

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2

Session of
2001

INTRODUCED BY ORIE, RYAN, PERZEL, FEESE, ADOLPH, ALLEN, ARGALL,
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TRICH, HARHAI, MANN, C. WILLIAMS, CRUZ, TRELLO, ZUG AND
McCALL, JANUARY 23, 2001

SENATOR MOWERY, PUBLIC HEALTH AND WELFARE, IN SENATE, AS
AMENDED, JUNE 11, 2001

AN ACT

1 Establishing a special fund and account for money received by
2 the Commonwealth from the Master Settlement Agreement with
3 tobacco manufacturers; establishing the Tobacco Settlement
4 Investment Board; AND providing for the improvement of health <—
5 care. ~~establishing an adult basic coverage insurance program <—~~
6 ~~in the Insurance Department and a medical assistance purchase~~
7 ~~program for workers with disabilities in the Department of~~
8 ~~Public Welfare; providing for the establishment,~~
9 ~~implementation and administration of the Pennsylvania~~
10 ~~Biomedical Research Authority; imposing powers and duties on~~
11 ~~a board of trustees; providing for the issuance of notes and~~
12 ~~bonds; providing for family health care improvement and for~~
13 ~~tobacco use prevention; authorizing a tobacco access control~~
14 ~~tax credit; imposing powers and duties on the Secretary of~~
15 ~~Revenue; conferring powers and duties on the Department of~~
16 ~~Health; establishing the Uncompensated Care Program in the~~
17 ~~Department of Public Welfare; establishing a Medical Research~~
18 ~~Improvement Grant Program in the Department of Health;~~
19 ~~increasing eligibility for medical assistance; establishing~~
20 ~~an institute for biomedical research and technology;~~
21 ~~providing for home and community based care services to~~
22 ~~certain individuals, for responsibilities of the Department~~
23 ~~of Aging and the Department of Public Welfare, for powers and~~
24 ~~duties of the Department of Community and Economic~~
25 ~~Development and the Department of Health; establishing an~~

1 ~~Office of Minority Health Affairs and a grant program in the~~
2 ~~Department of Health; establishing the Volunteer Fire and~~
3 ~~Emergency Services Organization Grant Program; authorizing a~~
4 ~~grant program for Type 1 diabetics; authorizing payments to~~
5 ~~certain persons with occupational respiratory disease;~~
6 ~~establishing the Occupational Respiratory Disease Interim~~
7 ~~Coverage Fund; providing for pharmaceutical grants to certain~~
8 ~~Medicare beneficiaries; establishing the Pennsylvania Health~~
9 ~~Center Investment Plan; providing for presumptive eligibility~~
10 ~~for children's health care; establishing the Municipal Fire~~
11 ~~and Emergency Services Organization Grant Program; making~~
12 ~~appropriations; and making repeals.~~

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1 ~~Section 5103. Repeals.~~

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

5 ~~CHAPTER 1~~

<—

6 ~~PRELIMINARY PROVISIONS~~

7 ~~Section 101. Short title.~~

8 ~~This act shall be known and may be cited as the Health Care~~
9 ~~Improvement Act.~~

10 ~~Section 102. Definitions.~~

11 ~~The following words and phrases when used in this act shall~~
12 ~~have the meanings given to them in this section unless the~~
13 ~~context clearly indicates otherwise:~~

14 ~~"Fund." The Tobacco Settlement Fund established in section~~
15 ~~303.~~

16 ~~CHAPTER 3~~

17 ~~HEALTH INVESTMENT~~

18 ~~Section 301. Scope.~~

19 ~~This chapter deals with establishing a special fund and~~
20 ~~account for money received by the Commonwealth from the Master~~
21 ~~Settlement Agreement with tobacco manufacturers; and~~
22 ~~establishing the Tobacco Settlement Investment Board.~~

23 ~~Section 302. Definitions.~~

24 ~~The following words and phrases when used in this chapter~~
25 ~~shall have the meanings given to them in this section unless the~~
26 ~~context clearly indicates otherwise:~~

27 ~~"Account." The Tobacco Endowment Account established in~~
28 ~~section 303(b).~~

29 ~~"Board." The Tobacco Settlement Investment Board established~~
30 ~~in section 304(a).~~

~~"Fund." The Tobacco Settlement Fund established in section 303(a).~~

~~"Jurisdictional payment." A payment received by the Commonwealth resulting from a court retaining jurisdiction over the Escrow Agreement pursuant to section IX(b) of the Master Settlement Agreement.~~

~~"Master Settlement Agreement." The settlement agreement and related documents entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers approved by the Court of Common Pleas, Philadelphia County, on January 13, 1999.~~

~~"Strategic contribution payment." A payment received by the Commonwealth pursuant to section IX(c)(2) of the Master Settlement Agreement.~~

~~"Tobacco Endowment Account." The Tobacco Endowment Account established in section 303(b).~~

~~"Tobacco Settlement Fund." The Tobacco Settlement Fund established in section 303(a).~~

~~Section 303. Establishment of special fund and account.~~

~~(a) Tobacco Settlement Fund. There is hereby established a special fund known as the Tobacco Settlement Fund. Except as provided in subsection (b), all payments received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited by the Treasury Department in the fund.~~

~~(b) Tobacco Endowment Account. There is hereby established within the fund the Tobacco Endowment Account. The following amounts shall be deposited by the Treasury Department into the Tobacco Endowment Account:~~

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

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

~~(3) Other payments received by the Commonwealth pursuant to the Master Settlement Agreement to ensure that no more than 60% of the payments received pursuant to the Master Settlement Agreement are expended for any purpose.~~

~~(4) Earnings derived from the investment of the money in the fund after deduction of investment expenses.~~

~~(5) Earnings derived from the investment of the money in the Tobacco Endowment Account after deduction of investment expenses and the expenses of the board.~~

~~(6) Money received as a result of investment of the money in the Health Venture Investment Account established in section 1703.~~

~~(7) Money from an appropriation pursuant to section 306 which lapses.~~

~~(8) Any interest earned on any payments received by the Commonwealth pursuant to the Master Settlement Agreement as of the effective date of this act.~~

~~Appropriations under section 5102 shall be reduced proportionately if necessary to meet the requirements of this subsection.~~

~~Section 304. Tobacco Settlement Investment Board.~~

~~(a) Establishment. There is hereby established the Tobacco Settlement Investment Board, consisting of 11 members as follows: the Governor or a designee; the Secretary of the Budget; the State Treasurer or a designee; one member appointed by the President pro tempore of the Senate and one member appointed by the Minority Leader of the Senate; one member appointed by the Speaker of the House of Representatives and one~~

1 ~~member appointed by the Minority Leader of the House of~~
2 ~~Representatives; three members appointed by the Governor; and~~
3 ~~one member appointed by the State Treasurer. Legislative~~
4 ~~appointments shall serve at the pleasure of the appointing~~
5 ~~authority. Other appointed members shall serve for a term of~~
6 ~~four years and until a successor is appointed. Members of the~~
7 ~~board shall serve without compensation, but shall be reimbursed~~
8 ~~for actual and reasonable expenses incurred in the performance~~
9 ~~of their official duties. The Governor shall select one member~~
10 ~~as chairperson, and the members of the board shall select one~~
11 ~~member as secretary.~~

12 ~~(b) Professional personnel. The board may employ investment~~
13 ~~advisors, fund managers and staff as the board deems advisable.~~

14 ~~(c) Expenses. All expenses of the board and related~~
15 ~~professional personnel expenses shall be paid from investment~~
16 ~~earnings of the Tobacco Endowment Account. The board shall,~~
17 ~~through the Governor, submit to the General Assembly an annual~~
18 ~~budget covering its proposed administrative expenses. Approved~~
19 ~~expenses of the board and its professional personnel shall be~~
20 ~~deducted from the investment earnings of the Tobacco Endowment~~
21 ~~Account. Concurrently with its annual budget request, the board~~
22 ~~shall submit to the General Assembly a list of proposed~~
23 ~~expenditures for the period covered by the budget request that~~
24 ~~the board intends to pay through the use of directed~~
25 ~~commissions, together with a list of the actual expenditures~~
26 ~~from the previous year actually paid by the board through the~~
27 ~~use of directed commissions. All such directed commission~~
28 ~~expenditures shall be made by the board for the exclusive~~
29 ~~benefit of the fund and the Tobacco Endowment Account.~~

30 ~~(d) Records. The board shall keep a record of its~~

~~proceedings, which shall be open to inspection by the public.~~

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

~~(c) Custodian. The State Treasurer shall be the custodian of the fund and the accounts. All investment draws from the fund or the accounts shall be made by the State Treasurer in accordance with requisitions signed by the secretary of the~~

~~board and ratified by resolution of the board.~~

~~(d) Authorized investment vehicles for the fund and the Tobacco Endowment Account. The board may invest the money in the fund and the Tobacco Endowment Account in investments that meet the standard of prudence set forth in subsection (a) by becoming a limited partner in partnerships that will hold such investments; or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in the separate accounts of any insurance company authorized to do business in this Commonwealth; or by acquiring stocks or shares or units of participation or otherwise participating beneficially in a corporate fund or trust organized or created and existing under the laws of the United States or of any state, district or territory thereof, if the corporate funds or trusts are maintained for and consist of assets of employees' benefit trusts, including governmental plans as defined in section 414(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), or which meet the requirements for qualification under section 401 of the Internal Revenue Code of 1986 (26 U.S.C. § 401). The liability of the fund or the accounts shall be limited to the amount of their investment under this subsection.~~

~~(e) Additional authorized investment vehicles for the Tobacco Endowment Account. The board may invest the money in the Tobacco Endowment Account in investments that meet the standard of prudence set forth in subsection (a) by becoming a limited partner in partnerships that make venture capital investments by acquiring equity interests or a combination of debt and equity interests in businesses which are expected to grow substantially in the future and in which the expected~~

1 ~~returns on investment are to come predominantly from an increase~~
2 ~~in value of the equity interests and are not interests in or~~
3 ~~secured by real estate. Venture capital investments shall be~~
4 ~~limited to not more than 2% of the book value of the total~~
5 ~~assets of the Tobacco Endowment Account as determined for~~
6 ~~financial purposes as of June 30 next preceding the date of~~
7 ~~investment. A venture capital investment may only be made if, in~~
8 ~~the judgment of the board, the investment is reasonably likely~~
9 ~~to enhance the general welfare of this Commonwealth and its~~
10 ~~citizens. In determining whether an investment meets the~~
11 ~~standard of prudence required by subsection (a), the board may~~
12 ~~consider, together with the expected return on and the risk~~
13 ~~characteristics of the particular investment, the actual and~~
14 ~~expected future returns and the risk characteristics of the~~
15 ~~total venture capital investments held by the board at the time~~
16 ~~and the degree to which the proposed new investment would~~
17 ~~promote further diversification within the venture capital asset~~
18 ~~class.~~

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

27 ~~Section 306. Use of Tobacco Settlement Fund.~~

28 ~~The Governor shall include a spending plan for the fund in~~
29 ~~the annual budget. The General Assembly shall appropriate the~~
30 ~~fund for health related purposes.~~

~~Section 307. Use of Tobacco Endowment Account.~~

~~(a) General rule. Except where otherwise specified in this act, any money appropriated from the Tobacco Settlement Fund that is unspent at the close of the State fiscal year shall lapse into the Tobacco Endowment Account.~~

~~(b) Volunteer firefighter health assistance grants. The Governor may propose and the General Assembly may appropriate a sum not to exceed \$10,000,000 annually, drawn from interest earned by the Tobacco Endowment Account, to be dedicated solely for the purchase of contracts of insurance under section 6(c)(2) of the act of June 11, 1968 (P.L.149, No.84), known as the Volunteer Firefighters' Relief Association Act, or for assistance in the purchase of health insurance. These moneys shall be in addition to any annual allocation the volunteer firefighters' relief association is entitled to receive under Chapter 7 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act. Priority consideration for grant awards shall be given to volunteer firefighter relief associations that receive less than \$10,000 under the Volunteer Firefighters' Relief Association Act.~~

~~(c) Emergency expenditures. Whenever the Governor determines that money from the Tobacco Endowment Account is necessary to meet the extraordinary or emergency health care needs of the citizens of this Commonwealth, the Governor shall present a detailed spending proposal with a request for an appropriation and any necessary legislation to the chairman of the Appropriations Committee of the Senate and the chairman of the Appropriations Committee of the House of Representatives. The General Assembly may, through approval of a separate~~

~~appropriation bill by a vote of two thirds of the members
elected to the Senate and to the House of Representatives,
appropriate money from the Tobacco Endowment Account to meet the
needs identified in the Governor's request.~~

~~(d) Relapsing of funds. Any money appropriated under this
section that lapses shall be returned to the Tobacco Endowment
Account.~~

~~Section 308. Annual report.~~

~~By October 1 of each year, the board shall submit a report to
the Governor and the General Assembly. The report shall provide
an analysis of the status of the current investments and
transactions made over the last fiscal year for the fund and the
accounts and shall include, at a minimum:~~

~~(1) a listing of individual securities that exceed one-
year duration either purchased or sold during the fiscal
year;~~

~~(2) a listing of individual securities held at the end
of the fiscal year; and~~

~~(3) the realized and unrealized gains or losses
resulting from appreciation or depreciation of securities
owned at any time during the fiscal year.~~

~~CHAPTER 5~~

~~HEALTH INVESTMENT INSURANCE~~

~~Section 501. Scope.~~

~~This chapter deals with health investment insurance.~~

~~Section 502. 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:~~

~~"Contractor." An insurer or other entity or its subsidiaries~~

~~operating under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations), or both.~~

~~"Department." The Insurance Department of the Commonwealth.~~

~~"Eligible adult." A low income adult who meets all of the following:~~

~~(1) Legally resides within the United States.~~

~~(2) Has been domiciled in this Commonwealth for at least 90 days prior to enrollment.~~

~~(3) Is not covered by a health insurance plan, a self-insurance plan or a self-funded plan.~~

~~(4) Has not been covered by a health insurance plan, a self-insurance plan or a self-funded plan during the three months immediately preceding the determination of eligibility unless the individual:~~

~~(i) Is currently eligible to receive benefits pursuant to the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.~~

~~(ii) Was covered under one of the above plans, but is no longer employed and is presently ineligible to receive benefits pursuant to the Unemployment Compensation Law.~~

~~(iii) Is the spouse of an adult in subparagraph (i) or (ii).~~

~~(5) Is ineligible for medical assistance or Medicare.~~

~~"Hospital." A hospital as defined and licensed under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.~~

~~"Insurer." An insurance company, association, reciprocal,~~

~~health maintenance organization, fraternal benefits society or a risk bearing preferred provider organization that offers health care benefits and is subject to regulation under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.~~

~~"Low income adult."—An individual who is between 19 and 64 years of age and whose household income is less than 200% of the Federal poverty level at the time of eligibility determination.~~

~~"Medicare."—The Federal program established under Title XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.).~~

~~"Medical assistance."—The State program of medical assistance established under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.~~

~~"Monthly income."—The monthly income of an individual as determined by the Department of Public Welfare when applying the income deductions applicable in determining eligibility for Medicare cost sharing in accordance with 42 U.S.C. § 1396a(a)(10)(E).~~

~~"Offeror."—A person who submits a proposal in response to the department's request for proposals issued pursuant to section 503(f).~~

~~"Preexisting condition."—A disease or physical condition for which medical advice or treatment has been received prior to the effective date of coverage.~~

~~Section 503.—Adult basic coverage insurance program.~~

~~(a) Program establishment.—There is established in the department an adult basic coverage insurance program. Fund appropriations to the department for the program shall be used~~

