

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE

\* \* \* \* \*

PUBLIC HEARING IN RE: HOUSE BILL 2443

\* \* \* \* \*

BEFORE: DAVID K. LEVDANSKY, Chairman  
Rick Mirabito, Secretary  
Tim Seip, Rick Taylor, Jaret Gibbons,  
Members

HEARING: Wednesday, May 12, 2010  
Commencing at 1:40 p.m.

LOCATION: Lycoming College  
Mary Welch Center  
700 College Place  
Williamsport, PA 17701

WITNESSES: MaryAnn Warren, John A. Arway,  
Jan Jarrett, Jeff Schmidt, Jon Bogle,  
Rebecca Burke, Marvin Meter, Ben Landon,  
Dan Alters

Reporter: Rhonda K. Thorpe

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## P R O C E E D I N G S

REPRESENTATIVE MIRABITO:

We're going to get started. My name is Rick Mirabito. I'm the State Representative of the 83rd District, which is Williamsport and about eight municipalities surrounding it. I want to thank Chairman David Levdansky for bringing the Finance Committee here today to discuss a very important issue.

You know, so much is happening in our community with natural gas so fast that it's an education process, as I was talking to some of the folks who are in the audience. And part of what we're hoping to do today is to educate, obviously, the folks here through testimony, but also the general public through coverage in the newspaper and the other media, try to educate them about the issues, specifically with regard to the severance fee, the impact of extracting natural gas from the ground. Last time we saw the movie Gasland here in Williamsport, there must've been about 1,400 people there.

And regardless of where one is, whether it's from the industry side or from the concern of the other side, as I've said before, we all have to live

1 here together. We all have to drink the water, we all  
2 have to breathe the air and we all have to run our  
3 cars, because the truth is that we all use energy. We  
4 all use energy. All of us came in a car today. We  
5 got up. We took showers with our hot water heaters.  
6 We heat our homes. So somehow we have to find a way  
7 to reach some sort of understanding that helps all of  
8 us so that we have a sustainable community. I'm  
9 hoping today we can educate ourselves. And I want to  
10 thank the members of the Committee and others for  
11 coming. I'm going to let Chairman Levdansky speak a  
12 little bit here.

13 CHAIRMAN:

14 Thanks, Rick, and thank you to you and  
15 your staff and to the people here at Lycoming College  
16 for being our gracious host. The subject of today's  
17 hearing is House Bill 2443. And it's a bill I  
18 introduced to provide for a reasonable severance tax  
19 on the extraction of Marcellus gas drilling here in  
20 Pennsylvania. It's one of three bills that have been  
21 introduced in the House to deal with the issue of the  
22 gas severance tax on Marcellus gas development. About  
23 a year and three or four months ago, Representative  
24 Bud George introduced House Bill 1489. Just a few  
25 weeks ago, Representative Dwight Evans introduced his

1 House Bill 2438, and I recently introduced House Bill  
2 2443.

3           We have handouts up front that you're all  
4 welcome to. And just to summarize, I take a little  
5 different approach in my legislation than the other  
6 two bills that have been introduced. The other two  
7 put a small 4.7 percent for MCF plus five percent.  
8 And rather than doing that percentage assessment of a  
9 severance tax, I instead levied it at a rate of 25  
10 cents per MCF. And that is more --- I think over time  
11 that would provide for a more sustainable, predictable  
12 source of revenue for the state, and I also think that  
13 it provides the industry with some certainty as to  
14 what their tax obligation would be under a severance  
15 tax legislation.

16           And from my perspective, what industry  
17 doesn't like is uncertainty. When we have fluctuating  
18 markets, you know, when the price of gas is going down  
19 and maybe it's only selling for \$2.50 an MCF, well,  
20 then, you know, five percent, you know, is a --- it  
21 might be a little more of a challenge to the industry  
22 compared to when gas prices are \$8 or \$10 or \$12 an  
23 MCF when they're --- with their collective revenue.  
24 So I take a little different approach in terms of how  
25 it's assessed. Okay.

1                   And then most importantly, or as  
2 importantly, I take a different approach to the  
3 distribution of the revenues. Under my plan, the  
4 state will keep 45 percent of the revenues that are  
5 collected under a severance tax. Okay. Fifty-five  
6 (55) percent would then be distributed to the  
7 following sources. Twenty-two (22) percent would be  
8 allocated to the Environmental Stewardship Fund, the  
9 Growing Greener Program in Pennsylvania, which,  
10 frankly, the revenue for it is declining the source of  
11 revenue and we keep diverting monies that should go to  
12 Going Greener or other budgetary needs. So 22 percent  
13 to fund Growing Greener, putting it on permanent long  
14 term financing, stable financing.

15                   Twenty (20) percent to the local  
16 governments. And that is a distribution that includes  
17 some to the host municipalities and non-host  
18 municipalities in a county where the drilling is going  
19 on, as well as some to the county governments and some  
20 to the local EMS's. Understand that under my plan,  
21 the revenues to the host and non-host municipalities  
22 will only occur in those counties where drilling is  
23 going on. Okay. So Dauphin County, presuming it  
24 doesn't have any drilling going on, they wouldn't get  
25 any money for their host or non-host community, nor

1 for their county. Okay. So there's a local share of  
2 20 percent.

3 I then provide some funding, four  
4 percent, to the Fish and Boat Commission, three  
5 percent to the county conservation districts, two  
6 percent to the Game Commission, two percent to the Low  
7 Income Heating Energy Assistance Program, and finally,  
8 two percent to the Hazardous Sites Cleanup Fund. So  
9 my distribution is a lot different than the other two  
10 pieces of legislation. That reflects my belief that  
11 the revenues derived from this resource ought to be  
12 used to address local needs first. So that's the  
13 approach that I take.

14 Now, having hearings this week and next  
15 week as well in southwestern Pennsylvania, you get the  
16 public input. I want your thoughts and your ideas on  
17 what we can do to make this legislation even better.  
18 Okay. And before I continue talking here, let me have  
19 the members of the Committee identify themselves  
20 starting on the right.

21 REPRESENTATIVE SEIP:

22 Tim Seip representing part of Schuylkill,  
23 part of Berks.

24 REPRESENTATIVE TAYLOR:

25 Rick Taylor. I'm from Montgomery County.

1                   CHAIRMAN:

2                   You know me. Well, if you don't know me,  
3 Dave Levdansky from Allegheny and Washington County.  
4 You all know Rick Mirabito. And his neighbor?

5                   REPRESENTATIVE HANNA:

6                   Mike Hanna. I'm from Clinton County and  
7 represent all of Clinton County and part of Centre  
8 County. I'm not a member of the Finance Committee,  
9 but the Committee has graciously allowed me to join  
10 them today since I'm the neighbor here in Sproul State  
11 Forest and the Tiadaghton Forest as well. I also  
12 chair the House Agricultural Affairs Committee. And  
13 they graciously allowed me to join them here today.

14                   CHAIRMAN:

15                   Thank you, Mike. With that, we'd like to  
16 get on with the agenda. The first person to testify  
17 here on our schedule is MaryAnn Warren. She's the  
18 president of the Pennsylvania Conservation Districts  
19 Association and a member of the State Conservation  
20 Committee and she's a Commissioner for Susquehanna  
21 County.

22                   MS. WARREN:

23                   Good afternoon. My name is MaryAnn  
24 Warren and I am president of the Pennsylvania  
25 Association of Conservation Districts. I also serve



1 as the County Commissioner and director for the  
2 Susquehanna County Conservation District and a  
3 Commissioner on the State Conservation Commission.  
4 I'd like to thank the House Finance Committee for this  
5 opportunity to discuss the vital role conservation  
6 plays in preserving Pennsylvania's natural resources,  
7 the worthwhile environmental activities districts  
8 perform on a daily basis, and a potential dedicated  
9 fund earmarked for these services. PACD  
10 wholeheartedly supports House Bill 2443, specifically  
11 the provision allowing a dedicated portion of the  
12 proposed severance tax to be allocated to the  
13 Conservation District Fund.

14 Conservation districts are subdivisions  
15 of state government. They were created by state law  
16 to promote the protection, maintenance, improvement  
17 and wise use of land, water and other related  
18 resources within the Commonwealth of Pennsylvania.  
19 Pennsylvania's county conservation districts were  
20 established in 1945 when the General Assembly passed  
21 the Soil Conservation District Act.

22 For over 60 years, the state's 66  
23 Conservation districts have served as leaders,  
24 addressing local natural resource concerns at the  
25 county level. Conservation districts were initially

1 established to promote the value of conserving soil  
2 and water to farmers. Today's conservation districts  
3 have evolved to provide expertise in almost every area  
4 of natural resource conservation, including the  
5 implementation of both urban and agricultural  
6 conservation programs. Conservation districts  
7 continue to help people and communities manage natural  
8 resources in their area.

9           With the onset of significantly increased  
10 gas drilling in Pennsylvania, conservation districts  
11 provide technical assistance to landowners and  
12 industry as vital to maintaining a balance between  
13 natural resource extraction and environmental  
14 protection. Conservation districts lead local  
15 conservation efforts to sustain, protect and restore  
16 the natural resources for the Commonwealth of  
17 Pennsylvania.

18           The Pennsylvania Association of  
19 Conservation Districts is seeking dedicated sources of  
20 funding to provide 50 percent cost share for  
21 conservation district basic staff positions and cost  
22 of living increases as recommended by 2005 legislative  
23 Budget and Finance Committee reports. One possible  
24 source of dedicated funding for all conservation  
25 districts is through the severance tax in Pennsylvania

1 for extraction of oil and gas deposits. Pennsylvania  
2 Association of Conservation Districts' policy position  
3 on severance tax is --- and this would have been in  
4 2009. The Pennsylvania Association of Conservation  
5 Districts supports the adoption of a severance tax in  
6 Pennsylvania that includes a percentage of the  
7 proceeds dedicated toward natural resource protection  
8 activity and dedicated funding for conservation  
9 districts, and that some portion of this percentage be  
10 dedicated to the conservation district in the county  
11 in which it originates.

12           It was amended in 2010 to include, in  
13 addition to dedicated funding for the Conservation  
14 District Fund, PACD endorses an additional percentage  
15 of the severance tax to be distributed to host  
16 counties and host municipalities, with a share for  
17 non-host municipalities within counties where natural  
18 gas has been severed, to reduce negative  
19 infrastructure impacts that may occur from wells in  
20 neighboring areas. PACD also supports a portion of  
21 any severance tax for the Environmental Stewardship  
22 Fund, the Pennsylvania Fish and Boat Commission and  
23 the Pennsylvania Game Commission.

24           House Bill 2443 requires the natural gas  
25 severance tax of 25 cents for 1,000 cubic feet of

1 natural gas. Using those figures, with every trillion  
2 feet of gas extracted, \$250 million will be generated.  
3 The legislation requires three percent of the  
4 severance tax to be dedicated to the Conservation  
5 District Fund. At this level, a trillion cubic feet  
6 of gas extraction would generate \$7.5 million for  
7 conservation district activities. Obviously, this  
8 type of dedicated funding would resolve many of the  
9 financial challenges our conservation districts  
10 collectively face on a daily basis.

11           Also noteworthy is that many conservation  
12 districts apply for grant funding through the  
13 Environmental Stewardship Fund. This money, known as  
14 Growing Greener Grant, allows conservation districts  
15 to work with landowners to implement best management  
16 practices in executing restoration activities. For  
17 example, in my county, Susquehanna County, the  
18 Northern Susquehanna River watershed sustained a  
19 substantial amount of stream bank pollution, causing  
20 large gravel deposits and property damage. In 2008,  
21 the Northern Susquehanna River Watershed Association,  
22 in conjunction with the Susquehanna County  
23 Conservation District, received a Growing Greener  
24 Grant to complete a local stream assessment, which  
25 will help prioritize specific sites to begin better

1 erosion control measure. We are now in the process of  
2 applying for a Growing Greener Grant to begin  
3 implementing those assessment recommendations.  
4 Through another Growing Greener Grant, we've been able  
5 to complete several covered crop demonstration  
6 projects and Field Day events for the farming  
7 community.

8           Here in Lycoming County, Marcellus Shale  
9 will undoubtedly take top billing for the conservation  
10 district's normal activity. The Lycoming County  
11 Conservation District is already assuming various  
12 roles around providing the services that local  
13 residents and their partner groups expect. According  
14 to Lycoming County Conservation District annual  
15 report, it says, what started out as a huge workload  
16 for conservation district staff ended up being  
17 somewhat controversial when DEP assumed permitting and  
18 inspection responsibilities for these activities,  
19 essentially removing local oversight from the process.  
20 DEP took conservation districts out of the process  
21 without prior consultation on March 18th, 2009.  
22 Although we no longer have an official role, we are  
23 heavily involved with the various projects related to  
24 the support industries associated with the Marcellus  
25 activity.

1                   In Bradford County, watershed studies  
2 indicated that nearly 14 percent of the stream banks  
3 are eroding at an unacceptable rate. This equates to  
4 almost 300 miles of stream and potentially 973 tons of  
5 sediment. The Bradford County Conservation District  
6 was able to obtain Growing Greener Grants to address  
7 57 sites. They stabilized 15,622 feet of stream bank  
8 along with development of six acres of streamside  
9 buffers. The result was that 6,600 tons of sediment,  
10 16,500 pounds of nitrogen and nearly 6,600 pounds of  
11 phosphorus do not enter local streams annually.

12                   On a statewide basis, most conservation  
13 districts employ watershed specialists to provide  
14 technical assistance, to nurture the development of a  
15 watershed association and assist with watershed  
16 activity. Funding for the well-known and acclaimed  
17 program comes from the Environmental Stewardship Fund.

18                   Additionally, PACD Engineering Assistance  
19 Program has provided statewide engineering and soil  
20 technical assistance to entities developing or  
21 implementing a watershed assessment, watershed  
22 restoration plan or a watershed protection plan. This  
23 program is partially funded by Growing Greener. This  
24 program alone has been involved in an estimated \$26.4  
25 million of improvement since the program's development

1 eight years ago.

2           It is undisputed that the conservation  
3 districts provide much-needed services to the  
4 Commonwealth's citizens to help them identify and  
5 resolve critical natural resource concerns.  
6 Conservation districts deliver essential services that  
7 protect our soil, water and air for a reasonable cost.  
8 Since there is a direct link between the removal of  
9 natural resources and natural resource protection  
10 activity, it makes sense to us to consider allocating  
11 a portion of the severance tax for natural resource  
12 protection activity.

13           PACD appreciates every cent the state  
14 provides to the conservation district appropriation.  
15 We're hopeful that you will consider the information  
16 I've discussed today and quickly pass House Bill 2443,  
17 including the funding distributions that I've  
18 discussed. Thank you for your consideration. And I  
19 can answer any questions at this time.

20           CHAIRMAN:

21           Thank you, MaryAnn. Members have any  
22 questions? Representative Seip?

23           REPRESENTATIVE SEIP:

24           Thank you, Mr. Chairman. Thank you for  
25 your testimony today. I just wanted to ask you ---

1 you had alluded to the fact that this bill may provide  
2 about \$7 million funding to the conservation  
3 districts. If you could just talk about what last  
4 year's budget was like for the conservation districts,  
5 what kind of impact you saw.

6 MS. WARREN:

7 Okay. The impact across the Commonwealth  
8 in the 66 districts, I think we were reduced to ---  
9 we're reduced right now to what it was in 1999, is  
10 what we're working with. They want us to work with  
11 what we had in 1999. So they have given us a little  
12 sometimes and then they've taken back a lot. So now  
13 we're back to the 1999 figures. And we know that  
14 everything increases in price and wages go up,  
15 healthcare goes up. And to be able to have those  
16 bodies in the offices to be able to, you know, take  
17 care of the problems, I think that in 2009 we had ---  
18 from DEP we had \$3.66 million, and that was reduced in  
19 2010 to \$3.06 million. And I'm not sure about PDA  
20 numbers. 2009 I think it was \$1.66 million, and it  
21 was reduced to \$1.5 million. And we're looking at the  
22 next budget to be even --- what we know, it's going to  
23 be proposed even lower.

24 REPRESENTATIVE SEIP:

25 I think that the conservation districts



1 certainly have a very important role in our  
2 communities and certainly a big role to play in what  
3 goes on with the Marcellus Shale drilling. And in  
4 fact, we have had a Policy Committee hearing that also  
5 was here at Lycoming College a few weeks ago hosted by  
6 Representative Mirabito. And we talked about how  
7 conservation districts will be an important partner  
8 with DEP in this process. So I just wanted to make  
9 mention of that. Certainly I want everybody to be  
10 aware of the value of conservation districts.

11 I appreciate your testimony today and  
12 also Representative Mirabito's vigilance in trying to  
13 provide his constituents here with as much information  
14 about this important topic as possible, this being the  
15 second hearing we've had on this topic here. It's the  
16 first for the Finance Committee, but also engaged in  
17 the Policy Committee. So thanks to Representative  
18 Mirabito for being so vigilant and getting this  
19 information out to everybody. I'm taking up too much  
20 time, Mr. Chairman. I'm sorry.

21 CHAIRMAN:

22 No, you're not. No. Rick, anything?

23 REPRESENTATIVE TAYLOR:

24 MaryAnn, I just want to follow up. I  
25 appreciate Tim inquiring about the funding. That's

1 one or two questions I was going to ask. Let me focus  
2 on the other issue. It was a little more than a year  
3 ago that, from my perspective, seemingly out of  
4 nowhere, there was a decision to take jurisdiction  
5 away from conservation districts relative to the work  
6 they do in permitting for erosion and sedimentation  
7 control on drilling activities. That responsibility  
8 in particular --- and I don't know if there were other  
9 responsibilities as well, it was taken --- they were  
10 taken away from the conservation district and instead  
11 were assigned to the Department of Environmental  
12 Protection staff, who, my understanding was,  
13 heretofore they had not done that kind of work. And  
14 when that happened, that didn't happen through the  
15 legislative process, and I don't think it was the  
16 regulatory process. It seemed more an administrative  
17 directive of some sort. Could you, I don't know,  
18 enlighten me as to how and why that happened and the  
19 practical results of it from the perspective of a  
20 field person in the conservation district?

