

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1142 Session of
2007

INTRODUCED BY WAGNER, M. SMITH, DeWEESE, BELFANTI, BENNINGTON,
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SOLOBAY, WALKO, J. WHITE, YOUNGBLOOD, YUDICHAK AND
McILVAINE SMITH, MAY 18, 2007

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, MAY 18, 2007

AN ACT

1 Amending the act of June 26, 2001 (P.L.755, No.77), entitled "An
2 act establishing a special fund and account for money
3 received by the Commonwealth from the Master Settlement
4 Agreement with tobacco manufacturers; providing for home and
5 community-based care, for tobacco use prevention and
6 cessation efforts, for Commonwealth universal research
7 enhancement, for hospital uncompensated care, for health
8 investment insurance, for medical assistance for workers with
9 disabilities, for regional biotechnology research centers,
10 for the HealthLink Program, for community-based health care
11 assistance programs, for PACE reinstatement and PACENET
12 expansion, for medical education loan assistance and for
13 percentage allocation and appropriation of moneys," further
14 providing for definitions, for investment of fund and
15 accounts, for use of Tobacco Settlement Fund, for health
16 research program, for department responsibilities, for
17 National Institutes of Health funding formula and for
18 regional biotechnology research centers; establishing the
19 Jonas Salk Legacy Fund Program, the Jonas Salk Legacy Fund
20 Board and the Jonas Salk Legacy Fund; and providing for the
21 sale or assignment of Commonwealth Universal Research
22 Enhancement Program receipts and for the issuance of
23 Commonwealth Universal Research Enhancement Program bond.

24 The General Assembly of the Commonwealth of Pennsylvania

25 hereby enacts as follows:

26 Section 1. Sections 302, 303, 305 and 306 of the act of June

1 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act,
2 are amended to read:

3 Section 302. Definitions.

4 The following words and phrases when used in this chapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Accounts." The Health Endowment Account for Long-Term Hope
8 established in section 303(b) [and], the Health Venture
9 Investment Account established in section 303(c) and the
10 Biotechnology Commercialization Account established in section
11 303(d).

12 "Bioscience product." As defined in section 1702.

13 "Board." The Tobacco Settlement Investment Board established
14 in section 304(a).

15 "Commercialization activity." Any activity that assists a
16 for-profit or not-for-profit bioscience institution or
17 organization in the jurisdiction of a regional biotechnology
18 research center in the testing, production and licensing or sale
19 of a bioscience product or leads to the testing, access or
20 creation of markets for the production, licensing or sale of a
21 bioscience product. The term includes, but is not limited to,
22 legal and business consulting services and expenses, assessing
23 the patentability of bioscience products, obtaining patent
24 protection for such bioscience products in the United States and
25 internationally, testing and marketing activities for bioscience
26 products and negotiating licensing or commercialization
27 agreements with licensees as well as development of new
28 technology transfer programs.

29 "Department." The Department of Community and Economic
30 Development of the Commonwealth.

1 Section 303. Establishment of special fund and [account]
2 accounts.

3 (a) Tobacco Settlement Fund.--There is hereby established a
4 special fund known as the Tobacco Settlement Fund. Except as
5 provided in subsection (b), all payments received by the
6 Commonwealth pursuant to the Master Settlement Agreement shall
7 be deposited by the Treasury Department in the [fund] Tobacco
8 Settlement Fund.

9 (b) Health Account.--There is hereby established within the
10 [fund] Tobacco Settlement Fund the Health Endowment Account for
11 Long-Term Hope. [The] Except as provided in the act of April 9,
12 1929 (P.L.343, No.176), known as The Fiscal Code, the following
13 amounts shall be deposited by the Treasury Department into the
14 account:

15 (1) The jurisdictional payment received by the
16 Commonwealth pursuant to the Master Settlement Agreement.

17 (2) The strategic contribution payments received by the
18 Commonwealth pursuant to the Master Settlement Agreement.

19 (3) Earnings derived from the investment of the money in
20 the [fund] Tobacco Settlement Fund after deduction of
21 investment expenses, including such earnings as may have
22 accrued prior to the effective date of this chapter.

23 (4) Earnings derived from the investment of the money in
24 the Health Account after deduction of investment expenses and
25 the approved expenses of the board.

26 [(5) Money received as a result of investments from the
27 Health Venture Investment Account.]

28 (c) Health Venture Investment Account.--There is hereby
29 established within the [fund] Tobacco Settlement Fund the Health
30 Venture Investment Account. All proceeds received as a result of

investments from the Health Venture Investment Account shall be deposited into the Health Venture Investment Account.

(d) Biotechnology Commercialization Account.--There is hereby established within the Tobacco Settlement Fund the Biotechnology Commercialization Account. All proceeds received as a result of investments from the Biotechnology Commercialization Account shall be deposited into the Biotechnology Commercialization Account.

Section 305. Investment of fund and accounts.

(a) Control and management.--Notwithstanding any other provision of law, the board shall have exclusive control and authority to manage, invest and reinvest money in the fund and the Health Account in accordance with this section, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing that persons of prudence, discretion and intelligence, who are familiar with investment matters, exercise in the management of their own affairs, not in regard to speculation but in regard to permanent disposition of the funds, considering the probable income to be derived from the investments and the probable safety of their capital. The board may hold, purchase, sell, lend, assign, transfer or dispose of any securities and investments, including equity securities, in which money in the fund or the accounts has been invested and of the proceeds of the investments, including any directed commissions that have accrued to the benefit of the fund or the accounts as a consequence of the investments, and of money belonging to the fund or the accounts subject to the standard of prudence in this section.

(b) Fiduciary status of board.--The members of the board and their professional personnel shall stand in a fiduciary

1 relationship to the Commonwealth and its citizens regarding the
2 investments of the money of the fund and the accounts and shall
3 not profit, either directly or indirectly, with respect thereto.

4 (c) Custodian.--The State Treasurer shall be the custodian
5 of the fund and the accounts. All investment draws from the fund
6 or the accounts shall be made by the State Treasurer in
7 accordance with requisitions signed by the secretary of the
8 board and ratified by resolution of the board.

9 (d) Authorized investment vehicles for the fund and the
10 Health Account.--The board may invest the money in the fund and
11 the Health Account in investments that meet the standard of
12 prudence set forth in subsection (a) by acquiring any type of
13 interest in a business organization existing under the laws of
14 any jurisdiction. The liability of the fund or the Health
15 Account shall be limited to the amount of their investment under
16 this subsection.

17 (e) Additional authorized investment vehicles for the Health
18 Account.--The board in its prudent discretion may invest the
19 money in the Health Account in venture capital investments,
20 private placement investments or other alternative investments
21 of any kind, structure or manner which meet the standard of
22 prudence set forth in subsection (a). The liability of the
23 Health Account shall be limited to the amount of its investment
24 under this subsection.