~~for contracts to provide basic health care insurance for eligible adults and outreach activities. The department shall, to the greatest extent practicable, ensure that all eligible adults in this Commonwealth have access to the program established in this section.~~

~~(b) Eligible adult responsibilities. An eligible adult seeking to purchase adult basic coverage insurance shall:~~

~~(1) Submit an application to the department.~~

~~(2) Pay to the department or its contractor \$30 per month for coverage.~~

~~(3) Be responsible for any required copayments for health care services rendered under the benefit package in subsection (f)(2).~~

~~(4) Notify the department or its contractor of any change in the eligible adult's income.~~

~~(c) Purchase of insurance. An eligible adult's payment to the department or its contractor under subsection (b)(2) shall be used to purchase the benefit package in subsection (f)(2) for the adult. The appropriations for the program shall be used by the department to pay the difference between the cost of the benefit package in subsection (f)(2) and the eligible adult's payment. Subsidization of the benefit package in subsection (f)(2) is contingent upon the amount of the appropriations to the program and limited to eligible adults in compliance with subsection (b). Nothing under this section shall constitute an entitlement derived from the Commonwealth or a claim on any funds of the Commonwealth.~~

~~(d) Insufficient appropriations. The department shall maintain a waiting list of eligible adults who have applied for adult basic coverage insurance but who are not enrolled due to~~

~~insufficient appropriations. The department shall maintain the list in a manner that reflects the order in which applications were received by the department. An eligible adult placed on the list shall be notified when that eligible adult becomes eligible for subsidization of the benefit package. An eligible adult who does not receive adult basic coverage insurance due to insufficient appropriations to the program may purchase the benefit package in subsection (f)(2) at the actual cost of the benefit package.~~

~~(c) Department responsibilities. The department shall:~~

~~(1) Administer the adult basic coverage insurance program.~~

~~(2) Enter into contracts for health care insurance in accordance with 62 Pa.C.S. (relating to procurement). The department may award contracts on a multiple award basis.~~

~~(3) Conduct monitoring and oversight of executed contracts.~~

~~(4) Annually redetermine the eligibility of individuals receiving subsidization of the benefit package in subsection (f)(2).~~

~~(5) In consultation with appropriate Commonwealth agencies, monitor, review and evaluate the adequacy, accessibility and availability of insurance being subsidized by the program.~~

~~(6) In consultation with appropriate Commonwealth agencies, establish and coordinate the development, implementation and supervision of an outreach plan.~~

~~(7) Report on an annual basis to the General Assembly the number of eligible adults purchasing the adult basic coverage insurance, the cost of the insurance and the amount~~

1 ~~an eligible adult contributes toward the insurance.~~

2 ~~(f) Request for proposals. In accordance with subsection~~
3 ~~(e)(2), the department shall issue a request for proposals for~~
4 ~~the adult basic coverage insurance. The request shall require:~~

5 ~~(1) An offeror to assure that if selected as a~~
6 ~~contractor it will do all of the following:~~

7 ~~(i) Ensure, to the greatest extent possible, that on~~
8 ~~a Statewide basis eligible adults have access to primary~~
9 ~~health care physicians and nurse practitioners.~~

10 ~~(ii) Contract with qualified, cost effective~~
11 ~~providers, which may include primary health care~~
12 ~~physicians, nurse practitioners, clinics and health~~
13 ~~maintenance organizations, to provide health care for~~
14 ~~eligible adults in a manner that best manages the costs~~
15 ~~of the services, including using managed health care~~
16 ~~techniques that cap physician office copayments and other~~
17 ~~appropriate medical cost management methods.~~

18 ~~(iii) Ensure that an individual who may be eligible~~
19 ~~for medical assistance receives assistance in applying~~
20 ~~for medical assistance, including, at a minimum, written~~
21 ~~notice of the telephone number and address of the county~~
22 ~~assistance office where the adult can apply for these~~
23 ~~benefits. If requested by the individual, a contractor~~
24 ~~shall forward a completed application for medical~~
25 ~~assistance to the appropriate office for a medical~~
26 ~~assistance determination of eligibility.~~

27 ~~(iv) Not prohibit enrollment based upon a~~
28 ~~preexisting condition nor exclude a diagnosis or~~
29 ~~treatment for the condition based on the condition's~~
30 ~~preexistence.~~

1 ~~(v) Provide a basic benefit package for eligible~~
2 ~~adults consistent with the scope and duration~~
3 ~~requirements of the request for proposals.~~

4 ~~(vi) Provide an insurance identification card to~~
5 ~~each eligible adult covered under a contract executed~~
6 ~~under this section. The card shall not specifically~~
7 ~~identify the holder as low income.~~

8 ~~(vii) Not pay any claim on behalf of an eligible~~
9 ~~adult unless all other Federal, State and local resources~~
10 ~~available to the adult are utilized first.~~

11 ~~(viii) Require each primary care physician providing~~
12 ~~primary care services under this section to make~~
13 ~~necessary arrangements for admission to hospitals and for~~
14 ~~necessary specialty care.~~

15 ~~(2) A basic benefit package with scope and duration~~
16 ~~determined by the department that includes:~~

17 ~~(i) Preventive care.~~

18 ~~(ii) Physician services.~~

19 ~~(iii) Diagnosis and treatment of illness or injury,~~
20 ~~including all medically necessary covered services~~
21 ~~related to the diagnosis and treatment of sickness and~~
22 ~~injury and other conditions provided on an ambulatory~~
23 ~~basis, such as laboratory tests, x rays, wound dressing~~
24 ~~and casting to immobilize fractures.~~

25 ~~(iv) Inpatient hospitalization.~~

26 ~~(v) Outpatient hospital services.~~

27 ~~(vi) Emergency accident and emergency medical care.~~

28 ~~(3) An offeror to demonstrate that it is providing~~
29 ~~health care services for eligible adults that meet the~~
30 ~~purposes and intent of subsection (f)(2) before requesting a~~

~~waiver of subsection (f)(1)(v).~~

~~(g) Proposals. Upon publication of a request for proposals, an entity and its subsidiaries that operate subject to the provisions of 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations), or both, shall submit a proposal to the department to carry out the purposes of this section. Upon publication of a request for proposals, an insurer doing business in this Commonwealth may submit a proposal to the department to carry out the purposes of this section.~~

~~(h) Reviewing, scoring and selection of proposals. The department shall review and score the proposals on the basis of all of the requirements for the adult basic coverage insurance program. The department may include such other criteria in the request for proposals and in the scoring and selection of the proposals that the department, in the exercise of its administrative duties under this section, deems necessary; however, the department shall:~~

~~(1) Select, to the greatest extent practicable, offerors that contract with providers to provide health care services on a cost effective basis. The department shall select offerors that use appropriate cost management methods that enable the program to provide coverage to the maximum number of eligible adults and that, whenever possible, pursue and utilize available public and private funds.~~

~~(2) Select, to the greatest extent practicable, only offerors that comply with all procedures relating to coordination of benefits as required by the department and the Department of Public Welfare.~~

~~(3) Select offerors that limit administrative expenses~~

~~to no more than 7.5% of the amount of any contract. If after the first three full years of operation any contractor presents documented evidence that administrative expenses are in excess of 7.5% of the amount of the contract, the department may make an additional payment, not to exceed 2.5% of the amount of the contract, for future administrative expenses to the contractor to the extent that the department finds the expenses reasonable and necessary.~~

~~(i) Negotiations. The department shall not negotiate a contract for a period in excess of three years.~~

~~(j) Waivers. The department may grant a waiver of the benefit package required by subsection (f)(1)(v) if the offeror demonstrates that it is providing health care services for eligible adults that meet the purposes and intent of subsection (f)(2).~~

~~(k) Adjustments. Following the first year of operation, and periodically thereafter, the department, in consultation with appropriate Commonwealth agencies, shall review enrollment patterns for the adult basic coverage insurance program. Based on the results of the review and the amount of available appropriations, the department may adjust the amount paid by an eligible adult toward the basic benefit package by regulation. Changes in the amount shall be promulgated as a final form regulation with proposed rulemaking omitted in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.~~

~~(l) Limitation. In no case shall the total aggregate amount of annual contracts entered into pursuant to this section exceed the amount of the aggregate annual appropriations to the department for the adult basic coverage insurance program.~~

1 CHAPTER 6

2 FAMILY HEALTH CARE IMPROVEMENT

3 SUBCHAPTER A

4 GENERAL PROVISIONS

5 ~~Section 601. Scope of chapter.~~

6 ~~This chapter deals with family health care improvement.~~

7 ~~Section 602. Legislative findings and intent.~~

8 ~~The General Assembly finds and declares as follows:~~

9 ~~(1) All citizens of this Commonwealth should have access~~
10 ~~to affordable and reasonably priced health care and to~~
11 ~~nondiscriminatory treatment by health insurers and providers.~~

12 ~~(2) The uninsured health care population of this~~
13 ~~Commonwealth is estimated to be over one million persons and~~
14 ~~many thousands more lack adequate insurance coverage. It is~~
15 ~~also estimated that approximately two thirds of the uninsured~~
16 ~~are employed or dependents of employed persons.~~

17 ~~(3) Over one third of the uninsured health care~~
18 ~~population are children. Uninsured children are of particular~~
19 ~~concern because of their need for ongoing preventive and~~
20 ~~primary care. Measures not taken to care for such children~~
21 ~~now will result in higher human and financial costs later.~~

22 ~~(4) Uninsured children lack access to timely and~~
23 ~~appropriate primary and preventive care. As a result, health~~
24 ~~care is often delayed or foregone, resulting in increased~~
25 ~~risk of developing more severe conditions which in turn are~~
26 ~~more expensive to treat. This tendency to delay care and to~~
27 ~~seek ambulatory care in hospital based settings also causes~~
28 ~~inefficiencies in the health care system.~~

29 ~~(5) Health care markets have been distorted through cost~~
30 ~~shifts for the uncompensated health care costs of uninsured~~

1 ~~citizens of this Commonwealth which has caused decreased~~
2 ~~competitive capacity on the part of those health care~~
3 ~~providers who serve the poor and increased costs of other~~
4 ~~health care payors.~~

5 ~~(6) No one sector can absorb the cost of providing~~
6 ~~health care to citizens of this Commonwealth who cannot~~
7 ~~afford health care on their own. The cost is too large for~~
8 ~~the public sector alone to bear and instead requires the~~
9 ~~establishment of a public and private partnership to share~~
10 ~~the costs in a manner economically feasible for all~~
11 ~~interests. The magnitude of this need also requires that it~~
12 ~~be done on a time phased, cost managed and planned basis.~~

13 ~~(7) Eligible children in this Commonwealth should have~~
14 ~~access to cost effective, comprehensive primary health~~
15 ~~coverage if they are unable to afford coverage or obtain it.~~

16 ~~(8) Care should be provided in appropriate settings by~~
17 ~~efficient providers, consistent with high quality care and at~~
18 ~~an appropriate stage, soon enough to avert the need for~~
19 ~~overly expensive treatment.~~

20 ~~(9) Equity should be assured among health providers and~~
21 ~~payors by providing a mechanism for providers, employers, the~~
22 ~~public sector and patients to share in financing indigent~~
23 ~~children's health care.~~

24 ~~(10) The parents of uninsured children often are also~~
25 ~~uninsured. Therefore, to the extent that financial resources~~
26 ~~are available to provide coverage for the parents of children~~
27 ~~enrolled in the Children's Health Insurance Program, every~~
28 ~~effort should be made to ensure that these parents are also~~
29 ~~covered through the program.~~

30 ~~Section 603. 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:~~

~~"Child."—A person under 19 years of age.~~

~~"Children's Health Insurance Program."—The health insurance program established in this chapter.~~

~~"Children's medical assistance."—Medical assistance services to children as required under Title XIV of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), including early and periodic screening, diagnosis and treatment services.~~

~~"Contractor."—An entity awarded a contract under Subchapter B to provide health care services under this chapter. The term includes an entity and its subsidiary which is established under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations); the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; or the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.~~

~~"Council."—The Children's Health Advisory Council established in section 611(i).~~

~~Department."—The Insurance Department of the Commonwealth.~~

~~"EPSDT."—Early and periodic screening, diagnosis and treatment.~~

~~"Federal CHIP funds."—Funds obtained under section 2101 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1397aa).~~

~~"Fund."—The Children's Health Fund for health care for indigent children established by section 1296 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

1 ~~"Genetic status."—The presence of a physical condition in an~~
2 ~~individual which is a result of an inherited trait.~~

3 ~~"Group."—A group for which a health insurance policy is~~
4 ~~written in this Commonwealth.~~

5 ~~"Health maintenance organization" or "HMO."—An entity~~
6 ~~organized and regulated under the act of December 29, 1972~~
7 ~~(P.L.1701, No.364), known as the Health Maintenance Organization~~
8 ~~Act.~~

9 ~~"Health service corporation."—A professional health service~~
10 ~~corporation as defined in 40 Pa.C.S. § 6302 (relating to~~
11 ~~definitions).~~

12 ~~"Hospital."—An institution having an organized medical staff~~
13 ~~which is engaged primarily in providing to inpatients, by or~~
14 ~~under the supervision of physicians, diagnostic and therapeutic~~
15 ~~services for the care of injured, disabled, pregnant, diseased~~
16 ~~or sick or mentally ill persons. The term includes facilities~~
17 ~~for the diagnosis and treatment of disorders within the scope of~~
18 ~~specific medical specialties. The term does not include~~
19 ~~facilities caring exclusively for the mentally ill.~~

20 ~~"Hospital plan corporation."—A hospital plan corporation as~~
21 ~~defined in 40 Pa.C.S. § 6101 (relating to definitions).~~

22 ~~"Insurer."—Any insurance company, association, reciprocal,~~
23 ~~nonprofit hospital plan corporation, nonprofit professional~~
24 ~~health service plan, health maintenance organization, fraternal~~
25 ~~benefits society or a risk bearing PPO or nonrisk bearing PPO~~
26 ~~not governed and regulated under the Employee Retirement Income~~
27 ~~Security Act of 1974 (Public Law 93-406, 29 U.S.C. § 1001 et~~
28 ~~seq.).~~

29 ~~"MAAC."—The Medical Assistance Advisory Committee.~~

30 ~~"Managed care organization."—Health maintenance organization~~

~~organized and regulated under the act of December 29, 1972
(P.L.1701, No.364), known as the Health Maintenance Organization
Act, or a risk assuming preferred provider organization or
exclusive provider organization, organized and regulated under
the act of May 17, 1921 (P.L.682, No.284), known as The
Insurance Company Law of 1921.~~

~~"MCH."—Maternal and Child Health.~~

~~"Medicaid."—The Federal medical assistance program
established under Title XIX of the Social Security Act (49 Stat.
620, 42 U.S.C. § 1396 et seq.).~~

~~"Medical assistance."—The State program of medical
assistance established under the act of June 13, 1967 (P.L.31,
No.21), known as the Public Welfare Code.~~

~~"Mid level health professional."—A physician assistant,
certified registered nurse practitioner, nurse practitioner or a
certified nurse midwife.~~

~~"Parent."—A natural parent, stepparent, adoptive parent,
guardian or custodian of a child.~~

~~"Participant."—A child enrolled in the Children's Health
Insurance Program or the parent of such a child who is also
enrolled.~~

~~"PPO."—A preferred provider organization subject to the
provisions of section 630 of the act of May 17, 1921 (P.L.682,
No.284), known as The Insurance Company Law of 1921.~~