21 MS. WARREN:

22 I can tell you how it happened. Why it  
23 happened, I have no clue. I think it was an  
24 administrative decision higher up. I think that DEP  
25 was saying they wanted continuity across the

1 Commonwealth and they were --- every region was  
2 working differently with their conservation district.  
3 There was no continuity across DEP as far as I was  
4 concerned, because I was part of many of their  
5 conversations, because Susquehanna County does have a  
6 lot of drilling going on and it has for the past two  
7 years.

8           And so the DEP put out formal letters to  
9 all the conservation districts in March of 2009 and  
10 stated that it was hands off. And why, I really don't  
11 know, because why would a State department bring in  
12 more people to come to areas that they don't know,  
13 property they don't know, land they don't know,  
14 watersheds? And they haven't gotten a full commitment  
15 of people to date, as far as I know, still. This is  
16 over a year later. And they've raised the prices of  
17 what the permitting fees are, and they say that that  
18 permitting fee is to go toward paying those  
19 inspectors. I don't know how often you see inspectors  
20 in Susquehanna County, but I have yet to meet one.

21                   REPRESENTATIVE TAYLOR:

22           I mean, from your perspective, do you  
23 have any experience to be able to comment on the  
24 thoroughness of the review that's done by the people  
25 in DEP, or the timeliness of it? Or have you seen any

1 negative impacts of the DEP's review and permitting  
2 process regarding the EMS?

3 MS. WARREN:

4 I personally can't comment on that. I  
5 don't know how long it's taken to --- I can find out  
6 from the gas companies that I deal with, you know, and  
7 see if it's been taking longer or if it's taken less  
8 time. I know that the people in our conservation  
9 district in Susquehanna County, our staff in areas  
10 that they do have drilling in that, you know, everyone  
11 was working together, but then they would call DEP  
12 just to find that they changed the answer on a daily  
13 basis, so there couldn't be continuity. So if you  
14 can't get the continuity from the top down, you're not  
15 going to get continuity, you know, at the bottom  
16 trying to work with people. And that's my opinion.

17 REPRESENTATIVE TAYLOR:

18 Okay. From my perspective, I'd like to  
19 get things worked out for the conservation districts  
20 on the funding side by allocating some of the  
21 severance tax revenue but also in terms of the  
22 jurisdiction of the work of the conservation districts  
23 and maybe --- you know, to get that clarified as to  
24 what your specific role vis-à-vis the Department  
25 personnel and all the permitting issues; okay?

1                   MS. WARREN:

2                   Yes.

3                   REPRESENTATIVE TAYLOR:

4                   Thank you very much.

5                   MS. WARREN:

6                   Thank you for your time.

7                   REPRESENTATIVE TAYLOR:

8                   We appreciate your testimony.

9                   MS. WARREN:

10                  Thank you.

11                  CHAIRMAN:

12                  We've been joined by Representative Jaret  
13 Gibbons to my far right. Jaret is from Lawrence and  
14 Beaver County and gets the award for traveling the  
15 furthest to get here. Thank you, Jaret. Next I'd  
16 like to call to testify John Arway. John is the  
17 executive director of the Pennsylvania Fish and Boat  
18 Commission. And John, did you want to introduce ---  
19 you have a Board member with you. Feel free to join  
20 the table.

21                  MR. ARWAY:

22                  Here's six copies. I'd like to introduce  
23 Bill Worobec. Bill's our Commissioner for the North  
24 Central Region. So I appreciate Bill coming.

25                  Good afternoon, Chairman Levdansky and

1 members of the House Finance Committee and panel. My  
2 name's John Arway and I am the executive director of  
3 the Pennsylvania Fish and Boat Commission. On behalf  
4 of our Board of Commissioners and Pennsylvania's  
5 anglers and boaters and aquatic resources, I would  
6 like to thank you for the opportunity to testify today  
7 in support of legislation designed to dedicate a  
8 portion of the severance tax revenues to support the  
9 conservation work of the Fish and Boat Commission.

10           Specifically, I'm here to explain why the  
11 Commission should receive a portion of the severance  
12 tax to support our work associated with making sure  
13 that Marcellus Shale natural gas is developed in a way  
14 that has as little impact as possible for our fish,  
15 reptiles, amphibians and other aquatic organisms and  
16 the habitats upon which they depend. The mission of  
17 the Fish and Boat Commission is to protect, conserve  
18 and enhance the Commonwealth's aquatic resources and  
19 provide fishing and boating opportunities. More  
20 simply, it's called Resource First.

21           The Commission is an independent  
22 administrative agency with statutory authority and  
23 responsibility for these matters. We accomplish this  
24 mission with a relatively small full-time complement  
25 of 432 employees, consisting of dedicated waterways

1 conservation officers, fisheries biologists, fish  
2 culturists, engineers and other professional and  
3 support staff. We have approximately 150 temporary  
4 and seasonal employees who are hired during periods of  
5 peak operation, and we also rely on a network of  
6 volunteers and other partners to carry out our work.  
7 The breadth of our activities is described in our 2009  
8 annual report, which can be viewed on our website at  
9 [www.fishandboat.com](http://www.fishandboat.com).

10           As you know, fishing and boating  
11 contribute significant revenues to local, regional and  
12 statewide economies. Over 870,000 anglers and 2.5  
13 million boaters together contribute nearly \$3.4  
14 billion, that's B, billion with a B, to the  
15 Commonwealth's economy every year. Fishing and  
16 boating is big business for Pennsylvania. While you  
17 may know us best for the work we do directly related  
18 to the recreational fishing and boating, we perform  
19 countless activities that benefit all citizens and  
20 visitors to our Commonwealth.

21           In fulfilling our mission, we manage  
22 hundreds of game and non-game species, review permit  
23 applications to protect threatened and endangered  
24 species, educate thousands of Pennsylvanians to be  
25 safe boaters, train water rescue personnel to save

1 lives in all weather conditions, and enforce water  
2 pollution, fishing and boating laws. These public  
3 services are all funded by our anglers and boaters.

4           Many people do not realize that the  
5 Commission relies almost entirely on fishing license  
6 sales, boat registration fees and federal funding tied  
7 to the fishing and boating to support these activities  
8 and everything else we do. This includes trying to  
9 keep pace and stay ahead of the curve on the current  
10 and projected impacts of Marcellus Shale development  
11 to fishing, boating and the resources we are entrusted  
12 to protect.

13           With limited staff, we've been able to  
14 take some initiatives on issues such as working with  
15 the Pennsylvania Department of Environmental  
16 Protection to ensure water quality protection,  
17 preventing the spread of aquatic invasive species,  
18 advising the Susquehanna and Delaware River Basin  
19 Commissions on water withdrawals to protect in-stream  
20 flows and the animals that depend on water to live,  
21 and having our waterways conservation officers  
22 proactively conduct over 125 Marcellus gas well  
23 inspections.

24           We are also stepping up our efforts and  
25 looking to outside partners, including faculty and



1 staff right here at Lycoming College, to help us  
2 survey and document the presence of wild trout waters  
3 in thousands of miles of previously unassessed  
4 streams, many of which flow through regions underlain  
5 by Marcellus Shale. Once properly assessed and  
6 designated by the Commission, DEP would then protect  
7 these waters consistent with Commonwealth laws and  
8 regulations.

9           We want to help the industry protect our  
10 waters and habitats and comply with the environmental  
11 laws that you as our General Assembly promulgate.  
12 Industry representatives have told us they would  
13 welcome the chance to work more proactively with us in  
14 areas such as avoiding sensitive rattlesnake habitats,  
15 ensuring water quality protection for sensitive  
16 aquatic life uses, and avoiding exceptional value  
17 wetlands. Unfortunately, we simply do not have the  
18 resources, staff and funding to adequately and  
19 proactively assist the industry, DEP and the River  
20 Basin Commissions with controlling the impacts of  
21 Marcellus development. We understand the realities of  
22 today's natural gas rush and recognize the importance  
23 of our Marcellus gas to fueling our national energy  
24 needs. However, this cannot be at the expense of our  
25 natural resources since we have lived the story and

1 have seen what happened to our waters when  
2 Pennsylvania coal was extracted form our mountains  
3 almost a century ago. We cannot, in good conscience,  
4 let that happen again.

5           Good fishing requires healthy,  
6 functioning ecosystems, comprised of a wide variety of  
7 aquatic organisms. And our staff review thousands of  
8 permit applications to prevent and minimize the  
9 impacts to species that comprise those kinds of  
10 communities. We just do not have enough people or  
11 enough hours in a day to adequately keep up with the  
12 volume of Marcellus gas well development projects, and  
13 perhaps even more importantly, to get into the field  
14 to help companies design and implement their projects  
15 in ways that have the least impact on our  
16 Commonwealth's natural resources.

17           We are glad that DEP is adding staff to  
18 deal with the challenges of Marcellus development, and  
19 we support any efforts to get them and other agencies  
20 the funding and staff they need to do their jobs.  
21 Without a legislative change, the Commission does not  
22 have the authority to charge fees to support the work  
23 we do to assist gas companies and other developers in  
24 reviewing and implementing their projects in ways that  
25 protect, conserve and enhance our natural resources.

1 I believe that our agency has a good  
2 track record of working with DEP and other regulatory  
3 agencies in many regulatory review programs. Dr.  
4 Maurice Goddard, former DER Secretary, once said  
5 during his acceptance speech for the Fish and Boat  
6 Commission's most prestigious award, called the Ralph  
7 W. Abele Conservation Heritage Award, that the Fish  
8 and Boat Commission was DER's environmental conscience  
9 at a time when our coal resources were being exploited  
10 and they were under pressure to issue permits in the  
11 early 1980s.

12 Today DEP is under similar pressure, and  
13 the Fish and Boat Commission stands ready to help.  
14 For example, we assist PennDOT through a formal  
15 agreement that contributes to the salaries and costs  
16 of staff positions whose sole responsibilities are to  
17 review and advise on transportation projects and make  
18 sure that they are planned and constructed to protect  
19 our trust species and their habitats.

20 If we received a portion of the severance  
21 tax, we could take a similarly collaborative approach  
22 with both industry and the other agencies that are  
23 reviewing and advising on projects. Ultimately, we  
24 would like to have Commission staff in position to  
25 spend the necessary time reviewing and commenting on

1 projects and working in the field with developers and  
2 other agencies to make sure our resources are  
3 protected. I truly believe that the public expects  
4 that service from us, and the resources under our  
5 jurisdiction depend upon it to survive.

6           The Commission appreciates the foresight  
7 of Representative Levdansky, Representative George,  
8 Senator Dinniman and others who have cosponsored and  
9 spoken out in favor of legislation containing  
10 provisions to dedicate severance tax proceeds to the  
11 Commission and other conservation priorities. You  
12 recognize the importance of our role in the process,  
13 and we appreciate your foresight.

14           In addition to providing resources to the  
15 Fish and Boat Commission, we also support the  
16 allocation of severance tax proceeds to other  
17 conservation priorities, including the Hazardous Sites  
18 Cleanup Fund, county conservation districts, the  
19 Pennsylvania Game Commission and the Environmental  
20 Stewardship Fund.

21           County conservation districts know our  
22 lands and waters at the local level better than anyone  
23 and are at the forefront of our responsible local  
24 plans. Game Commission performs environmental review  
25 and permitting roles for birds and mammals and is a

1 key player in making sure projects are developed with  
2 minimal environmental impact. Our resources share the  
3 same landscape, and we have learned from the teachings  
4 of Leopold and others that one cannot disconnect what  
5 happens on the land from the quality of our water.

6           The Environmental Stewardship Fund has  
7 helped to fund the incredibly successful Growing  
8 Greener Program, but it faces an uncertain future as  
9 it is being used to pay debt service on bonds rather  
10 than supporting local vital projects. The watershed  
11 restoration and open space conservation benefits of  
12 Growing Greener offer a good blueprint for how  
13 locally-driven projects can be planned in concert with  
14 responsible energy development.

15           When I assumed this position over two  
16 months ago, I emphasized that one of my top priorities  
17 is to secure alternative sources of funding to help  
18 the Commission implement its mission for not just  
19 today, but to provide security of our resources for  
20 our children and grandchildren. Just like a family or  
21 business diversifies its investment portfolio to  
22 achieve financial stability and achieve goals, we must  
23 diversify our funding portfolio if we are going to  
24 meet the growing expectations being placed on the  
25 Commission as we implement our mission on behalf of

1 all Pennsylvanians and our fragile natural resources.

2           By passing and dedicating a portion of  
3 the severance tax to the Fish and Boat Commission, you  
4 have an historic opportunity to help us make sure this  
5 incredible energy resource is developed consistent  
6 with the needs of fish, reptiles, amphibians, anglers,  
7 boaters and all the general public.

8           We recognize and respect the difficult  
9 decisions you and your colleagues will be forced to  
10 make both this budget season and in the years to come,  
11 and are asking you to keep outdoor values in the  
12 forefront of your minds as you cast your important  
13 votes.

14           Natural gas development appears to be  
15 here to stay for the foreseeable future, and the Fish  
16 and Boat Commission wants to make sure that the  
17 species that we all value and our phenomenal fishing  
18 and boating opportunities are here to stay, too.  
19 Thank you again for the opportunity to speak with you  
20 today. And I'd be happy to answer any questions as  
21 you continue your deliberations in the coming weeks.  
22 Thanks.

23                           CHAIRMAN:

24           Thank you, John. Any questions from  
25 members? Representative Hanna?

1                   REPRESENTATIVE HANNA:

2                   John, I wasn't aware that the Fish and  
3 Boat Commission actually conducted inspections at  
4 Marcellus sites. You said 125?

5                   MR. ARWAY:

6                   That was an unusual step for us. We're  
7 not really gas inspectors. But because of the  
8 development in the recent past, we decided we needed  
9 to become more proactive with it, so we pulled our  
10 officers off their jobs and sent them into the gas  
11 fields to take a look proactively at sites as they  
12 were being developed. We actually developed a  
13 database with potential violations from those  
14 inspections, and we're following up with that now that  
15 the weather has broken. That was in the middle of  
16 winter. So we're going back, looking at --- and we  
17 saw things like releases of erosion or sedimentation  
18 in the streams, some releases of different chemicals  
19 in the streams and also encroachments on streams and  
20 wetlands that weren't permitted.

21                   REPRESENTATIVE HANNA:

22                   The agency is involved in the initial  
23 permit review; is that right?

24                   MR. ARWAY:

25                   We are, primarily through --- not through

1 the Oil and Gas Act but primarily through Chapter 105  
2 and the Dam Safety and Encroachments Act, and that's  
3 one of the few acts and laws that really require DEP  
4 to consult with us. There's a provision in Chapter  
5 105 that actually requires DEP to do that  
6 consultation, seek consultation before they issue a  
7 stream or wetland encroachment permit.

8 REPRESENTATIVE HANNA:

9 Have you been able to put a dollar cost  
10 onto both the permit review and the inspection at this  
11 point?

12 MR. ARWAY:

13 Well, our estimate, to keep pace with  
14 industry and projections that are going to be  
15 occurring with new development, we expect that in  
16 order to service the industry and stay ahead of the  
17 impacts, it would cost about \$1.6 million a year for  
18 us to staff up to do those kinds of activities, both  
19 increase enforcement and surveillance as well as  
20 permitting review funds.

21 REPRESENTATIVE HANNA:

22 Thank you, John.

23 CHAIRMAN:

24 Representative Mirabito?

25 REPRESENTATIVE MIRABITO:



1                   Mr. Arway, my understanding is that the  
2 natural gas industry is exempt from the Clean Water  
3 Act, the federal Clean Water Act. Are you aware of  
4 that?

5                   MR. ARWAY:

6                   Well, I really haven't followed that up  
7 since it really doesn't have an impact on Pennsylvania  
8 because of our own state laws. And I believe our  
9 state laws are adequate to regulate that industry.

10                  REPRESENTATIVE MIRABITO:

11                  That's what I was going to ask you. Do  
12 you think the state laws are adequate?

13                  MR. ARWAY:

14                  I believe so. We do have some ideas that  
15 we communicated to Representative George and others as  
16 well as the administration about some changes that  
17 could be made to the Oil and Gas Act, because it is a  
18 fairly old act, that would make it consistent with  
19 some of the other acts, primarily the Dam Safety and  
20 Encroachments Act, because there's some confusion  
21 right now about the interpretation of the two  
22 different laws. They're not major differences, but  
23 there are differences that need to be cleared by  
24 making the two laws consistent.

25                  REPRESENTATIVE MIRABITO:

1 Can you elaborate on it just briefly?

2 MR. ARWAY:

3 One of them, for example, is the  
4 protection provisions for streams. The Oil and Gas  
5 Act primarily looks at a blue line on a topographic  
6 map, whereas Chapter 105 and the Dam Safety and  
7 Encroachments Act doesn't really limit it, but looks  
8 at the value of the stream and in terms of supporting  
9 aquatic life. So we if we can make that difference  
10 compatible between the two laws, I think that would  
11 clear up some of the confusion that industry has about  
12 where they can locate their sites and how they need to  
13 protect streams.

14 REPRESENTATIVE MIRABITO:

15 To enforce a change like that --- if we  
16 were to make a change like that, to enforce that  
17 change, do you have any idea what a cost of that would  
18 be?

