

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 732 Session of 2019

INTRODUCED BY KAUFER, BERNSTINE, SCHLEGEL CULVER, KAUFFMAN, BARRAR, MACKENZIE, MURT, SAINATO, SAYLOR, CIRESI, SIMMONS, JONES, WEBSTER, FARRY, THOMAS, T. DAVIS, McNEILL, MULLINS AND KORTZ, MARCH 18, 2019

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JULY 13, 2020

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in realty transfer tax, further providing for
11 excluded transactions; AND PROVIDING FOR LOCAL RESOURCE <--
12 MANUFACTURING TAX CREDIT AND FOR A PENALTY.

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

15 Section 1. Section 1102-C.3(23) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
17 to read:

18 Section 1102-C.3. Excluded Transactions.--The tax imposed by
19 section 1102-C shall not be imposed upon:

20 * * *

21 (23) A transfer of real estate[:]

1 (i) for no or nominal consideration from the Commonwealth or
2 any of its instrumentalities, agencies or political subdivisions
3 to a volunteer emergency medical services agency, volunteer fire
4 company or volunteer rescue company; or

5 (ii) between two or more volunteer emergency medical
6 services agencies, volunteer fire companies or volunteer rescue
7 companies.] to or by a volunteer EMS company, volunteer fire
8 company or volunteer rescue company as those terms are defined
9 in 35 Pa.C.S. § 7802 (relating to definitions).

10 * * *

11 SECTION 1.1. THE ACT IS AMENDED BY ADDING AN ARTICLE TO <--
12 READ:

13 ARTICLE XVII-L

14 LOCAL RESOURCE MANUFACTURING TAX CREDIT

15 SECTION 1701-L. SCOPE OF ARTICLE.

16 THIS ARTICLE ESTABLISHES A LOCAL RESOURCE MANUFACTURING TAX
17 CREDIT.

18 SECTION 1702-L. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "COMPANY." A CORPORATION, PARTNERSHIP, LIMITED LIABILITY
23 COMPANY, LIMITED LIABILITY PARTNERSHIP, BUSINESS TRUST,
24 AFFILIATE, UNINCORPORATED JOINT VENTURE OR OTHER BUSINESS ENTITY
25 DOING BUSINESS IN THIS COMMONWEALTH.

26 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

27 "DOWNSTREAM COMPANY." THE TERM INCLUDES A COMPANY THAT
28 PURCHASES CHEMICAL PRODUCTS OR CHEMICAL COMPOUNDS MANUFACTURED
29 OR PROCESSED BY A QUALIFIED TAXPAYER.

30 "DRY NATURAL GAS." NATURAL GAS IN WHICH THERE ARE NO

1 APPRECIABLE NATURAL GAS LIQUIDS RECOVERABLE BY SEPARATION AT THE
2 WELLHEAD.

3 "FERTILIZER." A CHEMICAL PRODUCT DERIVED FROM PETROCHEMICALS
4 WHICH IS ADDED TO SOIL OR LAND TO INCREASE FERTILITY.

5 "NATURAL GAS." AS DEFINED IN 58 PA.C.S. § 2301 (RELATING TO
6 DEFINITIONS).

7 "NATURAL GAS LIQUIDS." AS DEFINED IN 58 PA.C.S. § 3203
8 (RELATING TO DEFINITIONS).

9 "NEW JOB." A FULL-TIME EQUIVALENT JOB CREATED DURING THE
10 CONSTRUCTION OF THE PROJECT FACILITY AND PAYING THE PREVAILING
11 MINIMUM WAGE AND BENEFIT RATES FOR EACH CRAFT OR CLASSIFICATION
12 AS DETERMINED BY THE DEPARTMENT OF LABOR AND INDUSTRY UNDER THE
13 PREVAILING WAGE ACT.

14 "PASS-THROUGH ENTITY." ANY OF THE FOLLOWING:

15 (1) A PARTNERSHIP AS DEFINED IN SECTION 301(N.0).

16 (2) A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
17 301(N.1).

18 (3) AN UNINCORPORATED ENTITY SUBJECT TO SECTION 307.21.

19 "PERMANENT JOB." A FULL-TIME EQUIVALENT JOB CREATED TO
20 SUPPORT THE ONGOING OPERATION OF THE PROJECT FACILITY.

21 "PETROCHEMICAL." CHEMICAL PRODUCTS OBTAINED FROM REFINING
22 AND PROCESSING NATURAL GAS. THE TERM DOES NOT INCLUDE
23 LIQUEFACTION OR OTHER PROCESSING OF NATURAL GAS FOR THE PURPOSE
24 OF TRANSPORT.

