

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1142 Session of 2007

INTRODUCED BY WAGNER, M. SMITH, DeWEESE, BELFANTI, BENNINGTON, CREIGHTON, CURRY, DePASQUALE, FABRIZIO, FRANKEL, FREEMAN, GERGELY, GIBBONS, HORNAMAN, KORTZ, KOTIK, KULA, LEACH, MAHONEY, MANN, MARKOSEK, McGEEHAN, McILHATTAN, SANTONI, SOLOBAY, WALKO, J. WHITE, YOUNGBLOOD, YUDICHAK, McILVAINE SMITH, COSTA, PALLONE AND EACHUS, MAY 18, 2007

AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 13, 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

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

3 (d) Biotechnology Commercialization Account.--There is  
4 hereby established within the Tobacco Settlement Fund the  
5 Biotechnology Commercialization Account. All proceeds received <—  
6 as a result of investments from INTEREST EARNED ON MONEYS IN the <—  
7 Biotechnology Commercialization Account shall be deposited into <—  
8 the Biotechnology Commercialization Account. CREDITED TO THE <—  
9 ACCOUNT. MONEYS IN THE ACCOUNT SHALL ONLY BE USED TO FUND  
10 APPLICATIONS SUBMITTED AND APPROVED UNDER CHAPTER 17.

11 Section 305. Investment of fund and accounts.

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

1 (b) Fiduciary status of board.--The members of the board and  
2 their professional personnel shall stand in a fiduciary  
3 relationship to the Commonwealth and its citizens regarding the  
4 investments of the money of the fund and the accounts and shall  
5 not profit, either directly or indirectly, with respect thereto.

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

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

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

27 (f) Authorized investment vehicles for the Health Venture  
28 Investment Account.--The board may invest the money in the  
29 Health Venture Investment Account in investments which meet the  
30 standard of prudence set forth in subsection (a) by becoming a

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

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

- 23 (1) Each general partner must:
- 24 (i) contribute 2% of the aggregate committee capital  
25 as a general partner; and
- 26 (ii) subordinate 5% of the board's contribution in  
27 terms of the distribution schedule, putting the general  
28 partner in a first loss position with respect to the  
29 board.

30 (2) The partnership must provide a preferred return of

1 no less than 5% to all limited partners.

2 (3) The partnership must agree to operate under a  
3 prudent expert standard of care. The board shall adopt  
4 policies regarding cancellation of a contract with a general  
5 partner based on poor performance which may include policies  
6 relating to multiple instances of indemnification or  
7 substantial changes in principals.

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

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

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

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

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

1 Pennsylvania.

2 Section 306. Use of Tobacco Settlement Fund.

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

6 (b) Appropriations.--

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

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

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

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

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

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

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

1 Chapter 15.

2 (vii) [Eight] Four percent for the expansion of the  
3 PACENET program pursuant to Chapter 23.

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

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

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

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

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

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

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

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

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

30 Section 902. Definitions.

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

4 \* \* \*

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

9 \* \* \*

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

12 Section 903. Health research program.

13 \* \* \*

14 (b) Advisory committee.--

15 \* \* \*

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

28 \* \* \*

29 Section 904. Department responsibilities.

30 The department has the following powers and duties:

1 \* \* \*

2 (3) Except as provided in section 905(f) and (g), review  
3 applications and award research grants to applicants  
4 consistent with the priorities established under paragraph  
5 (2). Research grants may be awarded for a period not to  
6 exceed [four] five years for each project.

7 \* \* \*

8 Section 908. National Institutes of Health funding formula.

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

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

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

1 fiscal year prior to the State fiscal year in which the grant  
2 is awarded.

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

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

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

1           (5) No funds shall be given to an institution that  
2           qualifies for a grant of less than \$25,000 under this  
3           section. The amount of funding that would have been  
4           distributed to such an institution shall be redistributed  
5           proportionally to institutions that are eligible under  
6           subsection(b)(3).

7           (c) Additional requirements.--An institution that receives  
8 \$400,000 or more pursuant to this section shall include the  
9 following information with its application under section 907(a):

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

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

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

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

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

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

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

1 Section 1702. Definitions.

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

5 \* \* \*

6 "Bioscience product." A therapeutic agent, diagnostic  
7 biomedical device, process or service related to human health  
8 that is developed or marketed by a for-profit or not-for-profit  
9 institution or organization that is in the jurisdiction of a  
10 regional biotechnology research center established under section  
11 1703.