19 MR. ARWAY:

20 There shouldn't be any cost, because  
21 right now the Dam Safety and Encroachments Act would  
22 take precedence over it confusion-wise because the  
23 acts were written differently.

24 REPRESENTATIVE MIRABITO:

25 Okay. Thank you.

1                   CHAIRMAN:

2                   Representative Seip?

3                   REPRESENTATIVE SEIP:

4                   Thank you, Mr. Chairman. Thank you for  
5 your testimony today. And I also want to take this  
6 chance to commend the Fish and Boat Commission for  
7 putting forth the two opening days of trout season.  
8 It's been very successful.

9                   MR. ARWAY:

10                  Thank you, and I appreciate that  
11 feedback.

12                  REPRESENTATIVE SEIP:

13                  Really, I mean that. I think it's been  
14 an economic driver, a lot people going to opening  
15 days. It's been very successful. I wanted to ask,  
16 how many unfilled vacancies do you currently have at  
17 the Fish and Boat Commission?

18                  MR. ARWAY:

19                  We probably have, and this is a  
20 guesstimate on my part, but around 20-plus unfilled  
21 vacancies right now in the agency.

22                  REPRESENTATIVE SEIP:

23                  I know one of the officers, Gary Slutter,  
24 just retired, and he'll be hard to replace.

25                  MR. ARWAY:

1 He sure will be.

2 REPRESENTATIVE SEIP:

3 What I've drawn from your testimony is  
4 that this is going to be pretty much an additional to  
5 something --- the Marcellus Shale activity is going to  
6 bring on extra things that really are going to require  
7 additional funding beyond the primary resource you  
8 have now, the licensing. And you don't see this as  
9 something that's going to detract from the economy of  
10 the organization or change things to a negative  
11 extent? Is that accurate? Did I capture that right?

12 MR. ARWAY:

13 Well, it is additional activity. And  
14 obviously, only having 32 employees, it's very  
15 difficult to allocate time. It's one of those  
16 activities where you just do it through your normal  
17 course of business. Being as small as we are, we'd  
18 have to, like we did for the Marcellus inspections,  
19 pull people off their regular duties and have them do  
20 other things. You know, we close down a hatchery so  
21 that we can do an environmental permit review for the  
22 Marcellus industry. I don't think we would, but those  
23 are the kinds of decisions we would have to make if we  
24 didn't get supplemental funding.

25 REPRESENTATIVE SEIP:

1           Some people say, oh, jeez, this is going  
2 to lead us to the Game --- I'm sorry, the Fish and  
3 Boat Commission relying heavily on State tax revenues  
4 to --- you know, the autonomy that they have now.  
5 That wouldn't be a concern?

6           MR. ARWAY:

7           Well, it depends on the strings that are  
8 attached. But I hope that those strings wouldn't be  
9 attached and connect us that way. I would hope this  
10 would be supplemental funding. An analogy I would use  
11 would be similar to the percentage of the gas tax that  
12 was used to fund the Dirt and Gravel Road Program.  
13 That's a seamless funding stream that goes to the Dirt  
14 and Gravel Road Program to the counties. And they  
15 take dirt and gravel roads --- and there's really no  
16 strings attached to that. We would see that kind of  
17 funding stream coming to us where we would get a  
18 certain percentage of the fund that we would then  
19 dedicate and spend on conservation practices in the  
20 gas fields.

21           REPRESENTATIVE SEIP:

22           Thank you, Mr. Chairman.

23           CHAIRMAN:

24           John, this looks to be --- just in terms  
25 of the Commission's traditional responsibility,

1 there's enforcement actions under different state  
2 environmental statutes. So the Dam Safety and  
3 Encroachment Act specifies that DEP has to interface  
4 with the Fish and Boat Commission in issuing permits?

5 MR. ARWAY:

6 Right.

7 CHAIRMAN:

8 Okay. You mentioned that the agency had  
9 some suggestions and recommendations of amendments to  
10 the Oil and Gas Act, so they could be involved in  
11 that. And my understanding, correct me if I'm wrong,  
12 is the State Clean Streams Law --- does not the Fish  
13 and Boat Commission have authorization as needed to  
14 take action under the Clean Streams Act as well?

15 MR. ARWAY:

16 We do. We have the power and authority  
17 to do that. We typically don't do that because DEP  
18 assumes part of the responsibility for enforcing the  
19 Clean Streams Law. And even though we have parallel  
20 laws, the Fish and Boat Code and the Clean Streams Law  
21 are parallel laws, there's overlap because one of  
22 provisions in our law connects a violation without the  
23 necessary permits, the permits issued under the Clean  
24 Streams law. But we do have the power and authority  
25 to enforce the Clean Streams Law.

1                   CHAIRMAN:

2                   Okay. Any other State environmental  
3 statutes that the agency participates in enforcing?

4                   MR. ARWAY:

5                   We don't actively enforce, but we have  
6 the power and authority to enforce if we would choose  
7 to.

8                   CHAIRMAN:

9                   Okay. Any other areas except those two,  
10 Dam Safety and Clean Streams?

11                  MR. ARWAY:

12                  I believe that if you look at our code,  
13 we have broad authority to enforce other environmental  
14 laws, not just specifically the Clean Streams and Dam  
15 Safety and Encroachments Act, but other environmental  
16 laws in the Commonwealth.

17                  CHAIRMAN:

18                  So even though you're not the primary  
19 enforcement agency, you nonetheless do have statutory  
20 authority if needed?

21                  MR. ARWAY:

22                  Correct.

23                  CHAIRMAN:

24                  Okay. Because I recall back a few years  
25 ago with the Acton oil spill which occurred in my

1 legislative district about 20 years ago, the Fish and  
2 Boat Commission --- quickly they had the field staff  
3 --- they were out there on the river doing  
4 assessments, I mean, frankly even before the DEP  
5 personnel were available, because it happened right  
6 around the holidays. But the agency people were out  
7 there very quickly in terms of, you know, quickly  
8 analyzing, you know, the problems associated with the  
9 oil spill and then the environmental impact afterwards  
10 as well. So it was important --- it became obvious to  
11 me that Fish and Boat needs to have some enforcement  
12 under the various state environmental statutes. I  
13 have no other questions. Representative Jaret Gibbons  
14 has a question.

15 REPRESENTATIVE GIBBONS:

16 I just have very quick question in  
17 relation to --- you talked about some funding uses and  
18 the extra work that might come with this. Is that the  
19 only thing that you would see the money going for, or  
20 could you see this money going towards other things  
21 such as --- I know the Fish and Boat Commission has  
22 some significant capital needs to improve things such  
23 as the dams that you own. Do you see some of this  
24 money going towards that, or do you think all this  
25 money will be going towards your regulatory processes?



1                   MR. ARWAY:

2                   Well, it depends on the language that  
3 goes along with the funding. But we would be hopeful  
4 that we could use it for multi purposes. But I guess  
5 we're saying that we could spend up to \$1.6 million a  
6 year using this funding to make sure that we stay  
7 ahead of Marcellus development. If additional funding  
8 would approve, we would love to use it for other  
9 purposes, because our infrastructure is deteriorating,  
10 as you know. We've got dams that are being closed in  
11 your districts because we can't afford to rebuild  
12 them, and we've got hatcheries that need help. And if  
13 there would be supplemental funding for other reasons,  
14 too, we would be most grateful to be able to use that  
15 money for those things, too.

16                   REPRESENTATIVE GIBBONS:

17                   Thank you.

18                   CHAIRMAN:

19                   Thank you, Representative Gibbons. John,  
20 just let me follow up with that. Maybe I didn't catch  
21 it in your testimony, your written testimony, but you  
22 say essentially you had --- it sounded like you had a  
23 dollar price tag for what the agency presently is  
24 spending to do the associated work with Marcellus  
25 Shale development. Did you say \$1.6 million?

1                   MR. ARWAY:

2                   That's our estimate of what we would need  
3 to do to stay ahead of the development as projected to  
4 occur.

5                   CHAIRMAN:

6                   Okay. So we need to get you at least  
7 \$1.6 million to keep you doing what you're doing now,  
8 and if we can make it a little bit more than that,  
9 then that's funds that we've freed up to deal with the  
10 dams --- replacement of dams and other important  
11 projects as well?

12                   MR. ARWAY:

13                   Correct.

14                   CHAIRMAN:

15                   Okay. And four percent, based on what a  
16 \$150 million severance tax generated, would generate  
17 about \$6 million for Fish and Boat. So Jaret, maybe  
18 we can get in to fix up some of those dams after we  
19 give the agency enough money to do the environmental  
20 overview as well.

21                   MR. ARWAY:

22                   And we would appreciate it.

23                   CHAIRMAN:

24                   Yeah. And my preference, John, would be  
25 to give the agency the discretion to decide how best

1 to use these dollars. I mean, obviously, you know,  
2 principally and primarily to do the necessary  
3 oversight and enforcement work associated with  
4 Marcellus, but beyond that, there are other pressing  
5 needs in the agency, I know, to do this. And it's  
6 getting tougher and tougher to raise license fees. It  
7 always is, but especially in a bad economy, it's a  
8 challenge to raise fees, because as you're aware, but  
9 I want to make everybody else aware, any time we  
10 raised fishing and hunting license fees, the next  
11 year, there is an immediate and significant drop-off  
12 in the number of people that buy hunting and fishing  
13 licenses. Now, over a period of years, some of that  
14 comes back. But historically, the amount coming back  
15 never replaces the drop-off.

16           And we may be the only state that funds  
17 our two wildlife management agencies with no support  
18 from the State General Fund --- with no support from  
19 the State General Fund and the state taxpayers. Our  
20 agencies are highly dependent upon raising their  
21 revenue from the sale of fees and licenses, and to  
22 some extent, through revenues derived from the sale of  
23 oil and gas and coal and timber. But that doesn't  
24 affect the Fish and Boat Commission, but it does the  
25 Game Commission. So I had been looking for a long

1 time to find some alternative funding for the two  
2 agencies, because I know it's needed, and secondly, I  
3 know that it will be well spent as well.

4           So anyhow, with no other questions, John,  
5 thank you for your testimony, and we look forward to  
6 continuing to work with you in developing this  
7 legislation and make sure that the agency is  
8 appropriately funded so you can continue to do the  
9 good job you've all been doing.

10           MR. ARWAY:

11           Thanks very much.

12           CHAIRMAN:

13           Thanks. Next, I'm going to ask a panel  
14 of two to the front here. Jan Jarrett, Jan is the  
15 president and CEO of PennFuture, Citizens for  
16 Pennsylvania's Future, and Jeff Schmidt, who is the  
17 Director of the Pennsylvania chapter of the Sierra  
18 Club. Jeff and Jan.

19           MS. JARRETT:

20           Good afternoon and thank you for the  
21 opportunity to give testimony today in front of the  
22 House Committee on Finance. PennFuture is pleased to  
23 be here in support of House Bill 2443 for a number  
24 reasons. I will e-mail copies of this afterwards  
25 since our copier --- it works in inverse ratio to the

1 desperation with which you need it. That's a bit of a  
2 problem.

3 PennFuture believes that Pennsylvania  
4 must impose the severance tax for the extraction of  
5 natural gas from the Marcellus Shale formation and  
6 other deep gas deposits. The Marcellus Shale  
7 formation is the largest gas deposit in North America  
8 and the second largest in the world. This is  
9 information that Jeff Schmidt and I have just recently  
10 learned two weeks ago, last week, right from Range  
11 Resources Vice-President Ray Walker, who is also, I  
12 think, the president of the Marcellus Shale Coalition.

13 The Marcellus Shale is the second largest  
14 deposit in the world, but it's not the only deposit we  
15 have here in Pennsylvania. Underneath that bed is a  
16 deposit called Utica and there's another deposit  
17 apparently that's shallower than the Marcellus Shale  
18 deposit. And when you take them all together, what  
19 Mr. Walker told us was that we will have --- the gas  
20 deposit that we will have here will be twice as large  
21 as the largest gas deposit in the world. So it's  
22 absolutely critical that we get the policies in place  
23 now in order to make sure that we do this right, that  
24 all Pennsylvanians benefit and that the environment  
25 and our communities are protected.

1 Right now Pennsylvania is the only gas-  
2 rich state that does not pose a severance tax, yet the  
3 cost of gas to consumers already includes severance  
4 taxes levied by other states. For a Pennsylvanian who  
5 pays the gas bill, the tax money that they're paying  
6 is going to Louisiana, to Texas, to Arkansas and other  
7 states that have taxes, rather than staying here and  
8 benefiting Pennsylvania taxpayers and communities.  
9 And drilling poses new costs on the Commonwealth and  
10 communities with great demand on environmental  
11 regulators. You heard from John Arway about the Fish  
12 Commission and the conservation districts. Wear and  
13 tear on roads and bridges and other infrastructure,  
14 greater demand is needed to complete the repair  
15 services and other public services in the communities  
16 in which the drilling is occurring.

17 And there is a pressing need for the  
18 revenue. As you well know, Pennsylvania is again  
19 facing a big budget challenge. Right now I think it  
20 is a little bit more than \$1 million deficit that the  
21 Commonwealth is facing. And specifically when you  
22 look at environmental funding, on the horizon is a  
23 perfect storm of an environmental funding collapse  
24 that's heading right towards us. Pennsylvania's  
25 landmark environmental funding program, Growing

1 Greener, is running out of money. All \$625 million  
2 made possible by the Growing Greener II bond that was  
3 approved overwhelmingly by voters in 2005 is either  
4 spent or committed.

5           The Environmental Stewardship Fund, which  
6 gets its revenue from a \$4.25 per ton tipping fee on  
7 garbage dumped at state landfills, is being diverted  
8 to pay the debt service on the Growing Greener bond.  
9 That was the deal that was struck in implementation of  
10 the decision that was passed in the wake of the voter  
11 approval of the Growing Greener Fund. The tipping fee  
12 generates about \$55 million a year annually. When it  
13 was first instituted, it was bringing in about \$80  
14 million. But better recycling --- and even when the  
15 economy goes down, garbage even goes down. So right  
16 now it's bringing in about \$55 million a year.

17           Once all Growing Greener bonds are  
18 issued, which will be this year, debt service will be  
19 at \$50 million a year, leaving little for  
20 environmental restoration and prevention projects,  
21 State and local park projects and community  
22 revitalization. In addition, the Hazardous Site  
23 Cleanup Fund lost its source of funding and was in  
24 dire nature of being de-funded. But the General  
25 Assembly rescued it by actually dedicating some

1 legislative accounts to that fund, and that will  
2 expire in 2012, I believe.

3           So the Growing Greener Fund is gone, the  
4 Environmental Stewardship Fund is running out of  
5 money, and the Hazardous Sites Cleanup Fund, which  
6 funds things like remediation of contaminated  
7 properties, it does some brownfield development  
8 project, and it also responds to spills of hazardous  
9 materials, that's going to be another program that's  
10 going to be running out of money in the very  
11 foreseeable future.

12           Growing Greener has been a wildly  
13 successful program. In the last five years in  
14 Lycoming County alone, more than \$11 million of  
15 Growing Greener funding has improved State-level park  
16 facilities, refurbished downtown commercial districts,  
17 upgraded sewage treatment systems, restored streams,  
18 improved hunting opportunities and more. In fact, \$70  
19 million has been spent in the 12-county Pennsylvania  
20 Wilds area to improve outdoor infrastructure and  
21 downtown and to promote the region's natural  
22 attractions and forests. And as a result, the number  
23 of visitors to the region is up. They are spending  
24 more on recreation and lodging.

25           Another big success story is that part of



1 the --- Growing Greener funding was part of a mix of  
2 federal and state money and has gone into a big  
3 restoration project for the west branch of the  
4 Susquehanna River. And that's been so successful that  
5 it's been restored from an almost dead stream to one  
6 now that is fairly healthy and supports a wide variety  
7 of fish.

8           The Marcellus Shale deposit is going to  
9 be phenomenally profitable for the gas industries that  
10 are drilling here. About half of the cost that  
11 consumers pay for natural gas is the cost of  
12 transporting the gas from the fields in the south and  
13 the west to markets in the east. As you know, the  
14 Marcellus Shale deposit is in the heart of the  
15 northeastern home heating market. It is also poised  
16 to be able to replace the coal-fired power plants with  
17 transition to gas. And that specifically lower  
18 transportation cost will build significantly higher  
19 profits for the gas drillers. One drilling company,  
20 Chesapeake Energy, has claimed it can earn a ten-  
21 percent return when gas is at a price of \$2.59 per  
22 thousand cubic feet. And when I checked yesterday,  
23 the gas was at \$4.15 per thousand cubic feet. So it's  
24 a highly profitable gas deposit.

25           And the drilling companies that are

1 working here can afford it. The companies are large,  
2 well-capitalized, established multi-nationals, such as  
3 Exxon Mobil and Chesapeake Energy. It's not an infant  
4 industry. This is what they do. They develop gas  
5 fields. This is their business.

6           Contrary to what you might have heard,  
7 gas drillers enjoy a favorable tax environment in  
8 Pennsylvania. Most do not pay the corporate income  
9 tax. They are organized as LLCs, they are registered  
10 in Delaware, and so they take a regular state income  
11 tax break of 3.07 percent just like you and I do. In  
12 addition, they enjoy a host of federal subsidies that  
13 reduce drillers' taxable income, including tax breaks  
14 on construction of distribution and gathering lines, a  
15 manufacturing tax deduction, a deduction for  
16 intangible drilling costs, which include things like  
17 waste, supplies and site preparation. And oil and gas  
18 wells are exempt from property taxes in Pennsylvania.

