five wells on it, those are all collected. Before that leaves that farm, it goes through a meter. So those five wells are totaled through that one meter as it leaves the farm.

CHAIRMAN:

Okay.

MR. RESH:

So yes, you still know how much gas is leaving, but specifically for each well you don't because you're playing on the royalty for the whole lease.

CHAIRMAN:

You got to make sure that all the wells --- you know, if you have seven or eight wells, you got to make sure that all of them actually run through the meter ---

MR. RESH:

Yes. Yeah.

CHAIRMAN:

--- to be accurate?

MR. RESH:

Yeah, they would have to all go through

the meter.

CHAIRMAN:

Okay.

MR. RESH:

But right now, if we demand a meter on every one of those, that's what gets to be --- now it's the cost of having the meter and the cost of the certification of the meter and all of the other. And from what I understand, I think DEP right now, those wells or those group of wells maybe are every year. There is a yearly report that's submitted on them already, so they already know the production. You know, we're just dividing --- you know, just adding another step to the whole process.

REPRESENTATIVE REED:

Just so I understand, the problem is when you carve up stripper wells and you set that level that you have to hit for it to be subject to the severance tax, in order to know if each of those wells are hitting that level, you have to put the meter on each well, as opposed to four wells flowing into one meter? Is that really kind of the basics as to why you're going to have to have the additional meters?

MR. RESH:

I think.

REPRESENTATIVE REED:

You got to hit the 60,000?

MR. RESH:

I think it requires every well to have the meter. Now, if you had ---.

REPRESENTATIVE REED:

Which you have to do because you've got to know whether they hit 60,000 or not ---.

MR. RESH:

I would say that if you have five wells on a property and one meter leaving reading, and it's only reading 50 a day, none of them are --- they're all considered stripper wells.

CHAIRMAN:

Right.

MR. RESH:

Yeah.

CHAIRMAN:

But what if there's five wells and the readings come in at, you know, 120 instead of 60, well you don't know if there's one that's over the 60 and the other four aren't? Okay. You're uncertain as to that?

MR. RESH:

Yeah, well, I guess that's --- that would require a little looking into, yeah.

CHAIRMAN:

Well, that's okay, that's why we have hearings like this.

MR. RESH:

Yeah, I guess that would require looking into that, yeah.

CHAIRMAN:

Thank you. Thank you very much.

MR. RESH:

Yes.

CHAIRMAN:

Next Mr. Rodney Ruddock, the Chairman here of the Allegheny --- I'm sorry, Allegheny. Indiana County Board of Commissioners. I'm sorry. Didn't mean to move you 100 miles west so quick.

MR. RUDDOCK:

Let me shake your hands first. I'm sorry. I wasn't here at the beginning of your presentation tonight. I was at a dinner with the American Red Cross and was able to have dinner with Dave Reed's wife, so everything ---.

REPRESENTATIVE REED:

At least somebody was.

MR. RUDDOCK:

I have some prepared thoughts here. I'm pleased to be able to be here tonight. I would with admit that I did get some encouragement from the County Commissioner's Association to make presence here tonight as well, so ---.

CHAIRMAN:

Excuse me, do you have copies of your ---?

MR. RUDDOCK:

I have ---.

CHAIRMAN:

Did you bring any extras?

MR. RUDDOCK:

I did make some additional copies. I have, I think, three additional.

CHAIRMAN:

Well, we'll share up here.

MR. RUDDOCK:

I actually called back to see if I needed to have any additional copies. They said, no, but I made some anyways, so ---. Representative, team of our local and state legislative group, on behalf of my county colleagues, I want to thank you for the opportunity to provide testimony regarding our position on the enactment of severance tax on natural gas.

First of all, as you are keenly aware, we favor support of House Bill 10, which doesn't deal with severance of natural gas, but it would restore each county's ability to asses oil and gas just as other minerals, such as coal and limestone are currently assessed. Since the Supreme Court decision of 2002, oil and gas industry has not been shouldering its fair share of the property tax burden for counties, municipalities and school districts in oil and gas producing counties. Restoring this ability is a simple and direct way to drive revenue to local governments as a matter of tax equity.

As part of the growth potential of the Marcellus Shale, we, I think, as county commissioners are attempting to become better informed decision makers. We do advocate that local governments must receive part of the benefits of this growing industry in order to offset local costs.

While we lean in favor of a severance tax, we are also cautious that we do want to make sure that such a decision does not in any way impede our competitive status with other regions which are seeking also to improve their economic status. To look at severance tax imposed by other states, one must also examine other business and corporate taxes which may or may not be levied that help to create an unlevel playing field. I think Jim Resh even spoke to some of those cautions as well from a conservation point of view.

Specific to the discussion of the severance tax, as I said before, we lean in favor only because we --- all counties are hurting. All counties are hurting right now financially. And I'm just going to say this sort of as an ad lib, we just got done building, not necessarily by state mandate but by requirements, a new prison system. That prison system cost us $28 million. That was burdened by --- onto the taxpayers' shoulders of Indiana County. We don't receive any kind of state subsidies whatsoever for that.

We are also required by 2013, to have installed a public radio safety system that meets the requirement of the FCC by 2013. That's an additional tax burden that could cost anywhere from $16 to $23 million. Again, a burden that has to be placed solely on the taxpayers of Indiana County.

We have reached a point where we have to find ways to draw some additional revenues, simply to meet and make ends meet.

Specific to the discussion on the severance tax, whatever severance proposal and other new revenue sources are enacted, they must contain a --- they must contain a shared revenue dedicated to county and municipal governments to deal with the impacts from development of this energy resource. We firmly believe that there can be no severance tax unless there is a local share.

And that's the point I'm making here. I'm not saying we necessarily have to have a severance tax if we can find other ways to draw monies to the county. But if we do have a severance tax, then local share must be there. It does not seem fair that a severance tax would be solely used to reduce the state's current budget deficit. I have heard, I have it in my notes here we have heard, but I have heard, and I've spoken to some people from the state, that they see this as a great means to reduce the state's pension deficit. Yet what we must all realize that this pension burden is also carried by each county of the state as a mandated defined benefit program. We have the same responsibilities of pension that the state has.

I think that soon you will hear from

Mike Bertolino, who represents the Township Supervisors of Indiana County. CCAP and PSATS Township Association, as I understand it, support collectively if there is a severance tax, dedicating 25 percent of this tax to a local government fund which could be distributed to host municipalities, host counties, nonhost municipalities and Conservation Districts. The proposed distribution roughly includes, and I'm using these numbers because it's approximate, although they do add to 25 percent, 14 percent to municipalities, 5 percent of that 14 percent dedicated to roads and bridges. How am I doing, Mike?