12 \* \* \*

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

15 Section 1703. Regional biotechnology research centers.

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

21 \* \* \*

22 (i.1) Application for commercialization activities.--Each  
23 regional biotechnology research center created under this  
24 section, acting with the approval of its board of directors,  
25 shall annually submit an application to the department  
26 requesting funding FROM THE BIOTECHNOLOGY COMMERCIALIZATION ←  
27 ACCOUNT for commercialization activities in its respective  
28 region. The application shall be based on a five-year funding  
29 strategy. The application shall include the proposed amount of  
30 money requested, the types of commercialization activities to be

1 funded, the process for identifying the commercialization  
2 activities to be funded and the investment vehicle or vehicles  
3 to support the commercialization activities. which shall include <—  
4 a proposed return to the Health Account as contemplated by  
5 subsection (g)(3). REGIONAL BIOTECHNOLOGY RESEARCH EARNINGS ON <—  
6 FUNDS RECEIVED FROM THE BIOTECHNOLOGY COMMERCIALIZATION ACCOUNT  
7 UNDER THIS SUBSECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF  
8 SUBSECTION (G)(3). The department may request any other  
9 information deemed necessary related to the application by a  
10 regional biotechnology research center. Prior to the conclusion  
11 of the fifth year of each five-year funding strategy, the  
12 regional biotechnology research center shall develop a new five-  
13 year funding strategy on which its next five annual applications  
14 will be based.

15 (j) Review and report.--

16 (1) Each regional biotechnology research center shall be  
17 subject to an annual performance review by the department.  
18 The department may request other materials or information  
19 from a regional biotechnology research center at such other  
20 frequency or interval that the department deems appropriate.

21 (2) Each regional biotechnology research center shall,  
22 by November 30, 2002, and annually thereafter, prepare and  
23 submit a report to the department, the Department of Health,  
24 the chair and minority chair of the Appropriations Committee  
25 of the Senate, the chair and minority chair of the  
26 Appropriations Committee of the House of Representatives, the  
27 chair and minority chair of the Community and Economic  
28 Development Committee of the Senate and the chair and  
29 minority chair of the Commerce and Economic Development  
30 Committee of the House of Representatives. This report shall

1 be in a form and manner developed by the department working  
2 in cooperation with the Department of Health and shall  
3 include the following:

4 (i) The current members of the board of directors  
5 for the research center.

6 (ii) A description of the research facilities,  
7 including space and equipment.

8 (iii) The research center's current policies for the  
9 management and development of intellectual property and  
10 ownership of inventions and products created during the  
11 course of research conducted through the center.

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

14 (v) A listing of all organizations and for-profit  
15 and nonprofit institutions utilizing the services of the  
16 research center during the prior year.

17 (vi) A listing of any licenses or other contractual  
18 obligations in effect or anticipated for the intellectual  
19 property developed at the research center during the  
20 prior year.

21 (vii) A listing of any inventions, any patent  
22 applications or patents issued, any products or other  
23 intellectual property developed as a result of research  
24 conducted through the research center during the prior  
25 year.

26 (viii) A copy of the annual operating budget for the  
27 year, with a listing of the sources of all funds,  
28 including financial and in-kind services, personnel,  
29 equipment or other material donations and contributions  
30 by all parties involved in the research center; grants

1 obtained by or through the research center; Federal funds  
2 leveraged and expenditures made, including infrastructure  
3 expenditures; and administrative and staffing costs.

4 (ix) Information relating to commercialization  
5 activities including:

6 (A) A list of commercialization activities  
7 supported by a research center in the prior year to  
8 enter or develop markets for inventions, patents  
9 issued, products or other intellectual property.

10 (B) The amount of moneys expended by each for-  
11 profit and not-for-profit institution and  
12 organization in the preceding year on  
13 commercialization activities supported by a research  
14 center and the amount of any return on investment to  
15 the research center from those activities.

16 (C) The amount of moneys each for-profit and  
17 not-for-profit institution and organization projects  
18 to spend on commercialization activities supported by  
19 a research center in the current year and the return  
20 on investment to the research center projected from  
21 that activity.

22 (D) The name of any organization within or  
23 outside this Commonwealth that has committed funding  
24 to a for-profit and not-for-profit institution and  
25 organization in the current year for  
26 commercialization activities supported by a research  
27 center and the type and amount of that funding.

28 (E) A list of potential markets for the  
29 bioscience product supported by a research center and  
30 any and all target populations that could benefit

1 from the commercialization activity.

2 (F) Any other information deemed necessary by  
3 the department related to commercialization  
4 activities supported by a research center.

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

6 CHAPTER 29

7 BIOSCIENCE RESEARCH DEVELOPMENT

8 Section 2901. Definitions.

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

12 "Advisory review panel." A panel of physicians, scientists  
13 and researchers engaged by the Jonas Salk Legacy Fund Board  
14 under section 2903.

15 "Bioscience industry." Research and development of  
16 technology, therapies and treatments relative to human health,  
17 medical and life science, including medical devices, chemical  
18 and biological pharmaceuticals and the biological or  
19 technological delivery of such materials.

20 "Board." The Jonas Salk Legacy Fund Board established under  
21 section 2903.