25 (f) Authorized investment vehicles for the Health Venture
26 Investment Account.--The board may invest the money in the
27 Health Venture Investment Account in investments which meet the
28 standard of prudence set forth in subsection (a) by becoming a
29 limited partner in partnerships that make venture capital
30 investments by acquiring equity interests or a combination of

1 debt and equity interests in health care, biotechnology or any
2 other health-related businesses that are expected to grow
3 substantially in the future and in which the expected returns on
4 investment are to come predominantly from increases in value of
5 the equity interests and are not interests in or secured by real
6 estate. The board may invest in one or more limited partnerships
7 or comparable investment entities provided that the investment
8 guidelines and strategies of each investment entity require, in
9 the board's prudent discretion, that at least 70% of the
10 investments will be made in companies located primarily in
11 Pennsylvania or in companies willing to relocate significant
12 business operations to Pennsylvania. The liability of the fund
13 or the Health Venture Investment Account shall be limited to the
14 amount of its investment under this section.

15 (g) Requirements for venture capital investments.--The
16 [following are the] board, in its prudent discretion, may
17 establish reasonable requirements to participate in a venture
18 capital investment program undertaken by the board under
19 subsection (e) or (f). These requirements may, in the board's
20 discretion, include the following:

21 (1) Each general partner must:

22 (i) contribute 2% of the aggregate committee capital
23 as a general partner; and

24 (ii) subordinate 5% of the board's contribution in
25 terms of the distribution schedule, putting the general
26 partner in a first loss position with respect to the
27 board.

28 (2) The partnership must provide a preferred return of
29 no less than 5% to all limited partners.

30 (3) The partnership must agree to operate under a

1 prudent expert standard of care. The board shall adopt
2 policies regarding cancellation of a contract with a general
3 partner based on poor performance which may include policies
4 relating to multiple instances of indemnification or
5 substantial changes in principals.

6 (4) The board must be given a seat on any limited
7 partner advisory/valuation committee.

8 (5) The board must be reimbursed for expenses for
9 attending limited partner advisory/valuation committee
10 meetings and partnership annual meetings.

11 (6) The partnership must issue to the board audited
12 financial statements on the basis of Generally Accepted
13 Accounting Principles.

14 (g.1) Authorized investment for Biotechnology
15 Commercialization Account.--The board may invest the money in
16 the Biotechnology Commercialization Account in investments in or
17 grants to the regional biotechnology research centers
18 established under Chapter 17 to support commercialization
19 activities in the respective region of each center that meet the
20 standard of prudence set forth in subsection (a).

21 (h) Legislative declaration.--The General Assembly finds and
22 declares that authorized investments of the fund or the accounts
23 made by or on behalf of the board under this section whereby the
24 board becomes a joint owner, limited partner or stockholder in a
25 company, corporation, limited partnership, association or other
26 lawful business organization are outside the scope of the
27 original intent of and do not violate the prohibition set forth
28 in section 8 of Article VIII of the Constitution of
29 Pennsylvania.

30 Section 306. Use of Tobacco Settlement Fund.

1 (a) Annual report.--The Governor shall report on the fund in
2 the annual budget which shall include the amounts appropriated
3 to each program.

4 (b) Appropriations.--

5 (1) [The] Except as provided in the act of April 9, 1929
6 (P.L.343, No.176), known as The Fiscal Code, the General
7 Assembly hereby appropriates funds in the fund in accordance
8 with the following percentages based on actual funds received
9 in each year or upon receipt of the final annual payment:

10 (i) Eight percent for deposit into the Health
11 Account pursuant to this chapter, which shall be
12 deposited immediately upon receipt.

13 (ii) Thirteen percent for home and community-based
14 services pursuant to Chapter 5. For fiscal year 2001-
15 2002, up to \$13.5 million may be used for expanded
16 counseling, area agency on aging training and education,
17 assistive technology and for reducing waiting lists for
18 services in the Department of Aging.

19 (iii) Twelve percent for tobacco use prevention and
20 cessation programs pursuant to Chapter 7.

21 (iv) Eighteen percent for health and related
22 research pursuant to section 906 and one percent for
23 health and related research pursuant to section 909.

24 (v) Ten percent for the uncompensated care payment
25 program pursuant to Chapter 11.

26 (vi) Thirty percent for health investment insurance
27 pursuant to Chapter 13 and for the purchase of Medicaid
28 benefits for workers with disabilities pursuant to
29 Chapter 15.

30 (vii) [Eight] Four percent for the expansion of the

PACENET program pursuant to Chapter 23.

(viii) Two percent for deposit into the Health
Venture Investment Account pursuant to this chapter.

(ix) Two percent for deposit into the Biotechnology
Commercialization Account pursuant to this chapter for
commercialization activities.

(2) In addition, any Federal funds received for any of
these programs is hereby specifically appropriated to those
programs.

(c) Lapses.--Lapses shall be deposited in the Health Account
except for the following:

(1) Lapses from moneys provided for the home and
community-based care services shall be reallocated to the
home and community-based care program for use in succeeding
years.

(2) Lapses from moneys provided for the health
investment insurance program shall be reallocated to the
health investment insurance program for use in succeeding
years.

(3) Lapses from moneys provided for the health venture
investment program shall be reallocated to the Health Venture
Investment Account for use in succeeding years.

(4) Lapses from moneys provided for commercialization
activities shall be reallocated to the Biotechnology
Commercialization Account for use in succeeding years.

Section 2. Section 902 of the act is amended by adding a
definition to read:

Section 902. Definitions.

The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 * * *

3 "Direct research grant." A grant to conduct research that is
4 awarded by the National Institutes of Health, excluding all
5 contracts, cooperative agreements and those grants that are not
6 for investigator-initiated research projects ("R01" grants).

7 * * *

8 Section 3. Sections 903(b)(5), 904(3) and 908 of the act are
9 amended to read:

10 Section 903. Health research program.

11 * * *

12 (b) Advisory committee.--

13 * * *

14 (5) The committee shall meet as needed, but at least
15 [twice] once a year, to fulfill the purposes provided for in
16 this chapter. A majority of the members of the committee
17 constitutes a quorum. A majority of the members of the
18 committee has authority to act upon any matter properly
19 before it. The committee is authorized to establish rules for
20 its operation and shall hold public hearings, as necessary,
21 to obtain public input and make recommendations to the
22 department regarding research priorities, evaluation and
23 accountability procedures and related issues. Meetings of the
24 committee shall be conducted under 65 Pa.C.S. Ch. 7 (relating
25 to open meetings).

26 * * *

27 Section 904. Department responsibilities.

28 The department has the following powers and duties:

29 * * *

30 (3) Except as provided in section 905(f) and (g), review

1 applications and award research grants to applicants
2 consistent with the priorities established under paragraph
3 (2). Research grants may be awarded for a period not to
4 exceed [four] five years for each project.

5 * * *

6 Section 908. National Institutes of Health funding formula.

7 (a) Eligibility.--An institution that conducts research in
8 this Commonwealth and has received funding from the National
9 Institutes of Health during each of the three [immediately
10 preceding] most recent Federal fiscal years for which finalized
11 data is available from the National Institutes of Health as of
12 June 30 of the State fiscal year prior to the State fiscal year
13 in which the grant is awarded shall be eligible to receive a
14 grant pursuant to section 906(1). For one year from the
15 effective date of this act, an institution that has immediately
16 succeeded, by asset acquisition, the research function of
17 another institution that received National Institutes of Health
18 funding during any of the four immediately preceding fiscal
19 years shall be considered eligible to receive a grant pursuant
20 to section 906(1).