~~"Preexisting condition."—A disease or physical condition for
which medical advice or treatment has been received prior to the
effective date of coverage.~~

~~"Subgroup."—An employer covered under a contract issued to a
multiple employer trust or to an association.~~

~~"Terminate."—Includes cancellation, nonrenewal and~~

1 ~~exceed 2.5% of the amount of the contract, for future~~
2 ~~administrative expenses to the contractor to the extent that~~
3 ~~the department finds the expenses reasonable and necessary.~~

4 ~~(3) No less than 70% of the fund shall be used to~~
5 ~~provide the health care services provided under this chapter~~
6 ~~for children eligible for free care under subsection (d).~~
7 ~~When the department determines that 70% of the fund is not~~
8 ~~needed in order to achieve maximum enrollment of children~~
9 ~~eligible for free care and promulgates a final form~~
10 ~~regulation with proposed rulemaking omitted, this paragraph~~
11 ~~shall expire.~~

12 ~~(4) To ensure that inpatient hospital care is provided~~
13 ~~to eligible children, each primary care physician providing~~
14 ~~primary care services shall make necessary arrangements for~~
15 ~~admission to the hospital and for necessary specialty care.~~

16 ~~(c) Requirements.—~~

17 ~~(1) Any organization or corporation receiving funds from~~
18 ~~the department to provide coverage of health care services~~
19 ~~shall enroll, to the extent that funds are available, any~~
20 ~~child who meets all of the following:~~

21 ~~(i) Except for newborns, has been a resident of this~~
22 ~~Commonwealth for at least 30 days prior to enrollment.~~

23 ~~(ii) Is not covered by a health insurance plan, a~~
24 ~~self insurance plan or a self funded plan or is not~~
25 ~~eligible for or covered by medical assistance.~~

26 ~~(iii) Is qualified based on income under subsection~~
27 ~~(d) or (e).~~

28 ~~(iv) Meets the citizenship requirements of the~~
29 ~~Medicaid program administered by the Department of Public~~
30 ~~Welfare.~~

~~(2) Enrollment may not be denied on the basis of a preexisting condition, nor may diagnosis or treatment for the condition be excluded based on the condition's preexistence.~~

~~(d) Free health care insurance. The provision of health care insurance for eligible children shall be free to a child under 19 years of age whose family income is no greater than 200% of the Federal poverty level and to the parents of any eligible child, as funds are available.~~

~~(e) Eligibility.~~

~~(1) The following shall apply:~~

~~(i) The provision of health care insurance for an eligible child who is under 19 years of age and whose family income is greater than 200% of the Federal poverty level but no greater than 235% of the Federal poverty level may be subsidized by the fund at a rate not to exceed 50%.~~

~~(ii) The provision of health care insurance for the parents of a child eligible to receive subsidized coverage under this subsection may be subsidized by the fund at a rate not to exceed 50%.~~

~~(2) The difference between the pure premium of the minimum benefit package in subsection (1)(6) and the subsidy provided under this subsection shall be the amount paid by the family of the eligible child purchasing the minimum benefit package.~~

~~(f) Purchase of coverage. The family of an eligible child whose family income makes the child or the child's parents eligible for free or subsidized care but who cannot receive care due to lack of funds in the fund may purchase coverage for the child at cost.~~

~~(g) Department. The department shall:~~

~~(1) Administer the children's health care program pursuant to this chapter.~~

~~(2) Review all bids and approve and execute all contracts for the purpose of expanding access to health care services for eligible children and their parents, as provided for in this subchapter.~~

~~(3) Conduct monitoring and oversight of contracts entered into.~~

~~(4) Issue an annual report to the Governor, the General Assembly and the public for each fiscal year outlining primary health services funded for the year, detailing the outreach and enrollment efforts and reporting by county the number of children and parents receiving health care services from the fund, the projected number of eligible children and parents and the number of eligible children and parents on waiting lists for health care services.~~

~~(5) In consultation with appropriate Commonwealth agencies, coordinate the development and supervision of the outreach plan required under section 612.~~

~~(6) In consultation with appropriate Commonwealth agencies, monitor, review and evaluate the adequacy, accessibility and availability of services delivered to children who are enrolled in the health insurance program established under this subchapter.~~

~~(h) Regulations. The department may promulgate regulations necessary for the implementation and administration of this subchapter.~~

~~(i) Council. The Children's Health Advisory Council is established within the department as an advisory council. The~~

1 ~~following shall apply:~~

2 ~~(1) The council shall consist of 14 voting members.~~

3 ~~Members provided for in subparagraphs (iv), (v), (vi), (vii),~~
4 ~~(viii), (x) and (xi) shall be appointed by the Insurance~~
5 ~~Commissioner. The council shall be geographically balanced on~~
6 ~~a Statewide basis and shall include:~~

7 ~~(i) The Secretary of Health ex officio or a~~
8 ~~designee.~~

9 ~~(ii) The Insurance Commissioner ex officio or a~~
10 ~~designee.~~

11 ~~(iii) The Secretary of Public Welfare ex officio or~~
12 ~~a designee.~~

13 ~~(iv) A representative with experience in children's~~
14 ~~health from a school of public health located in this~~
15 ~~Commonwealth.~~

16 ~~(v) A physician with experience in children's health~~
17 ~~appointed from a list of three qualified persons~~
18 ~~recommended by the Pennsylvania Medical Society.~~

19 ~~(vi) A representative of a children's hospital or a~~
20 ~~hospital with a pediatric outpatient clinic appointed~~
21 ~~from a list of three persons submitted by the Hospital~~
22 ~~Association of Pennsylvania.~~

23 ~~(vii) A parent of a child who receives primary~~
24 ~~health care coverage from the fund.~~

25 ~~(viii) A mid level professional appointed from lists~~
26 ~~of names recommended by Statewide associations~~
27 ~~representing mid level health professionals.~~

28 ~~(ix) A senator appointed by the President pro~~
29 ~~tempore of the Senate, a senator appointed by the~~
30 ~~minority leader of the Senate, a representative appointed~~

1 ~~by the Speaker of the House of Representatives and a~~
2 ~~representative appointed by the minority leader of the~~
3 ~~House of Representatives.~~

4 ~~(x) A representative from a private nonprofit~~
5 ~~foundation.~~

6 ~~(xi) A representative of business who is not a~~
7 ~~contractor or provider of primary health care insurance~~
8 ~~under this subchapter.~~

9 ~~(2) If any specified organization should cease to exist~~
10 ~~or fail to make a recommendation within 90 days of a request~~
11 ~~to do so, the council shall specify a new equivalent~~
12 ~~organization to fulfill the responsibilities of this section.~~

13 ~~(3) The Insurance Commissioner shall chair the council.~~
14 ~~The members of the council shall annually elect, by a~~
15 ~~majority vote of the members, a vice chairperson from among~~
16 ~~the members of the council.~~

17 ~~(4) The presence of eight members shall constitute a~~
18 ~~quorum for the transacting of any business. Any act by a~~
19 ~~majority of the members present at any meeting at which there~~
20 ~~is a quorum shall be deemed to be that of the council.~~

21 ~~(5) All meetings of the council shall be conducted~~
22 ~~pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings)~~
23 ~~unless otherwise provided in this section. The council shall~~
24 ~~meet at least annually and may provide for special meetings~~
25 ~~as it deems necessary. Meeting dates shall be set by a~~
26 ~~majority vote of members of the council or by call of the~~
27 ~~chairperson upon seven days' notice to all members. The~~
28 ~~council shall publish notice of its meetings in the~~
29 ~~Pennsylvania Bulletin. Notice shall specify the date, time~~
30 ~~and place of the meeting and shall state that the council's~~

1 ~~meetings are open to the general public. All action taken by~~
2 ~~the council shall be taken in open public session and shall~~
3 ~~not be taken except upon a majority vote of the members~~
4 ~~present at a meeting at which a quorum is present.~~

5 ~~(6) The members of the council shall not receive a~~
6 ~~salary or per diem allowance for serving as members of the~~
7 ~~council but shall be reimbursed for actual and necessary~~
8 ~~expenses incurred in the performance of their duties.~~

9 ~~(7) Terms of council members shall be as follows:~~

10 ~~(i) The appointed members shall serve for a term of~~
11 ~~three years and shall continue to serve thereafter until~~
12 ~~their successors are appointed.~~

13 ~~(ii) An appointed member shall not be eligible to~~
14 ~~serve more than two full consecutive terms of three~~
15 ~~years. Vacancies shall be filled in the same manner in~~
16 ~~which they were designated within 60 days of the vacancy.~~

17 ~~(iii) An appointed member may be removed by the~~
18 ~~appointing authority for just cause and by a vote of at~~
19 ~~least seven members of the council.~~

20 ~~(8) The council shall review outreach activities and may~~
21 ~~make recommendations to the department.~~

22 ~~(9) The council shall review and evaluate the~~
23 ~~accessibility and availability of services delivered to~~
24 ~~children enrolled in the program.~~

25 ~~(j) Solicitation of bids. The department shall solicit bids~~
26 ~~and award contracts through a competitive procurement process~~
27 ~~pursuant to the following:~~

28 ~~(1) To the fullest extent practicable, contracts shall~~
29 ~~be awarded to entities that contract with providers to~~
30 ~~provide primary care services for enrollees on a cost-~~

1 ~~effective basis. The department shall require contractors to~~
2 ~~use appropriate cost management methods so that the fund can~~
3 ~~be used to provide the basic primary benefit services to the~~
4 ~~maximum number of eligible children and, whenever possible,~~
5 ~~to pursue and utilize available public and private funds.~~

6 ~~(2) To the fullest extent practicable, the department~~
7 ~~shall require that any contractor comply with all procedures~~
8 ~~relating to coordination of benefits as required by the~~
9 ~~department or the Department of Public Welfare.~~

10 ~~(3) Contracts may be for a term of up to three years.~~

11 ~~(k) Submission of bids. Upon receipt of a request for~~
12 ~~proposal from the department, each health plan corporation or~~
13 ~~its entities doing business in this Commonwealth shall submit a~~
14 ~~bid to the department to carry out the purposes of this section~~
15 ~~in the area serviced by the corporation.~~

16 ~~(l) Duties of contractor. A contractor with whom the~~
17 ~~department enters into a contract shall do the following:~~

18 ~~(1) Ensure to the maximum extent possible that eligible~~
19 ~~children have access to primary health care physicians and~~
20 ~~nurse practitioners on an equitable Statewide basis.~~

21 ~~(2) Contract with qualified, cost effective providers,~~
22 ~~which may include primary health care physicians, nurse~~
23 ~~practitioners, clinics and health maintenance organizations,~~
24 ~~to provide primary and preventive health care for enrollees~~
25 ~~on a basis best calculated to manage the costs of the~~
26 ~~services, including, but not limited to, using managed health~~
27 ~~care techniques and other appropriate medical cost management~~
28 ~~methods.~~

29 ~~(3) Ensure that the family of a child who may be~~
30 ~~eligible for medical assistance receives assistance in~~

1 ~~applying for medical assistance, including, at a minimum,~~
2 ~~written notice of the telephone number and address of the~~
3 ~~county assistance office where the family can apply for~~
4 ~~medical assistance.~~

5 ~~(4) Maintain waiting lists of children and their parents~~
6 ~~who are financially eligible and have applied for benefits~~
7 ~~but who were not enrolled due to lack of funds.~~

8 ~~(5) Strongly encourage all providers who provide primary~~
9 ~~care to eligible children to participate in medical~~
10 ~~assistance as qualified EPSDT providers and to continue to~~
11 ~~provide care to children who become ineligible for payment~~
12 ~~under the fund but who qualify for medical assistance.~~

13 ~~(6) Provide the following minimum benefit package for~~
14 ~~eligible children:~~

15 ~~(i) Preventive care. This subparagraph includes~~
16 ~~well child care visits in accordance with the schedule~~
17 ~~established by the American Academy of Pediatrics and the~~
18 ~~services related to those visits, including, but not~~
19 ~~limited to, immunizations, health education, tuberculosis~~
20 ~~testing and developmental screening in accordance with~~
21 ~~routine schedule of well child visits. Care shall also~~
22 ~~include a comprehensive physical examination, including~~
23 ~~X rays if necessary, for any child exhibiting symptoms of~~
24 ~~possible child abuse.~~

25 ~~(ii) Diagnosis and treatment of illness or injury,~~
26 ~~including all medically necessary services related to the~~
27 ~~diagnosis and treatment of sickness and injury and other~~
28 ~~conditions provided on an ambulatory basis, such as~~
29 ~~laboratory tests, wound dressing and casting to~~
30 ~~immobilize fractures.~~

~~(iii) Injections and medications provided at the time of the office visit or therapy and outpatient surgery performed in the office, a hospital or freestanding ambulatory service center, including anesthesia provided in conjunction with such service or during emergency medical service.~~

~~(iv) Emergency accident and emergency medical care.~~

~~(v) Prescription drugs.~~

~~(vi) Emergency, preventive and routine dental care.~~

~~This subparagraph does not include orthodontia or cosmetic surgery.~~

~~(vii) Emergency, preventive and routine vision care, including the cost of corrective lenses and frames, not to exceed two prescriptions per year.~~

~~(viii) Emergency, preventive and routine hearing care.~~

~~(ix) Inpatient hospitalization up to 90 days per year for eligible children.~~

~~(7) Each contractor shall provide an insurance identification card to each eligible child covered under contracts executed under this chapter. The card must not specifically identify the holder as low income.~~

~~(m) Waiver. The department may grant a waiver of the minimum benefit package of subsection (1)(6) upon demonstration by the applicant that it is providing health care services for eligible children that meet the purposes and intent of this section.~~

~~(n) Review. After the first year of operation and periodically thereafter, the department in consultation with appropriate Commonwealth agencies shall review enrollment~~

~~patterns for both the free insurance program and the subsidized insurance program. The department shall consider the relationship, if any, among enrollment, enrollment fees, income levels and family composition. Based on the results of this study and the availability of funds, the department is authorized to adjust the maximum income ceiling for free insurance and the maximum income ceiling for subsidized insurance by regulation. In no event, however, shall the maximum income ceiling for free insurance be raised above 200% of the Federal poverty level, nor shall the maximum income ceiling for subsidized insurance be raised above 235% of the Federal poverty level. Changes in the maximum income ceiling shall be promulgated as a final form regulation with proposed rulemaking omitted in accordance with the act of June 25, 1982 (P.L. 633, No.181), known as the Regulatory Review Act.~~

~~(o) Enrollment. An organization or corporation receiving funds from the department to provide coverage of health care services shall enroll, to the extent that funds are available, the parents of a child who:~~

~~(1) meets the eligibility criteria under subsection (c);~~

~~and~~

~~(2) is enrolled in the Children's Health Insurance Program.~~

~~(p) Subscription fee and deductible. The department may, by regulation, establish a subscription fee not in excess of \$50 annually and a deductible not in excess of \$200 annually, for parents enrolled in the Children's Health Insurance Program.~~

~~Section 612. Outreach.~~

~~(a) Coordination. The department, in consultation with appropriate Commonwealth agencies, shall coordinate the~~

~~development of an outreach plan to inform potential contractors, providers and enrollees regarding eligibility and available benefits. The plan shall include provisions for reaching special populations, including nonwhite and non-English speaking children and children with disabilities; for reaching different geographic areas, including rural and inner city areas; and for assuring that special efforts are coordinated within the overall outreach activities throughout this Commonwealth.~~

~~(b) Review. The council shall review the outreach activities and recommend changes as it deems in the best interests of the children to be served.~~