22 "Bonds." Bonds, notes, instruments, refunding notes and  
23 other evidences of indebtedness or obligations that the  
24 Pennsylvania Economic Development Financing Authority is  
25 authorized to issue pursuant to this chapter.

26 "CURE." The Commonwealth Universal Research Enhancement  
27 Program established under section 903.

28 "CURE participant." A recipient of funds under section 908  
29 or 909 in the fiscal year immediately preceding the effective  
30 date of this chapter.

1 "CURE receipts." Up to one-half of the funds required to be  
2 distributed for health and related research under section  
3 306(b)(1)(iv).

4 "CURE receipts bonds." Limited obligation revenue bonds  
5 issued by the Pennsylvania Economic Development Financing  
6 Authority pursuant to section 2906.

7 "Department." The Department of Community and Economic  
8 Development of the Commonwealth.

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

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

12 "Donor funds." Contributions made to the Jonas Salk Legacy  
13 Fund on which no specific use conditions have been placed by the  
14 donor.

15 "Economic Development Financing Law." The act of August 23,  
16 1967 (P.L.251, No.102), known as the Economic Development  
17 Financing Law.

18 "Financing authority." The Pennsylvania Economic Development  
19 Financing Authority established under the act of August 23, 1967  
20 (P.L.251, No.102), known as the Economic Development Financing  
21 Law.

22 "Fund." The Jonas Salk Legacy Fund established under section  
23 2904.

24 "Incubator." A facility in which small units of space are  
25 leased by new companies in the bioscience industry and in which  
26 management of the facility maintains or provides access to  
27 business development services for use by all companies leasing  
28 space in the facility.

29 "Infrastructure project." An activity designed to expand,  
30 remodel, renovate, alter or construct biomedical research

1 laboratories including biology, biochemistry, cell biology,  
2 microscopy, molecular biology, virology, immunology, physiology,  
3 pathology and clinical research, including any of the following:

4 (1) Wet laboratories, including tissue culture  
5 laboratories, anaerobic chambers, fermenters and laboratories  
6 to conduct studies related to biochemistry, molecular  
7 biology, cell biology, pathology, organic chemistry and  
8 physical chemistry.

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

11 (3) Special function laboratories, including the use of  
12 electrophysiology, biophysics, electron microscopes, confocal  
13 microscopes, laser equipment, magnetic resonance imaging,  
14 electron spin resonance spectroscopy, X-ray crystallography,  
15 mass spectrometry, flow cytometry and robotic equipment.

16 (4) Clinical research centers.

17 (5) Incubator facilities to commercialize the  
18 development of biomedical drugs and devices.

19 "MSA payments." Payments paid or to be paid to the  
20 Commonwealth under the Master Settlement Agreement.

21 "Obligee of the financing authority" or "obligee." Any of  
22 the following:

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

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

26 (3) A provider of a letter of credit, policy of  
27 municipal bond insurance or other credit enhancement or  
28 liquidity facility or an agreement for interest rate  
29 management for CURE receipts bonds.

30 "Opt out date." The date set by the Jonas Salk Legacy Fund

1 Board for the receipt of notice from CURE participants that they  
2 do not desire to participate in the program established in this  
3 chapter.

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

6 "Program." The Jonas Salk Legacy Fund Program established  
7 under section 2902.

8 "Public health research." Research concerning the protection  
9 and improvement of the health of populations that:

10 (1) Builds the evidence base to guide policymaking for  
11 public health practice.

12 (2) Seeks to apply research studies to health practice  
13 needs.

14 (3) Translates health research in a manner to facilitate  
15 its application to policy, financial and organizational  
16 issues that concern the delivery of health care and social  
17 services.

18 (4) Produces new insights and innovative solutions to  
19 community health problems.

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

23 "Starter kit project." An activity to renovate, furnish and  
24 equip research facilities, including the acquisition of  
25 equipment and advanced instrumentation, to assist in attracting  
26 highly rated research faculty to the applicant.

27 Section 2902. Jonas Salk Legacy Fund Program.

28 (a) Establishment.--There is established a program to be  
29 known as the Jonas Salk Legacy Fund Program. The program shall  
30 provide grants to eligible applicants for projects and for the

1 purposes set forth in section 2904(b). The board shall develop  
2 eligibility criteria for applicants and projects, including  
3 permitted project costs, priorities in the consideration of  
4 applications and guidelines for the implementation of the  
5 program, including the payment of application fees. The board  
6 shall insure the funds are used to support basic and applied  
7 research and economic development focused on improved health.  
8 The department shall submit for publication in the Pennsylvania  
9 Bulletin a notice of the date that the board will begin  
10 accepting grant applications.