25 "PREVAILING WAGE ACT." THE ACT OF AUGUST 15, 1961 (P.L.987,
26 NO.442), KNOWN AS THE PENNSYLVANIA PREVAILING WAGE ACT.

27 "PROJECT FACILITY." A FACILITY LOCATED IN THIS COMMONWEALTH
28 WHICH MANUFACTURES PETROCHEMICALS OR FERTILIZERS USING DRY
29 NATURAL GAS AND WHICH REQUIRED A CAPITAL INVESTMENT OF AT LEAST
30 \$400,000,000 TO CONSTRUCT AND PLACE INTO SERVICE.

1 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
2 UNDER ARTICLES III, IV, VII, VIII, IX, XI AND XV. THE TERM DOES
3 NOT INCLUDE TAX WITHHELD UNDER SECTION 316.1.

4 "QUALIFIED TAXPAYER." A COMPANY THAT SATISFIES ALL OF THE
5 FOLLOWING:

6 (1) PURCHASES AND USES DRY NATURAL GAS PRODUCED IN THIS
7 COMMONWEALTH IN THE MANUFACTURE OF PETROCHEMICALS OR
8 FERTILIZERS AT A PROJECT FACILITY IN THIS COMMONWEALTH THAT
9 HAS BEEN PLACED IN SERVICE ON OR AFTER THE EFFECTIVE DATE OF
10 THIS SECTION.

11 (2) HAS MADE A CAPITAL INVESTMENT OF AT LEAST
12 \$400,000,000 IN ORDER TO CONSTRUCT THE PROJECT FACILITY AND
13 PLACE THE PROJECT FACILITY INTO SERVICE IN THIS COMMONWEALTH.

14 (3) HAS CREATED A MINIMUM AGGREGATE TOTAL OF 800 NEW
15 JOB AND PERMANENT JOBS.

16 (4) HAS MADE GOOD FAITH EFFORTS TO RECRUIT AND EMPLOY,
17 AND TO ENCOURAGE ANY CONTRACTORS OR SUBCONTRACTORS TO RECRUIT
18 AND EMPLOY, WORKERS FROM THE LOCAL LABOR MARKET FOR
19 EMPLOYMENT DURING THE CONSTRUCTION OF THE PROJECT FACILITY.

20 (5) HAS DEMONSTRATED THAT THE NEW JOBS CREATED AT THE
21 PROJECT FACILITY OR FOR WORK COVERED BY SECTION 1713-L ARE
22 PAID AT LEAST THE PREVAILING MINIMUM WAGE AND BENEFIT RATES
23 FOR EACH CRAFT OR CLASSIFICATION AS DETERMINED BY THE
24 DEPARTMENT OF LABOR AND INDUSTRY.

25 "TAX CREDIT." THE LOCAL RESOURCE MANUFACTURING TAX CREDIT
26 PROVIDED UNDER THIS ARTICLE.

27 "UNIT." ONE THOUSAND CUBIC FEET OF NATURAL GAS AT A
28 TEMPERATURE OF 60 DEGREES FAHRENHEIT AND AN ABSOLUTE PRESSURE OF
29 14.73 POUNDS PER SQUARE INCH, IN ACCORDANCE WITH AMERICAN GAS
30 ASSOCIATION STANDARDS AND ACCORDING TO BOYLE'S LAW FOR THE

1 MEASUREMENT OF GAS UNDER VARYING PRESSURES WITH DEVIATIONS

2 THEREFROM AS FOLLOWS:

3 (1) THE AVERAGE ABSOLUTE ATMOSPHERIC PRESSURE SHALL BE
4 ASSUMED TO BE 14.4 POUNDS TO THE SQUARE INCH, NOTWITHSTANDING
5 THE ACTUAL ELEVATION OR LOCATION OF POINT OF DELIVERY ABOVE
6 SEA LEVEL OR VARIATIONS IN THE ATMOSPHERIC PRESSURE.

7 (2) THE TEMPERATURE OF THE GAS PASSING THE METERS SHALL
8 BE DETERMINED BY THE CONTINUOUS USE OF A RECORDING
9 THERMOMETER INSTALLED SO THAT THE THERMOMETER MAY PROPERLY
10 RECORD THE TEMPERATURE OF THE GAS FLOWING THROUGH THE METERS.
11 THE ARITHMETIC AVERAGE OF THE TEMPERATURE RECORDED EACH 24-
12 OUR DAY SHALL BE USED IN COMPUTING GAS VOLUMES. IF A
13 RECORDING THERMOMETER IS NOT INSTALLED, OR IF INSTALLED AND
14 NOT OPERATING PROPERLY, AN AVERAGE FLOWING TEMPERATURE OF 60
15 DEGREES FAHRENHEIT SHALL BE USED IN COMPUTING GAS VOLUME.