21 (b) Fund distribution.--Funds under this section shall be
22 distributed to eligible institutions as follows:

23 (1) Twenty percent shall be distributed to each
24 institution that receives more than \$175,000,000 as an
25 average amount from the National Institutes of Health during
26 each of the three [immediately preceding] most recent Federal
27 fiscal years[.] for which finalized data is available from
28 the National Institutes of Health as of June 30 of the State
29 fiscal year prior to the State fiscal year in which the grant
30 is awarded.

1 (2) Seventeen percent shall be distributed to each
2 institution that receives more than \$175,000,000 in federally
3 sponsored research and development obligations in the
4 [immediately available preceding] most recent Federal fiscal
5 year [as reported by] for which finalized data is available
6 from the National Science Foundation and receives more than
7 [\$60,000,000] \$50,000,000 in direct research grant funding as
8 an average amount from the National Institutes of Health
9 during [the three immediately preceding] each of the three
10 most recent Federal fiscal years[.] for which finalized data
11 is available as of June 30 of the State fiscal year prior to
12 the State fiscal year in which the grant is awarded.

13 (3) The remaining funds shall be distributed to eligible
14 institutions based on the percentage calculated by dividing
15 an institution's average direct research grant award from the
16 National Institutes of Health for [the three immediately
17 preceding] each of the three most recent Federal fiscal years
18 for which finalized data is available as of June 30 of the
19 State fiscal year prior to the State fiscal year in which the
20 grant is awarded by the sum of the average annual direct
21 research grant funding award from the National Institutes of
22 Health for all Pennsylvania-based eligible institutions
23 during the three [immediately available preceding] most
24 recent Federal fiscal years[.] for which finalized data is
25 available as of June 30 of the State fiscal year prior to the
26 State fiscal year in which the grant is awarded.

27 (4) An institution is not eligible to receive funds
28 under more than one paragraph of this subsection.

29 (5) No funds shall be given to an institution that
30 qualifies for a grant of less than \$25,000 under this

section. The amount of funding that would have been
distributed to such an institution shall be redistributed
proportionally to institutions that are eligible under
subsection(b)(3).

(c) Additional requirements.--An institution that receives \$400,000 or more pursuant to this section shall include the following information with its application under section 907(a):

(1) A plan for the timely licensure or commercial development of research results conducted under this section, including its management of intellectual property.

(2) Standard forms of agreement developed by the institution for use in the licensing of research results.

(3) A plan to establish affiliations, exchanges, partnerships or other cooperative efforts with postsecondary educational institutions to provide programs to train students and health professionals in the biomedical field.

(4) A description of the training opportunities provided for researchers employed by the institution relating to the licensing and commercial development of research.

(5) Outreach efforts directed toward informing businesses and business organizations regarding recent developments in research being conducted by the institutions.

(6) A plan for collaboration with an applicant, an institution, a regional biomedical research center under Chapter 17 or a for-profit corporation or other business entity to participate in the development of research.

Section 4. Section 1702 of the act is amended by adding a definition to read:

Section 1702. Definitions.

The following words and phrases when used in this chapter

shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Bioscience product." A therapeutic agent, diagnostic biomedical device, process or service related to human health that is developed or marketed by a for-profit or not-for-profit institution or organization that is in the jurisdiction of a regional biotechnology research center established under section 1703.

* * *

Section 5. Section 1703(a) and (j) of the act are amended and the section is amended by adding a subsection to read:

Section 1703. Regional biotechnology research centers.

(a) Establishment of centers.--The department, in consultation with the Department of Health, shall establish three regional biotechnology research centers to facilitate research and commercialization activity through the sharing of funds and infrastructure.

* * *

(i.1) Application for commercialization activities.--Each regional biotechnology research center created under this section, acting with the approval of its board of directors, shall annually submit an application to the department requesting funding for commercialization activities in its respective region. The application shall be based on a five-year funding strategy. The application shall include the proposed amount of money requested, the types of commercialization activities to be funded, the process for identifying the commercialization activities to be funded and the investment vehicle or vehicles to support the commercialization activities,

1 which shall include a proposed return to the Health Account as
2 contemplated by subsection (g)(3). The department may request
3 any other information deemed necessary related to the
4 application by a regional biotechnology research center. Prior
5 to the conclusion of the fifth year of each five-year funding
6 strategy, the regional biotechnology research center shall
7 develop a new five-year funding strategy on which its next five
8 annual applications will be based.

9 (j) Review and report.--

10 (1) Each regional biotechnology research center shall be
11 subject to an annual performance review by the department.
12 The department may request other materials or information
13 from a regional biotechnology research center at such other
14 frequency or interval that the department deems appropriate.

15 (2) Each regional biotechnology research center shall,
16 by November 30, 2002, and annually thereafter, prepare and
17 submit a report to the department, the Department of Health,
18 the chair and minority chair of the Appropriations Committee
19 of the Senate, the chair and minority chair of the
20 Appropriations Committee of the House of Representatives, the
21 chair and minority chair of the Community and Economic
22 Development Committee of the Senate and the chair and
23 minority chair of the Commerce and Economic Development
24 Committee of the House of Representatives. This report shall
25 be in a form and manner developed by the department working
26 in cooperation with the Department of Health and shall
27 include the following:

28 (i) The current members of the board of directors
29 for the research center.

30 (ii) A description of the research facilities,

1 including space and equipment.

2 (iii) The research center's current policies for the
3 management and development of intellectual property and
4 ownership of inventions and products created during the
5 course of research conducted through the center.

6 (iv) The research center's policies on conflicts of
7 interest and the handling of confidential material.

8 (v) A listing of all organizations and for-profit
9 and nonprofit institutions utilizing the services of the
10 research center during the prior year.

11 (vi) A listing of any licenses or other contractual
12 obligations in effect or anticipated for the intellectual
13 property developed at the research center during the
14 prior year.

15 (vii) A listing of any inventions, any patent
16 applications or patents issued, any products or other
17 intellectual property developed as a result of research
18 conducted through the research center during the prior
19 year.

20 (viii) A copy of the annual operating budget for the
21 year, with a listing of the sources of all funds,
22 including financial and in-kind services, personnel,
23 equipment or other material donations and contributions
24 by all parties involved in the research center; grants
25 obtained by or through the research center; Federal funds
26 leveraged and expenditures made, including infrastructure
27 expenditures; and administrative and staffing costs.

28 (ix) Information relating to commercialization
29 activities including:

30 (A) A list of commercialization activities

1 supported by a research center in the prior year to
2 enter or develop markets for inventions, patents
3 issued, products or other intellectual property.

4 (B) The amount of moneys expended by each for-
5 profit and not-for-profit institution and
6 organization in the preceding year on
7 commercialization activities supported by a research
8 center and the amount of any return on investment to
9 the research center from those activities.

10 (C) The amount of moneys each for-profit and
11 not-for-profit institution and organization projects
12 to spend on commercialization activities supported by
13 a research center in the current year and the return
14 on investment to the research center projected from
15 that activity.