11 (b) Advisory review panels.--

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

21 (2) Members of an advisory review panel shall review a  
22 project proposal upon receiving it from the board. The review  
23 shall be conducted in a manner that recognizes scientific and  
24 technical merit and commercialization potential, on the basis  
25 of scientific need, scientific method, research design,  
26 adequacy of facility and qualifications of the research  
27 personnel. The advisory review panel shall provide its review  
28 and recommendations to the board, and the board shall  
29 consider the recommendations when making a funding  
30 determination. The board shall place heavier weight or

emphasis on an advisory review panel's recommendations regarding a starter kit project than those regarding an infrastructure project.

(c) Starter kit project.--

(1) A CURE participant or its affiliated medical center located in this Commonwealth may submit an application to the board requesting a grant for a starter kit project. The application shall be on a form required by the board and shall include or demonstrate all of the following:

(i) The applicant's name and address.

(ii) The location of the project.

(iii) A description of the project.

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

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

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

(vii) Any other information required by the board.

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

1 and shall notify the applicant of such approval.

2 (d) Infrastructure projects.--

3 (1) A CURE participant or its affiliated medical center  
4 located in this Commonwealth may submit an application to the  
5 board requesting a grant for an infrastructure project. The  
6 application shall be on a form required by the board and  
7 shall include or demonstrate all of the following:

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

9 (ii) The location of the project.

10 (iii) A description of the project.

11 (iv) A detailed description of proposed expenditures  
12 for the project.

13 (v) A detailed description of other sources of  
14 financing for the project, including the match required  
15 by subsection (g).

16 (vi) A detailed statement by the applicant of the  
17 reasons why the project will be beneficial to the  
18 bioscience industry.

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

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

30 (e) Donor funds.--Donor funds shall be transferred by the

1 department to the DOH for use in funding the types of grants  
2 authorized under section 906(2) and (3) or for other public  
3 health research programs.

4 (f) Donor-directed funds.--Donor-directed funds shall be  
5 used, to the extent allowed by the direction, to enhance  
6 existing Commonwealth programs, including the program  
7 established under this chapter. Donor-directed funds that are  
8 required to be used for public health programs shall be  
9 transferred to the DOH to be used as directed.

10 (g) Limitations.--

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

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

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

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

1           (1) A CURE participant shall be enrolled in the program  
2 unless the CURE participant provides written notice to the  
3 board by the opt out date that it does not desire to  
4 participate in the program. If a CURE participant enrolled in  
5 the program desires to apply for a grant under this chapter,  
6 it shall apply and be approved as provided in this chapter.  
7 CURE participants enrolled in the program shall also continue  
8 to be eligible to receive funding under CURE through June 30,  
9 2012, at the same level provided in section 908 or 909, as  
10 applicable, as if none of the CURE receipts had been sold or  
11 assigned under section 2905. The board shall have the  
12 authority to use moneys in the fund to supplement moneys  
13 available under section 908 or 909 for CURE in order to  
14 continue to provide funding at this level through June 30,  
15 2012. A CURE participant may use National Institutes of  
16 Health funds as a match against moneys in the fund used to  
17 supplement moneys available under this act for CURE in order  
18 to continue to provide funding at this level through June 30,  
19 2012. This commitment shall not apply to any reduction in  
20 funding under CURE that occurs for reasons unrelated to the  
21 sale or assignment of CURE receipts authorized under section  
22 2905. After June 30, 2012, CURE participants enrolled in the  
23 program shall continue to be eligible to receive funding  
24 under CURE at the level then available under section 908 or  
25 909.

26           (2) CURE participants that opt out of the program  
27 pursuant to paragraph (1) shall continue to be eligible to  
28 receive funding under CURE at the same level provided in  
29 section 908 or 909, as applicable, as if none of the CURE  
30 receipts had been sold or assigned pursuant to section 2905.

1 This commitment shall not apply to any reduction in funding  
2 under CURE that occurs for reasons unrelated to the sale or  
3 assignment of CURE receipts under section 2905.

4 (3) Notwithstanding any provision of law to the  
5 contrary, the DOH is authorized to reduce the amount of a  
6 grant to be awarded under CURE to a CURE participant who is  
7 enrolled in the program to the extent of the amount of any  
8 moneys in the fund used by the board under paragraph (1) to  
9 supplement moneys available under CURE for such grant. In  
10 such event, the grant agreement entered into by the DOH and  
11 the CURE participant will govern the use of that portion of  
12 the grant being funded by MSA payments through sections 908  
13 and 909 and administered by the DOH. A separate grant  
14 agreement shall be entered into by the board and the CURE  
15 participant to govern the use of that portion of the grant  
16 being funded by the board pursuant to paragraph (1).

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

28 (5) Notwithstanding any provision of law to the  
29 contrary, moneys received by the DOH for CURE in a fiscal  
30 year may be retained by the DOH for up to an additional

1 fiscal year in order to complete the award process for a  
2 particular recipient or recipients for the fiscal year in  
3 which the moneys were received. The DOH may not reassign the  
4 moneys to other recipients.