16 (3) THE SPECIFIC GRAVITY OF THE GAS SHALL BE DETERMINED
17 BY TESTS MADE BY THE USE OF AN EDWARDS OR ACME GRAVITY
18 BALANCE ANNUALLY OR AT INTERVALS AS ARE FOUND NECESSARY IN
19 PRACTICE. SPECIFIC GRAVITY SHALL BE USED IN COMPUTING GAS
20 VOLUMES.

21 (4) THE DEVIATION OF THE NATURAL GAS FROM BOYLE'S LAW
22 SHALL BE DETERMINED BY TESTS ANNUALLY OR AT OTHER SHORTER
23 INTERVALS AS ARE FOUND NECESSARY IN PRACTICE. THE APPARATUS
24 AND THE METHOD TO BE USED IN MAKING THE TESTS SHALL BE IN
25 ACCORDANCE WITH RECOMMENDATIONS OF THE NATIONAL BUREAU OF
26 STANDARDS OF THE DEPARTMENT OF COMMERCE OR REPORT NO. 3 OF
27 THE GAS MEASUREMENT COMMITTEE OF THE AMERICAN GAS ASSOCIATION
28 ON THE EFFECTIVE DATE OF THIS SECTION. THE RESULTS OF THE
29 TESTS SHALL BE USED IN COMPUTING THE VOLUME OF GAS DELIVERED.
30 "UPSTREAM COMPANY." THE TERM INCLUDES A COMPANY THAT IS

1 ENGAGED IN THE EXPLORATION, DEVELOPMENT, PRODUCTION, PROCESSING,
2 REFINING OR TRANSPORTATION OF DRY NATURAL GAS IN THIS
3 COMMONWEALTH.

4 SECTION 1703-L. ELIGIBILITY.

5 IN ORDER TO BE ELIGIBLE TO RECEIVE A TAX CREDIT, A COMPANY
6 SHALL DEMONSTRATE THE FOLLOWING:

7 (1) THE COMPANY MEETS THE REQUIREMENTS OF A QUALIFIED
8 TAXPAYER.

9 (2) THE USE OF CARBON CAPTURE AND SEQUESTRATION
10 TECHNOLOGY, OR SIMILAR TECHNOLOGIES, AT THE PROJECT FACILITY
11 TO THE EXTENT IT IS COST EFFECTIVE AND FEASIBLE AT THE
12 DISCRETION OF THE QUALIFIED TAXPAYER.

13 (3) CONFIRMATION THAT THE COMPANY HAS FILED ALL REQUIRED
14 STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE TAXABLE
15 YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED BY
16 ASSESSMENT OR DETERMINATION BY THE DEPARTMENT AND NOT UNDER
17 TIMELY APPEAL.

18 SECTION 1704-L. APPLICATION AND APPROVAL OF TAX CREDIT.

19 (A) RATE.--THE TAX CREDIT SHALL BE EQUAL TO \$0.47 PER UNIT
20 OF DRY NATURAL GAS THAT IS PURCHASED AND USED IN THE
21 MANUFACTURING OF PETROCHEMICALS OR FERTILIZERS AT THE PROJECT
22 FACILITY BY A QUALIFIED TAXPAYER.

23 (B) APPLICATION.--

24 (1) A QUALIFIED TAXPAYER MAY APPLY TO THE DEPARTMENT FOR
25 A TAX CREDIT UNDER THIS SECTION.

26 (2) THE APPLICATION MUST BE SUBMITTED TO THE DEPARTMENT
27 BY MARCH 1 FOR THE TAX CREDIT CLAIMED FOR DRY NATURAL GAS
28 PURCHASED AND USED IN MANUFACTURING OF PETROCHEMICALS OR
29 FERTILIZERS BY THE QUALIFIED TAXPAYER AT THE PROJECT FACILITY
30 DURING THE PRIOR CALENDAR YEAR.

1 (3) THE APPLICATION MUST BE ON THE FORM REQUIRED BY THE
2 DEPARTMENT WHICH SHALL INCLUDE THE FOLLOWING:

3 (I) INFORMATION REQUIRED BY THE DEPARTMENT TO
4 DOCUMENT THE AMOUNT OF DRY NATURAL GAS PURCHASED AND USED
5 IN THE MANUFACTURE OF PETROCHEMICALS OR FERTILIZERS AT
6 THE PROJECT FACILITY;

7 (II) INFORMATION REQUIRED BY THE DEPARTMENT TO
8 VERIFY THAT THE APPLICANT IS A QUALIFIED TAXPAYER; AND

9 (III) ANY OTHER INFORMATION AS THE DEPARTMENT DEEMS
10 APPROPRIATE.