16 (D) The name of any organization within or
17 outside this Commonwealth that has committed funding
18 to a for-profit and not-for-profit institution and
19 organization in the current year for
20 commercialization activities supported by a research
21 center and the type and amount of that funding.

22 (E) A list of potential markets for the
23 bioscience product supported by a research center and
24 any and all target populations that could benefit
25 from the commercialization activity.

26 (F) Any other information deemed necessary by
27 the department related to commercialization
28 activities supported by a research center.

29 Section 6. The act is amended by adding a chapter to read:

30 CHAPTER 29

1 BIOSCIENCE RESEARCH DEVELOPMENT

2 Section 2901. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Advisory review panel." A panel of physicians, scientists
7 and researchers engaged by the Jonas Salk Legacy Fund Board
8 under section 2903.

9 "Bioscience industry." Research and development of
10 technology, therapies and treatments relative to human health,
11 medical and life science, including medical devices, chemical
12 and biological pharmaceuticals and the biological or
13 technological delivery of such materials.

14 "Board." The Jonas Salk Legacy Fund Board established under
15 section 2903.

16 "Bonds." Bonds, notes, instruments, refunding notes and
17 other evidences of indebtedness or obligations that the
18 Pennsylvania Economic Development Financing Authority is
19 authorized to issue pursuant to this chapter.

20 "CURE." The Commonwealth Universal Research Enhancement
21 Program established under section 903.

22 "CURE participant." A recipient of funds under section 908
23 or 909 in the fiscal year immediately preceding the effective
24 date of this chapter.

25 "CURE receipts." Up to one-half of the funds required to be
26 distributed for health and related research under section
27 306(b)(1)(iv).

28 "CURE receipts bonds." Limited obligation revenue bonds
29 issued by the Pennsylvania Economic Development Financing
30 Authority pursuant to section 2906.

1 "Department." The Department of Community and Economic
2 Development of the Commonwealth.

3 "DOH." The Department of Health of the Commonwealth.

4 "Donor-directed funds." Contributions made to the Jonas Salk
5 Legacy Fund on which a donor has placed specific use conditions.

6 "Donor funds." Contributions made to the Jonas Salk Legacy
7 Fund on which no specific use conditions have been placed by the
8 donor.

9 "Economic Development Financing Law." The act of August 23,
10 1967 (P.L.251, No.102), known as the Economic Development
11 Financing Law.

12 "Financing authority." The Pennsylvania Economic Development
13 Financing Authority established under the act of August 23, 1967
14 (P.L.251, No.102), known as the Economic Development Financing
15 Law.

16 "Fund." The Jonas Salk Legacy Fund established under section
17 2904.

18 "Incubator." A facility in which small units of space are
19 leased by new companies in the bioscience industry and in which
20 management of the facility maintains or provides access to
21 business development services for use by all companies leasing
22 space in the facility.

23 "Infrastructure project." An activity designed to expand,
24 remodel, renovate, alter or construct biomedical research
25 laboratories including biology, biochemistry, cell biology,
26 microscopy, molecular biology, virology, immunology, physiology,
27 pathology and clinical research, including any of the following:

28 (1) Wet laboratories, including tissue culture
29 laboratories, anaerobic chambers, fermenters and laboratories
30 to conduct studies related to biochemistry, molecular

1 biology, cell biology, pathology, organic chemistry and
2 physical chemistry.

3 (2) Dry laboratories, including the use of computers,
4 electronics and analytic equipment.

5 (3) Special function laboratories, including the use of
6 electrophysiology, biophysics, electron microscopes, confocal
7 microscopes, laser equipment, magnetic resonance imaging,
8 electron spin resonance spectroscopy, X-ray crystallography,
9 mass spectrometry, flow cytometry and robotic equipment.

10 (4) Clinical research centers.

11 (5) Incubator facilities to commercialize the
12 development of biomedical drugs and devices.

13 "MSA payments." Payments paid or to be paid to the
14 Commonwealth under the Master Settlement Agreement.

15 "Obligee of the financing authority" or "obligee." Any of
16 the following:

17 (1) A holder or owner of CURE receipts bonds.

18 (2) A trustee or other fiduciary for any holder or owner
19 of CURE receipts bonds.

20 (3) A provider of a letter of credit, policy of
21 municipal bond insurance or other credit enhancement or
22 liquidity facility or an agreement for interest rate
23 management for CURE receipts bonds.

24 "Opt out date." The date set by the Jonas Salk Legacy Fund
25 Board for the receipt of notice from CURE participants that they
26 do not desire to participate in the program established in this
27 chapter.

28 "Project." An infrastructure project or a starter kit
29 project, as the context may require.

30 "Program." The Jonas Salk Legacy Fund Program established

1 under section 2902.

2 "Public health research." Research concerning the protection
3 and improvement of the health of populations that:

4 (1) Builds the evidence base to guide policymaking for
5 public health practice.

6 (2) Seeks to apply research studies to health practice
7 needs.

8 (3) Translates health research in a manner to facilitate
9 its application to policy, financial and organizational
10 issues that concern the delivery of health care and social
11 services.

12 (4) Produces new insights and innovative solutions to
13 community health problems.

14 (5) Addresses an important public health need, is
15 relevant to reducing health disparities and has the potential
16 for broad impact across more than one subject area.

17 "Starter kit project." An activity to renovate, furnish and
18 equip research facilities, including the acquisition of
19 equipment and advanced instrumentation, to assist in attracting
20 highly rated research faculty to the applicant.

21 Section 2902. Jonas Salk Legacy Fund Program.

22 (a) Establishment.--There is established a program to be
23 known as the Jonas Salk Legacy Fund Program. The program shall
24 provide grants to eligible applicants for projects and for the
25 purposes set forth in section 2904(b). The board shall develop
26 eligibility criteria for applicants and projects, including
27 permitted project costs, priorities in the consideration of
28 applications and guidelines for the implementation of the
29 program, including the payment of application fees. The board
30 shall insure the funds are used to support basic and applied

1 research and economic development focused on improved health.
2 The department shall submit for publication in the Pennsylvania
3 Bulletin a notice of the date that the board will begin
4 accepting grant applications.

5 (b) Advisory review panels.--

6 (1) An advisory review panel shall be engaged by the
7 board with respect to each proposal received. Its members
8 shall be individuals who are nationally recognized
9 physicians, scientists or researchers from the same or
10 similar discipline as the project proposal under review and
11 shall not be Pennsylvania residents. A member of an advisory
12 review panel shall not have a relationship, employment or
13 otherwise, with an applicant whose project is under review by
14 the panel.

15 (2) Members of an advisory review panel shall review a
16 project proposal upon receiving it from the board. The review
17 shall be conducted in a manner that recognizes scientific and
18 technical merit and commercialization potential, on the basis
19 of scientific need, scientific method, research design,
20 adequacy of facility and qualifications of the research
21 personnel. The advisory review panel shall provide its review
22 and recommendations to the board, and the board shall
23 consider the recommendations when making a funding
24 determination. The board shall place heavier weight or
25 emphasis on an advisory review panel's recommendations
26 regarding a starter kit project than those regarding an
27 infrastructure project.

