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## I. STATEMENT OF JURISDICTION

The Pennsylvania Environmental Defense Foundation (“PEDF”) filed its petition for review with the Commonwealth Court in this matter under the court’s original jurisdiction seeking relief under the fiduciary provisions of the Declaratory Judgments Act, 42 Pa.C.S. §§ 7531 – 7541. PEDF asked the court to declare, among other things, that certain actions taken by Governor Wolf and the Commonwealth are unconstitutional because they violate Article I, Section 27 of the Pennsylvania Constitution (“Section 27”), and to declare that Governor Wolf and the Commonwealth breached their Section 27 trustee duties by taking these actions. On October 22, 2020, the Commonwealth Court (Judge Wojcik) issued an unreported memorandum opinion and final order denying PEDF’s requests for such declarations, Docket No. 358 MD 2018 (“*PEDF IV*”) (**Attachment A**). Pursuant to 42 Pa.C.S. § 723(a), this Court has exclusive jurisdiction over PEDF’s appeal of this final order.

## II. ORDER IN QUESTION

The text of the Commonwealth Court opinion upon which the final order is issued states (*PEDF IV* at 37-38 (emphasis added)):

For these reasons, we grant in part and deny in part the parties’ cross-Applications for Summary Relief as follows. We grant [PEDF’s] Application insofar as it seeks a declaration that the Commonwealth is required to maintain accurate records of the [Oil and Gas Lease Fund] and track trust principal as part of its trustee duties, and we deny the Application in all other respects. We grant the Commonwealth’s

Application for Summary Relief upon concluding that the following legislative enactments are not facially unconstitutional: Sections 104(P) and 1601 of the General Appropriations Acts of 2017 and 2018; the repeal of the 1955 [Oil and Gas] Lease Fund Act; Section 1601.2- E of The Fiscal Code; and Section 1726-G of The Fiscal Code. ***We also grant the Commonwealth’s declaratory request that [Oil and Gas] Lease Fund Money, including trust principal, may be expended on environmental conservation initiatives beyond the Marcellus Shale region.*** However, we deny the Commonwealth’s Application insofar as it seeks a declaration that its current usage of the trust is wholly consistent with its Section 27 trustee responsibilities and that affirmative legislation is not necessary.

### III. SCOPE AND STANDARD OF REVIEW

PEDF is challenging the constitutionality of statutory actions taken by Governor Wolf and the Commonwealth authorizing the use of Section 27 trust corpus to pay for general government operations and statewide programs in lieu of using tax revenue, and taking control of the proceeds from the extraction and sale of our public natural resources for future appropriations. As challenges to the constitutionality of statutes present pure questions of law, this Court’s “standard of review is de novo, and [its] scope of review is plenary.” *PEDF v. Commonwealth*, 161 A.3d 911, 929 (Pa. 2017) (“*PEDF II*”).

This Court established in *PEDF II* that when reviewing the constitutionality of Commonwealth actions under Section 27, the proper standard of judicial review “lies in the text of Article I, Section 27 itself as well as the underlying principles of Pennsylvania trust law in effect at the time of its enactment.” *Id.* at 930.

This Court is not constrained by the Commonwealth Court's reasoning and may make its decision on any grounds, as long as the record supports the judgment. *Robinson Twp. v. Commonwealth*, 83 A.3d 901, 943 (Pa. 2013).

#### IV. STATEMENT OF QUESTIONS INVOLVED

(a) Are appropriations from the Oil and Gas Lease Fund (“OGLF”) in the General Appropriations Acts of 2017 and 2018 to pay for the general operations of the Pennsylvania Department of Natural Resources (“DCNR”) unconstitutional under Section 27?

Suggested Answer: Yes

(b) Did the Governor and the Commonwealth violate Article I, Section 25 of the Pennsylvania Constitution (“Section 25”) by using Section 27 trust assets to perform their budgetary functions under Articles III, IV and VIII of the Pennsylvania Constitution?

Suggested Answer: Yes

(c) Are the OGLF amendments to the Fiscal Code enacted in 2017 unconstitutional when they repeal the 1955 OGLF Act<sup>1</sup> and give complete control over the OGLF to the General Assembly without any limitations to ensure that Section 27 trust funds are used solely for Section 27 trust purposes and that the

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<sup>1</sup> Act of December 15, 1955, P.L. 865, No. 256 (71 P.S. §§ 1331-1333). Copies of legislative and budget provisions cited in this brief are provided in **Attachment B** for ease of reference. A copy of the 1955 OGLF Act is provided in **Attachment B-7**.



Commonwealth complies with Section 27 and its fiduciary trustee duties thereunder, as well as Section 25?

Suggested Answer: Yes

(d) Did Governor Wolf and the Commonwealth violate Section 27 and their fiduciary duties by enacting the OGLF provisions in the General Appropriations Acts of 2017 and 2018 and the 2017 Fiscal Code amendments?

Suggested Answer: Yes

(e) Did the Commonwealth Court err in relying on this Court's statement in *PEDF II* that "the General Assembly would not run afoul of the constitution by appropriating trust funds *to some other initiative or agency dedicated to effectuating Section 27*"<sup>2</sup> to conclude that the OGLF, including trust principal, may be expended on environmental conservation initiatives beyond the Marcellus Shale region because such usage is not a diversion of funds to a non-trust purpose, and that the challenged statutory provisions are not facially unconstitutional?

Suggested Answer: Yes

(f) Did the Commonwealth Court err by failing to declare that Section 27 trust assets in the OGLF from the extraction and sale of State Forest oil and natural gas in northcentral Pennsylvania remain a part of the corpus of the trust comprised

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<sup>2</sup> *PEDF IV* at 19 (quoting *PEDF II*, 161 A.3d at 939 with the emphasis added by the Commonwealth Court).

of our State Forest and Park public natural resources in northcentral Pennsylvania; and must be appropriated to DCNR to conserve and maintain those public natural resources through the science of ecosystem management?

Suggested Answer: Yes

## V. STATEMENT OF THE CASE

### A. Relevant History of the Case and Challenged Actions

The factual and procedural history set forth by this Honorable Court in *PEDF II* are directly related to this case and incorporated herein. In *PEDF II*, this Honorable Court determined that royalties in the OGLF are Section 27 trust assets that cannot be appropriated by the Commonwealth to pay for DCNR general operations because such uses are non-trust purposes. *Id.* at 937-938.

Shortly after this Court found Fiscal Code provisions authorizing use of the OGLF for DCNR operations to be facially unconstitutional in *PEDF II*, the Governor and Commonwealth appropriated \$61,291,000 from the OGLF to pay for DCNR annual operations (*e.g.*, salaries, benefits, travel, vehicle purchases, *etc.*) for the fiscal year beginning on July 1, 2017.<sup>3</sup> Of the funds available in the OGLF to pay the \$61,291,000 appropriated for DCNR's annual operations in 2017-2018, 85%

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<sup>3</sup> See Sections 104(p) and 1601 of the act of July 11, 2017, P.L. \_\_, No. 1A, entitled "General Appropriations Act of 2017" (**Attachment B-1**). Governor Wolf had recommended appropriating \$15,000,000 from the OGLF for DCNR's annual operations in his executive budget on February 2, 2017 (Governor's Executive Budget 2017-2018, page E11-4) (**Attachment B-9**).

were royalties paid under State Forest oil and gas leases and another 14% were bonus and rental payments paid under those leases. R10-11, R18; **Attachment C** (OGLF Sources for Fiscal Year (“FY”) 2017-2018).

On July 5, 2017, PEDF filed an application for relief with the Commonwealth Court seeking a preliminary injunction to stop this further depletion of Section 27 public trust assets based on *PEDF II* and requested expedited consideration.

On October 30, 2017, the Commonwealth enacted OGLF amendments to the Fiscal Code<sup>4</sup> that repealed the 1955 OGLF Act, which gave DCNR exclusive control over the OGLF for projects to conserve our State Forests and Parks; added new Section 1601.2-E to give the General Assembly unfettered control over the OGLF and to authorize annual appropriations from the OGLF to the Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund to replace prior legislatively approved funding; and added other provisions that diverted funds available to DCNR to prevent and remedy the depletion, degradation and diminution of our State Forest and Park public natural resources (*e.g.*, Sections 1720-F and 1726-G).

On December 5, 2017, after no action by the Commonwealth Court on PEDF’s application for injunctive relief, PEDF sought to amend its petition for review challenging the Commonwealth’s prior OGLF appropriations and Fiscal

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<sup>4</sup> Act of October 30, 2017, P.L. 725, No. 44, §§ 3.2, 3.3, 19 and 20 (**Attachment B-5**).

Code provisions to include the Commonwealth's 2017 OGLF appropriations for annual government operations and OGLF Fiscal Code provisions. Docket No. 228 MD 2012.

On January 2, 2018, PEDF requested that this Honorable Court exercise its extraordinary jurisdiction to stop further depletion of our Section 27 trust assets by the Commonwealth, which was subsequently denied. Docket No. 4 MM 2018.

On January 8, 2018, the Commonwealth Court denied PEDF's request to amend its petition for review to include the 2017 actions. On the same day, the Commonwealth Court also struck down PEDF's request for a preliminary injunction and expedited consideration. Docket No. 228 MD 2012.

On February 6, 2018, Governor Wolf proposed to appropriate \$48,798,000 from the OGLF to pay for DCNR annual operations for FY 2018-2019,<sup>5</sup> again almost all Section 27 trust assets derived from State Forest oil and gas leases.<sup>6</sup>

On May 17, 2018, PEDF filed a new petition for review, which is the subject of this appeal, challenging the Commonwealth's OGLF appropriations for FY 2017-2018 and its proposed appropriations for FY 2018-2019, as well as the OGLF Fiscal Code provisions enacted in 2017. Docket No. 358 MD 2018.

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<sup>5</sup> See Governor's Executive Budget 2018-2019, pages E11-5 and H52 (**Attachment B-10**).

<sup>6</sup> The Commonwealth has reported that 97% of its actual receipts for FY 2018-2019 were royalties and rents (Governor's Executive Budget for FY 2020-2021, page H48 (**Attachment B-12**)).

On June 22, 2018, the Governor and the Commonwealth appropriated \$48,798,000 from the OGLF in the General Appropriations Act of 2018<sup>7</sup> to pay for DCNR annual operations in FY 2018-2019, as recommended by the Governor.

On February 5, 2019, Governor Wolf proposed to appropriate \$69,774,000 from the OGLF to pay for DCNR annual operations for FY 2019-2020,<sup>8</sup> again almost all Section 27 trust assets derived from State Forest oil and gas leases.<sup>9</sup>

On June 28, 2019, the Commonwealth appropriated \$69,774,000 from the OGLF to pay for DCNR operations in FY 2019-2020, as recommended by the Governor.<sup>10</sup>

On July 16, 2019, PEDF filed a new petition for review in Commonwealth Court challenging the FY 2019-2020 OGLF appropriations. Docket No. 393 MD 2019. At the request of the Commonwealth, the Commonwealth Court (Judge Wojcik) stayed the 2019 PEDF petition for review pending a decision in this case.

On July 29, 2019, the Commonwealth Court issued a memorandum opinion and final order (Judge Wojcik), *PEDF v. Commonwealth*, 214 A.3d 748 (Pa. Cmwlth. 2019) (*PEDF III*), in response to this Court's remand in *PEDF II*.

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<sup>7</sup> See Sections 104(p) and 1601 of act of June 22, 2018, P.L. \_\_, No. 1A, entitled the "General Appropriations Act of 2018" (**Attachment B-2**).

<sup>8</sup> See Governor's Executive Budget 2019-2020, pages E11-5 and H52 (**Attachment B-11**).

<sup>9</sup> The Commonwealth has reported that 96% of its actual receipts for FY 2019-2020 were royalties and rents (Governor's Executive Budget for FY 2021-2022, page H74 (**Attachment B-13**)).

<sup>10</sup> See Sections 104(b) and 1601 of act of June 28, 2019, P.L. \_\_, No. 1A, entitled the "General Appropriations Act of 2019" (**Attachment B-3**).

In *PEDF III*, which is also directly relevant to this case, the Commonwealth Court declared that one-third of the OGLF bonus and rental payments derived from State Forest oil and gas leases is income and therefore not Section 27 public trust assets; and that the Commonwealth can spend this income for any purpose without regard to Section 27, and that Sections 1604-E and 1605-E of the Fiscal Code are not facially unconstitutional because the OGLF contained some funds that are not Section 27 trust assets. PEDF has appealed *PEDF III* to this Court and is awaiting a decision. Docket No. 64 MAP 2019.

On February 4, 2020, Governor Wolf proposed to appropriate \$54,827,000 from the OGLF to pay for DCNR annual operations for FY 2020-2021,<sup>11</sup> again almost all Section 27 trust assets derived from State Forest oil and gas leases.<sup>12</sup>

On February 11, 2020, PEDF requested an expedited decision in this case, which the Commonwealth Court denied on March 5, 2020.

On May 29, 2020, the Commonwealth appropriated \$54,827,000 from the OGLF in the General Appropriations Act of 2020<sup>13</sup> to pay for DCNR annual operations for FY 2020-2021, as recommended by the Governor.

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<sup>11</sup> See Governor's Executive Budget 2020-2021, pages E11-4 and H48 (**Attachment B-12**).

<sup>12</sup> The Commonwealth has reported that 99% of the OGLF receipts available for FY 2020-2021 were royalties and rents (Governor's Executive Budget for FY 2021-2022 (page H74) (**Attachment B-13**).

<sup>13</sup> See Sections 104(b) and 1601 of act of May 29, 2020, P.L. \_\_, No. 1A, entitled the "General Appropriations Act of 2020" (**Attachment B-4**).

On October 22, 2020, the Commonwealth Court entered its final order in this matter, which is the subject of this appeal, *PEDF IV (Attachment A)*, denying PEDF's requested relief and granting requested relief to the Governor and Commonwealth by declaring the OGLF appropriations and Fiscal Code provisions challenged by PEDF to be facially constitutional.

**B. Undisputed Facts Related to DCNR OGLF Use and State Forest Oil and Gas Development to Generate OGLF Receipts**

DCNR's operational costs paid with the OGLF appropriations included salaries, benefits, social security, medicare, state workman's insurance, retirement, life insurance, health insurance, travel, training, contract fees, IT consulting, maintenance of equipment, machinery and vehicles, office equipment purchases (computers, phones, furniture), vehicles, office supplies, printing, and other similar annual operating expenses. R37-39.

The funds deposited into the OGLF are almost exclusively royalty and rent receipts from the extraction and sale of oil and natural gas under State Forest leases issued by DCNR in northcentral Pennsylvania.<sup>14</sup> This extraction and sale degrades those State Forests and associated State Parks and depletes the oil and natural gas resources, all of which are part of the corpus of the public trust (*see, e.g.*, R93-106

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<sup>14</sup> Governor's Executive Budgets 2011-12 through 2021-22, Oil and Gas Lease Fund (**Attachments B-8 through B-18**); 2014 DCNR Shale Gas Monitoring Reports, Tables 1.1 and 2018 DCNR Shale Gas Monitoring Report, Table 1.2 (copies provided in **Attachment D** for convenience).

(Affidavit of Former Secretary of DCNR, John Quigley, dated June 29, 2017); R47-75 (DCNR 2014 Shale Gas Monitoring Reports excerpts);<sup>15</sup> R76-86 (DCNR 2018 Shale Gas Monitoring Reports excerpts);<sup>16</sup> R45-46 (Governor's Marcellus Shale Commission Report, July 22, 2011);<sup>17</sup> R184-194 (PEDF Petition for Review).

In addition to the depletion, degradation and diminution of our State Forest and Park public natural resources in northcentral Pennsylvania from State Forest leases issued by DCNR, these resources are also harmed by oil and natural gas extraction on State Forest and Park land where the subsurface mineral rights have been severed from surface ownership and are privately owned (referred to as severed rights). DCNR has reported that over 644,000 acres of State Forest land are currently subject to oil and gas development, either through DCNR leases or severed rights (see table below for summary of acreage reported by DCNR in its 2014 and 2018 Shale Gas Monitoring Reports, Tables 1.1 and 1.2, respectively<sup>18</sup>). Of this acreage, approximately 602,000 acres (93%) are currently located in the northcentral Pennsylvania, and over half of this acreage has severed oil and gas rights over which

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<sup>15</sup> The 2014 DCNR Shale Gas Monitoring Report is available at [http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr\\_20029147.pdf](http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr_20029147.pdf)

<sup>16</sup> The 2018 DCNR Shale Gas Monitoring Report is available at [http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr\\_20033642.pdf](http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr_20033642.pdf)

<sup>17</sup> The 2011 Governor's Marcellus Shale Commission Report is available at <https://www.dep.pa.gov/Business/Energy/OilandGasPrograms/OilandGasMgmt/MarcellusShale/Pages/default.aspx>

<sup>18</sup> Copies of these tables are provided in **Attachment D** for convenience.



DCNR has no ability to limit surface access for oil and gas development. *Belden & Blake Corp. v. DCNR*, 969 A.2d 528 (Pa. 2009).

State Forest Acreage Subject to Oil and Gas Development				
State Forest District	2014 Report	%	2018 Report <sup>19</sup>	%
Northcentral Districts:	629,971	94	601,987	93
Moshannon	85,173		76,016	
Sproul	172,825		129,095	
Tiadaghton	51,367		51,054	
Elk	51,920		76,122	
Susquehannock	147,828		149,675	
Tioga	58,414		58,451	
Loyalsock	62,444		61,575	
All Other Districts:	42,279	6	42,192	7
Statewide Total Acreage:	672,250	100	644,179	100
Severed Rights Acreage:	385,630	57	331,287	54

The State Forest oil and gas leases that generate the royalties and rents deposited into the OGLF by their own terms authorize the construction and operation of well pads, roads, gas and water lines, compression stations and numerous other facilities necessary for this industrial activity. *See, e.g.*, R88 (Oil and Gas Lease for State Forest Lands, Contract No. M-110001-15, dated January 20, 2010).<sup>20</sup> This industrial development authorized within our State Forests to generate the OGLF

<sup>19</sup> In its 2018 Monitoring Report, DCNR states that approximately 61,000 acres of leased State Forest land have been surrendered or terminated since 2008 (R85). However, the acreages in Table 1.2 of the report do not indicate this level of decrease. The total acreage subject to gas development in each State Forest district in the above table is based on the leased and severed acres in Table 1.2, but differ from the total acreage provided in Table 1.2 for the Susquehannock and Sproul districts (**Attachment D**).

<sup>20</sup> State Forest oil and gas leases issued by DCNR are available to the public through the State Treasury Contracts e-Library (<https://patreasury.gov/transparency/e-library/>).

receipts degrades, depletes and diminishes some of our highest value public natural resources (see above references), and the extraction and sale of our State Forest oil and gas itself undisputedly depletes of our State Forest oil and natural gas public natural resources.

The Commonwealth created DCNR in 1995 by enacting the Conservation and Natural Resources Act (“CNRA”), 71 P.S. §§ 1340.101 – 1340.1103. The CNRA recognized that “Pennsylvania’s public natural resources are to be conserved and maintained for the use and benefit of all its citizens as guaranteed by Section 27 of Article I of the Constitution of Pennsylvania” and that Pennsylvania’s 2.3 million acres of State Forests and Parks, which contain “some of our State’s most precious and rare natural areas,” needed a cabinet-level advocate to ensure these valuable public natural resources are properly preserved, enhanced, maintained and actively managed. 71 P.S. § 1340.101(a).

DCNR was created as that cabinet-level advocate. It was also given the authority to lease State Forest land for the extraction and sale of valuable minerals, including oil and gas, along with exclusive control over the OGLF under the 1955 OGLF Act.<sup>21</sup> These two authorities worked in tandem to enable DCNR to determine, consistent with its trustee duties under Section 27, when leasing State Forest land

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<sup>21</sup> See 71 P.S. §§ 1340.302(a)(6) & 1340.304(c).

for oil and gas extraction and sale can be done in a manner that conserves and maintains our State Forest and Park public natural resources.

## VI. SUMMARY OF THE ARGUMENT

On June 20, 2017, this Honorable Court declared in *PEDF II* that royalties from State Forest oil and gas leases deposited into the Oil and Gas Lease Fund are derived from the sale of Section 27 trust assets and, therefore, remain part of the corpus. 161 A.3d at 935. As such, this Court also declared that the Commonwealth has a constitutionally imposed fiduciary duty to manage the corpus of the Section 27 trust for the benefit of the people to accomplish the trust purposes established by Section 27. *Id.* at 938.

Based on those declarations, this Court held in *PEDF II* that Sections 1602-E and 1603-E of the Fiscal Code<sup>22</sup> were facially unconstitutional because they authorized use of Section 27 trust assets (royalties) in the OGLF for non-trust purposes. Section 1602-E merely required the General Assembly to “*consider*” allocating funds to municipalities impacted by a Marcellus well; Section 1603-E limited the amount of royalties in the OGLF that could be appropriated to DCNR and directed DCNR to give preference in using its appropriation to the operation and maintenance of State Parks and Forests rather than to conservation purposes. This

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<sup>22</sup> Act of October 9, 2009, P.L. 537, No. 50, § 3 (adding §§ 1601-E through 1604-E) (**Attachment B-6**).

Court found that without any question, these Fiscal Code provisions permit the Commonwealth, as trustee, to use Section 27 trust assets for non-trust purposes in clear violation of the most basic of a trustee's fiduciary obligations. *Id.* at 937-938.

On July 11, 2017, less than a month after this Court's rulings related to the OGLF in *PEDF II*, the Governor and Commonwealth appropriated \$61,291,000 from the OGLF to pay for DCNR operations in FY 2017-2018, including salaries, benefits, travel expenses, and vehicle purchases. On June 22, 2018, they appropriated another \$48,798,000 from the OGLF to pay for DCNR annual operations for FY 2018-2019. The undisputed facts in this case establish that over 85% of the appropriations from the OGLF were royalties derived from State Forest oil and gas leases and almost all of the OGLF appropriations were Section 27 trust assets.

These OGLF appropriations are unconstitutional on their face for at least three reasons. First, they use Section 27 trust assets for DCNR operations, which this Court found to be a non-trust purposes in *PEDF II*; second, they provide no evidence that the Governor or Commonwealth evaluated the impacts to the Section 27 trust corpus or the beneficiaries' rights thereto prior to their enactments; and third, they contain no provisions to "reflect that the Commonwealth complied with its constitutional duties" as required by this Court in *PEDF II*, *id.* at 939.

The Commonwealth Court erred in holding that the OGLF appropriations are not facially unconstitutional because the OGLF contained a small percentage funds that the Commonwealth Court considered to be income, not trust principal, based on its determination in *PEDF III*, 214 A.3d at 774, that one-third of bonus and rental payments made under the lease are such income. That finding cannot justify the appropriation of the vast majority of the OGLF for not-trust purposes.

The Commonwealth Court also found support for its holding by citing this Court's statement in *PEDF II* that "the General Assembly would not run afoul of the constitution by appropriating trust funds *to some other initiative or agency dedicated to effectuating Section 27.*" *PEDF IV* at 19-20 (quoting *PEDF II*, 161 A.3d at 939, with the emphasis added by the Commonwealth Court). Based on this statement, the Commonwealth Court also found that the OGLF, "including trust principal, may be expended on other environmental conservation initiatives because such use is not a diversion of funds to a non-trust purpose." *PEDF IV* at 20.

The Commonwealth Court's reliance on the *PEDF II* "run afoul" statement is misplaced. The statement is dicta. It was not a legal determination of this Court based on an analysis of the facts and the law of the case in *PEDF II*. To read this statement as such would negate much of *PEDF II* findings, including that use of trust funds for DCNR's general government operations is unconstitutional; and, that it is the trustee's duty to use trust funds to prevent and remedy any degradation, depletion or

diminution of our State Forest. It would also allow continued leasing of our State Forest for revenue for other initiatives and agencies regardless of the impact to our State Forests and Parks.

In addition to the above OGLF appropriations, the Governor and Commonwealth enacted new Fiscal Code provisions on October 30, 2017 to ratify them by, inter alia, repealing the 1955 OGLF Act, giving the General Assembly control over use of the OGLF for future appropriations with only the guideline to “*consider*” Section 27 in the use of the funds, and authorizing the “comingling” of trust funds with other non-trust funds. These provisions effect the same outcome as the 2009 Fiscal Code provisions that this Court declared to be facially unconstitutional in *PEDF II*, again failing to include any safeguards such as those provided in the 1955 OGLF Act to ensure use of the OGLF for trust purposes.

The new Fiscal Code provisions also mandate transfers from the OGLF to replace legislatively enacted funding for legislatively enacted initiatives carried out through the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund, and divert other funds that would have been available to DCNR to prevent and remedy the harm to our State Forests and Parks from oil and gas development in northcentral Pennsylvania.

These 2017 Fiscal Code provisions violate both Section 27 and Section 25 of Article I of the Pennsylvania Constitution by failing to conserve the corpus of the

Section 27 trust and authorizing the use of Article I trust assets to carry out government functions under other articles of the Constitution.

The Commonwealth Court erred by finding these new Fiscal Code provisions are facially constitutional asserting that affirmative legislation governing use of the OGLF does not need to include any such safeguards, and again relying on this Court's "run afoul" language in *PEDF II*.

In addition to violating Section 27 and 25 by enacting the 2017 and 2018 OGLF appropriations and the 2017 OGLF Fiscal Code provisions, the Governor and Commonwealth breached their fiduciary duties of prudence, loyalty and impartiality to current and future generations of Pennsylvanians under Section 27 by infringing on the inalienable rights of the people, and violated Section 25 by using the Article I protected funds for Article III political purposes.

Among the specific trustee duties breached is the duty to evaluate the immediate and long-term impacts of the proposed enactments before enacting them. The Governor and Commonwealth, as trustees, also breached their duty of prudence by failing to petition the court, under the authority of this Court's decision in the case of *Estate of Sewell*, 409 A.2d 401 (Pa. 1979), for direction on their proposed use of the OGLF following this Court's binding legal precedent in *PEDF II* that directly impacted their proposed actions.

For these and other reasons discussed in this brief and the extensive record in the relevant PEDF cases, PEDF respectfully requests that this Honorable Court to grant its requests for relief, and reverse any denials of such relief issue by the Commonwealth Court.

## VII. ARGUMENT

### A. **APPROPRIATION AND USE OF SECTION 27 TRUST ASSETS IN THE OIL AND GAS LEASE FUND FOR DCNR GENERAL OPERATIONS ARE UNCONSTITUTIONAL**

#### 1. **Appropriation and Use of Royalties and Rents from State Forest Oil and Gas Leases for DCNR Operations Are Unconstitutional**

On June 20, 2017, this Honorable Court issued binding precedent in *PEDF II* regarding use of Section 27 trust asset (royalties) in the OGLF that the Governor, Commonwealth and Commonwealth Court have ignored. In *PEDF II*, this Court declared that royalties deposited into the OGLF from the sale of oil and gas extracted from our State Forests “are part of the corpus of the Section 27 trust and the Commonwealth must manage them pursuant to its duties as trustee. 161 A.3d at 935. This Court then held two Fiscal Code provisions giving the General Assembly unfettered control over the OGLF to be facially unconstitutional because the first, Section 1602-E, merely required the General Assembly to “*consider*” allocating funds in the OGLF to municipalities impacted by a Marcellus well; and the second, Section 1603-E, limited the amount of royalties in the OGLF that could be appropriated to DCNR and directed DCNR “*to ‘give preference to the operation*



*and maintenance of State parks and forests*’ rather than to conservation purposes” in using its OGLF appropriations. 161 A.3d. at 937-38 (emphasis added). This Court concluded “[w]ithout any question, [that] these legislative amendments permit the trustee to use trust assets for non-trust purposes, a clear violation of the most basic of a trustee’s fiduciary obligations.” *Id.*

Sections 1601 of the General Appropriations Act of 2017 and 2018 appropriated \$61,291,000 and \$48,798,000 from the OGLF to pay for DCNR general government operations in FY 2017-2018 and FY 2018-2019, respectively. Sections 104(p) of both General Appropriations Acts direct that appropriations from the OGLF be used “for the *payment of salaries, wages or other compensation and travel expenses of the duly appointed officers and employees of the Commonwealth, for the payment of fees for contractual services* and for payment of *any other expenses*, as provided by law or by this act, necessary for the proper conduct of the duties, functions and activities for the purposes hereinafter set forth for the fiscal year beginning July 1, 2017, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2017” (emphasis added).

The undisputed facts in this case establish that 85% of the OGLF appropriations for FY 2017-2018 were royalties paid under State Forest oil and gas leases, as set forth in the table below and in more detail in **Attachment C**, and an

additional 14% were bonus and rental payments made under those leases.

<b>OGLF Receipts for FY 2017-2018</b>		
Royalty Payments:	96,333,621	85%
Bonus Payments:	8,504,346	7%
Rental Payments:	7,651,473	7%
Interest:	1,299,511	1%
Vehicle Sales:	86,585	--
Other Payments:	70,727	--
Total:	113,946,263	100%

Royalties, bonus and rental payments likewise constituted 97% of the receipts deposited into the OGLF in FY 2018-2019.<sup>23</sup> Thus, even under the Commonwealth Court income exception, virtually all of the funds appropriated from the OGLF by Sections 1601 of the General Appropriations Acts of 2017 and 2018 are part of the corpus of the Section 27 trust.

The Commonwealth's principal duty as trustee is to maintain the corpus of the trust, and to do so for the benefit of the beneficiaries. If the Commonwealth is authorized to use the funds from the corpus of the Section 27 trust for DCNR's general government operations, then the very public natural resources DCNR is required to conserve and maintain under Section 27 are depleted, degraded and diminished to pay for DCNR's operations. This anomaly would authorize the Commonwealth, as trustee, to sell the corpus of the very trust it has a duty to

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<sup>23</sup> Governor's Executive Budget 2020-2021, Oil and Gas Lease Fund, page. H52 (actual royalties and rents receipts constituted \$75,656,000 (97%) of the \$77,940,000 deposited into the OGLF in FY 2018-2019) (**Attachment B-13**).

conserve and maintain to pay for its own government operations. Nothing in the language of Section 27 authorizes the Commonwealth, as trustee, to use the corpus of the Section 27 trust to pay for its own operations. The appropriation of over \$110,000,000 from the OGLF to pay for DCNR's annual operations in FY 2017-2018 and 2018-2019 clearly authorizes the use of Section 27 trust assets for non-trust purposes in violation of Section 27 and are unconstitutional on their face.

The Commonwealth Court determined that these OGLF appropriations are not facially unconstitutional because, under the court's prior determination in *PEDF III*, some of the deposits in the OGLF are income that the Commonwealth can use for non-trust fund purposes (*i.e.*, one-third of any bonus and rental payments, which amount to at most 6% of the OGLF deposits). PEDF has appealed the Commonwealth Court's determination in *PEDF III* to this Court (Docket No. 64 MAP 2020), which has been fully briefed and argued. The fact that some small percentage of the deposits in the OGLF may not be Section 27 trust assets does not change the fact that the Commonwealth appropriated trust assets in the OGLF to pay for DCNR operations and those appropriations are facially unconstitutional.

Sections 104(p) of the General Appropriations Acts of 2017 and 2018 are also unconstitutional on their face because this Court in *PEDF II* held that the Commonwealth cannot appropriate Section 27 trust funds for DCNR operating expenses. 161 A.3d at 938-939. These provisions are also facially unconstitutional

because, just like former Sections 1602-E and 1603-E of the Fiscal Code, they “do not reflect that the Commonwealth complied with its constitutional duties,” as required by this Court in *PEDF II*, which would have required exercising their duties as trustees through proper evaluation prior to these approving these legislative enactments. *Id.*

The Commonwealth Court also concluded that the OGLF appropriations to DCNR for the operation of State Parks and Forests, as well as for environmental conservation initiatives unrelated to our State Forests and Parks in northcentral Pennsylvania, are not facially unconstitutional by relying this Court’s statement in *PEDF II* “that the General Assembly would not run afoul of the constitution by appropriating trust funds *to some other initiative or agency dedicated to effectuating Section 27.*” *PEDF IV* at 19-20 (quoting *PEDF II*, 161 A.3d at 939 (emphasis added by the Commonwealth Court)).

The Commonwealth Court erred in relying on the “run afoul” statement made by this Court in *PEDF II* to support the constitutionality of 2017 and 2018 OGLF appropriations. That statement is dicta. It was not a legal determination of this Court based on an analysis of the facts and the law of the case in *PEDF II*. The Commonwealth Court’s adoption of the “run afoul” statement as the law established in *PEDF II* would negate much of this Court’s actual findings in *PEDF II*, including its declaration that the Commonwealth cannot appropriate trust fund revenue for

DCNR operations because such use is for non-trust purposes. And, it would negate the trustees' duty to use the funds to prevent and remedy any degradation, depletion or diminution of such resources. It would also negate DCNR's ability to comply with its duty under Section 27 and conserve and maintain our State Forest and Parks. If the Commonwealth can use proceeds from the sale of the corpus of our State Forest trust assets for any environmental initiative, then the Commonwealth could continue to sell our State Forest oil and gas, and any other Section 27 trust asset, to pay for whenever it so chooses, all to the detriment of our State Forests and Parks.

**2. The OGLF Appropriations Do Not Reflect Any Evaluation to Comply with Section 27 Prior to Enactment**

The Governor and Commonwealth cannot achieve the constitutional mandates imposed on them as Section 27 trustees without evaluating the constitutionality of proposed legislative action involving the OGLF before taking that action and reflecting that evaluation in the legislative enactment itself. That evaluation must include consideration of the short- and long-term effects on our State Forest and Park public natural resources converted to generate the trust assets in the OGLF.

This Court, in its plurality opinion in *Robinson Twp.*, clearly articulated the need for an evaluation of any decision that might or will impact the public natural resources, stating:

The corollary of the people's Section 27 reservation of right to an environment of quality is an obligation on the government's behalf to refrain from unduly infringing upon or violating the right, including by legislative enactment or executive action. ***Clause one of Section 27 requires each branch of government to consider in advance of proceeding the environmental effect of any proposed action on the constitutionally protected features.*** The failure to obtain information regarding environmental effects does not excuse the constitutional obligation because the obligation exists a priori to any statute purporting to create a cause of action.

83 A.3d at 952 (emphasis added).

The need for an evaluation is confirmed by this Court's finding in *PEDF II* that the challenged legislative action must reflect on its face that the legislative action is in compliance with the mandates of Section 27 and the trustees' duties thereunder. This Court in *PEDF II* concluded that Sections 1602-E and 1603-E of the Fiscal Code were facially unconstitutional "[b]ecause the legislative enactments at issue here do not reflect that the Commonwealth complied with its constitutional duties." 161 A.3d at 939. The Commonwealth has a duty in the first instance to ensure its legislative enactments include provisions that establish their constitutionality on their face. The appropriate legislative provisions can only be determined following a thorough evaluation conducted before the legislation is drafted and enacted. The OGLF appropriations and Fiscal Code enactments at issue here do not include any provisions reflecting that the Commonwealth complied with its constitutional duties, which renders these enactments in violation of Section 27 on their face.

The Commonwealth Court contends that neither Section 27 nor this Court's prior opinions impose any obligation on the Governor and Commonwealth to provide any written evaluation prior to making legislative enactments governing the OGLF. *PEDF IV* at 23-24. However, the Commonwealth Court misconstrues the Commonwealth's obligation as trustee under Section 27, as explained by this Court in *PEDF II*. As trustee, the Governor and Commonwealth must exercise their fiduciary duties of prudence, loyalty and impartiality by carefully evaluating any proposed legislative enactment involving the OGLF, whether appropriations, Fiscal Code provisions or another enactment, and drafting the proposed legislation with provisions that demonstrate the legislation, on its face, reflects the Commonwealth's compliance with Section 27.

The OGLF appropriations in the General Appropriations Acts of 2017 and 2018 and the OGLF Fiscal Code provisions enacted in 2017, just like Section 1602-E and 1603-E of the Fiscal Code that this Court found facially unconstitutional in *PEDF II*, do not reflect that the Governor and Commonwealth complied with their constitutional duties.

### **3. Using the OGLF to Replace General Fund Tax Revenue Violates Both Section 27 and Section 25**

The reason the Commonwealth has repeatedly turned to the OGLF to fund DCNR annual operations is clear. As the *PEDF II* record shows, DCNR's OGLF appropriations have offset decreases in its General Fund appropriations (*see PEDF*

*Id.*, 161 A.3d at 920-925 (providing the history of OGLF use to replace the General Fund appropriations for DCNR operations); an updated summary of DCNR's OGLF and General Fund appropriations is provided for reference in **Attachment F**). On average, almost half of DCNR's operations have been funded through OGLF appropriations since FY 2009-2010 in lieu of General Fund appropriations. This Court specifically found that the Commonwealth was using the OGFL to replace General Fund appropriations for DCNR's annual operations, stating:

The 2013 General Appropriations Act decreased the appropriation to the DCNR from the General Fund and increased the appropriation from the [Oil and Gas] Lease Fund to the DCNR, resulting in a larger portion of monies from the [Oil and Gas] Lease Fund being used to pay for the DCNR's operational expenses, which had previously been funded by the General Fund, and thus reduced the amount of monies available for the DCNR's conservation activities ...

The 2014-2015 General Appropriations Act again included increased appropriations of royalties from the [Oil and Gas] Lease Fund to the DCNR that were mirrored by decreased appropriations from the General Fund to the DCNR.

*Id.* at 923-24.

The right to have our public natural resources conserved and maintained for the people both living now and for future generations is established under Article I of the Pennsylvania Constitution as part of the inalienable rights of the people. The Governor and the General Assembly derive their powers to enact an annual budget for general government operations from Articles III (Legislation), IV (The Executive) and VIII (Taxation and Finance) of the Pennsylvania Constitution. These



powers are expressly limited by the fundamental rights reserved to the people in Article I of the Pennsylvania Constitution through Section 25, which states: “To guard against transgression of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.” Pa. Const. art. I, § 25. This Court recognized this fundamental structure of our Constitution in *PEDF II*, 161 A.3d at 930-31.

The passage of an annual appropriations act to fund general government operations for the current fiscal year is an Article III responsibility of the Commonwealth and cannot infringe upon the fundamental rights of the people in Article I, Section 27. To use funds that are part of the corpus of the public trust under Section 27 to replace appropriations from the General Fund violates Section 25.

Without further analysis of the Commonwealth’s violation of Section 25, the Commonwealth Court states that “having determined that the appropriations at issue are not facially unconstitutional under Section 27 [because some of the appropriations were income], [PEDF’s] Section 25 claim fails by extension.” *PEDF IV* at 17.

PEDF respectfully contends that the Commonwealth Court erred in this conclusion and asks this Honorable Court to declare that the OGLF appropriations violate both Section 27 and Section 25 by using Section 27 trust assets in the OGLF to replace General Fund appropriations for DCNR’s annual operations.

#### **4. OGLF Receipts from State Forest Oil and Gas Leases Must Remain with the State Forest and Park Corpus**

The Commonwealth's primary fiduciary duty as the Section 27 trustee is to protect the corpus of the trust, in this case our State Forests and Parks, and to protect the beneficiaries' rights to these high value public natural resources. The Commonwealth should not have leased our State Forest for the extraction and sale of the oil and natural gas because it degrades, depletes and diminishes both the State Forest and the oil and natural gas in violation of Section 27 (see facts set forth in Statement of the Case above.)

The leasing of our State Forest for oil and natural gas extraction and sale can only be justified when the development can occur without degrading, diminishing or depleting our State Forest and Park public natural resources **AND** when the proceeds from such leases are necessary to conserve and maintain the corpus of our State Forest and Park trust corpus. To hold otherwise would sanction the Commonwealth's depletion, degradation and diminution of our State Forests and Parks under the existing oil and gas leases and would sanction the breach the trustees' fiduciary duties that occurred in approving those leases. To hold otherwise would allow the continued degradation of our State Forest to pay for environmental initiatives or agency operations that do not conserve and maintain our State Forest and Park trust corpus.

The mandate of Section 27 to preserve the corpus of the public natural resources requires that any proceeds from the conversion of a trust resource must benefit that resource. Otherwise, our public natural resources would be managed by political fiat, not by sound scientific principles of ecosystem management to ensure that the resources are conserved and maintained. The high value ecologically diverse resources of our State Forests and Parks would be valued solely for the cash they can generate, and treated as fungible property, which violates Section 27 and Section 25 of our Constitution.

**5. OGLF Receipts from State Forest Oil and Gas Leases Must Be Appropriated to DCNR to Conserve and Maintain Our State Forest and Park Trust Corpus**

DCNR is the Commonwealth agency with the statutory authority, and the scientific knowledge and expertise, to conserve and maintain our State Forests and Parks, and to prevent and remedy any depletion, degradation and diminution thereof in compliance with Section 27. To comply with its Section 27 trustee duties, DCNR developed a strategic plan, entitled *Penn's Woods, Sustaining Our Forests*, to manage our State Forest based on the science of ecosystem management. R108-139. With the continuing development and extraction of oil and gas on over 600,000 acres of our State Forest in northcentral Pennsylvania over the next 50 years or more, DCNR is and will be severely challenged to maintain sound ecosystem management principles. DCNR's ability to use the OGLF is vital to meeting its statutory and

constitutional duties to prevent and remedy the degradation, diminution or depletion of the public natural resources, for both generations today and future generations.

When DCNR and its predecessors made the decisions to lease State Forest land for oil and gas extraction and sale, they did so with the knowledge that they would control the proceeds from such leases to carry out the actions necessary to conserve and maintain our State Forest and Park public natural resources under the authority of the 1955 OGLF Act. *See PEDF II*, 161 A.3d at 920-925. To accomplish its Section 27 mission to conserve and maintain our State Forest through ecosystem management, as articulated in its strategic plan, DCNR must control the proceeds from the conversion of these trust assets to maintain the corpus of our State Forest and Park trust through actions, such as the following, that:

(1) Prevent further harm from oil and gas extraction on our State Forest and Parks in northcentral Pennsylvania by purchasing subsurface mineral rights on these public lands currently in private ownership;

(2) Mitigate the loss of State Forest and Park lands from the construction of oil and gas extraction infrastructure (*e.g.*, new and expanded roads, pipelines, compression stations, well pads, water storage tanks and impoundments, etc.) and mitigate the loss of habitat from fragmentation and invasive species by acquiring additional lands with high value habitat to conserve and maintain our State Forest and Park public natural resources and species diversity;

(3) Restore the soil, hydrology, habitats and other natural elements of our State Forests disturbed by oil and gas development to natural forest conditions conducive to diverse forest life for native plants and animals that have been lost or diminished;

(4) Eradicate the invasion of non-native species in our State Forests caused by increased forest edge and reduced forest canopy as a result of the construction of oil and gas extraction infrastructure;

(5) Fully assess the degradation and diminution of our State Forest air, surface water and groundwater resources from past, present and future resource extraction activities and implement projects to fully restore the quality of these resources; and

(6) Restore abandoned mine lands and plug abandoned and orphaned oil and gas wells on State Forest and Park land in northcentral Pennsylvania to fully restore the public natural resources.

