# TESTIMONY BY
# THE PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

## BEFORE THE
## SENATE ENVIRONMENTAL RESOURCES AND LOCAL GOVERNMENT COMMITTEES

## ON

## BENEFITS OF THE IMPACT FEE

## PRESENTED BY

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## HARRISBURG, PA

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Chairman Yaw, Chairman Hutchinson, and members of the Senate Environmental Resources and Local Government Committees:

Good morning. My name is Elam Herr, and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association.

Townships comprise 95 percent of the Commonwealth's land area and are home to more than 5.5 million Pennsylvanians — or 44 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to communities with populations of more than 60,000 residents.

Since 2012, close to $650 million in natural gas impact fees have been distributed throughout Pennsylvania. This funding has been an enormous benefit for the entire Commonwealth, its municipalities, and their residents but particularly those that who have lived with significant impacts from the industry that changed their communities, particularly in the southwest and north central areas of the state.

While natural gas drilling has brought many positives to the affected communities, including new jobs, higher wages, business growth, and royalties for gas leases, these communities have also seen first-hand the negative effects of natural gas drilling and the related industries.

Formerly quiet townships have been transformed by the drilling industry. Small rural roads that once carried a few dozen cars a day have become the site of daily traffic jams, the result of hundreds of heavy water-filled tanker trucks for fracking, stone trucks for site development, and pipe and drilling rigs transporting the needed equipment to the often mountainous and rural sites. Local and state roads and bridges have disintegrated under the weight of the loads, at times within days, if not hours.

In response, lawmakers realized that something must be done to require the industry to pay for the impacts it was causing. Instead of levying a severance tax and placing these funds at the discretion of state policymakers, they decided to impose a local natural gas impact fee on the industry and ensured that the majority of these funds went directly into the communities affected by this activity. Since its enactment in 2012, the natural gas impact fee has been directly benefitting communities all across the state, both inside and outside of the affected areas.

The natural gas impact fee, which is levied based on wells drilled since the inception of the current play, is designed to directly benefit the citizens and businesses impacted by the energy industry.

More than 60 percent of the collected funds go directly to communities impacted by drilling, with those hosting the most wells receiving the greatest portion of the funds. Today, municipalities are using the revenues for a range of eligible projects – from road and bridge infrastructure and public safety to environmental programs and planning for the future.

Local officials are cautiously using these funds to make well-thought out investments in their communities. Local roads and bridges are being improved, often-ancient road and public safety equipment is being replaced; support for volunteer fire companies is being increased; local parks are seeing upgrades; sewer project costs are being offset; local police departments are being retained, expanded, or started. And some local officials are saving a portion of these funds for major projects in capital reserve funds, as well as for a day when the industry is gone but impacts remain.

While there are those who claim that townships don't need these funds because they are not spending them fast enough, they are generally unaware of the state requirements that all municipalities must follow before spending any funds. Keep in mind that the Public Utility Commission refers to the fees for the year that they are levied yet they are not actually received by municipalities until the middle of the following year. Township officials are being fiscally conservative and must comply with budget processes and procurement requirements in state law before spending the impact fees. Finally, there is only a 9 month timeframe from when the municipalities receive funds from the PUC and when they must report on the use of the funds.

The first impact fees were received by municipalities in November and December 2012 *(referred to by the PUC as the 2011 fees)*, too late to add these funds to their 2013 budget. Instead, the townships worked some of these funds into 2013 supplemental appropriations as they carefully studied the rules to determine how the funds could be spent. When it was time to report the use of these funds in April 2013, just a few months after their receipt, the majority of the funds, $28.6 million or 62 percent, were placed into capital reserve accounts according to the PUC. Considering the short timeframe, this should come as no surprise. The second top use was for roads and public infrastructure, and $11.9 million, or 26 percent, were reported to be used for this purpose. Many heavily impacted communities had very old road equipment which was in dire need of upgrading, and many roads, including those with significant increased traffic that was avoiding the industry truck routes, were also in serious need of repair. Other reported uses for 2011 funds, were for emergency preparedness and public safety, *($3.8 million or 8 percent)*, much of which went to assist volunteer fire companies or retain or upgrade police protection; stormwater and sewer projects *($915,000 or 2 percent)*, and environmental/parks *($672,000 or 1 percent)*.