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

20 (1) Declaring the applicant ineligible to receive future  
21 grants.

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

24 (3) Requiring repayment of a portion of the grant  
25 awarded to the applicant.

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

29 Section 2903. Jonas Salk Legacy Fund Board.

30 (a) Establishment.--There is hereby established in the

1 department the Jonas Salk Legacy Fund Board. The board shall  
2 consist of the following members:

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

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

7 (3) One individual appointed by each of the following:  
8 the President pro tempore of the Senate, the Minority Leader  
9 of the Senate, the ~~Speaker~~ MAJORITY LEADER of the House of ←  
10 Representatives and the Minority Leader of the House of  
11 Representatives, all of whom shall have professionally  
12 relevant experience and none of whom may be members of the  
13 General Assembly or staff of members of the General Assembly.

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

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

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

30 (c) Organization.--The members shall select from among

1 themselves such officers in addition to a chairperson and  
2 secretary as they shall determine.

3 (d) Terms.--Members shall serve a term of two years from the  
4 date of their appointment and until their respective successors  
5 are duly appointed and qualified. Members shall be eligible for  
6 reappointment.

7 (e) Meetings.--The board shall meet at the call of the  
8 chairperson.

9 ~~(f) Quorum and vote.--Seven voting members of the board~~ <—  
10 ~~shall constitute a quorum. The consent of at least a majority of~~  
11 ~~the voting members of the board in attendance at a meeting with~~  
12 ~~a quorum shall be necessary for the board to take action.~~

13 (F) QUALIFIED MAJORITY VOTE.--THE CONSENT OF A QUALIFIED <—  
14 MAJORITY VOTE CONSISTING OF AT LEAST ONE GUBERNATORIAL APPOINTEE  
15 AND THE FOUR LEGISLATIVE APPOINTEES SHALL BE NECESSARY FOR THE  
16 BOARD TO TAKE ACTION.

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

20 (h) Liability.--Members of the board shall not be liable  
21 personally on any obligations of the financing authority,  
22 including the bonds of the financing authority.

23 (i) Conflict of interest.--The board shall establish  
24 conflict of interest policies and procedures to which members  
25 shall adhere.

26 (j) Initial appointment and vacancy.--Appointing authorities  
27 shall appoint initial members to the board within 30 days of the  
28 effective date of this chapter. Whenever a vacancy occurs on the  
29 board, the appointing authority shall appoint a successor member  
30 within 30 days of the vacancy.

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

5     (l) Staff and legal representation.--The department shall  
6 provide administrative staff to the board and shall provide the  
7 board with legal representation. The board shall reimburse, from  
8 interest earned on moneys in the fund, the department for the  
9 cost of providing these services to the board.

10    (m) Powers.--The board shall have the power and may do any  
11 appropriate act necessary or convenient to carry out and  
12 effectuate the purposes of this chapter. The board shall also  
13 have the following powers and authority:

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

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

19        (3) To form independent advisory boards and panels.

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

29        (5) To hold, purchase, sell, lend, assign, transfer or  
30 dispose of any securities and investments, including equity

1 securities, in which money in the fund or the accounts has  
2 been invested, the proceeds of the investments, including any  
3 directed commissions that have accrued to the benefit of the  
4 fund as a consequence of the investments, and money belonging  
5 to the fund subject to the standard of prudence in this  
6 section.

7 Section 2904. Jonas Salk Legacy Fund.

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

11 (1) Proceeds of the sale or assignment of the CURE  
12 receipts to the financing authority received by the  
13 Commonwealth.

14 (2) Federal funds.

15 (3) Private funds, including funds from foundations,  
16 donor funds and donor-directed funds, contributed to the  
17 fund.

18 (4) Moneys contributed to the fund by Commonwealth  
19 agencies.

20 (5) Any other moneys appropriated by the General  
21 Assembly to the fund.

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

23 (b) Use of funds.--Moneys in the fund shall be used for the  
24 grants to be awarded under the program, for the purposes set  
25 forth in this chapter to pay reasonable fees to investment  
26 advisors or fund managers engaged by the board pursuant to  
27 section 2903 and to pay the expenses of the board in the  
28 administration of the program. Moneys in the fund are hereby  
29 appropriated, upon approval of the Governor, for the purposes  
30 set forth in this chapter.