The Section 27 trust assets in the OGLF must be appropriated to DCNR to comply with the mandates of Section 27. The Commonwealth Court erred in failing to find Sections 104(p) and 1601 of the General Appropriations Acts of 2017 and 2018 facially unconstitutional because they again mandate that DCNR use its OGLF appropriations for its general operations rather than conserving and maintaining our State Forest and Park trust corpus as mandated by Section 27.

**B. THE 2017 OGLF FISCAL CODE AMENDMENTS ARE FACIALLY UNCONSTITUTIONAL**

**1. Repeal of the 1955 Oil and Gas Lease Fund Act Is Unconstitutional**

When the Commonwealth created DCNR in 1995 as a new Commonwealth agency responsible for conserving and maintaining our State Forest and Park public natural resources under Section 27, it allowed this new agency to lease State Forest land for the extraction and sale of valuable minerals, including oil and gas, and simultaneously gave it the power and authority to exercise control over the OGLF under the 1955 OGLF Act.<sup>24</sup> These two provisions worked in tandem to enable DCNR to lease State Forest land for oil and gas extraction in compliance with its constitutional duties under Section 27.

Under the 1955 OGLF Act, the receipts from State Forest oil and gas leases were deposited in a special fund, the OGLF, to be exclusively used for conservation, recreation, dams and flood control purposes. DCNR was appropriated all funds in the OGLF and given sole responsibility to decide which projects to approve and lands to acquire for such purposes. These safeguards limited the use of the OGLF to purposes that benefited the State Forest and Park public natural resources converted to generate the OGLF.

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<sup>24</sup> See 71 P.S. §§ 1340.302(a)(6) & 1340.304(c).

On October 30, 2017 the Governor and Commonwealth repealed the 1955 OGLF Act. By doing so, they eliminated the statutory safeguards that protected the use of the OGLF in compliance with Section 27. By failing to enact provisions in the Fiscal Code to replace these safeguards, they have enactment affirmative legislation that violates Section 27 and our State Forest and Park trust corpus is no longer conserved and maintained.

The repeal of the 1955 OGLF Act also eliminated the balance established by the CNRA to ensure DCNR's compliance with Section 27. Without control over the OGLF proceeds from the State Forest oil and gas leases, DCNR now must deal with over 600,000 acres of State Forest land in northcentral Pennsylvania subject to new industrial shale gas development for the next 50 years or more without funds it thought would be available when it made decisions to lease State Forest land for oil and gas extraction and sale.

This Court has recognized this important relation between DCNR State Forest leasing and the restricted use of the OGLF in *PEDF II*, stating:

Having established ... that all proceeds from the sale of our public natural resources are part of the corpus of our environmental public trust and that the Commonwealth must manage the entire corpus according to its fiduciary obligations as trustee, the Commonwealth Court's decision cannot stand. ***In light of our specific holding that sections 1602-E and 1603-E are facially unconstitutional, the pre-2008 appropriations scheme as set forth in the [1955 OGLF Act] and the CNRA again controls, with all monies in the [OGLF] specifically appropriated to the DCNR.*** As to the remaining acts and decisions [PEDF] challenges, we clarify that their constitutionality depends upon

whether they result from the Commonwealth's faithful exercise of its fiduciary duties vis a vis our public natural resources **and** any proceeds derived from the sale thereof. For example, *the Governor's ability to override decisions by the DCNR regarding leasing is contingent upon the extent to which he does so in a manner that is faithful to his trustee obligations, not his various other obligations.*

161 A.3d at 939 (emphasis added).

In enacting the repeal of the 1955 OGLF Act, nothing in Section 20(2) indicates that the Governor and Commonwealth considered or evaluated the environmental impacts to our State Forests and Parks, DCNR's duty as trustee to conserve and maintain them, or the rights of the people to their environmental value. Section 20(2) of the 2017 Fiscal Code amendments does not even recognize that most of OGLF is part of the corpus of the public trust established under Section 27.

In analyzing former Sections 1602-E and 1603-E of the Fiscal Code in *PEDF II*, this Court found "no indication that the General Assembly considered the purposes of the public trust or exercised reasonable care in managing the royalties in a manner consistent with its Section 27 duties" and held "that sections 1602-E and 1603-E ... are facially unconstitutional." *Id.* at 938. This Court further observed that these provisions "plainly ignore the Commonwealth's constitutionally imposed fiduciary duty to manage the corpus of the environmental public trust for the benefit of the people to accomplish its purpose – conserving and maintaining the corpus by, inter alia, preventing and remedying the degradation, diminution and depletion of our public natural resources." *Id.*



In *PEDF II*, this Court also held that “[a]s a fiduciary, the Commonwealth has a duty to act toward the corpus of the trust—the public natural resource—with prudence, loyalty, and impartiality. *Id.* at 932 (citing *Robinson Twp.*, 83 A.3d at 956-957); *see also* 20 Pa.C.S. §§ 7772-7774. The Commonwealth, as trustee, also must “administer the trust in good faith, in accordance with its provisions and purposes and the interests of the beneficiaries and in accordance with applicable law.” 20 Pa.C.S. § 7771.

The repeal of the 1955 OGLF Act without replacing it with any safeguard to conserve and maintain the corpus of the Section 27 trust is facially unconstitutional, just like former Sections 1602-E and 1603-E of the Fiscal Code. By enacting this repeal, the Governor and Commonwealth breached their fiduciary duties as trustees under Section 27 to act toward the corpus of the trust with prudence, loyalty, and impartiality.

## **2. Section 1601.2-E of the Fiscal Code is Unconstitutional**

### **a. Continuation of the OGLF under Section 1601.2-E(a) Does Not Reflect Constitutional Compliance**

Section 1601.2-E(a) of the Fiscal Code states: “Continuation.—The fund is continued as a special fund in the State Treasury.” Thus, this provision re-establishes the OGLF as a special fund without any acknowledgement that it contains constitutionally protected trust assets or any limitations to ensure the Commonwealth administers these trust assets as trustee in compliance with its

constitutional mandate to conserve and maintain the corpus of the Section 27 trust for the benefit of people. Thus, this provision is facially unconstitutional based on this Court's requirements in *PEDF II*. 161 A.3d at 938-939.

Nonetheless, the Commonwealth Court concludes that this provision is not facially unconstitutional because the legislature “*retains the authority to control the fate of special funds in order to serve the changing needs of government provided that doing so does not contravene a specific constitutional provision controlling the fund.*” *PEDF IV* at 25 (emphasis added). This assertion that the need for legislative control over special funds to serve the changing needs of the government somehow makes the reestablishment of the OGLF constitutional on its face fails to acknowledge the precise reason that Section 1601.2-E(a) violates both Section 27 and Section 25 and the Trustees' duties thereunder on its face. The Governor and Commonwealth, including the General Assembly, must make decisions on the use of Section 27 trust funds in the OGLF based on their duties as trustees to administer these trust funds to conserve and maintain our State Forest and Park trust corpus in compliance with the mandates Section 27. Decisions to use these trust funds based on the financial needs of the government violate both Section 27 and 25, as they are based on the policies or the administration of the government, that is, politics, not the common ownership of our State Forests and Parks by the people.

Section 1601.2-E(a) of the Fiscal Code also violates Section 27 by continuing the OGLF as a special fund without any safeguards to prevent its use for non-trust purposes, which sanctions the Commonwealth’s use Section 27 trust assets for its own government needs—a non-trust purpose. Nothing in Section 1601.2-E(a) ensures that Section 27 trust assets in the OGLF will be used to conserve and maintain the corpus of our State Forest and Park trust assets under the Section 27, or to secure the beneficial use of our State Forest and Park Section 27 public natural resources for the people, both now and in the future. For these reasons, this provision is facially unconstitutional.

**b. Comingling of Funds Authorized by Section 1601.2-E(b) Does Not Reflect Constitutional Compliance**

Section 1601.2-E(b) of the Fiscal Code authorizes the comingling of funds in the OGLF. This provision states: “Sources.—The following shall be deposited into the fund: (1) Rents and royalties from oil and gas leases of land owned by the Commonwealth, except from rents and royalties received from game and fish lands. (2) Amounts as provided under ... the Indigenous Minerals Resources Development Act. (3) Any other money appropriated or transferred to the fund.”

The Commonwealth Court found that “[b]y *comingling monies in the [OGLF] without classification and by not maintaining adequate records, the Commonwealth is neglecting its fiduciary duties.*” *PEDF IV* at 36 (emphasis added). Thus, the court declared, as requested by PEDF, “*that the Commonwealth,*

*as trustee of Pennsylvania’s public natural resources, is required to keep detailed accounts of the trust monies derived from the oil and gas leases and track how they are spent as part of its administration of the trust.”* *Id.* at 36-37 (emphasis added).

Nonetheless, the Commonwealth Court concluded that “[a]lthough Section 1601.2-E(b) does not identify nor account for the funds going into and out of the OGLF, such omissions do not render this section facially unconstitutional ... because if the General Assembly chooses to appropriate all monies in the [OGLF] for trust purposes, there would be no Section 27 violation.” *Id.* at 27. The Commonwealth Court erred in its conclusion by failing to recognize the duty of the Governor and Commonwealth, as trustees, to enact affirmative legislation that reflects compliance with Section 27 on its face, not legislation that sanctions noncompliance.

Section 1601.2-E(b), is unconstitutional on its face. It includes express terms authorizing the comingling of trust and non-trust assets in the OGLF in violation of basic trust principles. The Commonwealth Court acknowledges that this comingling of funds in the OGLF renders it impossible “to determine whether the money appropriated and transferred from the [OGLF] is trust principal, and whether trust principal is being used in a constitutional manner.” *Id.* at 36. Likewise, this comingling makes it impossible for the Governor and Commonwealth to ensure that

the trust funds assets are used in compliance with the Section 27 trust mandates. They acknowledge this limitation in their response to PEDF’s interrogatories (*see, e.g.*, R20 (“No Fiscal Code requires the Respondents to identify the primary source of the funds (Bonus, Rental, or Royalty) prior to expenditure from the [OGLF]. Once a Royalty Payment enters the [OGLF], it is commingled with other monies. Accordingly, it is not possible to identify the originating source of any monies allocated from the [OGLF] for annual operating costs.”)).

Thus, Section 1601.2E(b) does not reflect that the Commonwealth complied with its constitutional duties as directed by this Court in *PEDF II*, thus rendering this provision facially unconstitutional, and the Commonwealth Court erred in concluding otherwise.

**c. The Use of the OGLF Authorized by Section 1601.2-E(c) is Unconstitutional on Its Face**

Section 1601.2-E(c) of the Fiscal Code states: “Use.—Money in the fund may only be used as provided under subsection (e) or as *annually appropriated* by the General Assembly. In making an appropriation from the fund, the General Assembly shall *consider* the Commonwealth’s trustee duties under Section 27 of Article I of the Constitution of Pennsylvania” (emphasis added).

The requirement of Section 1601.2-E(c) that the General Assembly “consider” its duties as trustee under Section 27 during its future appropriation of Section 27 trust assets in the OGLF does not reflect that the Commonwealth

complied with Section 27 in enacting this legislation. The Commonwealth Court acknowledges this potential problem stating that “[i]n *PEDF II*, the Supreme Court held that it is not enough to simply ‘consider’ allocating the corpus funds for trust purposes in declaring Section 1602-E of the Fiscal Code unconstitutional.” *PEDF IV* at 28 (quoting *PEDF II*, 161 A.3d at 937). Nonetheless, the Commonwealth Court erroneously concludes that Section 1601.2-E(c) is not facially unconstitutional under Section 27 or Section 25 “[b]ecause the [OGLF] is comprised of both restricted corpus [royalties and two-thirds of the bonus and rental payments] and unrestricted deposits [one-third of the bonus and rental payments].” *Id.* (emphasis added.) PEDF has appealed the Commonwealth Court determination that one-third of bonus and rentals are income; however, even if they are, that does save this provision from being facially unconstitutional when it sanctions OGLF appropriations, most of which are Section 27 trust assets, for non-trust purposes.

Section 1601.2E(c) violates Sections 27 on its face because it only requires the General Assembly to “consider” the Commonwealth’s trustee duties under Section 27 when making future OGLF appropriations. By directing the General Assembly merely to “consider” its trustee duties in the future, the Governor and Commonwealth have abdicated their duty to reasonably exercise their Section 27 duties prior to enacting affirmative legislation governing the OGLF. As a consequence of their failure to evaluate the impacts of their actions, they have failed

to include any provisions in Section 1601.2E(c) to protect our State Forest and Park trust corpus to reflect that the Commonwealth complied with its constitutional duties under Section 27 as directed by this Court in *PEDF II*.

By enacting Section 1601.2-E(c) to allow future appropriations of the OGLF, the Governor and Commonwealth acted as proprietors of our State Forest oil and gas public natural resources, rather than as trustees with a fiduciary duty to use these Section 27 trust assets only for the trust purposes established in Section 27, as directed by this Court in *PEDF II*. Annual appropriations are based on political decisions of the Governor and General Assembly, not decisions based on the exercise of their fiduciary duties of prudence, loyalty and impartiality to the people of Pennsylvania as trustees under Section 27. They exercised their authority to enact appropriations to fund the policies and administration of the government under Articles III, IV and VIII of our Constitution. To use that authority to appropriate Article I trust funds for political reasons violates the inalienable rights of the people, both to have their State Forest and Park trust corpus protected, and to have their rights to those resources protected. Thus, Section 1601.2-E(c) violates of Article I Section 25 as well as 27.

**d. The OGLF Transfers Authorized by Section 1601.2-E(e)  
Violate Article I Section 27 and Article I Section 25**

Section 1601.2-E(e)(1) of the Fiscal Code enacted in 2017 appropriates \$20,000,000 annually to be transferred to the Marcellus Legacy Fund for distribution

to the Environmental Stewardship Fund. When the Environmental Stewardship Fund was originally established by the Environmental Stewardship and Watershed Protection Act (27 Pa.C.S. §§ 6101 – 6119), it received most of its money from a legislative fee imposed on each ton of waste disposed in Commonwealth landfills. 27 Pa.C.S. § 6112. In 2005, this act was amended to authorize the issuance of \$625,000,000 in bonds over a five-year period to fund the “Growing Greener” initiative. The annual debt service on these bonds is now being repaid with the landfill fees deposited into the Environmental Stewardship Fund. 27 Pa.C.S. § 6115(d)(4).

Section 1601.2-E(e)(1) of the Fiscal Code now requires the transfer of \$20,000,000 annually from the OGLF to the Environmental Stewardship Fund via the Marcellus Legacy Fund, which replaces a substantial amount of landfill fee revenue being used to pay the Growing Greener bond debt. To continue funding projects authorized by the Environmental Stewardship and Watershed Protection Act at levels similar to those before landfill fees were diverted to debt service on the Growing Greener bonds, over \$124,000,000 has been transferred from the OGLF to the Environmental Stewardship Fund.<sup>25</sup>

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<sup>25</sup> See R141 (summary of Environmental Stewardship Fund transfers from the OGLF and the annual debt service paid on the Growing Greener bonds through FY 2018-2019; this exhibit has been updated and clarified based on information in subsequent Governor’s Executive Budgets in **Attachment E** to this brief).



Section 1601.2-E(e)(2) of the Fiscal Code enacted in 2017 also authorizes continued transfers of \$15,000,000 annually from the OGLF to replace tax revenue previously deposited into the Hazardous Sites Cleanup Fund administered by the Pennsylvania Department of Environmental Protection (“DEP”). When the Hazardous Sites Cleanup Fund was created in 1988, it was funded primarily from the automatic transfer of 0.25 mills of tax revenue collected through the Capital Stock and Franchise Tax.<sup>26</sup> In 2007, the Hazardous Sites Cleanup Fund Funding Act directed the annual transfers of a fixed amount, \$40,000,000, collected through the Capital Stock and Franchise Tax to the Hazardous Sites Cleanup Fund.<sup>27</sup> With the expiration of that tax on December 31, 2015,<sup>28</sup> more than \$74,000,000 from the OGLF has been transferred to the Hazardous Sites Cleanup Fund for us by DEP to make up for the diminishing tax revenue.<sup>29</sup>

Section 1601.2-E(e) transfers constitutionally protected Article I trust assets in the OGLF to replace tax and fee revenue (non-trust funds) collected by the State government to fund statewide environmental programs through the Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund. These programs and the

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<sup>26</sup> Act of October 18, 1988, P.L. 756, No. 108, § 901(c)(7); Article VI of the Tax Code of 1971.

<sup>27</sup> Act of December 18, 2007, P.L. 486, No. 77.

<sup>28</sup> See Governor’s Executive Budget 2017-2018, Section D (Tax Expenditures), Corporation Taxes, Capital Stock/Foreign Franchise Tax, page D38; Act of July 9, 2013, P.L. 270, No. 52, § 20.1 (omnibus amendments of the Tax Reform Code of 1971) (**Attachment B-9**).

<sup>29</sup> See R142 (summary of Hazardous Sites Cleanup Fund transfers from the OGLF and receipts from the Capital Stock and Franchise Tax; this exhibit has been updated based on information in subsequent Governor’s Executive Budgets in **Attachment E** to this brief)

taxes and fees used to fund them have been established under the general powers of the State government granted by other articles of our Constitution. To fund them through the sale of our Article I State Forest and Park trust corpus violates both Section 27 and Section 25 of Article I of our Constitution. The Governor and Commonwealth, as trustees, can only use the Article I trust funds in the OGLF to conserve and maintain the State Forest and Park trust corpus converted to generate them. In doing otherwise, they are acting as proprietors who use our State Forest and Park trust assets to replace government funding, rather than as trustees with a fiduciary duty to conserve and maintain these public natural resources for the benefit of current and future generations of Pennsylvanians.

In enacting Section 1601.2-E(e), the Governor and Commonwealth are depleting our State Forest and Park trust corpus in northcentral Pennsylvania protected under Section 27 to benefit other environmental initiatives in other parts of the State. Section 27 provides no authority to deplete, degrade or diminish one public natural resource to benefit another. Section 27 does not allow the trustee to deplete, degrade or diminish our State Forest and Park public natural resources to benefit another resource. Our public natural resources are not fungible and any pretense that we are capable of valuing one to balance it against another will only undermine Section 27. To allow our high value State Forest and Park trust assets to be sold and otherwise degraded for any purpose other than enhancing our State

Forests and Parks trust corpus would violate the trustees' duties to conserve and maintain these resources. Section 1601.2-E(e) is therefore in violation of Section 27 on its face.

The Commonwealth Court relies on three findings to determine that Section 1601.2-E(e) is not unconstitutional. *PEDF IV* at 30. First, the court states that using trust assets to replace insufficient tax or fee revenue is not per se a violation, but only a violation of Section 27 if used for a non-trust purpose. But using our State Forest and Park trust corpus to replace other non-trust funds is clearly a non-trust purpose. Moreover, using those funds for statewide programs that do not benefit our State Forest and Park trust corpus are likewise not using them for a proper trust purpose. Second, the court relies again on the “run afoul” dicta in *PEDF II* to find that using the Section 27 trust assets for “conservation and maintenance initiatives” other than conserving and maintaining our State Forest and Park trust corpus in northcentral Pennsylvania complies with Section 27. For the reasons already discussed, this Court’s findings and holdings in *PEDF II* do not support this conclusion. Finally, the court contends that DCNR is not the sole agency responsible for conserving the public natural resources. However, DCNR is the agency established by the CNRA with authority to manage our State Forest and Park trust corpus under Section 27. Thus, to divert the State Forest trust assets in the OGLF to another agency to fund an initiative that does not benefit the State Forest and Park trust corpus in

northcentral Pennsylvania results in a depletion of that trust corpus in violation of Section 27.

For the above reasons, Section 1601.2-E(e) does not reflect that the Commonwealth complied with its constitutional duties as directed by this Court in *PEDF II*, thus rendering this provision facially unconstitutional and the Commonwealth Court’s decision to the contrary in error.

### **3. Section 1726-G of the Fiscal Code Diverted Funds Dedicated to Section 27 Trust Purposes Without Prior Evaluation**

The General Fund did not contain sufficient tax revenue to fund the spending authorized in the General Appropriations Act of 2017. As a result, the Governor and Commonwealth approved Section 1726-G of the Fiscal Code, which directed the sweeping transfer of \$300,000,000 from special funds and restricted accounts to be identified later to fill this budget gap.<sup>30</sup>

As part of this process, the Governor directed the transfer of \$10,000,000 from the Keystone Recreation, Park and Conservation Fund (“Keystone Fund”) – a fund used primarily by DCNR to improve the public natural resources of our parks and forests. R149-150 (Respondents’ Supplemental Response to Interrogatories dated December 10, 2018); *see also* Governor’s Executive Budget 2019-2020, page 40

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<sup>30</sup> Act of October 30, 2017, P.L. 725, No. 44, § 19, Article XVII-G, § 1726-G (Fund transfers) (**Attachment B-5**).

(showing \$10,000,000 transfer to the General Fund under 2017-18 actual receipts and disbursements.<sup>31</sup>

The Keystone Fund was created by the Keystone Recreation, Park and Conservation Fund Act<sup>32</sup> to provide a “predictable and stable source of funding” primarily for the improvement of public natural resources protected by Section 27.

32 P.S. § 2012 (“Fundamental to the health and welfare of the people of Pennsylvania are the land and water resources of this Commonwealth as described in section 27 of Article I of the Constitution of Pennsylvania.”). By law, DCNR receives 55% of the Keystone Fund annually for purposes including “[r]ehabilitating and upgrading State park and forest facilities” and “[a]cquiring lands important to maintaining the integrity of existing State parks and forests.” 32 P.S. §§ 2014, 2018(b)(2), 2022.<sup>33</sup>

With the loss of control over the OGLF for projects to conserve the public natural resources of our State Forests and Parks, the Keystone Fund has been an important source of money for DCNR to carry out such projects. Of the \$10,000,000

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<sup>31</sup> The Governor also proposed to also use \$30,000,000 from the Keystone Fund for DCNR operations in FY 2019-20. Governor’s Executive Budget 2019-2020, page H40 (**Attachment B-11**).

<sup>32</sup> Act of July 2, 1993, P.L. 359, No. 50 (32 P.S. §§ 2011-2024). Each month, the State Treasurer deposits 15% of the tax revenue generated by the State realty transfer tax into the Keystone Fund. 72 P.S. § 8106-C(d).

<sup>33</sup> The responsibilities and funding allocation for the Department of Environmental Resources and the Department of Community Affairs were transferred to DCNR in 1995 when it was established by the Conservation and Natural Resources Act (71 P.S. §§ 1340.304(c) & 1340.306(c)).

diverted from the Keystone Fund to the General Fund, DCNR lost over \$7,000,000 previously earmarked to carry out conservation projects on our State Forests and Parks,<sup>34</sup> further limiting DCNR's ability to ensure the public natural resources degraded by oil and gas extraction are conserved and maintained. Section 1726-G did not require any evaluation of how this (or any other) transfer might impact our public natural resources or the beneficiaries' Section 27 rights thereto.

Section 1726-G did not even require the Governor to provide notice to the public of the funds to be transferred in advance of directing the transfers. This lack of evaluation and transparency violated the Governor's fiduciary duties of prudence, loyalty and impartiality toward our public resources mandated by Section 27. Section 1726-G of the Fiscal Code does not reflect that the Commonwealth complied with its constitutional duties as directed by this Court in *PEDF II*, thus rendering these provisions facially unconstitutional.

The Commonwealth Court found that the Keystone Fund did not contain OGLF funds and is therefore not protected as trust fund assets. But the facts are that \$10,000,000 of the Keystone Fund, most of which would have been appropriated to DCNR to use for projects to conserve and maintain the State Forest resources, was diverted without any consideration on DCNR's trustee duties under Section 27.

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<sup>34</sup> An estimated \$61,772,000 was proposed for use by DCNR in FY 2017-2018 but only \$54,486 was actually disbursed for that fiscal year. Governor's Executive Budget 2017-2018, page H38 (2017-18 estimated disbursement); Governor's Executive Budget 2019-2020, page H40 (2017-18 actual disbursements) (**Attachment B-11**).

Thus, the transfers authorized by Section 1726-G of the Fiscal Code do not reflect that the Governor or Commonwealth complied with their constitutional duties to ensure our State Forest and Park trust corpus is conserved and maintained.

#### **4. Affirmative Legislation Required to Protect OGLF Trust Assets**

As the Section 27 trustee, the Commonwealth has a duty to “*act affirmatively via legislative action* to protect the environment.” *PEDF II*, 161 A.3d at 933 (emphasis added). Affirmative legislative action is needed to ensure that the OGLF has protective limitations to ensure the use of trust funds is in compliance with Section 27 and with the trustee duties thereunder. For all the reasons discussed above, such affirmative legislation must ensure the OGLF is used in compliance with Section 27 by requiring, at a minimum, that:

(a) Section 27 trust assets in the OGLF shall not be comingled with non-trust funds, and shall be identified and accounted for separately.

(b) Section 27 trust assets obtained from the conversion of State Forest and Park trust corpus in northcentral Pennsylvania through the extraction and sale of State Forest oil and natural gas must be used to conserve and maintain our State Forest and Park trust corpus. Otherwise, the fiduciary duties to preserve the corpus of the trust and the rights of the people to the trust corpus are violated.

(c) Section 27 trust assets obtained from the conversion of our State Forest and Park trust corpus through oil and gas extraction shall be appropriated to DCNR

for resource-based projects that will directly remedy the depletion, degradation and diminution our State Forest and Park trust corpus through the science of ecosystem management by restoring, replacing, enhancing and taking any other appropriate action to conserve and maintain those resources.

PEDF respectfully requests that this Honorable Court declare Section 1601.2-E of the Fiscal Code to be facially unconstitutional and reinstate the 1995 OGLF Act until such time as affirmative legislation that achieves the above minimum requirements is enacted.

**C. THE GOVERNOR AND COMMONWEALTH BREACHED THEIR TRUSTEE DUTIES IN ADMINISTERING OUR STATE FOREST AND PARK SECTION 27 TRUST CORPUS**

**1. The Governor and Commonwealth Breached their Fiduciary Duties of Prudence, Loyalty and Impartiality in Administering the OGLF**

The Commonwealth's duties as trustees are clearly stated by this Court in

*PEDF II:*

As trustee, the Commonwealth is a fiduciary obligated to comply with the terms of the trust and with standards governing a fiduciary's conduct. *The explicit terms of the trust require the government to "conserve and maintain" the corpus of the trust.* See Pa. Const. art. I, § 27. The plain meaning of the terms conserve and maintain implicates a duty to prevent and remedy the degradation, diminution, or depletion of our public natural resources. As a fiduciary, the Commonwealth has a duty to *act toward the corpus of the trust—the public natural resources—with prudence, loyalty, and impartiality.*



*PEDF II*, 161 A.3d at 932 (emphasis added) (citing *Robinson Twp.*, 83 A. 3d at 956-57); *see also* 20 Pa.C.S. Chapter 77 (Trusts), Subchapter H (Duties and Powers of Trustee).

By continuing to appropriate Section 27 trust assets from the OGLF to pay for DCNR general operations and by enacting Fiscal Code provisions that repeal the 1955 OGLF Act without replacing it with appropriate safeguards, allow trust funds to be comingled with non-trust fund, allow Article I trust funds to be used to replace tax and fee revenue authorized under subordinate articles of our Constitution, and divert funds needed by DCNR to conserve and maintain our State Forest and Park trust corpus—all after this Court clearly established in *PEDF II* that such actions are unconstitutional on their face, the Governor and Commonwealth clearly breached their fiduciary duties of prudence, loyalty, and impartiality as trustee of the Section 27 trust.

***PRUDENCE*** requires a trustee to exercise “such care and skill as a man of ordinary prudence would exercise in dealing with his own property.” 161 A.3d at 932 (quoting Restatement (Second) of Trusts § 174, as cited in *In re Mendenhall*, 398 A.2d 951 (Pa. 1979). Under Pennsylvania law, a trustee must “administer the trust as a prudent person would, by considering the purposes, provisions, distributional requirements and other circumstances of the trust and by ***exercising reasonable care, skill and caution.***” 20 Pa.C.S. § 7774 (emphasis added).

In *PEDF II*, this Court found former Sections 1602-E and 1603-E of the Fiscal Code facially unconstitutional because they “plainly ignore the Commonwealth’s *constitutionally imposed fiduciary duty* [under Section 27] to manage the corpus of the environmental trust for the benefit of the people to accomplish its purpose – conserving and maintaining the corpus by, inter alia, preventing and remedying the degradation, diminution and depletion of our public natural resources.” 161 A.3d at 938.

For the Governor and Commonwealth to appropriate OGLF trust assets to pay for DCNR’s operations, a clear non-trust purpose, so they could use General Funds for other purposes, knowing that these trust assets are part of our State Forest and Park trust corpus, and that this trust corpus would be depleted, degraded and diminished by the loss of these trust assets, they are not exercising reasonable care as trustees. A prudent trustee would not use the Section 27 trust corpus for its annual general operating costs because that use results in an unauthorized depletion of the trust corpus. A prudent trustee would not repeal the OGLF without replacing the protections and safeguards to ensure that the Section 27 trust assets would be used only as authorized by the trust.

**LOYALTY** “imposes an obligation to manage the corpus of the trust so as to accomplish the trust’s purposes for the benefits of the trust’s beneficiaries.” 161 A.3d at 932-933; *see also* 20 Pa.C.S. § 7772 (“A trustee shall administer the trust

solely in the interests of the beneficiaries.”). Loyalty requires the trustee to administer the trust *solely in the beneficiary's interest and not the trustee's own interest*. By using trust assets that are part of our State Forest and Park trust corpus to pay for general government operations rather than paying for those operations through appropriate taxes (*e.g.*, a severance tax on the oil and gas industry), the Commonwealth did not exercise loyalty to the trust or to the beneficiaries of the trust. By taking the OGLF away from DCNR and giving the General Assembly control over the fund use for future appropriations, the Governor violated loyalty to the corpus of the trust and to the beneficiaries' rights to the trust. By enacting the 2017 Fiscal Code provisions at issue in this case, the Governor and Commonwealth benefitted themselves and not the trust beneficiaries.

*IMPARTIALITY* “requires the trustee to manage the trust so as to give all of the beneficiaries due regard for their respective interest in light of the purposes of the trust.” 161 A.3d at 933 (citing 20 Pa.C.S. § 7773 and Restatement (Second) of Trusts § 183 as cited in *Estate of Sewell, supra*). Under Section 27, the trustee must manage the trust *for both current and future generations*. By taking the proceeds from the sale of our State Forest and Park trust corpus, the Governor and Commonwealth have depleted the trust corpus for the current and future generations of beneficiaries. By failing to use the proceeds from the sale of our State Forest and Park trust corpus in northcentral Pennsylvania to conserve and maintain that trust

corpus for the benefit current and future generations, the Commonwealth breached its Section 27 fiduciary duty of impartiality.

**2. The Commonwealth Failed to Evaluate the Consequences of its Actions on the Section 27 Trust**

The Governor and Commonwealth breached their fiduciary duties of prudence, loyalty and impartiality to the Section 27 trust and to the trust beneficiaries by failing to evaluate the consequences of using the corpus of the public trust to pay for general government operations and by repealing the 1955 OGLF Act before determining the safeguards necessary to replace it based on that evaluation. As discussed in Section A.2. above, this Court clearly articulated the need for an evaluation of any decision that might or will impact Section 27 public natural resources. The failure to properly evaluate proposed legislation governing the OGLF prior to enactment violates the duty of prudence, loyalty and impartiality as required by this Court in *PEDF II*. 161 A.3d at 938.

**3. The Governor and Commonwealth Violated Their Fiduciary Duty by Failing to Petition the Court for Guidance in Light of *PEDF II***

As trustees under our Constitution, the Governor and Commonwealth had the duty, in light of this Court's decision in *PEDF II*, to refrain from appropriating Section 27 trust funds from the OGLF for general government operations and from repealing the 1955 OGLF Act without petitioning the court for a declaration of the constitutionality of such appropriations and enactments. This Court has specifically

authorized such action as prudent when reasonable doubts arise regarding a proposed action by the trustee. *Estate of Sewell*, 409 A.2d at 401, citing the Declaratory Judgments Act, 42 Pa.C.S. § 7535, and the Restatement (Second) of Trusts, §259 (“the trustee is entitled to apply to the court for instructions as to the administration of the trust if there is reasonable doubt as to his duties or powers as trustee”). Moreover, this Court advised that trustees who fail to seek instruction from the court act at their own peril and are subject to surcharge if they fail to properly exercise their trust duties.

By continuing to authorize use of trust funds in the OGLF for general government operations without petitioning the court for a declaration of compliance or non-compliance with Section 27 in light of PEDF’s challenges and particularly after this Court’s direction in *PEDF II*, the Governor and Commonwealth failed to faithfully exercise their fiduciary duties and have acted at their own peril.

### **VIII. REQUESTED RELIEF**

For the reasons set forth in this brief, as well as the extensive record in both this case and *PEDF II*, PEDF respectfully requests that this Honorable Court reverse the Commonwealth Court’s final order and grant PEDF’s requested declaratory relief. Specifically, PEDF requests that this Honorable Court find and declare the following, along with any additional relief it deems appropriate:

(1) Sections 104(p) and 1601 of the General Appropriations Acts of 2017 and 2018 are facially unconstitutional under Article I Section 27 and Section 25;

(2) Sections 1601.2-E of the Fiscal Code is facially unconstitutional under Article I Section 27 and Section 25; and the 1955 OGLF Act is reinstated until affirmative legislation is enacted that ensures the OGLF is used in compliance with Section 27;

(3) Section 1726-G of the 2017 Fiscal Code is facially unconstitutional under Section 27;

(4) The Governor and Commonwealth violated Section 27 and Section 25 of Article I, and breached their fiduciary duties as trustees in administering the Section 27 trust by:

(i) Enacting appropriations of Section 27 trust assets from the OGLF for general government operations, which are not trust purposes;

(ii) Enacting the repeal of the 1955 OGLF Act and Section 1601.2-E of the Fiscal Code to divert control of the OGLF from DCNR to use for trust purposes to the General Assembly to use for non-trust political purposes;

(iii) Enacting Section 1601.2- E(e) to use OGLF trust funds to replace legislated tax and fee revenue for other environmentally related funds;

(iv) Failing to evaluate and include provisions in their OGLF appropriations and Fiscal Code enactments reflecting compliance with

Section 27 by ensuring that State Forest and Park trust corpus in northcentral Pennsylvania converted to generate the OGLF is used to conserve and maintain that trust corpus and to protect the rights of the beneficiaries of these trust resources.

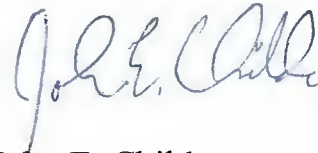
(v) Failing to petition the court for a declaration of compliance with Section 27 prior to appropriating OGLF trust assets for general government operations, repealing the 1955 OGLF Act, and enacting the challenged Fiscal Code provisions in light of PEDF's challenges and this Court's direction in *PEDF II*;

(5) The proceeds from the conversion of the State Forest and Park trust corpus in northcentral Pennsylvania must be used to conserve and maintain that trust corpus under Section 27.

(6) The proceeds from the conversion of the State Forest and Park trust corpus in northcentral Pennsylvania must be appropriated to DCNR as the only agency with the statutory and constitutional mandate to conserve and maintain that trust corpus, and as the agency with the scientific knowledge and ability to conserve and maintain that trust corpus through ecosystem management.

IN CONCLUSION, PEDF respectfully requests his Honorable Court to vacate the Commonwealth Court Opinion and grant PEDF's request for relief.

Respectfully,

A handwritten signature in black ink, appearing to read "John E. Childe". The signature is written in a cursive style with a large initial "J" and "C".

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**SUPREME COURT OF PENNSYLVANIA**

**PENNSYLVANIA ENVIRONMENTAL :  
DEFENSE FOUNDATION, :  
Appellant :**

v.

**No. 65 MAP 2020**

**COMMONWEALTH OF :  
PENNSYLVANIA and :  
TOM WOLF, in his official capacity as :  
GOVERNOR OF PENNSYLVANIA, :  
Appellees :**

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**CERTIFICATION OF COMPLIANCE WITH Pa. R.A.P. 2135(d)**

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I hereby certify that the Appellant’s Brief is in compliance with Pa. Rule of Appellate Procedure 2135 and includes a total word count of 13,965 based on the word count feature in Microsoft Word.



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**SUPREME COURT OF PENNSYLVANIA**

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GOVERNOR OF PENNSYLVANIA, :  
Appellees :**

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**CERTIFICATION OF COMPLIANCE WITH Pa. R.A.P. 127**

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I hereby certify that the Appellant’s Brief is in compliance with Pa. Rule of Appellate Procedure 127.



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GOVERNOR OF PENNSYLVANIA, :  
Appellees :**

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**CERTIFICATION OF SERVICE**

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I hereby certify that the Appellant’s Brief has been service electronically on M. Abbegael Guinta, Audrey Miner, and Howard Hopkirk, Respondents’ counsel, through the Court’s PACFile electronic filing system.



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Date: February 22, 2021

**SUPREME COURT OF PENNSYLVANIA**

**PENNSYLVANIA ENVIRONMENTAL :  
DEFENSE FOUNDATION, :  
Appellant :**

**v. :**

**No. 65 MAP 2020**

**COMMONWEALTH OF :  
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Appellees :**

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**PENNSYLVANIA ENVIRONMENTAL DEFENSE FOUNDATION  
APPELLANT BRIEF ATTACHMENTS**

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## PEDF Appellant Brief Attachments

**Attachment A** Commonwealth Court Memorandum Opinion and Final Order dated October 22, 2020 (Docket 358 MD 2019)

**Attachment B** Oil and Gas Lease Fund Legislative Enactments and Governor’s Executive Budgets cited in brief:

<b>B-1</b>	<b>General Appropriations Act of 2017</b> , cited excerpts: .....	B1
	§ 104(p) – Oil and Gas Lease Fund State Appropriations .....	B4
	§ 1601 – DCNR Oil and Gas Lease Fund Appropriations .....	B5
<b>B-2</b>	<b>General Appropriations Act of 2018</b> , cited excerpts: .....	B6
	§ 104(p) – Oil and Gas Lease Fund State Appropriations .....	B8
	§ 1601 – DCNR Oil and Gas Lease Fund Appropriations .....	B9
<b>B-3</b>	<b>General Appropriations Act of 2019</b> , cited excerpts: .....	B11
	§104(b) – Special Funds and Accounts State Appropriations.....	B14
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<b>B-4</b>	<b>General Appropriations Act of 2020</b> , cited excerpts: .....	B16
	§ 104(b) – Special Funds and Accounts State Appropriations.....	B19
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<b>B-5</b>	<b>2017 Fiscal Code Omnibus Amendments</b> , .....	B21
	§ 3.2 (amending Section 1601-E of the Fiscal Code) .....	B24
	§ 3.3 (adding Section 1601.2-E of the Fiscal Code) .....	B24
	§ 19 (adding Sections 1720-F and 1726-G of the Fiscal Code) ..	B26
	§ 20(2) (repeal of the 1995 Oil and Gas Lease Fund Act) .....	B26
<b>B-6</b>	<b>2009 Fiscal Code Omnibus Amendments</b> , .....	B28
	§ 3 (adding Section 1601-E through 1604-E of the Fiscal Code)	B29
<b>B-7</b>	<b>1955 Oil and Gas Lease Fund Act</b> .....	B31
<b>B-8</b>	<b>Governor’s Executive Budget 2016-2017</b> , cited excerpts: .....	B33
	DCNR Appropriations (pages E13-3 – E13-4) .....	B34
	Oil and Gas Lease Fund (page H48) .....	B36

## PEDF Appellant Brief Attachments

<b>B-9</b>	<b>Governor’s Executive Budget 2017-2018</b> , cited excerpts: .....	B37
	Capital Stock/Foreign Franchise Tax (page D38) .....	B38
	DCNR Appropriations (pages E11-3 – E11-5) .....	B39
	Keystone Recreation, Park and Conservation Fund (page H38) .	B42
	Oil and Gas Lease Fund (page H51) .....	B43
<b>B-10</b>	<b>Governor’s Executive Budget 2018-2019</b> , cited excerpts: .....	B44
	DCNR Appropriations (pages E11-3 – E11-5) .....	B45
	Oil and Gas Lease Fund (page H52) .....	B48
<b>B-11</b>	<b>Governor’s Executive Budget 2019-2020</b> , cited excerpts: .....	B49
	DCNR Appropriations (pages E11-3 – E11-5) .....	B50
	Environmental Stewardship Fund (page H25) .....	B53
	Hazardous Sites Cleanup Fund (page H32) .....	B54
	Keystone Recreation, Park and Conservation Fund (page 40) ....	B55
	Marcellus Legacy Fund (page H44) .....	B56
	Oil and Gas Lease Fund (page H52) .....	B57
<b>B-12</b>	<b>Governor’s Executive Budget 2020-2021</b> , cited excerpts: .....	B58
	DCNR Appropriations (pages E12-2 – E12-4) .....	B59
	Oil and Gas Lease Fund (page H48) .....	B62
<b>B-13</b>	<b>Governor’s Executive Budget 2021-2022</b> , cited excerpts: .....	B63
	DCNR Appropriations (pages E12-2 – E12-4) .....	B64
	Oil and Gas Lease Fund (page H74) .....	B67
<b>B-14</b>	<b>Governor’s Executive Budget 2011-2012</b> , cited excerpts: .....	B68
	DCNR Appropriations (pages E12.3 – E12.5) .....	B69
	Oil and Gas Lease Fund (page H48) .....	B72
<b>B-15</b>	<b>Governor’s Executive Budget 2012-2013</b> , cited excerpts: .....	B73
	DCNR Appropriations (pages E12.3 – E12.5) .....	B74
	Oil and Gas Lease Fund (page H48) .....	B77
<b>B-16</b>	<b>Governor’s Executive Budget 2013-2014</b> , cited excerpts: .....	B78
	DCNR Appropriations (pages E12.3 – E12.5) .....	B79
	Oil and Gas Lease Fund (page H53) .....	B82

## PEDF Appellant Brief Attachments

<b>B-17 Governor’s Executive Budget 2014-2015</b> , cited excerpts: .....	B83
DCNR Appropriations (pages E12.3 – E12.5) .....	B84
Oil and Gas Lease Fund (page H50) .....	B87
<b>B-18 Governor’s Executive Budget 2015-2016</b> , cited excerpts: .....	B88
DCNR Appropriations (pages E13-3 – E13-5) .....	B89
Oil and Gas Lease Fund (page H49) .....	B92
<b>Attachment C</b> Sources of OGLF Receipts for FY 2017-2018	
<b>Attachment D</b> 2014 Shale-Gas Monitoring Report, Table 1.1 2018 Shale Gas Monitoring Report, Table 1.2	
<b>Attachment E</b> OGLF Transfers to the Marcellus Legacy Fund & Disbursements to the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund	
<b>Attachment F</b> Oil and Gas Lease Fund Spending Since FY 2009-2010	

**ATTACHMENT A**

**COMMONWEALTH COURT OPINION AND ORDER**



IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Environmental Defense	:	
Foundation,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 358 M.D. 2018
	:	Argued: September 11, 2019
Commonwealth of Pennsylvania, and	:	
Tom Wolf, in his official capacity	:	
as Governor of Pennsylvania,	:	
	:	
Respondents	:	

BEFORE: HONORABLE MARY HANNAH LEAVITT, President Judge  
HONORABLE RENÉE COHN JUBELIRER, Judge  
HONORABLE PATRICIA A. McCULLOUGH, Judge  
HONORABLE MICHAEL H. WOJCIK, Judge  
HONORABLE ELLEN CEISLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY JUDGE WOJCIK

FILED: October 22, 2020

In this case initiated by the Pennsylvania Environmental Defense Foundation (Foundation) against the Commonwealth of Pennsylvania and Tom Wolf in his official capacity as governor of Pennsylvania (collectively, the Commonwealth), we are presented with the parties’ cross-Applications for Summary Relief. The parties seek declarations under the Declaratory Judgments Act (DJA)<sup>1</sup> as to whether, *inter alia*, the Commonwealth’s appropriation and use of money in the Oil and Gas Lease Fund (Lease Fund) to pay for the general government operations of the Department of Conservation and Natural Resources (DCNR) or environmental initiatives unrelated to the Marcellus Shale region in northcentral

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<sup>1</sup> 42 Pa. C.S. §§7531-7541.