While the timeframe from when the 2012 distribution was received by townships in June-July 2013 and when townships were required to report on the use of these funds in April 2014 was nearly 10 months, townships that want to complete *(or at least start)* a project in 2013 needed to adopt a supplemental appropriation authorizing the use of the funds for a project at an advertised public meeting, place legal advertisements for bids, wait to receive and then the award the bids, and try to have the project completed before the end of the construction season, which is quite early in the most heavily impacted areas of the state. Otherwise, townships would need to budget to use the 2012 distribution in 2014.

The PUC usage reports for 2012 show that the largest share of the impact fees received by municipalities, $26.8 million or 47 percent, were allocated for roads and public infrastructure, with capital reserve coming in second at $20.6 million or 36 percent. A number of townships have told us that they are saving several years' worth of allocations in order to undertake a much-needed major road or infrastructure project that would otherwise take many years to save or require loans. Other top reported uses from the 2012 distributions include emergency preparedness and public safety at $6.5 million or 11 percent, stormwater and sewer at $1.25 million or 2 percent, and environmental and parks at $726,000 or 1 percent. The remaining 2 percent was used for judicial services, tax reductions, planning, information technology, housing, social services, and water preservation

Another challenge in planning for the use of these funds is that it is very difficult to predict what a township will receive in the following year when it is going through the budgeting process in October-December. The rates for the current year were not known until January 2015. Townships do not know how much they will receive until a few weeks before the checks arrive, which restricts advance planning. Also, the usage reports are a snapshot of how the township has used or plans to use the funds within the 10 months after receipt and does not show how capital reserve funds are later spent.

Townships are correctly being fiscally conservative in how they use the funds and PSATS has encouraged townships to use these funds primarily for capital purposes. Township officials want to create the best benefit for their communities and to ensure that they are using the funds correctly. For those receiving a significant amount, they cannot afford to pay back the funds later if the use is questioned.

Here are a few examples of specific townships and how they have used their funds:

- Lawrence Township in Clearfield County, for instance, used the funds to continue 24-hour police protection and pay off debts;
- Cumberland Township in Greene County supported its police and three volunteer fire companies while investing in new road equipment and the local park;
- Cummings Township in Lycoming County built an emergency shelter for residents; and
- Washington Township in Wyoming County replaced a bridge, a project that is benefiting everyone.

These are just a few examples. Townships receiving a small amount of funds tend to use it towards their road budget. A number of townships are using the funds to build much-needed salt storage or equipment sheds or updating volunteer fire department buildings or equipment. All of these investments directly benefit the citizens and businesses impacted by the energy industry.

The remaining 40 percent of the impact fee funding is being distributed throughout the commonwealth. In fact, every county in Pennsylvania has received funding to repair structurally deficient bridges, support county conservation districts, and undertake environmental and recreational projects. In addition, every municipality is eligible for funding to clean up the environment, convert vehicle fleets to natural gas, and install water and sewer lines in areas that desperately need it.

The Association wants to make sure this critical local funding stream is preserved and continues to directly benefit our communities, our residents, and our businesses. As such, PSATS opposes any legislation that would reduce the allocation or amount of funds distributed or otherwise made available to municipalities pursuant to Act 13 of 2012. In addition, we need to ensure that as the industry grows and additional impacts are felt by our communities that their impact fee revenues will grow proportionally, as provided by Act 13. This impact fee is being invested directly in our communities, increasing the quality of life of our residents, easing property tax burdens, and directly benefitting the Commonwealth. Without this well-designed fee on the industry, taxpayers will need to pay for the clean-up long after the industry is gone.

The arrival of the impact fee signaled a new day in Pennsylvania, one where we turned away from a past where natural resource booms destroyed those communities directly impacted by the removal of natural resources and no tools were provided for recovery. Moving forward, the new jobs and expanded economic opportunities must continue. At the same time, the industry must continue to pay for the impacts it is causing, both now and in the future.