

SENATOR GENE YAW

MARCELLUS SHALE PROPOSED NATURAL GAS LEGISLATION

Natural Gas Summit
State College, Pennsylvania
November 16, 2009

United States Energy Consumption

▣ US Energy Consumption by Energy Source for 2008:

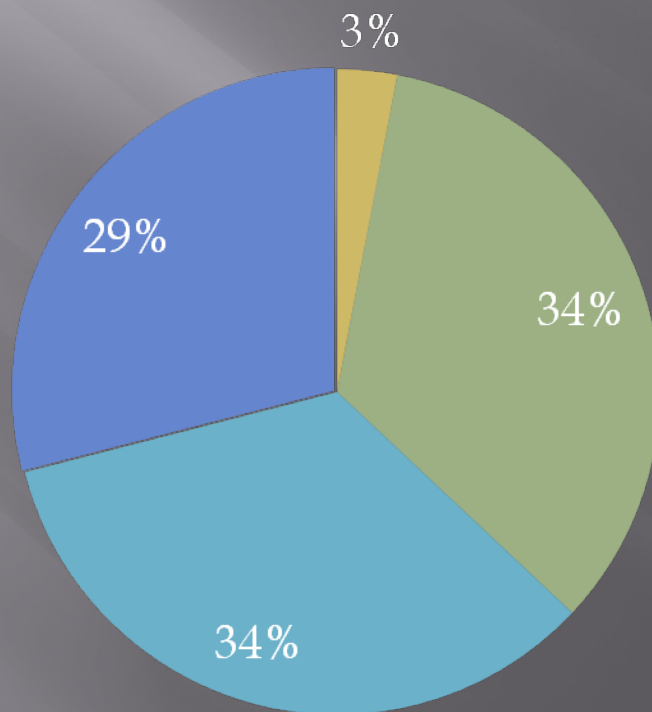
1.	Petroleum	37%
2.	<u>NATURAL GAS</u>	<u>24%</u>
3.	Coal	23%
4.	Nuclear Electric Power	9%
5.	Renewable Energy	7%



Demand Sectors

Natural Gas Consumption by Sector

■ Transportation ■ Industrial ■ Residential ■ Electric Power



BUDGET

- ❖ The development of the Marcellus Shale was a hot topic of discussion during the budget process.
- ❖ Ideas such as leasing DCNR land for natural gas development to the prospect of imposing a severance tax on production were discussed.
- ❖ The following bills are the budget Acts which deal with Marcellus Shale:

ACT 50 (HB 1614)

- ❖ An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, providing for the leasing of DCNR land to be used for oil and gas leasing.
- ❖ In fiscal year 2009-2010,\$60 million is to be transferred to the General Fund.
 - ❖ Budget also transferred \$143 million from the Sept. '08 lease sale
- ❖ On an annual basis, \$50 million of royalties deposited into the Fund will be transferred to the Department of Conservation and Natural Resources to be used in the same fashion as the Department currently uses money in the Fund, except that the Department will be required to give preference to the operation and maintenance of State parks and forests.
- ❖ The use of all other royalties deposited into the Fund will be subject to appropriation by the General Assembly.



DCNR Plan

November 9th, 2009

- ❖ DCNR will open six tracts of land for leasing
 - ❖ 31,967 acres of state-owned forest land in Elk, Moshannon, Sproul, Susquehannock and Tioga state forests.
 - ❖ Residents living in Cameron, Clearfield, Clinton, Potter and Tioga counties could see potential drilling in the near future.
- ❖ Minimum bids of \$2,000/acre and a royalty of 18%
- ❖ Primary lease term is 10 years
 - ❖ Unless extended because of production.