Pennsylvania violates the Commonwealth's trustee obligations under Article I, Section 27 of the Pennsylvania Constitution (Section 27 or the Environmental Rights Amendment).

The Foundation argues that money in the Lease Fund must be used exclusively for conservation and maintenance efforts at the lease sites where natural gas and oil was extracted and not for other conservation initiatives or general government operation purposes. On this basis, the Foundation asks this Court to declare as unconstitutional certain provisions of the General Appropriation Acts of 2017<sup>2</sup> and 2018,<sup>3</sup> and the 2017 legislative amendments to The Fiscal Code,<sup>4</sup> because these provisions divert funds away from the intended conservation and maintenance objectives. The Foundation also seeks a declaration that affirmative legislation and a detailed accounting of the Lease Fund are necessary. Conversely, the Commonwealth counters that the use of Lease Fund money for these other purposes is wholly consistent with its fiduciary duties and obligations as trustee of Pennsylvania's public natural resources and does not violate the Environmental Rights Amendment. The Commonwealth maintains that affirmative legislation is not required. For the reasons that follow, we grant in part and deny in part the parties' cross-Applications for Summary Relief.

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<sup>2</sup> Act of July 11, 2017, P.L. 1279, *as amended*.

<sup>3</sup> Act of June 22, 2018, P.L. 1203, *as amended*. The Foundation is challenging Sections 104(P) and 1601 of both appropriation acts.

<sup>4</sup> Act of April 9, 1929, P.L. 343, *as amended*, 72 P.S. §§1-1805. The specific amendments at issue are Sections 1601.2-E and 1726-G of The Fiscal Code, both of which were added by the Act of October 30, 2017, P.L. 725, *as amended*, 72 P.S. §§1601.2-E, 1726-G.

## I. Background

We begin by examining the Supreme Court's opinion in *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 161 A.3d 911 (Pa. 2017) (*PEDF II*), which laid the foundation for this suit. There, the Supreme Court examined the constitutionality of the 2009 legislative enactments to The Fiscal Code relating to funds generated from the leasing of State forests and parks for oil and gas exploration and extraction. The Supreme Court began its analysis by closely examining the contours of the Environmental Rights Amendment, which provides:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Pa. Const. art. I, §27. The Supreme Court determined that Section 27 “establishes a public trust, pursuant to which the natural resources are the corpus of the trust, the Commonwealth is the trustee, and the people are the named beneficiaries.” *PEDF II*, 161 A.3d at 931-32.

The Supreme Court continued that the “public natural resources” referenced in Section 27 “include the [S]tate forest and park lands leased for oil and gas exploration and . . . the oil and gas themselves.” *PEDF II*, 161 A.3d at 931. “[S]tate parks and forests, including the oil and gas minerals therein, are part of the corpus of Pennsylvania's environmental public trust.” *Id.* at 916.

The Commonwealth is the trustee and not the proprietor of public natural resources. *PEDF II*, 161 A.3d at 932. As trustee of the public natural resources, the Commonwealth has the duty to act toward the corpus of the trust with “loyalty, impartiality and prudence.” *Id.* (citing *Robinson Township v.*

*Commonwealth*, 83 A.3d 901, 956-57 (Pa. 2013) (plurality)). This includes the “duty to prohibit the degradation, diminution, and depletion of our public natural resources.” *Id.* at 933. In addition, the Commonwealth “must act affirmatively via legislative actions to protect the environment.” *PEDF II*, 161 A.3d at 933 (citing *Robinson Township*, 83 A.3d at 957-58).

“Pennsylvania trust law dictates that *proceeds from the sale of trust assets* are trust principal and remain part of the corpus of the trust.” *PEDF II*, 161 A.3d at 935 (citing *In re McKeown’s Estate*, 106 A. 189, 190 (Pa. 1919)) (emphasis added). “When a *trust asset is removed from the trust*, all revenue received in exchange for the trust asset is returned to the trust as part of its corpus.” *Id.* at 935 (citing *Bolton v. Stillwagon*, 190 A.2d 105, 109 (Pa. 1963)) (emphasis added).

The Supreme Court examined the types of proceeds generated from the Commonwealth’s oil and gas leases of State forests and parks: royalties, rents and bonuses. *PEDF II*, 161 A.3d at 920. The Supreme Court determined that royalties “are unequivocally proceeds from the sale of oil and gas resources.” *Id.* at 935. As such, funds generated from royalties are part of the trust corpus and must be committed to further the purposes, rights and protections afforded under Section 27, *i.e.*, to conserve and maintain our natural resources. *Id.* at 935. Insofar as certain legislative enactments appropriated royalty payments from the Lease Fund for non-conservation purposes, the Supreme Court declared them unconstitutional. *Id.*

However, the Supreme Court was less clear on how to categorize other revenue streams from State forest oil and gas leases, *i.e.*, rents and bonuses derived from the oil and gas leases. *PEDF II*, 161 A.3d at 935. The Supreme Court remanded the matter to this Court for further proceedings to determine if these funds

represent corpus or income under Pennsylvania's private trust principles in effect at the time of Section 27's ratification in 1971. *Id.* at 939.

In *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 214 A.3d 748 (Pa. Cmwlth. 2019) (*PEDF III*), *appeal filed, probable jurisdiction noted and oral argument granted*, (Pa., No. 64 MAP 2019, filed May 19, 2020), we examined whether rents and bonuses are compensation for the sale of natural resources and, thus, part of the trust corpus that must be used to conserve and maintain those natural resources, or income that may be used for non-trust purposes under Section 27. We determined that rents and bonuses were received as payments on a lease, not as consideration for the permanent severance of natural resources. *PEDF III*, 214 A.3d at 774.

Pursuant to the law in effect at the time Section 27 was ratified, the proper allocation of such payments is one-third to income and two-thirds to trust principal. *PEDF III*, 214 A.3d at 774. Payments designated as income are not required to remain in the trust corpus and may be used for non-trust purposes. *Id.* Consequently, we held that the challenged legislative enactments that diverted money from the Lease Fund to the General Fund were not facially unconstitutional under Section 27. *Id.* However, we noted that an accounting is necessary to ensure that only one-third of the proceeds allocable to income are removed from the Lease Fund for non-conservation purposes and that proceeds designated as trust principal are ultimately used in accordance with the trustee's obligation to conserve and maintain our natural resources. *Id.*

While *PEDF III* was pending in this Court, the Foundation instituted this action against the Commonwealth by filing a Petition for Review in the Nature of Declaratory Relief (Petition). The Petition contains 327 paragraphs, 7 counts and

18 subparts. The Foundation challenges the Commonwealth's conduct as trustee and certain legislative enactments allowing transfers and appropriations from the Lease Fund to other funds for alleged non-trust purposes as unconstitutional under Section 27. Petition for Review, ¶¶12, 15, 21-23, 34-36, 37-38. Following discovery, the parties filed cross-Applications for Summary Relief, which are now before this Court.<sup>5</sup>

## II. Cross-Applications for Summary Relief

The Foundation seeks the following declarations<sup>6</sup>: (1) the appropriations from the Lease Fund contained in Sections 104(P) and 1601 of the General Appropriation Acts of 2017 and 2018 for the DCNR's government operations are facially unconstitutional; (2) the use of these appropriations for environmental initiatives beyond Pennsylvania's Marcellus Shale region are likewise facially unconstitutional; (3) the repeal of the act commonly referred to as the 1955 Oil and Gas Lease Fund Act (1955 Lease Fund Act)<sup>7</sup> is facially unconstitutional; (4) Section 1601.2-E of The Fiscal Code is facially unconstitutional; (5) Section 1726-G of The Fiscal Code is facially unconstitutional;

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<sup>5</sup> We note that the Foundation filed its Petition and the parties filed their cross-Applications for Summary Relief and briefs in support before this Court filed *PEDF III* on July 29, 2019. The parties did not seek to amend their filings.

<sup>6</sup> The Foundation presented numerous overlapping issues with multiple subparts, which we have distilled as six overarching declarations.

<sup>7</sup> Act of December 15, 1955, P.L. 865, *formerly* 71 P.S. §§1331-1333, repealed by Section 20(2)(i) of the Act of October 30, 2017, P.L. 725. The subject matter of the 1955 Lease Fund Act was transferred to Section 1601.2-E of The Fiscal Code, which the Foundation also challenges.

and (6) affirmative legislation and a detailed accounting are required to ensure that the Lease Fund is protected and used in accordance with Section 27.<sup>8</sup>

The Commonwealth seeks counter-declarations that: (1) the use of Lease Fund money for the DCNR's general government operations is constitutional; (2) revenue from the extraction and sale of oil and gas from the State forests and parks is being used in a constitutional manner; (3) the repeal of the 1955 Lease Fund Act is constitutional; (4) Section 1601.2-E of The Fiscal Code is constitutional; (5) Section 1726-G of The Fiscal Code is constitutional; and (6) affirmative legislation is not needed for the Commonwealth to properly effectuate its Section 27 duties and responsibilities.

**III. Discussion**  
**A. Legal Standards**  
**1. Summary Relief**

We start our analysis by reviewing applicable legal standards. Rule 1532(b) of the Pennsylvania Rules of Appellate Procedure provides that “the court may on application enter judgment if the right of the applicant thereto is clear.” Pa. R.A.P. 1532(b); *see Scarnati v. Wolf*, 173 A.3d 1110, 1118 (Pa. 2017) (“The standard for granting summary relief turns upon whether the applicant’s right to relief is clear. Summary relief on a petition for review is similar to the relief provided by a grant of summary judgment. Pa. R.A.P. 1532, Official Note.”) (footnote omitted). “Summary judgment is appropriate where, after the close of pleadings, ‘there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report.’” *Scarnati*, 173 A.3d at 1118 (quoting Pa. R.C.P. No. 1035.2(a)).

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<sup>8</sup> In support of its Application, the Foundation relies on exhibits attached to its brief, which include, *inter alia*, the Commonwealth’s Answer and Objections and Supplemental Answer and Objections to the First Set of Interrogatories. *See* Petitioner’s Brief, Exhibits A and J.

Conversely, “[w]here there are material issues of fact in dispute or if it is not clear that the applicant is entitled to judgment as a matter of law, the application will be denied.” *Sherman v. Kaiser*, 664 A.2d 221, 225 (Pa. Cmwlth. 1995). “A fact is considered material if its resolution could affect the outcome of the case under the governing law.” *Hospital & Healthsystem Association of Pennsylvania v. Commonwealth*, 77 A.3d 587, 602 (Pa. 2013). The parties agree that there are no issues of material fact and that the issues are purely legal.

## 2. Declaratory Relief

Section 7533 of the DJA states: “Any person . . . whose rights, status, or other legal relations are affected by a statute, . . . may have determined any question of construction or validity arising under the . . . statute . . . and obtain a declaration of rights, status, or other legal relations thereunder.” 42 Pa. C.S. §7533 (emphasis added). The DJA was enacted “to curb the courts’ tendency to limit the availability of judicial relief to only cases where an actual wrong has been done or is imminent.” *Bayada Nurses, Inc. v. Department of Labor and Industry*, 8 A.3d 866, 874 (Pa. 2010). The purpose of the DJA is “to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations” and, therefore, the DJA should “be liberally construed and administered.” 42 Pa. C.S. §7541(a); accord *Office of Governor v. Donahue*, 98 A.3d 1223, 1229 (Pa. 2014) (citation omitted); *Funk v. Wolf*, 144 A.3d 228, 251 (Pa. Cmwlth. 2016), *aff’d*, 158 A.3d 642 (Pa. 2017). Generally, granting or denying an action for a declaratory judgment is committed to the sound discretion of a court of original jurisdiction. *Gulnac by Gulnac v. South Butler County School District*, 587 A.2d 699, 701 (Pa. 1991).



### **3. Constitutional Review**

“When reviewing challenges to the constitutionality of Commonwealth actions under Section 27, the proper standard of judicial review lies in the text of Article I, Section 27 itself as well as the underlying principles of Pennsylvania trust law in effect at the time of its enactment.” *PEDF II*, 161 A.3d at 930. With regard to facial challenges, “[a] *statute is facially unconstitutional only where no set of circumstances exist[s] under which the statute would be valid.*” *Id.* at 938 n.31 (emphasis added). “In determining whether a law is facially invalid, [a court] must be careful not to go beyond the statute’s facial requirements and speculate about ‘hypothetical’ or ‘imaginary’ cases.” *Id.* (quoting *United States v. Raines*, 362 U.S. 17, 22 (1960)). “A facial challenge ‘must fail where the statute has a ‘plainly legitimate sweep.’” *Id.* (quoting *Clifton v. Allegheny County*, 969 A.2d 1197, 1222 (Pa. 2009)).

“As with any constitutional challenge to legislation, the challenger bears the heavy burden of demonstrating that the statute ‘clearly, plainly, and palpably violates the Constitution,’ as we presume that our sister branches act in conformity with the Constitution.” *PEDF II*, 161 A.3d at 929 (quoting *Stilp v. Commonwealth*, 905 A.2d 918, 939 (Pa. 2006)).

With these legal standards in mind, we review the relief requested in the parties’ cross-Applications for Summary Relief.

#### **B. Cross-Applications for Summary Relief**

##### **1. General Appropriation Acts - Government Operations**

The Foundation argues that Sections 104(P) and 1601 of the General Appropriation Acts of 2017 and 2018 are facially unconstitutional because they

authorize the appropriation of Lease Fund money for general government operations. According to the Foundation, the Commonwealth cannot use any of the proceeds from oil and gas deposited in the Lease Fund to pay for the DCNR's general government operations, which include salaries and travel expenses, contract fees, vehicle and equipment purchases and maintenance, office rentals, and other similar expenses. Such use violates Section 27 by using trust assets for non-trust purposes. In *PEDF II*, the Supreme Court struck down similar appropriations as facially unconstitutional on this very basis. In addition, the Foundation argues that such use also violates Article I, Section 25 of the Pennsylvania Constitution (Section 25), which guards against transgressions of government, by using trust assets to replace General Fund revenue for general government operations as beyond enumerated authority. By appropriating trust principal to governmental operations, the Commonwealth is acting as a proprietor of the funds, not as a trustee, and has failed to exercise its fiduciary duties of loyalty, impartiality and prudence.

The Commonwealth responds that not all of the money in the Lease Fund constitutes trust corpus that must be spent on trust purposes. Nevertheless, it defends that the appropriation of trust monies for the DCNR's general operating expenses does not violate Sections 27 or 25. Conservation and maintenance activities are not accomplished in a vacuum: they require people and equipment. The DCNR's main purpose is effectuating Section 27 and ensuring conservation and maintenance of Pennsylvania's parks and forests. *See* Section 101(b)(1) of the Conservation and Natural Resources Act (CNRA).<sup>9</sup> By appropriating Lease Fund money to the DCNR for general operations, the DCNR is able to carry out its duties and responsibilities as a Section 27 trustee. Thus, the Commonwealth seeks a

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<sup>9</sup> Act of June 28, 1995, P.L. 89, *as amended*, 71 P.S. §1340.101(b)(1).

declaration that its current usage of the Lease Fund is wholly consistent with its Section 27 trustee responsibilities.

Section 104(P) of both the General Appropriation Act of 2017 and the General Appropriation Act of 2018 provides, with emphasis added:

*The following sums set forth in this act, or as much thereof as may be necessary, are hereby specifically appropriated from the [] Lease Fund to the hereinafter named agencies of the Executive Department of the Commonwealth for the payment of salaries, wages or other compensation and travel expenses of the duly appointed officers and employees of the Commonwealth, for the payment of fees for contractual services rendered, for the purchase or rental of goods and services for payment and any other expenses, as provided by law or by this act, necessary for the proper conduct of the duties, functions and activities and for the purposes hereinafter set forth for the fiscal year*

.....

In turn, Section 1601 of the General Appropriation Act of 2017 appropriated the following amounts to the DCNR: \$50,000,000 for general operations, \$7,739,000 for State parks operations and \$3,552,000 for State forests operations, for a total appropriation of \$61,291,000 for the 2017-2018 fiscal year. Section 1601 of the General Appropriation Act of 2018 appropriated to the DCNR: \$37,045,000 for general operations, \$7,555,000 for State parks operations and \$4,198,000 for State forests operations, for a total appropriation of \$48,798,000 for the 2018-2019 fiscal year.

In *PEDF II*, the Supreme Court examined the Commonwealth's appropriation and use of funds belonging to the trust corpus for the DCNR's general

operations as contained in Sections 1602-E<sup>10</sup> and 1603-E<sup>11</sup> of The Fiscal Code. These sections authorized the appropriation of up to \$50,000,000 of royalties from the Lease Fund to the DCNR and authorized appropriations and transfers from the Lease Fund to the General Fund. The only limitations were: (1) the General Assembly was to “consider” allocating funds to municipalities impacted by a Marcellus Shale well and (2) the DCNR was to “give preference to the operation and maintenance of State parks and forests” rather than to conservation purposes. *PEDF II*, 161 A.3d at 937-38.

The Supreme Court determined that these appropriations fell short of the Commonwealth’s Section 27 trustee obligations. The Court noted that the

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<sup>10</sup> Added by the Act of October 9, 2009, P.L. 537, *as amended*, 72 P.S. §1602-E. This section provides:

Notwithstanding any other provision of law and except as provided in section 1603-E [providing for an annual appropriation to the DCNR of up to \$50,000,000 of royalties], no money in the [Lease Fund] *from royalties* may be expended unless appropriated or transferred to the General Fund by the General Assembly from the fund. In making appropriations, the General Assembly shall consider the adoption of an allocation to municipalities impacted by a Marcellus well.

72 P.S. §1602-E (emphasis added).

<sup>11</sup> Added by the Act of October 9, 2009, P.L. 537, *as amended*, 72 P.S. §1603-E. This section provides:

Subject to the availability of money in the fund following transfers, up to \$50,000,000 from the [Lease Fund] *from royalties* shall be appropriated annually to the [DCNR] to carry out the purposes set forth in the [1955 Lease Fund Act]. The [DCNR] shall give preference to the operation and maintenance of State parks and forests.

72 P.S. §1603-E (emphasis added).

Commonwealth was using Section 27 trust assets to replace General Fund appropriations to the DCNR for its annual operations, thereby reducing the amount of monies available to the DCNR to undertake conservation activities.<sup>12</sup> *PEDF II*, 161 A.3d at 923. The “revenue generated by oil and gas leases [was] spent in a multitude of ways entirely unrelated to the conservation and maintenance of our public natural resources.” *Id.* at 937.

The Supreme Court opined that oil and gas royalties are assets of the trust and, as such, may not be spent on non-trust purposes. *PEDF II*, 161 A.3d at 938. The legislative enactments lacked any “indication that the General Assembly considered the purposes of the public trust or exercised reasonable care in managing the royalties in a manner consistent with its Section 27 trustee duties.” *Id.* at 937. The Court opined: “They plainly ignore the Commonwealth’s constitutionally imposed fiduciary duty to manage the corpus of the environmental public trust for the benefit of the people to accomplish its purpose—conserving and maintaining the

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<sup>12</sup> The Court observed:

The 2013 General Appropriations Act decreased the appropriation to the DCNR from the General Fund and increased the appropriation from the Lease Fund to the DCNR, *resulting in a larger portion of monies from the Lease Fund being used to pay for the DCNR’s operational expenses, which had previously been funded by the General Fund, and thus reduced the amount of monies available for the DCNR’s conservation activities.*

The 2014-2015 General Appropriations Act again included increased appropriations of royalties from the Lease Fund to the DCNR that were mirrored by decreased appropriations from the General Fund to the DCNR.

*PEDF II*, 161 A.3d at 923 (emphasis added).

corpus by, *inter alia*, preventing and remedying the degradation, diminution and depletion of our public natural resources.” *Id.* at 938.

The Supreme Court continued: “[T]hese legislative enactments permit the trustee to use trust assets for non-trust purposes, a clear violation of the most basic of a trustee’s fiduciary obligations.” *PEDF II*, 161 A.3d at 938. “[T]he trustee may use the assets of the trust only for purposes authorized by the trust or necessary for the preservation of the trust; other uses are beyond the scope of the discretion conferred, even where the trustee claims to be acting solely to advance other discrete interests of the beneficiaries.” *Id.* (quoting *Robinson Township*, 83 A.3d at 978); *see* Section 7780 of the Uniform Trust Act, 20 Pa. C.S. §7780 (providing that the duty to administer a trust with prudence involves “considering the purposes” of the trust and “the exercise of reasonable care, skill, and caution”). Thus, the Supreme Court declared Sections 1602-E and 1603-E of The Fiscal Code as facially unconstitutional. *PEDF II*, 161 A.3d at 939.

However, the legislative enactments declared unconstitutional in *PEDF II* are distinguishable from the appropriations at issue here in one key respect. Sections 1602-E and 1603-E of The Fiscal Code dealt exclusively with oil and gas royalties, *i.e.*, trust principal, and authorized the transfer of royalties from the Lease Fund to the General Fund for non-trust purposes. In contrast, the appropriations at issue here are not royalty-specific. In fact, the General Appropriation Acts of 2017 and 2018 do not identify whether the funds are royalties, rents, bonuses, or interest from the oil and gas leases or from other sources within the Lease Fund. *See* Section 1601.2-E(b) of The Fiscal Code, 72 P.S. §1601.2-E(b); *see also* Petitioner’s Brief, Exhibit A, Commonwealth’s Answer and Objections to the Foundation’s First Set

of Interrogatories, ¶¶6a, 7a (identifying rents, bonuses and interest from the oil and gas leases as well as vehicle sales and other statutory deposits in the Lease Fund).

In this regard, the provisions here are more similar to the other provisions at issue in *PEDF II*, namely Sections 1604-E<sup>13</sup> and 1605-E<sup>14</sup> of The Fiscal Code and Section 1912 of the Supplemental General Appropriations Act of 2009.<sup>15</sup> These provisions authorized the transfer of money in the Lease Fund to the General Fund. However, these transfers were not royalty-specific. Recognizing that the Lease Fund also contained rents and bonuses generated from the oil and gas leases, the Supreme Court remanded the matter to this Court to determine if these proceeds constituted trust principal or income.

On remand, we determined that some of the proceeds represented income. *PEDF III*, 214 A.3d at 774. While 100% of royalties constitute trust

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<sup>13</sup> Added by the Act of October 9, 2009, P.L. 537, 72 P.S. §1604-E. Section 1604-E provides: “Notwithstanding section 1603-E or any other provision of law, in fiscal year 2009-2010 *the amount of \$60,000,000 shall be transferred from the [Lease Fund] to the General Fund.*” 72 P.S. §1604-E (emphasis added).

<sup>14</sup> Added by the Act of July 6, 2010, P.L. 279, 72 P.S. §1605-E. Section 1605-E provides:

(a) Fiscal year 2010-2011.--Notwithstanding section 1603-E or any other provision of law, in fiscal year 2010-2011, *the amount of \$180,000,000 shall be transferred from the [Lease Fund] to the General Fund.*

(b) Fiscal year 2014-2015.--Notwithstanding section 1603-E or any other provision of law, in fiscal year 2014-2015, *the amount of \$95,000,000 shall be transferred from the [Lease Fund] to the General Fund.*

72 P.S. §1605-E (emphasis added).

<sup>15</sup> Act of October 9, 2009, P.L. 779. Section 1912 of the Supplemental General Appropriations Act of 2009 directed the transfer of \$143,000,000 from the Lease Fund to the General Fund.

principal, only two-thirds of proceeds derived from rents and bonuses on the oil and gas leases represent trust principal; the other one-third is income. *Id.* There are no Section 27 restrictions on the appropriation and use of income derived from the oil and gas leases. *Id.* Because the Lease Fund contains both trust principal and income from the gas leases as well as other sources of revenue, we ruled that Sections 1604-E and 1605-E of The Fiscal Code and Section 1912 of the Supplemental General Appropriations Act of 2009 were not facially unconstitutional. *PEDF III*, 214 A.3d at 774. For the same reasons espoused in *PEDF III*, we likewise conclude that the appropriations here of non-specified monies from the Lease Fund to the DCNR for governmental operations are not facially unconstitutional under Section 27.

The Foundation also claims that the use of the Lease Fund to fund general governmental operations to replace General Fund revenue violates Section 25. Section 25 provides:

Reservation of powers in people

To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

Pa. Const. art. I, §25. This provision has been described as a “reservation of rights in the people.” *Grimaud v. Commonwealth*, 865 A.2d 835, 845-46 (Pa. 2005). It safeguards the rights enumerated in Article I, including Section 27, by establishing those rights to be “inviolable,” such that they “may not be transgressed by government.” *Gondelman v. Commonwealth*, 554 A.2d 896 (Pa. 1989) (citing *Spayd v. Ringing Rock Lodge No. 665, Brotherhood of Railroad Trainmen*, 113 A. 70 (Pa. 1921)); see *Yanakos v. UPMC*, 218 A.3d 1214, 1231 (Pa. 2019), *reargument denied*, 224 A.3d 1255 (Pa. 2020) (Donohue, J., concurring) (It “invokes special protections



to safeguard the rights set forth in Article I.”). A cause of action arises under the Pennsylvania Constitution for the violation of rights guaranteed under Article I. *Erdman v. Mitchell*, 56 A. 327, 331 (Pa. 1903). No affirmative legislation is needed for a vindication of those rights in the civil courts. *Id.*; accord *PEDF II*, 161 A.3d at 937. This means that the public trust provisions of the Environmental Rights Amendment are self-executing and do not require implementing legislation for enforcement. *PEDF II*, 161 A.3d at 937.

The Foundation’s Section 25 argument misses the mark in two respects. First, the constitutional issue at hand is not whether the Commonwealth substituted General Fund revenue with Lease Fund money to finance the DCNR’s general operations. Rather, the issue is whether the appropriation and use of Lease Fund money for the DCNR’s general operations violates Section 27. Second, the Foundation has set forth a viable cause of action under the Pennsylvania Constitution to vindicate rights asserted under Section 27 as guaranteed by Section 25. *PEDF III*. However, having determined that the appropriations at issue are not facially unconstitutional under Section 27, the Foundation’s Section 25 claim fails by extension.

In sum, because the Lease Fund contains both trust principal and other deposits, we cannot declare that the appropriations contained in Sections 104(P) and 1601 of the General Appropriation Acts of 2017 and 2018 for the DCNR’s government operations are facially unconstitutional. By the same token, we are also unprepared to grant the Commonwealth’s sweeping request that its current usage is wholly consistent with its Section 27 trustee responsibilities. Such a declaration requires an as-applied analysis, which we are not prepared to address in this matter.

Therefore, we deny both the Foundation's and the Commonwealth's cross-Applications in this regard.

## **2. General Appropriation Acts - Other Environmental Initiatives**

In addition, the Foundation challenges Sections 104(P) and 1601 of the General Appropriation Acts of 2017 and 2018 as facially unconstitutional on the basis that they authorize the appropriation of money from the Lease Fund to the DCNR to fund State park and forest operations without restricting such use to Pennsylvania's Marcellus Shale region. The Foundation contends that Lease Fund money cannot be used to fund environmental initiatives that are unrelated to the region impacted by a Marcellus well. The extraction and sale of oil and gas requires large-scale industrial development that degrades, depletes and diminishes the State lands. This industrial development has and will continue to negatively impact the forest and water ecosystems in the Marcellus Shale region. Therefore, the Foundation maintains that any proceeds derived from this development must be dedicated exclusively to mitigate the harm caused and to restore natural resources of this region. Otherwise, these public natural resources will not be conserved or maintained as mandated by Section 27. By utilizing proceeds from the oil and gas leases for any use other than conservation programs to rehabilitate the Marcellus Shale region, the Commonwealth violates Section 27 as well as the Supreme Court's directives in *PEDF II* regarding the use of Section 27 trust funds.

The Commonwealth counters that there is no requirement that money derived from the State's oil and gas leases must be used in specific areas of the Commonwealth or that they be specifically used in Pennsylvania's Marcellus Shale region. In *PEDF II*, the Supreme Court held that the appropriation of trust funds to agencies or initiatives other than the DCNR "would not run afoul of the constitution"

where the funds are still dedicated to effectuating Section 27. *PEDF II*, 161 A.3d 939. By the same logic, the use of Lease Fund money for enhancement, remediation, or conservation of public natural resources in areas other than those outlined by the Foundation is constitutional because such use is not a diversion of proceeds to a non-trust purpose.

In *PEDF II*, the Supreme Court held that the Commonwealth has a constitutional obligation “to prevent and remedy the degradation, diminution, or depletion of the public natural resources,” particularly State forests and parks impacted by oil and gas wells. 161 A.3d at 932 (quoting *Robinson Township*, 83 A.3d at 957). While we appreciate that the money derives from oil and gas wells, the environmental public trust embraces more than Pennsylvania’s Marcellus Shale region from which the oil and gas was extracted. Indeed, our public natural resources include “clean air and pure water,” as well as “natural, scenic, historic and esthetic values of the environment.” Pa. Const. art. I, §27; accord *Robinson Township*, 83 A.3d at 955 (“the concept of public natural resources includes not only State-owned lands, waterways, and mineral reserves, but also resources that implicate the public interest, such as ambient air, surface and ground water, wild flora, and fauna (including fish)”).

Even assuming that we are dealing with corpus assets, the notion that *all* trust principal derived from the extraction and sale of oil and gas must be applied exclusively toward public land impacted by oil and gas is unfounded. As a trustee, the Commonwealth has discretion to use corpus funds provided those funds are used to further its trustee duties in accomplishing Section 27 objectives. See *PEDF II*, 161 A.3d at 933. The vast proceeds derived from the oil and gas leases may be used in a variety of ways to benefit a wide array of Pennsylvania’s cherished public

natural resources. *See id.* Pennsylvania is facing many environmental threats from climate change to polluted waters to invasive species. To narrowly restrict the use of the money garnered from the oil and gas leases to the situs of extraction is myopic. As the Supreme Court opined, “the General Assembly would not run afoul of the constitution by appropriating trust funds *to some other initiative or agency dedicated to effectuating Section 27.*” *Id.* at 939.

For these reasons, we deny the Foundation’s request for a declaration that Lease Fund money cannot be used to fund environmental initiatives that are unrelated to the Marcellus Shale region. We grant the Commonwealth’s declaratory request that Lease Fund money, including trust principal, may be expended on other environmental conservation initiatives because such use is not a diversion of funds to a non-trust purpose.<sup>16</sup> We conclude that the appropriations contained in Sections 104(P) and 1601 of the General Appropriation Acts of 2017 and 2018 to the DCNR for the operation of State parks and forests are not facially unconstitutional.

### **3. Repeal of the 1955 Lease Fund Act**

Next, the parties dispute whether the Commonwealth violated Section 27 and its fiduciary duties thereunder by repealing the 1955 Lease Fund Act. The

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<sup>16</sup> However, we caution the Commonwealth that the failure to remedy the degradation, diminution, or depletion of the State forests and parks impacted by Marcellus wells - the very public resources harmed in order to generate these funds - may constitute a failure to preserve the trust and a dereliction of its fiduciary duties under Section 27. *See PEDF II*, 161 A.3d at 933 (“Although a trustee is empowered to exercise discretion with respect to the proper treatment of the corpus of the trust, that discretion is limited by the purpose of the trust and the trustee’s fiduciary duties . . . .”; “[t]he trustee may use the assets of the trust ‘only for purposes authorized by the trust or necessary for the preservation of the trust’”); Section 7780.4 of the Uniform Trust Act, 20 Pa. C.S. §7780.4 (“The trustee shall exercise a discretionary power in good faith and in accordance with the provisions and purposes of the trust and the interests of the beneficiaries . . . .”).

Foundation argues that Section 1601.2-E of The Fiscal Code violates Section 27 on its face by repealing the 1955 Lease Fund Act without replacing any safeguards to ensure that the public natural resources are conserved and maintained or otherwise guaranteeing that the Commonwealth, in its administration of the Lease Fund, will comply with its trustee duties and responsibilities under Section 27. In addition, the Foundation contends that the Commonwealth has failed to take the basic step of evaluating the impact of the repeal of the 1955 Lease Fund Act on the environment. The Foundation argues that the repeal violates Section 27 on its face because it lacks any indication that the Commonwealth considered or even contemplated its duties as the trustee of the environmental public trust by eliminating the protections contained therein.

The Commonwealth counters that the repeal of the Lease Fund and replacement with new provisions does not run afoul of Section 27. The Foundation wrongfully attempts to impose a requirement upon the Commonwealth that it must provide an evaluation on the immediate or long-term impacts of its decision to repeal the 1955 Lease Fund Act. There is no such requirement.

The 1955 Lease Fund Act established the Lease Fund and provided:

Section 1. All rents and royalties from oil and gas leases of any land owned by the Commonwealth, except rents and royalties received from game and fish lands, shall be placed in a special fund to be known as the "Oil and Gas Lease Fund" *which fund shall be exclusively used for conservation, recreation, dams, or flood control* or to match any Federal grants which may be made for any of the aforementioned purposes.

Section 2. It shall be within the discretion of the Secretary of Forests and Waters<sup>17</sup> to determine the need for and the location of any project authorized by this act. The Secretary of Forests and Waters shall have the power to acquire in the name of the Commonwealth by purchase, condemnation or otherwise such lands as may be needed.

Section 3. All the moneys from time to time paid into the “[ ] Lease Fund” are specifically appropriated to the Department of Forests and Waters to carry out the purposes of this act.

*Former* 71 P.S. §§1331-1333 (emphasis added).

In 2017, the General Assembly repealed the 1955 Lease Fund Act and transferred the subject matter to Section 1601.2-E of The Fiscal Code. Section 1601.2-E provides:

(a) Continuation.--The [Oil and Gas Lease Fund] is continued as a special fund in the State Treasury.

(b) Sources.--The following shall be deposited into the fund:

(1) Rents and royalties from oil and gas leases of land owned by the Commonwealth, except rents and royalties received from game and fish lands.

(2) Amounts as provided under [S]ection 5 of the act of October 8, 2012 (P.L. 1194, No. 147), known as the Indigenous Mineral Resources Development Act[, 71 P.S. §1357.5].

(3) Any other money appropriated or transferred to the fund.

(c) Use.--Money in the fund may only be used as provided under subsection (e) or as annually appropriated by the

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<sup>17</sup> The General Assembly transferred the powers and duties of the Department of Forests and Waters under this section to the DCNR. See Section 304(c) of the CNRA, 71 P.S. §1340.304(c).

General Assembly. In making an appropriation from the fund, the General Assembly shall consider the Commonwealth's trustee duties under section 27 of Article I of the Constitution of Pennsylvania.

(d) Priority.--Money appropriated from the fund under a General Appropriation Act or other appropriation act shall be distributed prior to allocations under subsection (e).

(e) Annual transfers.--The following apply:

(1)(i) Except as provided under subparagraph (ii), for the 2017-2018 fiscal year and each fiscal year thereafter, \$20,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund.

(ii) No amount shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund for the 2019-2020 and 2020-2021 fiscal year.

(2) For the 2017-2018 fiscal year and each fiscal year thereafter, \$15,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Hazardous Sites Cleanup Fund.

72 P.S. §1601.2-E.

The absence of safeguards within Section 1601.2-E does not render this provision facially unconstitutional. The Commonwealth has a *constitutional* obligation to ensure that trust proceeds are used to conserve and maintain the corpus of the trust, regardless of any *statutory* safeguards. However, Section 27 “does not impose duties on the political branches to enact specific affirmative measures to promote clean air, pure water, and the preservation of the different values of our environment[.]” *Robinson Township*, 83 A.3d at 951-52.

Further, there is no requirement for the Commonwealth, or the General Assembly, to provide the Foundation or the public with any written evaluation prior

to amending the Lease Fund or other legislative enactments. *See Frederick v. Allegheny Township Zoning Hearing Board*, 196 A.3d 677, 700 (Pa. Cmwlth. 2018) (holding a municipal trustee was under no obligation to undertake any “pre-enactment environmental, health, and safety” evaluation for Section 27 purposes). Even a liberal reading of *PEDF II* and *Robinson Township* does not imply such a requirement. Thus, we deny the Foundation’s Application and grant the Commonwealth’s cross-Application upon concluding that the repeal of the 1955 Lease Fund Act is not facially unconstitutional.

**4. Section 1601.2-E of The Fiscal Code**  
**a. Section 1601.2-E(a)**

Next, the Foundation argues that Section 1601.2-E(a) violates Section 27 by eliminating the Lease Fund, over which the DCNR had exclusive control, and creating a new fund as a special fund, without any recognition or restriction that funds derived from the extraction and sale of oil and gas must comply with the Section 27 mandate.

The Commonwealth responds that subsection (a) does not establish a new Lease Fund. Rather, it merely continued the Lease Fund. Furthermore, the DCNR is not the only agency entrusted with Section 27 trustee duties.

Section 1601.2-E(a) of The Fiscal Code provides: “Continuation.--The [Lease Fund] is continued as a special fund in the State Treasury.” 72 P.S. §1601.2-E(a). Contrary to the Foundation’s claims, subsection (a) did not establish a “new” Lease Fund. Rather, it simply “*continued*” the Lease Fund previously established in the 1955 Lease Fund Act as a special fund. 72 P.S. §1601.2-E(a). According to the Commonwealth, the Lease Fund continues to bear the same fund number (No. 016)



since it was first established. *See* Petitioner’s Brief, Exhibit A, Commonwealth’s Answer and Objections to the Foundation’s First Set of Interrogatories, ¶5a.

Although subsection (a) no longer contains the *statutory* requirement that the fund must “be exclusively used” by the DCNR “for conservation, recreation, dams, or flood control,” Section 27’s constitutional requirement that trust principal must be used for trust purposes nevertheless prevails. *See PEDF II*. The omission of this statutory language does not render Section 1601.2-E(a) facially unconstitutional. The legislature retains “authority to control the fate of special funds in order to serve the changing needs of the government” provided that doing so does not contravene a specific constitutional provision controlling the fund. *Hospital & Healthsystem*, 77 A.3d at 604-605. Moreover, “the Lease Fund is not a constitutional trust fund and need not be the exclusive repository for proceeds from oil and gas development.” *PEDF II*, 161 A.3d at 939.

As for the removal of the DCNR’s exclusive control over this special fund, “the DCNR is not the only agency committed to conserving and maintaining our public natural resources.” *PEDF II*, 161 A.3d at 939. “[P]ublic trustee duties were delegated concomitantly to all branches and levels of government in recognition that the quality of the environment is a task with both local and statewide implications.” *Id.* at 919. Indeed, “all agencies and entities of the Commonwealth government, both statewide and local, have a fiduciary duty to act toward the corpus with prudence, loyalty, and impartiality.” *Id.* at 931 n.23; *accord Robinson Township*, 83 A.3d at 957 (“duties and powers attendant to the trust are not vested exclusively in any single branch of Pennsylvania’s government”). “[T]he General Assembly would not run afoul of the constitution by appropriating trust funds to *some other . . . agency* dedicated to effectuating Section 27.” *PEDF II*, 161 A.3d at

939. For these reasons, we conclude that Section 1601.2-E(a) is not facially unconstitutional.

**b. Section 1601.2-E(b)**

Next, the Foundation argues that Section 1601.2-E(b) is facially unconstitutional because it violates Section 27 and trust law by commingling the protected trust principal with other revenue. According to the Foundation, the Commonwealth is neglecting its trustee obligations by not maintaining separate accounts and keeping adequate records to ensure that Section 27 trust funds are used for trust purposes.

The Commonwealth defends that there is no requirement to maintain separate accounts.

Section 1601.2-E(b) of The Fiscal Code provides:

(b) Sources.--The following shall be deposited into the [Lease Fund]:

(1) Rents and royalties from oil and gas leases of land owned by the Commonwealth, except rents and royalties received from game and fish lands.

(2) Amounts as provided under section 5 of the act of October 8, 2012 (P.L. 1194, No. 147), known as the Indigenous Mineral Resources Development Act.

(3) Any other money appropriated or transferred to the fund.

72 P.S. §1601.2-E(b).

Section 1601.2-E(b), on its face, directs deposits into the Lease Fund, which results in a mixture of trust principal and income. As the Supreme Court held, “the Lease Fund is not a constitutional trust fund and need not be the exclusive repository for proceeds from oil and gas development.” *PEDF II*, 161 A.3d at 939.

By the same token, there is no restriction that the Lease Fund must be comprised solely of corpus funds derived from oil and gas. Although Section 1601.2-E(b) does not identify nor account for the funds going into and out of the Lease Fund, such omissions do not render this section facially unconstitutional. This is because if the General Assembly chose to appropriate all monies in the Lease Fund for trust purposes, there would be no Section 27 violation. The constitutional problem arises only when trust assets are applied to non-trust purposes. *See PEDF II*. Although we agree with the Foundation a clear accounting and identification of corpus funds from the oil and gas leases are necessary to ensure that these funds are properly used in strict compliance with Section 27, which we discuss below, the absence of such a mandate within Section 1601.2-E(b) itself does not render this provision facially unconstitutional.

**c. Section 1601.2-E(c)**

Next, the Foundation argues that Section 1601.2-E(c) violates Section 27 as well as Section 25 by failing to provide that the funds must be used to conserve and maintain the corpus by preventing and remedying the degradation, diminution and depletion of our public natural resources. The Foundation asserts that there are no limitations on the use of money in the Lease Fund to comply with Section 27. Subsection (c) requires no evaluation prior to the use of funds generated from the extraction and sale of oil and gas.