~~Section 613. Payor of last resort; insurance coverage.~~

~~The contractor shall not pay any claim on behalf of an enrolled participant unless all other Federal, State, local or private resources available to the participant or the participant's family are utilized first. The department, in cooperation with the Department of Public Welfare, shall determine that no other insurance coverage is available to the child through a custodial or noncustodial parent or is available to the parent on an employment related or other group basis. If such insurance coverage is available, the department shall reevaluate the child's eligibility under section 611.~~

~~SUBCHAPTER G~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 661. Limitation on expenditure of funds.~~

~~In no case shall the total amount of annual contract awards authorized in Subchapter B exceed the amount of cigarette tax receipts annually deposited into the fund pursuant to section 1296 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and any other Federal or State funds~~

~~received through the fund, including Federal CHIP funds or payments made available to the Commonwealth under this chapter and appropriated by the General Assembly to the fund. The provision of children's health care through the fund shall in no way constitute an entitlement derived from the Commonwealth or a claim on any other funds of the Commonwealth.~~

~~Section 662. Waiting list.~~

~~In the event that, at any time, there becomes a waiting list for children to enroll in the Children's Health Insurance Program based on the exhaustion of Federal CHIP funds, no additional uninsured parent shall be enrolled until said waiting list is exhausted.~~

~~Section 663. Continuation.~~

~~All entities receiving grants under Article XXIII of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, on the effective date of this chapter shall continue to receive funds and provide services as required under that act until notice is received from the department.~~

~~Section 664. Waiver.~~

~~Should the department determine that a waiver of Federal law is required in order to use Federal CHIP funds to provide coverage for the parents of children eligible to enroll in the Children's Health Insurance Program, the department shall file an application for such a waiver no later than 90 days after the effective date of this chapter.~~

~~Section 665. Annual appropriation.~~

~~The General Assembly shall annually appropriate such moneys from the funds received by the Commonwealth pursuant to the Master Settlement Agreement as it determines necessary to fulfill the purposes of this chapter. Funds that are unexpended~~

~~at the end of each State fiscal year shall lapse back into the Tobacco Endowment Fund.~~

~~Section 666. Expiration.~~

~~The provisions of this chapter which provide for health insurance coverage for parents of CHIP eligible children shall expire five years after the effective date of this chapter, unless otherwise extended.~~

~~CHAPTER 7~~

~~TOBACCO USE PREVENTION AND CESSATION EFFORTS~~

~~Section 701. Scope.~~

~~This chapter deals with tobacco use prevention and cessation efforts.~~

~~Section 702. 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:~~

~~"Committee." The Tobacco Use Prevention and Cessation Advisory Committee established in section 705.~~

~~"Department." The Department of Health of the Commonwealth.~~

~~"Primary contractor." A person located in this Commonwealth that develops, implements or monitors tobacco use prevention and cessation programs in a service area. The term includes:~~

~~(1) A for profit or nonprofit organization, including a community foundation, that provides tobacco use prevention and cessation programs.~~

~~(2) An entity created under the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act.~~

~~(3) A municipality or a municipal health department created pursuant to the act of August 24, 1951 (P.L.1304,~~

~~No.315), known as the Local Health Administration Law.~~

~~(4) An institution of higher education.~~

~~(5) A hospital established under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.~~

~~"Secretary." The Secretary of Health of the Commonwealth.~~

~~"Service area." A geographic area designated by the Department of Health under section 704.~~

~~"Service provider." A person located in this Commonwealth that is selected by the primary contractor to receive a grant to provide tobacco use prevention and cessation programs. The term includes:~~

~~(1) A for profit or nonprofit organization that provides tobacco use prevention and cessation programs.~~

~~(2) An entity created under the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act.~~

~~(3) A municipality or a municipal health department created under the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law.~~

~~(4) An institution of higher education.~~

~~(5) A hospital established under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.~~

~~(6) A school district or intermediate unit.~~

~~"Tobacco prevention program." The comprehensive tobacco use prevention and cessation program established in section 703, the goal of which is to eliminate or reduce disease, disability and death, related to tobacco use among residents of this Commonwealth, utilizing the "Best Practices for Comprehensive~~

~~Tobacco Control Programs," or a successor program, of the
National Centers for Disease Control and Prevention.
Section 703. Tobacco prevention program.~~

~~(a) Establishment. There is hereby established in the
department a tobacco prevention program. Appropriations from the
fund to the department for the tobacco prevention program shall
be used to implement the tobacco prevention program.~~

~~(b) Components. The program shall include the following:~~

~~(1) Community and school programs designed to reduce
tobacco use.~~

~~(2) Chronic disease programs to reduce the burden of
tobacco related diseases including prevention and early
detection.~~

~~(3) Enforcement of applicable laws related to tobacco
access.~~

~~(4) Efforts designed to counter tobacco influences and
increase health related messages.~~

~~(5) Tobacco cessation programs with a priority for
saving the uninsured and low income populations.~~

~~(6) Monitoring program accountability by requiring the
evaluation and documentation of program results.~~

~~(7) Administration and management to facilitate
coordination of the programs.~~

~~Section 704. Powers and duties of department.~~

~~The department has the following powers and duties:~~

~~(1) To administer the tobacco prevention program in a
manner which provides local services to Commonwealth
residents.~~

~~(2) To annually establish tobacco prevention program
priorities for the Commonwealth in consultation with the~~

1 ~~committee.~~

2 ~~(3) To divide this Commonwealth into no more than 67~~
3 ~~service areas in order to provide for the effective and~~
4 ~~geographically dispersed delivery of the tobacco prevention~~
5 ~~program. The department shall foster collaboration among~~
6 ~~geographic regions of this Commonwealth.~~

7 ~~(4) To enter into contracts with at least one and no~~
8 ~~more than two primary contractors in each service area, under~~
9 ~~section 708.~~

10 ~~(5) To approve plans submitted by primary contractors,~~
11 ~~including the specific goals with measurable objectives to be~~
12 ~~met by the primary contractors for each service area.~~

13 ~~(6) To coordinate, monitor and evaluate the tobacco~~
14 ~~prevention program funded under this chapter to ensure~~
15 ~~compliance with program priorities and goals and to ensure~~
16 ~~delivery of program services in all geographic areas of this~~
17 ~~Commonwealth. Programs shall be coordinated with other~~
18 ~~efforts to prevent and reduce exposure to and consumption of~~
19 ~~tobacco.~~

20 ~~(7) To determine the level of tobacco use in this~~
21 ~~Commonwealth and each of the service areas and monitor~~
22 ~~changes in the level of tobacco use in this Commonwealth and~~
23 ~~each of the service areas based on available information.~~

24 ~~(8) To submit a report no later than November 1, 2002,~~
25 ~~and annually thereafter to the chair and minority chair of~~
26 ~~the Public Health and Welfare Committee of the Senate and the~~
27 ~~chair and minority chair of the Health and Human Services~~
28 ~~Committee of the House of Representatives. The annual report~~
29 ~~also shall be posted on the department's publicly accessible~~
30 ~~World Wide Web site. The report shall include the activities~~

~~of the department in implementing the act, including:~~

~~(i) Identification of the primary contractor and all service providers in each service area.~~

~~(ii) Identification of tobacco prevention program priorities under paragraph (2).~~

~~(iii) The goals of each primary contractor and whether its goals have been met.~~

~~(iv) The information and methodology derived from the implementation of paragraph (7).~~

~~Section 705. Committee.~~

~~(a) Establishment. There is established in the department the Tobacco Use Prevention and Cessation Advisory Committee.~~

~~(b) Membership. The committee is comprised of the following:~~

~~(1) The secretary or a designee, who shall serve as chairperson.~~

~~(2) Six members appointed by the secretary.~~

~~(3) One member appointed by the President pro tempore of the Senate and one member appointed by the Minority Leader of the Senate.~~

~~(4) One member appointed by the Speaker of the House of Representatives and one member appointed by the Minority Leader of the House of Representatives.~~

~~(c) Qualifications. Members appointed to the committee must possess expertise in community, clinical or public health practices or programs related to tobacco use prevention and cessation.~~

~~(d) Terms.~~

~~(1) The secretary shall serve ex officio.~~

~~(2) A member under subsection (b)(2) shall serve a term~~

1 ~~of four years.~~

2 ~~(3) A member under subsection (b)(3) shall serve a term~~
3 ~~of four years but may be removed at the pleasure of the~~
4 ~~appointing authority.~~

5 ~~(4) A member under subsection (b)(4) shall serve a term~~
6 ~~of two years but may be removed at the pleasure of the~~
7 ~~appointing authority.~~

8 ~~(5) An appointment to fill a vacancy shall be for the~~
9 ~~period of the unexpired term or until a successor is~~
10 ~~appointed and qualified.~~

11 ~~(c) Meetings. The committee shall meet as needed, but at~~
12 ~~least twice a year, to fulfill the purposes provided for in this~~
13 ~~chapter. A majority of the members of the committee constitutes~~
14 ~~a quorum. A majority of the members of the committee has~~
15 ~~authority to act upon any matter properly before it. The~~
16 ~~committee is authorized to establish rules for its operation and~~
17 ~~shall hold at least one public hearing annually. Meetings of the~~
18 ~~committee shall be conducted under 65 Pa.C.S. Ch. 7 (relating to~~
19 ~~open meetings).~~

20 ~~(f) Expenses. Members shall receive no payment for their~~
21 ~~services. Members who are not employees of State government~~
22 ~~shall be reimbursed for expenses incurred in the course of their~~
23 ~~official duties.~~

24 ~~(g) Powers and duties. The committee has the following~~
25 ~~powers and duties:~~

26 ~~(1) Collect and review information relating to tobacco~~
27 ~~use prevention and cessation.~~

28 ~~(2) In consultation with the department, establish~~
29 ~~priorities and goals regarding tobacco use prevention and~~
30 ~~cessation priorities.~~

~~(3) In consultation with the department, establish evaluation procedures to be used in approving primary contractors and service providers.~~

~~(4) Monitor the plans of primary contractors for achievement of the goals and priorities established under paragraph (2).~~

~~(5) Any other oversight activities deemed necessary by the committee.~~

~~Section 706. Primary contractors.~~

~~(a) Applicants. An applicant to be a primary contractor must submit a plan to the department which demonstrates the ability of the primary contractor to develop, implement and monitor the tobacco prevention program in a service area.~~

~~(b) Department. The department shall review plans submitted under subsection (a) and shall enter into a contract with the primary contractor selected to provide the tobacco prevention program in each service area.~~

~~(c) Grants. The primary contractor shall award grants to service providers to implement the tobacco prevention program for the service area.~~

~~(d) Duties of primary contractor. The primary contractor shall do all of the following:~~

~~(1) Develop a proposed plan, subject to department approval, which meets the tobacco use, prevention and cessation needs in the service area and the goals and priorities established under section 704(2).~~

~~(2) Award grants to service providers to implement the tobacco prevention program in the service area in accordance with the plan developed and approved under paragraph (1).~~

~~Priority may be given to service providers who have~~

~~experience in providing tobacco use prevention and cessation services. In a service area with multiple service providers, no individual service provider shall receive more than 50% of the funds awarded to the primary contractor unless otherwise approved by the department.~~

~~(3) Establish tobacco reduction goals for each service provider in the service area consistent with the plan adopted under paragraph (1).~~

~~(4) Ensure that service providers are meeting the priorities and goals set forth in the plan.~~

~~(5) Coordinate the plan with other health related programs to prevent or reduce tobacco use by individuals receiving services from these programs.~~

~~(6) Increase participation in tobacco prevention programs by schools in the service area.~~

~~(7) Solicit input from health care providers, community organizations, public officials and other individuals and groups regarding the plan for each service area.~~

~~(8) Coordinate efforts with local law enforcement to enforce existing restrictions on smoking.~~

~~(9) Prepare and submit reports as required by the department, which shall include all of the following:~~

~~(i) Identification of service providers and grant amount for each service provider by service area by fiscal year.~~

~~(ii) Identification of specific goals for tobacco prevention programs to be met by service providers for each service area.~~

~~(iii) Details of the spending plan by service area pursuant to section 704(3).~~

~~(iv) Identification of indicators used to evaluate whether specific goals have been met by fiscal year.~~

~~Section 707. Service providers.~~

~~(a) Applications. Service providers must apply to the primary contractor in their service area for a grant to deliver tobacco prevention program services in accordance with section 506. An application to be a service provider must include a description of the purpose of the service and the manner in which the service will reduce or prevent tobacco use. The application shall include the method by which the service provider will be evaluated.~~

~~(b) Service provider annual report. A service provider awarded a grant under this chapter shall annually report to the primary contractor and to the department all of the following:~~

~~(1) Expenditures made with the grant awards.~~

~~(2) Whether the goals set by the primary contractor have been met.~~

~~(3) Any other information deemed necessary by the primary contractor or the department.~~

~~Section 708. Contracts and grants.~~

~~(a) Contracts. Contracts shall be awarded in accordance with 62 Pa.C.S. (relating to procurement) and may be awarded on a multiple award basis. Contracts with primary contractors shall be for a period not to exceed three years. Funding for multiyear contracts shall be subject to the availability of funds as appropriated by the General Assembly.~~

~~(b) Grants.~~

~~(1) All of the funds allocated under this chapter shall be used for grants to primary contractors to develop tobacco prevention programs.~~

~~(2) In developing criteria for the award of grants, the committee shall recognize that certain populations have been targeted by tobacco product marketing and therefore shall give priority consideration to community health initiatives, tobacco prevention programs, tobacco use education programs and tobacco cessation programs serving minority populations and minors. Priority shall also be given to similar programs serving other demographic groups and geographic regions which suffer from disproportionately high rates of lung cancer or other tobacco related diseases.~~

~~(c) Limitations. The aggregate amount of contracts and grants in any fiscal year may not exceed the amount of the appropriation to the department for the tobacco prevention program in that fiscal year. The provision of a grant under this chapter shall not constitute an entitlement derived from the Commonwealth or a claim on any other funds of the Commonwealth.~~

~~(d) Restrictions. A tobacco company or an agent or subsidiary of a tobacco company may not be awarded a contract as a primary contractor or service provider.~~

~~Section 709. Accountability.~~

~~(a) Audits. Contracts with primary contractors and grants with service providers shall be subject to an annual audit by the department. Audits of these contracts and grants are to be conducted in accordance with generally accepted accounting principles.~~

~~(b) Review procedures. Any primary contractor or service provider that receives a contract or a grant under this chapter shall be subject to review by the department. As appropriate, information submitted to the department shall include the following:~~

~~(1) The progress made in achieving expected tobacco prevention program priorities and goals.~~

~~(2) The extent of tobacco prevention and cessation activities initiated and completed, with detailed results and any proposed methods for improvement.~~

~~(3) Any changes in the incidence of tobacco use among target populations established through tobacco prevention program priorities.~~

~~(4) Any other information deemed necessary by the department.~~

~~(c) Penalty. A primary contractor or a service provider that fails to meet audit or performance review standards may be subject to a reduction in or ineligibility for future grant funding.~~

~~CHAPTER 8~~

~~TOBACCO ACCESS CONTROL TAX CREDIT~~

~~Section 801. Scope of chapter.~~

~~This chapter deals with authorizing a tobacco access control tax credit.~~

~~Section 802. 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:~~

~~"Department." The Department of Revenue of the Commonwealth.~~

~~"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~"Qualified tobacco access control expense." That expense incurred by a taxpayer for the purchase and use of technology or software intended to control the access of minors to cigarettes~~

1 ~~and which is capable of:~~

2 ~~(1) Capturing the information from a magnetic strip on a~~
3 ~~Pennsylvania driver's license or identification card issued~~
4 ~~by the Department of Transportation.~~