MR. BERTOLINO:

You're doing well.

MR. RUDDOCK:

Eight percent to counties and three percent to Conservation Districts.

I've had the opportunity to review each of the severance tax proposals that have been introduced in the House. Each proposal creates a different possibility by which the money should be allocated, based upon a range of distribution options. We are extremely hopeful that whatever decision is made is mindful of the unique differences which exist between traditional, marginal or stripper wells in Pennsylvania, and those which will be generated through Marcellus production. I think that's a critical piece to the whole issue as well.

Please avoid the use of boards that help to decide at the local level how pockets of money should be distributed or how to govern the spending of potential severance tax dollars. We at the county level have fiduciary responsibilities to control budget decisions for the county, not for municipalities. I know this position falls in line with your House Bill 2443, Representative, which does not contain any oversight board to dictate how government funds should be spent, nor does it contain any language on the use of the funds.

I will suggest, however, that we did have great success in Indiana County in the distribution of dollars, which were made available for Environmental Stewardship as part of the Growing Greener II initiative. Jim Resh did an outstanding job on our behalf in distributing over $1 million that made its way to the rural parts of this community and did some outstanding work in completing some of the requirements to upgrade the conditions of quality of life. And acid mine drainage being one of the primary goals.

Should severance tax fund make their way to the local level, we would hope that there would be no restrictive use of those funds. Obviously, our municipalities face very serious road and bridge problems. At the county level, we are trying to come to grips with our bridge needs. We don't own any roads. Severance dollars could very well be served if we have the freedom to provide long-range planning and response to these transportation shortfalls.

Should you look for a means to properly transfer dollars to municipal level, a formula drive to distribution model which has been used for the liquid fuels tax program, a vehicle that is already in place, would be the best means to achieve municipality fairness.

We have not yet fully judged the impact that the Marcellus Shale will bring to our county. We've had great experience and support through shallow wells throughout Indiana County, and we know firsthand of the economic values and the issues which tend to follow such economic development. We do realize that as we move forward and grow the gas and oil industry, there will be additional costs associated to county government. These extend to emergency management and response, human services and all court administered programs and services, even the maintenance of deeds and records are affected by such growth potential. We are yet to fully understand our role to attending to the potential water and wastewater issues that have begun to surface, and we certainly are not prepared financially to deal with those issues.

In final comment, we welcome the opportunity to be partners with our legislative team and to do what is right to find a fair and supportive role in bringing oil and gas revenues to our local communities. Please do not forget the little man in the big picture. Thank you for providing these hearings. Thank you.

CHAIRMAN:

Thank you, Mr. Ruddock. Any questions? Representative Reed?

REPRESENTATIVE REED:

Just real quick, Commissioner. I think you're right, your point is well made when you talk about the severance tax. It seems like that's been the solution to every problem out there, whether it's transportation funding, property tax reduction, pension funding, General Fund budget problems. Everybody seems to think if you just put a severance tax on the industry, that it's going to solve the problem. But your point is well made that those monies need to be dedicated to mitigating the actual impact of the drilling in the communities. One just point that I want a little bit of clarity on, you presented the CCAP and the Township Association's proposal for 25 percent being dedicated to the local share. And within that proposal, they talk about five percent being dedicated to roads and bridges.

MR. RUDDOCK:

Uh-huh (yes).

REPRESENTATIVE REED:

And then later on in your testimony, you asked for the maximum amount of freedom possible on the expenditures of those dollars. Is that a point where your personal opinion differs a little bit from CCAP, where, you know, leave it up to the counties, leave it up to the municipalities to make the decisions? Or would you be inline with the carveout for the roads and bridges?

MR. RUDDOCK:

Well, I think the carveout is imperative. But I think that the decisions should fall upon the shoulders of the municipal leaders to make those decisions on those bridges and roads, not upon the shoulders of the county reps. Let them decide where it's best to be placed. We can't get in --- I mean, they're really the effective managers of our properties in Indiana County. That five percent is part of that 14 percent total makeup of those dollars. So how it's carved out, all I'm suggesting is let them make the decision on how it is best to be applied.

REPRESENTATIVE REED:

Thanks.

CHAIRMAN:

Any other questions? Mr. Ruddock, I just wanted to point out, you know, in my legislation, I set aside 30 percent of the total revenue generated goes into the local services fund. And then of that, 60 percent gets distributed to host and nonhost municipalities in that county where drilling is occurring. And then 30 percent goes to the county, ten percent to the local fire and the EMS. And within the municipal share of it, I don't necessarily restrict and say you have to use it on roads or bridges, because you know, there's 2,600 municipalities out there in the state. Now, this will not affect those that are in counties where there's no drilling going on, but you know, some municipalities --- you know, in my district, for example, you know, they need money for recreational enhancements and facilities and others want to focus on economic development. So to as much extent as possible, I want to give as much flexibility to the locals to determine how they choose to do it. Okay. Although, I do know there is --- I mean, House Bill 1489, Representative George has very specific language about how to drive it out for transportation.

You know, this is the kind of conversation we could have, as long as we realize that we all need to be in the same boat pulling on oars going in the same direction, provide the revenue, you know, to put in place to enable all this to happen. And I know how delicate it always is for, you know, elected officials to step out and say, you know, this is the right thing to do. But the reality is we need input and help in the raising of the revenue, as well as in the ideas on how to distribute it as well. And I understand that for some, they feel as though there's a balance that needs to be struck. But I just want to stress the importance that we can all have ideas on how to spend revenue, but unless it's there to begin with, those discussions don't --- aren't going to result in anything constructive being happening or any investments in our communities actually occurring.

But I appreciate your testimony and your insights and look forward to working with you and the local government officials and CCAP as well.

MR. RUDDOCK:

Thank you very much. Again, I appreciate just being here and taking the opportunity to hear some of your thoughts as well. So thank you very much.

CHAIRMAN:

Thank you. Thank you. Next, Mr. Mike Bertolino. He's Chairman of the Board of Supervisors of Young Township. Mr. Bertolino?

MR. BERTOLINO:

I believe everyone already has a copy of the bullet points that I have. First of all, good evening. I want to thank Representative Reed for giving me this opportunity, and the board. Mr. Chairman, my name is Mike Bertolino. I have been a township supervisor for 32 years. I have actually been a township supervisor longer than Dave Reed has been alive. And that's not a bad point. First of all, I would like to thank our County Commissioners, Dave Reed, Jim Resh and also Sarah White, for the fantastic job they've done with our township. We're a very rural township. And anytime I've have had a problem, they have jumped right on it very diligently. And thank you again.