The Commonwealth defends that subsection (c) clearly evidences that the General Assembly contemplated and faithfully exercised its fiduciary obligations as trustee by mandating that the legislature “consider the Commonwealth’s trustee duties under [S]ection 27” when appropriating funds. The appropriation of trust

monies for an agency's general operating expenses does not violate Sections 27 or 25 of the Pennsylvania Constitution.

Section 1601.2-E(c) of The Fiscal Code provides:

(c) Use.--Money in the [Lease] [F]und may only be used as provided under subsection (e) *or as annually appropriated by the General Assembly. In making an appropriation from the fund, the General Assembly shall consider the Commonwealth's trustee duties under section 27 of Article I of the Constitution of Pennsylvania.*

72 P.S. §1601.2-E(c) (emphasis added).

Subsection (c) merely requires the General Assembly to “consider” the Commonwealth’s trustee duties when making appropriations. *Id.* In *PEDF II*, the Supreme Court held that it is not enough to simply “consider” allocating the corpus funds for trust purposes in declaring Section 1602-E of The Fiscal Code unconstitutional. *PEDF II*, 161 A.3d at 937 (“Section 1602-E merely requires the General Assembly to ‘consider’ allocating these funds to municipalities impacted by a Marcellus well.”). However, as discussed above, Section 1602-E dealt with the appropriation and transfer of *royalties* in the Lease Fund, which belonged to the trust corpus.

Here, Section 1601.2-E(c) of The Fiscal Code authorizes the appropriation or transfer of monies within the Lease Fund without any indication as to the specific nature of the funds, *i.e.*, royalties, rents, bonuses, interest or other sources. Because the Lease Fund is comprised of both restricted corpus and unrestricted deposits, we cannot conclude that Section 1601.2-E(c) violates Section 27 on its face. Because the Foundation’s Section 25 claim is premised on a Section 27 violation, it likewise fails. Thus, we conclude that subsection (c) is not facially unconstitutional under Section 27 or Section 25 of the Pennsylvania Constitution.

**d. Section 1601.2-E(e)<sup>18</sup>**

Next, the Foundation argues that the transfers from the Lease Fund to the Marcellus Legacy Fund for subsequent distribution to the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund violates Section 27. The Lease Fund transfers are used to replace insufficient landfill fees and tax revenues. These funds are “untethered to the protection of the public natural resources in the State [f]orests and [p]arks of northcentral Pennsylvania impacted to generate this money.” Petitioner’s Brief at 88. The DCNR does not exercise control over these funds.

The Commonwealth counters that the transfers to other Commonwealth agencies or initiatives, including the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund, do not violate Section 27 because the appropriations are devoted to a multitude of conservation and maintenance efforts. Again, the issue is not whether the funds replace other revenue streams but whether the funds are devoted to trust purposes. The DCNR is not the only Section 27 trustee.

Section 1601.2-E(e) of The Fiscal Code provides:

(e) Annual transfers.--The following apply:

(1)(i) Except as provided under subparagraph (ii), for the 2017-2018 fiscal year and each fiscal year thereafter, \$20,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund.

(ii) No amount shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund for the 2019-2020 and 2020-2021 fiscal year.

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<sup>18</sup> The Foundation does not challenge subsection (d) of Section 1601.2-E.

(2) For the 2017-2018 fiscal year and each fiscal year thereafter, \$15,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Hazardous Sites Cleanup Fund.

72 P.S. §1601.2-E(e).

As discussed above, it is not clear whether the transfers from the Lease Fund to the Marcellus Legacy Fund, the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund are trust principal or income. Even assuming the transfers represent trust principal belonging to the environmental trust, the Foundation is not entitled to the declaration it seeks. First, the use of trust assets to replace insufficient revenue is not a *per se* violation of Section 27. Section 27 is violated when trust assets are used for non-trust purposes. *PEDF II*, 161 A.3d at 938. Second, we reiterate that utilization of the trust assets on conservation and maintenance initiatives beyond the Marcellus Shale region do not run afoul of Section 27. *Id.* at 939. Third, the DCNR is not the only Section 27 trustee or the sole agency responsible for conserving and maintaining Pennsylvania's public natural resources. *Id.* at 931 n.23. Consequently, there is no basis upon which to declare subsection (e) facially unconstitutional.

Thus, we deny the Foundation's Application for Summary Relief and grant the Commonwealth's cross-Application upon concluding that the challenged provisions of Section 1601.2-E of The Fiscal Code are not facially unconstitutional.

#### **5. Section 1726-G of The Fiscal Code**

Next, the Foundation argues that the transfer in Section 1726-G is unconstitutional insofar as the Commonwealth authorized the transfer of \$10,000,000 from the Keystone Recreation, Park and Conservation Fund (Keystone

Fund)<sup>19</sup> to the General Fund. The Keystone Fund is used primarily by the DCNR to improve the public natural resources of our parks and forests. The Keystone Fund should not be used to fill budget gaps in the General Fund caused by insufficient tax revenue. The Commonwealth made the determination without any public notice or evaluation regarding the impact of this transfer on our public natural resources. Combined with the loss of control over the Lease Fund, the Foundation argues that the transfer from the Keystone Fund further impedes the DCNR's ability to carry out conservation and maintenance projects on our State forests and parks.

The Commonwealth responds that Section 1726-G of The Fiscal Code does not violate the Pennsylvania Constitution. These funds are not corpus funds. Just as the diversion of funds from the Lease Fund does not constitute a facial violation of the Commonwealth's Section 27 duties and responsibilities, the diversion of money from the Keystone Fund does not violate the Commonwealth's responsibilities as a Section 27 trustee.

Section 1726-G of The Fiscal Code directs the following transfers:

During the 2017-2018 fiscal year, \$300,000,000 shall be transferred from amounts available in special funds and restricted accounts to the General Fund. The transfers under this section shall be in accordance with the following:

(1) The Secretary of the Budget shall transmit to the State Treasurer a list of amounts to be transferred from special funds and restricted accounts to the General Fund.

(2) Upon receipt of the list under paragraph (1), the State Treasurer shall cause the transfers under paragraph (1) to occur.

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<sup>19</sup> The Keystone Fund was created by the Keystone Recreation, Park and Conservation Fund Act (Keystone Act), Act of July 2, 1993, P.L. 359, *as amended*, 32 P.S. §§2011-2024.

72 P.S. §1726-G. Of the \$300,000,000, the Commonwealth authorized the transfer of \$10,000,000 from the Keystone Fund to the General Fund. *See* Petitioner’s Brief, Exhibit J, Commonwealth’s Supplemental Answer and Objections to First Set of Interrogatories, ¶16.

In the Keystone Act, the General Assembly recognized that “the land and water resources of this Commonwealth as described in [S]ection 27” are fundamental to the health and welfare of the people of Pennsylvania. Section 2(1) of the Keystone Act, 32 P.S. §2012(1). One of the objectives of the Keystone Act is to provide a “predictable and stable source of funding” for “parks, natural areas, recreation, historic preservation facilities, educational facilities, zoos and public libraries in this Commonwealth.” Section 2(6) of the Keystone Act, 32 P.S. §2012(6). Section 3 of the Keystone Act, 32 P.S. §2013, identifies the DCNR as one of the agency recipients of an allocation from the Keystone Fund.

Unlike the Lease Fund, the Keystone Fund is not funded by money from the extraction and sale of oil and gas from Pennsylvania’s natural resources. Rather, the Keystone Fund is funded by “proceeds from the sale of bonds or notes” and “the monthly transfer of a portion of the State Realty Transfer Tax.” Section 4(b) of the Keystone Fund, 32 P.S. §2014(b); *see* Section 12 of the Keystone Act, 32 P.S. §2022 (the DCNR is allocated \$17,000,000 from bond revenues and 30% of realty transfer tax revenues). In short, we are not dealing with money belonging to the trust corpus. Consequently, the transfer of funds from the Keystone Fund to the General Fund does not run afoul of Section 27 or impugn the Commonwealth’s fiduciary duties as trustee. *See PEDF II*.

As for the Commonwealth’s failure to provide notice or evaluate the impact on our public natural resources, as discussed above, there is no requirement



for public notice or an evaluation as to the potential impacts of such transfers. *See Frederick*, 196 A.3d at 700. Although we understand that this transfer decreased the amount of funds available for the DCNR’s conservation activities, the transfer of unrestricted money from one fund to another is a matter of legislative prerogative. Thereafter, the administration of the appropriations is a function of the Commonwealth. Section 4(c) of the Keystone Fund, 32 P.S. §2014(c); *see Common Cause of Pennsylvania v. Commonwealth*, 668 A.2d 190, 206 n.21 (Pa. Cmwlth. 1995). For this Court to hold otherwise would be an unconstitutional encroachment on the powers of the executive branch. *See Common Cause*. “[W]e must respect the legislative prerogative to control the State’s finances, a prerogative that is subject only to constitutional limitations.” *School District of Newport Township in Luzerne County v. State Tax Equalization Board*, 79 A.2d 641, 643 (Pa. 1951). We, therefore, conclude that Section 1726-G is not facially unconstitutional, and we deny the Foundation’s Application and grant the Commonwealth’s cross-Application in this regard.

## **6. Affirmative Legislation & Accounting**

Finally, the Foundation asks this Court for a declaration that affirmative legislation is required to ensure that the Lease Fund has protective limitations. Specifically, the Foundation seeks new legislation to ensure that the money derived from the oil and gas leases in the Marcellus Shale region will be: used only in that region; available to conserve these resources for future generations; and appropriated to the DCNR for these purposes. The Foundation also seeks a declaration that the Commonwealth must maintain a detailed accounting of monies in the Lease Fund and how they are used.

The Commonwealth responds that “no affirmative legislation is needed” for the Commonwealth to properly effectuate its Section 27 duties and responsibilities. Respondents’ Joint Brief at 26. The Commonwealth maintains that the Supreme Court rejected this very argument in *PEDF II*. It also defends that the Commonwealth and the General Assembly “account for all monies derived from the DCNR’s oil and gas leases and do, in fact, track the allocation of oil and gas royalty monies.” Respondents’ Joint Brief at 25.

In *PEDF II*, our Supreme Court determined that “Pennsylvania’s environmental trust” requires the Commonwealth to “act affirmatively via legislative action to protect the environment.” *PEDF II*, 161 A.3d at 933; see *Robinson Township*, 83 A.3d at 955-66 (the Commonwealth’s Section 27 duties are “both negative (*i.e.*, prohibitory) and affirmative (*i.e.*, implicating enactment of legislation and regulations’’)). The Court recognized numerous legislative enactments aimed at protecting our public natural resources, such as the Clean Streams Law<sup>20</sup> and the Air Pollution Control Act.<sup>21</sup> See *Robinson Township*, 83 A.3d at 958. But, the Court held back from dictating what new legislative enactments or executive actions were necessary, allowing the legislative and executive branches to exercise their discretion in furtherance of their Section 27 duties. Indeed, such a legislative mandate is not the role of the judiciary. See *Benson ex rel. Patterson v. Patterson*, 830 A.2d 966, 968 (Pa. 2003) (“[I]t is not the role of the judiciary to legislate changes the legislature has declined to adopt.”). Therefore, we deny the Foundation’s request for declaratory judgment for specific affirmative legislation.

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<sup>20</sup> Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§691.1 - 691.1001.

<sup>21</sup> Act of January 8, 1960, P.L. (1959) 2119, *as amended*, 35 P.S. §§4001-4015.

By the same token, we also deny the Commonwealth's request for a sweeping declaration that "no affirmative legislation is needed" for the Commonwealth to properly effectuate its Section 27 duties and responsibilities. Respondents' Joint Brief at 26. Although Section 27 is self-executing for enforcement purposes, as our discussion illustrates, some legislative or executive measures are necessary to ensure that the trust assets are properly spent on trust purposes. *See PEDF II; Robinson*. However, we will not dictate how the Commonwealth, or the General Assembly for that matter, should exercise their delegated powers in this regard. To do so would encroach upon executive and legislative power in violation of the constitutional provision governing separation of powers. Therefore, we deny both requests for declaratory judgment with regard to affirmative legislation.

As for the accounting, under Pennsylvania trust law, a trustee must maintain "adequate records of the administration of the trust." Section 7780(a) of the Uniform Trust Act, 20 Pa. C.S. §7780(a). In addition, "[a] trustee shall keep trust property separate from the trustee's own property." 20 Pa. C.S. §7780(b). The trustee has a duty to inform and report. Section 7780.3 of the Uniform Trust Act, 20 Pa. C.S. §7780.3.

The Lease Fund as it exists today is comprised of both royalties, rents, bonuses and interest from the oil and gas leases as well as other sources of revenue. *See 72 P.S. §1601.2-E(e); see also* Petitioner's Brief, Exhibit A, Commonwealth's Answer and Objections to the Foundation's First Set of Interrogatories, ¶¶6a, 7a. Although the Commonwealth tracks the source of the monies as they are deposited into the Lease Fund, once in the Lease Fund, money is no longer earmarked or maintained in separate accounts, but is instead "commingled." Petitioner's Brief,

Exhibit A, Commonwealth's Answer and Objections to First Set of Interrogatories, ¶¶3a, 3b, 3c. According to the Commonwealth, "it is not possible to identify the originating source of the total monies in the Lease Fund on a particular day." *Id.* Further compounding the problem are the transfers of money from the Lease Fund to the General Fund and beyond. As the money shuffles from one fund to the next, money loses any trace of its originating source.

While money classified as trust principal must be spent on trust purposes, money classified as income need not comply with the same spending restrictions. *PEDF III*, 214 A.3d at 774. By commingling monies in the Lease Fund without classification and by not maintaining adequate records, the Commonwealth is neglecting its fiduciary duties. *See* 20 Pa. C.S. §7780. It is impossible for this Court to determine whether the money appropriated and transferred from the Lease Fund is trust principal, and whether trust principal is being used in a constitutional manner.<sup>22</sup> Thus, an accounting is necessary to ensure that the assets of the trust are being used only for purposes authorized by the trust or necessary for the preservation of the trust in accordance with Section 27. *See PEDF II*, 161 A.3d at 939; *PEDF III*, 214 A.3d at 774. Therefore, we grant the Foundation's Application for Summary Relief in this regard and declare that the Commonwealth, as trustee of Pennsylvania's public natural resources, is required to keep detailed accounts of the

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<sup>22</sup> Based upon a rough estimate of the monies deposited into and diverted from the Lease Fund, we are extremely concerned that the Commonwealth may not be administering the trust funds with "loyalty, impartiality, and prudence." *See PEDF II*; *see also* Sections 7772, 7773, and 7774 of the Uniform Trust Act, 20 Pa. C.S. §§7772, 7773, 7774.

trust monies derived from the oil and gas leases and track how they are spent as part of its administration of the trust.<sup>23</sup>

#### IV. Conclusion

For these reasons, we grant in part and deny in part the parties' cross-Applications for Summary Relief as follows. We grant the Foundation's Application insofar as it seeks a declaration that the Commonwealth is required to maintain accurate records of the Lease Fund and track trust principal as part of its trustee duties, and we deny the Application in all other respects. We grant the Commonwealth's Application for Summary Relief upon concluding that the following legislative enactments are not facially unconstitutional: Sections 104(P) and 1601 of the General Appropriation Acts of 2017 and 2018; the repeal of the 1955 Lease Fund Act; Section 1601.2-E of The Fiscal Code; and Section 1726-G of The Fiscal Code. We also grant the Commonwealth's declaratory request that Lease Fund money, including trust principal, may be expended on environmental conservation initiatives beyond the Marcellus Shale region. However, we deny the Commonwealth's Application insofar as it seeks a declaration that its current usage of the trust is wholly consistent with its Section 27 trustee responsibilities and that affirmative legislation is not necessary.



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MICHAEL H. WOJCIK, Judge

Judge Crompton did not participate in the decision of this case.

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<sup>23</sup> Considering that this Court's opinion in *PEDF III* is pending on appeal before the Supreme Court and that our assessment of what constitutes trust principal and income is challenged therein, we strongly suggest that the Commonwealth account for and track all monies derived from the oil and gas leases, not just royalties and other trust principal.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Environmental Defense Foundation,	:	
	:	
	:	
Petitioner	:	
	:	
v.	:	No. 358 M.D. 2018
	:	
Commonwealth of Pennsylvania, and Tom Wolf, in his official capacity as Governor of Pennsylvania,	:	
	:	
	:	
Respondents	:	

**ORDER**

AND NOW, this 22<sup>nd</sup> day of October, 2020, upon consideration of the parties' cross-Applications for Summary Relief to Petitioner's Petition for Review in the Nature of Declaratory Relief, the Applications are granted in part and denied in part in accordance with the foregoing opinion.



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MICHAEL H. WOJCIK, Judge

**Certified from the Record**

**OCT 22 2020**

**And Order Exit**

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**ACTS & BUDGETS**

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<sup>1</sup> The full text of these legislative enactments is available on the General Assembly website (<https://www.legis.state.pa.us/>) with the exception of the 1995 Oil and Gas Lease Fund Act. The document provided was previously available on the General Assembly website but was removed after the act was repealed in 2017.



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<sup>2</sup> Each Governor’s Executive Budget is available in its entirety on the Pennsylvania Budget Office website (<https://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget>).

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**ATTACHMENT B-1**  
**GENERAL APPROPRIATIONS ACT OF 2017**  
**EXCERPTS**

SENATE AMENDED

PRIOR PRINTER'S NOS. 162, 1236

PRINTER'S NO. 2196

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 218 Session of  
2017

INTRODUCED BY SAYLOR, JANUARY 24, 2017

SENATOR BROWNE, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JUNE 29, 2017

AN ACT

\*\*\*\*\*

TO PROVIDE FROM THE GENERAL FUND FOR THE EXPENSES OF THE EXECUTIVE AND JUDICIAL DEPARTMENTS, THE STATE GOVERNMENT SUPPORT AGENCIES AND THE GENERAL ASSEMBLY OF THE COMMONWEALTH, THE PUBLIC DEBT AND THE PUBLIC SCHOOLS FOR THE FISCAL YEAR JULY 1, 2017, TO JUNE 30, 2018, FOR CERTAIN INSTITUTIONS AND ORGANIZATIONS AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2017; TO PROVIDE APPROPRIATIONS FROM THE STATE LOTTERY FUND, THE TOBACCO SETTLEMENT FUND, THE AVIATION RESTRICTED ACCOUNT, THE HAZARDOUS MATERIAL RESPONSE FUND, THE STATE STORES FUND, THE MILK MARKETING FUND, THE HOME INVESTMENT TRUST FUND, THE EMERGENCY MEDICAL SERVICES OPERATING FUND, THE TUITION ACCOUNT GUARANTEED SAVINGS PROGRAM FUND, THE BANKING FUND, THE FIREARM RECORDS CHECK FUND, THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY FUND, THE OIL AND GAS LEASE FUND, THE HOME IMPROVEMENT ACCOUNT, THE CIGARETTE FIRE SAFETY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND, THE INSURANCE REGULATION AND OVERSIGHT FUND, THE PENNSYLVANIA RACEHORSE DEVELOPMENT RESTRICTED RECEIPT ACCOUNT, THE JUSTICE REINVESTMENT FUND, THE MULTIMODAL TRANSPORTATION FUND, THE STATE RACING FUND AND THE ABLE SAVINGS PROGRAM FUND TO THE EXECUTIVE DEPARTMENT; TO PROVIDE APPROPRIATIONS FROM THE JUDICIAL COMPUTER SYSTEM AUGMENTATION ACCOUNT TO THE JUDICIAL DEPARTMENT FOR THE FISCAL YEAR JULY 1, 2017, TO JUNE 30, 2018; TO PROVIDE APPROPRIATIONS FROM THE MOTOR LICENSE FUND FOR THE FISCAL YEAR JULY 1, 2017, TO JUNE 30, 2018, FOR THE PROPER OPERATION OF SEVERAL DEPARTMENTS OF THE COMMONWEALTH AND THE PENNSYLVANIA STATE POLICE AUTHORIZED TO SPEND MOTOR LICENSE FUND MONEY; TO PROVIDE FOR THE APPROPRIATION OF FEDERAL FUNDS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH

AND FOR THE PAYMENT OF BILLS REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2017; AND TO PROVIDE FOR THE ADDITIONAL APPROPRIATION OF FEDERAL AND STATE FUNDS FROM THE GENERAL FUND, THE STATE LOTTERY FUND AND THE TOBACCO SETTLEMENT FUND FOR THE EXECUTIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE FISCAL YEAR JULY 1, 2016, TO JUNE 30, 2017, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2016.

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FOR 2017-2018

SUBPART A. EXECUTIVE DEPARTMENT

\*\*\*\*\*

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- SECTION 104. STATE APPROPRIATIONS.

(A) GENERAL FUND.--THE FOLLOWING SUMS SET FORTH IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE HEREBY SPECIFICALLY APPROPRIATED FROM THE GENERAL FUND TO THE SEVERAL HEREINAFTER

NAMED AGENCIES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY ELECTED OR APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES, PRINTING, PUBLIC ADVERTISING BY OR THROUGH ANY MEDIUM, EQUIPMENT, LAND AND BUILDINGS AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES HEREINAFTER SET FORTH FOR THE FISCAL YEAR BEGINNING JULY 1, 2017, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2017.

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(P) OIL AND GAS LEASE FUND.--THE FOLLOWING SUMS SET FORTH IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE HEREBY SPECIFICALLY APPROPRIATED FROM THE OIL AND GAS LEASE FUND TO THE HEREINAFTER NAMED AGENCIES OF THE EXECUTIVE DEPARTMENT OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES HEREINAFTER SET FORTH FOR THE FISCAL YEAR BEGINNING JULY 1, 2017, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID

AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2017.

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PART XVI

OIL AND GAS LEASE FUND APPROPRIATION

SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

THE FOLLOWING AMOUNTS ARE  
APPROPRIATED TO THE DEPARTMENT OF

CONSERVATION AND NATURAL RESOURCES:	FEDERAL	STATE
FOR GENERAL OPERATIONS.		
STATE APPROPRIATION.....		50,000,000
FOR STATE PARKS OPERATIONS.		
STATE APPROPRIATION.....		7,739,000
FOR STATE FORESTS OPERATIONS.		
STATE APPROPRIATION.....		3,552,000

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PART XXII

EFFECTIVE DATE

SECTION 2201. EFFECTIVE DATE.

THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

- (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.
- (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2017, OR IMMEDIATELY, WHICHEVER IS LATER.

**ATTACHMENT B-2**  
**GENERAL APPROPRIATIONS ACT OF 2018**  
**EXCERPTS**



## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. **2121** Session of  
2018

INTRODUCED BY SAYLOR, MARCH 1, 2018

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 19, 2018

AN ACT

\*\*\*\*\*

TO PROVIDE FROM THE GENERAL FUND FOR THE EXPENSES OF THE EXECUTIVE AND JUDICIAL DEPARTMENTS, THE STATE GOVERNMENT SUPPORT AGENCIES AND THE GENERAL ASSEMBLY OF THE COMMONWEALTH, THE PUBLIC DEBT AND THE PUBLIC SCHOOLS FOR THE FISCAL YEAR JULY 1, 2018, TO JUNE 30, 2019, FOR CERTAIN INSTITUTIONS AND ORGANIZATIONS AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2018; TO PROVIDE APPROPRIATIONS FROM THE STATE LOTTERY FUND, THE TOBACCO SETTLEMENT FUND, THE AVIATION RESTRICTED ACCOUNT, THE HAZARDOUS MATERIAL RESPONSE FUND, THE STATE STORES FUND, THE MILK MARKETING FUND, THE HOME INVESTMENT TRUST FUND, THE EMERGENCY MEDICAL SERVICES OPERATING FUND, THE TUITION ACCOUNT GUARANTEED SAVINGS PROGRAM FUND, THE BANKING FUND, THE FIREARM RECORDS CHECK FUND, THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY FUND, THE OIL AND GAS LEASE FUND, THE HOME IMPROVEMENT ACCOUNT, THE CIGARETTE FIRE SAFETY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND, THE INSURANCE REGULATION AND OVERSIGHT FUND, THE PENNSYLVANIA RACEHORSE DEVELOPMENT RESTRICTED RECEIPT ACCOUNT, THE JUSTICE REINVESTMENT FUND, THE MULTIMODAL TRANSPORTATION FUND, THE STATE RACING FUND AND THE ABLE SAVINGS PROGRAM FUND TO THE EXECUTIVE DEPARTMENT; TO PROVIDE APPROPRIATIONS FROM THE JUDICIAL COMPUTER SYSTEM AUGMENTATION ACCOUNT TO THE JUDICIAL DEPARTMENT FOR THE FISCAL YEAR JULY 1, 2018, TO JUNE 30, 2019; TO PROVIDE APPROPRIATIONS FROM THE MOTOR LICENSE FUND FOR THE FISCAL YEAR JULY 1, 2018, TO JUNE 30, 2019, FOR THE PROPER OPERATION OF SEVERAL DEPARTMENTS OF THE COMMONWEALTH AND THE PENNSYLVANIA STATE POLICE AUTHORIZED TO SPEND MOTOR LICENSE FUND MONEY; TO PROVIDE FOR THE APPROPRIATION OF FEDERAL FUNDS

TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH AND FOR THE PAYMENT OF BILLS REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2018; TO PROVIDE FOR THE ADDITIONAL APPROPRIATION OF FEDERAL AND STATE FUNDS FROM THE GENERAL FUND, THE STATE LOTTERY FUND AND THE TOBACCO SETTLEMENT FUND FOR THE EXECUTIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE FISCAL YEAR JULY 1, 2017, TO JUNE 30, 2018, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2017; AND PROVIDING FOR AUGMENTATION FROM ADDITIONAL FUNDING SOURCE.

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- SECTION 105. FEDERAL AUGMENTATION APPROPRIATIONS.
- SECTION 106. BLOCK GRANTS.
- SECTION 107. APPROPRIATIONS TO PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY.

PART II. GENERAL FUND AND FEDERAL APPROPRIATIONS

FOR 2018-2019

SUBPART A. EXECUTIVE DEPARTMENT

\*\*\*\*\*

PART XVI. OIL AND GAS LEASE FUND APPROPRIATIONS

- SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

\*\*\*\*\*

- SECTION 104. STATE APPROPRIATIONS.

(A) GENERAL FUND.--THE FOLLOWING SUMS SET FORTH IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE HEREBY SPECIFICALLY

APPROPRIATED FROM THE GENERAL FUND TO THE SEVERAL HEREINAFTER NAMED AGENCIES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY ELECTED OR APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES, PRINTING, PUBLIC ADVERTISING BY OR THROUGH ANY MEDIUM, EQUIPMENT, LAND AND BUILDINGS AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES HEREINAFTER SET FORTH FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2018.

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(P) OIL AND GAS LEASE FUND.--THE FOLLOWING SUMS SET FORTH IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE HEREBY SPECIFICALLY APPROPRIATED FROM THE OIL AND GAS LEASE FUND TO THE HEREINAFTER NAMED AGENCIES OF THE EXECUTIVE DEPARTMENT OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES

HEREINAFTER SET FORTH FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2018.

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PART XVI

OIL AND GAS LEASE FUND APPROPRIATION

SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

THE FOLLOWING AMOUNTS ARE APPROPRIATED TO THE DEPARTMENT OF

CONSERVATION AND NATURAL RESOURCES:	FEDERAL	STATE
FOR GENERAL OPERATIONS.		
STATE APPROPRIATION.....		37,045,000
FOR STATE PARKS OPERATIONS.		
STATE APPROPRIATION.....		7,555,000
FOR STATE FORESTS OPERATIONS.		
STATE APPROPRIATION.....		4,198,000

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PART XXII

MISCELLANEOUS PROVISIONS

SECTION 2201. AUGMENTATION FROM ADDITIONAL FUNDING SOURCE.

EXCEPT AS OTHERWISE PROVIDED BY LAW, IF AN ADDITIONAL FUNDING SOURCE AFTER THE EFFECTIVE DATE OF THIS SECTION BECOMES AVAILABLE, THE SECRETARY OF THE BUDGET MAY, UPON EXPRESS WRITTEN APPROVAL OF THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE

APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, DIRECT THAT FUNDING SOURCE TO AUGMENT A LINE ITEM APPROPRIATION IN THIS ACT. THE APPROVAL SHALL SPECIFY THE AMOUNT OF THE AUGMENTATION AND THE LINE ITEM TO BE AUGMENTED.

SECTION 2202. EFFECTIVE DATE.

THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

- (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.
- (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2018, OR IMMEDIATELY, WHICHEVER IS LATER.

**ATTACHMENT B-3**  
**GENERAL APPROPRIATIONS ACT OF 2019**  
**EXCERPTS**

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 790 Session of  
2019

INTRODUCED BY SAYLOR AND GREGORY, MARCH 12, 2019

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 24, 2019

## AN ACT

TO PROVIDE APPROPRIATIONS FROM THE GENERAL FUND FOR THE EXPENSES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH, THE PUBLIC DEBT AND THE PUBLIC SCHOOLS FOR THE FISCAL YEAR JULY 1, 2019, TO JUNE 30, 2020, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2019; TO PROVIDE APPROPRIATIONS FROM SPECIAL FUNDS AND ACCOUNTS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS FOR THE FISCAL YEAR JULY 1, 2019, TO JUNE 30, 2020, AND FOR THE PAYMENT OF BILLS REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2019; TO PROVIDE FOR THE APPROPRIATION OF FEDERAL FUNDS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS FOR THE FISCAL YEAR JULY 1, 2019, TO JUNE 30, 2020, AND FOR THE PAYMENT OF BILLS REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2019; AND TO PROVIDE FOR THE ADDITIONAL APPROPRIATION OF FEDERAL AND STATE FUNDS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS FOR THE FISCAL YEAR JULY 1, 2018, TO JUNE 30, 2019, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2018.

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ASSISTANCE AGENCY.

PART II. GENERAL FUND AND FEDERAL APPROPRIATIONS  
FOR CURRENT FISCAL YEAR

SUBPART A. EXECUTIVE DEPARTMENT

\*\*\*\*\*

PART XVI. OIL AND GAS LEASE FUND APPROPRIATIONS

SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

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SECTION 104. STATE APPROPRIATIONS.

(A) GENERAL FUND.--EXCEPT AS PROVIDED IN PART XIX, THE SUMS SPECIFIED IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE SPECIFICALLY APPROPRIATED FROM THE GENERAL FUND TO AGENCIES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY ELECTED OR APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES, PRINTING, PUBLIC ADVERTISING BY OR THROUGH ANY MEDIUM, EQUIPMENT, LAND AND BUILDINGS AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE



DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES SPECIFIED IN THIS ACT FOR THE CURRENT FISCAL YEAR AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE PRIOR FISCAL YEAR.

(B) SPECIAL FUNDS AND ACCOUNTS.--EXCEPT AS PROVIDED IN PART XIX, THE SUMS SPECIFIED IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE SPECIFICALLY APPROPRIATED FROM THE SPECIAL FUNDS AND ACCOUNTS IN THE STATE TREASURY TO AGENCIES OF THE EXECUTIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES SPECIFIED IN THIS ACT FOR THE CURRENT FISCAL YEAR AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE PRIOR FISCAL YEAR.

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#### PART XVI

##### OIL AND GAS LEASE FUND APPROPRIATIONS

SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

THE FOLLOWING AMOUNTS ARE  
 APPROPRIATED TO THE DEPARTMENT OF  
 CONSERVATION AND NATURAL RESOURCES:        FEDERAL                STATE  
 FOR GENERAL OPERATIONS.

STATE APPROPRIATION.....	37,786,000
FOR STATE PARKS OPERATIONS.	
STATE APPROPRIATION.....	17,706,000
FOR STATE FORESTS OPERATIONS.	
STATE APPROPRIATION.....	14,282,000

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PART XXII

MISCELLANEOUS PROVISIONS

SECTION 2201. EFFECTIVE DATE.

THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

- (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.
- (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2019, OR IMMEDIATELY, WHICHEVER IS LATER.

**ATTACHMENT B-4**  
**GENERAL APPROPRIATIONS ACT OF 2020**  
**EXCERPTS**

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2387

 Session of  
2020

INTRODUCED BY SAYLOR, APRIL 6, 2020

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 26, 2020

AN ACT

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TO PROVIDE APPROPRIATIONS FROM THE GENERAL FUND FOR THE EXPENSES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH, THE PUBLIC DEBT AND THE PUBLIC SCHOOLS FOR THE FISCAL YEAR JULY 1, 2020, TO JUNE 30, 2021, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2020; TO PROVIDE APPROPRIATIONS FROM SPECIAL FUNDS AND ACCOUNTS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS FOR THE FISCAL YEAR JULY 1, 2020, TO JUNE 30, 2021, AND FOR THE PAYMENT OF BILLS REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2020; TO PROVIDE FOR THE APPROPRIATION OF FEDERAL FUNDS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS FOR THE FISCAL YEAR JULY 1, 2020, TO JUNE 30, 2021, AND FOR THE PAYMENT OF BILLS REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2020; AND TO PROVIDE FOR THE ADDITIONAL APPROPRIATION OF FEDERAL AND STATE FUNDS TO THE EXECUTIVE AND JUDICIAL DEPARTMENTS FOR THE FISCAL YEAR JULY 1, 2019, TO JUNE 30, 2020, AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE FISCAL YEAR ENDING JUNE 30, 2019.

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PART II. GENERAL FUND AND FEDERAL APPROPRIATIONS

FOR CURRENT FISCAL YEAR

SUBPART A. EXECUTIVE DEPARTMENT

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SECTION 104. STATE APPROPRIATIONS.

(A) GENERAL FUND.--EXCEPT AS PROVIDED IN PART LI, THE SUMS SPECIFIED IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE SPECIFICALLY APPROPRIATED FROM THE GENERAL FUND TO AGENCIES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY ELECTED OR APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES, PRINTING, PUBLIC ADVERTISING BY OR THROUGH ANY MEDIUM, EQUIPMENT, LAND AND BUILDINGS AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES SPECIFIED IN THIS ACT FOR THE CURRENT FISCAL YEAR AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE PRIOR FISCAL YEAR.

(B) SPECIAL FUNDS AND ACCOUNTS.--EXCEPT AS PROVIDED IN PART LI, THE SUMS SPECIFIED IN THIS ACT, OR AS MUCH THEREOF AS MAY BE NECESSARY, ARE SPECIFICALLY APPROPRIATED FROM THE SPECIAL FUNDS AND ACCOUNTS IN THE STATE TREASURY TO AGENCIES OF THE EXECUTIVE AND JUDICIAL DEPARTMENTS OF THE COMMONWEALTH FOR THE PAYMENT OF SALARIES, WAGES OR OTHER COMPENSATION AND TRAVEL EXPENSES OF THE DULY APPOINTED OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, FOR THE PAYMENT OF FEES FOR CONTRACTUAL SERVICES RENDERED, FOR THE PURCHASE OR RENTAL OF GOODS AND SERVICES AND FOR PAYMENT OF ANY OTHER EXPENSES, AS PROVIDED BY LAW OR BY THIS ACT, NECESSARY FOR THE PROPER CONDUCT OF THE DUTIES, FUNCTIONS AND ACTIVITIES AND FOR THE PURPOSES SPECIFIED IN THIS ACT FOR THE CURRENT FISCAL YEAR AND FOR THE PAYMENT OF BILLS INCURRED AND REMAINING UNPAID AT THE CLOSE OF THE PRIOR FISCAL YEAR.

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PART XVI. OIL AND GAS LEASE FUND APPROPRIATIONS  
SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

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PART XVI  
OIL AND GAS LEASE FUND APPROPRIATIONS  
SECTION 1601. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

THE FOLLOWING AMOUNTS ARE  
APPROPRIATED FROM THE OIL AND GAS  
LEASE FUND TO THE DEPARTMENT OF  
CONSERVATION AND NATURAL RESOURCES

FOR THE CURRENT FISCAL YEAR:	FEDERAL	STATE
FOR GENERAL GOVERNMENT OPERATIONS.		
STATE APPROPRIATION.....		14,827,000
FOR STATE PARKS OPERATIONS.		
STATE APPROPRIATION.....		20,000,000
FOR STATE FORESTS OPERATIONS.		
STATE APPROPRIATION.....		20,000,000

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PART LXXXI

MISCELLANEOUS PROVISIONS

SECTION 8101. EFFECTIVE DATE.

THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE FOLLOWING SHALL TAKE EFFECT IMMEDIATELY:

(I) THIS SECTION.

(II) PART LI.

(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2020, OR IMMEDIATELY, WHICHEVER IS LATER.

**ATTACHMENT B -5**  
**2017 FISCAL CODE OMNIBUS AMENDMENTS**  
**EXCERPTS**



**FISCAL CODE - OMNIBUS AMENDMENTS**  
**Act of Oct. 30, 2017, P.L. 725, No. 44** **Cl. 72**  
 Session of 2017  
 No. 2017-44

HB 674

## AN ACT

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," implementing the 2017-2018 Commonwealth budget and instituting future budget implementation:

Further providing for title of act;

In Department of Revenue:

providing for lottery winnings intercept;

Providing for ambulatory surgical center data collection and for Joint Underwriting Association;

In Treasury Department:

providing for provisions for General Assembly;

In Department of Auditor General:

further providing for audits of agencies receiving State aid and providing for audits of interstate commissions;

In procedure for the disbursement of money from the State Treasury:

further providing for settlement agreements and enforcement actions;

In financially distressed municipalities:

providing for payroll tax;

In oil and gas wells:

further providing for definitions, providing for Oil and Gas Lease Fund, repealing provisions relating to oil and gas operations in the South Newark Basin and providing for temporary cessation of oil and gas wells;

In transportation network companies and motor carrier companies:

providing for regulation of taxicabs and limousines by parking authority of city of the first class, for penalties and for provision of transportation network service;

In Pennsylvania Gaming Economic Development and Tourism Fund:  
 further providing for other grants;  
 In Tobacco Settlement Fund:  
 further providing for use of fund;  
 In Pennsylvania Race Horse Development Fund:  
 further providing for definitions, for fund and for distributions  
 from fund;  
 In miscellaneous limitations and transfers:  
 further providing for drug and alcohol programs and providing for  
 Workers' Compensation Security Fund;  
 In Natural Gas Infrastructure Development Fund:  
 further providing for definitions and for transfer of funds;  
 Providing for First Chance Trust Fund;  
 In 2016-2017 restrictions on appropriations for funds and accounts:  
 repealing provisions relating to fund transfers;  
 In general budget implementation:  
 further providing for Department of Agriculture, for Department of  
 Community and Economic Development, for Department of Education, for  
 Pennsylvania Gaming Control Board, for Department of Human Services,  
 for Commonwealth Financing Authority Restricted Revenue Account and  
 for surcharges, providing for Multimodal Transportation Fund, further  
 providing for Pennsylvania Liquor Control Board and providing for  
 sales by distilleries, for Liquor Code suspension for deficiency, for  
 State Employees' Retirement System Restricted Account and for Public  
 School Employees' Retirement System Restricted Account;  
 In school district debt refinancing bonds:  
 further providing for sinking fund charges for school building  
 projects and for Public School Building Construction and  
 Reconstruction Advisory Committee;  
 Repealing provisions relating to 2012-2013 budget implementation and  
 2012-2013 restrictions on appropriations for funds and accounts;  
 Providing for 2017-2018 budget implementation and for 2017-2018  
 restrictions on appropriations for funds and accounts;  
 Making an editorial change; and  
 Making related repeals.

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

Section 1. The General Assembly finds and declares as follows:

- (1) The intent of this act is to provide for the implementation of the 2017-2018 Commonwealth budget.
- (2) The Constitution of Pennsylvania confers numerous express duties upon the General Assembly, including the passage of a balanced budget for the Commonwealth.
- (3) Section 24 of Article III of the Constitution of Pennsylvania requires the General Assembly to adopt all appropriations for the operation of government in this Commonwealth, regardless of their source. The Supreme Court has repeatedly affirmed that, "It is fundamental within Pennsylvania's tripartite system that the General Assembly enacts the legislation establishing those programs which the state provides for its citizens and appropriates the funds necessary for their operation."
- (4) Pursuant to section 13 of Article VIII of the Constitution of Pennsylvania, the General Assembly is explicitly required to adopt a balanced Commonwealth budget. Given the unpredictability and potential insufficiency of revenue collections, various changes in State law relating to sources of revenue, the collection of revenue and the implementation of statutes which impact revenue may be required to discharge this constitutional obligation.

(5) Section 11 of Article III of the Constitution of Pennsylvania requires the adoption of a general appropriation act that embraces "nothing but appropriations." While actual items of appropriation can be contained in a General Appropriation Act, the achievement and implementation of a comprehensive budget involves more than subjects of appropriations and dollar amounts. Ultimately, the budget has to be balanced under section 13 of Article VIII of the Constitution of Pennsylvania. This may necessitate changes to sources of funding and enactment of statutes to achieve full compliance with these constitutional provisions.

(6) For the reasons set forth in paragraphs (1), (2), (3), (4) and (5), it is the intent of the General Assembly through this act to provide for the implementation of the 2017-2018 Commonwealth budget.

(7) Every provision of this act relates to the implementation of the operating budget of the Commonwealth for this fiscal year, addressing in various ways the fiscal operations, revenues and potential liabilities of the Commonwealth. To that end, this act is intended to implement the 2017-2018 Commonwealth budget without specifically appropriating public money from the General Fund. This act provides accountability for spending and makes transfers or other changes necessary to impact the availability of revenue in order to meet the requirements of section 13 of Article VIII of the Constitution of Pennsylvania and to implement the act of July 11, 2017 (P.L.1279, No.1A), known as the General Appropriation Act of 2017.

\*\*\*\*\*

Section 3.2. The definition of "fund" in section 1601-E of the act is amended to read:

Section 1601-E. Definitions.

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

\* \* \*

"Fund." [The Oil and Gas Lease Fund established under the act of December 15, 1955 (P.L.865, No.256), entitled, "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land."] **The Oil and Gas Lease Fund.**

\* \* \*

Section 3.3. The act is amended by adding a section to read:

**Section 1601.2-E. Oil and Gas Lease Fund.**

(a) **Continuation.**--The fund is continued as a special fund in the State Treasury.

(b) **Sources.**--The following shall be deposited into the fund:

(1) **Rents and royalties from oil and gas leases of land owned by the Commonwealth, except rents and royalties received from game and fish lands.**

(2) **Amounts as provided under section 5 of the act of October 8, 2012 (P.L.1194, No.147), known as the Indigenous Mineral Resources Development Act.**

(3) **Any other money appropriated or transferred to the fund.**

(c) **Use.**--Money in the fund may only be used as provided under subsection (e) or as annually appropriated by the General Assembly. In making an appropriation from the fund, the General Assembly shall consider the Commonwealth's trustee duties under section 27 of Article I of the Constitution of Pennsylvania.