ACT 48 (HB 1531)

- ❖ An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in sales and use tax, further providing for the elimination of the imposition of a severance tax
- ❖ Previous Printer's Numbers had wording to enact a severance tax on natural gas production.
- ❖ Senate's amendments stripped this language from the bill

SENATE LEGISLATION



Senate Bill 297

Senator Yaw

- ❖ Amends the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act.
- ❖ Requires Marcellus Shale well operators to submit semi-annual reports.
- ❖ Repeals 5 year confidentiality.
- ❖ Requires DEP to post Marcellus Shale well data online
- ❖ *House Appropriations Committee*

Senate Bill 298

Senator Yaw

- ❖ Amends Clean and Green law to provide uniformity across state on preferential tax assessments.
- ❖ Applies roll-back taxes only on developed tract. Also applicable to alternative energy (i.e. wind) projects
- ❖ *Senate Appropriations Committee*

Senate Bill 777

Senator McIlhinney

- ❖ Amends act of May 1, 1984 (P.L. 206, No.43), Known as the PA Safe Drinking Water Act.
- ❖ Defines a “critical zone” for surface water intakes as the area that extends from one-quarter mile downstream of a drinking water intake for a community water system to 25 miles upstream from the intake, including an area one-quarter mile upland from the bank of the surface water body.
- ❖ DEP will not issue a permit or approval for any facility, discharge or other activity within a critical zone unless the applicant demonstrates that the facility, discharge or other activity will not degrade the existing water quality of the critical zone.
- ❖ Any facility which requires a permit and degrades the water quality of a critical zone is declared to be unlawful and a nuisance, abatable in law or equity, by DEP, the district attorney of any county or the solicitor of any municipality affected, or by a citizen.
- ❖ *Senate Environmental Resources and Energy Committee*

Senate Bill 1092

Senator Kasunic

- ❖ Amends the act of December 19, 1984 (P.L. 1140, No. 223), known as the Oil and Gas Act.
- ❖ Requires operator to provide cement-quality log to DEP to evaluate adequacy of cement used to protect underground drinking water.
- ❖ *Senate Environmental Resources and Energy Committee*