Let's talk about Young Township. Young Township, Indiana County, number one in gas well production. Number one in gas wells, 950 at the present day in Young Township with 100 more coming this summer. I've already got half of those permits, based mostly on CNS development. Number one in coal producing, over 500 million tons in the last 50 years. Forty-six (46) miles of road to maintain and PennDOT has 46 miles Of road. If you look at that, that's one gas well every tenth of a mile with 950. Do the math. Our annual budget for the 46 miles, $300,000, third poorest in the county.

I did a recent research. Mark, I'm going to touch on some of your numbers here. I took 65 wells right around the Young Township area, did the meter readings. And Jim, there was a meter on every one of those wells. These wells were drilled in the 1970s. The total cubic feet is 900,000 per month at the present $4 that you saw. I saw $4 a day. I looked it up. Revenue is $3,600 a day, $108,000 a month or $1.3 million a year just for 65 wells. If you take that average through the county or through the township of 950 wells, Young Township's revenue is a minimum of $20 million worth of natural gas a year. Total revenue monetarily to the township, zero. 500 million ton of coal total revenue to the township monetarily, zero.

The House bill that you have, I understand that we, the host municipality, will get part of it. And I really want you to think about that hard, because we are the people that are really sharing the burden, believe me. The 65 wells is only a part and they were real convenient for me to get to and a little bit of experience in the gas well tending, I knew what to do with that.

In order for these gas companies and coal companies to extract whatever material they're going to extract, they must use the township roads and the state roads. Currently, the state sets the road bonding at $6,000 per mile for dirt roads, $12,000 --- $12,500 per mile for asphalt roads. If you take one mile if road 12-foot wide, which is in a very wide travel part, and you put one layer of stone on it, it takes 528 tons at the current bid price that I just got at $17.90 a ton, comes out to $9,451, a deficit of $3,400 on what the road bond will pay. And I have suffered the consequences where the gas company and the coal company has said here's your $6,000, see you later. Who makes up that $3,400 deficit out of a $300,000 budget? Young Township, the taxpayers.

That's why it is important that we have the host fee for every Township that produces gas, that's very important. Without it, we're going to starve, we're going to be busted. With the winter we had, out of a $300,000 budget, we spent $25,000 in snow removal, that's not a lot of budget left for the next seven to eight months. It's tough. If you put this money all into one conglomeration and like the House bill, I think it's 1489, Mr. George, on transportation, you're never going to see a Port Authority bus on a dirt road in Young Township. If you do, I'm going to be the first one on it.

The cost of the repairs is gone completely out of sight. I can remember when we could buy gravel for $2 a ton, state-approved stone. Now the tar and chip is $25 a ton. It's just gone out of sight. And our budget with 1,664 people, 900 of those are over the age 62. We have no revenue. Five businesses, three ---.

BRIEF INTERRUPTION

MR. BERTOLINO:

Five businesses in the township, three bars, a mom and pop grocery store and a gas station. Most gas companies are willing to work with us. Thank god, they have, or we'd be in the worst deficit than we are. Some gas companies are completely ignorant. They'll will sneak in at night, they'll tell you they didn't use the road unless you catch them red handed. What we put up in the spring is mud. In the summer, we put up with the dust. In the winter, we put up with the ice and snow. The gas companies come and go and the townships receive the calls. We get hit with the burden. My road's muddy. My road's dusty. My road's turned to ice because of the truck traffic. Not enough money to take care of it.

One proposal I had, I don't know what your four percent works out to with those figures on the 60 wells was, I proposed that no less than a 200 fee --- $200 fee per year, per well, no matter what well, as long as it's active on the DEP list, would revenue our township right now $190,000. That's two-thirds of our budget. Also, if you want to look at it a different way, that's $17 a month for each well. More people spend more than that for a cell phone a month. Put it in that perspective, think of where the gas comes from, the coal comes from, get it back to the people that's paying the real bill. That's what it's all about.

This would allow us to maintain roads better, purchase better equipment and be able to put money away for matching funds. Right now, the Department of Agriculture has a matching fund out there, $603 million, but you have to have 35 percent. Young Township will never have part of that grant, because we can't match 35 percent. If township leaders are smart, they'll take this money and invest it, put it in some kind of a council that they can proceed with waterline extensions, sewer line extensions, matching funds, and also be able to make safer and better travel for the residents.

In conclusion, I'd like to say as a local official, I'm not against drilling. It's progress. Mostly we've been regressing. It's time we progression. The gas companies that have come alive in the last couple of years have created a lot of jobs for local guys, young guys in our township, and some of the little businesses and jobsites around.

I'm not against drilling, but I do really appreciate someone looking into the host fee. I would think that would be the greatest thing that could happen. Legislators, you know what it's like at budget time and when poor townships need money, you can't hand it out. Your local township comes, and Dave and I have talked about this, Commissioner Ruddock and I have talked about this, Senator White and I have talked about it, the rest of the County Commissioners, we just can't seem to grasp or pull anything from anywhere else. It's going bad. And it is going to get worse.

We have not yet seen the Marcellus. I have taken a trip to Washington County. Marcellus well with acres of ground, Young Township is --- three-fourths of it is owned by Consol. There's going to be numerous Marcellus wells in Young Township. That ten acres of ground you're never going to see a Marcellus well in downtown Philadelphia or Pittsburgh. Take care of the host municipality. Thank you.

CHAIRMAN:

Thank you, Mr. Bertolino. Any

questions from members?

CHAIRMAN:

Representative Reed?

REPRESENTATIVE REED:

Mike, just real quick. Thank you for taking the time today. And it did rain, so it didn't mess up the baseball schedule for you here in the county. Just so I make sure from your testimony, you would prefer whatever distribution model was used is based upon the number of active wells in the community; correct, ---

MR. BERTOLINO:

Yes.

REPRESENTATIVE REED:

--- not just if they exempt out stripper wells for the severance tax? The distribution should come back to the host municipality based upon the total amount of wells that are active, not just the ones who meet the threshold for the severance tax?

MR. BERTOLINO:

Yes, I was basing my facts of $200 per well on every well, active well, that's on the DEP list, which would be 950.

REPRESENTATIVE REED:

Okay. Thanks.

MR. BERTOLINO:

Okay.

CHAIRMAN:

I want to make sure --- just to follow up, I want to make a clarification. So your suggestion is, is that the revenue derived from a severance on Marcellus drills should be distributed by a formula that incorporates the total number of Marcellus wells plus stripper wells?

MR. BERTOLINO:

Yes. I'm saying that they --- you could do it a flat fee or you could do it separately. I believe in House Bill 1050 --- is it 1050?