1 Section 2905. Sale or assignment of CURE receipts.

2 (a) Sale or assignment.--The Commonwealth is authorized,  
3 with the approval of the Governor, to sell absolutely or assign  
4 irrevocably, in whole or in part, to the financing authority the  
5 Commonwealth's right, title and interest in and to the MSA  
6 payments to the extent of the amount of the CURE receipts.  
7 References in this section to the CURE receipts shall be deemed  
8 to refer to the MSA payments to the extent of the amount of the  
9 CURE receipts. In order to effectuate the sale or assignment,  
10 the Commonwealth shall have the authority to do all of the  
11 following:

12 (1) Execute sales or irrevocable assignments of all or a  
13 portion of the Commonwealth's right, title and interest in  
14 and to the MSA payments to the extent of the amount of the  
15 CURE receipts. If sales are utilized, each sale shall be  
16 deemed a true sale of property and shall be evidenced by a  
17 purchase and sale agreement and such other documentation as  
18 the financing authority deems necessary or desirable.

19 (2) Effectuate the sale or assignment without regard to  
20 existing laws governing other property sales or financial  
21 transactions by the Commonwealth.

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

26 (4) Exercise such powers in accordance with such terms  
27 and conditions and documentation as the financing authority  
28 deems necessary or desirable.

29 (b) Deposit of proceeds.--Proceeds received by the  
30 Commonwealth from the sale or assignment of CURE receipts shall

1 be deposited into the fund.

2 (c) Payments to financing authority.--Notwithstanding any  
3 provision of law to the contrary, if the Commonwealth sells or  
4 assigns, in whole or in part, to the financing authority the  
5 Commonwealth's right, title and interest in and to the CURE  
6 receipts, then to the extent of the CURE receipts sold or  
7 assigned, all moneys that otherwise would be required to be paid  
8 to the DOH for CURE under section 306, and all rights to receive  
9 those payments whether now existing or hereafter coming into  
10 existence, shall be paid directly by the State Treasurer to the  
11 financing authority or its trustee immediately upon receipt by  
12 the Commonwealth, deposited into a trust fund established by the  
13 financing authority and pledged to pay the CURE receipts bonds  
14 until all CURE receipts bonds, together with the interest on  
15 those bonds, and all obligations of the financing authority  
16 relating to the CURE receipts bonds are fully paid or provided  
17 for. The authority of the State Treasurer to make payments to  
18 the financing authority as provided in this subsection shall  
19 constitute a continuing appropriation, and funds to be paid  
20 pursuant to this subsection shall not lapse. All CURE receipts  
21 sold or assigned to the financing authority at all times shall  
22 be property of the financing authority and shall not be property  
23 of the Commonwealth.

24 (d) Bankruptcy.--The financing authority shall not have the  
25 right to commence a bankruptcy case under 11 U.S.C. Ch. 9  
26 (relating to adjustment of debts of a municipality) so long as  
27 any CURE bonds are outstanding.  
28 Section 2906. CURE receipt bonds.

29 (a) Authorization.--The financing authority may issue CURE  
30 receipts bonds in the manner provided in this chapter and in the

1 Economic Development Financing Law for the issuance of financing  
2 authority indebtedness. In connection with the issuance of CURE  
3 receipts bonds, and in order to secure the payment of the CURE  
4 receipts bonds, the financing authority, in addition to its  
5 other powers set forth in this chapter, shall have all powers  
6 granted to it in this chapter and under the Economic Development  
7 Financing Law.

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

10 (c) Use of proceeds.--The proceeds of an issue of CURE  
11 receipts bonds shall be used to pay the purchase price for the  
12 CURE receipts; to fund any required reserves, including debt  
13 service reserves; to capitalize interest; and to pay costs of  
14 issuance, including, but not limited to, costs of obtaining  
15 credit enhancement for the CURE receipts bonds.

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

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

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

26 (g) Refunding.--Subject to the provisions of this chapter  
27 and the terms of CURE receipts bonds issued in accordance with  
28 this chapter, the financing authority may refund any outstanding  
29 CURE receipts bonds whether the debt represents principal or  
30 interest, in whole or in part, at any time. For the purposes of

1 this subsection, the term "refund" and its variations means the  
2 issuance and sale of obligations the proceeds of which are used  
3 or are to be used for the payment or redemption of outstanding  
4 obligations upon or prior to maturity.

5 (h) Interest rate management.--With respect to bonds, the  
6 financing authority may negotiate and enter into interest rate  
7 exchange agreements, interest rate cap agreements, collar  
8 agreements, corridor agreements, ceiling agreements, floor  
9 agreements, forward agreements, float agreements and other  
10 similar agreements, which, in the judgment of the financing  
11 authority, will assist the financing authority in managing the  
12 interest costs of the financing authority.

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

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

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

21 (i) The proceeds of CURE receipts bonds.

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

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

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

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

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

8           (j) Nonliability.--No financing authority board member,  
9           employee of the financing authority or person executing the CURE  
10           receipts bonds shall be liable personally on any CURE receipts  
11           bonds by reason of their issuance. CURE receipts bonds shall  
12           contain a statement of the limitation set forth in this  
13           subsection.