28 (c) Starter kit project.--

29 (1) A CURE participant or its affiliated medical center
30 located in this Commonwealth may submit an application to the

1 board requesting a grant for a starter kit project. The
2 application shall be on a form required by the board and
3 shall include or demonstrate all of the following:

4 (i) The applicant's name and address.

5 (ii) The location of the project.

6 (iii) A description of the project.

7 (iv) A detailed description of proposed expenditures
8 for the project.

9 (v) A detailed description of other sources of
10 financing for the project, including the match required
11 under subsection (g).

12 (vi) A detailed statement by the applicant of the
13 reasons why the project will be beneficial to the
14 bioscience industry.

15 (vii) Any other information required by the board.

16 (2) Upon determining that an application is complete,
17 the board shall forward the application to the advisory
18 review panel engaged by the board for review of the
19 feasibility of the project. The board shall also review the
20 application and shall consider the advisory review panel's
21 recommendations as required by subsection (b). Upon being
22 satisfied that all requirements for awarding a grant to the
23 applicant have been met, the board may approve the
24 application and, if approved, the board shall award the grant
25 and shall notify the applicant of such approval.

26 (d) Infrastructure projects.--

27 (1) A CURE participant or its affiliated medical center
28 located in this Commonwealth may submit an application to the
29 board requesting a grant for an infrastructure project. The
30 application shall be on a form required by the board and

1 shall include or demonstrate all of the following:

2 (i) The applicant's name and address.

3 (ii) The location of the project.

4 (iii) A description of the project.

5 (iv) A detailed description of proposed expenditures
6 for the project.

7 (v) A detailed description of other sources of
8 financing for the project, including the match required
9 by subsection (g).

10 (vi) A detailed statement by the applicant of the
11 reasons why the project will be beneficial to the
12 bioscience industry.

13 (vii) Any other information required by the board.

14 (2) Upon determining that an application is complete,
15 the board shall forward the application to the advisory
16 review panel engaged by the board for review of the
17 feasibility of the project. The board shall also review the
18 application and shall consider the advisory review panel's
19 recommendations as required under subsection (b). Upon being
20 satisfied that all requirements for awarding a grant to the
21 applicant have been met, the board may approve the
22 application, and, if approved, the board shall award the
23 grant and shall notify the applicant of such approval.

24 (e) Donor funds.--Donor funds shall be transferred by the
25 department to the DOH for use in funding the types of grants
26 authorized under section 906(2) and (3) or for other public
27 health research programs.

28 (f) Donor-directed funds.--Donor-directed funds shall be
29 used, to the extent allowed by the direction, to enhance
30 existing Commonwealth programs, including the program

established under this chapter. Donor-directed funds that are required to be used for public health programs shall be transferred to the DOH to be used as directed.

(g) Limitations.--

(1) A grant awarded for an infrastructure project or a starter kit project shall not exceed 50% of the estimated cost of the project as approved by the board. The balance of the cost of the project shall be funded by the applicant from other non-State public and private sources. Moneys derived from non-State public and private sources that are used to recruit or retain faculty by an eligible applicant may be counted toward the match required by this paragraph.

(2) Subject to section 2903(1), interest earned on money in the fund shall be transferred by the department to the DOH to award grants for the public health research programs in accordance with guidelines established by the DOH and submitted annually for publication in the Pennsylvania Bulletin.

(3) Except as provided in subsection (h), CURE participants are not eligible to receive grants under the program, and recipients of grants under the program are not eligible for funding under CURE.

(h) Special provisions relating to CURE and CURE participants.--

(1) A CURE participant shall be enrolled in the program unless the CURE participant provides written notice to the board by the opt out date that it does not desire to participate in the program. If a CURE participant enrolled in the program desires to apply for a grant under this chapter, it shall apply and be approved as provided in this chapter.

1 CURE participants enrolled in the program shall also continue
2 to be eligible to receive funding under CURE through June 30,
3 2012, at the same level provided in section 908 or 909, as
4 applicable, as if none of the CURE receipts had been sold or
5 assigned under section 2905. The board shall have the
6 authority to use moneys in the fund to supplement moneys
7 available under section 908 or 909 for CURE in order to
8 continue to provide funding at this level through June 30,
9 2012. A CURE participant may use National Institutes of
10 Health funds as a match against moneys in the fund used to
11 supplement moneys available under this act for CURE in order
12 to continue to provide funding at this level through June 30,
13 2012. This commitment shall not apply to any reduction in
14 funding under CURE that occurs for reasons unrelated to the
15 sale or assignment of CURE receipts authorized under section
16 2905. After June 30, 2012, CURE participants enrolled in the
17 program shall continue to be eligible to receive funding
18 under CURE at the level then available under section 908 or
19 909.

20 (2) CURE participants that opt out of the program
21 pursuant to paragraph (1) shall continue to be eligible to
22 receive funding under CURE at the same level provided in
23 section 908 or 909, as applicable, as if none of the CURE
24 receipts had been sold or assigned pursuant to section 2905.
25 This commitment shall not apply to any reduction in funding
26 under CURE that occurs for reasons unrelated to the sale or
27 assignment of CURE receipts under section 2905.

28 (3) Notwithstanding any provision of law to the
29 contrary, the DOH is authorized to reduce the amount of a
30 grant to be awarded under CURE to a CURE participant who is

1 enrolled in the program to the extent of the amount of any
2 moneys in the fund used by the board under paragraph (1) to
3 supplement moneys available under CURE for such grant. In
4 such event, the grant agreement entered into by the DOH and
5 the CURE participant will govern the use of that portion of
6 the grant being funded by MSA payments through sections 908
7 and 909 and administered by the DOH. A separate grant
8 agreement shall be entered into by the board and the CURE
9 participant to govern the use of that portion of the grant
10 being funded by the board pursuant to paragraph (1).

11 (4) Notwithstanding any provision of law to the
12 contrary, the DOH is authorized to reduce the amount
13 available for distribution under section 906(2) and (3) to an
14 aggregate of the greater of 28.5% of all funds available to
15 the DOH under section 906 following the sale or assignment of
16 CURE receipts under section 2905 or \$10,000,000, provided
17 however, that the \$10,000,000 minimum amount shall be subject
18 to reduction in the event the amount of funds available to
19 the DOH under section 906 is reduced for reasons unrelated to
20 the sale or assignment of CURE receipts as authorized under
21 section 2905.

22 (5) Notwithstanding any provision of law to the
23 contrary, moneys received by the DOH for CURE in a fiscal
24 year may be retained by the DOH for up to an additional
25 fiscal year in order to complete the award process for a
26 particular recipient or recipients for the fiscal year in
27 which the moneys were received. The DOH may not reassign the
28 moneys to other recipients.

29 (i) Evaluation criteria relating to diversification.--In
30 reviewing applications for grants under the program, the board

1 shall evaluate the use and development of disadvantaged
2 businesses as defined in 62 Pa.C.S. § 2102 (relating to
3 definitions). The board shall develop criteria that evaluates
4 the applicant's commitment and plan to provide fair and
5 representative opportunities for disadvantaged businesses in its
6 projects and in contracts relating to its projects as well as
7 the applicant's commitment and plan to employ in the project a
8 diverse professional and scientific work force, including
9 minorities and women. In those cases where the board has cause
10 to believe that an applicant receiving a grant under this
11 chapter has failed to comply with the provisions of the
12 applicant's plan, the applicant shall be subject to sanctions.
13 The sanctions may include:

14 (1) Declaring the applicant ineligible to receive future
15 grants.