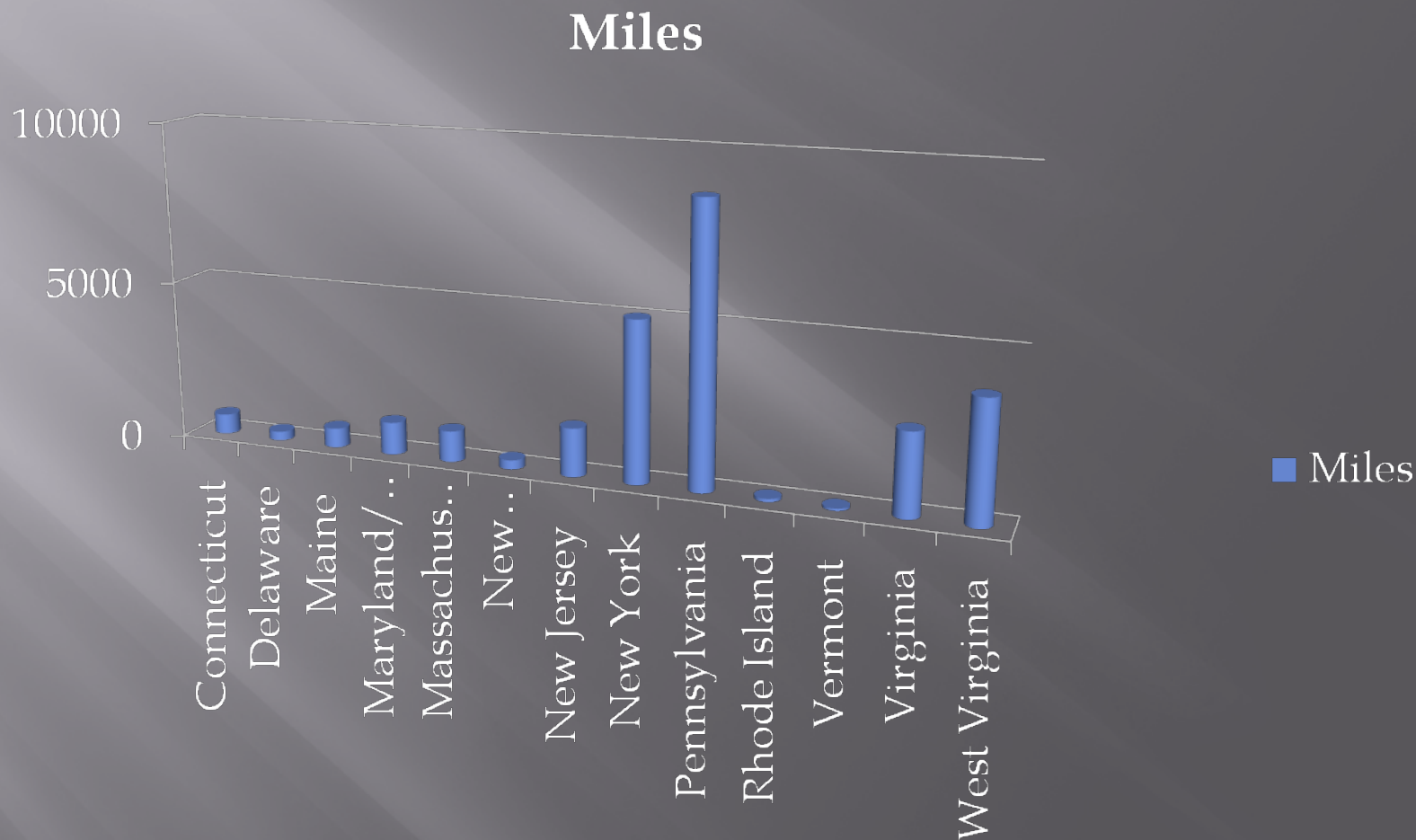
Senate Bill 1045

Senator Dinniman

- ❖ Authorizing the Commonwealth of Pennsylvania to join the Mid-Atlantic Area Natural Gas Corridor Compact.
- ❖ Establishes the Mid-Atlantic Area States Council
 - ❖ Develop, negotiate and promulgate rules and regulations
 - ❖ Establish a regional process to govern the designation of a distribution corridor and approval, location and construction of cross-borders natural gas pipelines.
- ❖ *Senate Environmental Resources and Energy Committee*

Natural Gas Pipeline Mileage

Close of 2008



HOUSE of REPRESENTATIVES LEGISLATION



House Bill 10

Representative DeWeese

- ❖ Amends the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law.
- ❖ Enables counties to assess value to coal, minerals natural gas, methane gas and oil.
- ❖ *House Finance Committee*

House Bill 297

Representative Longetti

- ❖ Amends Title 75 (Vehicles)
- ❖ PennDot will publish a revised schedule of bonding amounts based on increased or decreased maintenance costs by 1/1/2011, and at least every three years after.
- ❖ By 1/1/2011, PennDot regulations will reflect a rebuttable presumption in favor of the municipality and against the over-posted-weight permittee for damage sustained to posted highways used by such permittee.
- ❖ *House Transportation Committee*

House Bill 473

Representative Hanna

- ❖ Amends the act of December 19, 1984 (P.L.1140, No. 223), known as the Oil and Gas Act.
- ❖ Establishing process for landowner to recover damages they believe a well operator caused.
- ❖ If the parties are unable to agree within 6 months of the date of notice as to the cause of the damage or the reasonable costs of compensation, the surface landowner may file a claim in writing with DEP within two years of the date of damage.
- ❖ DEP shall investigate within 60 days and should they find the drilling to be at fault, they will issue a written order to direct the operator to repair within six months.
- ❖ If the operator fails to act or appeal, DEP would be able to issue a cessation order or a permit revocation.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 623

Representative Rohrer

- ❖ Amends the act of December 15, 1955 (P.L.865, No.256)
- ❖ In the Oil and Gas Lease Fund, any rent and royalties collected in addition to the base royalty shall be distributed annually as follows:
 - ❖ 80% to Property Tax Relief Fund
 - ❖ 20% to Oil and Gas Lease Fund
- ❖ *House Environmental Resources and Energy Committee*