REPRESENTATIVE REED:

Yeah, when we did the state lease that was the way we proposed it.

MR. BERTOLINO:

That was defined as the Marcellus, I believe, coming in would pay the $1,200 flat fee and then so much per year along with the stripper wells and everything else. I would like to see all active wells, because the wells that were drilled in the '70s and '60s, my water trucks are still going every day, every day, over those roads to get rid of the brine water.

REPRESENTATIVE REED:

Just to clarify, House Bill 1050 for the information on the amendments, what we did is we recognized the difference between a stripper well and its imprint on the community and the Marcellus Shale well is going to have a much larger imprint.

MR. BERTOLINO:

Right.

REPRESENTATIVE REED:

So we weighed it much more heavily, where if you have a Marcellus Shale well, you're going to get a lot more of the money distributed, but you're still going to account for the acid wells in the communities, at a much lower rate, but they've been occurring for 50, 60, 70 years in these communities without any compensation. So we didn't want to leave those communities behind.

CHAIRMAN:

I understand it. But it begs the question, is it fair and appropriate to comp a stripper well towards the allocation of the revenue at the same time we're going to except them from paying the revenue. So we don't want them included for the purposes of collecting the severance tax.

They want to be exempt. But then we do want to count them on the distribution side.

MR. BERTOLINO:

Yes, because they are --- they are producing.

CHAIRMAN:

I understand they're producing, but under the stripper exemption, the severance tax doesn't get applied to them.

MR. BERTOLINO:

I understand that.

CHAIRMAN:

So you want to take revenue from a Marcellus well, but distribute it based on a formula that includes those wells that aren't paying any money into the fund?

MR. BERTOLINO:

That's really not fair to the Marcellus, but because the trucks and the damage is still done for the stripper wells.

CHAIRMAN:

I understand. But I just wanted to point out that inherent conflict there. The other thing I just want to thank you for pointing out in your testimony, the cost of repairing, be they dirt or gravel roads or asphalt roads, the bonding requirements come nowhere near covering ---

MR. BERTOLINO:

Not even close.

CHAIRMAN:

--- the actual cost ---

MR. BERTOLINO:

Not even close.

CHAIRMAN:

--- to fix the roads.

MR. BERTOLINO:

To pave a road --- and I didn't include this but I have this in here. To pave a road one-inch thick, 12-feet wide, which your main roads are 16 to 20-feet wide, one mile long on a $12,500 a mile bond, just the material alone is $29,586.

CHAIRMAN:

And that's not counting ---.

MR. BERTOLINO:

That's not counting laying it. You can add another $70 to put it down per ton.

CHAIRMAN:

Yeah. Just one other thing, Mr. Bertolino. I see on page two of your testimony, if I could just call attention to it, the second to the last paragraph --- I'm sorry. I'm ahead. It's the next person's testimony.

MR. BERTOLINO:

I thought I only had one page. I thought maybe I was a little smarter than ---.

CHAIRMAN:

Anyhow, thank you. Appreciate your insights and your constructive suggestions.

MR. BERTOLINO:

Okay. Thank you very much.

CHAIRMAN:

Appreciate it. Thank you. Now, the gentleman whose testimony I started reading, Mr. Shirl Barnhart. He's Chair of the Board of Supervisors for Morgan Township in Green County. Shirl, welcome.

MR. BARNHART:

It's really nice to come out whenever everybody seems to be on the same page, including industry. The bad part is everybody stole my smoke, so it's pretty much going to be all the same of what they said before. But anyway, my name's Shirl Barnhart, Secretary Treasurer of the Pennsylvania State Association of Township Supervisors, and Township Supervisor of Morgan Township in Greene

County. With me today is David Sanko, Executive Director for the Association. Thank you for the opportunity to appear before you today on behalf of the 1,455 member townships in the Association. We appreciate the opportunity to discuss this issue. It's very important to us.

Townships comprise 95 percent of the Commonwealth's land area and are home to more than 5.4 million Pennsylvanians, nearly 42 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents, to more populated communities approaching 70,000 residents.

Marcellus Shale is impacting a major portion of Pennsylvania, from Green to Wayne County. We're all seeing the economic potential there, and we're also dealing with the negative impacts of the Marcellus well drilling.

The Association supports the severance tax on the natural gas, providing at least 25 percent of this tax comes back to the local governments. Of course, you're never going to ask for more money. While we believe that House Bill 2443 is a huge step in the right direction with the inclusion of the local share of 20 percent, we believe that some improvements need to be made to the bill before it moves forward, particularly concerning municipal shares distributed.

Townships are excellent fiscal stewards and are generally among the last to advocate for increasing taxes. We have done more with less for a very long time. I think Mike was a prime example. He has 45-miles of road. He's taken care of it with a $300,000 a year budget. That's really unreal. That's hard to do. We believe the natural gas severance tax is not a tax on Pennsylvanians, but rather a tax for Pennsylvanians that will result in property tax relief. In fact, such a tax would not increase the cost of gas to consumers in Pennsylvania, because we're already paying such tax on gas imported from other states. Instead, a severance tax would make sure that out-of-state customers are paying the tax to benefit the communities in Pennsylvania where the extraction is taking place. Otherwise, these communities would need to raise property taxes to cover the costs associated with the industry impacts.

Over the years, we've heard numerous concerns from our members about gas well drilling. It is clearly impacting communities across the

Marcellus Shale region, both in economic opportunity and many with negative impacts associated with it. Our Association is supportive of economic development and opportunities providing that drilling activities are conducted in an environmentally responsible manner, and that the impacts on community and the environment are mitigated to the extent possible. Keep in mind that once a healthy environment is damaged, it takes decades to heal it.

In one case, in my municipality you walk outside my township building, the neighboring property is a 66-acre gob pile or a slate dump up there from the coal mine that's no longer there. To date, $6 million, a little over $6 million, has been put in to try to mediate this pile, and it's not done yet. While we're using Growing Greener money and the Ramp Fund and whatever to remediate this pile, we lost a beautiful trout stream in that area. The Fish Commission will no longer stock it for us. But it's starting to come back now. Since we put the money into it, it's remediated a little bit and we are starting to get the fish and the local organizations, like the guys at Walton, they are stocking the area. But it takes a long time to heal.