(d) Priority.--Money appropriated from the fund under a General Appropriation Act or other appropriation act shall be distributed prior to allocations under subsection (e).

(e) Annual transfers.--The following apply:

(1) For the 2017-2018 fiscal year and each fiscal year thereafter, \$20,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund.

(2) For the 2017-2018 fiscal year and each fiscal year thereafter, \$15,000,000 shall be transferred from the fund to the Marcellus Legacy Fund for distribution to the Hazardous Sites Cleanup Fund.

\*\*\*\*\*

Section 19. The act is amended by adding articles to read:

ARTICLE XVII-F  
2017-2018 BUDGET IMPLEMENTATION  
SUBARTICLE A  
PRELIMINARY PROVISIONS

Section 1701-F. Applicability.

Except as specifically provided in this article, this article applies to the General Appropriation Act of 2017 and all other appropriation acts of 2017.

\*\*\*\*\*

Section 1720-F. Department of Conservation and Natural Resources.

The following shall apply to appropriations for the Department of Conservation and Natural Resources:

(1) From money appropriated for State parks operations, no less than \$2,250,000 shall be used for the operation and maintenance of the Washington Crossing Historic Park.

(2) (Reserved).

\*\*\*\*\*

Section 1726-G. Fund transfers.

During the 2017-2018 fiscal year, \$300,000,000 shall be transferred from amounts available in special funds and restricted accounts to the General Fund. The transfers under this section shall be in accordance with the following:

(1) The Secretary of the Budget shall transmit to the State Treasurer a list of amounts to be transferred from special funds and restricted accounts to the General Fund.

(2) Upon receipt of the list under paragraph (1), the State Treasurer shall cause the transfers under paragraph (1) to occur.

Section 19.1. Section 18 and the addition of Article XVII-F of the act shall apply retroactively to July 11, 2017.

Section 20. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment or addition of sections 1601-E and 1601.2-E of the act.

(2) The following provisions are repealed:

(i) The act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the

Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land."

(ii) 58 Pa.C.S. §§ 2504 and 2505.

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of section 1603-M of the act.

(4) 53 Pa.C.S. § 57B02(c)(1)(i) and (ii) are repealed.

(5) The General Assembly declares that the repeal under paragraph (6) is necessary to effectuate the addition of section 1795.1-E (b)(2) of the act.

(6) 42 Pa.C.S. § 4907 is repealed.

(7) The General Assembly declares that the repeal under paragraph (8) is necessary to effectuate the addition of Article II-D of the act.

(8) Article XV-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

Section 21. This act shall take effect as follows:

(1) The addition of section 215 of the act shall take effect in 365 days.

(2) The addition of Subarticle F of Article XVII-A.1 of the act shall take effect in 30 days.

(3) The addition of section 1729-E(4) of the act shall take effect in 60 days.

(4) The remainder of this act shall take effect immediately.

APPROVED--The 30th day of October, A.D. 2017.

TOM WOLF

**ATTACHMENT B-6**  
**2009 FISCAL CODE OMNIBUS AMENDMENTS**  
**EXCERPTS**

**THE FISCAL CODE - OMNIBUS AMENDMENTS**  
**Act of Oct. 9, 2009, P.L. 537, No. 50** **Cl. 72**  
 Session of 2009  
 No. 2009-50

HB 1614

## AN ACT

Amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," providing for method of filing; further providing for the definition of "cigarettes"; providing for the definition of "little cigars"; establishing the independent fiscal office; further providing for notice and publication of lists of property subject to custody and control of the Commonwealth; providing for borrowing for capital facilities and for oil and gas wells; further providing for the State Workers' Insurance Board and for sunset provisions relating to State Workers' Insurance Fund investment authority; providing for Pennsylvania Gaming Economic Development and Tourism Fund and for Water and Sewer System Assistance Bond Fund; further providing for Department of Corrections, for Department of Education, for Department of Environmental Protection, for Pennsylvania State Police and for Pennsylvania Emergency Management Agency; providing for 2009-2010 budget implementation and for 2009-2010 restrictions on appropriations for funds and accounts; abolishing the Board of Trustees of the Scranton State School for the Deaf; and making related repeals.

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

Section 1. The act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended by adding a section to read:

\*\*\*\*\*

Section 3. The act is amended by adding articles to read:

\*\*\*\*\*

ARTICLE XVI-E  
OIL AND GAS WELLS  
SUBARTICLE A  
PRELIMINARY PROVISIONS

Section 1601-E. Definitions.

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

"Department." The Department of Conservation and Natural Resources of the Commonwealth.

"Fund." The Oil and Gas Lease Fund established under the act of December 15, 1955 (P.L.865, No.256), entitled, "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land."

"Marcellus well." An active production well certified by the Department of Environmental Protection as a well from which gas from the Marcellus Shale formation, as determined by the United States Geological Survey, was extracted during the fiscal year, including wells on Commonwealth and non-Commonwealth land.

Section 1602-E. Appropriation.

Notwithstanding any other provision of law and except as provided in section 1603-E, no money in the fund from royalties may be expended unless appropriated by the General Assembly. In making appropriations, the General Assembly shall consider the adoption of an allocation to municipalities impacted by a Marcellus well.

Section 1603-E. Department of Conservation and Natural Resources.

Subject to the availability of money in the fund, up to \$50,000,000 from the fund from royalties shall be appropriated annually to the department to carry out the purposes set forth in the act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land." The department shall give preference to the operation and maintenance of State parks and forests.

Section 1604-E. Transfer.

Notwithstanding section 1603-E or any other provision of law, in fiscal year 2009-2010 the amount of \$60,000,000 shall be transferred from the fund to the General Fund.

\*\*\*\*\*

Section 9. This act shall apply as follows:

(1) The addition of section 1776-A of the act shall apply to contracts entered into on or after the effective date of this paragraph.

(1.1) The following provisions shall apply retroactively to July 1, 2009:

- (i) The amendment of section 1721-E of the act.
- (ii) The amendment of section 1722-E of the act.



- (iii) The amendment of section 1733-E of the act.
  - (iv) The amendment of section 1735-E of the act.
  - (v) Except as set forth in paragraph (3), the addition of Article XVII-J of the act.
  - (vi) The addition of Article XVII-K of the act.
  - (2) The amendment of section 1723-E of the act shall apply retroactively to May 1, 2009.
  - (3) Paragraph (1.1)(v) does not apply to the addition of section 1722-J(8) and (9) of the act.
  - (4) The reenactment and amendment of sections 1731-A and 1732-A shall apply retroactively to June 30, 2009.
- Section 10. This act shall take effect as follows:
- (1) Notwithstanding paragraph (2), the addition of section 510-A of the act shall take effect October 15, 2010.
  - (2) The addition of Article V-A of the act shall take effect November 30, 2010.
  - (3) The remainder of this act shall take effect immediately.

APPROVED--The 9th day of October, A.D. 2009.

EDWARD G. RENDELL

**ATTACHMENT B-7**  
**1955 Oil and Gas Lease Fund Act**

**ESTABLISHING THE "OIL AND GAS LEASE FUND"**  
**Act of Dec. 15, 1955, P.L. 865, No. 256**  
AN ACT

Cl. 32

Requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land.

**Compiler's Note:** Section 304(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties conferred upon the Department of Forests and Waters and the Secretary of Forests and Waters by Act 256 of 1955.

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

Section 1. All rents and royalties from oil and gas leases of any land owned by the Commonwealth, except rents and royalties received from game and fish lands, shall be placed in a special fund to be known as the "Oil and Gas Lease Fund" which fund shall be exclusively used for conservation, recreation, dams, or flood control or to match any Federal grants which may be made for any of the aforementioned purposes.

Section 2. It shall be within the discretion of the Secretary of Forests and Waters to determine the need for and the location of any project authorized by this act. The Secretary of Forests and Waters shall have the power to acquire in the name of the Commonwealth by purchase, condemnation or otherwise such lands as may be needed.

Section 3. All the moneys from time to time paid into the "Oil and Gas Lease Fund" are specifically appropriated to the Department of Forests and Waters to carry out the purposes of this act.

**ATTACHMENT B-8**  
**GOVERNOR'S EXECUTIVE BUDGET 2016-2017**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2014-15 ACTUAL	2015-16 AVAILABLE	2016-17 BUDGET
<b>GENERAL FUND:</b>			
<b>General Government:</b>			
<b>General Government Operations .....</b>	<b>\$ 5,809</b>	<b>\$ 12,313</b>	<b>\$ 19,552</b>
(F)Topographic and Geologic Survey Grants .....	500	500	500
(F)Bituminous Coal Resources .....	25	25	0
(F)Land and Water Conservation Fund .....	12,000	12,000	12,000
(F)Highlands Conservation Program .....	2,000	2,000	2,000
(F)Cooperative Endangered Species .....	28	28	28
(F)Intermodal Surface Transportation (EA) .....	5,000	5,000	5,000
(A)Payment for Department Services .....	1,871	1,860	1,992
(A)Water Well Drillers .....	32	38	38
(A)Keystone Recreation, Park and Conservation Fund .....	1,816	2,356	3,100
(A)Internet Record Imaging System .....	201	200	200
(A)Environmental Stewardship Fund Admin .....	291	443	435
Subtotal .....	<u>\$ 29,573</u>	<u>\$ 36,763</u>	<u>\$ 44,845</u>
<b>State Parks Operations .....</b>	<b>2,276</b>	<b>33,297</b>	<b>62,450</b>
(F)PA Recreation Trails (EA) .....	7,000	7,000	7,000
(F)Lake Erie Lakeside Management (EA) .....	25	25	0
(F)Summer 2011 Storm Disaster Relief - Parks (EA) .....	100	100	0
(F)Coastal Zone Management Special Projects (EA) .....	50	50	50
(F)DEP-DCNR Special Projects (EA) .....	2,000	2,000	0
(F)FBC-DCNR Special Projects (EA) .....	191	57	0
(A)State Parks User Fees .....	22,045	22,000	22,000
(A)Reimbursement for Services .....	758	786	786
(A)Vehicle Sale .....	93	47	47
Subtotal .....	<u>\$ 34,538</u>	<u>\$ 65,362</u>	<u>\$ 92,333</u>
<b>State Forests Operations .....</b>	<b>1,050</b>	<b>11,195</b>	<b>36,104</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	175	75
(F)Forest Management and Processing .....	3,800	3,800	3,800
(F)Great Lakes Restoration .....	900	900	900
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Natural Resource Conservation Service .....	0	264	264
(F)Forest Insect and Disease Control .....	4,000	4,000	4,000
(F)Wetland Protection Fund .....	300	300	300
(F)Summer 2011 Storm Disaster Relief - Forest (EA) .....	100	100	0
(F)Wetlands Program Development (EA) .....	0	250	250
(A)Reimbursement for Services .....	484	1,000	1,000
(A)Reimbursement - Forest Fires .....	939	525	525
(A)Sale of Vehicles - Forests .....	174	75	75
(A)Timber Sales .....	23,365	22,000	22,500
(A)Miscellaneous Tickets and Fines .....	4	2	2
Subtotal .....	<u>\$ 38,041</u>	<u>\$ 47,336</u>	<u>\$ 72,545</u>
Subtotal - State Funds .....	\$ 9,135	\$ 56,805	\$ 118,106
Subtotal - Federal Funds .....	40,944	41,324	38,917
Subtotal - Augmentations .....	52,073	51,332	52,700
Total - General Government .....	<u>\$ 102,152</u>	<u>\$ 149,461</u>	<u>\$ 209,723</u>
<b>Grants and Subsidies:</b>			
<b>Heritage and Other Parks .....</b>	<b>\$ 2,250</b>	<b>\$ 0</b>	<b>\$ 0</b>
<b>Annual Fixed Charges - Flood Lands .....</b>	<b>52</b>	<b>65</b>	<b>65</b>
<b>Annual Fixed Charges - Project 70 .....</b>	<b>29</b>	<b>40</b>	<b>40</b>
<b>Annual Fixed Charges - Forest Lands .....</b>	<b>2,529</b>	<b>2,612</b>	<b>2,627</b>
<b>Annual Fixed Charges - Park Lands .....</b>	<b>334</b>	<b>425</b>	<b>425</b>
Total - Grants and Subsidies .....	<u>\$ 5,194</u>	<u>\$ 3,142</u>	<u>\$ 3,157</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2014-15 ACTUAL	2015-16 AVAILABLE	2016-17 BUDGET
STATE FUNDS.....	\$ 14,329	\$ 59,947	\$ 121,263
FEDERAL FUNDS.....	40,944	41,324	38,917
AUGMENTATIONS.....	52,073	51,332	52,700
<b>GENERAL FUND TOTAL</b> .....	<b>\$ 107,346</b>	<b>\$ 152,603</b>	<b>\$ 212,880</b>
<b><u>MOTOR LICENSE FUND:</u></b>			
<b>General Government:</b>			
Dirt and Gravel Roads.....	\$ 7,000	\$ 7,000	\$ 7,000
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA).....	\$ 7,223	\$ 8,330	\$ 8,962
STATE FUNDS.....	\$ 7,000	\$ 7,000	\$ 7,000
RESTRICTED REVENUES.....	7,223	8,330	8,962
<b>MOTOR LICENSE FUND TOTAL</b> .....	<b>\$ 14,223</b>	<b>\$ 15,330</b>	<b>\$ 15,962</b>
<b><u>OTHER FUNDS:</u></b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation.....	\$ 5,010	\$ 4,300	\$ 4,300
Forest Regeneration.....	2,872	2,227	2,480
Forestry Research.....	87	250	250
<b>GENERAL FUND TOTAL</b> .....	<b>\$ 7,969</b>	<b>\$ 6,777</b>	<b>\$ 7,030</b>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA).....	\$ 160	\$ 134	\$ 165
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA).....	\$ 11,279	\$ 13,211	\$ 12,833
Community Conservation Grants (EA).....	4,269	4,174	4,174
Natural Diversity Conservation Grants (EA).....	366	366	366
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL</b> .....	<b>\$ 15,914</b>	<b>\$ 17,751</b>	<b>\$ 17,373</b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Park & Forest Facility Rehabilitation (EA).....	\$ 22,600	\$ 21,765	\$ 28,617
Grants for Local Recreation (EA).....	18,834	18,137	23,846
Grants to Land Trusts (EA).....	7,534	7,255	9,539
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL</b> .....	<b>\$ 48,968</b>	<b>\$ 47,157</b>	<b>\$ 62,002</b>
<b>OIL AND GAS LEASE FUND:</b>			
State Parks Operations.....	\$ 45,009	\$ 21,413	\$ 0
General Government Operations.....	10,000	5,087	0
General Operations (EA).....	50,000	50,000	36,062
State Forests Operations.....	17,537	10,519	0
Transfer to Marcellus Legacy Fund (EA).....	0 <sup>a</sup>	0 <sup>a</sup>	0 <sup>a</sup>
<b>OIL AND GAS LEASE FUND TOTAL</b> .....	<b>\$ 122,546</b>	<b>\$ 87,019</b>	<b>\$ 36,062</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,146	\$ 5,146	\$ 5,176
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 177	\$ 143	\$ 143
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 14,329	\$ 59,947	\$ 121,263
SPECIAL FUNDS.....	7,000	7,000	7,000
FEDERAL FUNDS.....	40,944	41,324	38,917
AUGMENTATIONS.....	52,073	51,332	52,700
RESTRICTED.....	7,223	8,330	8,962
OTHER FUNDS.....	200,880	164,127	127,951

## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2014-15 Actual	2015-16 Available	2016-17 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 1,939</b>	<b>\$ 1,917</b>	<b>\$ 683</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,714	\$ 2,714	\$ 2,714
Interest.....	6	3	3
Fees.....	36	25	50
Fines .....	1	63	15
Total Receipts .....	<u>2,757</u>	<u>2,805</u>	<u>2,782</u>
<b>Total Funds Available</b> .....	<b>\$ 4,696</b>	<b>\$ 4,722</b>	<b>\$ 3,465</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 832	\$ 1,222	\$ 1,063
Environmental Protection .....	1,947	2,817	2,073
Total Disbursements .....	<u>-2,779</u>	<u>-4,039</u>	<u>-3,136</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 1,917</b>	<b>\$ 683</b>	<b>\$ 329</b>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 50 of 2009 provides \$50 million for an annual appropriation from the fund to the Department of Conservation and Natural Resources. In addition, any monies above the \$50 million must be specifically appropriated by the General Assembly. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund. The pending 2015-16 Fiscal Code (HB1327) will modify the transfer to the Marcellus Legacy Fund. The anticipated change is reflected below. The Governor's 2016-17 Budget includes increased landfill disposal tipping fees to be deposited into the Oil and Gas Lease Fund.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2014-15 Actual	2015-16 Available	2016-17 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 113,839</b>	<b>\$ 61,994</b>	<b>\$ 2,699</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 114,812	\$ 60,000	\$ 48,000
Tipping Fee Revenue.....	0	0	35,000
Interest.....	562	697	697
Other.....	80	150	0
Total Receipts .....	<u>115,454</u>	<u>60,847</u>	<u>83,697</u>
<b>Total Funds Available</b> .....	<b>\$ 229,293</b>	<b>\$ 122,841</b>	<b>\$ 86,396</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 69,753	\$ 63,210	\$ 36,062
State Parks Operations.....	45,009	21,413	0
State Forests Operations.....	17,537	10,519	0
Transfer to Marcellus Legacy Fund.....	35,000	25,000 <sup>a</sup>	50,000
Total Disbursements .....	<u>-167,299</u>	<u>-120,142</u>	<u>-86,062</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 61,994</b>	<b>\$ 2,699</b>	<b>\$ 334</b>

<sup>a</sup> Amount reflects reduced transfer in HB1327 (Fiscal Code).

**ATTACHMENT B-9**  
**GOVERNOR'S EXECUTIVE BUDGET 2017-2018**  
**EXCERPTS**



# General Fund Tax Expenditures

## CAPITAL STOCK/FOREIGN FRANCHISE TAX

*Authorization:* Article VI of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

The capital stock tax is a property tax imposed on every domestic corporation with capital stock, every joint-stock association and limited partnership, and every other company organized or incorporated in Pennsylvania. The franchise tax is a privilege tax imposed on foreign corporations, joint-stock associations, limited partnerships, and other companies doing business and liable for taxation within Pennsylvania or having capital or property employed or used in Pennsylvania. Certain corporations are exempt from these taxes, and some corporations are afforded special treatment.

The capital stock/foreign franchise tax is based on capital stock value which is defined as one-half of the sum of the average net income capitalized at the rate of 9.5 percent plus 75 percent of the net worth, less \$160,000. Beginning with Act 7 of 1997, there have been several acts that have increased the valuation deduction from \$100,000 to \$160,000.

Act 89 of 2002 suspended the automatic transfer of 0.25 mills of the tax to the Hazardous Sites Cleanup Fund (HSCF). Beginning in fiscal year 2002-03, the HSCF transfer will only occur if the balance in the HSCF is expected to fall below \$5 million. Act 77 of 2007 amended the HSCF transfer, setting it at \$40 million per fiscal year, beginning in fiscal year 2008-09.

Beginning with Act 45 of 1998, there have been various acts that have decreased the capital stock/foreign franchise rate. The most recent legislation, Act 52 of 2013 delayed elimination of the capital stock/foreign franchise tax for two years. The rate for tax year 2014 is 0.67 mills. The rate is further reduced to 0.45 mills for tax year 2015. The tax is then eliminated for all tax years beginning after December 31, 2015.

The estimates in this analysis include only the General Fund portion of the tax and reflect the current phase-out of the tax. Various types of assets are exempt from tax. The valuation of capital stock is not affected by these exemptions, but the exemptions are reflected in apportionment formulas used to compute the percentage of the capital stock value base actually subject to tax.

### NONPROFIT CORPORATIONS

*Description:* Nonprofit corporations are exempt from the capital stock/foreign franchise tax. Act 7 of 1997 provided that any nonprofit corporation or entity that is an exempt organization as defined by section 501 of Internal Revenue Code of 1986 (P.L. 99-514, 26 U.S.C.) is exempt. Act 4 of 1999 provided that insurance and travel agency activities carried on by an auto club are subject to the capital stock/foreign franchise tax. The same act restored exempt status to homeowners associations and membership organizations. The estimates below are based on unrelated business income taxed by the federal government.

*Purpose:* This exemption provides tax relief to nonprofit corporations including religious, charitable, educational, and scientific organizations that are perceived as providing social benefits.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	\$ 2.4	\$ 0.5	\$ 0.1	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 4,600 nonprofit corporations benefit from this tax expenditure.

# General Fund Tax Expenditures

## FAMILY FARM CORPORATIONS

*Description:* Family farm corporations are exempt from the capital stock/foreign franchise tax. A family farm corporation is one that devotes at least 75 percent of its assets to agriculture and at least 75 percent of its stock is owned by members of the same family.

Act 45 of 1998 specifically defined LLCs and business trusts as corporations for capital stock/foreign franchise tax purposes. As a result, LLCs and business trusts are eligible for the family farm exemption, if appropriate.

*Purpose:* This exemption provides tax relief to family farm corporations thereby recognizing the importance of family-owned farms.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	Nominal	Nominal	Nominal	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 830 family farm corporations operating in Pennsylvania could benefit from this tax expenditure.

## ASSETS USED IN MANUFACTURING, PROCESSING, AND RESEARCH AND DEVELOPMENT

*Description:* Corporations (except those which enjoy the right of eminent domain, i.e., utilities) organized for manufacturing, processing, or research and development purposes may claim an exemption for capital stock invested in such activities within Pennsylvania. Pollution control assets are included for these corporations. This exemption is reflected in computing the percentage of the capital stock value actually subject to tax and applies to both single-factor and three-factor apportionment.

Act 63 of 1999 modified the manufacturing exemption by disallowing the exemption provided for manufacturing, processing, or research and development activities from the numerator of the sales factor and expanding the exemption by excluding property and payroll attributable to manufacturing, processing, or research and development activities outside of the commonwealth from the numerator of the property and payroll factors.

*Purpose:* This exemption encourages investment in manufacturing, processing, and research and development activities that improves the commonwealth's economic position.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	\$ 37.7	\$ 8.1	\$ 1.8	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 4,600 corporations operating in Pennsylvania benefit from this tax expenditure.

# General Fund Tax Expenditures

## APPORTIONMENT FORMULA

*Description:* Corporations that have multistate operations have the option of using either a single-factor or a three-factor formula to compute the portion of the capital stock value that is subject to tax. The single-factor formula is based on the ratio of the book value of taxable assets to the book value of total assets. The three-factor formula is based on property, payroll, and sales within and without Pennsylvania. Historically, only domestic corporations were permitted to choose the single-factor apportionment method until the Pennsylvania Supreme Court ruled that foreign corporations must be allowed the same option.

Act 52 of 2013 modified the sourcing of sales for calculating the apportionment of income. Sales of real property, tangible property, and services will be sourced at the location of the customer instead of the location of the "income producing activity."

*Purpose:* This option provides tax relief to those corporations with considerable tangible investment in the commonwealth and thereby encourages corporate investment in Pennsylvania.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	\$ 23.8	\$ 5.1	\$ 1.2	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 8,000 corporations doing business in Pennsylvania benefit from this tax expenditure.

## POLLUTION CONTROL DEVICES

*Description:* Equipment, machinery, facilities, and other tangible property used during the tax year within Pennsylvania for water or air pollution control or abatement devices utilized for the benefit of the general public are exempt from the capital stock/foreign franchise tax. This exemption is reflected as an exclusion from the numerator of the single asset apportionment fraction or the numerator of the property factor when the three-factor apportionment formula is used. However, for manufacturing, processing, or research and development corporations, these assets are included as exempt equipment and shown in the expenditure for assets used in manufacturing, processing, and research and development.

*Purpose:* This exemption provides tax relief to corporations required to install pollution control devices and encourages investment in pollution control assets.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	Nominal	Nominal	Nominal	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* A nominal number of companies doing business in Pennsylvania benefit from this tax expenditure.

## General Fund Tax Expenditures

### DEDUCTION FROM THE FIXED FORMULA

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*Description:* Act 48 of 2009 establishes that for tax years beginning in 2010 and thereafter, corporations may deduct \$160,000 from the capital stock value which is then subject to apportionment to determine the taxable base. The valuation deduction was \$150,000 for tax years 2007 through 2009. The valuation deduction for tax years 1997 through 2006 was \$125,000. The valuation deduction was \$100,000 for tax years 1995 and 1996.

*Purpose:* This exemption provides a tax-free portion of capital stock value for corporations, particularly beneficial to new businesses realizing little or no profit during their early years.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2020-21</u>
	\$ 8.1	\$ 1.6	\$ 0.3	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 280,200 corporations doing business in Pennsylvania benefit from this tax expenditure.

### HOLDING COMPANIES

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*Description:* Holding companies may elect, in lieu of a standard apportionment formula, a special apportionment formula that computes the taxable portion of capital stock value by taking 10 percent of the total capital stock value. The single-factor apportionment formula was used as the standard apportionment formula in the estimating process. Holding companies are corporations (1) which derive at least 90 percent of their income from stock or securities and the rendering of administrative or management services to subsidiary corporations and (2) whose assets are at least 60 percent comprised of securities or indebtedness of subsidiary corporations. Act 45 of 1998 clarified that limited liability companies and business trusts are eligible to receive holding company tax treatment.

*Purpose:* This special treatment is intended to provide tax relief to those holding companies with considerable intangible assets that otherwise are not exempt under the single assets apportionment fraction.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	\$ 26.5	\$ 5.7	\$ 1.3	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 490 companies doing business in Pennsylvania benefit from this tax expenditure.

# General Fund Tax Expenditures

## REGULATED INVESTMENT COMPANIES/REAL ESTATE INVESTMENT TRUSTS \_\_\_\_\_

*Description:* Regulated investment companies (RICs) are subject to special valuation for capital stock/foreign franchise tax purposes. Their tax is computed by adding the net asset value multiplied by \$75 and divided by one million to the apportioned undistributed personal income multiplied by the personal income tax rate. Undistributed taxable personal income is apportioned to Pennsylvania by a fraction, the numerator of which is all income distributed during the taxable year to resident shareholders and the denominator of which is all income distributed to all shareholders.

There is a potential revenue loss from regulated investment companies and real estate investment trusts (REITs) organized as business trusts. These entities are not subject to capital stock/foreign franchise tax. No cost estimate is available.

There is also a potential revenue loss associated with corporations that conduct Pennsylvania business activity through an investment in business trust RICs, REITs, and certain other related entities. Generally, a corporation's interest in an entity that is not a corporation is considered to be a direct ownership interest in the assets of the entity rather than an intangible interest. Act 232 of 2002 created exceptions to this general rule for RICs, REITs, and certain other related entities that are organized as business trusts. No cost estimate is available.

*Purpose:* RICs are corporations that derive at least 90 percent of their income from dividends, interest, and gains on disposition of stock and securities. REITs are corporations that own real estate investments and must distribute at least 90 percent of their income as dividends. This special treatment provides tax relief to these companies thereby allowing them to earn higher rates of return on their investments that, in turn, are passed on to their shareholders. The higher earnings rates may result in higher investment in the economy that is channeled through these companies.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	\$ 0.1	Nominal	Nominal	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* At least 220 RICs, REITs, and other related entities doing business in Pennsylvania benefit from this tax expenditure. In addition, an unknown number of corporations may benefit from the provisions of Act 232 of 2002.

## General Fund Tax Expenditures

### RESTRICTED PROFESSIONAL COMPANIES

*Description:* Restricted professional companies (RPCs) are limited liability companies (LLCs) performing restricted professional services. LLCs are hybrid business entities that combine the corporate characteristic of limited liability for all owners (members) with the tax treatment of a partnership. Restricted professional services include chiropractic, dentistry, law, medicine and surgery, optometry, osteopathic medicine, podiatry medicine, public accounting, psychology, and veterinary medicine. These types of businesses give members the protection of limited liability for the neglect of another member. RPCs are exempt from the capital stock/foreign franchise tax. However, an annual fee of \$380 per resident member is imposed under the Associations Code, \$25 of which is credited to the Corporation Bureau's restricted account. Act 67 of 2006 eliminated single member restricted professional companies from being subject to the capital stock and franchise tax unless they are classified as a corporation for federal income tax purposes, effective for tax years beginning after December 31, 2005.

The cost estimates shown below only reflect the cost of the single member RPC exemption.

*Purpose:* RPCs perform valuable professional services for citizens of the commonwealth.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	\$ 1.2	\$ 0.2	Nominal	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* Approximately 3,400 companies doing business in Pennsylvania benefit from this tax expenditure.

### EXEMPTION FOR STUDENT LOAN ASSETS

*Description:* Act 45 of 1998 provided that student loan related assets owned or held by a trust or other entity formed for the securitization of student loans are exempt from capital stock/foreign franchise tax. This provision is effective for tax years beginning on or after January 1, 1998.

*Purpose:* This program exempts student loan related assets held by loan securitization trusts from the capital stock/foreign franchise tax to conform with the commonwealth public policy of promoting higher education.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	NA	NA	NA	NA	\$ --	\$ --	\$ --

*Beneficiaries:* A nominal number of business trusts and other entities formed for the securitization of student loan assets benefit from this tax expenditure.

# General Fund Tax Expenditures

## FINANCIAL INSTITUTION BUSINESS TRUSTS

*Description:* Act 23 of 2000 created an exemption from tax for a domestic or foreign business trust that is created or managed by an entity subject to bank shares or mutual thrifts tax, or an 80 percent affiliate thereof. The trust must also be created and managed to facilitate the securitization of intangible assets. For federal tax purposes it is classified as a partnership or disregarded entity. This exemption applies to taxable years beginning after December 31, 1999.

*Purpose:* This exemption acts as an incentive for these trusts to form and operate in the commonwealth.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	NA	NA	NA	NA	\$ --	\$ --	\$ --

*Beneficiaries:* The number of taxpayers benefiting from this expenditure is unknown.

## NON-PROFIT NONSTOCK COMMODITY OR STOCK EXCHANGE

*Description:* Non-profit nonstock commodity or stock exchanges are excluded from the definition of a corporation for capital stock/foreign franchise tax purposes. This provision applies to taxable years beginning after December 31, 1997.

*Purpose:* This exemption provides tax relief for non-profit nonstock commodity or stock exchanges.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	NA	NA	NA	NA	\$ --	\$ --	\$ --

*Beneficiaries:* A nominal number of corporate taxpayers benefit from this tax expenditure.

## POWDERED METALLURGY NEXUS

*Description:* Act 55 of 2007 created a nexus exemption for the out-of-state customers of Pennsylvania powdered metallurgy parts manufacturers. This nexus exemption applies retroactively to taxable years beginning after December 31, 2004, as well as taxable years to which there is an appeal prior to the effective date.

*Purpose:* This nexus exemption ensures that Pennsylvania powdered metallurgy parts manufacturers will not lose business due to a concern that out-of-state customers may be unduly subject to Pennsylvania taxation only for contracting with such a company.

(Dollar Amounts in Millions)

<i>Estimates:</i>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>
	Nominal	Nominal	Nominal	Nominal	\$ --	\$ --	\$ --

*Beneficiaries:* A minimal number of corporate taxpayers benefit from this tax expenditure.

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2015-16 ACTUAL	2016-17 AVAILABLE	2017-18 BUDGET
<b>GENERAL FUND:</b>			
<b>General Government:</b>			
<b>General Government Operations .....</b>	<b>\$ 12,313</b>	<b>\$ 19,375</b>	<b>\$ 20,538</b>
(F)Topographic and Geologic Survey Grants .....	500	500	500
(F)Bituminous Coal Resources .....	25	0	0
(F)Land and Water Conservation Fund .....	12,000	12,000	9,000
(F)Highlands Conservation Program .....	2,000	2,000	4,500
(F)Cooperative Endangered Species .....	28	28	28
(F)Intermodal Surface Transportation (EA) .....	5,000	5,000	0
(A)Payment for Department Services .....	1,803	1,824	1,881
(A)Water Well Drillers .....	39	38	38
(A)Keystone Recreation, Park and Conservation Fund .....	2,356	2,894	2,894
(A)Internet Record Imaging System .....	139	200	200
(A)Environmental Stewardship Fund Admin .....	113	0	0
Subtotal .....	<u>\$ 36,316</u>	<u>\$ 43,859</u>	<u>\$ 39,579</u>
<b>State Parks Operations .....</b>	<b>33,297</b>	<b>54,450</b>	<b>14,934</b>
(F)PA Recreation Trails (EA) .....	7,000	7,000	7,000
(F)Lake Erie Lakeside Management (EA) .....	25	0	0
(F)Summer 2011 Storm Disaster Relief - Parks (EA) .....	100	0	0
(F)Disaster Relief (F) .....	0	1,808	0
(F)Coastal Zone Management Special Projects (EA) .....	50	50	50
(F)DEP-DCNR Special Projects (EA) .....	2,000	0	0
(F)FBC-DCNR Special Projects (EA) .....	57	0	0
(A)State Parks User Fees .....	21,991	24,800	24,800
(A)Reimbursement for Services .....	2,781	2,786	2,795
(A)Vehicle Sale .....	71	47	82
Subtotal .....	<u>\$ 67,372</u>	<u>\$ 90,941</u>	<u>\$ 49,661</u>
<b>State Forests Operations .....</b>	<b>11,195</b>	<b>27,104</b>	<b>7,723</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	75	75
(F)Forest Management and Processing .....	3,800	3,800	3,800
(F)Great Lakes Restoration .....	900	900	0
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Natural Resource Conservation Service .....	264	264	264
(F)Forest Insect and Disease Control .....	4,000	4,000	4,000
(F)Wetland Protection Fund .....	300	300	300
(F)Environmental Education Local Grants Program .....	0	150	0
(F)Summer 2011 Storm Disaster Relief - Forest (EA) .....	100	0	0
(F)Wetlands Program Development (EA) .....	250	250	250
(A)Reimbursement for Services .....	1,772	2,000	3,600
(A)Reimbursement - Forest Fires .....	2,232	525	750
(A)Sale of Vehicles - Forests .....	130	100	100
(A)Timber Sales .....	19,957	22,800	23,000
(A)Miscellaneous Tickets and Fines .....	6	2	2
Subtotal .....	<u>\$ 47,831</u>	<u>\$ 65,020</u>	<u>\$ 46,614</u>
Subtotal - State Funds .....	\$ 56,805	\$ 100,929	\$ 43,195
Subtotal - Federal Funds .....	41,324	40,875	32,517
Subtotal - Augmentations .....	53,390	58,016	60,142
Total - General Government .....	<u>\$ 151,519</u>	<u>\$ 199,820</u>	<u>\$ 135,854</u>



# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2015-16 ACTUAL	2016-17 AVAILABLE	2017-18 BUDGET
<b>Grants and Subsidies:</b>			
Heritage and Other Parks .....	\$ 2,402	\$ 2,875	\$ 2,250
Annual Fixed Charges - Flood Lands .....	65	65	65
Annual Fixed Charges - Project 70 .....	40	40	88
Annual Fixed Charges - Forest Lands .....	2,612	2,627	7,731
Annual Fixed Charges - Park Lands .....	425	425	425
Total - Grants and Subsidies .....	<u>\$ 5,544</u>	<u>\$ 6,032</u>	<u>\$ 10,559</u>
STATE FUNDS .....	\$ 62,349	\$ 106,961	\$ 53,754
FEDERAL FUNDS .....	41,324	40,875	32,517
AUGMENTATIONS .....	53,390	58,016	60,142
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 157,063</u></b>	<b><u>\$ 205,852</u></b>	<b><u>\$ 146,413</u></b>
<b>MOTOR LICENSE FUND:</b>			
<b>General Government:</b>			
Dirt and Gravel Roads .....	\$ 7,000	\$ 7,000	\$ 7,000
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA) .....	\$ 8,330	\$ 11,000	\$ 11,000
STATE FUNDS .....	\$ 7,000	\$ 7,000	\$ 7,000
RESTRICTED REVENUES .....	8,330	11,000	11,000
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b><u>\$ 15,330</u></b>	<b><u>\$ 18,000</u></b>	<b><u>\$ 18,000</u></b>
<b>OTHER FUNDS:</b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation .....	\$ 4,721	\$ 4,300	\$ 0
ATV Management .....	0	0	3,825
Snowmobile Management .....	0	0	675
Forest Regeneration .....	3,784	2,480	2,280
Forestry Research .....	99	250	250
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 8,604</u></b>	<b><u>\$ 7,030</u></b>	<b><u>\$ 7,030</u></b>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA) .....	\$ 134	\$ 317	\$ 221
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA) .....	\$ 13,211	\$ 9,943	\$ 12,810
Community Conservation Grants (EA) .....	4,174	4,000	3,000
Natural Diversity Conservation Grants (EA) .....	366	300	300
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b><u>\$ 17,751</u></b>	<b><u>\$ 14,243</u></b>	<b><u>\$ 16,110</u></b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Park & Forest Facility Rehabilitation (EA) .....	\$ 25,491	\$ 26,726	\$ 28,511
Grants for Local Recreation (EA) .....	21,243	22,272	23,758
Grants to Land Trusts (EA) .....	8,497	8,909	9,503
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b><u>\$ 55,231</u></b>	<b><u>\$ 57,907</u></b>	<b><u>\$ 61,772</u></b>
<b>OIL AND GAS LEASE FUND:</b>			
State Parks Operations .....	\$ 21,413	\$ 0	\$ 43,588
General Government Operations .....	5,087	0	0
General Operations (EA) .....	50,000	50,000	50,000
State Forests Operations .....	10,519	0	21,412
Transfer to Marcellus Legacy Fund (EA) .....	0 <sup>a</sup>	0 <sup>a</sup>	0 <sup>a</sup>
<b>OIL AND GAS LEASE FUND TOTAL .....</b>	<b><u>\$ 87,019</u></b>	<b><u>\$ 50,000</u></b>	<b><u>\$ 115,000</u></b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA) .....	\$ 5,146	\$ 5,261	\$ 5,261

# Conservation and Natural Resources

## Summary by Fund and Appropriation

	(Dollar Amounts in Thousands)		
	2015-16	2016-17	2017-18
	ACTUAL	AVAILABLE	BUDGET
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 143	\$ 143	\$ 143
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 62,349	\$ 106,961	\$ 53,754
SPECIAL FUNDS.....	7,000	7,000	7,000
FEDERAL FUNDS.....	41,324	40,875	32,517
AUGMENTATIONS.....	53,390	58,016	60,142
RESTRICTED.....	8,330	11,000	11,000
OTHER FUNDS.....	174,028	134,901	205,537
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 346,421</b>	<b>\$ 358,753</b>	<b>\$ 369,950</b>

<sup>a</sup> Not added to the total to avoid double counting with the program expenditures from the Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund shown in various agencies. Environmental Stewardship Fund: 2015-16 Actual is \$20,000,000, 2016-17 Available is \$20,000,000 and 2017-18 Budget is \$0. Hazardous Sites Cleanup Fund: 2015-16 Actual is \$5,000,000, 2016-17 Available is \$5,000,000 and 2017-18 Budget is \$15,000,000.

## Justice Reinvestment Fund

The Justice Reinvestment Fund was created by Act 196 of 2012 to support programs and activities that will improve the delivery of criminal justice services within the commonwealth. Funding is derived from savings to the State Correctional Institutions through implementation of Act 122 of 2012, which establishes the Justice Reinvestment Initiative (JRI). Disbursements are made according to the provisions of Act 196 and include fixed amounts to the Pennsylvania Commission on Crime and Delinquency and the Pennsylvania Commission on Sentencing. Amounts remaining in the fund after these disbursements are distributed by formula to various JRI programs.

Disbursements fund various state and county programs, such as victim services; offender risk assessment modeling; county probation grants; county innovative policing and contracts to divert short- and medium-minimum offenders from incarceration; state parole processes and coordinated safe community reentry programs.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2015-16 Actual	2016-17 Available	2017-18 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 310</b>	<b>\$ 2,177</b>	<b>\$ 462</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,953	\$ 9,614	\$ 10,210
Interest.....	8	54	39
Total Receipts .....	<u>2,961</u>	<u>9,668</u>	<u>10,249</u>
<b>Total Funds Available</b> .....	<b>\$ 3,271</b>	<b>\$ 11,845</b>	<b>\$ 10,711</b>
<b>Disbursements:</b>			
PA Commission on Crime and Delinquency.....	\$ 581	\$ 8,304	\$ 7,164
PA Commission on Sentencing.....	466	484	400
Criminal Justice.....	47	2,595	3,147
Total Disbursements .....	<u>-1,094</u>	<u>-11,383</u>	<u>-10,711</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 2,177</b>	<b>\$ 462</b>	<b>\$ 0</b>

## Keystone Recreation, Park and Conservation Fund

The Keystone Recreation, Park and Conservation Fund is a special fund composed of monies from the sale of specific bonds and certain tax revenues. This fund provides for increased acquisitions, improvements and expansions of commonwealth and community parks, recreation facilities, historic sites, zoos, public libraries, nature preserves and wildlife habitats.