House Bill 625

Representative Causer

- ❖ Amends the act of May 17, 1929 (P.L.1798, No.591), referred to as the Forest Reserves Municipal Financial Relief Law
- ❖ 10% of all revenues received by a State agency, except PGC and PA Fish and Boat Commission, through the sale of gas and oil, ground rentals and royalties shall, within 30 days of receipt of the revenue, be paid to the treasurer of the county where the land from which the revenue is generated.
- ❖ Within 90 days of receiving the revenue, the county treasurer will disburse:
 - ❖ 40% of the revenue to the school district;
 - ❖ 30% to the municipality in which the revenue was generated; and
 - ❖ shall retain the remaining 30% for the benefit of the county.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 808

Representative Quinn

- ❖ Amends the act of December 19, 1984 (P.L. 1140, No.223), known as the Oil and Gas Act.
- ❖ Doubles current well bonding requirements.
 - ❖ \$2,500 to \$5,000
- ❖ Blanket bond
 - ❖ \$25,000 to \$50,000
- ❖ Cost of plugging abandoned wells will be covered by an increase in the permit fee with a \$100 surcharge instead of \$50.
- ❖ Creates a restricted revenue account known as the Orphan Well Plugging Fund.
 - ❖ Permit fee increase for new wells from \$100 to \$200 for wells to be drilled for oil production and \$200 to \$400 for gas production.
 - ❖ If an operator rehabilitates a well abandoned by another operator, the permit fee and surcharge for such well would be waived
- ❖ *House Environmental Resources and Energy Committee*

House Bill 834

Representative Hutchinson

- ❖ Amends the act of June 28, 1995 (P.L.89, No. 18), known as the Conservation and Natural Resources Act.
- ❖ DCNR will hold a competitive public auction to lease state forest land for exploration and development of natural gas reserves owned by the Commonwealth whenever two or more bidders nominate overlapping state forest land for acreage or lease.
 - ❖ Public Auction would begin within six months of the second nomination.
- ❖ DCNR will grant rights-of-way as needed to facilitate the gathering and delivery to market of natural gas produced from state forest lands and state parks or from adjacent public or private lands.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 934

Representative Wansacz

- ❖ Amends the act of December 19, 1984 (P.L. 1140, No.223), known as the Oil and Gas Act.
- ❖ Requires secured meters to be installed at each well site. The meter shall:
 - ❖ Display volume; and
 - ❖ Include an overlaying locked box to prevent the meter's being read without an access device;
- ❖ Owners may request a meter reading and the operator would have to provide the owner with access to the meter for the purpose of conducting a meter reading within ten days of the request.
 - ❖ No more than one request during a six-month period.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 977

Representative Major

- ❖ Amends the act of July 25, 1961 (P.L. 825, No. 359), known as the Oil and Gas Conservation Law.
- ❖ Amends Oil and Gas Conservation Law to expand the act to include Marcellus Shale.
- ❖ Effectively creates forced pooling or unitization
 - ❖ Similar to New York
- ❖ Requires the operator to demonstrate and assure on the same form required by Act 223 of 1984, that any anticipated horizontal drilling of any well that penetrates the Marcellus shale or deeper horizons will not be conducted under or through any land where an oil and gas lease does not exist between a landowner and an operator.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 1128

Representative Preston

- ❖ Amends Title 66 (Public Utility Code)
- ❖ Increases civil penalty from \$10,000 per day to \$100,000 per day for each violation associated with gas pipeline or gas conduit facilities safety violations.
- ❖ Maximum penalty would not exceed \$1,000,000 for any related series of violations
 - ❖ Current maximum penalty is \$50,000
- ❖ *Senate Consumer Protection and Professional Licensure*