19           A severance tax will not make Marcellus  
20 Shale gas uncompetitive, as you also may have heard.  
21 Because the formation is huge, it's close to market,  
22 we can't move it, it's here, it's going to be  
23 developed. And the fact that we see Exxon Mobil  
24 willing to make investments of \$31 billion to acquire  
25 a stake in this gas play lets you know that smart

1 money thinks that this is going to be a very  
2 profitable play.

3           And the imposition of new taxes or  
4 increases in existing severance taxes in other states  
5 has had little, if any, effect on production or on  
6 employment. So it's a safe thing to be able to do.  
7 And many other people in the gas industry actually  
8 admit, even grudgingly, well, they are fine with  
9 paying a severance tax. However, to date, the  
10 Marcellus Shale industry has not --- they're fighting  
11 it here in Pennsylvania. It's pretty much tooth and  
12 nail and they're throwing a lot of money into it.

13           In short, Mr. Walker also told us that  
14 the Marcellus Shale development in Pennsylvania is  
15 going to be here for a century. And so now the  
16 opportunity that we have to get all of the policies  
17 and protections into place and to make sure that all  
18 Pennsylvanians can share in the wealth that's going to  
19 be generated and get benefit out of it. Thank you.

20           CHAIRMAN:

21           Thank you, Jan. Jeff?

22           MR. SCHMIDT:

23           Good afternoon. Thank you for the  
24 opportunity to testify today in support of House Bill  
25 2443. I'm here today on behalf of the Pennsylvania

1 Chapter of the Sierra Club. The Sierra Club was  
2 founded in 1892 to explore, enjoy and protect the  
3 planet. The Sierra Club has about 23,000 members in  
4 Pennsylvania.

5           The Sierra Club supports an energy policy  
6 that moves us towards a clean energy future. The  
7 Sierra Club recognizes that natural gas is an  
8 important transitional fuel as the Sierra Club (sic)  
9 moves away from fuels that emit large quantities of  
10 greenhouse gases to clean, affordable renewable energy  
11 sources. Natural gas, on average, is a cleaner source  
12 of energy than coal. For the equivalent amount of  
13 heat, natural gas produces about 45 percent less  
14 carbon dioxide during its combustion than coal does.  
15 The U.S. will need to develop affordable natural gas  
16 supplies in the immediate future. However, that does  
17 not mean the Commonwealth government should subsidize  
18 the production of natural gas, nor should the  
19 Commonwealth ignore the problems caused by natural gas  
20 exploration.

21           Natural gas drilling and production comes  
22 with a cost to the Commonwealth. The present gas rush  
23 in the Marcellus Shale will cause water pollution  
24 problems in our rivers and streams. According to a  
25 Pittsburgh Post-Gazette article published on May 4th

1 of this year, Department of Environmental Protection  
2 Secretary Hanger told an audience of gas industry  
3 executives, quote, there's no such thing as zero  
4 impact drilling, unquote. He said he will push for  
5 stronger regulations to protect Pennsylvania's rivers  
6 and creeks from extremely salty well wastewater  
7 pollution, tougher and more comprehensive well  
8 construction standards, rules limiting toxic air  
9 pollution from wells and compressor pumping stations,  
10 and bigger bonds to cover the capping of wells when  
11 they stop producing. These changes can't come too  
12 soon.

13                   There are damaging environmental effects  
14 from gas drilling. Water quality is a major concern.  
15 Even the gas industry admits that it has not yet  
16 developed a feasible method to treat the salt and  
17 metals in the flowback water and produced water from  
18 its production wells. Until then, waste water is  
19 being sent to municipal sewage treatment plants to be  
20 diluted and mixed with treated sewage flows and then  
21 discharged to our Commonwealth waters. The present  
22 treatment plants do not remove the salts from the  
23 water before discharging them into our streams. Our  
24 freshwater river systems, the Allegheny, Monongahela,  
25 Susquehanna and Delaware Rivers, do not have the

1 assimilative capacity to absorb the heavy metals and  
2 brines in these waste streams. Although many  
3 companies are working on this problem, the  
4 technological solution may be years away. Meanwhile,  
5 drilling permits are being issued on a regular basis.

6           Gas drilling also affects the surface of  
7 our land. Drilling pads, service impoundments, access  
8 roads and pipelines alter the landscape and have a  
9 lasting impact on our woods and wildlife habitat.  
10 Heavy rigs and tanker trucks damage our rural roads.  
11 Each community and municipality with gas exploration  
12 activities pays a price for this development which is  
13 not compensated by taxes.

14           In addition, accidents do happen. And  
15 when they happen, the cost of remediation is  
16 expensive, more than the \$2,500 bond that an operator  
17 currently deposits for each well. Many projects are  
18 properly designed to meet environmental requirements  
19 on paper. However, even when projects are designed  
20 correctly, accidents happen because people get lax and  
21 do not maintain equipment or structures, or do not  
22 follow the requirements rigorously. Human nature  
23 being as it is, people tend to cut corners. Moreover,  
24 DEP does not have inspectors to visit these sites  
25 regularly. With thousands of permits issued in the

1 past year, DEP cannot make all the necessary  
2 inspections, even if there is a complaint from a  
3 landowner.

4           The Sierra Club believes that a gas  
5 extraction tax is a proper tool for compensating the  
6 Commonwealth and the local government for the long-  
7 term damage done by gas exploration and drilling. We  
8 firmly believe that a fair and reasonable tax like  
9 those assessed in other gas-producing states is  
10 necessary to fund the Commonwealth government  
11 generally and the environmental programs and agencies  
12 which must deal with the problems created by the gas  
13 drilling. We believe a portion of a gas severance tax  
14 must be dedicated to the Environmental Stewardship  
15 Fund, which Jan Jarrett has just described as being  
16 depleted, and to the Pennsylvania Fish and Boat and  
17 Game Commissions to restore wildlife habitat and  
18 improve public access to public lands. A portion must  
19 be dedicated to help local governments impacted by  
20 natural gas drilling operations.

21           We support House Bill 2443, which does  
22 provide funding for the Environmental Stewardship  
23 Fund, for the Fish and Boat and Game Commissions and  
24 local governments. We do not support House Bill 2438,  
25 which does not provide funding for those important

1 needs.

2           The gas industry is investing billions of  
3 dollars in the Marcellus Shale drilling and stands to  
4 make billions of dollars in profits. The industry  
5 will remain in Pennsylvania for the long term,  
6 regardless of the levy of a gas extraction tax or not.  
7 Drilling activity will not change due to environmental  
8 requirements. either. The warning by some in the gas  
9 industry that a tax will drive away exploration from  
10 Pennsylvania, home to some 350 trillion cubic feet of  
11 Marcellus Shale gas, are unfounded. In fact, the  
12 Baker Hughes Rotary Rig Count, the industry's standard  
13 measure of active drilling operations for all 50  
14 states, shows that drilling activity has increased  
15 steadily over the past year. As of the end of April  
16 of 2010, the average monthly active rig count in  
17 Pennsylvania is 77, more than double the rig count of  
18 30 in April of 2009. The limiting factor for gas  
19 drilling in the Marcellus Shale is not the number of  
20 permits that the state can issue, but the availability  
21 of drill rigs for exploration. Even if you opened the  
22 entire Commonwealth for drilling, the availability of  
23 drill rigs would be the limiting factor for  
24 exploration and production. A severance tax would  
25 neither slow nor increase exploration.



1 Gas exploration in and production from  
2 the Marcellus Shale in Pennsylvania will be going on  
3 for decades. Similarly, the environmental  
4 consequences of exploration and production will be  
5 with us for many decades as well. Now you have the  
6 opportunity to take a significant step offsetting some  
7 of the costs that the Commonwealth must bear currently  
8 and in future years. We are still living with the  
9 legacy of oil and gas drilling from a century ago,  
10 thousands of abandoned well sites and oil and gas  
11 seeps, and denuded landscape. A severance tax would  
12 compensate the Commonwealth for mitigating the long-  
13 term environmental damage. Gas drillers in the  
14 Marcellus Shale should not be given a tax holiday. We  
15 can't afford to leave hundreds of millions of dollars  
16 on the table while asking Pennsylvania residents to  
17 pay their fair share of state taxes.

18 Before I close, I just want to thank the  
19 members of the Committee, the members present today  
20 for their support in addition for passage of the  
21 moratorium legislation that passed recently  
22 overwhelmingly in the House. I was pleased to see  
23 bipartisan support for that. That's House Bill 2335.  
24 And of course, we're going to hope the Senate will  
25 move on that as well.

1 I also want to draw attention to the fact  
2 that important regulations --- important legislation  
3 that tightens rules related to gas drilling in  
4 Pennsylvania are contained in Representative George's  
5 bill, House Bill 2213, which we're also supporting.  
6 The severance tax is an important part of a package of  
7 proposals that need to be adopted by the General  
8 Assembly so all facets of the industry are properly  
9 attended to. Thank you for your attention. And I'll  
10 take questions.

11 CHAIRMAN:

12 Rick?

13 REPRESENTATIVE TAYLOR:

14 Sure. Thank you very much. Thank you  
15 for coming here to testify today. So I saw briefly in  
16 your testimony --- I hear the gas industry say time  
17 and time again, this is a capital-intensive business.  
18 It takes many years to reach a cost per barrel. You  
19 know, it's very intensive and that doing this, if we  
20 were to impose a severance tax within the first few  
21 years, you would kill the baby in the cradle. Do you  
22 believe that that's the case, if you were to impose a  
23 severance tax this year, that we would, indeed kill  
24 the baby in the cradle?

25 MS. JARRETT:

1           They have a whole bunch of tax breaks at  
2 the federal level that allow them to write off a lot  
3 of their up front costs. Let me just go through a  
4 couple of them here. They get a manufacturing tax  
5 deduction. A 2004 legislation reclassified local gas  
6 manufacturing that would allow a company to claim  
7 billions of dollars of tax deductions.

8           Intangible drilling costs. Integrated  
9 companies are allowed to immediately deduct 70 percent  
10 of intangible drilling costs: wages, supplies, site  
11 preparation, et cetera, and small independent  
12 companies 100 percent. Taxpayers pay for 70 --- 100  
13 percent of equipment, supplies, et cetera, and costs  
14 of drilling. EPA in 2005 allows companies to deduct  
15 the cost of natural gas distribution over 15 years'  
16 depreciation time. This results in almost free gas  
17 distribution. Natural gas gathering line. The law  
18 passed in 2005 allowed companies to deduct costs of  
19 natural gas gathering lines over a seven-year  
20 depreciation period, resulting in almost free gas  
21 pipelines.

22           So there's a lot of things that they can  
23 take advantage of at the federal level that really  
24 help them get the industry up on its feet. So with  
25 all of that, I don't think we need to give them any

1 further breaks here in Pennsylvania.

2 MR. SCHMIDT:

3 I would concur with Jan and just also  
4 point out that --- and I think it has already been  
5 stated that these are large companies. Many of them  
6 are multinational companies: Exxon Mobil, Chesapeake  
7 Energy. And I think you've heard that Chesapeake  
8 Energy several years ago, they paid their CEO a bonus  
9 of \$110 million, almost the amount of what a severance  
10 tax would cost the entire industry in the State of  
11 Pennsylvania a couple of years into the past.

12 REPRESENTATIVE TAYLOR:

13 Could you say that again? I'm sorry. I  
14 don't think I heard correctly.

15 MS. JARRETT:

16 You said only 110.

17 MR. SCHMIDT:

18 Oh, sorry. A single CEO --- Chesapeake  
19 Energy CEO got a \$112 million bonus in 2008.

20 CHAIRMAN:

21 An infant CEO in an infant industry.

22 REPRESENTATIVE TAYLOR:

23 Okay. Thank you for that. And now I  
24 want to move to a longer issue very quickly. I know  
25 the federal government is looking at the --- and this

1 is outside, I guess, of our committee, but since we  
2 have some substantive experts here, I want to ask the  
3 question. The fracking process. I know the U.S. is  
4 looking at fracking. Do you believe in the future  
5 that it can affect our water tables, our waters  
6 flowing through the fracking process?

7 MR. SCHMIDT:

8 Well, there have been a number of  
9 problems that have been associated with drilling in  
10 Pennsylvania by companies that use the fracking  
11 process. It hasn't been as a direct result of  
12 fracking operations, but by side effects, poor casing  
13 of wells that resulted in the migration of gas into  
14 drinking water supplies and so on. But we do not  
15 believe there is conclusive evidence that fracking  
16 won't cause contamination of the groundwater. But we  
17 do know that wastewater from fracking operations is  
18 very --- is full of pollutants, including high levels  
19 of total dissolved solids and metals and radioactive  
20 elements, and that material is not being removed.  
21 It's being diluted as it's discharged into our streams  
22 right now.

23 REPRESENTATIVE TAYLOR:

24 And what about Cabot Oil? Is that a good  
25 example of improperly treating that wastewater?

1                   MS. JARRETT:

2                   They had trouble with the casings. It's  
3 kind of like we've been hearing that the casings on  
4 the oil rig in the Gulf they have found. Well,  
5 similarly it seems that they inadequately cased the  
6 well shaft as it went down through the aquifer, and  
7 that allowed methane to migrate into the groundwater.  
8 And that's what the problem seems to be in Susquehanna  
9 County with Cabot.

10                   MR. SCHMIDT:

11                   And locally here several months ago, a  
12 discharge occurred from a gas well drilling operation  
13 directly into Pine Creek. Pennsylvania Grand Canyon's  
14 Pine Creek got discharge from what may very well have  
15 been poorly-cased wells near state forest land near  
16 Waterville, I believe.

17                   MS. JARRETT:

18                   I would like to caution you and to push  
19 back. When you hear industries say that there's never  
20 been a single incident of well contamination as a  
21 result of fracking, that may be technically true,  
22 because as Jeff said, the fracking occurs way, way  
23 down underneath the water table. But it's not true  
24 that there have not been cases of contaminated wells a  
25 result of, say, migrated methane or some other kind of

1 an accident. And actually, at the meeting we were at  
2 two weeks ago out at Range Resources, we encouraged  
3 them to try to be a bit more forthright with  
4 disclosing what the risks might be, because we believe  
5 it actually makes the industry less credible when they  
6 make claims like that. You know, they might  
7 technically be correct, but not really telling the  
8 truth, in other words.

9 REPRESENTATIVE TAYLOR:

10 Sure. Highlighting the positives and  
11 burying the negatives. Thank you, Mr. Schmidt and Ms.  
12 Jarrett.

13 CHAIRMAN:

14 Thank you, Representative Taylor.  
15 Representative Hanna?

16 REPRESENTATIVE HANNA:

17 Thank you, Mr. Chairman. When you began  
18 your testimony, you talked a little bit about  
19 discussions with the Marcellus Shale Coalition. Rick  
20 and I had some of those discussions as well. And one  
21 of the things that I've heard is that the regulatory  
22 issues top their concerns as opposed to the severance  
23 tax. I was curious as to whether or not that type of  
24 feedback was given to you as well. And you also both  
25 made it very clear that you thought that the severance

1 tax would not hurt this industry. And quite frankly,  
2 I agree. But my question would be, have either of you  
3 had an opportunity to look at the Penn State  
4 University study which seemed to conclude, and it is  
5 often cited by the industry, indicating that a  
6 severance tax could result in a reduction in drilling  
7 of as much as 30 percent? Have either of you had a  
8 chance to look at that study and determine its  
9 validity or seen any other studies that contradict  
10 that?

11 MS. JARRETT:

12 The Pennsylvania Budget and Policy Center  
13 has done a really decent rebuttal of that. I don't  
14 have that information right at my fingertips. I think  
15 the way the methodology was handled in that report  
16 kind of led to results that the industry would --- the  
17 industry actually paid for that, which is one thing  
18 that you've got to understand. And that was not well  
19 disclosed when the report was made available. I can't  
20 answer you definitively now, but what I can promise to  
21 do is to send you some of the information that has  
22 been worked up by the Budget and Policy Center. We'd  
23 be happy to get that to you.

24 MR. SCHMIDT:

25 I can actually give you a little



1 information to respond to your question. Studies of  
2 severance taxes in other states have shown that  
3 changing tax rates has little affect on production. A  
4 Wyoming study found that a two-percentage-point  
5 reduction in the state oil severance tax would  
6 increase production by only .7 percent over the next  
7 60 years while decreasing government revenue  
8 significantly.

9           Conversely, raising tax rates contributed  
10 greatly to government revenue with negligible impact  
11 on production. A more recent study using historical  
12 data on industry response to oil and gas severance tax  
13 changes in Utah found a similar result. Changes in  
14 severance tax rates, even significant ones, had a  
15 large impact on government revenues but not industry  
16 production. That citation comes from a study called  
17 the effect of proposed 2009 tax changes on Utah's oil  
18 and gas industry done by the University of Utah in  
19 2008.

20                           REPRESENTATIVE HANNA:

21                           Thank you, Mr. Chairman. That was very  
22 helpful. I appreciate the testimony.

23                           CHAIRMAN:

24                           Thank you. Representative Mirabito?

25                           REPRESENTATIVE MIRABITO:

1           Yes. More of a comment, but I'm speaking  
2 to the business community here because I think that  
3 many of our citizens, but particularly in the business  
4 community, may not catch what's happening, especially  
5 with respect to House Bill 10, which is what has been  
6 talked about with property taxes. Right now, if I  
7 build a manufacturing plant and I spend \$10 million  
8 putting it up, the County assesses it and I pay  
9 property taxes on that as a business, and those taxes  
10 go to support the schools. If I have \$10 million  
11 worth of gas under the ground, that is not taxed. It  
12 is not taxed.