In western Pennsylvania in particular,

we can see the scars that remains of extracting or harvesting our natural resources from coal to wood. When the industry is gone, our natural resources have been exhausted, the damage that remains will be left to the community and the taxpayers to clean up, while property values drop in response to the end of the resource and departure of the industry. This industry is harvesting a nonrenewable resource and it has become --- when it has become depleted, many of the economic opportunities that it has brought may leave us as well. A severance tax is particularly needed to enable those areas in the Commonwealth where the activity is taking place to mitigate the negative impacts of the industry with funds derived from the industry now. Otherwise, taxpayers will need to pay for the cleanup long after the industry is gone. We believe a severance tax is properly levied, simply as a responsible way to do business in the Commonwealth.

Keep in mind Pennsylvania is only one of three natural gas producing states, including New York and Iowa, that does not have a severance tax or similar impact on the industry. New York, which has had a moratorium on natural gas permits due to concerns for the potential negative environmental consequences of the industry, has plans to levy a severance tax as well as impose stringent environmental regulations. The once the moratorium is lifted, many of the natural gas companies that currently work in northern Pennsylvania have plans to move back to New York.

I'm not going to go through all this with the computations of how the taxes are put on. We've already gone through it a few times, so I'm just going to skip over that.

One thing, with the percentage going to the local emergency management, we believe it properly allocates the funding for emergency first responders in the effective counties. We contend that this funding should come out of the state's share of these funds. In addition, eligible volunteer fire companies should be able to use these funds for equipment, training and recruitment and retention of volunteers. Volunteer fire companies are the first responders and should have the necessary training to know how to participate in a fire or disaster involving natural gas. Our primary concern is on how the municipal share is divided. And you can see right there, we have some ideas. We've been meeting with the County Commissioner's

Association and we've --- Commissioner Ruddock has already spoke to that.

That's pretty much going to be my testimony without repeating everybody else's testimony. We do have a lot of concerns with the water. There's a lot of water being moved around and taken from the streams. They don't have the capacity to treat it, so it's not being returned to the streams. Municipalities would have to try to replace that with waterlines and infrastructure development. I understand that the drilling companies are responsible to replace what they take away, but we'll be responsible to maintain it after it's there.

In closing, our Association supports the severance tax as a means of easing future property burdens caused by impacts of this industry, and believes that this proposal is a step in the right direction. However, changes need to be made to provide a fair means of distributing these funds to the affected municipalities. One thing about --- you have a real opportunity right now if the funds come to the local affected municipalities, especially the host municipalities. This money is not going to get lost anywhere. It's going to go directly to benefit the people. We can't even vote ourself a tax raise

--- you know, a pay raise. It's going to go straight to the people. It's going to go for blacktop. It's going to go for stone. It's going to go to replace equipment to meet the needs for winter maintenance and whatever recreation. Or possibly even in affected municipalities where lot of these residents are affected by the hardships with the dust and the trucks or whatever, maybe we can give them a tax break for the year on a township tax. We'd love to be able to say, hey, okay, this year thanks to the severance tax, you won't have to pay as much in the township tax this year. So there's a lot of things --- if you leave it to the municipal level, there's a lot of things that we have the opportunity to do for the people, but it will go directly to the people in one way or the other. Thank you.

CHAIRMAN:

Thank you, Mr. Barnhart. Any questions?

REPRESENTATIVE GIBBONS:

I just want to ---.

CHAIRMAN:

Representative Gibbons?

REPRESENTATIVE GIBBONS:

I just wanted to point something out

and Chairman Levdansky, you probably would point this out. One thing I notice is when you guys --- PSAT's asking for 25 percent, you're actually including the Conservation District's three percent in that 25. So actually, the difference between Chairman Levdansky's bill and the percentage you're asking for the local is actually a two-percent difference, not a five-percent difference.

MR. BARNHART:

Yeah.

REPRESENTATIVE GIBBONS:

Because his 20 percent plus the three percent that he's putting for Conservation District would be a total of 23 of how you're defining the local share from what you're requesting. So it's actually roughly a two-percent difference. Now, I do realize that, you know, there are some differences as to how the House Bill 2443 is driving out that money to the municipalities. And I would say that certainly, your concerns are valid as to making certain that the host municipalities are getting, you know, the larger share of that, because I do agree that you're going to face the biggest impact. But the percentage-wise, I think we are --- I agree we're getting very close, actually two percentage points difference at this point between Chairman Levdansky's current bill and what you're asking for.

MR. BARNHART:

Yeah. We did ask for at least 25 percent, but we'll take whatever we can get. If it's 30 percent, I'll be more than happy to take that.

CHAIRMAN:

Thank you. Shirl, I just want to call attention to one thing in your testimony, on page two at the bottom, the next to the last paragraph.

MR. BARNHART:

Okay.

CHAIRMAN:

Okay. And I'll quote, we see that low producing stripper wells would be exempt from the tax under the legislation. We agree with this concept, but question whether the maximum exempt production of 60,000 cubic feet per day is too high and should perhaps be lowered.

MR. BARNHART:

Yes.

CHAIRMAN:

Just for your information, even with this exemption in for traditional stripper wells, the organization that represents the stripper well producers remains opposed to the legislation. And they even want to see that 60,000 raised to 90,000. Okay?

MR. BARNHART:

I understand.

CHAIRMAN:

And they'll probably still be against the legislation. So you know, you make a very good point. I mean, what is the definition of a --- you know, of a small producer that operates marginally in terms of a profit margin and, you know, how do you arrive at that figure? That is --- it's a challenge to do that. But I just wanted to, you know, for the record, note that even with the exemption, you know, in the legislation as it is, the Independent Oil & Gas Association remains opposed to the legislation.

And just one final thing I just want to point out. It has been vexing and a challenge for me to try to come up with a formula to distribute the local share of this between host counties and host and nonhost municipalities within a county. It's been extraordinarily challenging. I think we're getting closer to a consensus, but I recognize that we're not quite there yet. But the discussions that

I and my staff have had with all the local government organizations and, you know, from the Borough's Association, League of Municipalities and the Township Association and CCAP as well, I think, you know, we have had fruitful discussions and we're getting closer and closer to a consensus, though we might not be there entirely, but it's not for lack of trying. Okay?

MR. BARNHART:

Yeah, I believe we're all on the same page, and we're very happy to see some movement now. I mean, like Mike said, you know, we've got nothing so far. And the fact that you introduced a bill that's going to try to help us is amazing, and we're willing to work with you whatever way we can.

CHAIRMAN:

Okay. Thank you very much, Shirl.

MR. BARNHART:

Thank you.

CHAIRMAN:

Appreciate it. Now, the last person on the agenda, Beverly Braverman. Beverly is the Executive Director of the Mountain Watershed Association. Beverly?