5 ~~(2) Producing a declaration of age in print, audible or~~
6 ~~visual form.~~

7 ~~(3) Prompting a cashier for age verification when a~~
8 ~~tobacco purchase is recorded by the point of sale system.~~

9 ~~"Secretary." The Secretary of Revenue of the Commonwealth.~~

10 ~~"Taxpayer." An entity licensed by the Department of Revenue~~
11 ~~to sell cigarettes to a consumer.~~

12 ~~"Tobacco access control tax credit." The credit provided~~
13 ~~under this chapter.~~

14 ~~Section 803. Credit for tobacco access control expenses.~~

15 ~~(a) Application for credit by taxpayer. A taxpayer who~~
16 ~~incurs a qualified tobacco access control expense in a taxable~~
17 ~~year may apply for a tobacco access control tax credit as~~
18 ~~provided in this chapter. In order to receive the credit, the~~
19 ~~taxpayer must submit an application to the department by~~
20 ~~September 15 for a qualified tobacco access control expense~~
21 ~~incurred in the taxable year that ended in the prior calendar~~
22 ~~year.~~

23 ~~(b) Amount of credit. A taxpayer that timely applies under~~
24 ~~subsection (a) shall receive a tobacco access control tax credit~~
25 ~~for the taxable year up to the amount of \$900 per license per~~
26 ~~location.~~

27 ~~(c) Notification of approval from department. By December~~
28 ~~15 of the calendar year following the close of the taxable year~~
29 ~~during which the qualified tobacco access control expense was~~
30 ~~incurred, the department shall notify the taxpayer of the amount~~

~~of the taxpayer's tobacco access control tax credit approved by the department.~~

~~Section 804. Use of credit.~~

~~(a) Carryover.~~

~~(1) The amount of the tobacco access control tax credit that a taxpayer may use against any one qualified tax liability during any year may not exceed 50% of the qualified tax liability for that taxable year.~~

~~(2) If the taxpayer cannot use the entire amount of the tobacco access control tax credit for the taxable year in which the tobacco access control tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years.~~

~~(3) Each time that the tobacco access control tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year.~~

~~(4) The tobacco access control tax credit provided by this chapter may be carried over and applied to succeeding taxable years for not more than four taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.~~

~~(b) Taxable year to which applied. A tobacco access control tax credit approved by the department for qualified tobacco access control expense in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the tobacco access control tax credit is applied against any tax liability under subsection (a).~~

~~(c) Limitations. A taxpayer may not carry back, obtain a refund of or assign an unused tobacco access control tax credit. Section 805. Determination of qualified tobacco access control expenses.~~

~~In prescribing standards for determining which tobacco access control expense is to be deemed a qualified tobacco access control expense for purposes of computing the credit provided by this chapter, the department shall require:~~

~~(1) A copy of the technology or software specifications demonstrating that the specifications meet the definition of a qualified tobacco access control expense.~~

~~(2) A copy of an invoice to the taxpayer for the technology or software purchased for qualification as a qualified tobacco access control expense.~~

~~(3) A copy of the check or checks and paid receipts for technology or software purchased for qualifications as qualified tobacco access control expense.~~

~~Section 806. Time limitation.~~

~~A taxpayer is not entitled to a tobacco access control tax credit for qualified tobacco access control expenses incurred in taxable years ending after December 31, 2005.~~

~~Section 807. Limitation on credits.~~

~~The total amount of credits approved by the department shall not exceed \$10,000,000.~~

~~Section 808. Pennsylvania S Corporation shareholder pass-through.~~

~~(a) General rule. If a Pennsylvania S Corporation does not have an eligible tax liability against which the tobacco access control tax credit may be applied, a shareholder of the Pennsylvania S Corporation is entitled to a tobacco access~~

~~control tax credit equal to the tobacco access control tax credit determined for the Pennsylvania S Corporation for the taxable year multiplied by the percentage of the Pennsylvania S Corporation's distributive income to which the shareholder is entitled.~~

~~(b) Double use of credit prohibited. A Pennsylvania S Corporation and a shareholder of a Pennsylvania S Corporation may not claim a credit under this chapter for the same qualified tobacco access control expense.~~

~~Section 809. Report to General Assembly.~~

~~The secretary shall submit an annual report to the General Assembly indicating the effectiveness of the credit provided by this chapter not later than March 15 following the year in which the credits are approved. The report shall include the number of taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized. The report may also include any recommendations for changes in the calculation or administration of the credit.~~

~~Section 810. Expiration.~~

~~The department may not approve a tobacco access control tax credit under this chapter for taxable years ending after December 31, 2005.~~

~~Section 811. Regulations.~~

~~The secretary shall promulgate regulations necessary for the implementation and administration of this chapter.~~

~~CHAPTER 9~~

~~UNCOMPENSATED CARE~~

~~Section 901. Scope.~~

~~This chapter deals with uncompensated care.~~

~~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 context clearly indicates otherwise:~~

~~"Children's Health Insurance Program."—The insurance program established by Article XXIII of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~"Council."—The Health Care Cost Containment Council.~~

~~"Department."—The Department of Public Welfare of the Commonwealth.~~

~~"Emergent medically necessary services."—Immediate medical care necessary to treat any serious or life threatening medical condition and consistent with the concept of emergency services as set forth in section 2116 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~"Extraordinary expenses."—The cost of hospital inpatient services provided to the uninsured, in excess of twice the hospitals' average cost per stay for all patients.~~

~~"Hospital."—A health care facility licensed as a hospital pursuant to the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.~~

~~"Inpatient day."—A billing unit corresponding to each day an individual is admitted to a hospital as a patient.~~

~~"Insurer."—Any insurance company, association, reciprocal, health maintenance organization, fraternal benefits society or a risk bearing preferred provider organization, that offers health care benefits and is subject to regulation under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921 or the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act. The term includes an entity and its subsidiaries that operate subject to~~

~~the provisions of 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).~~

~~"Medical assistance." The State program of medical assistance established under Article IV(f) of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.~~

~~"Medical assistance day." An inpatient day when the individual admitted to the hospital is eligible for medical assistance or for a similar program in other states.~~

~~"Medicare SSI days." An inpatient day when the individual admitted to the hospital is eligible for both Medicare Part A and Supplemental Security Income (SSI) as determined by the Health Care Financing Administration.~~

~~"Net patient revenue." The actual revenue received by a hospital for services provided to individuals. The term does not include revenue from other operations, such as cafeteria, parking, rent, research and educational activities.~~

~~"Pennsylvania Health Care Cost Containment Council." The council established pursuant to the act of July 8, 1986 (P.L.408, No.89), known as the Health Care Cost Containment Act.~~

~~"Qualified hospital." An eligible hospital which has an uncompensated care score exceeding the median score of all eligible hospitals.~~

~~"Uncompensated care." The amount of care provided to individuals unable to pay for services provided by a hospital measured as the difference between the amount actually received or receivable and the amount that would have been received for such care had the care been provided to recipients entitled to medical benefits under section 432(3)(i) of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.~~

~~"Uninsured." An individual who has no health insurance coverage or whose coverage does not reimburse for some or all of the medically necessary services provided by a hospital.~~

~~Section 903. Hospital uncompensated care payments.~~

~~(a) Program establishment. There is established in the department a hospital uncompensated care program. Appropriations from the fund to the department for the program shall be used to compensate hospitals for uncompensated care to individuals.~~

~~(b) Department responsibilities. The department has the following powers and duties:~~

~~(1) Administer the hospital uncompensated care program.~~

~~(2) Determine the eligibility of hospitals on an annual basis. Notice of eligibility shall be published in the Pennsylvania Bulletin by April 1 for the forthcoming fiscal year.~~

~~(3) Calculate uncompensated scores for eligible hospitals under section 904(c).~~

~~(4) Calculate and make payments to qualified hospitals under section 904(d).~~

~~(5) Seek Federal matching funds under medical assistance to supplement payments made under section 904.~~

~~(6) Prepare and submit a report no later than November 1, 2001, and annually thereafter to the chairman and minority chairman of the Public Health and Welfare Committee and the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Health and Human Services Committee and the chairman and minority chairman of the Appropriations Committee of the House of Representatives. The annual report shall also be made available for public inspection and be~~

~~posted on the department's World Wide Web site. The report shall list all of the following:~~

~~(i) The name and address of each eligible hospital.~~

~~(ii) The name, address and payment amount for each qualified hospital.~~

~~(iii) The health system affiliation of each qualified hospital.~~

~~(iv) The uncompensated care score for each qualified hospital.~~

~~(v) The methodology utilized to compute the uncompensated care score for each eligible hospital.~~

~~(7) Within two years of the effective date of this chapter, contract with an independent entity to evaluate the qualification and payment calculation methods used in this chapter. The evaluation shall be used to ensure that payments are made to hospitals with the greatest burden of uncompensated care.~~

~~(8) Establish an advisory committee, comprised of nine individuals with expertise in hospital administration, hospital finance and reimbursement and hospital patient accounts management, including a representative of the department and a representative of the council. The advisory committee shall make recommendations to the department, the General Assembly and the Governor on data collection and changes to the methodologies used under this chapter.~~

~~(c) Information collection. The department shall collect data and information as necessary to determine hospital eligibility and payment under this chapter, including the department's medical assistance data for medical inpatient days and data from the council and the Health Care Financing~~

~~Administration or its designee for Medicare SSI days. The council and the department shall cooperate to develop policies or regulations to improve the accuracy, consistency and timeliness of the information collected. Information used to determine eligibility and qualification for payments under the uncompensated care program shall be made available to the public.~~

~~Section 904. Eligibility and payment.~~

~~(a) Determination of eligibility. The department shall determine the eligibility of each hospital from information collected under section 903(c).~~

~~(b) Requirements for hospitals. A hospital is eligible for payment from the uncompensated care program if the hospital does all of the following:~~

~~(1) Accepts all individuals, regardless of the ability to pay for emergency medically necessary services within the scope of the hospital's service.~~

~~(2) Seeks collection of a claim, including collection from an insurer or payment arrangements with the person that is responsible for payment of the care rendered.~~

~~(3) Assists individuals in obtaining health care coverage, including medical assistance or the Children's Health Insurance Program.~~

~~(4) Ensures that an emergency admission or treatment is not delayed or denied pending determination of coverage or requirement for prepayment or deposit.~~

~~(5) Posts adequate notice of the availability of medical services and the obligations of hospitals to provide free services.~~

~~(c) Uncompensated care scoring. The department shall~~

1 ~~calculate the uncompensated care score of each eligible hospital~~
2 ~~from collected data. If information necessary to determine the~~
3 ~~uncompensated score of an eligible hospital is unavailable due~~
4 ~~to the refusal of the hospital to provide the information, the~~
5 ~~hospital shall not be eligible for payment from the~~
6 ~~uncompensated care program. If the department determines that~~
7 ~~the necessary information cannot be provided after due~~
8 ~~diligence, the hospital shall remain eligible for payment from~~
9 ~~the uncompensated care program. An eligible hospital's~~
10 ~~uncompensated care score shall be the sum of the following using~~
11 ~~three year average data, or, in the case where the department~~
12 ~~determines the necessary information to compute a three year~~
13 ~~average cannot be provided, the department shall use the average~~
14 ~~of the hospital's data for the years that data has been~~
15 ~~collected:~~

16 ~~(1) the amount of uncompensated care provided as a~~
17 ~~percentage of net patient revenue;~~

18 ~~(2) the number of Medicare SSI days as a percentage of~~
19 ~~inpatient days; and~~

20 ~~(3) the number of medical assistance days as a~~
21 ~~percentage of total inpatient days.~~

22 ~~(d) Payment calculation. A payment to a qualified hospital~~
23 ~~shall be calculated as follows:~~

24 ~~(1) Multiplying each qualified hospital's uncompensated~~
25 ~~care score by the three year average of its total reported~~
26 ~~inpatient days.~~

27 ~~(2) Dividing the product under paragraph (1) for each~~
28 ~~qualified hospital by the sum of the products under paragraph~~
29 ~~(1) for all qualified hospitals.~~

30 ~~(3) Multiplying the quotient under paragraph (2) by the~~

~~appropriation from the fund to the hospital uncompensated
care program.~~

~~(c) Limitations.—~~

~~(1) The sum of payments to a qualified hospital under
this section and payments under medical assistance shall not
exceed the aggregate cost of the inpatient and outpatient
services furnished to:~~

~~(i) recipients entitled to medical benefits under
Title XIX of the Social Security Act (49 Stat. 620, 42
U.S.C. § 1396 et seq.);~~

~~(ii) recipients entitled to medical benefits under
section 432(3)(i) of the act of June 13, 1967 (P.L. 31,
No. 21), known as the Public Welfare Code; and~~

~~(iii) the uninsured.~~

~~(2) Payments made under this section in a fiscal year
shall not exceed the amount of the appropriation to the
department for the uncompensated care program for that fiscal
year.~~

~~(3) A payment under this section does not constitute an
entitlement derived from the Commonwealth or a claim on any
other funds of the Commonwealth.~~

~~Section 905.— Reimbursement for extraordinary expense.~~

~~(a) Program establishment.— There is established in the
Department of Public Welfare a reimbursement for extraordinary
expense program. Appropriations to the department for the
reimbursement program under this section shall be used to
reimburse hospitals for extraordinary expenses in treating the
uninsured on an inpatient hospital basis.~~

~~(b) Department responsibilities.— The department shall:~~

~~(1) Administer the extraordinary expense program.~~

1 ~~(2) Collect the data necessary to administer this~~
2 ~~section, including data from the Pennsylvania Health Care~~
3 ~~Cost Containment Council.~~

4 ~~(3) Contact the appropriate data source if there is~~
5 ~~missing data.~~

6 ~~(4) Determine the eligibility of hospitals from~~
7 ~~information collected under paragraph (2).~~

8 ~~(5) Pay eligible hospitals each fiscal year in an amount~~
9 ~~consistent with this section. Payments shall be made on a~~
10 ~~quarterly basis.~~

11 ~~(6) Seek Federal matching funds under the medical~~
12 ~~assistance program to supplement payments under this chapter.~~

13 ~~(7) Prepare and submit a report no later than November~~
14 ~~1, 2001, and annually thereafter to the chairman and the~~
15 ~~minority chairman of the Public Health and Welfare Committee~~
16 ~~and the chairman and minority chairman of the Appropriations~~
17 ~~Committee of the Senate and the chairman and minority~~
18 ~~chairman of the Health and Human Services Committee and the~~
19 ~~chairman and minority chairman of the Appropriations~~
20 ~~Committee of the House of Representatives. The annual report~~
21 ~~shall also be made available for public inspection and be~~
22 ~~posted on the department's publicly accessible World Wide Web~~
23 ~~site. The report shall list all of the following:~~

24 ~~(i) The name, address and payment amount for each~~
25 ~~eligible hospital.~~

26 ~~(ii) The health system affiliation of each eligible~~
27 ~~hospital.~~

28 ~~(iii) The methodology and data utilized to determine~~
29 ~~the eligibility of each hospital.~~

30 ~~(c) Eligibility.~~

~~(1) A hospital may receive payment under this section if the hospital is not a qualified hospital under section 904 and the hospital provided uncompensated care to an individual with extraordinary expenses in the most recent fiscal year for which data is available.~~

~~(2) A hospital receiving payment under this section shall meet all the requirements of section 904(b).~~

~~(d) Payment methodology. Payment to a hospital under this section shall equal the lesser of the cost of:~~

~~(1) the extraordinary expense claim in excess of twice the hospital's average cost per stay for all patients; or~~