13           And what happens is even with the broken  
14 population that may occur as a result of the natural  
15 gas development, with more children going to our  
16 schools --- and we welcome growth in the community.  
17 We welcome population growth. But those industries  
18 will not be supporting the very school districts where  
19 the kids are going. So I think that it's important to  
20 understand there's an issue of fairness here.  
21 Fairness in equity, both with respect to the severance  
22 and with respect to House Bill 10, which is the bill  
23 that would've assessed property. And I hope that  
24 we're going to hear a little bit about that later from  
25 some of the folks from the County.

1 I think it was important that you address  
2 --- I don't know whether you're aware of the Arkansas  
3 severance bills. But I think, you know, there are  
4 some folks, and I thought I'd get your opinion on it,  
5 that think that we need to allow an industry in the  
6 first two years to have additional tax breaks. In  
7 fact, I think that there were some folks publicly ---  
8 I'm actually beginning to think that is not a good  
9 idea. And I wonder if you could comment on whether  
10 --- the amount of gas that comes out of the wells in  
11 the first few years of production, if you know?

12 MS. JARRETT:

13 You know that they get all these federal  
14 tax breaks. I don't see the need to delay taxing the  
15 production when it comes online in Pennsylvania.  
16 Let's remember they don't pay the tax until the wells  
17 start producing. And they've got all these other tax  
18 breaks that help them get up and running. And so  
19 we're to the point now where, you know, they're  
20 producing gas right now, and for every, you know,  
21 molecule of gas that's not taxed, we're losing money.  
22 We're leaving money on the table and at a time when  
23 the Commonwealth needs to go into the General Fund.  
24 And this bill would allocate a good portion of it to  
25 the General Fund and then to the environmental funding

1 programs that are coming to an end. We need the money  
2 now. And the drillers are expecting to pay this. We  
3 even have a retiring CEO of one of the companies come  
4 out in support of the severance tax.

5 REPRESENTATIVE MIRABITO:

6 If we don't pass the severance tax, don't  
7 you think they'll lower the price of natural gas?

8 MR. SCHMIDT:

9 I don't think so.

10 REPRESENTATIVE MIRABITO:

11 So who will recoup the five percent or  
12 so?

13 MR. SCHMIDT:

14 They will. They'll keep it in their  
15 pockets.

16 REPRESENTATIVE MIRABITO:

17 That's all.

18 CHAIRMAN:

19 Thank you, Representative Mirabito. Just  
20 a couple, and this is a follow-up. From my  
21 perspective as the Finance Committee Chairman, I get  
22 involved in a lot of issues pertaining to tax credits,  
23 tax deductions, exclusions, exemptions. Generally  
24 speaking, we call them tax expenditures. Okay. It  
25 results in the Commonwealth or the taxing body not

1 receiving a revenue gain. And typically you do that  
2 because you want to encourage something positive for  
3 public policy. You want to encourage investment that  
4 would otherwise not occur. Okay. Like we created the  
5 Education Improvement Tax Credit that allows corporate  
6 taxpayers to make investments in some school systems  
7 and preschool programs, and they receive a tax credit  
8 for that. So that encourages investment in some non-  
9 public schools. There's a Film Tax Credit.

10           The state has about 17 different tax  
11 credit programs and a lot of different tax exemption  
12 and tax exclusion program. But they're all designed  
13 --- you know, you put them in place because you want  
14 to attract investment or you want to attract  
15 incentivized developments that would have a positive  
16 public policy benefit. But given the rig counts from  
17 one of the testifiers here that it showed that the  
18 number of drilling rigs operating in Pennsylvania has,  
19 like, doubled in the last year, it's clear to me that  
20 we don't need to give an incentive in that effect. An  
21 incentive wouldn't serve any public policy outcome  
22 except maybe to pad the profit margins of an industry  
23 that is not burdened financially. So from my  
24 perspective as the Chairman of the Finance Committee,  
25 they're going to have to make a case, you know, that

1 something positive in terms of public policy would  
2 result by exempting --- you know, delaying a modest  
3 severance tax.

4           The other point I wanted to make, I  
5 wanted to thank --- Jeff, you and I and Jan, we worked  
6 on this as well. Passing the moratorium legislation  
7 is really important. I happen to think that the  
8 reason why more and more acres of the state forest is  
9 being, you know, brought online for more and more gas  
10 drilling is because, in fact, the Legislature hasn't  
11 taxed a severance tax.

12           And in a fiscal environment where the  
13 State needs revenue, you know, we're scratching and  
14 clawing for every available pot of money from the  
15 rainy day fund and any other escrow account out there,  
16 we're looking to tap it to help overcome the deficit.  
17 So I happen to think over the last couple years that  
18 the real financial challenge that our Commonwealth has  
19 in the budget is the driving force to force more and  
20 more leasing of our state forests. Now, with 1.5  
21 million acres in the Marcellus plate, over half of it  
22 is now, in effect, released. It's not all been  
23 drilled, but it will be over time.

24           So it's really important that we pass the  
25 moratorium legislation to preserve the remaining

1 valuable acres of the state forest. This is, I think,  
2 Pennsylvania's greatest natural asset, you know, and  
3 it's really important that we preserve and protect  
4 that. And I was very pleased to be able to work, you  
5 know, in a bipartisan fashion, you know, not just with  
6 my colleagues here, you know, Rick in the southeast  
7 and Representative Mirabito and Representative Hanna  
8 and others, but also, we were joined in a bipartisan  
9 fashion with Representative Garth Everett and other  
10 Republicans that understand the value and the  
11 importance of the state forests.

12               So I just wanted to say that because this  
13 --- you know, I think we need to do the severance tax  
14 for a lot of different reasons, not the least of which  
15 is to lessen the pressure that's on the state leaders  
16 or the budget people to put more and more, to auction  
17 off more and more of the State forest so the State can  
18 gain leasing revenue. There's a better way to do it.  
19 It's the severance tax.

20               So I want to thank you for your hard work  
21 in passing House Bill 2235. I'm looking forward to  
22 continuing to work to make that bill that's passed the  
23 House --- I look forward to working with everybody to  
24 help encourage the Senate to take similar action as  
25 well. And we're going to continue our record to work

1 to enact a meaningful severance tax here in  
2 Pennsylvania.

3 MS. JARRETT:

4 Well, thank you. And thank you for your  
5 leadership on both that issue and this issue. It's  
6 like half a victory. It's only halfway over the line.  
7 And so far the reception in the Senate has been less  
8 than warm. So I would encourage folks to help us get  
9 involved in making sure that gets over the line.

10 CHAIRMAN:

11 And now that you've mentioned that, just  
12 as a follow-up, if anyone's wondering why our  
13 challenge has been so difficult in the moratorium and  
14 passing a reasonable severance tax, I just want to  
15 call attention to a report that was issued by Common  
16 Cause Pennsylvania just yesterday, and with the  
17 support of --- I believe women voters and PennFuture,  
18 that it indicates a record amount of campaign  
19 contributions and lobbyist expenditures that have  
20 occurred in Pennsylvania over the last couple years.  
21 It leads one to wonder as to why we've been stifled in  
22 our effort to promote good tax policy and good  
23 environmental policy. Perhaps that report can  
24 indicate some of the reasons why we've been pushing  
25 this uphill for ---.



1                   MS. JARRETT:

2                   I don't see your name on there, David.

3                   MS. SCHMIDT:

4                   The list of major recipients.

5                   MS. JARRETT:

6                   Yeah.

7                   CHAIRMAN:

8                   But anyhow, I just want to point that  
9 report out for the record. It has some, I think,  
10 pretty startling information in it for the public's  
11 information. Okay. But we're only on the first page.  
12 We've got a long way to go. Thank you. Next I'd like  
13 to call a Mr. Jon Bogle, who's a member of the  
14 Responsible Drilling Alliance. Mr. Bogle, am I  
15 pronouncing your name correctly?

16                   MR. BOGLE:

17                   Yes. Thank you for having me here. The  
18 Responsible Drilling Alliance is an all-volunteer  
19 local organization. I walked here for the meeting,  
20 and so we're quite nearby.

21                   I support something that Rick had said,  
22 that it's a little bit of a challenge here. And thank  
23 you for having me and having this hearing. It's a bit  
24 strange, I think, that we even have to have a hearing  
25 because of the structure of the situation. We have

1 multinational and national corporations coming into  
2 Pennsylvania and jockeying to take a trillion-dollar  
3 asset out from underneath our feet and sell it on the  
4 national market. We now learn that they are trading  
5 their leased Pennsylvania acreage as a commodity.  
6 They are selling it to European gas corporations,  
7 Indian corporations. The recent price has been about  
8 \$14,000 an acre. The current price is about \$35,000  
9 to \$40,000 an acre. Aubrey McClendon, CEO of  
10 Oklahoma-based Chesapeake Energy, the guy that got the  
11 \$110 million, estimated that his company's 1.57  
12 million acres in the Marcellus Shale is worth \$35,900  
13 an acre. That would be the asking price right now to  
14 sell his acreage.

15           One of the things I think we need to be  
16 made aware of is that, and this has been mentioned,  
17 the idea of putting off a severance tax until the  
18 companies recoup their exploration expenses. About  
19 half of a well's production is out in the first year.  
20 It's been estimated that 80 percent is out within 16  
21 months. By the end of two years, it's down to a very  
22 minimal flow. The only reason the pumping continues  
23 to flow past the third and fourth year is because it  
24 costs almost no money to keep the well flowing.  
25 There's very little manpower to do that, continuing to

1 use the well.

2           As they mentioned, the federal government  
3 allows the oil and gas industry to write off their  
4 exploration costs in the first year. In 2008, Range  
5 Resources paid only four-tenths of a percent of their  
6 income in federal taxes. Last year Exxon Mobil paid  
7 no federal taxes in the United States. They wrote off  
8 their expenses here and paid their taxes overseas.

9           We're having this discussion because of  
10 the goose, you know, the goose that is going to lay a  
11 golden egg. The goose itself is the product of  
12 another fairy tale, the Penn State study, An Emerging  
13 Giant. This was released last summer by two  
14 professors, Robert Watson and Tim Considine, neither  
15 of whom it appears were actually working at Penn State  
16 at that time. Considine had left for another position  
17 and Watson had retired.

18           I have a couple things in common with Dr.  
19 Watson. We have both been given the honorific title  
20 of professor emeritus, and neither Watson nor I have  
21 any background or training in economics. Watson was  
22 an associate professor of engineering, I a professor  
23 of art. Considine, on the other hand, is an  
24 economist, but he's spent his career studying fuel  
25 markets and has no background in community economics.

1 It's like asking a carpenter and a pediatrician to do  
2 a coronary bypass surgery.

3           The operation from the viewpoint of the  
4 Marcellus Shale Committee was a great success. For  
5 \$100,000, the gas industry got a prime propaganda  
6 piece dressed up as a Penn State research paper with  
7 Penn State's name in blue and white cover and a small  
8 Penn State shield on each and every page. Using Penn  
9 State's reputation to hype the economic and tax  
10 potential of drilling gave the industry a weapon to  
11 use against environmentalists and dampen calls for  
12 taxes. I believe Penn State is culpable in  
13 manipulating the public policy debate on the Marcellus  
14 Shale drilling. Penn State has allowed the gas  
15 industry to hijack its reputation as a great research  
16 institution. It is a mystery to me why the university  
17 has permitted this deception to continue. The  
18 university should disown this industry study.

19           An Emerging Giant was greeted with  
20 criticism, if not outright contempt. The Pennsylvania  
21 Budget and Policy Center issued a report in October of  
22 '09 titled, Natural Gas Industry Report Falsely Claims  
23 Sky Will Fall if Severance Tax Enacted.

24           A few of the things they found was that  
25 the report hyped the economic impacts, hyped the tax

1 implications. They found that the richness of the  
2 deposit, not the business climate, was the main reason  
3 that the drilling was happening here in Pennsylvania.  
4 West Virginia's Shale deposit is about 50 feet thick,  
5 and the northeast corner of Pennsylvania is about 300  
6 feet thick. 200 to 300 feet thick. It was 200 feet  
7 thick in Lycoming County in places. So the drilling  
8 has come to where the meat of the shale is.

9           The Penn State report made an analogy of  
10 --- the Considine and Watson report used a software  
11 package called Implan. According to an interview with  
12 its maker --- this is from the Pennsylvania Budget and  
13 Policy Center, and this is a quote from the makers.  
14 Users can use Implan software and data to generate  
15 numbers that support any side of an argument and get  
16 wildly varying results depending on who's clicking the  
17 mouse. In other words, if you want to cook a study,  
18 this is the software for you. The PBPC's conclusion  
19 was the report served the narrow financial interests  
20 of its funders, the natural gas industry.

21           An Emerging Giant claimed that we had  
22 created 29,280 jobs in Pennsylvania in their base year  
23 of 2008. They also tell us that 308 wells were  
24 drilled that year. The Penn College's study of the  
25 Marcellus Workforce Needs Assessment told us that

1 there were 400-some people who had a piece of the  
2 action on the well. But when they parsed it all down  
3 between the guys that spent a morning there and the  
4 people who were there for 12-hour shifts for two weeks  
5 at a time, they figured it was 11.53 work years to  
6 drill a well. We multiplied that figure by the 308  
7 wells that were drilled. We had 3,551 wells --- or  
8 I'm sorry, jobs that would support that amount of  
9 wells. We used a multiplier effect, which is the  
10 Labor and Industry's multiplier effect, of 3.55, and  
11 the impact should've been about 12,000 jobs in  
12 Pennsylvania in 2008, not the 39,000 (sic) the report  
13 claimed.

14                   The Pennsylvania Department of Labor and  
15 Industry projected future job figures for the  
16 Marcellus Shale and anticipated 12,400 Marcellus  
17 industry jobs by 2016. Now, this includes about 8,000  
18 jobs that already existed in the start year of 2006.  
19 And a buildup of about 400 jobs a year for ten years  
20 to 12,000 by 2016. If you add the multiplier effect  
21 for that, you get 44,000 jobs, which is not bad at  
22 all, but not the 160,000 jobs that Considine and  
23 Watson had promised us.

24                   Penn College's Workforce Needs Assessment  
25 points out that only two percent of the industry jobs

1 are needed to maintain the well field after the  
2 drilling is completed. The job count is completely  
3 dependent on rig count. If the rig count goes up, the  
4 job count goes up. If the rig count goes down, the  
5 job count goes down. And of course, there's also the  
6 buildup of infrastructure, pipelines, et cetera. But  
7 98 percent of the jobs will disappear when the  
8 drilling stops.

9           We've been told it's going to go on for  
10 years. Let's hope not, because the normal lifespan  
11 for a well is about seven and a half years. Seven and  
12 a half, eight years. And you can re-stimulate it by  
13 re-fracking it during a period of time, which  
14 increases the environmental damage. And then your  
15 next thing, you just keep drilling more and more and  
16 more wells. So they're talking about wells for the  
17 next 40 years. They're talking about drilling an  
18 astonishing number of wells in Pennsylvania and  
19 essentially industrializing Pennsylvania's landscape.

20           When looking at jobs, Considine and  
21 Watson claimed 29,000 jobs in 2008, 49,000 jobs in  
22 2009 and 107,000 jobs this year. Looking at the state  
23 unemployment statistics, it's very difficult to see  
24 any of these jobs. You would think that if we had  
25 created 50,000 jobs at this point, we'd be able to see

1 them in the statistics. The number of persons  
2 unemployed in Pennsylvania in March was 582,000  
3 according to the PA Workforce Stats. That was nine  
4 percent unemployment. If you threw 50,000 jobs into  
5 that mix, you'd have dropped it by almost a whole  
6 percentage point. If you look at the chart which I've  
7 provided, the chart shows that the unemployment rate  
8 in Pennsylvania has grown --- grew sharply from  
9 September to March of '09 --- September '08 to March  
10 of '09. And it kept solidly climbing. You would  
11 think that if we had this streaming factor of jobs  
12 coming into the workforce, that we'd have seen some  
13 evidence of it in that curve.

14                   The recent Star Gazette article from  
15 Bradford County says Bradford County leads PA in job  
16 growth. Our five county, Bradford, Tioga,  
17 Susquehanna, Sullivan and Wyoming area, gained 3,200  
18 jobs in one year. A lot of those are probably  
19 drilling jobs. But 3,200 jobs in one of the most  
20 drilled areas in the state is not significant when  
21 you're promising us 107,000 jobs this year. We have  
22 the two big areas of big drilling in the southwest  
23 corner and the northeast corner of the state. That's  
24 where the shale is thickest at this point.

25                   We have seen a drop in the unemployment



1 rate in Bradford County. Bradford County has 60,000  
2 people. When you work out the figures, they say  
3 30,000 are in the workforce. Ten percent, 3,000 would  
4 be unemployed. You bring 1,000 workers into that,  
5 you're going to have a significant impact on the  
6 unemployment. But again, if you're looking at a  
7 statewide figure, if you're looking at a policy  
8 structure for the state, that would not be enough to  
9 cause you not to --- cause to do or not do anything.

10           But we were promised a lot of taxes.  
11 Considine and Watson promised a great bonanza of PA  
12 taxes, but it's difficult to see where they're going  
13 to come from because we don't have any tax structure  
14 to get the industry. As we mentioned here before, we  
15 have no property tax, no severance tax. The only  
16 thing that Pennsylvania Budget and Policy Center  
17 agreed with Considine and Watson was that Pennsylvania  
18 --- so wellhead revenues are about 11 percent higher  
19 in Pennsylvania because of our tax breaks. That is a  
20 premium for the industry here in Pennsylvania, this 11  
21 percent, because of the structure. That's how much  
22 taxes we're transferring from our possible income into  
23 our budget to their bottom line.

24           The Pennsylvania Budget and Policy  
25 Committee (sic) said that they overstated the 2008 tax

1 revenues by about \$100 million. And they took that  
2 out through 2020, ten years from now. Instead of \$1.4  
3 billion, the estimate is \$700 million. \$700 million  
4 sounds like a lot of money, and it is. It's certainly  
5 a lot of money. But there are other industries that  
6 are going to be affected even greater --- that are  
7 going to cause greater problems than that \$700  
8 million.