House Bill 1139

Representative Solobay

- ❖ Amends the act of December 18, 1984 (P.L.1069, No. 214), known as the Coal and Gas Resource Coordination Act.
- ❖ The department will grant an exception from the minimum 1,000 feet distance requirement, where the permit applicant and the owner of the workable coal seam consent in writing.
- ❖ The department, upon request of the permit applicant or the owner of the workable coal seam, grant an exception to the requirements where the vertical distance between the producing formation of the proposed gas well and the producing formation of any other well is 1,000 feet or greater, where the permit applicant and the owner consent in writing.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 1155

Representative George

- ❖ Requiring surface use agreements between operator and landowner prior to drilling.
 - ❖ Where mineral rights have been severed
- ❖ Gives landowner effective veto to stop development.
- ❖ *House Appropriations Committee*

House Bill 1205

Representative Pickett

- ❖ Amends the act of December 19, 1984 (P.L.1140, No. 223), known as the Oil and Gas Act.
- ❖ Extends a well operator's responsibility for the pollution of a water supply from 1,000 feet to 2,000 feet from the well.
- ❖ Extends liability (rebuttable presumption) of a well operator that they caused pollution of a water well from 6 months to 24 months.
- ❖ 30 days prior to commencing of a drilling operation, the well operator is required to survey, sample and analyze the quality and quantity of water from any water source within a distance of 2,000 feet.
 - ❖ Same survey, sample and analysis is to be done within 24 months of the completion of drilling activities
 - ❖ No more than once in a 12-month period.
 - ❖ Tests will be done for water consumption by humans, domestic animals or other general use.
- ❖ *House Appropriations Committee*

House Bill 1436

Representative White

- ❖ Mineral rights in real property shall be deemed abandoned after a period of ten years of nonuse of the mineral rights by a subsurface owner, unless the subsurface owner shall, within three years of the effective date of this section or ten years from the nonuse, whichever is later, record a claim of interest that must be filed in the office of recorder of deeds in the county where the real property is situate.
- ❖ After a the ten-year period expires, the mineral interests would be deemed abandoned if, during the ten-year period, there has been nonuse or no sales agreement, lease, mortgage or transfer of the mineral rights has been recorded in the office of recorder of deeds.
- ❖ Mineral rights of a subsurface owner may be preserved indefinitely from abandonment under this act by filing claims of interest evidencing use of the mineral rights within each ten-year period.
- ❖ *House Environmental Resources and Energy Committee*

House Bill 2015

Representative Hutchinson

- ❖ Amends the act of December 15, 1955 (P.L.865, No.256)
- ❖ All rents and royalties from oil and gas leases of any land owned by an independent agency will be placed in a special fund which will be exclusively used for any purpose authorized by law for such independent agency and the moneys of such fund will be appropriated to such independent agency for such purpose.
- ❖ Also, the bill allows for the Governor to determine whether moneys paid into the “Oil and Gas Lease Fund” are from lands used or occupied by an agency under the jurisdiction of the Governor, other than DCNR, and such moneys shall be used by that agency to carry out the purposes of any law that provides for the power and duties or any program administered by the agency and such moneys are hereby appropriated to the agency.
- ❖ *House Environmental Resources and Energy Committee*

SEVERANCE, PERSONAL AND CORPORATE NET INCOME TAX

What is a severance tax?

- ❖ A tax imposed on the removal of nonrenewable, and in this case, natural gas.
- ❖ The tax is charged to producers, or anyone with a working or royalty interest.

What is a personal income tax?

- ❖ An **income tax** is a tax levied on the income of individuals or businesses

What is a Corporate Net Income tax?

- ❖ Corporate Net Income tax refers to a tax levied on the profits made by companies or associations that call home to the Commonwealth.
- ❖ It is a tax on the value of the corporation's profits.