11 (C) REVIEW AND APPROVAL.--

12 (1) THE DEPARTMENT SHALL REVIEW THE APPLICATIONS AND
13 SHALL ISSUE AN APPROVAL OR DISAPPROVAL BY MAY 1.

14 (2) UPON APPROVAL, THE DEPARTMENT SHALL ISSUE A
15 CERTIFICATE STATING THE AMOUNT OF TAX CREDIT GRANTED FOR DRY
16 NATURAL GAS PURCHASED AND USED IN THE MANUFACTURE OF
17 PETROCHEMICALS OR FERTILIZERS AT THE PROJECT FACILITY IN THE
18 PRIOR CALENDAR YEAR.

19 (D) AVAILABILITY OF TAX CREDITS.--

20 (1) EACH FISCAL YEAR, \$26,666,668 IN TAX CREDITS SHALL
21 BE MADE AVAILABLE TO THE DEPARTMENT IN ACCORDANCE WITH THIS
22 ARTICLE.

23 (2) NO MORE THAN FOUR QUALIFIED TAXPAYERS SHALL RECEIVE
24 A TAX CREDIT ANNUALLY, FOR A MAXIMUM CREDIT OF \$6,666,667
25 EACH.

26 (3) THE DEPARTMENT, AT ITS DISCRETION, MAY ISSUE
27 UNALLOCATED CREDITS TO A QUALIFIED TAXPAYER, NOTWITHSTANDING
28 THE MAXIMUM CREDIT LIMIT UNDER PARAGRAPH (2).

29 SECTION 1705-L. USE OF TAX CREDITS.

30 (A) INITIAL USE.--PRIOR TO SALE OR ASSIGNMENT OF A TAX

1 CREDIT UNDER SECTION 1707-L, A QUALIFIED TAXPAYER MUST FIRST USE
2 A TAX CREDIT AGAINST THE QUALIFIED TAX LIABILITY INCURRED IN THE
3 TAXABLE YEAR FOR WHICH THE TAX CREDIT WAS APPROVED.

4 (B) ELIGIBILITY.--THE TAX CREDIT MAY BE APPLIED AGAINST UP
5 TO 20% OF THE QUALIFIED TAXPAYER'S QUALIFIED TAX LIABILITIES
6 INCURRED IN THE TAXABLE YEAR FOR WHICH THE TAX CREDIT WAS
7 APPROVED.

8 (C) LIMIT.--A QUALIFIED TAXPAYER THAT HAS BEEN GRANTED A TAX
9 CREDIT UNDER THIS ARTICLE SHALL BE INELIGIBLE FOR ANY OTHER TAX
10 CREDIT PROVIDED UNDER THIS ACT.

11 SECTION 1706-L. CARRYOVER, CARRYBACK AND REFUND.

12 A TAX CREDIT CANNOT BE CARRIED BACK, CARRIED FORWARD OR BE
13 USED TO OBTAIN A REFUND.

14 SECTION 1707-L. SALE OR ASSIGNMENT.

15 (A) AUTHORIZATION.--IF THE QUALIFIED TAXPAYER HOLDS A TAX
16 CREDIT THROUGH THE END OF THE CALENDAR YEAR IN WHICH THE TAX
17 CREDIT WAS GRANTED, THE QUALIFIED TAXPAYER MAY SELL OR ASSIGN A
18 TAX CREDIT, IN WHOLE OR IN PART, PROVIDED THE SALE IS EFFECTIVE
19 BY THE CLOSE OF THE FOLLOWING CALENDAR YEAR.

20 (B) APPLICATION.--

21 (1) TO SELL OR ASSIGN A TAX CREDIT, A QUALIFIED TAXPAYER
22 MUST FILE AN APPLICATION FOR THE SALE OR ASSIGNMENT OF THE
23 TAX CREDIT WITH THE DEPARTMENT. THE APPLICATION MUST BE ON A
24 FORM REQUIRED BY THE DEPARTMENT.