16 (2) Suspending the applicant from receiving grants for a
17 set period of time.

18 (3) Requiring repayment of a portion of the grant
19 awarded to the applicant.

20 (j) Reports.--An applicant receiving a grant under this
21 chapter shall report annually to the board on the progress of
22 the project or as often as the board deems necessary.

23 Section 2903. Jonas Salk Legacy Fund Board.

24 (a) Establishment.--There is hereby established in the
25 department the Jonas Salk Legacy Fund Board. The board shall
26 consist of the following members:

27 (1) The Secretary of Community and Economic Development
28 or his designee, who shall be chair of the board.

29 (2) The Secretary of Health or his designee, who shall
30 be secretary of the board.

1 (3) One individual appointed by each of the following:
2 the President pro tempore of the Senate, the Minority Leader
3 of the Senate, the Speaker of the House of Representatives
4 and the Minority Leader of the House of Representatives, all
5 of whom shall have professionally relevant experience and
6 none of whom may be members of the General Assembly or staff
7 of members of the General Assembly.

8 (4) Seven individuals appointed by the Governor, one of
9 whom shall be a real estate development professional, four of
10 whom shall be from the biotechnology or biomedical community,
11 one of whom shall be a commercialization professional and one
12 of whom shall be a member of the Jonas Salk family or a Jonas
13 Salk family-designated representative, in either case with
14 respect to the latter member, chosen from a list of at least
15 three people provided by the Jonas Salk family to the
16 Governor.

17 (5) Four individuals appointed by the Governor, all of
18 whom shall be representatives of an academic medical center,
19 a college or a university located in this Commonwealth. These
20 members shall be nonvoting.

21 (b) Compensation.--Members of the board shall serve without
22 compensation but shall be reimbursed for actual and reasonable
23 expenses incurred in the performance of their official duties.

24 (c) Organization.--The members shall select from among
25 themselves such officers in addition to a chairperson and
26 secretary as they shall determine.

27 (d) Terms.--Members shall serve a term of two years from the
28 date of their appointment and until their respective successors
29 are duly appointed and qualified. Members shall be eligible for
30 reappointment.

1 (e) Meetings.--The board shall meet at the call of the
2 chairperson.

3 (f) Quorum and vote.--Seven voting members of the board
4 shall constitute a quorum. The consent of at least a majority of
5 the voting members of the board in attendance at a meeting with
6 a quorum shall be necessary for the board to take action.

7 (g) Fiduciary relationship.--The members of the board shall
8 stand in a fiduciary relationship with the Commonwealth as to
9 the moneys in the fund and investments of the board.

10 (h) Liability.--Members of the board shall not be liable
11 personally on any obligations of the financing authority,
12 including the bonds of the financing authority.

13 (i) Conflict of interest.--The board shall establish
14 conflict of interest policies and procedures to which members
15 shall adhere.

16 (j) Initial appointment and vacancy.--Appointing authorities
17 shall appoint initial members to the board within 30 days of the
18 effective date of this chapter. Whenever a vacancy occurs on the
19 board, the appointing authority shall appoint a successor member
20 within 30 days of the vacancy.

21 (k) Records and meetings.--The board shall keep a record of
22 its proceedings which shall be open to inspection by the public.
23 Meetings of the board shall be conducted under 65 Pa.C.S. Ch. 7
24 (relating to open meetings).

25 (l) Staff and legal representation.--The department shall
26 provide administrative staff to the board and shall provide the
27 board with legal representation. The board shall reimburse, from
28 interest earned on moneys in the fund, the department for the
29 cost of providing these services to the board.

30 (m) Powers.--The board shall have the power and may do any

appropriate act necessary or convenient to carry out and
effectuate the purposes of this chapter. The board shall also
have the following powers and authority:

(1) To enter into contracts with investment advisors,
fund managers and other consultants and advisors as the board
deems necessary to efficiently and competently carry out the
provisions of this chapter.

(2) To solicit and accept funds from all sources.

(3) To form independent advisory boards and panels.

(4) To manage, invest and reinvest money in the fund
subject to the exercise of that degree of judgment, skill and
care under the circumstances then prevailing that persons of
prudence, discretion and intelligence who are familiar with
investment matters exercise in the management of their own
affairs, not in regard to speculation but in regard to
permanent disposition of the funds, considering the probable
income to be derived from the investments and the probable
safety of their capital.

(5) To hold, purchase, sell, lend, assign, transfer or
dispose of any securities and investments, including equity
securities, in which money in the fund or the accounts has
been invested, the proceeds of the investments, including any
directed commissions that have accrued to the benefit of the
fund as a consequence of the investments, and money belonging
to the fund subject to the standard of prudence in this
section.

Section 2904. Jonas Salk Legacy Fund.

(a) Establishment.--A special fund is hereby established
within the State Treasury to be known as the Jonas Salk Legacy
Fund. The following shall be deposited into the fund:

1 (1) Proceeds of the sale or assignment of the CURE
2 receipts to the financing authority received by the
3 Commonwealth.

4 (2) Federal funds.

5 (3) Private funds, including funds from foundations,
6 donor funds and donor-directed funds, contributed to the
7 fund.

8 (4) Moneys contributed to the fund by Commonwealth
9 agencies.

10 (5) Any other moneys appropriated by the General
11 Assembly to the fund.

12 (6) Interest earned on moneys in the fund.

13 (b) Use of funds.--Moneys in the fund shall be used for the
14 grants to be awarded under the program, for the purposes set
15 forth in this chapter to pay reasonable fees to investment
16 advisors or fund managers engaged by the board pursuant to
17 section 2903 and to pay the expenses of the board in the
18 administration of the program. Moneys in the fund are hereby
19 appropriated, upon approval of the Governor, for the purposes
20 set forth in this chapter.

21 Section 2905. Sale or assignment of CURE receipts.

22 (a) Sale or assignment.--The Commonwealth is authorized,
23 with the approval of the Governor, to sell absolutely or assign
24 irrevocably, in whole or in part, to the financing authority the
25 Commonwealth's right, title and interest in and to the MSA
26 payments to the extent of the amount of the CURE receipts.
27 References in this section to the CURE receipts shall be deemed
28 to refer to the MSA payments to the extent of the amount of the
29 CURE receipts. In order to effectuate the sale or assignment,
30 the Commonwealth shall have the authority to do all of the

1 following:

2 (1) Execute sales or irrevocable assignments of all or a
3 portion of the Commonwealth's right, title and interest in
4 and to the MSA payments to the extent of the amount of the
5 CURE receipts. If sales are utilized, each sale shall be
6 deemed a true sale of property and shall be evidenced by a
7 purchase and sale agreement and such other documentation as
8 the financing authority deems necessary or desirable.

9 (2) Effectuate the sale or assignment without regard to
10 existing laws governing other property sales or financial
11 transactions by the Commonwealth.

12 (3) Enter into covenants with the financing authority
13 regarding the use of proceeds of the sale or assignment so as
14 to protect continuing tax exemption on the financing
15 authority's tax-exempt bonds, if applicable.