Severance, Personal, and CNI Tax in surrounding States and PA

Surrounding States

- ❖ Ohio
 - ❖ CNI- .26%
 - ❖ PIT- .587%(min)-
5.925%(max)
 - ❖ SEV- \$.025/MCF
- ❖ West Virginia
 - ❖ CNI- 8.5%
 - ❖ PIT- 3%(min)- 6.5%(max)
 - ❖ SEV- 5%
- ❖ New York
 - ❖ CNI- 7.1%
 - ❖ PIT- 4% (min)- 8.9%(max)
 - ❖ SEV 0%

Pennsylvania

- ❖ Pennsylvania
 - ❖ CNI- 9.99%
 - ❖ PIT- 3.07%
 - ❖ SEV- 0%

PENDING SEVERANCE TAX LEGISLATION

- ❖ House Bill 1489
 - ❖ Rep. George
- ❖ Senator Dinniman's Proposal
- ❖ Senate Bill 905
 - ❖ Senator Musto

House Bill 1489

Rep. George

- ❖ Amends Title 72 (Taxation and Fiscal Affairs)
- ❖ Levies a severance tax on natural gas removed from Marcellus Shale.
- ❖ Rate of taxation:
 - ❖ 5% wellhead value plus 4.7 cents/thousand cubic feet
- ❖ Distribution of monies:

❖ General Fund	60%
❖ Environmental Stewardship Fund	15%
❖ Liquid Fuels Tax Fund	5%
❖ Municipalities hosting natural gas sites	4.5%
❖ Host county governments	4.5%
❖ Hazardous Sites Cleanup Fund	4%
❖ LIHEAP	3%
❖ PA Game Commission	2%
❖ PA Fish and Boat Commission	2%

Senator Dinniman's Proposal

- ❖ Amends Title 72 (Taxation and Fiscal Affairs)
- ❖ Enact a severance tax on the extraction of natural gas.
- ❖ Rate of taxation:
 - ❖ 5% wellhead value plus 4.7 cents/thousand cubic feet
- ❖ Distribution of monies:

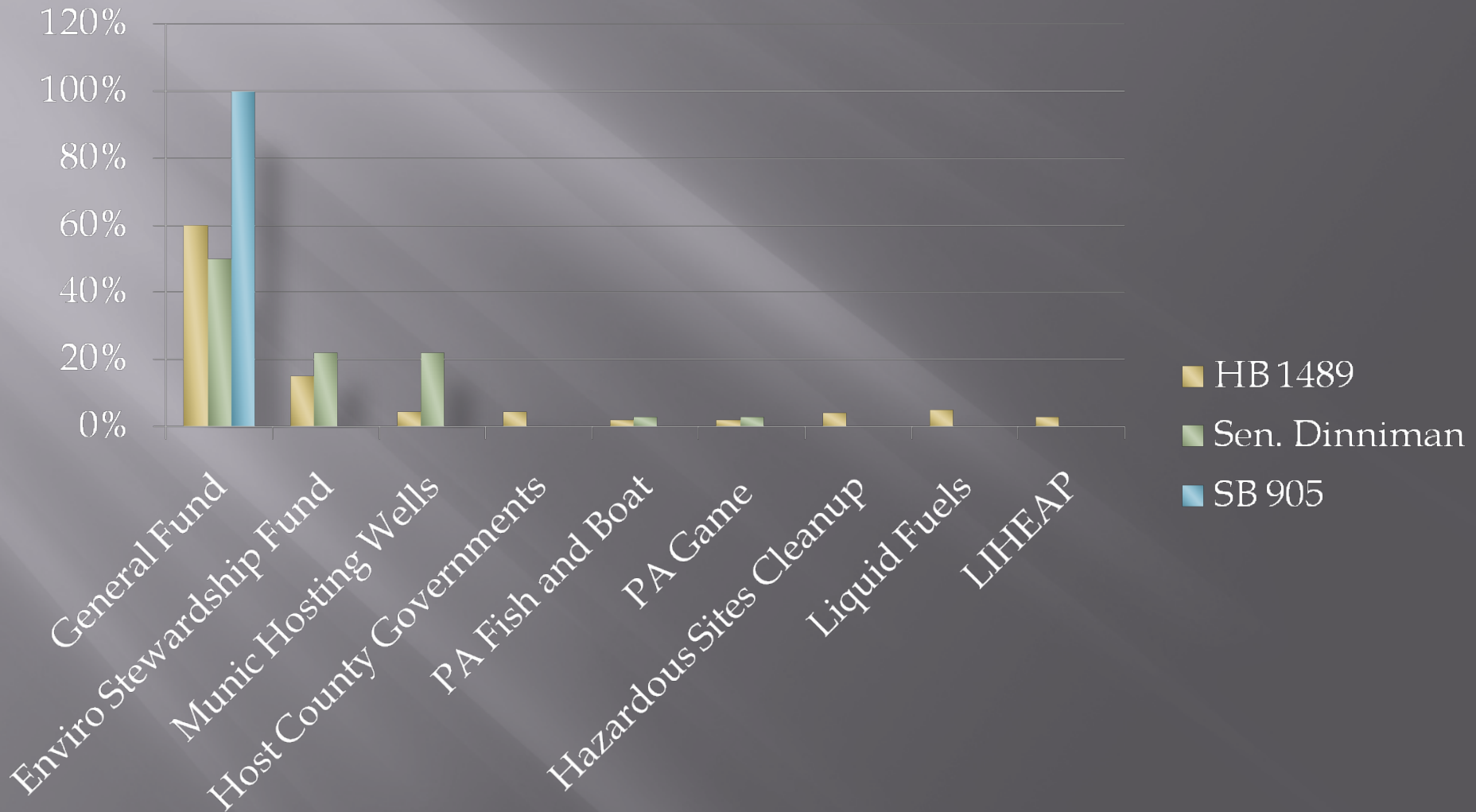
❖ General Fund	50%
❖ Environmental Stewardship Fund	22%
❖ Municipalities hosting natural gas sites	22%
❖ PA Game Commission	3%
❖ PA Fish and Boat Commission	3%