25 (2) TO APPROVE AN APPLICATION, THE DEPARTMENT MUST
26 RECEIVE:

27 (I) A FINDING FROM THE DEPARTMENT THAT THE APPLICANT
28 HAS:

29 (A) FILED ALL REQUIRED STATE TAX REPORTS AND
30 RETURNS FOR ALL APPLICABLE TAXABLE YEARS; AND

1 (B) PAID ANY BALANCE OF STATE TAX DUE AS
2 DETERMINED BY ASSESSMENT OR DETERMINATION BY THE
3 DEPARTMENT AND NOT UNDER TIMELY APPEAL; AND

4 (II) FOR A SALE OR ASSIGNMENT TO A COMPANY THAT IS
5 NOT AN UPSTREAM COMPANY OR DOWNSTREAM COMPANY, A
6 CERTIFICATION FROM THE QUALIFIED TAXPAYER THAT THE
7 QUALIFIED TAXPAYER HAS OFFERED TO SELL OR ASSIGN THE TAX
8 CREDIT:

9 (A) EXCLUSIVELY TO A DOWNSTREAM COMPANY FOR A
10 PERIOD OF 30 DAYS FOLLOWING APPROVAL OF THE TAX
11 CREDIT UNDER SECTION 1704-L(C); AND

12 (B) TO AN UPSTREAM COMPANY OR DOWNSTREAM COMPANY
13 FOR A PERIOD OF 30 DAYS FOLLOWING EXPIRATION OF THE
14 PERIOD UNDER CLAUSE (A).

15 (C) APPROVAL.--UPON APPROVAL BY THE DEPARTMENT, A QUALIFIED
16 TAXPAYER MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A TAX CREDIT.
17 SECTION 1708-L. PURCHASERS AND ASSIGNEES.

18 (A) TIME.--THE PURCHASER OR ASSIGNEE UNDER SECTION 1707-L
19 MUST CLAIM THE TAX CREDIT IN THE CALENDAR YEAR IN WHICH THE
20 PURCHASE OR ASSIGNMENT IS MADE.

21 (B) AMOUNT.--THE AMOUNT OF THE TAX CREDIT THAT A PURCHASER
22 OR ASSIGNEE UNDER SECTION 1707-L MAY USE AGAINST ANY ONE
23 QUALIFIED TAX LIABILITY MAY NOT EXCEED 50% OF ANY OF THE
24 QUALIFIED TAX LIABILITIES OF THE PURCHASER OR ASSIGNEE FOR THE
25 TAXABLE YEAR.

26 (C) RESALE AND ASSIGNMENT.--

27 (1) A PURCHASER UNDER SECTION 1707-L MAY NOT SELL OR
28 ASSIGN THE PURCHASED TAX CREDIT.

29 (2) AN ASSIGNEE UNDER SECTION 1707-L MAY NOT SELL OR
30 ASSIGN THE ASSIGNED TAX CREDIT.

1 (D) NOTICE.--THE PURCHASER OR ASSIGNEE UNDER SECTION 1707-L
2 SHALL NOTIFY THE DEPARTMENT OF THE SELLER OR ASSIGNOR OF THE TAX
3 CREDIT IN COMPLIANCE WITH PROCEDURES SPECIFIED BY THE
4 DEPARTMENT.

5 SECTION 1709-L. PASS-THROUGH ENTITY.

6 (A) ELECTION.--IF A PASS-THROUGH ENTITY HAS AN UNUSED TAX
7 CREDIT, THE PASS-THROUGH ENTITY MAY ELECT, IN WRITING, ACCORDING
8 TO PROCEDURES ESTABLISHED BY THE DEPARTMENT, TO TRANSFER ALL OR
9 A PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS IN
10 PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME TO
11 WHICH THE SHAREHOLDERS, MEMBERS OR PARTNERS ARE ENTITLED.

12 (B) LIMITATION.--THE SAME UNUSED TAX CREDIT UNDER SUBSECTION
13 (A) MAY NOT BE CLAIMED BY:

14 (1) THE PASS-THROUGH ENTITY; AND

15 (2) A SHAREHOLDER, MEMBER OR PARTNER OF THE PASS-THROUGH
16 ENTITY.

17 (C) AMOUNT.--THE AMOUNT OF THE TAX CREDIT THAT A TRANSFEREE
18 UNDER SUBSECTION (A) MAY USE AGAINST ANY ONE QUALIFIED TAX
19 LIABILITY MAY NOT EXCEED 20% OF ANY QUALIFIED TAX LIABILITIES
20 FOR THE TAXABLE YEAR.

21 (D) TIME.--A TRANSFEREE UNDER SUBSECTION (A) MUST CLAIM THE
22 TAX CREDIT IN THE CALENDAR YEAR IN WHICH THE TRANSFER IS MADE.