16 (4) Exercise such powers in accordance with such terms
17 and conditions and documentation as the financing authority
18 deems necessary or desirable.

19 (b) Deposit of proceeds.--Proceeds received by the
20 Commonwealth from the sale or assignment of CURE receipts shall
21 be deposited into the fund.

22 (c) Payments to financing authority.--Notwithstanding any
23 provision of law to the contrary, if the Commonwealth sells or
24 assigns, in whole or in part, to the financing authority the
25 Commonwealth's right, title and interest in and to the CURE
26 receipts, then to the extent of the CURE receipts sold or
27 assigned, all moneys that otherwise would be required to be paid
28 to the DOH for CURE under section 306, and all rights to receive
29 those payments whether now existing or hereafter coming into
30 existence, shall be paid directly by the State Treasurer to the

financing authority or its trustee immediately upon receipt by the Commonwealth, deposited into a trust fund established by the financing authority and pledged to pay the CURE receipts bonds until all CURE receipts bonds, together with the interest on those bonds, and all obligations of the financing authority relating to the CURE receipts bonds are fully paid or provided for. The authority of the State Treasurer to make payments to the financing authority as provided in this subsection shall constitute a continuing appropriation, and funds to be paid pursuant to this subsection shall not lapse. All CURE receipts sold or assigned to the financing authority at all times shall be property of the financing authority and shall not be property of the Commonwealth.

(d) Bankruptcy.--The financing authority shall not have the right to commence a bankruptcy case under 11 U.S.C. Ch. 9 (relating to adjustment of debts of a municipality) so long as any CURE bonds are outstanding.

Section 2906. CURE receipt bonds.

(a) Authorization.--The financing authority may issue CURE receipts bonds in the manner provided in this chapter and in the Economic Development Financing Law for the issuance of financing authority indebtedness. In connection with the issuance of CURE receipts bonds, and in order to secure the payment of the CURE receipts bonds, the financing authority, in addition to its other powers set forth in this chapter, shall have all powers granted to it in this chapter and under the Economic Development Financing Law.

(b) Taxability.--CURE receipts bonds may be taxable or tax-exempt bonds.

(c) Use of proceeds.--The proceeds of an issue of CURE

receipts bonds shall be used to pay the purchase price for the CURE receipts; to fund any required reserves, including debt service reserves; to capitalize interest; and to pay costs of issuance, including, but not limited to, costs of obtaining credit enhancement for the CURE receipts bonds.

(d) Maturity.--CURE receipts bonds shall mature at such time or times not exceeding 40 years from their respective dates of original issue as the financing authority shall by resolution determine.

(e) Sale.--CURE receipts bonds may be sold at public sale, invited sale or private sale for the price or prices the financing authority determines.

(f) Negotiable instruments.--CURE receipts bonds shall have the qualities of negotiable instruments under 13 Pa.C.S. (relating to commercial code).

(g) Refunding.--Subject to the provisions of this chapter and the terms of CURE receipts bonds issued in accordance with this chapter, the financing authority may refund any outstanding CURE receipts bonds whether the debt represents principal or interest, in whole or in part, at any time. For the purposes of this subsection, the term "refund" and its variations means the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

(h) Interest rate management.--With respect to bonds, the financing authority may negotiate and enter into interest rate exchange agreements, interest rate cap agreements, collar agreements, corridor agreements, ceiling agreements, floor agreements, forward agreements, float agreements and other similar agreements, which, in the judgment of the financing

authority, will assist the financing authority in managing the interest costs of the financing authority.

(i) No debt or liability of Commonwealth.--

(1) CURE receipts bonds issued under this chapter shall not be a debt or liability of the Commonwealth or any political subdivision and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth or any political subdivision, legal, moral or otherwise.

(2) CURE receipts bonds shall be payable solely from the following:

(i) The proceeds of CURE receipts bonds.

(ii) The CURE receipts sold or assigned to the financing authority.

(3) All CURE receipts bonds shall contain on their faces a statement to the effect that:

(i) The financing authority is obligated to pay the principal of or the interest on the CURE receipts bonds only from its revenues, receipts or funds pledged or available for their payment as authorized in this chapter.

(ii) Neither the Commonwealth nor any political subdivision is obligated to pay the principal or interest.

(iii) Neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision is pledged to the payment of the principal of or the interest on the CURE receipts bonds.

(j) Nonliability.--No financing authority board member, employee of the financing authority or person executing the CURE receipts bonds shall be liable personally on any CURE receipts

bonds by reason of their issuance. CURE receipts bonds shall contain a statement of the limitation set forth in this subsection.

(k) CURE receipts bonds deemed valid.--Any CURE receipts bond reciting in substance that it has been issued by the financing authority to accomplish the public purposes of this chapter shall be conclusively deemed in any suit, action or proceeding involving the validity or enforceability of the CURE receipts bonds or security for the bonds to have been issued for such purpose.

(l) Notice and challenges.--

(1) The financing authority shall file a copy of any resolution authorizing the issuance of CURE receipts bonds adopted by it for public inspection in its office and in the office of the secretary of the department, and shall publish in the Pennsylvania Bulletin a notice stating the fact and date of the adoption, the places where the resolution has been so filed for public inspection, the date of publication of the notice and that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of CURE receipts bonds provided for by the resolution, or the validity of any covenants, agreements or contract provided for by such resolution, shall be commenced within ten days after the publication of the notice.

(2) Upon publication of notice in the Pennsylvania Bulletin and if no action or proceeding questioning the validity or proper authorization of CURE receipts bonds or the validity of any covenants, agreements or contracts provided for by the resolution shall be commenced within ten days after the publication of the notice in the Pennsylvania

1 Bulletin, then all residents, taxpayers and all other persons
2 forever shall be barred and foreclosed from instituting or
3 commencing any action or proceeding in any court or pleading
4 any defense to any action or proceedings, questioning the
5 validity or proper authorization of such CURE receipts bonds
6 or the validity of the covenants, agreements or contracts,
7 and the CURE receipts bonds, covenants, agreements and
8 contracts shall be conclusively deemed to be valid and
9 binding obligations in accordance with their terms and tenor.

10 (3) After the issuance of CURE receipts bonds, all CURE
11 receipts bonds shall be conclusively presumed to be fully
12 authorized and issued by all the laws of this Commonwealth,
13 and any person shall be estopped from questioning their sale,
14 execution or delivery by the financing authority.

15 (m) Contracts with obligees of financing authority.--Except
16 as otherwise provided in any resolution of the financing
17 authority authorizing or awarding CURE receipt bonds, the terms
18 of the CURE receipts bonds and of this chapter in effect when
19 the CURE receipts bonds were authorized shall constitute a
20 contract between the financing authority and obligees of the
21 financing authority, subject to modification in such manner as
22 the resolution, the trust indenture securing the CURE receipts
23 bonds or the CURE receipts bonds shall provide.

24 (n) Commonwealth pledge; limitation of powers.--

25 (1) The Commonwealth pledges to and agrees with each
26 obligee of the financing authority that the Commonwealth will
27 not limit or alter the rights and powers vested in the
28 financing authority or otherwise created by this chapter in
29 any manner inconsistent with the obligations of the financing
30 authority to its obligees until all CURE receipts bonds at

1 any time issued, together with the interest on the CURE
2 receipts bonds, are fully paid and discharged.