9                   Not all of the people at Penn State are  
10 causing problems. Dr. Tim Kelsey at the Penn State  
11 Cooperative Extension did a study of the tax  
12 implication for local governments. And it is what  
13 you've already heard here today, that in other words,  
14 local jurisdictions with natural gas wells are very  
15 likely to face higher demand for services, such as  
16 higher costs, and yet receive minimal new revenues to  
17 pay for those services. The result likely will be  
18 higher local taxes paid by everyone, not just those  
19 directly benefiting, and/or cuts in other services.

20                   So whose goose should we cook? Let's  
21 talk about collateral damage. We already have a  
22 golden goose in Pennsylvania, the tourist and travel  
23 industry. Travel has revenues of over \$20 billion,  
24 employs 214,000 people and has a \$5 billion payroll.  
25 This is all much, much greater than the greatest

1 fantasies that Watson and Considine dreamed up.

2           In the eight congressional districts  
3 where gas drilling is taking place, the travel  
4 industry employs 72,000 people, has \$1.4 billion in  
5 payroll and revenues of \$7.2 billion. This is a green  
6 industry that is also a tax cow. Anyone who has  
7 booked a room in a hotel knows that it comes with a  
8 sizable severance tax when you get the bill, all the  
9 taxes that they tack onto the end of it which goes to  
10 the local tax bills.

11           Unlike the gas industry, the travel  
12 industry actually pays real state taxes on its  
13 infrastructures. The travel industry is a homegrown  
14 industry with a permanent Pennsylvania workforce. It  
15 is probable that full bore gas exploration will do  
16 severe damage to our tourist industry, especially in  
17 the Pennsylvania Wilds and the area around here. We  
18 are within a good morning's drive of 100 million  
19 people and the east coast. And about a third of the  
20 country could get here for lunch. Let's hope they  
21 don't all come at the same time. But if they come in  
22 strips and drags, you know, it would be substantial.  
23 This is a substantial industry. This is a substantial  
24 growth industry. We can nip it in the bud if we drill  
25 a lot of the landscape.

1           It is quite probable that any value the  
2 gas industry will bring to Pennsylvania is less than  
3 the damage it will do to already-established  
4 Pennsylvania industries, such as agriculture, organic  
5 farming, tourism, ecotourism. In addition, we can  
6 expect a real hit to our real estate values and large  
7 infrastructure and social costs.

8           Before we give away the store, the  
9 Legislature should commission an independent, credible  
10 economic study to determine the job, tax and  
11 collateral damage impacts of this industry. They  
12 should be treated like every other industry. Thank  
13 you.

14                   CHAIRMAN:

15           Thank you. Any questions?  
16 Representative Hanna?

17                   REPRESENTATIVE HANNA:

18           Not so much a question as I just want to  
19 point out to Jon the last time we were here and you  
20 testified, I mean, you brought to our attention a  
21 concern with Pennsylvania's regulatory exemption for  
22 air quality issues with respect to compressor stations  
23 on pipelines. And I just wanted to --- I'm not sure  
24 if the offices shared with you --- that you followed  
25 up on that, and in fact, you're 100 percent correct

1 and DEP is in the process of trying to update the  
2 regulations so that that loophole, that exemption for  
3 those compressors is removed.

4           And I mention that simply because I think  
5 this goes to the unintended consequences or unforeseen  
6 consequences that come from all the drilling activity  
7 in this area. It definitely warrants the need for  
8 both the moratorium and I think also the need for this  
9 legislation for the severance tax as we try to deal  
10 with many of these things, some of which we may  
11 anticipate. Without the efforts of you and your  
12 group, maybe we never would have recognized the air  
13 quality issue.

14           And I think it's important that people  
15 understand that there are a lot of things that we've  
16 anticipated, but there's an awful lot that we haven't  
17 anticipated, and we need to make sure that we  
18 understand those things as they come about and address  
19 them and have the resources to address them. So I  
20 just want to thank you and your group for that  
21 information at our last hearing. It was very, very  
22 helpful.

23                           CHAIRMAN:

24                           Representative Mirabito?

25                           REPRESENTATIVE MIRABITO:

1                   Yeah. Mr. Bogle, I'd like to thank you  
2 also. You know, I think the most important thing for  
3 citizens to do is to educate themselves because, you  
4 know, last time I mentioned that that movie Gasland  
5 was shown, and I'm sure that some people could  
6 critique the movie and could find fault with it at  
7 some point. And at the end of the day, we're all  
8 going to have differences of opinion, but what will  
9 not change is when you look at your house as you did  
10 in that film and as your family that farmed that land  
11 for a long time and previously had seen a beautiful  
12 landscape and now saw a lot of gas drilling equipment.  
13 That will not change. And I think a concern --- in  
14 other words, whether you agree with gas drilling or  
15 not, if you're going to get the gas out of the ground,  
16 you're going to have to put that equipment up.

17                   I guess the question that you --- the  
18 issue you raised, the one we have to ask ourselves is  
19 will people still drive four hours from New York City  
20 or from Baltimore or from Boston or from anywhere to  
21 look at the PA Wilds and see some beautiful landscape,  
22 but also see it dotted with gas drilling equipment?  
23 And I want to be fair to the industry, but I think we  
24 should educate ourselves, because a picture's worth a  
25 thousand words. And regardless of how you come down

1 on that movie, in the movie you do see some things  
2 that are of concern. And again, I say that knowing  
3 that people have different opinions on the movie, but  
4 it's important, I think, to educate ourselves about it  
5 so we make responsible decisions.

6           And maybe the industry will tell us that  
7 they can shield that, as they've done in other places.  
8 They can put up --- but I don't know. I don't know  
9 whether that's the case. It's a concern how it  
10 affects the tourism industry.

11           MR. BOGLE:

12           Last week or a week or about a week ago,  
13 I asked the question, is the juice worth the squeeze?  
14 Is the activity --- is the implications of the  
15 activity worth what you're going to get out of it?  
16 And one of the reasons I wanted to talk about the,  
17 quote, Penn State study, which --- is because of the  
18 proportion of the situation. And that's why I  
19 encourage you to think about --- you know, I'm not  
20 into economics and I'm not going to say --- meaning,  
21 God bless him the same, but he has no background in  
22 economics. They went over the statistics. You know  
23 they can mean different things. You all know that  
24 statistics can mean different things. You need  
25 trained people to go through that. And you have a

1 study made to find out what are the real proportions  
2 and the implications of this rather than --- except  
3 what has come out about the definition of back study  
4 of a major work in this situation.

5 CHAIRMAN:

6 Thank you.

7 REPRESENTATIVE MIRABITO:

8 Thank you.

9 CHAIRMAN:

10 Mr. Bogle, I just have a comment as well.  
11 You don't have a doctorate in economics. What's it  
12 in?

13 MR. BOGLE:

14 Art.

15 CHAIRMAN:

16 Art. But you have the other doctorate in  
17 common sense and in practical economics, I would say.  
18 I did my graduate work in the dismal science of  
19 economics. And I got to learn that the standard  
20 regression analysis that the Penn State authors use is  
21 predicated on some fairly questionable assumptions.  
22 And it's all contingent on whether or not those  
23 assumptions really reflect economic reality. And  
24 obviously, to someone who is not an economist but who  
25 clearly understands that the science of economics can



1 often --- or at least the alleged science of economics  
2 can be used to buttress and support whichever side of  
3 an argument one wants to come back on. And like you,  
4 I understand many of the concerns that Penn State's  
5 reputation, in my judgment --- as an alumni of Penn  
6 State as well, I'm concerned that this kind of study  
7 goes out. And in my perspective, it does put some  
8 tarnish to Penn State's outstanding image. But I  
9 appreciate your testimony and your insight. It's  
10 pretty refreshing testimony. Thank you.

11 MR. BOGLE:

12 Thank you very much.

13 CHAIRMAN:

14 Thank you. Our final panel is Rebecca  
15 Burke. Mr. John Hedges from Speedy Hauling, I  
16 understand, can't be with us. So I'd like to call a  
17 panel of local government officials, including Rebecca  
18 Burke, the Chair of Lycoming County Board of  
19 Commissioners, Marvin Meteer, Supervisor of Wyalusing  
20 Township, Bradford County. Did I say that right,  
21 Wyalusing?

22 MR. METEER:

23 Correct.

24 CHAIRMAN:

25 Okay. And also Mr. Ben Landon. He's a

1 councilman of South Williamsport Borough. Okay. And  
2 just before you get started, if you could identify  
3 yourself for the record and the stenographer. Who  
4 wants to go first? Ms. Burke?

5 MS. BURKE:

6 Yes. My name is Rebecca Burke and I am  
7 Chairperson of the Lycoming County Board of  
8 Commissioners as well as the Chairperson at the  
9 Lycoming County Gas Exploration Task Force and the  
10 Co-Chair of Pennsylvania County Commissioners  
11 Association Pennsylvania Task Force on Gas also. I'm  
12 co-chairing that with Commissioner Erick Coolidge from  
13 Tioga County.

14 I'd like to bring to your attention today  
15 the Lycoming County Gas Exploration Task Force mission  
16 statement. Our goals are to identify key issues,  
17 research facts and information, and review and assess  
18 public policy regarding the positive economic impact  
19 of gas exploration of Marcellus Shale in Lycoming  
20 County.

21 I speak before you at this time regarding  
22 the County Commissioners Association of Pennsylvania's  
23 members. The membership has not taken a position on  
24 severance tax, either for or against. The Board has  
25 directed further study of issues, including the

1 relative tax burden of the industry in Pennsylvania  
2 versus other states. Their objective is to balance  
3 economic benefits of oil and gas development in a  
4 responsible manner. The Commissioners do not believe  
5 local taxpayers should shoulder all of the costs  
6 associated with development. If and when the  
7 Legislature considers a severance tax, whatever  
8 severance proposal or other new revenue source is  
9 enacted, we respectfully request it contain a share  
10 dedicated to the County municipal governments to  
11 address the impact of development of this resource.

12           My work with the industry suggests they,  
13 too, are in a position to support their local and  
14 County government. CCAP and PSATS have worked  
15 collaboratively on a proposal for a local share of  
16 severance. Together the associations support  
17 dedicating 25 percent of severance tax to the local  
18 government funds to be distributed to host  
19 municipalities, host counties, non-host municipalities  
20 and conservation districts.

21           Our proposed distribution is as follows.  
22 Nine percent to the municipalities for a gases and  
23 severance tax in the previous quarter based on the  
24 number of taxable gas units in the previous quarter as  
25 a percentage of taxable units statewide. Five percent

1 to the local fuel fund to be allocated in addition to  
2 and not in lieu of or replacing any funds normally and  
3 customarily allocated for roads and bridges under  
4 municipal jurisdiction. And the distribution would be  
5 based on population and road mileage. Eight percent  
6 to counties where natural gas has been severed and  
7 taxed in the previous quarter. And three percent to  
8 conservation districts.

9           Counties are also generally supportive of  
10 shared funding for environmental purposes, such as the  
11 Environmental Stewardship Fund or a Growing Greener  
12 III initiative. CCAP members have taken a position  
13 supporting legislation such as House Bill 10, which  
14 corrects a relatively recent inequity in the  
15 assessment in minerals resulting from a Supreme Court  
16 Decision in 2002 at Fayette v. IOGA. One of the bases  
17 for that Decision is that the Court believed that  
18 natural gas is fugacious, meaning it moves.

19           Marcellus Shale gas does not move until  
20 the shale is fractured and advanced technology allows  
21 for movement and capture. At this point it should be  
22 assessed such as other minerals, as coal and  
23 limestone, which are currently assessed. This  
24 Decision allows the coal and gas industry to not  
25 participate in the assessment process, thereby not

1 shouldering its fair share of the property tax burden  
2 for county, municipalities and school districts.

3           There is a misperception that counties  
4 benefit financially from the play. We do not derive  
5 any financial benefits from the play. We do not  
6 benefit from business taxes, income tax or sales  
7 taxes. Restoring the county's ability to assess oil  
8 and gas is a simple and direct way to drive revenue to  
9 local governments, and must be done as a matter of  
10 equity.

11           The growth of the industry will require  
12 local taxpayers to support an increase in county  
13 services, such as technology and register and  
14 reporters' offices, emergency response services,  
15 potential impact on social services, courts and  
16 corrections, Children and Youth, mental health and  
17 retardation, as well as school systems. Even today as  
18 we speak, it is reported there are families living in  
19 hotels with children enrolled in school awaiting a  
20 decision of establishing permanent residency or  
21 returning to their hometown. Counties and schools  
22 have traditionally supported these services, which  
23 local real estate governs, and decreasing state  
24 subsidies for mandated services.

25           This industry, not unlike landfills and

1 casinos, have a significant impact on our services and  
2 communities. Counties are aware of the importance of  
3 the traditional marginal or stripper wells in many  
4 parts of Pennsylvania, which generate lower production  
5 and have narrower profit margins than Marcellus wells.  
6 We are open to a discussion of how to fairly treat  
7 this sector of the industry as it relates to both  
8 severance and assessment delay of oil and gas so as  
9 not to hinder continued development of stripper wells  
10 or put long-time Pennsylvania businesses out of  
11 business.

12           CCAP opposes the burdensome  
13 administrative requirements and limitations on use of  
14 the funds contained in House Bill 1489, 2435 and 2438.  
15 No offense to their authors. Commissioners as the  
16 elected officials have a fiduciary responsibility to  
17 control budget decisions at the county level. We  
18 administer county tax dollars and are accountable to  
19 our voters for stewardship of those dollars. It is an  
20 unnecessary administrative requirement to establish  
21 special boards to govern spending of potential  
22 severance tax dollars.

23           CCAP also opposes restricting uses of  
24 severance tax funds. As we have seen in recent years,  
25 the scopes of impact are changing throughout the

1 course of development, and lists included in the  
2 existing proposals are overly restrictive and do not  
3 recognize the costs associated with the social impact  
4 of the Marcellus Shale development. Host exploration  
5 and drilling priorities may be better focused on  
6 environmental remediation or economic development to  
7 sustain the local economy when the gas flow  
8 diminishes. Plus, county municipalities should not be  
9 prevented from doing long-term planning and response  
10 in favor of repairing today's road and bridge  
11 problems.

12                   CCAP does support recognition of impacts  
13 that may occur in non-host municipalities in oil and  
14 gas-producing counties. These are likely to be the  
15 small cars or truck traffic supporting natural gas  
16 development, but actual wells may never be drilled.  
17 However, we note that the formula in House Bill 2443  
18 appears to be weighted in favor of non-host  
19 municipalities, and we believe this bill provides a  
20 disproportionate share. As noted above, we believe  
21 the best vehicle to drive revenue back to the non-host  
22 municipalities is through the Liquid Tax Fund ---  
23 Liquid Fuel Tax Fund, a vehicle that is already in  
24 place and familiar to most municipalities.

25                   All the severance tax bills include

1 language requiring prothonotaries to report failure to  
2 pay severance tax, and a lien against the property on  
3 which the severance is owed and in the county in which  
4 the property is located. The Department is required  
5 to transmit certified copies of the lien to the county  
6 but prohibits the prothonotary charging any filing fee  
7 to cover the cost for the entry of a lien. One  
8 possible alternative is to allow the filing fee to be  
9 part of the lien and payable when the lien is  
10 satisfied.

11                   The Commissioners of the impacted  
12 counties stand ready to continue to educate those in  
13 the process that are unfamiliar with the Marcellus  
14 clay as to the benefits as well as the challenges  
15 associated with it.

16                   CHAIRMAN:

17                   Ready?

18                   MR. METEER:

19                   Sure. Mr. Chairman and members, my name  
20 is Marvin Meteer. I'm an executive board member of  
21 the Pennsylvania State Association of Township  
22 Supervisors. I'm also a township supervisor at  
23 Wyalusing Township, Bradford County. Accompanying me  
24 today, sitting back there is Mr. Elam Herr, who is the  
25 assistant executive director for our association.



1 Thank you for the opportunity to appear here before  
2 you today on behalf of the 1,455 townships in  
3 Pennsylvania represented by our association. We  
4 appreciate this opportunity to participate on this  
5 issue that is so important to our members.

6           Townships comprise 95 percent of the  
7 Commonwealth's land area and are home to more than 5.4  
8 million Pennsylvanians, which is nearly 42 percent of  
9 the state's population. Our townships are very  
10 diverse. They range from rural communities with fewer  
11 than 200 residents to more populated communities with  
12 populations approaching 70,000 residents.

13           Marcellus Shale impacts a major portion  
14 of Pennsylvania, from Greene County in the western  
15 part of our state to Wayne County in the eastern, and  
16 townships throughout this region are facing the impact  
17 of natural gas well drilling like never before. While  
18 the natural resource in this area has the potential to  
19 economically benefit many communities, drilling is not  
20 without an impact on townships and their residents.

21           The association supports a severance tax  
22 on natural gas, provided that at least 25 percent of  
23 this tax comes back to the local governments that are  
24 affected by the activity. While we believe that House  
25 Bill 2443 is a step in the right direction with its

1 inclusion of a local government share of 20 percent,  
2 we believe that some improvements need to be made to  
3 the bill before it should move forward, particularly  
4 concerning how the municipal share is distributed.