MS. BRAVERMAN:

I think I'm stiff from sitting. I want to thank you all, first of all, for spending your evening here listening to us. Again, I'm going to speak as to the last gentleman, and say that a lot of my thunder has been taken. And I'm happy it has been, because I kind of showed up thinking --- or when I prepared my testimony, I was thinking that I was going to have to persuade people that having the severance tax was a good idea. And so I think that I kind of leaned in that direction more than I really needed to. So I'm going to skip around in my testimony, too. And those of you who have it, please excuse me.

I think that I would like to also clarify a few things. One of the things, there was a comment about the Environmental Stewardship Fund and why the money should go there versus maybe going specifically to counties and townships where the drilling takes place. I think it should go to both. And the reason is that the Environmental Stewardship Fund supports watershed restoration. And these watersheds span counties, span townships, so it's not just, you know, one area, municipal area, or governmental entity where the problem may occur. It is a discharge that could be polluting 20 miles of stream that spans three or four different townships. So I think that there needs to be a realization of that.

Basically, May 3rd and 4th, there was a Marcellus Shale Policy Conference that was held at Duquesne University. It was presented by the Pennsylvania Environmental Council. And I was happy to attend this conference and see that throughout the conference, there was a recurring discussion about the need for a severance tax. And I think it's important that you understand that this conference was attended by people like me, community grassroots people, it was attended by municipal governmental people, but it also was attended by industry. And I did not get the sense from the over 300 attendees that anybody was saying, at least at this conference, that we shouldn't have or didn't need a severance tax. I think that no one, at least at the parts of the conference I attended, suggested that assessing a reasonable tax will make the gas industry leave the state. That was not even an issue at that point. Although over the past year, I have heard that stated by different people, they'll leave. Where are they going to go? They can't take anywhere and take the gas out of the ground unless the gas is in the ground. So where the gas exists in Pennsylvania, they'll stay here, they'll drill.

Also at the conference, it became clear that many people felt we need to slow down this process. Comments indicated that the state was having difficulty keeping up with the necessary monitoring and oversight. And I do believe that, Representative Levdansky, you asked someone whether there was adequate staff in DEP. I think it was Mr. Resh who was representing the Conservation District. I think that there is inadequate staff. But I also think the Conservation Districts could be helping us expedite processes and oversee these processes in their own communities. And so we really do support this Conservation District funding.

One of the things that the Watershed Associations have done over the past, I don't know, ten years with Growing Greener has been to work very closely with their Conservation Districts, with the watershed specialists who are housed in the Conservation Districts, and it has been a terrific partnership. So I think the that's very important.

I'm going to speak to three different issues that have already been addressed, community externalities, maybe recreation has not been addressed very much, so I am going to talk about that somewhat, and Growing Greener. So we're going to skip to page two if I can get to it. Basically, I come from Fayette County. It's a very poor county. I thing we're even poorer now than Greene County, and so we need to have compensation at some point for the added burdens of gas drilling. We don't need any more burdens. We're already dealing with, you know, the 150 years left over from the coal mining burdens. So we don't need any more burdens from gas drilling without some compensation for being a host municipality, for road maintenance, for emergency response agencies, and to take care of water problems. The companies that are drilling in our areas, are leasing in our areas, do not need a subsidy from communities like ours with per capita incomes of less than $14,000. They don't.

One of the other issues that we are very concerned about is that the companies are coming into our communities and they are not performing adequate water testing to determine sufficient baseline data, to assure accuracy if water resources are contaminated. They only test for the constituents required by DEP, which we know are not adequate to the test. And when we ask them if they are testing for BTX, benzene, toluene, and xylene, we're getting the run around basically. So while someone leasing their property may have sufficient funds to have their water properly tested, maybe their neighbor did not lease their property and they are having to dig into their own pockets to have their water completely tested or they're going without a baseline test, which is very dangerous.

Someone at the Marcellus Policy Conference, and I believe it was someone in DEP Oil & Gas, stated that they felt it was bad business for a company not to do thorough water testing. We felt it is, too. It is. But somehow that is what they are doing, nonetheless. Part of any severance tax should be able to be used to ensure adequate, appropriate water sampling and testing in communities hosting these wells.

I said before, and I will repeat, that local communities should receive part of this tax to pay for damaged infrastructures. We have the same problem that the other municipalities have stated, that we have large trucks on our rural roads and they simply are not being maintained. Funds need to be set aside to repair and upgrade local infrastructure, to improve monitoring and oversight of the industry and to help protect the state's environmental vision.

It is really bad business for our state government to give away the piece and tranquility of our public lands, the environmental integrity of our unfragmented forest expanses and the pristine water resources and landscapes for which people from all over the globe retreat here to recreate without exacting a tax that will support environmental protection and restoration and without providing our communities with funds to be able to maintain that level of recreational status.

Recreation is a growing part of Pennsylvania's economy. In areas like ours, the Laurel Highlands, we're sharing the state public lands, roadways with countless water trucks being unable to access a stream for boating due to improper water withdrawals at the same access site. I mean, people couldn't even put their boats in the water to recreate because the trucks kept coming in, coming in and taking water out of the stream. Anyone who uses our state forest will feel this impact from hunters and environmentalists, to farmers, bikers and hikers.

For the last 14 years, Pennsylvania has worked to develop programs leveraging funds so that watershed groups could submit grants to reclaim, restore and remediate environmental problems in their communities. The last ten years, this program was dubbed Growing Greener, and resulted in numerous on-the-ground mine drainage treatment systems throughout the Commonwealth. The systems returned miles of degraded streams to healthy ecosystems. Streams that couldn't sustain fish populations now do, and streams where you couldn't fish, you now can fish once more.

I would like to talk about this leveraging, because I think it's something that we overlook at times. And that is, for example, in our community, our county money, Growing Greener was a million --- it was around a million dollars and Mountain Watershed Association was given a $120,000 of that. We actually had three projects. This was for one project. $120,000 of the county initiative funding to put in a water supply system, municipal waterlines basically, public waterlines because we have people in our community who do not have potable water. We took that $120,000, and we matched it with other funds from the state, from private foundations, and it added up to $1.2 million to put in roughly two and a half miles of stream that supplied 53 families and probably 150-plus people with a potable water supply. That is one of the things that could happen, because you can leverage Growing Greener money with Office of Surface Mining funding from the Appalachian Clean Streams Initiative, which we have done. You take a Growing Greener pot of money and you match it with $100,000 from the federal government. You take that money and you match it with Department of Agriculture money to the tune of, in our case, almost a million dollars. So this pot of money that we would be getting would be --- would grow. It would be leveraged into many more times what it is.