~~(2) the prorated amount of each hospital's percentage of extraordinary expense costs in relationship to all eligible hospitals extraordinary expense cost, as applied to the total funds available in the extraordinary expense program for the fiscal year.~~

~~(e) Limitations.~~

~~(1) Payments to a hospital under this section shall not exceed the aggregate cost of services furnished to individuals with extraordinary expenses.~~

~~(2) The aggregate amount of extraordinary expense payments in any fiscal year shall not exceed the amount of the appropriation to the department for the extraordinary expense program. Providing extraordinary expense payments under this section shall not constitute an entitlement derived from the Commonwealth or a claim on any other funds of the Commonwealth.~~

~~Section 906. Amounts.~~

~~The total amount of funds received under this chapter shall not exceed the uncompensated care amount contained in the~~

1 ~~hospital's most recent hospital cost report.~~

2 ~~CHAPTER 11~~

3 ~~COMMONWEALTH UNIVERSAL RESEARCH ENHANCEMENT~~

4 ~~Section 1101. Scope.~~

5 ~~This chapter deals with universal research enhancement.~~

6 ~~Section 1102. Definitions.~~

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

10 ~~"Advisory committee." The Health Research Advisory Committee~~
11 ~~established in section 1103(b).~~

12 ~~"Applicant." Any of the following:~~

13 ~~(1) A person.~~

14 ~~(2) An institution.~~

15 ~~(3) An entity established under the act of August 24,~~
16 ~~1951 (P.L.1304, No.315), known as the Local Health~~
17 ~~Administration Law.~~

18 ~~"Biomedical research." Comprehensive research pertaining to~~
19 ~~the application of the natural sciences to the study and~~
20 ~~clinical practice of medicine at an institution, including~~
21 ~~biobehavioral research related to tobacco use.~~

22 ~~"Cancer center." Any of the following:~~

23 ~~(1) Fox Chase Cancer Center.~~

24 ~~(2) Wistar Institute.~~

25 ~~(3) MCP Hahnemann University.~~

26 ~~(4) The University of Pennsylvania.~~

27 ~~(5) The Pennsylvania State University.~~

28 ~~(6) The University of Pittsburgh.~~

29 ~~(7) Thomas Jefferson University.~~

30 ~~(8) Temple University.~~

~~"Clinical research."—Patient oriented research which involves direct interaction and study of the mechanisms of human disease, including therapeutic interventions, clinical trials, epidemiological and behavioral studies and the development of new technology.~~

~~"Collaborative research."—Peer reviewed biomedical, clinical or health services research conducted jointly by two or more applicants that cooperate to identify priorities and conduct research which provides for the sharing of infrastructure, resources and expertise.~~

~~"Department."—The Department of Health of the Commonwealth.~~

~~"Health services research."—Any of the following:~~

~~(1) Research on the promotion and maintenance of health.~~

~~(2) The prevention and reduction of disease.~~

~~"Infrastructure."—Equipment, supplies, personnel, laboratory construction or renovations, or the acquisition or maintenance of technology.~~

~~"Institution."—Any of the following located in this Commonwealth:~~

~~(1) A nonprofit entity that conducts research.~~

~~(2) A hospital established under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.~~

~~(3) An institution of higher education.~~

~~"Peer review."—A process approved by the Department of Health or the National Cancer Institute and the National Heart, Lung and Blood Institute in which a review panel which includes an applicant's professional peers reviews and evaluates research grant applications using a rating system of scientific and technical merit.~~

~~"Research." Includes biomedical, clinical, collaborative and health services research.~~

~~Section 1103. Health research program.~~

~~(a) Program establishment. There is hereby established in the Department of Health a health research program, which shall be known as the Commonwealth Universal Research Enhancement Program. Appropriations from the fund to the department shall be used to fund research projects conducted by eligible applicants. This includes all of the following:~~

~~(1) Biomedical research.~~

~~(2) Health services research.~~

~~(3) Collaborative research.~~

~~(4) Clinical research.~~

~~(b) Advisory committee.~~

~~(1) There is hereby established in the Department of Health the Health Research Advisory Committee.~~

~~(2) The committee is comprised of the following:~~

~~(i) The Secretary of Health or a designee, who shall serve as chairperson.~~

~~(ii) Four members appointed by the secretary.~~

~~(3) Members appointed to the committee must possess expertise in health care or health research, including institution based research specialists, practicing clinicians and public health professionals.~~

~~(4) Terms are as follows:~~

~~(i) The secretary shall serve ex officio.~~

~~(ii) A member under paragraph (2)(ii) shall serve a term of four years.~~

~~(iii) An appointment to fill a vacancy shall be for the period of the unexpired term or until a successor is~~

1 ~~appointed and qualified.~~

2 ~~(5) The committee shall meet as needed, but at least~~
3 ~~twice a year, to fulfill the purposes provided for in this~~
4 ~~chapter. A majority of the members of the committee~~
5 ~~constitutes a quorum. A majority of the members of the~~
6 ~~committee has authority to act upon any matter properly~~
7 ~~before it. The committee is authorized to establish rules for~~
8 ~~its operation and shall obtain public input and make~~
9 ~~recommendations to the department regarding research~~
10 ~~priorities, evaluation and accountability procedures, and~~
11 ~~related issues. Meetings of the committee shall be conducted~~
12 ~~under 65 Pa.C.S. Ch. 7 (relating to open meetings).~~

13 ~~(6) Members shall receive no payment for their services.~~
14 ~~Members who are not employees of State government shall be~~
15 ~~reimbursed for expenses incurred in the course of their~~
16 ~~official duties from the fund.~~

17 ~~(c) Rural research initiative. The health research program~~
18 ~~shall fund a rural research initiative to deliver the benefits~~
19 ~~of tobacco related disease clinical research directly to~~
20 ~~individuals residing in rural communities in central and~~
21 ~~northeastern Pennsylvania by providing increased access to~~
22 ~~clinical trials and protocols through a network of rural primary~~
23 ~~care clinic sites.~~

24 ~~Section 1104. Department responsibilities.~~

25 ~~The department has the following powers and duties:~~

26 ~~(1) Administer the health research program established~~
27 ~~under this chapter.~~

28 ~~(2) Establish, in conjunction with the Health Research~~
29 ~~Advisory Committee, the research priorities of the~~
30 ~~Commonwealth. In developing these research priorities, the~~

1 national health promotion and disease prevention objectives
2 established by the United States Department of Health and
3 Human Services, as applied to this Commonwealth, shall be
4 considered. The priorities shall include the identification
5 of critical research areas, disparities in health status
6 among various Commonwealth populations, expected research
7 outcomes and benefits and disease prevention and treatment
8 methodologies. The priorities shall be reviewed annually and
9 revised as necessary.

10 (3) Solicit and review applications and award research
11 grants to applicants consistent with the priorities
12 established under paragraph (2). Research grants may be
13 awarded for a period not to exceed four years for each
14 project.

15 (4) Develop and implement peer review procedures to be
16 used for the review of grant applications for projects funded
17 pursuant to section 1106(a)(2) and (3).

18 (5) Publish an annual report on all research funded.

19 (6) The report shall be provided to the General
20 Assembly, shall be made available to the public and shall be
21 posted on the department's publicly accessible World Wide Web
22 site.

23 Section 1105. Peer review procedures to determine research
24 project eligibility.

25 (a) Peer review. Except for formula funded research, as
26 provided for in section 1108, all research funded under this act
27 shall be peer reviewed and selected in accordance with this
28 section.

29 (b) Prior peer review. Research which has received peer
30 review by the National Institutes of Health, the Centers for

~~Disease Control or another Federal agency may be approved and ranked for funding by the department consistent with the priorities established under section 1104(2).~~

~~(c) Other research. Research which has not received peer review as provided in subsection (b) shall be subject to peer review by the department in accordance with subsection (d) prior to being considered for funding under section 1106(a)(2) and (3).~~

~~(d) Peer review panels. The department shall establish peer review panels in various disciplines, as necessary, to review research grant proposals which are consistent with the priorities established under section 1104(2). A panel shall be composed of at least three nationally recognized physicians, scientists and researchers from the same or similar discipline as the research grant proposal under review. Members of a peer review panel may be residents of other states. In no case shall a member of a peer review panel be an employee of an applicant whose grant proposal is under its review.~~

~~(e) Panel review factors. A review panel shall determine eligibility for grant funding based on the highest ranked peer review scores through a rating system consistent with Federal rating standards as developed by the department. A panel shall review research projects eligible for funding in a manner which recognizes scientific and technical merit.~~

~~(f) Final selection. Based on the procedures set forth in this section and the rankings established by the relevant peer review panel, the department shall award research grants to selected applicants. In making these awards, the department shall avoid unnecessary duplication, ensure relevance to the appropriate research priority, encourage collaboration between~~

~~applicants and provide for the development of a complementary
Statewide research program.~~

~~Section 1106. Use of funds.~~

~~(a) Allocation. Funds under this section shall be allocated
as follows:~~

~~(1) No less than 80% of the funds appropriated under
this section shall be used to fund research pursuant to
section 1108.~~

~~(2) No less than 10% of the funds appropriated under
this section shall be used to fund collaborative research
projects by eligible applicants.~~

~~(3) No less than 10% of funds appropriated under this
section shall be used to fund other research projects by
eligible applicants.~~

~~(b) Excess funds. If an insufficient number of qualified
applications are received or are deemed ineligible for funding
by the department under subsection (a), the remaining funds
shall be deposited in the Tobacco Endowment Account established
pursuant to section 303(b).~~

~~Section 1107. Applications.~~

~~(a) General rule. An application for a research grant under
section 1106(a) must include all of the following, as
applicable:~~

~~(1) The name and address of the applicant.~~

~~(2) The identification of eligible researchers.~~

~~(3) The description of the purpose and methodology of
the research project.~~

~~(4) The expected research outcomes and benefits.~~

~~(5) The explanation of the project's evaluative
procedures.~~

~~(6) Any other information deemed necessary by the department.~~

~~(b) Collaborative projects. In the case of a collaborative research project, the application shall include, in addition to the information required in subsection (a):~~

~~(1) The names and addresses of the collaborating entities.~~

~~(2) The process used to jointly establish priorities and share infrastructure resources.~~

~~(c) Report. An applicant receiving a research grant under this chapter shall report annually to the department on the progress of the research project, or as often as the department deems necessary. The results of the research and other information deemed necessary by the department shall be reported to the department upon conclusion of the research project.~~

~~(d) Limitations. The award of a research grant shall not constitute an entitlement derived from the Commonwealth or a claim on any funds of the Commonwealth.~~

~~Section 1108. National Cancer Institute and the National Heart, Lung and Blood Institute funding formula.~~

~~(a) Eligibility. An institution that conducts research in this Commonwealth and has received funding from the National Cancer Institute and the National Heart, Lung and Blood Institute during each of the three immediately preceding Federal fiscal years shall be eligible to receive a grant pursuant to section 1106(a)(1).~~

~~(b) Fund distribution. Funds shall be distributed to an eligible institution based on the percentage calculated by dividing that institution's average award from the National Cancer Institute and the National Heart, Lung and Blood~~

~~Institute for the three immediately available preceding Federal fiscal years divided by the sum of the average annual award from the National Cancer Institute and the National Heart, Lung and Blood Institute for all Pennsylvania based eligible institutions during the three immediately available preceding Federal fiscal years.~~

~~(c) Exceptions.~~

~~(1) No eligible institution shall receive a grant of more than 10% of the funds available under section 1106(a)(1) in any fiscal year.~~

~~(2) No eligible institution shall receive a grant of less than \$10,000 of the funds available under section 1106(a)(1) in any fiscal year.~~

~~(3) No eligible institution may expend more than 50% of its grant for building construction or renovation.~~

~~(d) Remaining funds. As a result of the exceptions contained in subsection (c), funds distributed pursuant to subsection (b) shall be redistributed to cancer centers under the formula in subsection (b). A cancer center which has reached the maximum under subsection (c)(1) shall not be eligible for redistribution under this subsection.~~

~~Section 1109. Accountability procedures.~~

~~(a) Requirements. An applicant that receives a research grant under section 1106 shall be subject to review by the department upon completion of a research project. The review shall be based on an evaluation process developed by the department in consultation with the advisory committee. Information shall be submitted by research grant recipients to the department on an annual basis and shall include, as applicable, the following:~~

~~(1) The progress made in achieving expected research outcomes and benefits.~~

~~(2) The extent of clinical activities initiated and completed, detailing the number of treatment, prevention and diagnostic studies; the number of hospitals and health care professionals; the number of subjects relative to targeted goals; and the extent of penetration of the studies throughout the region or this Commonwealth.~~

~~(3) The number of peer reviewed publications and the number of inventions and patents filed.~~

~~(4) Any changes in risk factors; services provided; incidence of disease; death from disease; stage of disease at the time of diagnosis; or other relevant measures of the outcome, impact and effectiveness of the research being conducted.~~

~~(5) Any major discoveries, new drugs and new approaches for prevention, diagnosis and treatment, which are attributable to the completed research project.~~

~~(6) Any other information deemed necessary by the department.~~

~~(b) Penalty. Notwithstanding any other provision of this chapter, an applicant that receives an unfavorable review by the department under subsection (a) may be subject to a reduction in or ineligibility for research grant funding under this chapter.~~

~~CHAPTER 12~~

~~MEDICAL RESEARCH IMPROVEMENT GRANTS~~

~~Section 1201. Scope of chapter.~~

~~This chapter deals with medical research improvement grants.~~

~~Section 1202. 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:~~

~~"Department."—The Department of Health of the Commonwealth.~~

~~"Qualified Research Institution."—Academic medical centers and their affiliated universities, research universities and federally recognized cancer research centers.~~

~~Section 1203.—Medical Research Improvement Grant Program.~~

~~(a) Establishment.—There is hereby established, within the department, the Pennsylvania Medical Research Improvement Grant Program.~~

~~(b) Grant programs.—Money appropriated for the Medical Research Improvement Grant Program shall be allocated to qualified research institutions according to the needs of the medical research community as determined by the department. The department shall solicit grant applications in the following areas:~~

~~(1) medical research facility grants, which may be used to construct or purchase new facilities, or renovate or upgrade existing facilities to be used for medical research activities; and~~

~~(2) equipment enhancement grants, which may be used to purchase new equipment, upgrade existing equipment, install new or upgraded equipment, or train staff for use of equipment to be used in medical research.~~

~~(c) Eligibility and requirements.—~~

~~(1) Institutions eligible for receipt of a medical research improvement grant include academic medical centers and any affiliated university or college, academic research universities, and cancer research centers.~~

~~(2) In order to receive a medical research improvement~~

1 ~~grant, an institution shall have and provide written proof of~~
2 ~~an intellectual property rights policy, a technology transfer~~
3 ~~program or office, and an established process for licensing~~
4 ~~new inventions and receiving royalties.~~

5 ~~(d) Guidelines and procedures. The department shall develop~~
6 ~~a competitive process for awarding grants, including guidelines,~~
7 ~~procedures and all application forms necessary to implement the~~
8 ~~grant program. The department shall submit the guidelines,~~
9 ~~procedures and application forms to the Legislative Reference~~
10 ~~Bureau for publication in the Pennsylvania Bulletin and~~
11 ~~Pennsylvania Code within 30 days of the effective date of this~~
12 ~~act. The department shall convene a screening committee~~
13 ~~consisting of the Secretary of Health, the Secretary of~~
14 ~~Education, the Secretary of Community and Economic Development~~
15 ~~and four private industry representatives who are knowledgeable~~
16 ~~in the area of medical research, cancer research,~~
17 ~~pharmaceuticals and biotechnology to review applications and~~
18 ~~make recommendations to the secretary.~~