5           Townships are excellent fiscal stewards  
6 and are generally among the last to advocate  
7 increasing taxes. We have done more with less for a  
8 very long time, and we pride ourselves in finding  
9 efficiencies and economies of scale to benefit our  
10 taxpayers. We believe that a natural gas severance  
11 tax is not a tax on Pennsylvanians, but a tax for  
12 Pennsylvanians that would result in property tax  
13 relief. In fact, such a tax would not increase the  
14 cost of gas to consumers in Pennsylvania because we  
15 are already paying such taxes on natural gas imported  
16 from other states. Instead, a severance tax would  
17 make sure that out-of-state customers are paying the  
18 tax to benefit the communities in Pennsylvania where  
19 the extraction is taking place. Otherwise, these  
20 communities would need to raise property taxes to  
21 cover the costs associated with the industry impacts.

22           Over the past several years, we've heard  
23 numerous concerns from our members about gas well  
24 drilling. It is clearly affecting communities across  
25 the Marcellus Shale region, both with economic

1 opportunity and with the negative impacts associated  
2 with it. Our association is supportive of economic  
3 development and opportunities, provided that drilling  
4 activities are conducted in an environmentally-  
5 responsible manner and that the impacts on the  
6 community and our local roads are mitigated to the  
7 fullest extent possible.

8           In support of the local share, it is the  
9 local communities and particularly the host  
10 municipalities that bear the brunt of the burden from  
11 the industry through destruction of roads and  
12 potential environmental disasters. In fact, truck  
13 transport related to Marcellus Shale development has  
14 had and will continue to have for years to come, a  
15 major impact on municipalities within the Commonwealth  
16 of Pennsylvania. The truck transport affects not only  
17 those municipalities hosting well sites, but also  
18 those that serve as an access route to the well  
19 drilling site. Truck traffic and the damages it  
20 inflicts on local roads is the number one concern for  
21 township officials affected by drilling in the  
22 Marcellus Shale region, and we have not even begun to  
23 see the impact from trucks needed for the pipeline  
24 operations.

25           Gas well drilling requires transporting

1 significantly overweight and oversized equipment and  
2 materials, including hundreds of water-filled tanker  
3 trucks for fracking, stone trucks for site  
4 development, pipe trucks for the actual drilling, and  
5 that doesn't even include, again, pipeline  
6 construction. Most of the drilling is taking place in  
7 mountainous and rural areas with access by way of low-  
8 volume roads. These roads were not designed to  
9 withstand the punishment from the overweight and  
10 oversized vehicles now frequenting them. In most  
11 cases, these rural roads, both local and state, are  
12 significantly damaged, if not destroyed, in the course  
13 of this well drilling.

14           When these roads are damaged, it is not  
15 simply surface damage, but instead, the very  
16 foundations of the road are damaged, and total  
17 reconstruction is frequently required. In many cases,  
18 gas well companies are working with the municipality  
19 as well as the state to promptly rebuild these damaged  
20 or completely destroyed roads. However, there are  
21 some reports that in some cases, non-state certified  
22 materials are being used, and it remains to be seen  
23 how these materials will wear.

24           PSATS encourages its members to post and  
25 bond its roads. Doing so ensures that the entity

1 damaging the roads pays for the damage, particularly  
2 if an excess maintenance agreement is used as the  
3 permit instrument. However, if the well driller or  
4 hauler fails to make repairs to the road, the township  
5 then must pull the bond, which is limited by state law  
6 to a maximum of \$12,500 per mile for a paved road.  
7 The cost to reconstruct a mile of road can easily  
8 approach \$100,000 or even more. While some haulers  
9 are more generous and have been working with the  
10 townships, residents can be left to foot a significant  
11 part of the cost to repair the damage.

12           While many haulers are now working with  
13 their communities to voluntarily provide additional  
14 funding for road repair, we urge the State Department  
15 of Transportation to increase that bonding amount to  
16 bring these figures into line with the current costs  
17 for road and bridge repair and reconstruction. It is  
18 worth noting that the drilling companies do have an  
19 incentive to work with the municipalities to rebuild  
20 roads at this time. They need the roads to be in good  
21 condition so that supplies can be delivered and  
22 drilling can continue. However, what will our roads  
23 look like in the future once drilling is complete and  
24 the companies no longer need our roads to be in good  
25 condition?

1            Pennsylvania is the only major fossil-  
2 fuel-producing state that does not levy a mineral  
3 extraction or severance tax. New York, which has had  
4 a moratorium on natural gas drilling permits due to  
5 concerns with the potential negative environmental  
6 consequences of the industry, has plans to levy a  
7 severance tax once the moratorium is lifted. New York  
8 is also currently working on regulations to reduce the  
9 impact of drilling on the environment and its  
10 transportation infrastructure. Many natural gas  
11 drilling companies currently working in Northern  
12 Pennsylvania have plans to move into New York as well  
13 once the moratorium is lifted.

14            House Bill 2443 would impose a severance  
15 tax of 25 cents per thousand cubic feet on producing  
16 gas wells, which will be placed then into a separate  
17 fund in the State Treasury, and after administrative  
18 expenses are deducted, 45 percent would be deposited  
19 into the State's General Fund, 20 percent would be  
20 placed into a Local Government Service Fund, and the  
21 rest would be deposited into a number of special state  
22 accounts.

23            While we're not experts on severance tax  
24 rates, we must ask whether 25 cents per thousand cubic  
25 feet of natural gas is sufficient. We understand that

1 this particular model was based on Louisiana.  
2 However, we feel that West Virginia might be a better  
3 model based on similarities in climate, topography and  
4 geology. It is worth noting that New York is  
5 considering a three-percent extraction tax when the  
6 moratorium on drilling permits is lifted, and that  
7 Texas imposes a 7.5-percent tax on the market value of  
8 oil and gas that has amounted to billions of dollars  
9 in the last several years.

10           Of the monies deposited into the Local  
11 Government Services Fund, 30 percent would be  
12 allocated to counties with severed wells, that's six  
13 percent of the total tax; 60 percent to the  
14 municipalities in counties with severed wells, that's  
15 12 percent; and ten percent then would go to the  
16 Pennsylvania Emergency Management Agency for  
17 distribution to volunteer fire and ambulance services  
18 in counties where natural gas is severed. That's two  
19 percent of the total tax. Although we support funding  
20 for emergency first responders in the affected  
21 counties, we contend that this funding should come out  
22 of the state's share of the tax.

23           Our primary concern with the bill is the  
24 manner in which the municipal share would be divided.  
25 Specifically, each municipality in each county where

1 at least one well is severed would receive one credit.  
2 Each host municipality would receive two credits per  
3 severed well.

4           Under this formula, host municipalities  
5 would receive a greatly reduced proportional share of  
6 the pie because of the need to share with all of the  
7 municipalities in the county. Take for instance a  
8 county with only one severed well. The host  
9 municipality would receive two credits while every  
10 other municipality in the county would receive one  
11 credit, regardless of their location or impact. If a  
12 county has 13 municipalities, then the host would  
13 receive two credits worth of funds while the remaining  
14 12 municipalities would each receive one credit each.  
15 And therefore, the non-host municipalities would  
16 receive as a group 6.5 times more funds than the host  
17 municipality that bears most of the impacts associated  
18 with that well. We believe this formula needs to be  
19 revisited to make sure that the affected  
20 municipalities are receiving a share of the funding  
21 that is proportional to the impact that they are  
22 experiencing.

23           In addition, each non-host municipality  
24 receives one credit regardless of whether 1 or 300  
25 wells are severed in that county. This is going to



1 greatly inflate the funds received by municipalities  
2 in the county with only 1 well, but will decrease what  
3 municipalities receive in a county with 300 wells.  
4 Instead, we contend that this allocation should be  
5 made on a county and not a statewide basis.

6           Because the severance tax is such a major  
7 issue for our members, we have actively worked with  
8 the County Commissioners Association of Pennsylvania  
9 to draft a severance tax proposal. We offer our  
10 distribution formula as an alternative to House Bill  
11 2443.

12           Our proposal would distribute nine  
13 percent of the total tax to host municipalities  
14 proportionately based on the number of severed wells  
15 statewide. In addition, five percent of that total  
16 tax would be allocated to municipalities that are  
17 located in a county in which at least one well has  
18 been severed, and this amount would first be divided  
19 proportionately by county based on the number of wells  
20 severed statewide, and then distributed to all of the  
21 municipalities in each respective county through the  
22 liquid fuels formula, which is 50 percent based on the  
23 population and 50 percent based on road miles. In  
24 addition then, eight percent would be allocated to  
25 counties on a pro rata basis determined by the number

1 of wells severed, and three percent of the total tax  
2 would be distributed to the county conservation  
3 districts, for a total local share of 25 percent of  
4 the total tax. While the local share in House Bill  
5 2443 is close to our proposal, our municipal  
6 distribution formula is very different from the bill.

7           In closing then, I'd just like to say  
8 that our association does support a severance tax as a  
9 means of easing future property tax burdens caused by  
10 the impacts of this industry, and we believe that this  
11 proposal is a step in the right direction. However,  
12 we also feel that changes need to be made to provide a  
13 fair means of distributing these funds to the affected  
14 municipalities. So with that, I want to thank you for  
15 the opportunity to come and comment on this issue  
16 today. It really is a very important issue to our  
17 members. Thank you.

18           CHAIRMAN:

19           Thank you.

20           MR. LANDON:

21           Mr. Chairman, members, my name is Ben  
22 Landon. I'm here representing the Lycoming-Sullivan  
23 Boroughs Association at the request of the  
24 Pennsylvania State Association of Boroughs. I'm also  
25 a borough councilman in South Williamsport and the

1 surrounding area.

2           And while we're certainly pleased to see  
3 the economic development that has accompanied  
4 Marcellus Shale and as we anticipate will accompany  
5 the development of the Marcellus Shale in this area,  
6 which is much needed in North Central Pennsylvania,  
7 we're also concerned of the demands that that  
8 development and the associated work will have on our  
9 infrastructure here.

10           While there's only a handful of statewide  
11 wells that are actually located in boroughs  
12 themselves, the infrastructure of boroughs,  
13 particularly water and roads at this stage, is  
14 definitely impacted in addition to potential  
15 environmental concerns that are associated with in  
16 particular the water, is a concern to our members.  
17 The Boroughs Association favors a severance tax, but  
18 we're very concerned that there be a fair allocation  
19 that takes into account the needs of the  
20 municipalities, not only those municipalities that are  
21 host municipalities, but the adjoining municipalities  
22 as well. The demands for services from local  
23 government extend well beyond the host municipalities  
24 themselves.

25           And we're concerned that any revenue

1 derived from the tax not be turned into a windfall to  
2 balance the state budget or to perhaps those host  
3 municipalities, but rather, that there be a fair  
4 allocation that takes into consideration the demands  
5 for services in municipalities that are not host  
6 municipalities. So the PSAB, our statewide  
7 organization, desires to work with the Legislature in  
8 coming to a fair allocation. And we hope that a  
9 proposal can be reached that fairly allocates not only  
10 to host municipalities, but also to other  
11 municipalities that are affected.

12                   With that said, I'd like to thank you.  
13 And I don't need to rehash the comments that were made  
14 by the other panelists here. So thank you very much  
15 for the opportunity to speak.

16                   CHAIRMAN:

17                   Thank you.

18                   REPRESENTATIVE MIRABITO:

19                   Thank you. I definitely have been an  
20 advocate for making sure that we give revenue back to  
21 the municipalities that are not host municipalities.  
22 But I think it's very important especially for host  
23 communities, because third-class places like  
24 Williamsport, South Williamsport, going to --- as the  
25 Chair and Rebecca Burke stated, it's going to have the

1 impact of DUI, the social services, all the issues  
2 that come with the social impact of changing  
3 populations. And I thank you for coming today and  
4 bringing that to our attention.

5 MS. BURKE:

6 Can I comment?

7 CHAIRMAN:

8 Yes. Go ahead.

9 MS. BURKE:

10 Something that also should be considered  
11 is the massive amount of state lands that are in our  
12 county that are currently not assessed. And they're  
13 suddenly becoming income-generating, that, you know,  
14 maybe pre-consideration could also be given from that  
15 perspective of those funds that we're losing, although  
16 we're funded just minimally through a payment with  
17 taxes from the state.

18 CHAIRMAN:

19 Just adding to that, Commissioner, wasn't  
20 it --- as I recall, when we passed the slots law,  
21 there was significant increase in the state funding  
22 available for the payment of taxes on state lands.

23 MS. BURKE:

24 I think significant is in the eyes of the  
25 beholder. Not that we're ungrateful.

1                   REPRESENTATIVE HANNA:

2                   My recollection is it doubled, so it was  
3 significant.

4                   CHAIRMAN:

5                   Look, I understand the perspective of  
6 both host and non-host municipalities, and I and my  
7 staff have been working for about a year now to try to  
8 get a consensus and try to get an agreement between,  
9 you know, the local government organizations that  
10 represent both host and non-host. And we will  
11 continue to try to work to try to bridge the  
12 differences. I just want to stress while you're all  
13 in front of me, we need to get this --- we need to get  
14 an agreement, because to the extent that there's going  
15 to be division amongst the ranks of the local  
16 government people, it's just another reason for the  
17 Legislature not to move the legislation. And that's  
18 not going to serve anybody's interests.

19                   So then I do want to thank you for your  
20 testimony, and also, you provoke a thought relative  
21 to, you know, anti-windfall provisions. It's  
22 triggered in my mind the recollection when we did the  
23 slots law. There is a provision in the law that  
24 gives, I believe, two percent to the host  
25 municipality, but there's a cap on --- I believe a

1 hard cap or at least a percentage cap on how much that  
2 host municipality can derive. And anything over that  
3 goes into a fund that is then distributed to non-host  
4 municipalities. And I'm specifically speaking of  
5 Washington County, part of my legislative district.

6           So I would examine that. That that may  
7 be a usable model just to try it out of craft a  
8 distribution formula that they can meet with  
9 acceptance between the townships and the boroughs and  
10 related cities and the County Commissioners  
11 Association as well. So we'll continue to work  
12 together, but I just want to stress the importance of  
13 all of us getting on the same page sooner rather than  
14 later.

15           MR. METEER:

16           Can I just add --- I had another thought  
17 here. We need to be very cautious. I hear some  
18 numbers being thrown around a bit what any of these  
19 bills can generate and the amount. We have to be very  
20 cautious about that because so many of those numbers  
21 represent a fully-developed Marcellus Shale program.  
22 And it's going to take a long time for us to fully  
23 develop in our shale development.

24           The numbers that are coming out right now  
25 are early in this whole development. And I think this

1 is where our concern comes of that in that oftentimes  
2 we have non-host municipalities that, as they expand  
3 into another county with their drilling activity, that  
4 first well would activate a return for everybody in  
5 the county. And in the meantime, those costs --- like  
6 in Bradford County, are seeing this really developing  
7 rapidly. I can't say it any other way except that we  
8 need funding. We really do. I can't stress how  
9 important this is for us. This is costing our  
10 municipalities, boroughs and townships alike a lot of  
11 money.

12 CHAIRMAN:

13 Yeah. And I don't disagree with that. I  
14 see the impacts and I know the impacts are obviously  
15 --- you know, most obvious in those communities where  
16 the drilling is going on. But there's also impact,  
17 both primary and secondary, to non-host  
18 municipalities, too. So you know, you've spurred some  
19 more thoughts in my mind in the anti-windfall  
20 provision or a partial formula that distributes the  
21 first amount and then a trigger mechanism, you know,  
22 once a certain threshold. We'll keep working to try  
23 to get a consensus.

24 But again, I just want to stress to you  
25 all that we need to get everybody on the same page.



1 You know, the sad thing, a struggle and an ordeal ---  
2 and we hung in there. But we do need to get --- at  
3 the end of the day --- and don't forget, too, part of  
4 this is going to be --- I mean, there is some  
5 uncertainty about all of this; right? I mean, there's  
6 a certainty as to how much. I mean, there's no doubt  
7 that this industry is here to stay and the drilling is  
8 going to just grow significantly and get ramped up.

9           So that being the case, there's going to  
10 be a significant opportunity here, and we just need to  
11 make sure that all of this is done in a way that it  
12 takes care of the necessary impacts to our  
13 communities. I'm convinced there's going to be  
14 significant enough revenue to do that. So let's hope  
15 that sooner rather than later we can get all on the  
16 same page and get into agreement; okay? Yes, ma'am?

17           MS. BURKE:

18           Chairman, I think that that's the  
19 advantage of House Bill 10 where if it was restored to  
20 assessability, that's a program that counties can  
21 implement rather quickly and that certainly benefits a  
22 necessity. I noticed when Mr. Bogle was speaking  
23 there was a mention about tourism. And I would be  
24 remiss if I did not bring it to the attention of the  
25 Finance Committee that in this area as well as the

1 Poconos, a greater impact to tourism in a negative  
2 fashion will be the recent reduction in the Black Fly  
3 Suppression Program. One calendar year without that  
4 program could absolutely kill our tourism. And again,  
5 I know it's not about severance, but an opportunity  
6 presents itself to mention that. Because once people  
7 come and meet the black flies, they won't come back.

8 CHAIRMAN:

9 I noticed a significant reduction to the  
10 gypsy moth program. Now, Mother Nature has been very  
11 helpful in terms of the bacteria that were triggered  
12 by the wet spring last year, so the moth populations  
13 have declined substantially. But that's another area  
14 that we can work on as well. I understand you. Thank  
15 you. We appreciate your testimony and your insight,  
16 and let's keep working together to get this consensus  
17 signed off by everybody. Thank you again.

18 Finally, I note a gentleman I wanted to  
19 add late, Mr. Dan Alters. He's with the Lycoming  
20 Audubon Society. He has some testimony he'd like to  
21 offer. Mr. Alters. And then after Mr. Alters, if  
22 there's anybody from the public that has any comment  
23 or question or anything else they would like to offer,  
24 we'll have an open mic even though we don't have a  
25 microphone.