I would like to say that there --- and I think you do have this renewed Growing Greener coalition information. I'm just going to read a little bit of this, because I think it's very important. A report released last month by the Pennsylvania General Assembly's Legislative Budget and Finance Committee showed that in just the past four years Growing Greener has helped people protect more than 33,000 acres of Pennsylvania's family farmland, conserve more than 42,000 acres of threatened open spaces, improved public recreation for 234 community park projects, restored more than 1,600 acres of abandoned mine lands. I'm not going to read all of this, but it's very critical for you to read this statement so that you can see how important the Environmental Stewardship Fund is and why it should be part of the funding from the severance tax.

There are still over 4,000 miles of degraded streams throughout the state from past extraction, along with a current burgeoning threat of additional degradation from the mammoth water needs of gas drilling. Pennsylvania needs to restore those streams that are still degraded, but it also must protect those systems, those onsite treatment systems, that are currently functioning. All the restored streams thriving as a result of the past 10 to 14 years' efforts to correct the massive damages to our state's water resources. These systems require oversight and maintenance at a time when we are being told the Growing Greener funds have disappeared. A perfect use of a significant part of this gas severance tax should be for the continuance of the Growing Greener Fund, so that the many watershed groups working to restore their communities can continue this good work and secure funds to oversee and maintain these treatment systems. If these systems are not maintained, the money spent on them will be for nothing.

I would like to say to many of you who live in these rural areas, we are not a resource colony, but I think we certainly feel like we are at times, and specifically when all of the resources are taken out of our communities, and we get nothing back if. And I think I will stop there. Are there any questions?

CHAIRMAN:

Thank you, Beverly. Any questions from the members?

CHAIRMAN:

I agree.

MS. BRAVERMAN:

Thank you.

CHAIRMAN:

Beverly, in particular, I just want to say --- I mean, I know the good work that your association has been doing for years and years and years to protect and to clean up a lot of polluted waterways here in southwestern Pennsylvania. So I just want to say thanks for all the work that you do and also for your understanding on why funding Growing Greener is important to everybody in the state.

MS. BRAVERMAN:

Well, I think that specifically we were looking at, it's very important to fund Growing Greener. It is critical to get this money back into local municipalities I can't even say that enough. I totally agree with that, because we do sit and watch the roads be destroyed. We have people without potable water. There is so much leaving our communities, the very substance of our communities, in the form of coal, in the form of stone and it will now be in the form of gas. That is not coming back, and that simply is not a just result.

CHAIRMAN:

Thank you very much.

MS. BRAVERMAN:

All right. Thank you very much.

CHAIRMAN:

Thank you, Beverly. That concludes the agenda that I have for the House Finance Committee. But if there's anybody in this wonderful attentive audience that has any comments or suggestions that you'd like to make, I'm more than willing to listen. I know before ---. You have to come up front, because we have a stenographer that's going to record this for the record. And sir, before you introduce yourself, I just want to introduce Dan Surra, a former colleague of mine from Elk County. Dan is the Governor's advisor on hunting, fishing and conservation. Am I missing part of the title, Dan?

MR. SURRA:

No.

CHAIRMAN:

Thanks for being here.

MR. SURRA:

Only the government could come up with a title like that.

CHAIRMAN:

Sir?

MR. STEWART:

I'm Rick Stewart, and I used to play high school football with Dan a long time ago.

MR. SURRA:

Oh, my god. I didn't recognize you.

MR. STEWART:

I work in the gas industry and Jim was using me as a consultant a little bit. I give Jim all of the credit in the world for going two sides. You know, he's the person that wants the money. We can argue I'm a person giving the money. I think you all have my little piece of paper there.

CHAIRMAN:

Yeah.

MR. STEWART:

I see a whole lot of numbers and a whole lot of data. And if we don't pay the tax, you're just imposing so much cost that it's crazy. It's punitive. It's crazy. It's not fair. You know, I'd hope you would look at that. If you read that, you know, I think I made some pretty good points. When you take care of a whole bunch of wells, I've been doing it for many, many years with good numbers, and it will make so many wells noneconomic, that it is --- you'll have to bug them. You're going to put companies bankrupt. The states going to have to plug the well, farmers aren't going to have gas. You don't have to pay the tax anyway. Burdening every one it is really silly. You asked Jim, do you still have six wells coming in on one farm, how do I know that that one isn't making one and the other one is making 61.

BRIEF INTERRUPTION

MR. STEWART:

I can show you lots and lots of --- and I would share my data with you. I could share my data with them. And I see countless information every day for the last 40 years --- maybe not

40 years. Thirty (30) years, 35 years. So you have a farm, as Jim was saying, you have --- personally, person I bought a bunch of wells from my customers. There is 30 wells there. There is one landowner --- two landowners. So you have a meter here, so I can pay that landowner and a number of meters for my own sake, so I can monitor leaks and whatnot on the other landowner. And your legislation suggests that I spend, whatever, $4,000 times 30 meters is --- whatever that is, $120,000, for which there's no benefit other than to satisfy the government. And then you're going to say --- and your legislation says fill out quarterly reports, even though I don't have to pay the taxes, which is a burden.

And now, because I have to monitor every one of these meters, so now there's a well out in the cornfield and once a month somebody goes there just to make sure nothing's wrong and all that kind of stuff, and you're monitoring these meters which are tipping you off to anything being wrong, but to do due diligence, you go to the well once a month. And these are all wells making, whatever, four, five, three, six, seven, you know, mcfs every day. And you add them all up, and they might average six mcfs a day, seven mcfs at the very, very most. And you're going to say the legislation says don't spend $4,000 on every one of them, so that you can monitor these. You know, so that you can prove that you don't have to pay the tax. And I wrote in your little thing there that take a well that makes four mcfs a day, and my numbers in your thing are high --- or low. That income is low. As one of these people said, the price of gas, your assistant, today is $4.09.

Now, the landowner who gets an eighth of that, it's very common in gas wells for there to be override, so somebody else getting is $16,000. So the person or collection of people who own the well are getting .825. You do the math at four mcf a day, and there's $2,442, if I remember right, left at the end of the year. That assumes you're not hauling any water, that assumes you don't have any major repairs to your pipes, you don't have to replace a pipeline. So at the end of a well life, you're sitting there making whatever three, four, five, six a day. The price of gas ---.

CHAIRMAN:

Can I ask you a question?

MR. STEWART:

Okay.

CHAIRMAN:

Just explain for a layman, forget legislation. Right now, what's in requirement for metering?