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

21           (l) Notice and challenges.--

22           (1) The financing authority shall file a copy of any  
23           resolution authorizing the issuance of CURE receipts bonds  
24           adopted by it for public inspection in its office and in the  
25           office of the secretary of the department, and shall publish  
26           in the Pennsylvania Bulletin a notice stating the fact and  
27           date of the adoption, the places where the resolution has  
28           been so filed for public inspection, the date of publication  
29           of the notice and that any action or proceeding of any kind  
30           or nature in any court questioning the validity or proper

1 authorization of CURE receipts bonds provided for by the  
2 resolution, or the validity of any covenants, agreements or  
3 contract provided for by such resolution, shall be commenced  
4 within ten days after the publication of the notice.

5 (2) Upon publication of notice in the Pennsylvania  
6 Bulletin and if no action or proceeding questioning the  
7 validity or proper authorization of CURE receipts bonds or  
8 the validity of any covenants, agreements or contracts  
9 provided for by the resolution shall be commenced within ten  
10 days after the publication of the notice in the Pennsylvania  
11 Bulletin, then all residents, taxpayers and all other persons  
12 forever shall be barred and foreclosed from instituting or  
13 commencing any action or proceeding in any court or pleading  
14 any defense to any action or proceedings, questioning the  
15 validity or proper authorization of such CURE receipts bonds  
16 or the validity of the covenants, agreements or contracts,  
17 and the CURE receipts bonds, covenants, agreements and  
18 contracts shall be conclusively deemed to be valid and  
19 binding obligations in accordance with their terms and tenor.

20 (3) After the issuance of CURE receipts bonds, all CURE  
21 receipts bonds shall be conclusively presumed to be fully  
22 authorized and issued by all the laws of this Commonwealth,  
23 and any person shall be estopped from questioning their sale,  
24 execution or delivery by the financing authority.

25 (m) Contracts with obligees of financing authority.--Except  
26 as otherwise provided in any resolution of the financing  
27 authority authorizing or awarding CURE receipt bonds, the terms  
28 of the CURE receipts bonds and of this chapter in effect when  
29 the CURE receipts bonds were authorized shall constitute a  
30 contract between the financing authority and obligees of the

1 financing authority, subject to modification in such manner as  
2 the resolution, the trust indenture securing the CURE receipts  
3 bonds or the CURE receipts bonds shall provide.

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

5 (1) The Commonwealth pledges to and agrees with each  
6 obligee of the financing authority that the Commonwealth will  
7 not limit or alter the rights and powers vested in the  
8 financing authority or otherwise created by this chapter in  
9 any manner inconsistent with the obligations of the financing  
10 authority to its obligees until all CURE receipts bonds at  
11 any time issued, together with the interest on the CURE  
12 receipts bonds, are fully paid and discharged.

13 (2) If and to the extent that the Commonwealth sells or  
14 assigns CURE receipts pursuant to section 2905, the  
15 Commonwealth pledges to and agrees with each obligee of the  
16 financing authority that the Commonwealth will not abolish or  
17 reduce the financing authority's rights to receive amounts  
18 set forth in section 2905(c), including, but not limited to,  
19 abolishing or reducing the amounts required to be transferred  
20 to the DOH under section 306.

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

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

26 (i) Government agencies.

27 (ii) Insurance companies.

28 (iii) Trust companies.

29 (iv) Banking associations, banking corporations and  
30 savings banks.

1           (v) Investment companies.

2           (vi) Executors, trustees and other fiduciaries.

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

5           (2) CURE receipts bonds issued by the financing  
6           authority are securities that may properly and legally be  
7           deposited with and received by a government agency for any  
8           purpose for which the deposit of bonds or other obligations  
9           of the Commonwealth are authorized by law.

10          (p) Additional rights.--An obligee of the financing  
11          authority shall have the right in addition to all other rights  
12          that may be conferred on the obligee, subject only to any  
13          contractual restrictions binding upon the obligee:

14           (1) By mandamus, suit, action or proceeding at law or in  
15           equity, to compel the financing authority and the members,  
16           officers, agents or employees of the financing authority to  
17           perform each and every term, provision and covenant contained  
18           in any bond or contract of the financing authority with or  
19           for the benefit of the obligee and to require the carrying  
20           out of any or all covenants and agreements of the financing  
21           authority and the fulfillment of all duties imposed upon the  
22           financing authority by this chapter.

23           (2) By proceeding in equity, to obtain an injunction  
24           against any acts or things that may be unlawful or the  
25           violation of any of the rights of the obligee of the  
26           financing authority.