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MR. ALTERS:

Chairman Levdansky, Representative Mirabito and Representative Hanna, it's a pleasure to represent the Lycoming Audubon Society here today. Our presentation will be regarding the Natural Gas Severance Tax Act. My name is Dan Alters, A-L-T-E-R-S. It's not on the agenda. I do like to represent Lycoming Audubon. We thank you for the opportunity to present our testimony in support of that Natural Gas Severance Tax Act. The Lycoming Audubon Society is a 501(c) free non-profit organization, a chapter of the National Audubon Society representing 350 members in Lycoming and Clinton Counties.

Audubon's mission is to conserve and restore natural ecosystems, focusing on birds, other wildlife and their habitats for the benefit of humanity and the earth's biological diversity. We believe that by doing so, we can make our environment healthy for humans as well. We all enjoy the tremendous recreational opportunities of North Central Pennsylvania and believe that a severance tax is appropriate for the Marcellus Shale gas production.

We have seen firsthand the inadequate response of our regulatory agencies that are

1 understaffed, under-trained, poorly led at team  
2 management or executive levels, and lacking sufficient  
3 regulatory authority needed to meet the environmental  
4 challenges created by the Marcellus Shale gas  
5 industry. We have driven on the roads destroyed by  
6 the many heavy vehicles utilized by that industry. We  
7 worry about the birds and other wildlife habitat lost,  
8 resulting in fragmentation of our forests by the many  
9 thousands of wells, pipelines and access roads that  
10 will be needed to develop this gas field. We worry  
11 also about the leakage of hydro-fracturing fluids and  
12 brines from poorly-operated well sites or  
13 inadequately-cased wells that defile our water  
14 supplies and destroy our trout streams. And we have  
15 read newspapers' accounts of polluted domestic wells  
16 and numerous spills and leaks.

17           We understand Pennsylvania is the only  
18 gas-rich state that does not impose a severance tax,  
19 although the cost of gas to most of Pennsylvania's  
20 consumers already includes the cost of severance taxes  
21 levied by other states. So when we pay a natural gas  
22 bill, some of that tax money is going to these other  
23 states that levy these severance taxes. In other  
24 words, Pennsylvania taxpayers have been directly  
25 paying part of the industry's taxes to other states.

1 We don't think this makes any sense at all.

2           The Marcellus Shale gas industry imposes  
3 new costs on the Commonwealth and its communities  
4 through regular demands on environmental regulators,  
5 wear and tear on roads, bridges and other  
6 infrastructure, greater demands on municipal police  
7 and emergency services, school systems and who knows  
8 what else. We believe this proposed tax will provide  
9 some of the funding necessary to protect and restore  
10 what we have enjoyed for so many years.

11           We strongly support this proposed  
12 legislation and believe it is a fair and equitable  
13 means to allow development of the Marcellus Shale gas  
14 field, to provide some additional level of protection  
15 to the environment, to restore the county and  
16 municipal infrastructure and services that may be  
17 impacted by gas development, and to augment the  
18 State's General Fund. While others may have some  
19 varying opinions regarding the distribution of funds  
20 generated by this Act, we believe the proposed  
21 distributions are reasonable.

22           We are encouraged that the Environmental  
23 Stewardship Fund, HASCA (phonetic), the county  
24 conservation districts, the Pennsylvania Game  
25 Commission and the Pennsylvania Fish and Boat

1 Commission have been sufficiently included in the  
2 funds distributed pursuant to this Act, and that  
3 significant funds have been additionally allocated to  
4 only those county and municipal governments that host  
5 gas production wells.

6           We are disappointed, however, that some  
7 level of funding has not been allocated for the  
8 Department of Environmental Protection, the primary  
9 agency mandated to protect our land, air and water by  
10 thoroughly regulating the gas industry, an agency that  
11 has previously suffered huge budget cuts in far  
12 greater proportion than other state agencies. We  
13 believe DEP has not been properly supported in its  
14 regulation of the Marcellus Shale industry.

15           Thank you again for the opportunity to  
16 make this presentation.

17           CHAIRMAN:

18           Dan, thank you very much. Your last  
19 suggestion, I thought you had it perfect there for a  
20 second. The concern that --- the significant budget  
21 cuts, the understaffed, I understand that. I also  
22 increasingly feel uncomfortable about funding the Oil  
23 and Gas Bureau within the DEP by a fee levied on  
24 permit applications. But right now that's how the Oil  
25 and Gas Bureau is largely funded. It's by fees that

1 the industry paid on permits --- on the drilling  
2 permits. It kind of always requires --- the Oil and  
3 Gas Bureau needs more revenues. This requires that  
4 they'd have to approve more permits. And I just am  
5 increasingly concerned about tying those two together.

6           Your suggestion that maybe some ought to  
7 be allocated to DEP or enforcement of permitting  
8 activities I think is a good one, and I think we can  
9 remedy that really simple by the fact that the state  
10 has 45 percent under my distribution formula. Maybe  
11 we can dedicate a portion of that to DEP for, you  
12 know, adequate enforcement and staffing levels,  
13 thereby freeing at least the foreseen, I don't know if  
14 it's a conflict of interest, but dependency that the  
15 Oil and Gas Bureau people would have. You know, I'm  
16 concerned that connecting their budget to the fees  
17 paid for permits --- I feel uncomfortable about that,  
18 and I think more and more that maybe allocating some  
19 of the revenue from the severance might be the right  
20 way to go to ensure their independent review of permit  
21 applications. Okay. Representative Mirabito?

22                           REPRESENTATIVE MIRABITO:

23           When you raised that, I think of here in  
24 Williamsport where you have financial problems and  
25 they raised the fees on building permits. You know,

1 if I want to build a building, it's costing me more  
2 money than it used to to get a permit. To me as a  
3 business person, I think there are a lot of issues of  
4 equity and fairness between businesses with the  
5 severance fee and with the whole gas exploration. In  
6 other words, some of them mentioned before about other  
7 businesses and how they are treated.

8           And I think what we ran into --- Chairman  
9 Levdansky and I understand your concern, but I think  
10 what you raised is this is something that we should  
11 look at. Because I think it's important to our other  
12 businesses in Pennsylvania, especially businesses that  
13 are bricks and mortar businesses that are in our  
14 communities for many, many years, to be fair to them  
15 also. And part of the fairness in those businesses is  
16 to be sure that we don't put a tax burden on working  
17 families and on small businesses and even on  
18 manufacturers that we don't assess fairly across the  
19 board. So maybe we need to look at these permits.

20           MR. ALTERS:

21           DEP does run the Black Fly Program.

22           CHAIRMAN:

23           Thank you very much. Any other people?

24 Sir?

25           MR. KISBERG:



1           Sure. My name is Ralph Kisberg and I'm  
2 with the Responsible Drilling Alliance in  
3 Williamsport. And just to add to what Mr. Alters  
4 says, this state produces a large number of students  
5 every year with environmental science degrees. And if  
6 we had funding for more DEP jobs, perhaps we could put  
7 people onsite 24/7. I mean, this is a real job  
8 creation project that we could do out of funds if we  
9 could dedicate some to that. We can't breach  
10 petroleum geologists and majors that we don't have in  
11 this state yet. We're going to have to send kids to  
12 the University of Oklahoma or Texas A&M for six or  
13 eight years to get what we need, the really good jobs  
14 in this industry here. So until Penn State can get up  
15 to speed, I mean, this is another thing that we can do  
16 and really produce jobs.

17           The other thing is I've seen the argument  
18 --- maybe you can address this. This is in Congress  
19 and I've heard Mr. Mirabito talk about this very well.  
20 Some people think that the addition of a severance tax  
21 would add to the consumer price of gas. And I think  
22 as a commodity, that isn't true; right? The taxes ---  
23 can you explain that a little bit?

24           CHAIRMAN:

25           Yeah. Typically what would happen and

1 how this would work, you implement at the wellhead,  
2 the driller. Okay. The driller then builds the cost  
3 --- builds the tax into his price that he negotiates  
4 with the major pipelines. The major pipelines then  
5 include it in the price that they negotiate with the  
6 distribution network. And most of this gas is likely  
7 going to end up in the distribution network outside of  
8 Pennsylvania. Some of it will be used here, but a lot  
9 of it will be used to power the whole northeast. So  
10 then the distribution network will build it into the  
11 price that they charge the end user, the customer,  
12 homeowner, business, industry, what have you. That's  
13 ultimately how it would flow.

14           If you do it early enough in the process,  
15 then the driller would build it into the price they  
16 charge the pipeline that builds into the price they  
17 negotiate with the distribution network that builds  
18 into the price they charge the consumer. But if you  
19 wait until all these contractual arrangements get put  
20 in place and then you impose the tax, then it, in  
21 essence, is a five percent tax on the profit margin,  
22 okay, of the drillers.

23           They can't pass that cost on once those  
24 contracts are in place, which is, in my judgment ---  
25 you know, businesses always take the position they

1 don't want to see any taxes. What they don't like is  
2 cost uncertainty. If they know what their labor costs  
3 are, they know what their supplier costs are, they  
4 know what their acquisition of land costs are, they  
5 know those costs and they build them into the price  
6 they charge for their product or their service. What  
7 they don't like is uncertainty. So that's why I think  
8 it's important that we put a severance tax in place  
9 kind of like the way I have outlined, because it gives  
10 the business community certainty of what that cost is  
11 going to be. If you do it early enough, then it can  
12 be built into the pricing system.

13                   And understand this as well. Our gas  
14 from Pennsylvania, whether it's sold here in  
15 Pennsylvania or in the northeast corridor, already has  
16 a significant cost advantage over the gas from  
17 Louisiana, Texas, Oklahoma, Arkansas, Wyoming, because  
18 40 percent of the cost of gas is in transportation.  
19 Well, they're pumping that gas from down there up  
20 here, 1,200, 1,400 miles versus our gas that will be  
21 used to be pumped either here to Pennsylvania or to  
22 the eastern seaboard, you know, anywhere from 2 miles  
23 to maybe 300 miles. So we have a significant  
24 advantage in our transportation cost advantage alone,  
25 not to mention the fact that hardly any of these

1 companies pay the Corporate Net Income Tax. They pay  
2 3.07. Okay. As well as some of these other  
3 advantages. So I don't know if I've answered your  
4 question.

5 MR. KISBERG:

6 Yeah, I think so. I mean, I was  
7 concerned more about the commodity price at the  
8 wellhead that is set in the market, and does it really  
9 reflect what Pennsylvania does?

10 CHAIRMAN:

11 Yeah. I mean, our gas will --- I mean,  
12 the gas that's drilled in Pennsylvania will affect  
13 those commodity markets as well. Ours will get more  
14 significant as we have more and more drilling that  
15 takes place; okay?

16 MR. KISBERG:

17 The other point I guess I wanted to ask  
18 you about, if you are a corporation setting up a  
19 business model to come into a state, you expect to pay  
20 a severance tax. Every other state charges it; right?

21 CHAIRMAN:

22 Number one.

23 MR. KISBERG:

24 Right. So they know we're going to have  
25 one eventually. So we're essentially giving this away

1 at this point.

2 CHAIRMAN:

3 Right. So as long as the cost to do  
4 business is relatively equal, be it your labor cost,  
5 your supplier cost, your acquisition costs, you know,  
6 or your tax costs, as long as they're comparable to  
7 other states, then the severance tax will not impede  
8 investments; okay?

9 MR. KISBERG:

10 Okay. Thank you.

11 CHAIRMAN:

12 Sir, do you have a point? Just for the  
13 record, can you make sure you identify yourself?

14 MR. OCHS:

15 Sure. I'm Michael Ochs, O-C-H-S, of the  
16 Green Party of Pennsylvania. Our website is  
17 gpofpa.org. You know, this whole issue is a natural  
18 for the Green Party. Our first principle is  
19 ecological wisdom and grassroots democracy and local  
20 --- you know, personal and social responsibility and  
21 so forth. Our ten key values are on the website. It  
22 would be helpful if sometimes we would be invited to  
23 the table to speak. We recognize April 22nd, the 40th  
24 anniversary of Earth Day, vigils at the several state  
25 Department of Environmental Protection sites and

1 calling for a moratorium. I understand the State  
2 House has supported a moratorium for further drilling  
3 on state land.

4           It would've been helpful to hear  
5 representatives from the county and the boroughs and  
6 the townships today as to whether or not they would  
7 also support a moratorium. It seems to me that these  
8 giant multinational corporations entering into the  
9 state over the last five years, according to John  
10 Hanger, has caught us unawares, and we're sort of  
11 having to play catch-up and having to absorb a lot of  
12 the impacts and the ramifications of what they're  
13 doing. So I would encourage you to invite not just  
14 Democrats and Republicans to your table, but also  
15 Greens.

16           The other thing I wanted to point out,  
17 although I'm not an opponent of PennFuture, I think  
18 it's helpful to realize what they have said in  
19 Pennsylvania Business Central newspaper of April 23rd,  
20 2010 regarding the assertions of newspaper editorial  
21 boards and Chamber of Commerce groups, that they claim  
22 that corporations already pay way too much tax,  
23 that they have to pay this state's awful Corporate Net  
24 Income Tax, and adding a new tax would kill their  
25 ability to create jobs. But PennFuture says, not so

1 fast. The multinational energy companies rushing to  
2 the drill aren't dumb, and they can legally avoid the  
3 Corporate Net Income Tax by simply choosing a  
4 particular corporate structure, a limited liability  
5 corporation, and incorporating in the State of  
6 Delaware, a tax avoidance move known as the Delaware  
7 Loophole.

8           In fact, 71 percent of companies doing  
9 business in Pennsylvania paid zero Corporate Net  
10 Income Tax, nada, last year. And the 79 percent of  
11 the remaining companies paid less than \$10,000 each.  
12 So our current corporate tax scheme in no way can be  
13 described as job crushing, as the multinational  
14 behemoths allege. And, you know, without an  
15 extraction tax, the drillers get to take all the  
16 profits while the communities and the environment are  
17 left holding the bag, et cetera, et cetera, et cetera.  
18 Thank you.

19                   CHAIRMAN:

20           Mr. Ochs, you can give your information  
21 to my staff person, Mark Foreman, who will make sure  
22 you're on my mailing list. Anybody else? Anything  
23 else for the good of the order? Ma'am?

24                   MS. BIERMAN:

25           Marguerite Bierman, local citizen,

1 B-I-E-R-M-A-N.

2 COURT REPORTER:

3 Ma'am, come up here because I can't hear  
4 you.

5 MS. BIERMAN:

6 Okay.

7 COURT REPORTER:

8 Your name again?

9 MS. BIERMAN:

10 Marguerite Bierman, B-I-E-R-M-A-N. And I  
11 support the severance tax. And I'm concerned a little  
12 bit about the fragmentation of our forests and how  
13 we've had the tremendous resource with black cherry.  
14 Pennsylvania, that's one of their main products. With  
15 the fragmentation of forests, I think there's a huge  
16 impact also on deep forest birds like the scarlet  
17 tanager and the wood thrush that need a habitat that  
18 is reclusive. And I think that would impact the  
19 people that like to come to Pennsylvania for those  
20 wild resources. I think it will definitely impact as  
21 we tie all the wells together.

22 And I appreciate that the funding will  
23 support maybe working with the Fish and Game or  
24 whoever concerning the placement of the lines as  
25 they're interconnected. I think that's really



1 important so that that's a concern with how it affects  
2 the streams, because gas is here. I just think it has  
3 to be regulated in a manner that will check their  
4 water.

5 CHAIRMAN:

6 Thank you. One final thing. Since I'm  
7 Chairman, I get the last word. I just want to thank  
8 all the participants today that are here and that have  
9 left, for your testimony and your input. I didn't  
10 show you, but I've taken a lot of notes. I guess the  
11 reason why we do public hearings, frankly, is because  
12 we do get meaningful public input and ideas to make  
13 the legislation that we draft even better. And so no  
14 matter what your perspective is, I just want you to  
15 know that I value everybody's input because it really  
16 is important in the legislative process that we get  
17 feedback from that public.

18 And sometimes those of us involved in  
19 policy with our staff, we can get so immersed in  
20 details. And I don't forget that not only is power  
21 derived from the electorate, but a lot of the  
22 significant --- your opinions are important, I guess,  
23 is what I'm saying. So the input has been very  
24 helpful. I've got several good ideas, I think, out of  
25 your testimony today. And we're now going to move on.

1 We're got to head over to Susquehanna County because  
2 we have a hearing there tomorrow morning to continue  
3 to get input from citizens and stakeholder groups from  
4 across Pennsylvania. So again, thank you.

5 I want to thank my colleagues. I want to  
6 thank the ideas and the thoughts of Representative  
7 Mirabito. I've gotten to know him just in a year and  
8 three or four months, and he's a really good member of  
9 my Finance Committee. Rick is very analytical and has  
10 a very keen and intelligent mind and brings a lot of  
11 issues above and beyond this severance tax issue.

12 And my good friend, Mike Hanna, next  
13 door, who, like myself, is a little bit of a veteran  
14 of the legislative process --- he chairs the Ag  
15 Committee. I chair, obviously, the Finance. Ed  
16 Staback chairs the Game and Fish Committee and Bud  
17 George chairs the Conservation Committee. So in the  
18 House you've got four chairmen --- in addition to  
19 everybody up here, you've got four chairmen in the  
20 House that are really, really concerned about this  
21 issue, not just the severance tax issue, but the issue  
22 of supporting the moratorium and saving our state  
23 forests from more degradation as well. So Mike, thank  
24 you for your help as well, and continue to work  
25 together to protect Pennsylvania's environment; okay?

1 Thank you much.

2

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HEARING CONCLUDED AT 4:30 P.M.

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CERTIFICATE

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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.

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*Rhonda K. Therpe*  
Court Reporter

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