MR. STEWART:

Somewhere you're putting gas into a pipeline and getting paid for it, so that the utility --- so in this case I'm talking about, so I have a pipeline sitting on people's natural gas line. Okay? And they're paying me off of that meter. It gets tested once a year per contract. If I think it's wrong or they think it's wrong, we can each say I want that meter tested. And if I think it's wrong and I say I want that meter tested and there's nothing wrong with it, I have to pay. So me and the landowner both have the same feelings, the more money the landowner gets, the more money I get.

CHAIRMAN:

So is it one meter per landowner?

MR. STEWART:

Well, now here --- that's why I'm getting paid for the gas, okay, where I deliver it into somebody's pipeline. In this case in point, I have two landowners, so I have a meter on this one landowner, so that I can pay him. And I have a number of meters on the other landowner, just so I can make sure I don't have any pipeline leaks or anything like that. So that's kind of --- does that answer your question?

CHAIRMAN:

Well, it sounds then to me say, for example, us three are landowners, ---

MR. STEWART:

Okay.

CHAIRMAN:

--- and we all have a contract with you. You're paying each of us royalties.

MR. STEWART:

Right.

CHAIRMAN:

He has ---.

MR. STEWART:

I need to be able to quantify that. I mean, ---.

CHAIRMAN:

Has five wells, I have ten, he has three.

MR. STEWART:

Right.

CHAIRMAN:

So you know, ---

MR. STEWART:

What's very common ---.

CHAIRMAN:

--- how do you know how much production comes off of each well on each landowner?

MR. STEWART:

I know I have enough meters, so I can pay you, so I can pay him, so I can pay him. Can I tell you how much each and every one of the wells on your property feed? No, I can't. Can I tell you how much all of the wells from your property feed? Yes, I can. And again, so some somebody drills a new well and they drill a Marcellus well, which is what got all this started, and these numbers are really big, I'm going to go invest $4 million. What's the price of the meter? Now I bought --- I work for a company takes care of --- I run a company that takes care of whatever that piece of paper says, almost 2,000 gas wells. As I said, I see lots of numbers. Two percent of them feed over 60, 29 percent feed under 5, 29 percent of them feed between 5 and 10. I don't remember the numbers real well, maybe 3 or 4 or 5 percent feed between 50 and 60, et cetera. So we're placing a tremendous economic burden on these old wells. So I buy these wells. I know they're old wells and I buy them. I know that they're feeding whatever it was when I bought them, you know, six, seven, eight mcf. I know they're going nowhere but down. Now, you're going to come along or --- as it's written, and say, okay, you laid your money down, the utility, the gas buyers, there's a lot of cost shifting going on in the last, whatever, ten year from the gas buyers to the producers, and then the price of gas plummets, so I make an economic decision based on gas prices. I say, hey, buddy, I'll pay you this much for your gas well. And I know the economics, I've been doing this for a long time. And now, you come along and I got a well that's making three, assuming again that I have no major repairs --- I mean, maybe four is a higher price of today's price. And I'm coming out of $2,400, now you're --- now your legislation purposes that I go spend $4,000 on every one on top of that, now I have to get in there more often to monitor that meter, to maintain that meter, so now I have a well out in the farm field that I can pretty often park here and walk 100 yards out to there, you know, make sure nothing's wrong and there's no meter out there. Now I have a meter there. See, what am I going to do build a road? And the farmer is going to get really mad at me because he says geez, you just took another four acres.

CHAIRMAN:

Let me be clear about this. Okay. The effort here isn't designed to make things more cumbersome and burdensome for business people like you, but if we're going to have an exemption, if you're going to say we want to be exempt from paying the severance tax, then whatever that agreed-to production level we agree on, there's got to be some way to verify it.

MR. STEWART:

So you have to have a meter somewhere if it's 60. So if I have ten wells, you could write it so in my example, so I have this person coming in with a meter here and this person coming in with a meter here and that meter adds up to less than 60, why go back and put a meter on eight more wells behind that?

CHAIRMAN:

No. I'm not saying --- I understand that. I get that. But if we're going to use 60,000 as the breakoff, then we got to --- then we somehow have to be able to verify that. That's all I'm saying. Okay?

MR. STEWART:

I understand.

CHAIRMAN:

You know, it's like we have a poverty exemption in the state personal income tax code. Okay. And if roughly for a family of four, if you make less than $32,000, you're exempt from paying the state personal income tax. But you still have to file an income tax return to verify what your income is. So all I'm looking for ---

MR. STEWART:

But they're still ---.

CHAIRMAN:

Sir, let me finish, okay. All I'm looking for is suggestions as to how we can verify what the production level is in a way that doesn't place undue costs. I mean, I understand if you got eight wells and the sum total of all of them comes to 30 or 40 thousand. I understand that.

MR. STEWART:

Okay.

CHAIRMAN:

But at some point, at some point, we've got to be able to measure it to verify that it's a stripper well, and should be exempt.

MR. STEWART:

Well, then perhaps the way to do it just is just what you said, is the --- hey, if there's a meter over 60, I want some meters behind it, which I don't particularly like, but I understand your point and if the meter is under 60, no, I don't need meters. And that's a middle ground. I think that would make you happy, and it would ---.

CHAIRMAN:

Yeah, we can --- you know, I mean, I'll read your testimony, you know, over the next couple of days. And yeah, I'm looking for a way. It needs to be --- we need to verify whatever the production level is that we decide to exempt. That's all that I'm saying. And how can we do that in a way that is not administratively burdensome or costly, frankly, to either you or the Department.

MR. STEWART:

I agree.

CHAIRMAN:

Okay.

MR. STEWART:

I agree, but be aware that all of the old wells, the way it's written, there is a tremendous burden being put on them, many of which can't afford it.

CHAIRMAN:

Okay. If we took care of this issue for you. If we could work out the details administratively so that we understand we're going to exempt everything under 60,000, and we work things out so that, you know, you don't have to --- you know, you could monitor the level and then only do the backup if you hit the threshold, if we work all that out, will you support a severance tax?

MR. STEWART:

I agree that the state needs money, and somehow you have to raise it. I mean, I agree. I don't have a problem with that. I mean, you don't want me to say that, but you can read it. But my political opinion is that everyone who spoke here, you know, to some degree is a user, you know. Do I have a well that makes water and water trucks running all over? No, I don't. I never --- I always stayed away from all those kinds of wells. Being tax that ---.

CHAIRMAN:

Look, I'm going to give other people the opportunity. I will follow up with you, okay, from a practitioner's perspective. Okay. Thank you.

MR. STEWART:

Thank you.

CHAIRMAN:

Anybody else? Well with that, thank you very much, all of you individually, for your input and constructive suggestions.

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HEARING CONCLUDED AT 9:35 P.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

Lacey C. Gray

Court Reporter