23 (E) SALE AND ASSIGNMENT.--A TRANSFEREE UNDER SUBSECTION (A)
24 MAY NOT SELL OR ASSIGN THE TAX CREDIT.

25 SECTION 1710-L. (RESERVED).

26 SECTION 1711-L. ADMINISTRATION.

27 (A) AUDITS AND ASSESSMENTS.--

28 (1) THE DEPARTMENT MAY AUDIT A TAXPAYER AWARDED A TAX
29 CREDIT TO ASCERTAIN THE VALIDITY OF THE AMOUNT AWARDED.

30 (2) THE DEPARTMENT MAY ISSUE AN ASSESSMENT AGAINST A

1 TAXPAYER FOR AN IMPROPERLY ISSUED TAX CREDIT. THE PROCEDURES,
2 COLLECTION, ENFORCEMENT AND APPEALS OF AN ASSESSMENT MADE
3 UNDER THIS SECTION SHALL BE GOVERNED BY ARTICLE II.

4 (B) GUIDELINES AND REGULATIONS.--THE DEPARTMENT SHALL
5 DEVELOP WRITTEN GUIDELINES FOR THE IMPLEMENTATION OF THIS
6 ARTICLE. THE GUIDELINES SHALL BE IN EFFECT UNTIL THE DEPARTMENT
7 PROMULGATES REGULATIONS FOR THE IMPLEMENTATION OF THE PROVISIONS
8 OF THIS ARTICLE.

9 SECTION 1712-L. REPORTS TO GENERAL ASSEMBLY.

10 (A) ANNUAL REPORT.--NO LATER THAN THE YEAR AFTER WHICH TAX
11 CREDITS ARE FIRST AWARDED UNDER THIS ARTICLE, AND EACH OCTOBER 1
12 THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT ON THE TAX
13 CREDIT PROVIDED UNDER THIS ARTICLE TO THE CHAIRPERSON AND
14 MINORITY CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE
15 SENATE, THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
16 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE
17 CHAIRPERSON AND MINORITY CHAIRPERSON OF THE FINANCE COMMITTEE OF
18 THE SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
19 FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT
20 MUST INCLUDE THE NAMES OF THE QUALIFIED TAXPAYERS UTILIZING THE
21 TAX CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT OF TAX
22 CREDITS APPROVED FOR, UTILIZED BY OR SOLD OR ASSIGNED BY A
23 QUALIFIED TAXPAYER.

24 (B) RECONCILIATION REPORT.--ON MAY 1 OF THE YEAR WHICH IS 10
25 YEARS AFTER THE YEAR IN WHICH TAX CREDITS ARE FIRST AWARDED
26 UNDER THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT TO THE SECRETARY
27 OF THE SENATE AND THE CHIEF CLERK OF THE HOUSE OF
28 REPRESENTATIVES A RECONCILIATION REPORT ON THE EFFECTIVENESS OF
29 THIS ARTICLE. THE REPORT SHALL INCLUDE, TO THE EXTENT POSSIBLE,
30 THE FOLLOWING INFORMATION FOR THE PRECEDING 10 YEARS:

1 (1) THE NAME AND BUSINESS ADDRESS OF ALL QUALIFIED
2 TAXPAYERS WHO HAVE BEEN GRANTED TAX CREDITS UNDER THIS
3 ARTICLE.

4 (2) THE AMOUNT OF TAX CREDITS GRANTED TO EACH QUALIFIED
5 TAXPAYER.

6 (3) THE TOTAL NUMBER OF JOBS CREATED BY THE QUALIFIED
7 TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY AND ANY
8 COMPANIES THAT PROVIDE GOODS, UTILITIES OR OTHER SERVICES
9 THAT SUPPORT THE BUSINESS OPERATIONS OF THE QUALIFIED
10 TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY. THIS
11 PARAGRAPH INCLUDES THE AVERAGE ANNUAL SALARY AND HOURLY WAGE
12 INFORMATION.

13 (4) THE AMOUNT OF TAXES PAID UNDER ARTICLE II BY THE
14 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY
15 AND ANY COMPANIES THAT PROVIDE GOODS, UTILITIES OR OTHER
16 SERVICES THAT SUPPORT THE BUSINESS OPERATIONS OF THE
17 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY.

18 (5) THE AMOUNT OF TAXES WITHHELD FROM EMPLOYEES OR PAID
19 BY MEMBERS, PARTNERS OR SHAREHOLDERS OF THE PASS-THROUGH
20 ENTITIES UNDER ARTICLE III OF THE QUALIFIED TAXPAYER,
21 UPSTREAM COMPANY AND DOWNSTREAM COMPANY AND ANY COMPANIES
22 THAT PROVIDE GOODS, UTILITIES OR OTHER SERVICES THAT SUPPORT
23 THE BUSINESS OPERATIONS OF THE QUALIFIED TAXPAYER, UPSTREAM
24 COMPANY AND DOWNSTREAM COMPANY.