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

30           (4) To enforce a pledge of or security interest in

1 revenues of the financing authority securing payment of the  
2 CURE receipts bonds against all Commonwealth and local public  
3 officials in possession of any revenues at any time, which  
4 revenues may be collected directly from such officials upon  
5 notice by the obligee of the financing authority or a trustee  
6 for application to the payment of the CURE receipts bonds as  
7 and when due for deposits in any sinking, bond or debt  
8 service fund established with the trustee at the times and in  
9 the amounts specified in the CURE receipts bonds or the  
10 resolution or indenture or trust agreement securing the CURE  
11 receipts bonds. Any Commonwealth or local public official in  
12 possession of any revenues shall make payment against receipt  
13 and shall thereby be discharged from any further liability or  
14 responsibility for the revenues. If the payment is to an  
15 obligee of the financing authority, it shall be made against  
16 surrender of the CURE receipts bonds to the payor for  
17 delivery to the financing authority in the case of payment in  
18 full, otherwise, it shall be made against production of the  
19 CURE receipts bonds for notation on the bonds of the amount  
20 of the payment. The provisions of this section with respect  
21 to the enforceability and collection of revenues that secure  
22 CURE receipts bonds of the financing authority shall  
23 supersede any contrary or inconsistent statutory provision or  
24 rule of law.

25 (5) This subsection shall be construed and applied to  
26 fulfill the legislative purpose of clarifying and  
27 facilitating the financing of the financing authority by  
28 assuring to the obligees of the financing authority the full  
29 and immediate benefit of the security for the financing  
30 without delay, diminution or interference based on any

1 statute, decision, ordinance or administrative rule or  
2 practice.

3 (q) Validity of pledge.--Any pledge or grant of a lien on or  
4 security interest in CURE receipts made by the financing  
5 authority shall be valid and binding from the time when the  
6 pledge is made. The CURE receipts so pledged and thereafter  
7 received by the financing authority shall immediately be subject  
8 to the lien of any such pledge, lien or security interest  
9 without any physical delivery of the CURE receipts or further  
10 act. The lien of the pledge or security interest shall be valid  
11 and binding as against all parties having claims of any kind in  
12 tort, contract or otherwise against the financing authority  
13 irrespective of whether the parties have notice of any such  
14 pledge. Neither the resolution nor any other instrument of the  
15 financing authority by which a pledge, lien or security interest  
16 is created need be recorded or filed to perfect such pledge or  
17 security interest.

18 (r) Security interest in funds and accounts.--Any moneys  
19 deposited in any fund created by the financing authority pledged  
20 to be used to pay debt service on CURE receipts bonds of the  
21 financing authority, including any sinking fund or debt service  
22 reserve fund, and all investments and proceeds of investments  
23 thereof, shall, without further action or filing, be subjected  
24 to a perfected security interest for the obligees of the  
25 financing authority with respect to the CURE receipts bonds  
26 until such moneys or investments shall be disbursed in  
27 accordance with this chapter and subject to the terms of any  
28 trust indenture or other contract between the financing  
29 authority and the obligees of the financing authority with  
30 respect to the CURE receipts bonds.

1     (s) Exemption from State and local taxation.--The  
2 effectuation of the purposes of the financing authority is for  
3 the benefit of the people of this Commonwealth, for the increase  
4 of commerce and prosperity and for the improvement of health,  
5 safety, welfare and living conditions. CURE receipts bonds  
6 issued by the financing authority, the transfer and the income  
7 from the CURE receipts bonds, including profit made on their  
8 sale, are free from State and local taxation within this  
9 Commonwealth. This exclusion under this subsection shall not  
10 extend to gift, estate, succession or inheritance taxes or any  
11 other taxes not levied directly on the CURE receipts bonds,  
12 their transfer, the income from the CURE receipts bonds or the  
13 realization of profits on their sale.

14     (t) Exemptions from Federal taxation.--

15         (1) If the CURE receipts bonds issued by the financing  
16 authority are tax-exempt bonds for which Federal law requires  
17 a private activity volume cap allocation, the department may  
18 issue an allocation upon receipt of a written request by the  
19 financing authority. An allocation must be issued by the  
20 department prior to the approval of the resolution  
21 authorizing the issuance of the bonds by the financing  
22 authority.

23         (2) If gubernatorial approval is required by Federal or  
24 State law, the Governor may approve the issuance of the CURE  
25 receipts bonds by the financing authority upon receipt of  
26 written request for approval from the financing authority.  
27 The written request must state all of the following:

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

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

3           (iii) A description of the grant or grants awarded  
4           for the project or projects.

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

7           (u) Rights and remedies of obligees.--The rights and  
8           remedies conferred upon or granted to obligees of the financing  
9           authority pursuant to this chapter shall be in addition to and  
10          not in limitation of rights and remedies lawfully granted to  
11          obligees of the authority by resolution providing for the  
12          issuance of bonds or by any trust agreement or another agreement  
13          under which the CURE receipts bonds may be issued or secured.

14          Section 7. This act shall take effect immediately.