19 ~~(e) Matching requirement. The secretary shall give priority~~
20 ~~consideration to applications which secure matching funds or~~
21 ~~provide in kind contributions. Preference for equipment~~
22 ~~enhancement grants shall be given to qualified research~~
23 ~~institutions that have received Medical Research Facility~~
24 ~~Grants.~~

25 ~~(f) Applicable rules. Regulations and standards relating to~~
26 ~~construction, prevailing wage, equal opportunity requirements~~
27 ~~and minority business participation that apply to the~~
28 ~~construction and rehabilitation of State System of Higher~~
29 ~~Education facilities shall apply to all medical research~~
30 ~~facility grants.~~

~~(g) Sunset. This chapter shall expire five years from the effective date of this act.~~

~~CHAPTER 13~~

~~HOME AND COMMUNITY BASED CARE~~

~~Section 1301. Scope.~~

~~This chapter deals with home and community based care.~~

~~Section 1302. 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:~~

~~"Applicant." An individual who meets all of the following:~~

~~(1) Legally resides in the United States.~~

~~(2) Is domiciled in this Commonwealth for at least 30 days prior to requesting an assessment.~~

~~(3) Is 60 years of age or older.~~

~~"Assisted individual." A recipient whose monthly income is below 300% of the Federal poverty guidelines.~~

~~"Fund." The Tobacco Settlement Fund established in section 303.~~

~~"Funded individual." A recipient who meets all of the following:~~

~~(1) Is assessed to be in need of care equivalent to the level of care provided by a nursing facility.~~

~~(2) Is financially eligible for medical assistance under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.~~

~~"Home and community based services." The services provided to recipients through the options program.~~

~~"Nursing facility." Premises which is:~~

~~(1) licensed under the act of July 19, 1979 (P.L.130,~~

~~No.48), known as the Health Care Facilities Act; and~~

~~(2) qualified to participate under Title XIX of the
Federal Social Security Act.~~

~~"Options program." The program established and administered
by the Department of Aging in cooperation with the Department of
Health and the Department of Public Welfare pursuant to section
2203 A(17.1) and (17.2) of the act of April 9, 1929 (P.L.177,
No.175), known as The Administrative Code of 1929.~~

~~"Recipient." An applicant with monthly income greater than
300% of the Federal poverty level guidelines who is assessed as
an individual who is in need of home and community based
services.~~

~~Section 1303. Home and community based care services.~~

~~(a) Appropriations. Appropriations from the fund to the
Department of Public Welfare for home and community based
services shall be used to pay certified providers for home and
community based services provided to funded individuals.~~

~~Appropriations from the fund to the Department of Aging for home
and community based services shall be used to recruit and enroll
qualified providers and to provide funding to entities
designated by the Department of Aging to provide home and
community based services to assisted individuals.~~

~~Notwithstanding section 311 of the act of August 26, 1971
(P.L.351, No.91), known as the State Lottery Law, appropriations
from the State Lottery Fund to the options program shall be used
by the Department of Aging to administer the options program and
to provide home and community based services to assisted
individuals in accordance with this chapter.~~

~~(b) Applicant responsibilities. An applicant for home and
community based services shall do all of the following:~~

~~(1) Request an assessment in accordance with the options program.~~

~~(2) Assist the Department of Public Welfare to determine his financial eligibility for home and community based services.~~

~~(c) Ineligible recipient. A recipient who is determined by the Department of Public Welfare and the Department of Aging not to be a funded individual or an assisted individual may purchase home and community based services from the entity designated by the Department of Aging under the options program to provide home and community based services in the recipient's county of residence.~~

~~(d) Funded individual responsibilities. A recipient who is determined by the Department of Public Welfare to be a funded individual shall notify the Department of Public Welfare of any change in resources or monthly income.~~

~~(e) Assisted individual responsibilities. A recipient determined by the Department of Aging to be an assisted individual shall do all of the following:~~

~~(1) Pay a monthly copayment on a sliding scale developed by the Department of Aging and the Department of Public Welfare based on his monthly income. The monthly fee shall not exceed the actual costs of the home and community based services he receives to the Department of Aging.~~

~~(2) Notify the Department of Aging of any change in his resources and monthly income.~~

~~(f) Department of Public Welfare responsibilities. The Department of Public Welfare shall do all of the following:~~

~~(1) Determine the financial eligibility of funded individuals.~~

~~(2) Notify the Department of Aging of recipients determined to be assisted individuals.~~

~~(3) Certify and enter into agreements with providers of home and community based services in accordance with the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, to provide home and community based services to funded individuals.~~

~~(4) Seek reimbursement for home and community based services provided to funded individuals from the Federal Government.~~

~~(5) Annually redetermine the continued eligibility of funded individuals.~~

~~(6) In cooperation with the Department of Aging, report annually to the General Assembly the number of applicants, the number of recipients and the number of funded individuals.~~

~~(g) Department of Aging responsibilities. The Department of Aging shall do all of the following:~~

~~(1) Collect copayments from assisted individuals for home and community based services.~~

~~(2) Provide funding to entities designated by the Department of Aging under the options program to provide home and community based services to assisted individuals.~~

~~(3) Assist the Department of Public Welfare in the recruitment and certification of qualified providers.~~

~~(4) In cooperation with the Department of Public Welfare, report annually to the General Assembly the number of applicants, the number of recipients and the number of assisted individuals.~~

~~(h) Limitation. In no case shall the total aggregate amount~~

~~of payments to certified providers under this chapter exceed Federal appropriations and State appropriations from the fund to the Department of Public Welfare for home and community based services. In no case shall the total aggregate amount of payments to entities under this act exceed Federal appropriations and State appropriations from the fund to the Department of Aging for home and community based services.~~

~~CHAPTER 15~~

~~MEDICAL ASSISTANCE FOR WORKERS WITH DISABILITIES~~

~~Section 1501.—Scope.~~

~~This chapter deals with medical assistance benefits for workers with disabilities.~~

~~Section 1502.—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:~~

~~"Medical assistance."—The State program of medical assistance established under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.~~

~~"Monthly income."—The monthly income of an individual as determined by the Department of Public Welfare when applying the income deductions applicable in determining eligibility for Medicare cost sharing in accordance with 42 U.S.C. § 1396a(a)(10)(E).~~

~~"Worker with a disability."—An individual who:~~

~~(1) Is between 16 and 64 years of age.~~

~~(2) Is employed at least 40 hours per month and is earning at least the applicable minimum wage under section 6 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 206).~~

~~(3) Is eligible to receive Supplemental Security Income (SSI) except that earnings exceed the limit established in 42 U.S.C. § 1396d(q)(2)(B).~~

~~(4) Has monthly income below 250% of the Federal poverty income guidelines.~~

~~(5) Has countable resources equal to or less than two times the SSI resource level established pursuant to 42 U.S.C. § 1382.~~

~~Section 1503. Medical assistance benefits for workers with disabilities.~~

~~(a) Program establishment. There is established in the Department of Public Welfare a medical assistance purchase program for workers with disabilities. Fund appropriations to the Department of Public Welfare for the program shall be used by the Department of Public Welfare to provide medical assistance to a worker with a disability.~~

~~(b) Worker with a disability responsibilities. A worker with a disability seeking to purchase medical assistance benefits shall:~~

~~(1) Pay to the Department of Public Welfare or its designee 5% of the worker's monthly income in a manner to be determined by the Department of Public Welfare.~~

~~(2) Notify the Department of Public Welfare or its designee of any change in the worker's monthly income in a manner to be determined by the Department of Public Welfare.~~

~~(c) Provision of benefits. Upon receipt of a worker's payment under subsection (b)(1), the Department of Public Welfare or its designee shall provide to the worker medical assistance benefits at the level provided to Supplemental Security Income (SSI) adult recipients.~~

~~(d) Department of Public Welfare responsibilities. The Department of Public Welfare shall:~~

~~(1) Administer the medical assistance purchase program.~~

~~(2) Report on an annual basis to the General Assembly the number of individuals purchasing medical benefits and the average amount paid for benefits.~~

~~(e) Limitations. Provision of medical assistance benefits pursuant to this section shall not exceed the annual amount of State funds appropriated to the medical assistance purchase program for workers with disabilities.~~

~~CHAPTER 16~~

~~MEDICAL ASSISTANCE ELIGIBILITY~~

~~Section 1601. 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:~~

~~"Administration." The Health Care Financing Administration.~~

~~"Department." The Department of Public Welfare of the Commonwealth.~~

~~Section 1602. Income disregard.~~

~~In order to maximize Federal funds, the department, as authorized under section 1931 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396u-2), shall submit to the administration changes in medical assistance eligibility regulations to provide for disregard from income in an amount equal to the Federal poverty level.~~

~~Section 1603. Resources.~~

~~(a) Not considered. Except as set forth in subsection (b), in establishing or redetermining eligibility for medical assistance, the department shall not consider any resources~~

1 ~~owned by the applicant or recipient.~~

2 ~~(b) Exception. Subsection (a) shall not apply in~~
3 ~~establishing or redetermining eligibility for any of the~~
4 ~~following:~~

5 ~~(1) Nursing facility services.~~

6 ~~(2) Home and community based services.~~

7 ~~Section 1604. Medical assistance.~~

8 ~~An individual is eligible for medical assistance if the~~
9 ~~individual meets all of the following:~~

10 ~~(1) Has income not exceeding 200% of the Federal poverty~~
11 ~~level, as determined annually by the Department of Health and~~
12 ~~Human Services.~~

13 ~~(2) Is not covered by a health insurance plan.~~

14 ~~CHAPTER 17~~

15 ~~PENNSYLVANIA BIOMEDICAL RESEARCH AUTHORITY~~

16 ~~Section 1701. Scope of chapter.~~

17 ~~This chapter deals with the Pennsylvania Biomedical Research~~
18 ~~Authority.~~

19 ~~Section 1702. Short title of chapter.~~

20 ~~This chapter shall be known and may be cited as the~~
21 ~~Pennsylvania Biomedical Research Authority Act.~~

22 ~~Section 1703. Legislative intent.~~

23 ~~The General Assembly finds and declares as follows:~~

24 ~~(1) Pennsylvania's teaching colleges, academic health~~
25 ~~centers and cancer research institutes have allowed this~~
26 ~~Commonwealth to become a national leader in medical education~~
27 ~~and research.~~

28 ~~(2) Health care, the largest nonagriculture segment of~~
29 ~~this Commonwealth's economy, accounts for more than 14% of~~
30 ~~the domestic State product.~~

~~(3) At the heart of this Commonwealth's pharmaceutical and emerging biotechnology industries is medical research for which Pennsylvania provides no direct support or investment.~~

~~(4) Many academic health centers have reorganized their research operations to encourage technology transfer and to allow these institutions to share in the intellectual property created by researchers at the institutions.~~

~~Section 1704. 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:~~

~~"Authority." The Pennsylvania Biomedical Research Authority.~~

~~"Biomedical company." A person whose headquarters or base of operations is located in this Commonwealth, engaged in the research, development, production or provision of biomedicine for the purpose of developing or providing products, processes or technologies for specific commercial or public purposes, including, but not limited to, medical, pharmaceutical and nutritional and other health related purposes, or a person whose headquarters or base of operations is located in this Commonwealth who is engaged in providing services or products necessary for such research, development, product or provision of service. The term includes bioinformatics, biomedicine, biopharmacogenomics, biopharmaceuticals, biorobotics, bioscience, biotechnology and genome research companies.~~

~~"Biomedicine." The continually expanding body of fundamental knowledge about the structure and function of biological systems which seeks, through research, to use that knowledge of naturally occurring processes to develop products, services and technologies to address medical problems, prolong life and~~

~~prevent and treat disease.~~

~~"Board." The board of directors of the Pennsylvania
Biomedical Research Authority.~~

~~"Bonds." Bonds, notes or other evidences of indebtedness
issued by the authority pursuant to this chapter.~~

~~"Clinical trials." Tests conducted at a site located within
this Commonwealth that has been approved for conducting studies
on the efficacy of drugs and other pharmaceutical products
leading to approval by the United States Food and Drug
Administration.~~

~~"Financial manager." An organization authorized to do
business in this Commonwealth that:~~

~~(1) is authorized to act as a trustee pursuant to the
provisions of the Employee Retirement Income Security Act of
1974 (Public Law 93-406, 88 Stat. 829) or an insurance
company;~~

~~(2) (i) is licensed or chartered by the Insurance
Department or Department of Banking;~~

~~(ii) is chartered by an agency of the Federal
Government; or~~

~~(iii) is subject to the jurisdiction of the Federal
Securities and Exchange Commission; and~~

~~(3) provides or secures venture capital.~~

~~"Fund." The Biomedical Research Revolving Fund.~~

~~"Governmental unit." Any agency of the Commonwealth or any
county, municipality or school district, or any agency,
instrumentality, authority or corporation thereof, or any public
body having local or regional jurisdiction or power.~~

~~"Public school retirement system." The retirement system for
public school employees created pursuant to 24 Pa.C.S. (relating~~

1 ~~to education).~~

2 ~~"Research center." An academic health center, medical school~~
3 ~~or Federally approved cancer research center located within this~~
4 ~~Commonwealth.~~

5 ~~"State Employees' Retirement System." The retirement system~~
6 ~~for State employees created pursuant to 71 Pa.C.S. (relating to~~
7 ~~State government).~~

8 ~~"Venture capital." A financial investment that results in~~
9 ~~the acquisition of equity interests or a combination of debt and~~
10 ~~equity interests which is expected to grow substantially in the~~
11 ~~future and in which the expected return on investment is to come~~
12 ~~predominantly from an increase in the value of the equity~~
13 ~~interests.~~

14 ~~Section 1705. Creation of Pennsylvania Biomedical Research~~
15 ~~Authority.~~

16 ~~(a) Establishment. There is hereby established a body~~
17 ~~corporate and politic, with corporate succession, to be known as~~
18 ~~the Pennsylvania Biomedical Research Authority. The authority is~~
19 ~~constituted an instrumentality of the Commonwealth, and the~~
20 ~~exercise by the authority of the powers conferred by this~~
21 ~~chapter shall be deemed and held to be a public and essential~~
22 ~~governmental function.~~

23 ~~(b) Membership. The authority shall consist of an 11 member~~
24 ~~board of directors composed of:~~

25 ~~(1) The Physician General.~~

26 ~~(2) The Secretary of Health.~~

27 ~~(3) The Secretary of Community and Economic Development.~~

28 ~~(4) Two Senators, one each to be appointed by the~~
29 ~~President pro tempore of the Senate and the Minority Leader~~
30 ~~of the Senate.~~

1 ~~(5) Two members of the House of Representatives, one~~
2 ~~each to be appointed by the Speaker of the House of~~
3 ~~Representatives and the Minority Leader of the House of~~
4 ~~Representatives.~~

5 ~~(6) Four persons to be appointed by the Governor, who~~
6 ~~shall serve for a term of two years and shall be eligible for~~
7 ~~reappointment as follows:~~

8 ~~(i) One shall be a licensed physician in this~~
9 ~~Commonwealth.~~

10 ~~(ii) One shall be a representative of a biomedical~~
11 ~~company or a trade or regional association that~~
12 ~~represents biomedical companies.~~

13 ~~(iii) One shall be a representative of a health~~
14 ~~consumer interest group.~~