25 (6) THE AMOUNT OF TAXES PAID UNDER ARTICLE IV BY THE
26 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY
27 AND ANY COMPANIES THAT PROVIDE GOODS, UTILITIES OR OTHER
28 SERVICES THAT SUPPORT THE BUSINESS OPERATIONS OF THE
29 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY.

30 (7) THE AMOUNT OF TAXES PAID UNDER ARTICLE XI BY THE

1 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY
2 AND ANY COMPANIES THAT PROVIDE GOODS, UTILITIES OR OTHER
3 SERVICES THAT SUPPORT THE BUSINESS OPERATIONS OF THE
4 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY.

5 (8) THE AMOUNT OF ANY OTHER STATE OR LOCAL TAXES PAID BY
6 THE QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM
7 COMPANY AND ANY COMPANIES THAT PROVIDE GOODS, UTILITIES OR
8 OTHER SERVICES THAT SUPPORT THE BUSINESS OPERATIONS OF THE
9 QUALIFIED TAXPAYER, UPSTREAM COMPANY AND DOWNSTREAM COMPANY.

10 (9) ANY OTHER INFORMATION PERTAINING TO THE ECONOMIC
11 IMPACT OF THIS ARTICLE ON THIS COMMONWEALTH.

12 (C) REDUCTION.--IF THE RECONCILIATION REPORT ISSUED UNDER
13 SUBSECTION (B) REVEALS THAT THE TOTAL AMOUNT OF THE TAX CREDITS
14 GRANTED UNDER THIS ARTICLE EXCEEDS THE TOTAL AMOUNT OF TAX
15 REVENUE REPORTED UNDER SUBSECTION (B) (4), (5), (6), (7), (8) AND
16 (9), THE REPORT MUST INCLUDE ANY RECOMMENDATION FOR CHANGES IN
17 THE CALCULATION OF THE CREDIT.

18 (D) PUBLICATION.--THE REPORTS REQUIRED BY THIS SECTION SHALL
19 BE A PUBLIC RECORD AS DEFINED UNDER SECTION 102 OF THE ACT OF
20 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW,
21 AND SHALL BE AVAILABLE ELECTRONICALLY ON THE PUBLICLY ACCESSIBLE
22 INTERNET WEBSITE OF THE DEPARTMENT. THE REPORTS REQUIRED UNDER
23 THIS SECTION MAY NOT CONTAIN "CONFIDENTIAL PROPRIETARY
24 INFORMATION" AS DEFINED IN SECTION 102 OF THE RIGHT-TO-KNOW LAW.
25 SECTION 1713-L. PREVAILING WAGE.

26 (A) APPLICATION.--A PROJECT FACILITY FOR WHICH A TAX CREDIT
27 IS SOUGHT AND AWARDED UNDER THIS ARTICLE IS DEEMED TO MEET EACH
28 OF THE MINIMUM REQUIREMENTS NECESSARY TO APPLY THE WAGE AND
29 BENEFIT RATES, AND RELATED CERTIFICATION OF PAYROLL RECORDS,
30 REQUIRED BY THE PREVAILING WAGE ACT. A QUALIFIED TAXPAYER, OR

1 THE QUALIFIED TAXPAYER'S AGENT, AND ALL CONTRACTORS AND
2 SUBCONTRACTORS, OF EVERY TIER, ENGAGED TO PERFORM ON THE PROJECT
3 FACILITY MUST COMPLY WITH ALL PROVISIONS AND REQUIREMENTS OF THE
4 PREVAILING WAGE ACT FOR ALL NEW JOBS AND FOR ALL CRAFTS OR
5 CLASSIFICATIONS PERFORMING CONSTRUCTION, RECONSTRUCTION,
6 DEMOLITION, ALTERATION AND/OR REPAIR WORK, OTHER THAN
7 MAINTENANCE WORK, UNDERTAKEN AT THE PROJECT FACILITY DURING THE
8 INITIAL CONSTRUCTION AND DURING ANY PERIOD IN WHICH TAX CREDITS
9 ARE SOUGHT AND AWARDED FOR THE PROJECT FACILITY.