Act 50 of 1993 approved the transfer of 15 percent of revenues from the state Realty Transfer Tax to this fund. These monies are distributed to programs according to the formula contained in the act.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2015-16 Actual	2016-17 Available	2017-18 Estimated
<b>Total Cash Balance, Beginning</b> .....	<b>\$ 118,773</b>	<b>\$ 133,698</b>	<b>\$ 0</b>
<b>Receipts:</b>			
Realty Transfer Tax.....	\$ 82,717	\$ 89,400	\$ 92,200
Interest.....	2,254	2,833	2,833
Total Receipts .....	<u>84,971</u>	<u>92,233</u>	<u>95,033</u>
<b>Total Funds Available</b> .....	<b>\$ 203,744</b>	<b>\$ 225,931</b>	<b>\$ 95,033</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 46,008	\$ 146,855	\$ 61,772
Education.....	16,719	49,705	20,907
Historical and Museum Commission.....	7,319	29,371	12,354
Total Disbursements .....	<u>-70,046</u>	<u>-225,931</u>	<u>-95,033</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 133,698</b>	<b>\$ 0</b>	<b>\$ 0</b>

## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2015-16 Actual	2016-17 Available	2017-18 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 1,917</b>	<b>\$ 1,820</b>	<b>\$ 569</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,714	\$ 2,714	\$ 2,714
Interest.....	8	11	11
Fees.....	33	33	33
Fines .....	23	23	23
Total Receipts .....	<u>2,778</u>	<u>2,781</u>	<u>2,781</u>
<b>Total Funds Available</b> .....	<b>\$ 4,695</b>	<b>\$ 4,601</b>	<b>\$ 3,350</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 994	\$ 1,233	\$ 1,096
Environmental Protection .....	1,881	2,799	2,073
Total Disbursements .....	<u>-2,875</u>	<u>-4,032</u>	<u>-3,169</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 1,820</b>	<b>\$ 569</b>	<b>\$ 181</b>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 50 of 2009 provides \$50 million for an annual appropriation from the fund to the Department of Conservation and Natural Resources. In addition, any monies above the \$50 million must be specifically appropriated by the General Assembly. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund. This budget proposal includes a new transfer for three years from the Environmental Stewardship Fund into the Oil and Gas Lease Fund, along with modified transfers from the Oil and Gas Lease Fund to the Marcellus Legacy Fund as part of a new Pennsylvania Economic Revitalization Fund (PERF) bond issuance initiative.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2015-16 Actual	2016-17 Available	2017-18 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 61,994</b>	<b>\$ 23,525</b>	<b>\$ 19,601</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 69,946	\$ 80,000	\$ 80,000
Transfer from Environmental Stewardship Fund.....	0	0	37,000
Interest.....	782	537	537
Other.....	1,573	100	100
Total Receipts .....	<u>72,301</u>	<u>80,637</u>	<u>117,637</u>
<b>Total Funds Available</b> .....	<b>\$ 134,295</b>	<b>\$ 104,162</b>	<b>\$ 137,238</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 53,838	\$ 59,561	\$ 50,000
State Parks Operations.....	21,413	0	43,588
State Forests Operations.....	10,519	0	21,412
Transfer to Marcellus Legacy Fund.....	25,000	25,000	15,000
Total Disbursements .....	<u>-110,770</u>	<u>-84,561</u>	<u>-130,000</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 23,525</b>	<b>\$ 19,601</b>	<b>\$ 7,238</b>

**ATTACHMENT B-10**  
**GOVERNOR'S EXECUTIVE BUDGET 2018-2019**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2016-17 ACTUAL	2017-18 AVAILABLE	2018-19 BUDGET
<b>GENERAL FUND:</b>			
<b>General Government:</b>			
<b>General Government Operations</b> .....	<b>\$ 19,375</b>	<b>\$ 20,324<sup>a</sup></b>	<b>\$ 22,063</b>
(F)Topographic and Geologic Survey Grants .....	500	500	400
(F)Land and Water Conservation Fund .....	12,000	9,000	9,000
(F)Highlands Conservation Program .....	2,000	4,500	6,500
(F)U.S. Endowment - Healthy Watershed.....	0	200	200
(F)Cooperative Endangered Species.....	28	28	28
(F)Intermodal Surface Transportation (EA).....	5,000	0	0
(A)Payment for Department Services.....	1,906	1,881	230
(A)Water Well Drillers.....	0	38	38
(A)Keystone Recreation, Park and Conservation Fund.....	2,894	2,894	2,894
(A)Internet Record Imaging System.....	156	200	200
(A)Environmental Stewardship Fund Admin.....	0	0	281
Subtotal.....	<u>\$ 43,859</u>	<u>\$ 39,565</u>	<u>\$ 41,834</u>
<b>State Parks Operations</b> .....	<b>54,450</b>	<b>51,028<sup>b</sup></b>	<b>57,801</b>
(F)PA Recreation Trails (EA).....	7,000	7,000	7,000
(F)Disaster Relief (EA).....	2,808	8,000	8,000
(F)Coastal Zone Management Special Projects (EA).....	50	50	50
(A)State Parks User Fees.....	25,600	24,950	26,000
(A)Reimbursement for Services.....	4,602	2,795	2,795
(A)Vehicle Sale.....	97	82	82
Subtotal.....	<u>\$ 94,607</u>	<u>\$ 93,905</u>	<u>\$ 101,728</u>
<b>State Forests Operations</b> .....	<b>27,104</b>	<b>22,664<sup>c</sup></b>	<b>30,750</b>
(F)Forest Fire Protection and Control.....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation.....	75	75	75
(F)Forest Management and Processing.....	3,800	3,800	3,800
(F)Great Lakes Restoration.....	900	0	0
(F)Aid to Volunteer Fire Companies.....	750	750	850
(F)Natural Resource Conservation Service.....	264	264	150
(F)Forest Insect and Disease Control.....	4,000	4,000	4,000
(F)National Fish and Wildlife Foundation.....	0	1,000	1,000
(F)Wetland Protection Fund.....	300	300	300
(F)Environmental Education Local Grants Program.....	150	0	0
(F)Wetlands Program Development (EA).....	250	250	250
(F)PA Adoptive Toolbox for Conservation Saturation (EA).....	0	75	75
(F)Eradication of Spotted Lantern Fly (EA).....	0	40	0
(A)Reimbursement for Services.....	1,429	3,600	3,600
(A)Reimbursement - Forest Fires.....	1,889	750	1,070
(A)Sale of Vehicles - Forests.....	195	100	100
(A)Timber Sales.....	22,500	24,000	24,000
(A)Miscellaneous Tickets and Fines.....	3	2	2
Subtotal.....	<u>\$ 65,609</u>	<u>\$ 63,670</u>	<u>\$ 72,022</u>
Subtotal - State Funds.....	\$ 100,929	\$ 94,016	\$ 110,614
Subtotal - Federal Funds.....	41,875	41,832	43,678
Subtotal - Augmentations.....	61,271	61,292	61,292
Total - General Government.....	<u>\$ 204,075</u>	<u>\$ 197,140</u>	<u>\$ 215,584</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2016-17 ACTUAL	2017-18 AVAILABLE	2018-19 BUDGET
<b>Grants and Subsidies:</b>			
Heritage and Other Parks .....	\$ 2,875	\$ 2,875	\$ 2,250
Annual Fixed Charges - Flood Lands .....	65	65	65
Annual Fixed Charges - Project 70 .....	40	88	88
Annual Fixed Charges - Forest Lands .....	2,627	7,731	7,758
Annual Fixed Charges - Park Lands .....	425	425	425
Total - Grants and Subsidies .....	<u>\$ 6,032</u>	<u>\$ 11,184</u>	<u>\$ 10,586</u>
STATE FUNDS .....	\$ 106,961	\$ 105,200	\$ 121,200
FEDERAL FUNDS .....	41,875	41,832	43,678
AUGMENTATIONS .....	61,271	61,292	61,292
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 210,107</u></b>	<b><u>\$ 208,324</u></b>	<b><u>\$ 226,170</u></b>
<b>MOTOR LICENSE FUND:</b>			
<b>General Government:</b>			
Dirt and Gravel Roads .....	\$ 7,000	\$ 7,000	\$ 7,000
(F)Delaware Canal State Park Improvement .....	0	3,381	0
Subtotal - State Funds .....	\$ 7,000	\$ 7,000	\$ 7,000
Subtotal - Federal Funds .....	0	3,381	0
Total - General Government .....	<u>\$ 7,000</u>	<u>\$ 10,381</u>	<u>\$ 7,000</u>
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA) .....	\$ 11,000	\$ 11,000	\$ 11,000
STATE FUNDS .....	\$ 7,000	\$ 7,000	\$ 7,000
FEDERAL FUNDS .....	0	3,381	0
RESTRICTED REVENUES .....	11,000	11,000	11,000
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b><u>\$ 18,000</u></b>	<b><u>\$ 21,381</u></b>	<b><u>\$ 18,000</u></b>
<b>OTHER FUNDS:</b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation .....	\$ 2,744	\$ 2,462	\$ 0
ATV Management .....	898	3,825	3,680
Snowmobile Management .....	492	675	653
Forest Regeneration .....	2,781	2,400	2,850
Forestry Research .....	97	250	250
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 7,012</u></b>	<b><u>\$ 9,612</u></b>	<b><u>\$ 7,433</u></b>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA) .....	\$ 317	\$ 221	\$ 254
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA) .....	\$ 12,414	\$ 10,496	\$ 13,831
Community Conservation Grants (EA) .....	4,000	5,050	4,300
Natural Diversity Conservation Grants (EA) .....	300	300	300
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b><u>\$ 16,714</u></b>	<b><u>\$ 15,846</u></b>	<b><u>\$ 18,431</u></b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Park & Forest Facility Rehabilitation (EA) .....	\$ 26,801	\$ 25,744	\$ 31,137
Grants for Local Recreation (EA) .....	22,334	21,453	25,948
Grants to Land Trusts (EA) .....	8,934	8,581	10,379
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b><u>\$ 58,069</u></b>	<b><u>\$ 55,778</u></b>	<b><u>\$ 67,464</u></b>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2016-17 ACTUAL	2017-18 AVAILABLE	2018-19 BUDGET
<b>OIL AND GAS LEASE FUND:</b>			
General Government Operations.....	\$ 0	\$ 50,000	\$ 37,045
State Parks Operations.....	0	7,739	7,555
State Forests Operations.....	0	3,552	4,198
General Operations (EA).....	50,000	0	0
Transfer to Marcellus Legacy Fund (EA).....	0 <sup>d</sup>	0 <sup>d</sup>	0 <sup>d</sup>
<b>OIL AND GAS LEASE FUND TOTAL.....</b>	<b>\$ 50,000</b>	<b>\$ 61,291</b>	<b>\$ 48,798</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,261	\$ 5,261	\$ 5,278
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 143	\$ 143	\$ 132
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 106,961	\$ 105,200	\$ 121,200
SPECIAL FUNDS.....	7,000	7,000	7,000
FEDERAL FUNDS.....	41,875	45,213	43,678
AUGMENTATIONS.....	61,271	61,292	61,292
RESTRICTED.....	11,000	11,000	11,000
OTHER FUNDS.....	137,516	148,152	147,790
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 365,623</b>	<b>\$ 377,857</b>	<b>\$ 391,960</b>

<sup>a</sup> Reflects recommended appropriation reduction of \$165,000.

<sup>b</sup> Reflects recommended appropriation reduction of \$143,000.

<sup>c</sup> Reflects recommended appropriation reduction of \$78,000.

<sup>d</sup> Not added to avoid double counting with the program expenditures from the Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund shown in various agencies. Environmental Stewardship Fund: 2016-17 Actual is \$20,000,000, 2017-18 Available is \$20,000,000 and 2018-19 Budget is \$20,000,000. Hazardous Sites Cleanup Fund: 2016-17 Actual is \$5,000,000, 2017-18 Available is \$15,000,000 and 2018-19 Budget is \$15,000,000.



## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2016-17 Actual	2017-18 Available	2018-19 Estimated
<b>Cash Balance, Beginning</b> .....	\$ 1,820	\$ 1,491	\$ 386
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,714	\$ 2,714	\$ 2,714
Interest.....	19	11	11
Fees.....	53	33	33
Fines .....	15	23	23
Total Receipts .....	2,801	2,781	2,781
<b>Total Funds Available</b> .....	\$ 4,621	\$ 4,272	\$ 3,167
<b>Disbursements:</b>			
Agriculture .....	\$ 1,051	\$ 1,218	\$ 1,049
Environmental Protection .....	2,079	2,668	2,073
Total Disbursements .....	-3,130	-3,886	-3,122
<b>Cash Balance, Ending</b> .....	\$ 1,491	\$ 386	\$ 45

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund, and Act 44 of 2017 modified the annual transfers to the Marcellus Legacy Fund.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2016-17 Actual	2017-18 Available	2018-19 Estimated
<b>Cash Balance, Beginning</b> .....	\$ 23,525	\$ 28,612	\$ 3,793
<b>Receipts:</b>			
Rents and Royalties.....	\$ 79,144	\$ 80,000	\$ 80,000
Interest.....	636	808	808
Other.....	99	100	100
Total Receipts .....	79,879	80,908	80,908
<b>Total Funds Available</b> .....	\$ 103,404	\$ 109,520	\$ 84,701
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 49,792	\$ 59,436	\$ 37,045
State Parks Operations.....	0	7,739	7,555
State Forests Operations.....	0	3,552	4,198
Transfer to Marcellus Legacy Fund.....	25,000	35,000	35,000
Total Disbursements .....	-74,792	-105,727	-83,798
<b>Cash Balance, Ending</b> .....	\$ 28,612	\$ 3,793	\$ 903

**ATTACHMENT B-11**  
**GOVERNOR'S EXECUTIVE BUDGET 2019-2020**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2017-18 ACTUAL	2018-19 AVAILABLE	2019-20 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
<b>General Government Operations .....</b>	<b>\$ 20,324</b>	<b>\$ 23,423</b>	<b>\$ 16,157<sup>a</sup></b>
(F)Topographic and Geologic Survey Grants .....	500	400	400
(F)Land and Water Conservation Fund .....	9,000	9,000	9,000
(F)Highlands Conservation Program .....	4,500	6,500	6,500
(F)U.S. Endowment - Healthy Watershed.....	200	200	200
(F)Cooperative Endangered Species.....	28	28	28
(F)PA Recreation Trails (EA).....	7,000	7,000	7,000
(A)Payment for Department Services.....	1,633	462	170
(A)Water Well Drillers.....	38	38	38
(A)Key 93 Admin Costs.....	2,788	3,371	3,371
(A)Internet Record Imaging System.....	115	200	200
(A)Environmental Stewardship Admin Costs.....	0	459	459
Subtotal.....	<u>\$ 46,126</u>	<u>\$ 51,081</u>	<u>\$ 43,523</u>
<b>State Parks Operations .....</b>	<b>51,028</b>	<b>56,185</b>	<b>39,373<sup>a</sup></b>
(F)Coastal Zone Management.....	0	0	100
(F)Coastal Zone Management Special Projects (EA).....	50	50	50
(F)Disaster Relief (EA).....	8,000	8,000	8,000
(A)State Parks User Fees.....	24,950	26,000	26,000
(A)Reimbursement for Services.....	6,724	2,795	2,795
(A)Sale of Vehicles - Parks.....	49	82	82
Subtotal.....	<u>\$ 90,801</u>	<u>\$ 93,112</u>	<u>\$ 76,400</u>
<b>State Forests Operations .....</b>	<b>22,664</b>	<b>29,184</b>	<b>21,327<sup>a</sup></b>
(F)Forest Fire Protection and Control.....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation.....	75	75	50
(F)Forest Management and Processing.....	3,800	3,800	6,500
(F)Great Lakes Restoration.....	0	0	1
(F)Aid to Volunteer Fire Companies.....	750	850	850
(F)Natural Resource Conservation Service.....	264	150	150
(F)Forest Insect and Disease Control.....	4,000	4,000	4,000
(F)National Fish and Wildlife Foundation.....	1,000	1,000	1,300
(F)Wetland Protection Fund.....	300	300	300
(F)Wetlands Program Development (EA).....	250	250	250
(F)PA Adoptive Toolbox for Conservation Saturation (EA).....	75	75	75
(F)Eradication of Spotted Lanternfly (EA).....	40	200	0
(A)Reimbursement for Services.....	890	905	890
(A)Reimbursement - Forest Fires.....	2,211	1,332	1,332
(A)Sale of Vehicles - Forests.....	123	100	100
(A)Timber Sales.....	23,232	24,000	23,000
(A)Miscellaneous Tickets and Fines.....	6	2	2
Subtotal.....	<u>\$ 61,680</u>	<u>\$ 68,223</u>	<u>\$ 62,127</u>
<b>Parks and Forests Infrastructure Projects .....</b>	<b>0</b>	<b>2,500</b>	<b>0</b>
(R)ATV Management (EA).....	1,757	3,680	3,680
(R)Snowmobile Management (EA).....	315	503	645
(R)Snowmobile & ATV Regulation.....	1,676	771	0
(R)Forest Regeneration.....	2,516	2,850	2,220
(R)Forestry Research.....	439	250	250
Subtotal - State Funds.....	<u>\$ 94,016</u>	<u>\$ 111,292</u>	<u>\$ 76,857</u>
Subtotal - Federal Funds.....	<u>41,832</u>	<u>43,878</u>	<u>46,754</u>
Subtotal - Augmentations.....	<u>62,759</u>	<u>59,746</u>	<u>58,439</u>
Subtotal - Restricted Revenues.....	<u>6,703</u>	<u>8,054</u>	<u>6,795</u>
Total - General Government.....	<u>\$ 205,310</u>	<u>\$ 222,970</u>	<u>\$ 188,845</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2017-18 ACTUAL	2018-19 AVAILABLE	2019-20 BUDGET
<b>Grants and Subsidies:</b>			
Heritage and Other Parks .....	\$ 2,875	\$ 3,025	\$ 0 <sup>b</sup>
Annual Fixed Charges - Flood Lands .....	65	65	70
Annual Fixed Charges - Project 70 .....	88	88	88
Annual Fixed Charges - Forest Lands .....	7,731	7,758	7,808
Annual Fixed Charges - Park Lands .....	425	425	430
Total - Grants and Subsidies .....	<u>\$ 11,184</u>	<u>\$ 11,361</u>	<u>\$ 8,396</u>
STATE FUNDS .....	\$ 105,200	\$ 122,653	\$ 85,253
FEDERAL FUNDS .....	41,832	43,878	46,754
AUGMENTATIONS .....	62,759	59,746	58,439
RESTRICTED REVENUES .....	6,703	8,054	6,795
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 216,494</u></b>	<b><u>\$ 234,331</u></b>	<b><u>\$ 197,241</u></b>
<b>MOTOR LICENSE FUND:</b>			
<b>General Government:</b>			
Dirt and Gravel Roads .....	\$ 7,000	\$ 7,000	\$ 7,000
(F)Delaware Canal State Park Improvement (EA) .....	3,381	0	0
Subtotal - State Funds .....	\$ 7,000	\$ 7,000	\$ 7,000
Subtotal - Federal Funds .....	3,381	0	0
Total - General Government .....	<u>\$ 10,381</u>	<u>\$ 7,000</u>	<u>\$ 7,000</u>
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA) .....	\$ 11,000	\$ 11,000	\$ 11,000
STATE FUNDS .....	\$ 7,000	\$ 7,000	\$ 7,000
FEDERAL FUNDS .....	3,381	0	0
RESTRICTED REVENUES .....	11,000	11,000	11,000
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b><u>\$ 21,381</u></b>	<b><u>\$ 18,000</u></b>	<b><u>\$ 18,000</u></b>
<b>OTHER FUNDS:</b>			
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA) .....	\$ 221	\$ 254	\$ 300
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Heritage and Other Parks .....	\$ 0	\$ 0	\$ 2,250 <sup>b</sup>
Parks & Forest Facility Rehabilitation (EA) .....	15,450	9,608	8,927
Community Conservation Grants (EA) .....	5,050	5,915	6,000
Natural Diversity Conservation Grants (EA) .....	300	300	300
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b><u>\$ 20,800</u></b>	<b><u>\$ 15,823</u></b>	<b><u>\$ 17,477</u></b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
General Government Operations .....	\$ 0	\$ 0	\$ 9,647 <sup>a</sup>
State Parks Operations .....	0	0	15,938 <sup>a</sup>
State Forests Operations .....	0	0	4,415 <sup>a</sup>
Parks & Forest Facility Rehabilitation (EA) .....	29,786	27,777	24,803
Grants for Local Recreation (EA) .....	24,823	23,148	20,669
Grants to Land Trusts (EA) .....	9,929	9,259	8,268
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b><u>\$ 64,538</u></b>	<b><u>\$ 60,184</u></b>	<b><u>\$ 83,740</u></b>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2017-18 ACTUAL	2018-19 AVAILABLE	2019-20 BUDGET
<b>OIL AND GAS LEASE FUND:</b>			
General Government Operations.....	\$ 50,000	\$ 37,045	\$ 37,786 <sup>a</sup>
State Parks Operations.....	7,739	7,555	17,706 <sup>a</sup>
State Forests Operations.....	3,552	4,198	14,282 <sup>a</sup>
Transfer to Marcellus Legacy Fund (EA).....	0 <sup>c</sup>	0 <sup>c</sup>	0 <sup>c</sup>
<b>OIL AND GAS LEASE FUND TOTAL.....</b>	<b>\$ 61,291</b>	<b>\$ 48,798</b>	<b>\$ 69,774</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,213	\$ 5,278	\$ 5,312
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 143	\$ 132	\$ 132
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 105,200	\$ 122,653	\$ 85,253
MOTOR LICENSE FUND.....	7,000	7,000	7,000
LOTTERY FUND.....	0	0	0
FEDERAL FUNDS.....	45,213	43,878	46,754
AUGMENTATIONS.....	62,759	59,746	58,439
RESTRICTED.....	17,703	19,054	17,795
OTHER FUNDS.....	152,206	130,469	176,735
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 390,081</b>	<b>\$ 382,800</b>	<b>\$ 391,976</b>

<sup>a</sup> This budget includes additional special fund appropriations to support program operations.

<sup>b</sup> This budget includes additional special fund appropriations to support grants and subsidies.

<sup>c</sup> Not added to avoid double counting with the program expenditures from the Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund shown in various agencies. Environmental Stewardship Fund: 2017-18 Actual is \$20,000,000, 2018-19 Available is \$20,000,000, 2019-20 Budget is \$0. Hazardous Sites Cleanup Fund: 2017-18 Actual is \$15,000,000, 2018-19 Available is \$15,000,000, 2019-20 Budget is \$15,000,000.

# Environmental Stewardship Fund

The Environmental Stewardship Fund is a special revenue fund composed of monies from certain landfill fees. The fund provides for farmland preservation projects, open space protection, abandoned mine reclamation, watershed protection and restoration, water and sewer infrastructure and the improvement and conservation of commonwealth and community parks and recreational facilities. The fund originally received revenue from a 25 cent per ton, or 25 cent per three cubic yards, fee for all solid waste received at a landfill in the commonwealth. Act 90 of 2002 added an additional \$4 per ton disposal fee for all solid waste disposed of at any municipal waste landfill. For 2002-03, the first \$50 million received from this fee was deposited into this special fund. In 2003-04, and thereafter, all revenue from these fees is deposited in this special fund. Act 13 of 2012 authorized an annual transfer from the Marcellus Legacy Fund into the Environmental Stewardship Fund and Act 44 of 2017 modified this transfer. The dollars and interest generated by this fund are specifically designated for implementing the programs found in 27 Pa. Code Chapter 61. The fund is also used to service debt for the Growing Greener program.

The Governor's Budget includes modifications to multiple environmental special funds, including a number of changes to the Environmental Stewardship Fund. These changes include reducing the transfer from the Oil and Gas Lease Fund (that also goes through the Marcellus Legacy Fund), moving the debt service cost for Growing Greener out of the Environmental Stewardship Fund (now funded directly by Personal Income Tax receipts) and funding a number of items previously paid for by General Fund appropriations. The General Fund expenses replaced by the Environmental Stewardship Fund include DEP's Transfer to the Conservation District Fund, the Chesapeake Bay Agricultural Source Abatement program, multiple commissions appropriations, support for DEP operations and DCONR's Heritage and Other Parks, as reflected on the financial statement below.

## Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2017-18 Actual	2018-19 Available	2019-20 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 103,462</b>	<b>\$ 121,415</b>	<b>\$ 5,496</b>
<b>Receipts:</b>			
Licenses and Fees.....	\$ 72,256	\$ 68,000	\$ 68,000
Transfer from Marcellus Legacy Fund.....	27,652	29,605	10,330
Interest.....	2,638	3,024	2,582
Total Receipts .....	<u>102,546</u>	<u>100,629</u>	<u>80,912</u>
<b>Total Funds Available</b> .....	<b>\$ 206,008</b>	<b>\$ 222,044</b>	<b>\$ 86,408</b>
<b>Disbursements:</b>			
Treasury:			
Debt Service for Growing Greener.....	\$ 26,871	\$ 26,053	\$ 0
Agriculture:			
Agricultural Conservation Easement Program.....	11,248	12,759	9,351
Conservation and Natural Resources:			
Heritage and Other Parks.....	0	0	2,250
Community Conservation Grants.....	6,242	13,391	6,000
Parks and Forest Facility Rehabilitation.....	5,969	42,421	8,927
Natural Diversity Conservation Grants.....	391	1,070	300
Environmental Protection:			
General Government Operations.....	0	0	773
Environmental Program Management.....	0	0	1,790
Chesapeake Bay Agricultural Source Abatement.....	0	0	2,974
Environmental Protection Operations.....	0	0	4,886
Delaware River Master.....	0	0	127
Susquehanna River Basin Commission.....	0	0	846
Interstate Commission on the Potomac River.....	0	0	51
Delaware River Basin Commission.....	0	0	1,047
Ohio River Valley Water Sanitation Commission.....	0	0	180
Chesapeake Bay Commission.....	0	0	300
Transfer to Conservation District Fund.....	0	0	2,506
Watershed Protection and Restoration.....	15,860	105,294	23,630
Infrastructure Investment Authority:			
Storm Water, Water and Sewer Grants .....	18,012	15,560	14,974
Total Disbursements .....	<u>-84,593</u>	<u>-216,548</u>	<u>-80,912</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 121,415</b>	<b>\$ 5,496</b>	<b>\$ 5,496</b>

# Hazardous Sites Cleanup Fund

This fund was created by Act 58 of 1987 to finance the cleanup and restoration of abandoned hazardous waste sites in the commonwealth. Expenditures from this fund are for cleaning up abandoned hazardous waste sites throughout the commonwealth and restoring the land to productive use. Revenue is generated from a Hazardous Waste Fee as well as money received from parties determined responsible for site contamination. Prior to 2002-03, the fund received one-quarter mill of the Capital Stock and Franchise Tax. Act 77 of 2007 provided for a one-time transfer in 2007-08 of monies lapsed from certain appropriations within the Legislature. Beginning in 2008-09, the act also included an annual transfer to the fund of \$40 million of revenue received from the Capital Stock and Franchise Tax. Act 13 of 2012 includes an annual transfer from the Marcellus Legacy Fund beginning in 2014-15 and Act 44 of 2017 modified this transfer. The Capital Stock and Franchise Tax was eliminated on January 1, 2016.

## Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2017-18 Actual	2018-19 Available	2019-20 Estimated
<b>Total Cash Balance, Beginning</b> .....	<b>\$ 78,378</b>	<b>\$ 85,486</b>	<b>\$ 58,150</b>
<b>Receipts:</b>			
Transfer of Capital Stock and Franchise Tax.....	\$ 24,403	\$ 8,052	\$ 0
Transfer from Marcellus Legacy Fund.....	18,826	19,802	20,165
Hazardous Waste Fee.....	1,999	1,650	1,700
Cost Recovery.....	1,795	1,020	1,020
Interest.....	1,574	1,935	954
Other.....	7	0	0
<b>Total Receipts</b> .....	<b>48,604</b>	<b>32,459</b>	<b>23,839</b>
<b>Total Funds Available</b> .....	<b>\$ 126,982</b>	<b>\$ 117,945</b>	<b>\$ 81,989</b>
<b>Disbursements:</b>			
Environmental Protection.....	\$ 36,496	\$ 54,795	\$ 47,284
Transfer to Industrial Sites Environmental Assessment Fund.....	2,000	2,000	2,000
Transfer to Industrial Sites Cleanup Fund.....	2,000	2,000	2,000
Transfer to Household Hazardous Waste Account.....	1,000	1,000	1,000
<b>Total Disbursements</b> .....	<b>-41,496</b>	<b>-59,795</b>	<b>-52,284</b>
<b>Cash Balance, Ending</b> .....	<b>\$ 85,486</b>	<b>\$ 58,150</b>	<b>\$ 29,705</b>

# Keystone Recreation, Park and Conservation Fund

The Keystone Recreation, Park and Conservation Fund is a special fund composed of monies from the sale of specific bonds and certain tax revenues. This fund provides for increased acquisitions, improvements and expansions of commonwealth and community parks, recreation facilities, historic sites, zoos, public libraries, nature preserves and wildlife habitats.

Act 50 of 1993 approved the transfer of 15 percent of revenues from the state Realty Transfer Tax to this fund. These monies are distributed to programs according to the formula contained in the act. Uses of this fund were specifically approved through a voter referendum. Any balance in the fund is committed for eligible projects. The Governor's Budget includes modifications to multiple environmental special funds, including changes to the Keystone Recreation, Park and Conservation Fund. These changes include funding items previously paid for by General Fund appropriations. The General Fund expenses replaced by the Keystone Recreation, Park and Conservation Fund include support for DCNR operations, as reflected on the financial statement below.

## Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2017-18 Actual	2018-19 Available	2019-20 Estimated
<b>Total Cash Balance, Beginning</b> .....	<b>\$ 145,109</b>	<b>\$ 152,343</b>	<b>\$ 6,900</b>
<b>Receipts:</b>			
Realty Transfer Tax.....	\$ 95,101	\$ 101,400	\$ 109,400
Interest.....	4,028	4,078	3,275
Total Receipts .....	<u>99,129</u>	<u>105,478</u>	<u>112,675</u>
<b>Total Funds Available</b> .....	<b>\$ 244,238</b>	<b>\$ 257,821</b>	<b>\$ 119,575</b>
<b>Disbursements:</b>			
Conservation and Natural Resources:			
General Government Operations .....	\$ 0	\$ 0	\$ 9,647
State Parks Operations.....	0	0	15,938
State Forests Operations.....	0	0	4,415
Parks and Forest Facility Rehabilitation .....	20,752	75,858	24,803
Grants for Local Recreation.....	22,110	82,595	20,669
Grants to Land Trusts.....	11,624	19,997	8,268
Education.....	18,657	34,089	18,188
Historical and Museum Commission.....	8,752	38,382	10,747
Transfer to the General Fund.....	10,000	0	0
Total Disbursements .....	<u>-91,895</u>	<u>-250,921</u>	<u>-112,675</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 152,343</b>	<b>\$ 6,900</b>	<b>\$ 6,900</b>



# Marcellus Legacy Fund

This fund was created by Act 13 of 2012 to provide for the distribution of unconventional gas well impact fees to counties, municipalities and commonwealth agencies. The fee revenue will be used for statewide initiatives in the areas of acid mine drainage abatement, gas well management and plugging, development and rehabilitation of greenways and recreational trails, sewage treatment projects, replacement and repair of deteriorated bridges in municipalities with unconventional gas wells. Receipts deposited into the Marcellus Legacy Fund come from transfers from the Unconventional Gas Well Fund and the Oil and Gas Lease Fund. The 2015-16, 2016-17 and 2017-18 Fiscal Codes modified the transfers from the Oil and Gas Lease Fund. The Governor's 2019-20 Budget includes modifications to multiple environmental special funds, including a \$20 million reduction in the annual transfer from the Oil and Gas Lease Fund that is deposited into the Marcellus Legacy Fund then transferred to the Environmental Stewardship Fund. This budget maintains the annual \$15 million transfer from the Oil and Gas Lease Fund that is deposited into the Marcellus Legacy Fund then transferred to the Hazardous Sites Cleanup Fund.

## Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2017-18 Actual	2018-19 Available	2019-20 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 6,366</b>	<b>\$ 6,433</b>	<b>\$ 603</b>
<b>Receipts:</b>			
Transfer from Unconventional Gas Well Fund.....	\$ 76,523	\$ 96,049	\$ 103,303
Transfer from Oil and Gas Lease Fund.....	35,000	35,000	15,000
Interest.....	97	164	209
Total Receipts .....	<u>111,620</u>	<u>131,213</u>	<u>118,512</u>
<b>Total Funds Available</b> .....	<b>\$ 117,986</b>	<b>\$ 137,646</b>	<b>\$ 119,115</b>
<b>Disbursements:</b>			
Public Utility Commission:			
County Grants.....	\$ 11,478	\$ 14,407	\$ 15,495
Transfer to Commonwealth Financing Authority.....	15,305	19,210	20,661
Transfer to Commonwealth Financing Authority-H2O.....	9,565	12,006	12,913
Environmental Protection.....	30	5,995	0
Infrastructure Investment Authority.....	9,566	12,006	12,913
Transfer to Highway Bridge Improvement.....	19,131	24,012	25,826
Transfer to Environmental Stewardship Fund.....	27,652	29,605	10,330
Transfer to Hazardous Sites Cleanup Fund.....	18,826	19,802	20,165
Total Disbursements .....	<u>-111,553</u>	<u>-137,043</u>	<u>-118,303</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 6,433</b>	<b>\$ 603</b>	<b>\$ 812</b>

## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture. This budget proposes to increase and expand technical assistance to farmers, re-establish loan programs, and enhance business development and conservation efforts. The budget proposes to expand the scope of the Agrilink loan program to enhance and implement improved nutrient management plans.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2017-18 Actual	2018-19 Available	2019-20 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 1,491</b>	<b>\$ 1,038</b>	<b>\$ 278</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,714	\$ 2,714	\$ 6,200
Interest.....	27	49	67
Fees.....	47	33	33
Fines.....	12	23	23
Total Receipts .....	<u>2,800</u>	<u>2,819</u>	<u>6,323</u>
<b>Total Funds Available</b> .....	<b>\$ 4,291</b>	<b>\$ 3,857</b>	<b>\$ 6,601</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 803	\$ 1,493	\$ 4,129
Environmental Protection .....	2,450	2,086	2,073
Total Disbursements .....	<u>-3,253</u>	<u>-3,579</u>	<u>-6,202</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 1,038</b>	<b>\$ 278</b>	<b>\$ 399</b>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund, and Act 44 of 2017 modified the annual transfers to the Marcellus Legacy Fund. The Governor's Budget includes modifications to multiple environmental special funds, including a number of changes to the Oil and Gas Lease Fund. These changes include reducing the transfer from the Oil and Gas Lease Fund to the Environmental Stewardship Fund (that also goes through the Marcellus Legacy Fund) and funding items previously paid for by General Fund appropriations. The General Fund expenses replaced by the Oil and Gas Lease Fund include additional support for DCNR operations, as reflected on the financial statement below.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2017-18 Actual	2018-19 Available	2019-20 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 28,612</b>	<b>\$ 20,489</b>	<b>\$ 6,491</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 84,141	\$ 81,000	\$ 79,000
Interest.....	932	808	122
Other.....	261	261	261
Total Receipts .....	<u>85,334</u>	<u>82,069</u>	<u>79,383</u>
<b>Total Funds Available</b> .....	<b>\$ 113,946</b>	<b>\$ 102,558</b>	<b>\$ 85,874</b>
<b>Disbursements:</b>			
Conservation and Natural Resources:			
General Government Operations.....	\$ 58,457	\$ 49,314	\$ 37,786
State Parks Operations.....	0	7,555	17,706
State Forests Operations.....	0	4,198	14,282
Transfer to Marcellus Legacy Fund.....	35,000	35,000	15,000
Total Disbursements .....	<u>-93,457</u>	<u>-96,067</u>	<u>-84,774</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 20,489</b>	<b>\$ 6,491</b>	<b>\$ 1,100</b>

**ATTACHMENT B-12**  
**GOVERNOR'S EXECUTIVE BUDGET 2020-2021**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2018-19 ACTUAL	2019-20 AVAILABLE	2020-21 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
General Government Operations.....	\$ 23,423	\$ 25,804	\$ 29,089
(F)Land and Water Conservation Fund.....	9,000	12,000	12,000
(F)Highlands Conservation Program.....	6,500	7,500	7,500
(F)Chesapeake Bay Gateway Network.....	0	300	600
(F)Topographic and Geologic Survey Grants.....	400	400	500
(F)U.S. Endowment - Healthy Watershed.....	200	200	200
(F)Cooperative Endangered Species.....	28	28	40
(F)PA Recreation Trails (EA).....	7,000	7,000	7,000
(A)Transfer in for Environmental Programs.....	0	8,000 <sup>a</sup>	0
(A)Key 93 Admin Costs.....	1,558	2,687	2,687
(A)Environmental Stewardship Admin Costs.....	0	380	380
(A)Payment for Department Services.....	89	150	150
(A)Internet Record Imaging System.....	98	115	115
(A)Water Well Drillers.....	0	38	38
Subtotal.....	<u>\$ 48,296</u>	<u>\$ 64,602</u>	<u>\$ 60,299</u>
State Parks Operations.....	56,185	55,311	67,769
(F)Port Security Grant Program.....	0	1,200	1,200
(F)Coastal Zone Management Special Projects (EA).....	50	150	150
(F)Disaster Relief (EA).....	8,000	8,000	8,000
(A)State Parks User Fees.....	26,662	26,000	25,500
(A)Reimbursement for Services.....	4,634	4,345	3,745
(A)Sale of Vehicles - Parks.....	53	82	53
Subtotal.....	<u>\$ 95,584</u>	<u>\$ 95,088</u>	<u>\$ 106,417</u>
State Forests Operations.....	29,184	25,742	38,353
(F)Forest Fire Protection and Control.....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation.....	75	50	50
(F)Forest Management and Processing.....	3,800	6,500	6,500
(F)Great Lakes Restoration.....	0	1	0
(F)Aid to Volunteer Fire Companies.....	850	850	900
(F)Natural Resource Conservation Service.....	150	200	200
(F)Forest Insect and Disease Control.....	4,000	4,000	4,000
(F)National Fish and Wildlife Foundation.....	1,000	1,300	700
(F)Wetland Protection Fund.....	300	300	300
(F)EPA Chesapeake Bay Grant.....	0	0	1,500
(F)USDA Good Neighbor Agreement.....	0	0	500
(F)Wetlands Program Development (EA).....	250	250	250
(F)PA Adoptive Toolbox for Conservation Saturation (EA).....	75	75	75
(F)Eradication of Spotted Lanternfly (EA).....	200	200	0
(F)Chesapeake Bay Program (EA).....	0	900	900
(A)Timber Sales.....	20,972	23,000	20,500
(A)Reimbursement - Forest Fires.....	4,583	1,332	1,119
(A)Reimbursement for Services.....	677	890	890
(A)Sale of Vehicles - Forests.....	102	100	100
(A)Miscellaneous Tickets and Fines.....	101	2	2
Subtotal.....	<u>\$ 68,319</u>	<u>\$ 67,692</u>	<u>\$ 78,839</u>
Parks and Forests Infrastructure Projects.....	2,500	900	0
(R)ATV Management (EA).....	3,045	3,483	3,700
(R)Snowmobile Management (EA).....	633	719	625
(R)Snowmobile & ATV Regulation.....	291	0	0
(R)Forest Regeneration (EA).....	2,515	3,118	3,800
(R)Forestry Research.....	219	250	153
Subtotal.....	<u>\$ 6,703</u>	<u>\$ 7,570</u>	<u>\$ 8,278</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2018-19 ACTUAL	2019-20 AVAILABLE	2020-21 BUDGET
Subtotal - State Funds.....	\$ 111,292	\$ 107,757	\$ 135,211
Subtotal - Federal Funds.....	43,878	53,404	55,065
Subtotal - Augmentations.....	59,529	67,121	55,279
Subtotal - Restricted Revenues.....	6,703	7,570	8,278
<b>Total - General Government.....</b>	<b>\$ 221,402</b>	<b>\$ 235,852</b>	<b>\$ 253,833</b>
<b>Grants and Subsidies:</b>			
Heritage and Other Parks.....	\$ 3,025	\$ 1,025	\$ 2,250
(A)Transfer in for Environmental Programs.....	0	3,405 a	0
Annual Fixed Charges - Flood Lands.....	65	70	70
Annual Fixed Charges - Project 70.....	88	88	88
Annual Fixed Charges - Forest Lands.....	7,758	7,808	7,812
Annual Fixed Charges - Park Lands.....	425	430	430
(R)Keystone Tree Account.....	0	0	100
Subtotal - State Funds.....	\$ 11,361	\$ 9,421	\$ 10,650
Subtotal - Augmentations.....	0	3,405	0
Subtotal - Restricted Revenues.....	0	0	100
<b>Total - Grants and Subsidies.....</b>	<b>\$ 11,361</b>	<b>\$ 12,826</b>	<b>\$ 10,750</b>
STATE FUNDS.....	\$ 122,653	\$ 117,178	\$ 145,861
FEDERAL FUNDS.....	43,878	53,404	55,065
AUGMENTATIONS.....	59,529	70,526	55,279
RESTRICTED REVENUES.....	6,703	7,570	8,378
<b>GENERAL FUND TOTAL.....</b>	<b>\$ 232,763</b>	<b>\$ 248,678</b>	<b>\$ 264,583</b>
<b>MOTOR LICENSE FUND:</b>			
<b>General Government:</b>			
Dirt and Gravel Roads.....	\$ 7,000	\$ 7,000	\$ 7,000
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA).....	\$ 11,000	\$ 11,000	\$ 11,000
STATE FUNDS.....	\$ 7,000	\$ 7,000	\$ 7,000
RESTRICTED REVENUES.....	11,000	11,000	11,000
<b>MOTOR LICENSE FUND TOTAL.....</b>	<b>\$ 18,000</b>	<b>\$ 18,000</b>	<b>\$ 18,000</b>
<b>OTHER FUNDS:</b>			
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA).....	\$ 254	\$ 300	\$ 169
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Heritage and Other Parks.....	\$ 0	\$ 0 b	\$ 0
Parks & Forest Facility Rehabilitation (EA).....	13,893	14,755 c	16,135
Community Conservation Grants (EA).....	5,947	6,120	6,000
Natural Diversity Conservation Grants (EA).....	300	300	300
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL.....</b>	<b>\$ 20,140</b>	<b>\$ 21,175</b>	<b>\$ 22,435</b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Parks & Forest Facility Rehabilitation (EA).....	\$ 30,619	\$ 33,691 c	\$ 34,311
Grants for Local Recreation (EA).....	25,516	28,076 c	28,592
Grants to Land Trusts (EA).....	10,206	11,230 c	11,437
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL.....</b>	<b>\$ 66,341</b>	<b>\$ 72,997</b>	<b>\$ 74,340</b>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

	(Dollar Amounts in Thousands)		
	2018-19 ACTUAL	2019-20 AVAILABLE	2020-21 BUDGET
<b>OIL AND GAS LEASE FUND:</b>			
General Government Operations.....	\$ 37,045	\$ 37,786	\$ 14,827
State Parks Operations.....	7,555	17,706	20,000
State Forests Operations.....	4,198	14,282	20,000
Transfer to Marcellus Legacy Fund (EA).....	0 <sup>d</sup>	0 <sup>d</sup>	0 <sup>d</sup>
<b>OIL AND GAS LEASE FUND TOTAL.....</b>	<b>\$ 48,798</b>	<b>\$ 69,774</b>	<b>\$ 54,827</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,278	\$ 5,312	\$ 5,314
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 132	\$ 132	\$ 132
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 122,653	\$ 117,178	\$ 145,861
MOTOR LICENSE FUND.....	7,000	7,000	7,000
LOTTERY FUND.....	0	0	0
FEDERAL FUNDS.....	43,878	53,404	55,065
AUGMENTATIONS.....	59,529	70,526	55,279
RESTRICTED.....	17,703	18,570	19,378
OTHER FUNDS.....	140,943	169,690	157,217
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 391,706</b>	<b>\$ 436,368</b>	<b>\$ 439,800</b>

<sup>a</sup> Includes special fund transfers to support agency operations.

<sup>b</sup> Appropriation will be lapsed.

<sup>c</sup> Reflects estimated executive authorization increase.

<sup>d</sup> Not added to avoid double counting with the program expenditures from the Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund shown in various agencies. Environmental Stewardship Fund: 2018-19 Actual is \$20,000,000, 2019-20 Available is \$0, 2020-21 Budget is \$0. Hazardous Sites Cleanup Fund: 2018-19 Actual is \$15,000,000, 2019-20 Available is \$15,000,000, 2020-21 Budget is \$15,000,000.

## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture. This budget continues to focus on technical assistance to farmers, re-establishment of loan programs, and enhanced business development and conservation efforts. The budget also supports the expanded scope of the Agrilink loan program to enhance and implement improved nutrient management plans.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2018-19 Actual	2019-20 Available	2020-21 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 1,038</b>	<b>\$ 1,198</b>	<b>\$ 314</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,714	\$ 6,200	\$ 6,200
Interest.....	58	78	75
Fees.....	42	45	45
Fines .....	7	10	23
Total Receipts .....	2,821	6,333	6,343
<b>Total Funds Available</b> .....	<b>\$ 3,859</b>	<b>\$ 7,531</b>	<b>\$ 6,657</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 1,308	\$ 4,459	\$ 4,256
Environmental Protection .....	1,353	2,758	2,073
Total Disbursements .....	-2,661	-7,217	-6,329
<b>Cash Balance, Ending</b> .....	<b>\$ 1,198</b>	<b>\$ 314</b>	<b>\$ 328</b>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund, and Act 44 of 2017 modified the annual transfers to the Marcellus Legacy Fund. The Governor's Budget proposal for 2020-21 maintains the level of the transfer to the Environmental Stewardship Fund (via the Marcellus Legacy Fund) established by Act 20 of 2019. The General Fund expenses replaced by the Oil and Gas Lease Fund include additional support for DCNR operations, as reflected on the financial statement below.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2018-19 Actual	2019-20 Available	2020-21 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 20,489</b>	<b>\$ 15,674</b>	<b>\$ 464</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 75,656	\$ 79,000	\$ 70,000
Interest.....	966	727	200
Other.....	1,318	400	261
Total Receipts .....	77,940	80,127	70,461
<b>Total Funds Available</b> .....	<b>\$ 98,429</b>	<b>\$ 95,801</b>	<b>\$ 70,925</b>
<b>Disbursements:</b>			
Conservation and Natural Resources:			
General Government Operations.....	\$ 47,755	\$ 48,349	\$ 14,827
State Parks Operations.....	0	17,706	20,000
State Forests Operations.....	0	14,282	20,000
Transfer to Marcellus Legacy Fund.....	35,000	15,000	15,000
Total Disbursements .....	-82,755	-95,337	-69,827
<b>Cash Balance, Ending</b> .....	<b>\$ 15,674</b>	<b>\$ 464</b>	<b>\$ 1,098</b>

**ATTACHMENT B-13**  
**GOVERNOR'S EXECUTIVE BUDGET 2021-2022**  
**EXCERPTS**



# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2019-20 ACTUAL	2020-21 AVAILABLE	2021-22 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
General Government Operations .....	\$ 25,804	\$ 26,717	\$ 28,350
(F)Land and Water Conservation Fund .....	12,000	14,000	14,000
(F)Highlands Conservation Program .....	7,500	7,500	7,500
(F)Regional Conservation Partnership Program .....	-	1,500	-
(F)Chesapeake Bay Gateway Network .....	300	600	600
(F)Topographic and Geologic Survey Grants .....	400	800	700
(F)U.S. Endowment - Healthy Watershed .....	200	200	200
(F)PA Recreation Trails (EA) .....	7,000	7,000	7,500
(A)Key 93 Administrative Costs .....	3,179	2,812	2,812
(A)Environmental Stewardship Administrative Costs .....	495	464	464
(A)Payment for Department Services .....	34	-	18
(A)Internet Record Imaging System .....	50	80	30
(A)Water Well Drillers .....	45	30	90
Subtotal .....	<u>\$ 57,007</u>	<u>\$ 61,703</u>	<u>\$ 62,264</u>
State Parks Operations .....	\$ 55,311	\$ 54,326	\$ 57,604
(F)Port Security Grant Program .....	1,200	1,200	1,200
(F)Coastal Zone Management Special Projects (EA) .....	150	150	150
(F)Disaster Relief (EA) .....	8,000	8,000	8,000
(A)State Parks User Fees .....	24,000	30,500	25,000
(A)Reimbursement for Services .....	4,312	4,292	3,775
(A)Sale of Vehicles - Parks .....	51	53	51
Subtotal .....	<u>\$ 93,024</u>	<u>\$ 98,521</u>	<u>\$ 95,780</u>
State Forests Operations .....	\$ 25,742	\$ 40,635	\$ 44,187
(F)Forest Fire Protection and Control .....	2,000	2,500	2,500
(F)Forestry Incentives and Agriculture Conservation .....	50	50	50
(F)Forest Management and Processing .....	6,500	4,000	4,000
(F)Great Lakes Restoration .....	1	-	-
(F)Aid to Volunteer Fire Companies .....	850	1,100	1,100
(F)Natural Resource Conservation Service .....	200	200	200
(F)Forest Insect and Disease Control .....	4,000	4,000	3,000
(F)National Fish and Wildlife Foundation .....	1,300	700	500
(F)Wetland Protection Fund .....	300	300	300
(F)EPA Chesapeake Bay Grant .....	-	1,500	1,500
(F)USDA Good Neighbor Agreement .....	-	500	500
(F)Cooperative Endangered Species .....	28	40	40
(F)Wetlands Program Development (EA) .....	250	250	250

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2019-20 ACTUAL	2020-21 AVAILABLE	2021-22 BUDGET
(F)PA Adoptive Toolbox for Conservation Saturation (EA) .....	75	75	-
(F)Eradication of Spotted Lanternfly (EA) .....	200	200	-
(F)Chesapeake Bay Program (EA) .....	900	1,200	400
(A)Transfer in for Environmental Programs .....	8,000 <sup>a</sup>	-	-
(A)Timber Sales .....	12,500	15,603	13,000
(A)Reimbursement - Forest Fires .....	978	1,000	1,000
(A)Reimbursement for Services .....	636	677	677
(A)Sale of Vehicles - Forests .....	136	100	100
(A)Miscellaneous Tickets and Fines .....	25	2	25
Subtotal .....	<u>\$ 64,671</u>	<u>\$ 74,632</u>	<u>\$ 73,329</u>
<b>Parks and Forests Infrastructure Projects .....</b>	<b>\$ 900</b>	<b>\$ 900</b>	<b>\$ -</b>
(R)ATV Management (EA) .....	3,015	3,709	3,700
(R)Snowmobile Management (EA) .....	655	755	625
(R)Forest Regeneration (EA) .....	3,190	3,800	4,500
(R)Forestry Research .....	185	153	-
Subtotal .....	<u>\$ 7,045</u>	<u>\$ 8,417</u>	<u>\$ 8,825</u>
Subtotal - State Funds .....	<u>\$ 107,757</u>	<u>\$ 122,578</u>	<u>\$ 130,141</u>
Subtotal - Federal Funds .....	53,404	57,565	54,190
Subtotal - Augmentations .....	54,441	55,613	47,042
Subtotal - Restricted Revenues .....	<u>7,045</u>	<u>8,417</u>	<u>8,825</u>
Total - General Government .....	<u>\$ 222,647</u>	<u>\$ 244,173</u>	<u>\$ 240,198</u>
<b>Grants and Subsidies:</b>			
<b>Heritage and Other Parks .....</b>	<b>\$ 1,025</b>	<b>\$ 3,852</b>	<b>\$ 2,250</b>
(A)Transfer in for Environmental Programs .....	3,405 <sup>a</sup>	-	-
<b>Annual Fixed Charges - Flood Lands .....</b>	<b>70</b>	<b>70</b>	<b>70</b>
<b>Annual Fixed Charges - Project 70 .....</b>	<b>88</b>	<b>88</b>	<b>88</b>
<b>Annual Fixed Charges - Forest Lands .....</b>	<b>7,808</b>	<b>7,812</b>	<b>7,851</b>
<b>Annual Fixed Charges - Park Lands .....</b>	<b>430</b>	<b>430</b>	<b>430</b>
(R)Keystone Tree Account .....	-	100	100
Total - Grants and Subsidies .....	<u>\$ 12,826</u>	<u>\$ 12,352</u>	<u>\$ 10,789</u>
STATE FUNDS .....	<u>\$ 117,178</u>	<u>\$ 134,830</u>	<u>\$ 140,830</u>
FEDERAL FUNDS .....	53,404	57,565	54,190
AUGMENTATIONS .....	57,846	55,613	47,042
RESTRICTED REVENUES .....	<u>7,045</u>	<u>8,517</u>	<u>8,925</u>
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 235,473</u></b>	<b><u>\$ 234,331</u></b>	<b><u>\$ 197,241</u></b>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2019-20 ACTUAL	2020-21 AVAILABLE	2021-22 BUDGET
<b><u>MOTOR LICENSE FUND:</u></b>			
<i>General Government:</i>			
Dirt and Gravel Roads .....	\$ 7,000	\$ 7,000	\$ 7,000
<i>Grants and Subsidies:</i> .....			
(R)Forestry Bridges - Excise Tax (EA) .....	\$ 11,000	\$ 13,388	\$ 9,976
STATE FUNDS .....	\$ 7,000	\$ 7,000	\$ 7,000
RESTRICTED REVENUES .....	11,000	13,388	9,976
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b>\$ 18,000</b>	<b>\$ 20,388</b>	<b>\$ 16,976</b>
<b><u>OTHER FUNDS:</u></b>			
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA) .....	\$ 300	\$ 350	\$ 583
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA) .....	\$ 13,392	\$ 15,262 <sup>b</sup>	\$ 15,515
Community Conservation Grants (EA) .....	6,120	6,550	7,000
Natural Diversity Conservation Grants (EA) .....	300	300	325
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b>\$ 19,812</b>	<b>\$ 22,112</b>	<b>\$ 22,840</b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Parks & Forest Facility Rehabilitation (EA) .....	\$ 29,347	\$ 29,307 <sup>c</sup>	\$ 29,476
Grants for Local Recreation (EA) .....	24,456	24,422 <sup>d</sup>	24,563
Grants to Land Trusts (EA) .....	9,782	9,769 <sup>e</sup>	9,825
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b>\$ 63,585</b>	<b>\$ 63,498</b>	<b>\$ 63,864</b>
<b>OIL AND GAS LEASE FUND:</b>			
General Government Operations .....	\$ 37,786	\$ 14,827	\$ 14,790
State Parks Operations .....	17,706	17,000	20,000
State Forests Operations .....	14,282	17,000	16,500
Transfer to Marcellus Legacy Fund (EA) .....	15,000	15,000	15,000
<b>OIL AND GAS LEASE FUND TOTAL .....</b>	<b>\$ 84,774</b>	<b>\$ 63,827</b>	<b>\$ 66,290</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA) .....	\$ 5,312	\$ 5,314	\$ 5,340
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA) .....	\$ 132	\$ 132	\$ 132

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund, and Act 44 of 2017 modified the annual transfers to the Marcellus Legacy Fund. The Governor's Budget proposal for 2021-22 maintains the level of the transfer to the Environmental Stewardship Fund (via the Marcellus Legacy Fund) established by Act 20 of 2019. The General Fund expenses replaced by the Oil and Gas Lease Fund include additional support for DCNR operations, as reflected on the financial statement below.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2019-20 Actual	2020-21 Available	2021-22 Estimated
<b>Cash Balance, Beginning</b> .....	\$ 15,674	\$ 7,800	\$ 910
<b>Receipts:</b>			
Rents and Royalties .....	\$ 73,655	\$ 60,000	\$ 66,000
Interest .....	668	119	94
Other .....	2,682	481	506
Total Receipts .....	<u>77,005</u>	<u>60,600</u>	<u>66,600</u>
<b>Total Funds Available</b> .....	\$ <u>92,679</u>	\$ <u>68,400</u>	\$ <u>67,510</u>
<b>Disbursements:</b>			
Conservation and Natural Resources:			
General Government Operations .....	\$ 37,891	\$ 18,490	\$ 14,790
State Parks Operations .....	17,706	17,000	20,000
State Forests Operations .....	14,282	17,000	16,500
Transfer to Marcellus Legacy Fund .....	15,000	15,000	15,000
Total Disbursements .....	<u>(84,879)</u>	<u>(67,490)</u>	<u>(66,290)</u>
<b>Cash Balance, Ending</b> .....	\$ <u>7,800</u>	\$ <u>910</u>	\$ <u>1,220</u>

**ATTACHMENT B-14**  
**GOVERNOR'S EXECUTIVE BUDGET 2011-2012**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2009-10 ACTUAL	2010-11 AVAILABLE	2011-12 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
<b>General Government Operations .....</b>	<b>\$ 19,428</b>	<b>\$ 18,665</b>	<b>\$ 17,487</b>
(F)Topographic and Geologic Survey Grants .....	2,055	2,055	2,055
(F)Bituminous Coal Resources .....	150	150	150
(F)Intermodal Surface Transportation Act .....	5,000	5,000	5,000
(F)Land and Water Conservation Fund .....	12,000	12,000	12,000
(F)Flood Hazard Mapping .....	510	510	510
(F)Highlands Conservation Program .....	500	500	500
(F)ARRA - Lidar Imagery .....	0	350	0
(F)ARRA - PAMAP Orthoimagery .....	0	309	0
(F)Cooperative Endangered Species .....	0	28	28
(F)PA Wilds Elk County Visitor Center .....	0	100	0
(A)Payment for Department Services .....	210	606	200
(A)Water Well Drillers .....	0	40	50
(A)Keystone Recreation, Park and Conservation Fund .....	2,271	1,385	2,153
(A)Internet Record Imaging System .....	289	300	300
(A)Environmental Stewardship Fund Admin .....	217	180	200
(A)Oil and Gas Lease Fund .....	293	1,659	3,105
(A)PAMAP .....	250	0	0
Subtotal .....	<u>\$ 43,173</u>	<u>\$ 43,837</u>	<u>\$ 43,738</u>
<b>State Parks Operations .....</b>	<b>49,874</b>	<b>46,726</b>	<b>28,093</b>
(F)Recreational Trails .....	6,000	6,000	6,000
(F)PAMAP Geospatial Imaging (EA) .....	905	300	300
(F)PAMAP Consolidated Security (EA) .....	50	0	0
(F)Tropical Storm Ivan Disaster Assistance (EA) .....	9,623	0	0
(F)April 2005 Storms Disaster Assistance (EA) .....	9,660	0	0
(F)June 2006 Summer Floods - Disaster Assistance (EA) .....	7,100	2,000	0
(F)Save America's Treasures .....	50	0	0
(A)PCC Programs - Parks .....	16	0	0
(A)State Parks User Fees .....	22,000	22,000	19,000
(A)Donations .....	384	0	25
(A)Reimbursement for Services .....	780	800	760
(A)Oil and Gas Lease Fund .....	1,700	5,748	12,013
Subtotal .....	<u>\$ 108,142</u>	<u>\$ 83,574</u>	<u>\$ 66,191</u>
<b>State Forests Operations .....</b>	<b>16,445</b>	<b>11,934</b>	<b>7,870</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	175	175
(F)Forest Management and Processing .....	3,600	3,800	3,800
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Wetland Protection Fund .....	300	300	300
(A)Reimbursement for Services .....	290	80	350
(A)Reimbursement - Forest Fires .....	349	900	300
(A)Sale of Vehicles - Forests .....	53	60	50
(A)Private Donations .....	0	5	0
(A)Timber Sales .....	15,670	28,300	30,300
(A)PCC Programs - Forests .....	23	10	0
(A)Miscellaneous Tickets and Fines .....	2	5	5
(A)Oil and Gas Lease Fund .....	10,600	13,273	15,235
Subtotal .....	<u>\$ 50,257</u>	<u>\$ 61,592</u>	<u>\$ 61,135</u>



# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2009-10 ACTUAL	2010-11 AVAILABLE	2011-12 BUDGET
<b>Forest Pest Management</b> .....	<b>1,849</b>	<b>1,779</b>	<b>1,866</b>
(F)Forest Insect and Disease Control.....	4,000	4,000	4,000
Subtotal.....	<u>\$ 5,849</u>	<u>\$ 5,779</u>	<u>\$ 5,866</u>
Subtotal - State Funds.....	\$ 87,596	\$ 79,104	\$ 55,316
Subtotal - Federal Funds.....	64,428	40,327	37,568
Subtotal - Augmentations.....	55,397	75,351	84,046
Total - General Government.....	<u>\$ 207,421</u>	<u>\$ 194,782</u>	<u>\$ 176,930</u>
<b>Grants and Subsidies:</b>			
Heritage and Other Parks.....	\$ 0	\$ 350	\$ 0
Annual Fixed Charges - Flood Lands.....	65	65	65
Annual Fixed Charges - Project 70.....	35	35	35
Annual Fixed Charges - Forest Lands.....	2,526	2,526	2,526
Annual Fixed Charges - Park Lands.....	400	400	400
Total - Grants and Subsidies.....	<u>\$ 3,026</u>	<u>\$ 3,376</u>	<u>\$ 3,026</u>
STATE FUNDS.....	\$ 90,622	\$ 82,480	\$ 58,342
FEDERAL FUNDS.....	64,428	40,327	37,568
AUGMENTATIONS.....	55,397	75,351	84,046
<b>GENERAL FUND TOTAL</b> .....	<u>\$ 210,447</u>	<u>\$ 198,158</u>	<u>\$ 179,956</u>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
<b>General Government:</b>			
Park & Forest Facility Rehabilitation (EA).....	\$ 16,600	\$ 12,786	\$ 19,875
<b>Grants and Subsidies:</b>			
Grants for Local Recreation (EA).....	\$ 13,833	\$ 10,655	\$ 16,563
Grants to Land Trusts (EA).....	5,533	4,262	6,625
Total - Grants and Subsidies.....	<u>\$ 19,366</u>	<u>\$ 14,917</u>	<u>\$ 23,188</u>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL</b> .....	<u>\$ 35,966</u>	<u>\$ 27,703</u>	<u>\$ 43,063</u>
<b>MOTOR LICENSE FUND:</b>			
<b>General Government:</b>			
Dirt and Gravel Roads.....	\$ 1,000	\$ 1,000	\$ 1,000
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA).....	\$ 7,000	\$ 7,000	\$ 3,000
STATE FUNDS.....	\$ 1,000	\$ 1,000	\$ 1,000
RESTRICTED REVENUES.....	7,000	7,000	3,000
<b>MOTOR LICENSE FUND TOTAL</b> .....	<u>\$ 8,000</u>	<u>\$ 8,000</u>	<u>\$ 4,000</u>
<b>OTHER FUNDS:</b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation.....	\$ 5,081	\$ 10,931	\$ 4,440
Forest Regeneration.....	1,834	6,373	6,002
Forestry Research.....	458	0	0
<b>GENERAL FUND TOTAL</b> .....	<u>\$ 7,373</u>	<u>\$ 17,304</u>	<u>\$ 10,442</u>



# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2009-10 ACTUAL	2010-11 AVAILABLE	2011-12 BUDGET
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA).....	\$ 133	\$ 150	\$ 300
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Community Conservation Grants (EA).....	\$ 8,275	\$ 6,765	\$ 5,798
Natural Diversity Conservation Grants (EA).....	400	800	800
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL.....</b>	<b>\$ 8,675</b>	<b>\$ 7,565</b>	<b>\$ 6,598</b>
<b>OIL AND GAS LEASE FUND:</b>			
General Operations.....	\$ 18,549	\$ 18,171	\$ 19,647
State Parks.....	0	0	15,000
<b>OIL AND GAS LEASE FUND TOTAL.....</b>	<b>\$ 18,549</b>	<b>\$ 18,171</b>	<b>\$ 34,647</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,084	\$ 5,084	\$ 5,110
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 185	\$ 211	\$ 203
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 90,622	\$ 82,480	\$ 58,342
SPECIAL FUNDS.....	36,966	28,703	44,063
FEDERAL FUNDS.....	64,428	40,327	37,568
AUGMENTATIONS.....	55,397	75,351	84,046
RESTRICTED.....	7,000	7,000	3,000
OTHER FUNDS.....	39,999	48,485	57,300
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 294,412</b>	<b>\$ 282,346</b>	<b>\$ 284,319</b>





## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture.

### Statement of Cash Receipts and Disbursements:

	(Dollar Amounts in Thousands)		
	2009-10 Actual	2010-11 Available	2011-12 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 1,042</b>	<b>\$ 1,176</b>	<b>\$ 617</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,850	\$ 2,741	\$ 2,741
Interest.....	-29	26	3
Fees.....	16	99	60
Fines .....	1	20	20
<b>Total Receipts</b> .....	<b>2,838</b>	<b>2,886</b>	<b>2,824</b>
<b>Total Funds Available</b> .....	<b>\$ 3,880</b>	<b>\$ 4,062</b>	<b>\$ 3,441</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 903	\$ 851	\$ 776
Environmental Protection .....	1,801	2,594	2,073
<b>Total Disbursements</b> .....	<b>-2,704</b>	<b>-3,445</b>	<b>-2,849</b>
<b>Cash Balance, Ending</b> .....	<b>\$ 1,176</b>	<b>\$ 617</b>	<b>\$ 592</b>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. The General Appropriations Act of 2009 and Act 46 of 2010 authorized a transfer of monies in the fund to the General Fund.

### Statement of Cash Receipts and Disbursements:

	(Dollar Amounts in Thousands)		
	2009-10 Actual	2010-11 Available	2011-12 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 161,634</b>	<b>\$ 217,763</b>	<b>\$ 26,996</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 277,271 <sup>a</sup>	\$ 26,575 <sup>a</sup>	\$ 63,317 <sup>a</sup>
Interest.....	402	1,509	500
Other .....	5	0	0
<b>Total Receipts</b> .....	<b>277,678</b>	<b>28,084</b>	<b>63,817</b>
<b>Total Funds Available</b> .....	<b>\$ 439,312</b>	<b>\$ 245,847</b>	<b>\$ 90,813</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 18,549	\$ 38,851	\$ 50,000
Transfer to the General Fund.....	203,000	180,000	0
State Parks.....	0	0	15,000
<b>Total Disbursements</b> .....	<b>-221,549</b>	<b>-218,851</b>	<b>-65,000</b>
<b>Cash Balance, Ending</b> .....	<b>\$ 217,763</b>	<b>\$ 26,996</b>	<b>\$ 25,813</b>

<sup>a</sup> Marcellus Shale and other gas royalties/lease fees.

**ATTACHMENT B-15**  
**GOVERNOR'S EXECUTIVE BUDGET 2012-2013**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2010-11 ACTUAL	2011-12 AVAILABLE	2012-13 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
<b>General Government Operations .....</b>	<b>\$ 18,311</b>	<b>\$ 17,114</b>	<b>\$ 16,258</b>
(F)Topographic and Geologic Survey Grants .....	2,055	2,055	2,055
(F)Bituminous Coal Resources .....	150	150	150
(F)Intermodal Surface Transportation Act .....	5,000	5,000	5,000
(F)Land and Water Conservation Fund .....	12,000	12,000	12,000
(F)Flood Hazard Mapping .....	510	510	0
(F)Highlands Conservation Program .....	500	500	1,500
(F)ARRA - Lidar Imagery .....	350	0	0
(F)ARRA - PAMAP Orthoimagery .....	309	0	0
(F)Cooperative Endangered Species .....	28	28	28
(F)PA Wilds Elk County Visitor Center .....	100	0	0
(A)Payment for Department Services .....	386	200	200
(A)Water Well Drillers .....	35	50	40
(A)Keystone Recreation, Park and Conservation Fund .....	1,859	1,271	0
(A)Internet Record Imaging System .....	209	300	200
(A)Environmental Stewardship Fund Admin .....	189	208	200
(A)Oil and Gas Lease Fund .....	1,000	3,105	5,322
Subtotal .....	<u>\$ 42,991</u>	<u>\$ 42,491</u>	<u>\$ 42,953</u>
<b>State Parks Operations .....</b>	<b>45,838</b>	<b>27,534</b>	<b>26,157</b>
(F)Recreational Trails .....	6,000	6,000	6,000
(F)Lake Erie Lakeside Management (EA) .....	0	25	25
(F)PAMAP Geospatial Imaging (EA) .....	300	300	300
(F)Pesque Isle Road Realignment and Dune Construction (EA) .....	0	967	967
(F)June 2006 Summer Floods - Disaster Assistance (EA) .....	2,000	0	0
(A)PCC Programs - Parks .....	9	0	0
(A)State Parks User Fees .....	20,600	20,000	20,000
(A)Donations .....	0	5	1
(A)Reimbursement for Services .....	909	780	745
(A)Oil and Gas Lease Fund .....	5,748	12,013	12,518
Subtotal .....	<u>\$ 81,404</u>	<u>\$ 67,624</u>	<u>\$ 66,713</u>
<b>State Forests Operations .....</b>	<b>11,707</b>	<b>5,811</b>	<b>5,429</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	175	175
(F)Forest Management and Processing .....	3,800	3,800	3,800
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Wetland Protection Fund .....	300	300	300
(A)Reimbursement for Services .....	191	209	200
(A)Reimbursement - Forest Fires .....	198	472	472
(A)Sale of Vehicles - Forests .....	68	50	65
(A)Timber Sales .....	28,310	30,300	27,360
(A)PCC Programs - Forests .....	12	0	0
(A)Miscellaneous Tickets and Fines .....	5	5	5
(A)Oil and Gas Lease Fund .....	10,827	15,235	17,883
Subtotal .....	<u>\$ 58,343</u>	<u>\$ 59,107</u>	<u>\$ 58,439</u>
<b>Forest Pest Management .....</b>	<b>1,745</b>	<b>1,829</b>	<b>1,774</b>
(F)Forest Insect and Disease Control .....	4,000	4,000	4,000
Subtotal .....	<u>\$ 5,745</u>	<u>\$ 5,829</u>	<u>\$ 5,774</u>
Subtotal - State Funds .....	\$ 77,601	\$ 52,288	\$ 49,618
Subtotal - Federal Funds .....	40,327	38,560	39,050
Subtotal - Augmentations .....	70,555	84,203	85,211
Total - General Government .....	<u>\$ 188,483</u>	<u>\$ 175,051</u>	<u>\$ 173,879</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2010-11 ACTUAL	2011-12 AVAILABLE	2012-13 BUDGET
<b>Grants and Subsidies:</b>			
Heritage and Other Parks .....	\$ 343	\$ 0	\$ 0
Annual Fixed Charges - Flood Lands .....	60	63	65
Annual Fixed Charges - Project 70 .....	29	33	40
Annual Fixed Charges - Forest Lands .....	2,497	2,512	2,600
Annual Fixed Charges - Park Lands .....	384	392	400
Total - Grants and Subsidies .....	<u>\$ 3,313</u>	<u>\$ 3,000</u>	<u>\$ 3,105</u>
STATE FUNDS .....	\$ 80,914	\$ 55,288	\$ 52,723
FEDERAL FUNDS .....	40,327	38,560	39,050
AUGMENTATIONS .....	70,555	84,203	85,211
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 191,796</u></b>	<b><u>\$ 178,051</u></b>	<b><u>\$ 176,984</u></b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
<i>General Government:</i>			
Park & Forest Facility Rehabilitation (EA) .....	\$ 15,379	\$ 11,407	\$ 0 a
<i>Grants and Subsidies:</i>			
Grants for Local Recreation (EA) .....	\$ 12,815	\$ 9,506	\$ 0 a
Grants to Land Trusts (EA) .....	5,126	3,802	0 a
Total - Grants and Subsidies .....	<u>\$ 17,941</u>	<u>\$ 13,308</u>	<u>\$ 0</u>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b><u>\$ 33,320</u></b>	<b><u>\$ 24,715</u></b>	<b><u>\$ 0</u></b>
<b>MOTOR LICENSE FUND:</b>			
<i>General Government:</i>			
Dirt and Gravel Roads .....	\$ 1,000	\$ 1,000	\$ 1,000
<i>Grants and Subsidies:</i>			
(R)Forestry Bridges - Excise Tax (EA) .....	\$ 7,000	\$ 3,000	\$ 3,000
STATE FUNDS .....	\$ 1,000	\$ 1,000	\$ 1,000
RESTRICTED REVENUES .....	7,000	3,000	3,000
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b><u>\$ 8,000</u></b>	<b><u>\$ 4,000</u></b>	<b><u>\$ 4,000</u></b>
<b>OTHER FUNDS:</b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation .....	\$ 4,280	\$ 10,446	\$ 4,310
Forest Regeneration .....	2,834	9,912	2,400
Forestry Research .....	195	904	0
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 7,309</u></b>	<b><u>\$ 21,262</u></b>	<b><u>\$ 6,710</u></b>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA) .....	\$ 150	\$ 300	\$ 300
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Community Conservation Grants (EA) .....	\$ 6,785	\$ 7,522	\$ 4,958
Natural Diversity Conservation Grants (EA) .....	780	800	800
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b><u>\$ 7,565</u></b>	<b><u>\$ 8,322</u></b>	<b><u>\$ 5,758</u></b>
<b>OIL AND GAS LEASE FUND:</b>			
General Operations .....	\$ 6,427	\$ 19,647	\$ 14,277
State Parks Operations .....	0	15,000	19,511
<b>OIL AND GAS LEASE FUND TOTAL .....</b>	<b><u>\$ 6,427</u></b>	<b><u>\$ 34,647</u></b>	<b><u>\$ 33,788</u></b>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

	(Dollar Amounts in Thousands)		
	2010-11 ACTUAL	2011-12 AVAILABLE	2012-13 BUDGET
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA) .....	\$ 5,084	\$ 5,110	\$ 5,122
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA) .....	\$ 211	\$ 203	\$ 267
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND .....	\$ 80,914	\$ 55,288	\$ 52,723
SPECIAL FUNDS .....	34,320	25,715	1,000
FEDERAL FUNDS .....	40,327	38,560	39,050
AUGMENTATIONS .....	70,555	84,203	85,211
RESTRICTED .....	7,000	3,000	3,000
OTHER FUNDS .....	26,746	69,844	51,945
<b>TOTAL ALL FUNDS .....</b>	<b>\$ 259,862</b>	<b>\$ 276,610</b>	<b>\$ 232,929</b>

<sup>a</sup> The 2012-13 budget proposes to redirect the department's share of funding from the Keystone Recreation, Park and Conservation Fund to the General Fund.

## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture.

### Statement of Cash Receipts and Disbursements:

	(Dollar Amounts in Thousands)		
	2010-11 Actual	2011-12 Available	2012-13 Estimated
Cash Balance, Beginning .....	\$ 1,176	\$ 1,313	\$ 716
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,741	\$ 2,714	\$ 2,714
Interest.....	20	1	1
Fees.....	78	60	60
Fines .....	12	20	20
Total Receipts .....	<u>2,851</u>	<u>2,795</u>	<u>2,795</u>
<b>Total Funds Available .....</b>	<b>\$ 4,027</b>	<b>\$ 4,108</b>	<b>\$ 3,511</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 745	\$ 830	\$ 755
Environmental Protection .....	1,969	2,562	2,073
Total Disbursements .....	<u>-2,714</u>	<u>-3,392</u>	<u>-2,828</u>
Cash Balance, Ending .....	<u>\$ 1,313</u>	<u>\$ 716</u>	<u>\$ 683</u>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 50 of 2009 provides \$50 million for an annual appropriation from the fund to the Department of Conservation and Natural Resources. In addition, any monies above the \$50 million must be specifically appropriated by the General Assembly. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund.

### Statement of Cash Receipts and Disbursements:

	(Dollar Amounts in Thousands)		
	2010-11 Actual	2011-12 Available	2012-13 Estimated
Cash Balance, Beginning .....	\$ 217,763	\$ 46,226	\$ 27,142
<b>Receipts:</b>			
Rents and Royalties.....	\$ 30,879	\$ 60,000	\$ 56,911
Interest.....	1,584	500	500
Other.....	2	0	0
Total Receipts .....	<u>32,465</u>	<u>60,500</u>	<u>57,411</u>
<b>Total Funds Available .....</b>	<b>\$ 250,228</b>	<b>\$ 106,726</b>	<b>\$ 84,553</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 24,002	\$ 64,584 <sup>a</sup>	\$ 50,000
State Parks.....	0	15,000	19,511
Transfer to the General Fund.....	180,000	0	0
Total Disbursements .....	<u>-204,002</u>	<u>-79,584</u>	<u>-69,511</u>
Cash Balance, Ending .....	<u>\$ 46,226</u>	<u>\$ 27,142</u>	<u>\$ 15,042</u>

<sup>a</sup>Includes \$50,000,000 available from FY2011-12 Rents and Royalties and \$14,584,000 remaining available from prior years.

**ATTACHMENT B-16**  
**GOVERNOR'S EXECUTIVE BUDGET 2013-2014**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2011-12 ACTUAL	2012-13 AVAILABLE	2013-14 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
<b>General Government Operations .....</b>	<b>\$ 16,601</b>	<b>\$ 16,258</b>	<b>\$ 16,258</b>
(F)Topographic and Geologic Survey Grants .....	2,055	2,055	500
(F)Bituminous Coal Resources .....	150	150	25
(F)Intermodal Surface Transportation Act .....	5,000	5,000	5,000
(F)Land and Water Conservation Fund .....	12,000	12,000	12,000
(F)Flood Hazard Mapping .....	510	0	0
(F)Highlands Conservation Program .....	500	1,500	1,500
(F)Cooperative Endangered Species .....	28	28	28
(A)Payment for Department Services .....	155	155	155
(A)Water Well Drillers .....	30	38	38
(A)Keystone Recreation, Park and Conservation Fund .....	1,516	1,137	1,827
(A)Internet Record Imaging System .....	275	240	240
(A)Environmental Stewardship Fund Admin .....	208	0	347
(A)Oil and Gas Lease Fund .....	3,015	5,322	5,322
Subtotal .....	<u>\$ 42,043</u>	<u>\$ 43,883</u>	<u>\$ 43,240</u>
<b>State Parks Operations .....</b>	<b>26,708</b>	<b>26,157</b>	<b>26,157</b>
(F)Recreational Trails .....	6,000	6,000	6,000
(F)Lake Erie Lakeside Management (EA) .....	29	25	25
(F)PAMAP Geospatial Imaging (EA) .....	300	300	0
(F)Presque Isle Road Realignment and Dune Construction (EA) .....	967	967	0
(F)Summer 2011 Storm Disaster Relief - Parks (EA) .....	300	2,625	2,625
(A)State Parks User Fees .....	19,280	21,000	23,091
(A)Donations .....	0	1	1
(A)Reimbursement for Services .....	735	745	745
(A)Oil and Gas Lease Fund .....	12,013	12,518	12,518
(A)Vehicle Sale .....	37	0	0
Subtotal .....	<u>\$ 66,369</u>	<u>\$ 70,338</u>	<u>\$ 71,162</u>
<b>State Forests Operations .....</b>	<b>7,411 a</b>	<b>7,203 b</b>	<b>7,203</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	175	175
(F)Forest Management and Processing .....	3,800	3,800	3,800
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Summer 2011 Storm Disaster Relief - Forest (EA) .....	300	2,140	2,140
(F)Forest Insect and Disease Control .....	4,000 c	4,000 c	4,000
(F)Wetland Protection Fund .....	300	300	300
(A)Reimbursement for Services .....	180	200	200
(A)Reimbursement - Forest Fires .....	1,361	616	761
(A)Reimbursement - Forest Pest Management .....	0	275 c	0
(A)Sale of Vehicles - Forests .....	103	75	75
(A)Timber Sales .....	28,907	27,360	28,000
(A)Miscellaneous Tickets and Fines .....	2	3	3
(A)Oil and Gas Lease Fund .....	15,235	17,883	11,510
Subtotal .....	<u>\$ 64,524</u>	<u>\$ 66,780</u>	<u>\$ 60,917</u>
Subtotal - State Funds .....	\$ 50,720	\$ 49,618	\$ 49,618
Subtotal - Federal Funds .....	39,164	43,815	40,868
Subtotal - Augmentations .....	83,052	87,568	84,833
Total - General Government .....	<u>\$ 172,936</u>	<u>\$ 181,001</u>	<u>\$ 175,319</u>



# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2011-12 ACTUAL	2012-13 AVAILABLE	2013-14 BUDGET
<b>Grants and Subsidies:</b>			
Annual Fixed Charges - Flood Lands .....	\$ 63	\$ 65	\$ 65
Annual Fixed Charges - Project 70 .....	33	40	40
Annual Fixed Charges - Forest Lands .....	2,512	2,600	2,612
Annual Fixed Charges - Park Lands .....	392	400	425
Total - Grants and Subsidies .....	<u>\$ 3,000</u>	<u>\$ 3,105</u>	<u>\$ 3,142</u>
STATE FUNDS.....	\$ 53,720	\$ 52,723	\$ 52,760
FEDERAL FUNDS.....	39,164	43,815	40,868
AUGMENTATIONS.....	83,052	87,568	84,833
GENERAL FUND TOTAL .....	<u>\$ 175,936</u>	<u>\$ 184,106</u>	<u>\$ 178,461</u>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
<i>General Government:</i>			
Park & Forest Facility Rehabilitation (EA).....	\$ 11,407	\$ 19,483	\$ 20,183
<i>Grants and Subsidies:</i>			
Grants for Local Recreation (EA) .....	\$ 9,506	\$ 16,236	\$ 16,819
Grants to Land Trusts (EA).....	3,802	6,494	6,728
Total - Grants and Subsidies.....	<u>\$ 13,308</u>	<u>\$ 22,730</u>	<u>\$ 23,547</u>
KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL.....	<u>\$ 24,715</u>	<u>\$ 42,213</u>	<u>\$ 43,730</u>
<b>MOTOR LICENSE FUND:</b>			
<i>General Government:</i>			
Dirt and Gravel Roads.....	\$ 1,000	\$ 1,000	\$ 1,000
<i>Grants and Subsidies:</i>			
(R)Forestry Bridges - Excise Tax (EA).....	\$ 3,000	\$ 5,300	\$ 6,323
STATE FUNDS.....	\$ 1,000	\$ 1,000	\$ 1,000
RESTRICTED REVENUES.....	3,000	5,300	6,323
MOTOR LICENSE FUND TOTAL .....	<u>\$ 4,000</u>	<u>\$ 6,300</u>	<u>\$ 7,323</u>
<b>OTHER FUNDS:</b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation.....	\$ 5,351	\$ 9,527	\$ 4,341
Forest Regeneration.....	2,265	7,184	2,470
Forestry Research.....	148	0	0
GENERAL FUND TOTAL .....	<u>\$ 7,764</u>	<u>\$ 16,711</u>	<u>\$ 6,811</u>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA).....	\$ 300	\$ 300	\$ 122
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA).....	\$ 542	\$ 6,997	\$ 8,832
Community Conservation Grants (EA).....	7,522	4,058	4,641
Natural Diversity Conservation Grants (EA).....	258	300	366
ENVIRONMENTAL STEWARDSHIP FUND TOTAL.....	<u>\$ 8,322</u>	<u>\$ 11,355</u>	<u>\$ 13,839</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2011-12 ACTUAL	2012-13 AVAILABLE	2013-14 BUDGET
<b>OIL AND GAS LEASE FUND:</b>			
General Operations.....	\$ 14,542	\$ 14,277	\$ 20,650
State Parks Operations.....	15,000	17,511	15,000
Forest Pest Management.....	0	2,000	0
State Forest Operations.....	0	0	12,275
Transfer to Marcellus Legacy Fund (EA).....	0	0	0 <sup>d</sup>
<b>OIL AND GAS LEASE FUND TOTAL.....</b>	<b>\$ 29,542</b>	<b>\$ 33,788</b>	<b>\$ 47,925</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,110	\$ 5,122	\$ 5,146
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 203	\$ 267	\$ 211
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 53,720	\$ 52,723	\$ 52,760
SPECIAL FUNDS.....	25,715	43,213	44,730
FEDERAL FUNDS.....	39,164	43,815	40,868
AUGMENTATIONS.....	83,052	87,568	84,833
RESTRICTED.....	3,000	5,300	6,323
OTHER FUNDS.....	51,241	67,543	74,054
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 255,892</b>	<b>\$ 300,162</b>	<b>\$ 303,568</b>

<sup>a</sup> Appropriated as \$5,637,000 for State Forests Operations and \$1,774,000 for Forest Pest Management.

<sup>b</sup> Appropriated as \$5,429,000 for State Forests Operations and \$1,774,000 for Forest Pest Management.

<sup>c</sup> Originally appropriated in Forest Pest Management.

<sup>d</sup> Not added to the total to avoid double counting with the program expenditures from the Environmental Stewardship Fund shown in various agencies: 2011-12 Actual is \$0; 2012-13 Available is \$0; and 2013-14 Budget is \$20,000,000.

# Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 50 of 2009 provides \$50 million for an annual appropriation from the fund to the Department of Conservation and Natural Resources. In addition, any monies above the \$50 million must be specifically appropriated by the General Assembly. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund.