Senate Bill 905

Senator Musto

- ❖ Amends Title 72 (Taxation and Fiscal Affairs)
- ❖ Mirrors Governor's severance tax plan he introduced in February.
- ❖ Rate of taxation:
 - ❖ 5% wellhead value plus 4.7 cents/thousand cubic feet
- ❖ All revenue produced would go directly to the General Fund.

Comparison of Severance Tax Legislation



Louisiana

“We’re bucking a national trend”

- ❖ Said Louisiana Representative Nickie Monica
 - ❖ Lead sponsor of a bill to reduce the state severance tax on natural gas
- ❖ Louisiana state House of Representatives recently approved a package of tax cuts for natural gas production.
 - ❖ Package is currently in the Senate
- ❖ Reason????
 - ❖ To entice companies to come back into the state to drill!

Industry in its Infancy

- ❖ Penn State estimates that drilling in the Marcellus Shale will generate \$3.8 billion and create more than 48,000 jobs in 2009
- ❖ Robert Watson, Associate Professor Emeritus of Petroleum and Natural Gas Engineering at Penn State University, believes that gas drilling will generate \$1 trillion over the hundred-year life of development and create 120,000 jobs for the state by 2020.

Links for Additional Information

❖ Regulatory Links

❖ Susquehanna River Basin Commission

❖ <http://www.srbc.net/programs/projreviewmarcellus.htm>

❖ Environmental Protection Agency

❖ www.epa.gov

❖ Department of Environmental Protection

❖ www.depweb.state.pa.us

❖ Fish & Boat Commission - regarding water withdrawals for endangered species

❖ www.fish.state.pa.us

❖ Informational

❖ Penn State Cooperative Extension

❖ www.naturalgas.psu.edu

❖ www.economicdevelopment.psu.edu

❖ Marcellus Shale & Education Center for Business & Workforce Development

❖ www.pct.edu/msetc

❖ www.wpsu.org/gasrush

❖ Marcellus Minutes

❖ www.marcellusminutes.com

❖ Lycoming County Gas Task Force

❖ www.lyco.org/Home/GasExplorationTaskForce/tabid/511/Default.aspx

❖ Senator Gene Yaw and Senator Mary Jo White

❖ www.senatorgeneyaw.com

❖ www.senatormjwhite.com/marcellus-shale.htm