10 (B) COMPLIANCE.--THE DEPARTMENT OF LABOR AND INDUSTRY SHALL
11 ENFORCE THIS SECTION AND SHALL APPLY THE SAME ADMINISTRATION AND
12 ENFORCEMENT APPLICABLE TO ANY PROJECT OF CONSTRUCTION,
13 RECONSTRUCTION, DEMOLITION, ALTERATION AND/OR REPAIR WORK, OTHER
14 THAN MAINTENANCE WORK, UNDERTAKEN PURSUANT TO THE REQUIREMENTS
15 OF THE PREVAILING WAGE ACT TO ENSURE COMPLIANCE.

16 (C) NOTIFICATION.--PRIOR TO THE SOLICITATION OF BIDS OR
17 PROPOSALS OF ANY CONTRACT OR SUBCONTRACT COVERED UNDER
18 SUBSECTION (A), THE QUALIFIED TAXPAYER, OR THE QUALIFIED
19 TAXPAYER'S AGENT, SHALL NOTIFY THE DEPARTMENT OF LABOR AND
20 INDUSTRY OF THE SOLICITATION AND REQUEST THE ISSUANCE OF A WAGE
21 AND BENEFIT RATE DETERMINATION FOR ALL CRAFTS AND
22 CLASSIFICATIONS ANTICIPATED TO PERFORM AT THE PROJECT FACILITY.
23 RATE REQUESTS SHALL BE IN CONFORMITY WITH THE PROCEDURES OF THE
24 PREVAILING WAGE ACT, AND THE DEPARTMENT OF LABOR AND INDUSTRY
25 SHALL ISSUE RATES UPON REQUEST AS REQUIRED PURSUANT TO THIS
26 SECTION AND THE PROVISIONS OF THE PREVAILING WAGE ACT.

27 (D) VIOLATION.--IN ADDITION TO ENFORCEMENT AUTHORIZED UNDER
28 THE PREVAILING WAGE ACT AND SUBSECTION (B), IF, AFTER NOTICE AND
29 HEARING, THE DEPARTMENT OF LABOR AND INDUSTRY DETERMINES THAT
30 THE QUALIFIED TAXPAYER INTENTIONALLY FAILED TO PAY OR

1 INTENTIONALLY CAUSED ANOTHER TO FAIL TO PAY PREVAILING WAGE
2 RATES OR BENEFIT RATES AS SET FORTH UNDER SECTION 11(H) OF THE
3 PREVAILING WAGE ACT FOR WORK COVERED UNDER SUBSECTION (A), OR
4 RATIFIED ANY SUCH INTENTIONAL FAILURE BY ANY CONTRACTORS OR
5 SUBCONTRACTORS OF THE QUALIFIED TAXPAYER, THE QUALIFIED TAXPAYER
6 SHALL BE REQUIRED TO REFUND 10% OF THE AMOUNT OF THE TAX CREDITS
7 AWARDED TO THE QUALIFIED TAXPAYER FOR THE FIRST FISCAL YEAR FOR
8 WHICH TAX CREDITS ARE AWARDED, IN THE CASE OF INITIAL
9 CONSTRUCTION, OR THE FISCAL YEAR IN WHICH THE INTENTIONAL
10 NONCOMPLIANCE OCCURRED AS DETERMINED BY THE DEPARTMENT.

11 (E) APPEAL.--A FINDING OF A VIOLATION UNDER SUBSECTION (D)
12 SHALL BE APPEALABLE UNDER SECTION 2.2(E)(1) OF THE PREVAILING
13 WAGE ACT AND 34 PA. CODE § 213.3 (RELATING TO APPEALS FROM
14 DETERMINATIONS OF THE SECRETARY). ANY FINAL DETERMINATION BY THE
15 APPEALS BOARD UNDER THE PREVAILING WAGE ACT MAY BE APPEALED
16 PURSUANT TO 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND
17 PROCEDURE).

18 SECTION 1714-L. APPLICABILITY.

19 THIS ARTICLE SHALL APPLY TO THE PURCHASE OF DRY NATURAL GAS
20 PRODUCED IN THIS COMMONWEALTH FOR THE PERIOD BEGINNING JANUARY
21 1, 2024, AND ENDING DECEMBER 31, 2049.

22 SECTION 1715-L. EXPIRATION.

23 THIS ARTICLE SHALL EXPIRE DECEMBER 31, 2050.

24 Section 2. The amendment of section 1102-C.3(23) shall be
25 retroactive to January 1, 2019.

26 ~~Section 3. This act shall take effect immediately.~~ <--

27 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <--

28 (1) THE ADDITION OF ARTICLE XVII-L OF THE ACT SHALL TAKE
29 EFFECT IN 60 DAYS.

30 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT

1 IMMEDIATELY.