## Statement of Cash Receipts and Disbursements:

(Dollar Amounts in Thousands)

	2011-12 Actual	2012-13 Available	2013-14 Estimated
<b>Cash Balance, Beginning .....</b>	<b>\$ 46,226</b>	<b>\$ 51,368</b>	<b>\$ 42,265</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 64,421	\$ 60,000	\$ 85,000
Interest.....	505	408	408
Other.....	21	0	0
<b>Total Receipts .....</b>	<b>64,947</b>	<b>60,408</b>	<b>85,408</b>
<b>Total Funds Available .....</b>	<b>\$ 111,173</b>	<b>\$ 111,776</b>	<b>\$ 127,673</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 44,805	\$ 50,000	\$ 50,000
State Parks Operations.....	15,000	17,511	15,000
Forest Pest Management.....	0	2,000	0
State Forests Operations.....	0	0	12,275
Transfer to the Marcellus Legacy Fund.....	0	0	20,000
<b>Total Disbursements .....</b>	<b>-59,805</b>	<b>-69,511</b>	<b>-97,275</b>
<b>Cash Balance, Ending .....</b>	<b>\$ 51,368</b>	<b>\$ 42,265</b>	<b>\$ 30,398</b>

**ATTACHMENT B-17**  
**GOVERNOR'S EXECUTIVE BUDGET 2014-2015**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2012-13 ACTUAL	2013-14 AVAILABLE	2014-15 BUDGET
<b>GENERAL FUND:</b>			
<i>General Government:</i>			
<b>General Government Operations .....</b>	<b>\$ 16,258</b>	<b>\$ 16,258</b>	<b>\$ 15,644</b>
(F)Topographic and Geologic Survey Grants .....	2,055	500	500
(F)Bituminous Coal Resources .....	150	25	25
(F)Land and Water Conservation Fund .....	12,000	12,000	12,000
(F)Highlands Conservation Program .....	1,500	2,000	2,000
(F)Cooperative Endangered Species .....	28	28	28
(F)Intermodal Surface Transportation (EA) .....	5,000 a	5,000 a	5,000
(A)Payment for Department Services .....	100	200	200
(A)Water Well Drillers .....	65	38	38
(A)Keystone Recreation, Park and Conservation Fund .....	1,137	2,453	2,571
(A)Internet Record Imaging System .....	234	200	200
(A)Environmental Stewardship Fund Admin .....	0	353	352
(A)Oil and Gas Lease Fund .....	0 b	0	0
Subtotal .....	<u>\$ 38,527</u>	<u>\$ 39,055</u>	<u>\$ 38,558</u>
<b>State Parks Operations .....</b>	<b>26,157</b>	<b>6,153</b>	<b>6,066</b>
(F)PA Recreation Trails (EA) .....	6,000 c	6,000 c	7,000
(F)Lake Erie Lakeside Management (EA) .....	25	25	25
(F)PAMAP Geospatial Imaging (EA) .....	300	0	0
(F)Presque Isle Road Realignment and Dune Construction (EA) .....	967	0	0
(F)Summer 2011 Storm Disaster Relief - Parks (EA) .....	2,625	2,625	2,625
(F)Presque Isle Historical Structures Restoration Project (EA) .....	0	80	80
(A)State Parks User Fees .....	21,000	23,091	21,091
(A)Donations .....	0	1	1
(A)Reimbursement for Services .....	845	745	819
(A)Oil and Gas Lease Fund .....	0 d	0	0
(A)Vehicle Sale .....	44	47	32
Subtotal .....	<u>\$ 57,963</u>	<u>\$ 38,767</u>	<u>\$ 37,739</u>
<b>State Forests Operations .....</b>	<b>7,203 e</b>	<b>2,203</b>	<b>2,178</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	175	175
(F)Forest Management and Processing .....	3,800	3,800	3,800
(F)Great Lakes Restoration .....	0	900	900
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Forest Insect and Disease Control .....	4,000 f	4,000	4,000
(F)Summer 2011 Storm Disaster Relief - Forest (EA) .....	2,140	2,140	2,140
(F)Wetlands Program Development (EA) .....	0	250	115
(F)Wetland Protection Fund (EA) .....	300 g	300 g	300
(A)Reimbursement for Services .....	204	200	200
(A)Reimbursement - Forest Fires .....	1,752	761	740
(A)Reimbursement from Counties .....	132 f	0	275
(A)Sale of Vehicles - Forests .....	220	150	150
(A)Timber Sales .....	27,122	28,000	18,000
(A)Miscellaneous Tickets and Fines .....	4	4	4
(A)Oil and Gas Lease Fund .....	0 h	0	0
Subtotal .....	<u>\$ 49,802</u>	<u>\$ 45,633</u>	<u>\$ 35,727</u>
Subtotal - State Funds .....	\$ 49,618	\$ 24,614	\$ 23,888
Subtotal - Federal Funds .....	43,815	42,598	43,463
Subtotal - Augmentations .....	52,859	56,243	44,673
Total - General Government .....	<u>\$ 146,292</u>	<u>\$ 123,455</u>	<u>\$ 112,024</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2012-13 ACTUAL	2013-14 AVAILABLE	2014-15 BUDGET
<b>Grants and Subsidies:</b>			
Heritage and Other Parks .....	\$ 0	\$ 2,250	\$ 0
Annual Fixed Charges - Flood Lands .....	65	65	65
Annual Fixed Charges - Project 70 .....	40	40	40
Annual Fixed Charges - Forest Lands .....	2,600	2,612	2,612
Annual Fixed Charges - Park Lands .....	400	425	425
Total - Grants and Subsidies .....	<u>\$ 3,105</u>	<u>\$ 5,392</u>	<u>\$ 3,142</u>
STATE FUNDS .....	\$ 52,723	\$ 30,006	\$ 27,030
FEDERAL FUNDS .....	43,815	42,598	43,463
AUGMENTATIONS .....	52,859	56,243	44,673
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 149,397</u></b>	<b><u>\$ 128,847</u></b>	<b><u>\$ 115,166</u></b>
<b><u>MOTOR LICENSE FUND:</u></b>			
<b>General Government:</b>			
Dirt and Gravel Roads .....	\$ 1,000	\$ 1,000	\$ 7,000
<b>Grants and Subsidies:</b>			
(R)Forestry Bridges - Excise Tax (EA) .....	\$ 5,300	\$ 5,077	\$ 7,461
STATE FUNDS .....	\$ 1,000	\$ 1,000	\$ 7,000
RESTRICTED REVENUES .....	5,300	5,077	7,461
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b><u>\$ 6,300</u></b>	<b><u>\$ 6,077</u></b>	<b><u>\$ 14,461</u></b>
<b><u>OTHER FUNDS:</u></b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation .....	\$ 5,049	\$ 8,794	\$ 4,341
Forest Regeneration .....	5,616	7,249	2,436
Forestry Research .....	80	926	0
<b>GENERAL FUND TOTAL .....</b>	<b><u>\$ 10,745</u></b>	<b><u>\$ 16,969</u></b>	<b><u>\$ 6,777</u></b>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA) .....	\$ 300	\$ 122	\$ 122
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA) .....	\$ 6,997	\$ 9,549	\$ 10,899
Community Conservation Grants (EA) .....	4,058	4,174	4,174
Natural Diversity Conservation Grants (EA) .....	300	366	366
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b><u>\$ 11,355</u></b>	<b><u>\$ 14,089</u></b>	<b><u>\$ 15,439</u></b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Park & Forest Facility Rehabilitation (EA) .....	\$ 19,483	\$ 22,650	\$ 23,713
Grants for Local Recreation (EA) .....	16,236	18,875	19,762
Grants to Land Trusts (EA) .....	6,494	7,550	7,905
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b><u>\$ 42,213</u></b>	<b><u>\$ 49,075</u></b>	<b><u>\$ 51,380</u></b>
<b>OIL AND GAS LEASE FUND:</b>			
State Parks Operations .....	\$ 17,511	\$ 39,160	\$ 41,160
Forest Pest Management .....	2,000	0	0
General Operations (EA) .....	50,000	50,000	50,000
State Forest Operations .....	0	17,386	26,386
Transfer to Marcellus Legacy Fund (EA) .....	0	0	0
<b>OIL AND GAS LEASE FUND TOTAL .....</b>	<b><u>\$ 69,511</u></b>	<b><u>\$ 106,546</u></b>	<b><u>\$ 117,546</u></b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA) .....	\$ 5,122	\$ 5,146	\$ 5,146

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2012-13 ACTUAL	2013-14 AVAILABLE	2014-15 BUDGET
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 267	\$ 211	\$ 113
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 52,723	\$ 30,006	\$ 27,030
SPECIAL FUNDS.....	1,000	1,000	7,000
FEDERAL FUNDS.....	43,815	42,598	43,463
AUGMENTATIONS.....	52,859	56,243	44,673
RESTRICTED.....	5,300	5,077	7,461
OTHER FUNDS.....	139,513	192,158	196,523
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 295,210</b>	<b>\$ 327,082</b>	<b>\$ 326,150</b>

<sup>a</sup> Appropriated as Intermodal Surface Transportation Act.

<sup>b</sup> Originally shown as an augmentation of \$4,731,000.

<sup>c</sup> Appropriated as Recreational Trails.

<sup>d</sup> Originally shown as an augmentation of \$12,518,000.

<sup>e</sup> Appropriated as \$5,429,000 for State Forests Operations and \$1,774,000 for Forest Pest Management.

<sup>f</sup> Originally appropriated to the Forest Pest Management appropriation.

<sup>g</sup> Appropriated as Wetland Protection Fund.

<sup>h</sup> Originally shown as an augmentation of \$17,883,000.

<sup>i</sup> Includes \$14,868,000 originally shown as General Operations, \$4,731,000 originally shown as an augmentation to General Government Operations, \$12,518,000 originally shown as an augmentation to State Parks Operations and \$17,883,000 originally shown as an augmentation to State Forests Operations.

<sup>j</sup> Not added to the total to avoid double counting with the program expenditures from the Environmental Stewardship Fund shown in various agencies: 2012-13 Actual is \$0, 2013-14 Available is \$20,000,000, and 2014-15 Budget is \$35,000,000.

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 50 of 2009 provides \$50 million for an annual appropriation from the fund to the Department of Conservation and Natural Resources. In addition, any monies above the \$50 million must be specifically appropriated by the General Assembly. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2012-13 Actual	2013-14 Available	2014-15 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 51,368</b>	<b>\$ 87,691</b>	<b>\$ 73,182</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 103,636	\$ 120,808	\$ 110,887
Non-Surface Impact Leasing Revenue.....	0	0	75,000
Interest.....	430	464	464
Other.....	80	0	0
<b>Total Receipts</b> .....	<b>104,146</b>	<b>121,272</b>	<b>186,351</b>
<b>Total Funds Available</b> .....	<b>\$ 155,514</b>	<b>\$ 208,963</b>	<b>\$ 259,533</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 51,698	\$ 59,235	\$ 50,000
State Parks Operations.....	16,125	39,160	41,160
State Forests Operations.....	0	17,386	26,386
Transfer to General Fund.....	0	0	75,000
Transfer to Marcellus Legacy Fund.....	0	20,000	35,000
<b>Total Disbursements</b> .....	<b>-67,823</b>	<b>-135,781</b>	<b>-227,546</b>
<b>Cash Balance, Ending</b> .....	<b>\$ 87,691</b>	<b>\$ 73,182</b>	<b>\$ 31,987</b>

## Patient Safety Trust Fund

Act 13 of 2002, known as the Medical Care Availability and Reduction of Error Act, established the Patient Safety Trust Fund for the purpose of independent review of medical facilities which will result in ensuring patient safety and reducing medical errors. Revenue to the fund includes a surcharge on medical facility licensing fees. These fees are assessed by the Department of Health, deposited in the General Fund and transferred to the Patient Safety Fund. The Patient Safety Authority established by Act 13 contracts with entities who collect, analyze and evaluate data regarding reports of serious events and incidents at medical facilities and identify patterns in frequency or severity at individual medical facilities or in certain regions of this commonwealth.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2012-13 Actual	2013-14 Available	2014-15 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 7,321</b>	<b>\$ 7,512</b>	<b>\$ 5,914</b>
<b>Receipts:</b>			
Surcharges.....	\$ 6,831	\$ 7,121	\$ 6,400
Contract/Grants.....	-339	1,102	496
Interest .....	12	11	11
<b>Total Receipts</b> .....	<b>6,504</b>	<b>8,234</b>	<b>6,907</b>
<b>Total Funds Available</b> .....	<b>\$ 13,825</b>	<b>\$ 15,746</b>	<b>\$ 12,821</b>
<b>Disbursements:</b>			
Patient Safety Authority.....	\$ 6,313	\$ 9,832	\$ 7,750
<b>Total Disbursements</b> .....	<b>-6,313</b>	<b>-9,832</b>	<b>-7,750</b>
<b>Cash Balance, Ending</b> .....	<b>\$ 7,512</b>	<b>\$ 5,914</b>	<b>\$ 5,071</b>



**ATTACHMENT B-18**  
**GOVERNOR'S EXECUTIVE BUDGET 2015-2016**  
**EXCERPTS**

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2013-14 ACTUAL	2014-15 AVAILABLE	2015-16 BUDGET
<b>GENERAL FUND:</b>			
<b>General Government:</b>			
<b>General Government Operations .....</b>	<b>\$ 16,185</b>	<b>\$ 5,809</b>	<b>\$ 8,310</b>
(F)Topographic and Geologic Survey Grants .....	500	500	500
(F)Bituminous Coal Resources .....	25	25	25
(F)Land and Water Conservation Fund .....	12,000	12,000	12,000
(F)Highlands Conservation Program .....	2,000	2,000	2,000
(F)Cooperative Endangered Species .....	28	28	28
(F)Intermodal Surface Transportation (EA) .....	5,000 a	5,000	5,000
(A)Payment for Department Services .....	157	1,937	2,000
(A)Water Well Drillers .....	10	38	38
(A)Keystone Recreation, Park and Conservation Fund .....	2,454	2,420	2,555
(A)Internet Record Imaging System .....	247	200	200
(A)Environmental Stewardship Fund Admin .....	352	293	409
Subtotal .....	<u>\$ 38,958</u>	<u>\$ 30,250</u>	<u>\$ 33,065</u>
<b>State Parks Operations .....</b>	<b>4,473</b>	<b>2,276</b>	<b>16,045</b>
(F)PA Recreation Trails (EA) .....	6,000 b	7,000	7,000
(F)Lake Erie Lakeside Management (EA) .....	25	25	25
(F)Summer 2011 Storm Disaster Relief - Parks (EA) .....	2,625	100	100
(F)Coastal Zone Management Special Projects (EA) .....	0	50	50
(F)Presque Isle Historical Structures Restoration Project (EA) .....	80	0	0
(F)DEP-DCNR Special Projects (EA) .....	0	2,000	2,000
(A)State Parks User Fees .....	22,848	22,000	22,000
(A)Reimbursement for Services .....	778	786	786
(A)Vehicle Sale .....	62	47	47
Subtotal .....	<u>\$ 36,891</u>	<u>\$ 34,284</u>	<u>\$ 48,053</u>
<b>State Forests Operations .....</b>	<b>1,245</b>	<b>1,050</b>	<b>6,719</b>
(F)Forest Fire Protection and Control .....	2,000	2,000	2,000
(F)Forestry Incentives and Agriculture Conservation .....	175	175	175
(F)Forest Management and Processing .....	3,800	3,800	3,800
(F)Great Lakes Restoration .....	900	900	900
(F)Aid to Volunteer Fire Companies .....	750	750	750
(F)Forest Insect and Disease Control .....	4,000	4,000	4,000
(F)Wetland Protection Fund .....	300	300	300
(F)Summer 2011 Storm Disaster Relief - Forest (EA) .....	2,140	100	100
(F)Wetlands Program Development (EA) .....	250	0	0
(A)Reimbursement for Services .....	308	305	305
(A)Reimbursement - Forest Fires .....	1,547	1,000	1,000
(A)Sale of Vehicles - Forests .....	152	153	153
(A)Timber Sales .....	27,109	25,500	25,500
(A)Miscellaneous Tickets and Fines .....	1	1	2
Subtotal .....	<u>\$ 44,677</u>	<u>\$ 40,034</u>	<u>\$ 45,704</u>
Subtotal - State Funds .....	\$ 21,903	\$ 9,135	\$ 31,074
Subtotal - Federal Funds .....	42,598	40,753	40,753
Subtotal - Augmentations .....	56,025	54,680	54,995
Total - General Government .....	<u>\$ 120,526</u>	<u>\$ 104,568</u>	<u>\$ 126,822</u>
<b>Grants and Subsidies:</b>			
<b>Heritage and Other Parks .....</b>	<b>\$ 2,250</b>	<b>\$ 2,250</b>	<b>\$ 0</b>
<b>Annual Fixed Charges - Flood Lands .....</b>	<b>52</b>	<b>65</b>	<b>65</b>
<b>Annual Fixed Charges - Project 70 .....</b>	<b>29</b>	<b>40</b>	<b>40</b>
<b>Annual Fixed Charges - Forest Lands .....</b>	<b>2,526</b>	<b>2,612</b>	<b>2,612</b>
<b>Annual Fixed Charges - Park Lands .....</b>	<b>354</b>	<b>425</b>	<b>425</b>
Total - Grants and Subsidies .....	<u>\$ 5,211</u>	<u>\$ 5,392</u>	<u>\$ 3,142</u>

# Conservation and Natural Resources

## Summary by Fund and Appropriation

(Dollar Amounts in Thousands)

	2013-14 ACTUAL	2014-15 AVAILABLE	2015-16 BUDGET
STATE FUNDS.....	\$ 27,114	\$ 14,527	\$ 34,216
FEDERAL FUNDS.....	42,598	40,753	40,753
AUGMENTATIONS.....	56,025	54,680	54,995
<b>GENERAL FUND TOTAL .....</b>	<b>\$ 125,737</b>	<b>\$ 109,960</b>	<b>\$ 129,964</b>
<b>MOTOR LICENSE FUND:</b>			
<i>General Government:</i>			
Dirt and Gravel Roads.....	\$ 1,000	\$ 7,000	\$ 7,000
<i>Grants and Subsidies:</i>			
(R)Forestry Bridges - Excise Tax (EA).....	\$ 5,077	\$ 7,073	\$ 8,326
STATE FUNDS.....	\$ 1,000	\$ 7,000	\$ 7,000
RESTRICTED REVENUES.....	5,077	7,073	8,326
<b>MOTOR LICENSE FUND TOTAL .....</b>	<b>\$ 6,077</b>	<b>\$ 14,073</b>	<b>\$ 15,326</b>
<b>OTHER FUNDS:</b>			
<b>GENERAL FUND:</b>			
Snowmobile & ATV Regulation.....	\$ 4,301	\$ 9,168	\$ 4,351
Forest Regeneration.....	2,188	7,747	2,770
Forestry Research.....	232	944	250
<b>GENERAL FUND TOTAL .....</b>	<b>\$ 6,721</b>	<b>\$ 17,859</b>	<b>\$ 7,371</b>
<b>ENVIRONMENTAL EDUCATION FUND:</b>			
General Operations (EA).....	\$ 160	\$ 160	\$ 134
<b>ENVIRONMENTAL STEWARDSHIP FUND:</b>			
Parks & Forest Facility Rehabilitation (EA).....	\$ 7,644	\$ 11,279	\$ 11,829
Community Conservation Grants (EA).....	6,079	4,269	4,174
Natural Diversity Conservation Grants (EA).....	366	366	366
<b>ENVIRONMENTAL STEWARDSHIP FUND TOTAL .....</b>	<b>\$ 14,089</b>	<b>\$ 15,914</b>	<b>\$ 16,369</b>
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND:</b>			
Park & Forest Facility Rehabilitation (EA).....	\$ 22,650	\$ 22,348	\$ 23,582
Grants for Local Recreation (EA).....	18,875	18,624	19,650
Grants to Land Trusts (EA).....	7,550	7,449	7,860
<b>KEYSTONE RECREATION, PARK AND CONSERVATION FUND TOTAL .....</b>	<b>\$ 49,075</b>	<b>\$ 48,421</b>	<b>\$ 51,092</b>
<b>OIL AND GAS LEASE FUND:</b>			
State Parks Operations.....	\$ 39,160	\$ 45,009	\$ 38,765
General Government Operations.....	0	10,000	9,210
General Operations (EA).....	50,000	50,000	50,000
State Forests Operations.....	17,386	17,537	19,045
Transfer to Marcellus Legacy Fund (EA).....	0 <sup>c</sup>	0 <sup>c</sup>	0 <sup>c</sup>
<b>OIL AND GAS LEASE FUND TOTAL .....</b>	<b>\$ 106,546</b>	<b>\$ 122,546</b>	<b>\$ 117,020</b>
<b>STATE GAMING FUND:</b>			
Payments in Lieu of Taxes (EA).....	\$ 5,146	\$ 5,146	\$ 5,146

# Conservation and Natural Resources

## Summary by Fund and Appropriation

	(Dollar Amounts in Thousands)		
	2013-14 ACTUAL	2014-15 AVAILABLE	2015-16 BUDGET
<b>WILD RESOURCE CONSERVATION FUND:</b>			
General Operations (EA).....	\$ 72	\$ 177	\$ 142
<b>DEPARTMENT TOTAL - ALL FUNDS</b>			
GENERAL FUND.....	\$ 27,114	\$ 14,527	\$ 34,216
SPECIAL FUNDS.....	1,000	7,000	7,000
FEDERAL FUNDS.....	42,598	40,753	40,753
AUGMENTATIONS.....	56,025	54,680	54,995
RESTRICTED.....	5,077	7,073	8,326
OTHER FUNDS.....	181,809	210,223	197,274
<b>TOTAL ALL FUNDS.....</b>	<b>\$ 313,623</b>	<b>\$ 334,256</b>	<b>\$ 342,564</b>

<sup>a</sup> Appropriated as Intermodal Surface Transportation Act.

<sup>b</sup> Appropriated as Recreational Trails.

<sup>c</sup> Not added to the total to avoid double counting with the program expenditures from the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund shown in various agencies. Environmental Stewardship Fund: 2013-14 Actual is \$20,000,000, 2014-15 Available is \$35,000,000 and 2015-16 Budget is \$35,000,000. Hazardous Sites Cleanup Fund: 2013-14 Actual is \$0, 2014-15 Available is \$0 and 2015-16 Budget is \$5,000,000.

## Nutrient Management Fund

This fund was created under the authority of Act 6 of 1993 to fund loans and grants for the implementation of nutrient management plans by agricultural operations. Revenue comes from commonwealth and federal appropriations, interest, loan repayments and gifts. Act 18 of 1995 transferred some responsibilities for the Nutrient Management Program from the Department of Environmental Protection to the Department of Agriculture.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2013-14 Actual	2014-15 Available	2015-16 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 1,875</b>	<b>\$ 1,939</b>	<b>\$ 913</b>
<b>Receipts:</b>			
Transfer from General Fund.....	\$ 2,714	\$ 2,714	\$ 2,714
Interest.....	4	5	5
Fees.....	55	25	25
Fines .....	5	63	25
Total Receipts .....	<u>2,778</u>	<u>2,807</u>	<u>2,769</u>
<b>Total Funds Available</b> .....	<b>\$ 4,653</b>	<b>\$ 4,746</b>	<b>\$ 3,682</b>
<b>Disbursements:</b>			
Agriculture .....	\$ 791	\$ 1,039	\$ 1,050
Environmental Protection .....	1,923	2,794	2,073
Total Disbursements .....	<u>-2,714</u>	<u>-3,833</u>	<u>-3,123</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 1,939</b>	<b>\$ 913</b>	<b>\$ 559</b>

## Oil and Gas Lease Fund

Created in 1955, this fund is used to finance conservation, recreation, dams or flood control projects or to match any federal grants made for these purposes. Revenues are derived from rents and royalties from oil and gas leases of commonwealth owned land with the exception of rents and royalties from land owned by either the Pennsylvania Game or Fish and Boat Commissions. Those revenues are paid into the Game and Fish Funds. Act 50 of 2009 provides \$50 million for an annual appropriation from the fund to the Department of Conservation and Natural Resources. In addition, any monies above the \$50 million must be specifically appropriated by the General Assembly. Act 46 of 2010 authorized a transfer of \$180 million to the General Fund. Act 13 of 2012 authorized annual transfers to the Marcellus Legacy Fund.

### Statement of Cash Receipts and Disbursements

(Dollar Amounts in Thousands)

	2013-14 Actual	2014-15 Available	2015-16 Estimated
<b>Cash Balance, Beginning</b> .....	<b>\$ 87,691</b>	<b>\$ 113,839</b>	<b>\$ 72,630</b>
<b>Receipts:</b>			
Rents and Royalties.....	\$ 147,440	\$ 132,640	\$ 132,640
Interest.....	477	524	524
Other.....	44	1,000	0
Total Receipts .....	<u>147,961</u>	<u>134,164</u>	<u>133,164</u>
<b>Total Funds Available</b> .....	<b>\$ 235,652</b>	<b>\$ 248,003</b>	<b>\$ 205,794</b>
<b>Disbursements:</b>			
Conservation and Natural Resources.....	\$ 45,267	\$ 77,827	\$ 59,210
State Parks Operations.....	39,160	45,009	38,765
State Forests Operations.....	17,386	17,537	19,045
Transfer to Marcellus Legacy Fund.....	20,000	35,000	40,000
Total Disbursements .....	<u>-121,813</u>	<u>-175,373</u>	<u>-157,020</u>
<b>Cash Balance, Ending</b> .....	<b>\$ 113,839</b>	<b>\$ 72,630</b>	<b>\$ 48,774</b>

**ATTACHMENT C**

**Source of Oil and Lease Fund Receipts in FY 2017-2018**

**ATTACHMENT C**  
**Source of Oil and Lease Fund Receipts in FY 2017-2018**

<b>Oil and Gas Lease Fund Receipts for FY 2016-2017</b>			<b>Carryover to FY 2017-18:</b>
Royalty Payments:	\$70,729,601*	88.546%	25,334,782
Bonus Payments:	\$3,089,105*	3.867%	1,106,426
Rental Payments:	\$5,324,825*	6.667%	1,907,562
Interest:	\$636,000	0.796%	227,751
Other Payments:	\$99,000	0.124%	35,479
<b>Total:</b>	<b>\$79,878,531</b>		<b>28,612,000**</b>

<b>Oil and Gas Lease Fund Receipts for FY 2017-2018***</b>	<b>Carryover from FY 2016-2017:</b>	<b>Available for FY 2017-18</b>		
		<b>Amount</b>	<b>%</b>	
Royalty Payments:	\$70,998,839	25,334,782	96,333,621	85
Bonus Payments:	\$7,397,920	1,106,426	8,504,346	7
Rental Payments:	\$5,743,911	1,907,562	7,651,473	7
Interest:	\$1,071,760	227,751	1,299,511	1
Vehicle Sales:	\$86,585	--	86,585	--
Other Payments:	\$35,248	35,479	70,727	--
<b>Total:</b>	<b>\$85,334,263</b>	<b>28,612,000</b>	<b>113,946,263</b>	<b>100</b>

\* **R10** (Respondents' response to PEDF interrogatories); note that the Governor previously reported lower amounts in his Governor's Executive Budget 2018-2019 (page H52) issued on February 6, 2018 (see Oil and Gas Lease Fund actual receipts for FY 2016-2017, page H52) (**Attachment B-10**), but the difference is not significant to the calculation.

\*\* Actual amount reported as available in the beginning of FY 2017-2018 (*i.e.*, on July 1, 2017) in the Governor's Executive Budget 2019-2020 (page H 52) issued on February 5, 2019 (**Attachment B-11**); the amounts provided by Respondents in their response to PEDF's interrogatories is higher (\$29,495,679.58) (**R14**); PEDF has assumed the amount reported by the Commonwealth later in time is the most accurate.

\*\*\* **R11, R18** (Respondent's response to PEDF interrogatories); total actual OGLF receipts for the sources reported for FY 2017-2018 in the Governor's 2019-2020 Executive Budget (page H52) vary slightly, but the total receipts are the same (**Attachment B-11**).

**ATTACHMENT D**

**State Forest Districts Acreage Subject to Oil and Gas Development**



### Percentage of Statewide State Forest Acreage by Gas Ownership Type

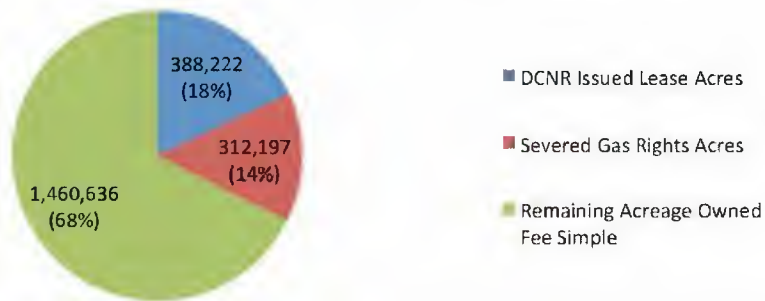


Figure 1.2

State Forest	DCNR Issued Lease Acres	Severed Gas Rights Acres	Remaining Acreage Owned Fee Simple	Total State Forest Acreage
Michaux	0	8,296	77,206	85,502
Buchanan	2,007	8,119	59,551	69,677
Tuscarora	0	5,037	90,988	96,025
Forbes	17,350	4,149	37,021	58,519
Rothrock	0	1,204	94,771	95,975
Gallitzin	2,597	3,013	18,760	24,370
Bald Eagle	0	1,601	191,789	193,390
Clear Creek	463	12,833	2,670	15,966
Moshannon	45,016	40,157	104,858	190,032
Sproul	140,414	32,996	132,030	305,439
Lackawanna	0	0	29,603	29,603
Tiadaghton	50,076	1,566	94,948	146,590
Elk	7,493	44,427	148,032	199,952
Cornplanter	0	1,362	129	1,491
Susquehannock	61,456	86,372	112,286	260,113
Tioga	40,704	17,710	103,477	161,890
William Penn	0	734	73	807
Weiser	0	310	27,749	28,059
Delaware	0	512	82,591	83,103
Loyalsock	20,646	41,798	52,106	114,550
<b>Total</b>	<b>388,222</b>	<b>312,197</b>	<b>1,460,636</b>	<b>2,161,054</b>

Table 1.1 Statewide state forest acreage by gas ownership type (All state forest districts).

Note: Data is based on GIS analysis. In some severed rights acres the Commonwealth has partial ownership.

Table 1.2. District acreages in entire Marcellus fairway.

State Forest	District Acreage in Marcellus Shale Fairway	Leased Tract Acres	Severed Rights Acres*	Gas Storage Leases on Lands Where Commonwealth Owns Subsurface Rights	Gas Storage Leases on Severed Rights Ownerships	Total Acreage Subject to Gas Development	Non-leased Gas Rights
Forbes	59,498	8,846	9,604	0.4	911.0	18,449	41,049
Gallitzin	24,437	1,376	3,376	720	1,353	4,033	20,404
Clear Creek	16,103	463	12,844	0	0	13,306	2,797
Moshannon	190,802	33,612	42,404	0	24	76,016	114,787
Sproul	307,138	96,545	32,550	9,033	9,223	127,532	179,606
Tiadaghton	106,001	49,667	1,387	1,206	1,206	51,054	54,948
Elk	217,181	4,816	71,305	214	528	76,122	141,059
Cornplanter	1,491	0	1,362	0	0	1,362	129
Susquehannock	260,125	56,752	92,923	20,840	23,225	119,945	140,180
Tioga	161,904	40,704	17,747	0	0	58,451	103,453
Delaware	83,519	0	4,321	0	0	4,321	79,198
Loyalsock	114,611	20,113	41,462	0	0	61,575	53,036
<b>Total</b>	<b>1,542,810</b>	<b>312,893</b>	<b>331,287</b>	<b>32,013</b>	<b>36,470</b>	<b>612,166</b>	<b>930,644</b>

\* SFL where the commonwealth owns less than fee (100%) in the subsurface estate.

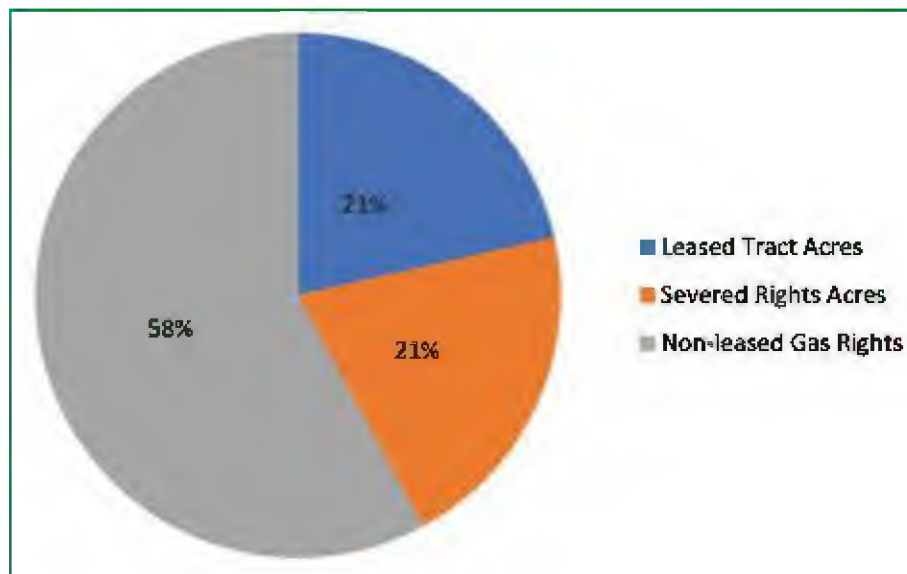


Figure 1.5. Percent of state forest land by mineral rights ownership within the Marcellus fairway.

**ATTACHMENT E**

**Oil and Gas Lease Fund Transfers to the  
Environmental Stewardship Fund and  
Hazardous Sites Cleanup Fund**

## ATTACHMENT E

Fiscal Year	Marcellus Legacy Fund Transfers & Disbursements		
	Transfer from Oil and Gas Lease Fund	Disbursement to Environmental Stewardship Fund <sup>1</sup>	Disbursement to Hazardous Sites Cleanup Fund
2013-2014 <sup>2</sup>	\$20,000,000	\$20,000,000	\$0
2014-2015	\$35,000,000	\$30,890,000	\$4,110,000
2015-2016	\$25,000,000	\$16,607,000	\$8,393,000
2016-2017	\$25,000,000	\$16,898,000	\$8,102,000
2017-2018 <sup>3</sup>	\$35,000,000	\$20,000,000	\$15,000,000
2018-2019	\$35,000,000	\$20,000,000	\$15,000,000
2019-2020	\$15,000,000	\$0 <sup>4</sup>	\$15,000,000
2020-2021	\$15,000,000	\$0 <sup>5</sup>	\$15,000,000
Total	\$205,000,000	\$124,395,000	\$74,431,000

### Environmental Stewardship Fund Transfers

Fiscal Year	Oil and Gas Lease Fund Transfer	Growing Greener Bond Debt
2013-2014	\$20,000,000	\$41,329,000
2014-2015	\$30,890,000	\$40,259,000
2015-2016	\$16,607,000	\$37,539,000
2016-2017	\$16,898,000	\$29,289,000
2017-2018	\$20,000,000	\$20,871,000
2018-2019	\$20,000,000	\$20,053,000

### Hazardous Sites Cleanup Fund Transfers

Fiscal Year	Oil and Gas Lease Fund Transfer	Capital Stock and Franchise Tax
2013-2014	\$0	\$40,000,000
2014-2015	\$4,110,000	\$40,000,000
2015-2016	\$8,393,000	\$40,000,000
2016-2017	\$8,102,000	\$40,000,000
2017-2018	\$8,826,000	\$24,403,000
2018-2019	\$15,000,000	\$13,012,000
2019-2020	\$15,000,000	\$9,520,000
2020-2021	\$15,000,000	\$18,400,000

## ATTACHMENT E

**Source:** Governor’s Executive Budgets for fiscal years for 2015-16 through 2021-22, Section H (Other Special Funds) – Environmental Stewardship Fund, Hazardous Sites Cleanup Fund and Marcellus Legacy Fund (actual receipts and disbursements, except fiscal year 2020-21, which are available receipts and disbursements) (**Attachment B-8 through B-13, B-18**).

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<sup>1</sup> The Marcellus Legacy Fund is a pass-through fund that contains money transferred from the Oil and Gas Lease Fund and the Unconventional Gas Well Fund. The Environmental Stewardship Fund and the Hazardous Sites Cleanup Fund are the only funds authorized to receive disbursements from the Marcellus Legacy Fund associated with the transfers from the Oil and Gas Lease Fund. The Environmental Stewardship Fund is also authorized to receive money from the Unconventional Gas Well Fund that is transferred to the Marcellus Legacy Fund, but the Hazardous Sites Cleanup Fund does not. Thus, to calculate the amount of money from the Oil and Gas Lease Fund that is disbursed to the Environmental Stewardship Fund, the amount disbursed to the Hazardous Sites Cleanup Fund from the Marcellus Legacy Fund is subtracted from the amount transferred into the Marcellus Legacy Fund from the Oil and Gas Lease Fund.

<sup>2</sup> 58 Pa.C.S. § 2505(b)(1) authorized the transfer of \$20,000,000 from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund in 2013, and increased the amount to \$35,000,000 each year thereafter. 58 Pa.C.S § 2505(b)(2) authorized the transfer of \$5,000,000 from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for distribution to the Hazardous Sites Cleanup Fund in 2015, and increased the amount to \$15,000,000 each year thereafter.

<sup>3</sup> 58 Pa.C.S. § 2505(b) was repealed by the 2017 amendments to the Fiscal Code and replaced with Section 1601.2-E(e) of the Fiscal Code, which authorizes annual transfers to from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund and Hazardous Sites Cleanup Fund in the amounts of \$20,000,000 and \$15,000,000, respectively.

<sup>4</sup> The Environmental Stewardship Fund received an actual disbursement of \$7,279,000 from the Marcellus Legacy Fund for this fiscal year, which is significantly less than prior years and is assumed to only include money transferred from the Unconventional Gas Well Fund.

<sup>5</sup> A disbursement of \$5,154,000 to the Environmental Stewardship Fund from the Marcellus Legacy Fund was reported as available. As with the prior year, this disbursement is assumed to be money transferred from the Unconventional Gas Well Fund.

**ATTACHMENT F**

**Oil and Gas Lease Fund (OGLF) Spending Since FY 2009-2010**

**ATTACHMENT F**  
**Oil and Gas Lease Fund (OGLF) Spending Since FY 2009-2010**

<b>Annual Spending for DCNR Operations (in thousands of dollars)</b>				
<b>Fiscal Year</b>	<b>OGLF<sup>1</sup></b>	<b>General Fund<sup>2</sup></b>	<b>Total<sup>3</sup></b>	<b>OLGF %</b>
2009-2010 <sup>4</sup>	\$18,549	\$87,747	\$106,296	17
2010-2011 <sup>5</sup>	\$24,002	\$75,856	\$99,858	24
2011-2012 <sup>6</sup>	\$59,805	\$50,720	\$110,525	54
2012-2013 <sup>7</sup>	\$67,823	\$47,844	\$115,667	59
2013-2014 <sup>8</sup>	\$101,813	\$21,903	\$123,716	82
2014-2015 <sup>9</sup>	\$132,299	\$9,135	\$141,434	94
2015-2016 <sup>10</sup>	\$85,770	\$56,805	\$142,575	60
2016-2017 <sup>11</sup>	\$49,792	\$100,929	\$150,721	33
2017-2018 <sup>12</sup>	\$58,457	\$94,016	\$152,473	38
2018-2019 <sup>13</sup>	\$47,755	\$108,792	\$156,547	31
2019-2020 <sup>14</sup>	\$69,879	\$106,857	\$187,194	43
2020-2021 <sup>15</sup>	\$52,490	\$121,678	\$176,505	31
2021-2022 <sup>16</sup>	\$51,290	\$130,141	\$181,431	28
<b>Total:</b>	<b>\$819,724</b>	<b>\$1,012,423</b>	<b>\$1,844,842</b>	<b>44</b>
<b>Additional OGLF Spending on Statewide Operations:</b>				
Statewide Operations:	\$383,000	Total OGLF transfers to the General Fund in FY 2009-2010 & FY 2010-2011		
Statewide Programs:	\$205,000	Total OGLF transfers to the Marcellus Legacy Fund from FY 2013-2014 through FY 2020-2021		

**Total OGLF Spending through FY 2020-21: \$1,356,434,000**

<sup>1</sup> Actual disbursements from the OGLF for DCNR annual operations reported in the Governor's Executive Budget two years after the close of the fiscal year; the disbursements for the current fiscal year (2020-2021) and next fiscal year (2021-2020) are based on expected disbursements.

<sup>2</sup> The actual appropriations from the General Fund for DCNR annual operations reported in the Governor's Executive Budget two years after the close of the fiscal year; the actual appropriation for the current fiscal year (2020-2021) is based on available funds and the appropriation for next fiscal year (2021-2022) is based on the Governor's Executive Budget proposal.

<sup>3</sup> Actual OGLF disbursements plus General Fund appropriations for DCNR annual operations.

<sup>4</sup> **Governor's Executive Budget 2011-2012**, pages E12.3-E12.5 (FY 2009-2010 actual appropriations for DCNR operations) & page H48 (FY 2009-2010 actual OGLF disbursements and \$203,000,000 transfer from the OGLF to the General Fund for FY 2009-2010 general government operations); General Fund transfer authorized by the General Appropriations Act of 2009, § 1912, and Section 1604-E of the Fiscal Code, 72 P.S. § 1604-E (**Attachment B-14**).

<sup>5</sup> **Governor's Executive Budget 2012-2013**, pages E12.3-E12.5 (FY 2010-2011 actual appropriations for DCNR operations & page H48 (FY 2010-2011 actual OGLF disbursements and

## ATTACHMENT F

### Oil and Gas Lease Fund (OGLF) Spending Since FY 2009-2010

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\$180,000,000 transfer from the OGLF to the General Fund for FY 2010-20122 general government operations) (**Attachment B-15**); General Fund transfer authorized by Section 1605-E(a) of the Fiscal Code, 72 P.S. § 1605-E.

<sup>6</sup> **Governor's Executive Budget 2013-2014**, pages E12.3-E12.5 (FY 2011-2012 actual appropriations for DCNR operations) & page H53 (FY 2011-2012 actual OGLF disbursements) (**Attachment B-16**).

<sup>7</sup> **Governor's Executive Budget 2014-2015**, pages E12.3-E12.5 (FY 2012-2013 actual appropriations for DCNR operations) & page H50 (FY 2012-2013 actual OGLF disbursements) (**Attachment B-17**).

<sup>8</sup> **Governor's Executive Budget 2015-2016**, pages E13-3 – E13-5 (FY 2013-2014 actual appropriations for DCNR operations) & page H49 (FY 2013-2014 actual OGLF disbursements and \$20,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2013-2014) (**Attachment B-18**).

<sup>9</sup> **Governor's Executive Budget 2016-2017**, pages E13-3 – E13-4 (FY 2014-2015 actual appropriations for DCNR operations) & page H48 (FY 2014-2015 actual OGLF disbursements and \$35,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2014-2015) (**Attachment B-8**).

<sup>10</sup> **Governor's Executive Budget 2017-2018**, pages E11-3 – E11-5 (FY 2015-2016 actual appropriations for DCNR operations) & page H51 (FY 2015-2016 actual OGLF disbursements and \$25,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2015-2016) (**Attachment B-9**).

<sup>11</sup> **Governor's Executive Budget 2018-2019**, pages E11-3 – E11-5 (FY 2016-2017 actual appropriations for DCNR operations) & page H52 (FY 2016-2017 actual OGLF disbursements and \$25,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2016-2017) (**Attachment B-10**).

<sup>12</sup> **Governor's Executive Budget 2019-2020**, pages E11-3 – E11-5 (FY 2017-2018 actual appropriations for DCNR operations) & page H52 (FY 2017-2018 actual OGLF disbursements and \$35,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2017-2018) (**Attachment B-11**).

<sup>13</sup> **Governor's Executive Budget 2020-2021**, pages E12-2 – E12-4 (FY 2018-2019 actual appropriations for DCNR operations) & page H48 (FY 2018-2019 actual OGLF disbursements and \$35,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2018-2019) (**Attachment B-12**).

<sup>14</sup> **Governor's Executive Budget 2021-2022**, pages E12-2 – E12-4 (FY 2019-2020 actual appropriations for DCNR operations) & page H74 (FY 2019-2020 actual OGLF disbursements and \$15,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2019-2020) (**Attachment B-13**).

<sup>15</sup> **Governor's Executive Budget 2021-2022**, pages E12-2 – E12-4 (FY 2020-2021 available appropriations for DCNR operations) & page H74 (FY 2020-2021 available OGLF disbursements and \$15,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2020-2021) (**Attachment B-13**).

<sup>16</sup> **Governor's Executive Budget 2021-2022**, pages E12-2 – E12-4 (FY 2021-2022 proposed appropriations for DCNR operations) & page H74 (FY 2021-2022 estimated OGLF disbursements and proposed \$15,000,000 transfer from the OGLF to the Marcellus Legacy Fund in FY 2021-2022) (**Attachment B-13**).