3 (2) If and to the extent that the Commonwealth sells or
4 assigns CURE receipts pursuant to section 2905, the
5 Commonwealth pledges to and agrees with each obligee of the
6 financing authority that the Commonwealth will not abolish or
7 reduce the financing authority's rights to receive amounts
8 set forth in section 2905(c), including, but not limited to,
9 abolishing or reducing the amounts required to be transferred
10 to the DOH under section 306.

11 (o) CURE receipts bonds to be legal investments.--

12 (1) CURE receipts bonds issued pursuant to this chapter
13 are securities in which all of the following may properly and
14 legally invest funds, including capital, deposits or other
15 funds in their control or belonging to them:

16 (i) Government agencies.

17 (ii) Insurance companies.

18 (iii) Trust companies.

19 (iv) Banking associations, banking corporations and
20 savings banks.

21 (v) Investment companies.

22 (vi) Executors, trustees and other fiduciaries.

23 (vii) Trustees of any retirement, pension or annuity
24 fund or system of the Commonwealth.

25 (2) CURE receipts bonds issued by the financing
26 authority are securities that may properly and legally be
27 deposited with and received by a government agency for any
28 purpose for which the deposit of bonds or other obligations
29 of the Commonwealth are authorized by law.

30 (p) Additional rights.--An obligee of the financing

1 authority shall have the right in addition to all other rights
2 that may be conferred on the obligee, subject only to any
3 contractual restrictions binding upon the obligee:

4 (1) By mandamus, suit, action or proceeding at law or in
5 equity, to compel the financing authority and the members,
6 officers, agents or employees of the financing authority to
7 perform each and every term, provision and covenant contained
8 in any bond or contract of the financing authority with or
9 for the benefit of the obligee and to require the carrying
10 out of any or all covenants and agreements of the financing
11 authority and the fulfillment of all duties imposed upon the
12 financing authority by this chapter.

13 (2) By proceeding in equity, to obtain an injunction
14 against any acts or things that may be unlawful or the
15 violation of any of the rights of the obligee of the
16 financing authority.

17 (3) To require the financing authority to account as if
18 it were the trustee of an express trust for the obligees of
19 the financing authority for any pledged revenues received.

20 (4) To enforce a pledge of or security interest in
21 revenues of the financing authority securing payment of the
22 CURE receipts bonds against all Commonwealth and local public
23 officials in possession of any revenues at any time, which
24 revenues may be collected directly from such officials upon
25 notice by the obligee of the financing authority or a trustee
26 for application to the payment of the CURE receipts bonds as
27 and when due for deposits in any sinking, bond or debt
28 service fund established with the trustee at the times and in
29 the amounts specified in the CURE receipts bonds or the
30 resolution or indenture or trust agreement securing the CURE

receipts bonds. Any Commonwealth or local public official in possession of any revenues shall make payment against receipt and shall thereby be discharged from any further liability or responsibility for the revenues. If the payment is to an obligee of the financing authority, it shall be made against surrender of the CURE receipts bonds to the payor for delivery to the financing authority in the case of payment in full, otherwise, it shall be made against production of the CURE receipts bonds for notation on the bonds of the amount of the payment. The provisions of this section with respect to the enforceability and collection of revenues that secure CURE receipts bonds of the financing authority shall supersede any contrary or inconsistent statutory provision or rule of law.

(5) This subsection shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating the financing of the financing authority by assuring to the obligees of the financing authority the full and immediate benefit of the security for the financing without delay, diminution or interference based on any statute, decision, ordinance or administrative rule or practice.

(q) Validity of pledge.--Any pledge or grant of a lien on or security interest in CURE receipts made by the financing authority shall be valid and binding from the time when the pledge is made. The CURE receipts so pledged and thereafter received by the financing authority shall immediately be subject to the lien of any such pledge, lien or security interest without any physical delivery of the CURE receipts or further act. The lien of the pledge or security interest shall be valid

1 and binding as against all parties having claims of any kind in
2 tort, contract or otherwise against the financing authority
3 irrespective of whether the parties have notice of any such
4 pledge. Neither the resolution nor any other instrument of the
5 financing authority by which a pledge, lien or security interest
6 is created need be recorded or filed to perfect such pledge or
7 security interest.

8 (r) Security interest in funds and accounts.--Any moneys
9 deposited in any fund created by the financing authority pledged
10 to be used to pay debt service on CURE receipts bonds of the
11 financing authority, including any sinking fund or debt service
12 reserve fund, and all investments and proceeds of investments
13 thereof, shall, without further action or filing, be subjected
14 to a perfected security interest for the obligees of the
15 financing authority with respect to the CURE receipts bonds
16 until such moneys or investments shall be disbursed in
17 accordance with this chapter and subject to the terms of any
18 trust indenture or other contract between the financing
19 authority and the obligees of the financing authority with
20 respect to the CURE receipts bonds.

21 (s) Exemption from State and local taxation.--The
22 effectuation of the purposes of the financing authority is for
23 the benefit of the people of this Commonwealth, for the increase
24 of commerce and prosperity and for the improvement of health,
25 safety, welfare and living conditions. CURE receipts bonds
26 issued by the financing authority, the transfer and the income
27 from the CURE receipts bonds, including profit made on their
28 sale, are free from State and local taxation within this
29 Commonwealth. This exclusion under this subsection shall not
30 extend to gift, estate, succession or inheritance taxes or any

1 other taxes not levied directly on the CURE receipts bonds,
2 their transfer, the income from the CURE receipts bonds or the
3 realization of profits on their sale.

4 (t) Exemptions from Federal taxation.--

5 (1) If the CURE receipts bonds issued by the financing
6 authority are tax-exempt bonds for which Federal law requires
7 a private activity volume cap allocation, the department may
8 issue an allocation upon receipt of a written request by the
9 financing authority. An allocation must be issued by the
10 department prior to the approval of the resolution
11 authorizing the issuance of the bonds by the financing
12 authority.

13 (2) If gubernatorial approval is required by Federal or
14 State law, the Governor may approve the issuance of the CURE
15 receipts bonds by the financing authority upon receipt of
16 written request for approval from the financing authority.
17 The written request must state all of the following:

18 (i) The financing authority has conducted a public
19 hearing, with appropriate public notice, concerning the
20 purposes for which the bonds are to be issued.

21 (ii) A description of the project or projects that
22 will benefit from the grants being funded by the bonds.

23 (iii) A description of the grant or grants awarded
24 for the project or projects.

25 (iv) A summary of the comments made and questions
26 posed at the public hearing.

27 (u) Rights and remedies of obligees.--The rights and
28 remedies conferred upon or granted to obligees of the financing
29 authority pursuant to this chapter shall be in addition to and
30 not in limitation of rights and remedies lawfully granted to

1 obligees of the authority by resolution providing for the
2 issuance of bonds or by any trust agreement or another agreement
3 under which the CURE receipts bonds may be issued or secured.

4 Section 7. This act shall take effect immediately.