15 ~~(iv) One shall be a representative of a research~~
16 ~~center.~~

17 ~~(c) Officers. The Secretary of Community and Economic~~
18 ~~Development shall be the chairman and chief executive officer of~~
19 ~~the authority. The board shall biannually elect a vice chairman.~~
20 ~~The board shall select a secretary and treasurer who need not be~~
21 ~~members of the board, and the same person may be selected to~~
22 ~~serve as both secretary and treasurer.~~

23 ~~(d) Vesting of powers. The powers of the authority shall be~~
24 ~~vested in the board in office from time to time, and eight~~
25 ~~members of the board shall constitute a quorum at any meeting.~~
26 ~~Action may be taken and motions and resolutions adopted by the~~
27 ~~authority by the affirmative vote of at least seven members of~~
28 ~~the board. No vacancy on the board shall impair the right of a~~
29 ~~quorum of the members of the board to exercise the powers and~~
30 ~~perform the duties of the authority.~~

~~(e) Designees. Each public officer member of the board may designate an officer or employee of the Commonwealth to represent him at meetings of the board. Each designee may lawfully vote and otherwise act on behalf of the member of the board for whom he constitutes the designee. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended in writing delivered to the authority.~~

~~(f) Services. Research, investigation and other services necessary for the operation of the board shall be carried out from resources and by employees from the various executive departments represented on the board. All applicable Commonwealth departments and agencies shall cooperate with and provide assistance to the board, which may at its discretion provide financial reimbursement.~~

~~(g) Dissolution. The authority may be dissolved by law, provided that the authority has no bonds or other debts or obligations outstanding or that provision has been made for the payment or retirement of all such bonds, debts and obligations. Upon any dissolution of the authority, all property, funds and assets of the authority shall be vested in the Commonwealth.~~

~~(h) Credit and taxing power of the Commonwealth. The authority shall have no power at any time to pledge the credit or taxing power of the Commonwealth or any of its municipalities or political subdivisions nor shall any of its obligations be deemed to be obligations of the Commonwealth or any of its political subdivisions.~~

~~Section 1706. Revenues of authority.~~

~~(a) Sources of revenues. The authority may receive money from sources of revenue, including, but not limited to, the~~

1 following:

2 ~~(1) State funds appropriated to the authority.~~

3 ~~(2) Federal funds appropriated to or granted to the~~
4 ~~authority.~~

5 ~~(3) Venture capital from private companies.~~

6 ~~(4) Proceeds from the sale of bonds of the authority~~
7 ~~authorized under section 1708.~~

8 ~~(5) Proceeds from the sale of any Commonwealth general~~
9 ~~obligation bonds issued under sections 304 and 305.~~

10 ~~(6) Proceeds from the sale of authority assets.~~

11 ~~(7) Repayment of loan principal.~~

12 ~~(8) Payment of interest on loans made by the authority.~~

13 ~~(9) Interest earned on the investment of authority~~
14 ~~moneys.~~

15 ~~(10) Proceeds from licensing fees, royalties or any~~
16 ~~other intellectual property source.~~

17 ~~(b) Control of revenues; investment of funds. The board~~
18 ~~shall have exclusive control and management of all moneys of the~~
19 ~~authority and full power to invest moneys not required for~~
20 ~~immediate use in any securities or other investments in which~~
21 ~~funds of the Commonwealth are authorized to be invested and in~~
22 ~~any other type of security or investment if, prior to the~~
23 ~~acquisition of the securities or investments, the board~~
24 ~~determines by resolution that the type of security or investment~~
25 ~~is in the best interests of the authority and the State~~
26 ~~Treasurer approves of the type of security or other investment.~~

27 ~~(c) Fiduciary status of board.—~~

28 ~~(1) The members of the board, employees of the board and~~
29 ~~agents thereof shall stand in a fiduciary relationship~~
30 ~~regarding the investments and disbursements of any of the~~

1 ~~moneys of the fund and shall not profit either directly or~~
2 ~~indirectly with respect thereto. The board may, when possible~~
3 ~~and consistent with its fiduciary duties imposed by this~~
4 ~~subsection or other law, including its obligation to invest~~
5 ~~and manage the fund, consider whether an investment in any~~
6 ~~project or business enhances and promotes the general welfare~~
7 ~~of this Commonwealth and its citizens, including, but not~~
8 ~~limited to, investments that increase and enhance the~~
9 ~~employment of Commonwealth residents and stimulate further~~
10 ~~investment and economic activity in this Commonwealth.~~

11 ~~(2) In determining whether an investment meets the~~
12 ~~standard of prudence, the board may consider, together with~~
13 ~~the expected return on and the risk characteristics of the~~
14 ~~particular investment, the actual and expected future returns~~
15 ~~and the risk characteristics of the total venture capital~~
16 ~~investments held by the board at the time and the degree to~~
17 ~~which the proposed new investment would promote further~~
18 ~~diversification within the venture capital asset class.~~

19 ~~(3) The board in its prudent discretion may make any~~
20 ~~investments which meet the standard of prudence set forth in~~
21 ~~paragraph (1) by becoming:~~

22 ~~(i) a limited partner in partnerships that will hold~~
23 ~~or make the investments or by acquiring stocks or shares~~
24 ~~or units of participation or otherwise participating~~
25 ~~beneficially in the fund of any corporation or trust~~
26 ~~organized or created and existing under the laws of the~~
27 ~~United States or of this Commonwealth, if the liability~~
28 ~~of the fund shall be limited to the amount of its~~
29 ~~investment;~~

30 ~~(ii) by supporting clinical trials of any drug or~~

~~pharmaceutical in exchange for a financial interest in
that drug or pharmaceutical or the company developing
that drug or pharmaceutical; or~~

~~(iii) by supporting research at a research center
that the board believes has a reasonable expectation of
resulting in a product or service which can or will be
transferred to a biomedical company, in exchange for
future financial consideration.~~

~~(d) Legislative declaration concerning certain authorized
investments. The General Assembly finds and declares that
authorized investments of the fund made by or on behalf of the
board under this section whereby the board becomes a joint owner
or stockholder in any company, corporation or association are
outside the scope of the original intent of and therefore do not
violate the prohibition set forth in section 8 of Article VIII
of the Constitution of Pennsylvania.~~

~~(e) Limitations on investments. Notwithstanding any other
provision of this chapter to the contrary, the board shall
invest the moneys in the fund exclusively to provide grants and
loans to or take an equity interest in biomedical business
ventures, including supporting research and product development
and transfer at research centers and supporting clinical trials,
within this Commonwealth. The board may make these investments
directly or through an approved financial manager.~~

~~(f) General fund and other separate funds or accounts.~~

~~(1) The board shall establish a general fund from which
it may authorize expenditures for any of the purposes of this
chapter.~~

~~(2) The board shall establish and administer a
Biomedical Research Revolving Fund and may establish such~~

~~other separate revolving funds and accounts when determined by the board to be necessary or convenient. The board may deposit no more than \$725,000,000 in funds and accounts established under this paragraph from the sources specified in subsection (a)(4) and (5). This limitation shall not apply to any Federal funds.~~

~~(3) The board may also establish such nonrevolving funds and accounts as it deems necessary or convenient. Any funds from sources specified in subsection (a)(4) and (5) which are not deposited in the board's revolving funds and accounts shall be deposited into these nonrevolving funds and accounts.~~

~~(g) Loan repayment. Subject to any agreement with the holders of bonds, repayments of loan principal, together with any interest thereon, shall be deposited with the authority. Repayments from loans made from revolving funds and accounts may be deposited in such funds and accounts as the board shall determine. Repayments from other loans shall be deposited in nonrevolving funds and accounts for the purpose of repayment of general obligation bonds of the Commonwealth issued under the authority of this chapter. The board shall maintain such separate funds and accounts as may be necessary for the deposit of payments made under authority or requirement of Federal or State law.~~

~~Section 1707. Powers and duties of authority.~~

~~The authority shall have and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this chapter, including, but not limited to, the following:~~

~~(1) Conduct examinations and investigations and take~~

1 ~~testimony, under oath or affirmation, on any matter necessary~~
2 ~~to the determination and approval of project applications.~~

3 ~~(2) Sue and be sued, implead and be impleaded, complain~~
4 ~~and defend in all courts.~~

5 ~~(3) Adopt, use and alter at will a corporate seal.~~

6 ~~(4) (i) Make bylaws for the management and regulation~~
7 ~~of its affairs and make and, from time to time, adopt,~~
8 ~~amend and repeal rules and regulations governing the~~
9 ~~administrative procedures and business of the authority.~~

10 ~~(ii) Notwithstanding subparagraph (i) and in order~~
11 ~~to facilitate the speedy implementation of the Biomedical~~
12 ~~Research Program, the board shall have the power and~~
13 ~~authority to promulgate, adopt and use guidelines that~~
14 ~~shall be published in the Pennsylvania Bulletin. The~~
15 ~~guidelines shall be subject to review pursuant to section~~
16 ~~204(b) of the act of October 15, 1980 (P.L.950, No.164),~~
17 ~~known as the Commonwealth Attorneys Act, and shall not be~~
18 ~~subject to review pursuant to the act of June 25, 1982~~
19 ~~(P.L.633, No.181), known as the Regulatory Review Act,~~
20 ~~and shall be effective for a period not to exceed two~~
21 ~~years from the effective date of this chapter.~~

22 ~~(iii) After expiration of the two year period, all~~
23 ~~guidelines relating to the Biomedical Research Program~~
24 ~~shall expire and shall be replaced by regulations which~~
25 ~~shall have been promulgated, adopted and published as~~
26 ~~provided by law.~~

27 ~~(5) Make contracts of every name and nature and execute~~
28 ~~all instruments necessary or convenient for the carrying on~~
29 ~~of its business.~~

30 ~~(6) Accept grants from and enter into contracts or other~~

1 ~~transactions with any Federal, State or local agency.~~

2 ~~(7) Provide financial assistance, including, but not~~
3 ~~limited to, grants, loans, loan guarantees, bond guarantees~~
4 ~~and grants for projects fulfilling the purposes of this~~
5 ~~chapter.~~

6 ~~(8) Collect fees and charges and revenue from licensing~~
7 ~~fees, royalties and other intellectual property sources~~
8 ~~relating to projects funded under this chapter, as the board~~
9 ~~determines to be reasonable, relating to activities~~
10 ~~undertaken in furtherance of the purposes of this chapter.~~

11 ~~(9) Borrow money and issue bonds and provide for the~~
12 ~~right of holders thereof in accordance with the provisions of~~
13 ~~this chapter.~~

14 ~~(10) Pledge, hypothecate or otherwise encumber all or~~
15 ~~any of the revenues or receipts of the authority as security~~
16 ~~for all or any of the bonds of the authority.~~

17 ~~(11) Receive appropriations and apply for and accept~~
18 ~~grants, gifts, donations, bequests and settlements from any~~
19 ~~public or private source.~~

20 ~~(12) Acquire, own, hold, construct, improve,~~
21 ~~rehabilitate, renovate, operate, maintain, sell, assign,~~
22 ~~exchange, lease, mortgage or otherwise dispose of real and~~
23 ~~personal property or any interest therein in the exercise of~~
24 ~~its powers and the performance of its duties under this~~
25 ~~chapter.~~

26 ~~(13) Procure insurance against any loss in connection~~
27 ~~with its property and other assets and operations in any~~
28 ~~amounts and from any insurers as it deems desirable.~~

29 ~~(14) Contract for the services of attorneys, accountants~~
30 ~~and financial experts and any other advisors, consultants and~~

1 ~~agents as may be necessary in its judgment, subject to the~~
2 ~~requirement that the chairman shall ensure that minority-~~
3 ~~owned or minority controlled firms shall have an opportunity~~
4 ~~to participate to a significant degree in the provision of~~
5 ~~any contractual services purchased by the authority.~~

6 ~~(15) Subject to any agreement with holders of its bonds,~~
7 ~~notes or other obligations, purchase bonds, notes and other~~
8 ~~obligations of the authority.~~

9 ~~(16) Subject to any agreement with holders of its bonds,~~
10 ~~notes or other obligations, obtain as security for payment of~~
11 ~~all or any part of the principal of and interest and premium~~
12 ~~on the bonds, notes and other obligations of the authority,~~
13 ~~lines of credit and letters of credit in any amounts and upon~~
14 ~~any terms as the authority may determine, and pay any fees~~
15 ~~and expenses required in connection therewith.~~

16 ~~(17) Do any act necessary or convenient to the exercise~~
17 ~~of the powers enumerated in this section or reasonably~~
18 ~~implied therefrom.~~

19 ~~(18) Prepare plans and reports and provide for public~~
20 ~~participation as deemed appropriate.~~

21 ~~(19) Fund prefeasibility studies from any of its sources~~
22 ~~of revenue.~~

23 ~~(20) Establish an equity interest in any company that~~
24 ~~receives assistance from the fund in a measure determined on~~
25 ~~a valuation of the amount of the assistance and to acquire~~
26 ~~and sell security interests at public or private sale; to~~
27 ~~negotiate modifications or alterations to security interests;~~
28 ~~to foreclose on security interest in default or commence any~~
29 ~~action to protect or enforce any right conferred upon it by~~
30 ~~any law, security agreement, contract or other agreement; to~~

~~bid for and purchase property which was the subject of such security interest at any foreclosure or at any other sale; to acquire or take possession of any such property; and to exercise any and all rights as provided by law for the benefit or protection of the authority or security interest holders.~~

~~(21) To make and execute contracts and to pay the reasonable value of services rendered to the authority pursuant to those contracts.~~

~~Section 1708. Specific power to issue bonds.~~

~~(a) Principal amounts. The authority may issue its bonds, notes or other obligations in principal amounts as in the judgment of the authority shall be necessary, but not to exceed a total sum of \$100,000,000, to provide sufficient funds for any of its corporate purposes. Corporate purposes shall be deemed to include:~~

~~(1) The payment, funding or refunding of the principal of or interest or redemption premiums on any bonds issued by it, whether the bonds to be funded or refunded have or have not become due.~~

~~(2) The establishment or increase of reserves to secure or to pay the bonds or interest thereon.~~

~~(3) All other costs or expenses of the authority incident to and necessary to carry out its corporate purposes and powers.~~

~~(b) Negotiable instrument designation. Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of 13 Pa.C.S. (relating to commercial code), the bonds are made negotiable instruments within the meaning of and for the purposes of 13 Pa.C.S.,~~

1 ~~subject only to the provisions of the bonds for registration.~~

2 ~~(c) Resolution; terms of bonds. Bonds shall be authorized~~
3 ~~by resolution of the board, may be issued in one or more series~~
4 ~~and shall bear any date or dates, mature at any time or times~~
5 ~~not later than 35 years from the date of issuance thereof, bear~~
6 ~~interest at any rate or rates or at variable rates, be in any~~
7 ~~denomination or denominations, be in any form, either coupon or~~
8 ~~registered, carry any conversion or registration privileges,~~
9 ~~have any rank or priority, be executed in any manner, be payable~~
10 ~~from such sources in any medium of payment at any place or~~
11 ~~places within or without this Commonwealth and be subject to any~~
12 ~~terms of redemption, purchase or tender by the authority or the~~
13 ~~holders thereof, with or without premium, as the resolution or~~
14 ~~resolutions may provide. A resolution of the authority~~
15 ~~authorizing the issuance of bonds may provide that the bonds be~~
16 ~~secured by a trust indenture between the authority and a~~
17 ~~trustee, vesting in the trustee any property, rights, powers and~~
18 ~~duties in trust consistent with the provisions of this chapter~~
19 ~~as the authority may determine. Such resolution may further~~
20 ~~provide for the acquisition of credit enhancement devices such~~
21 ~~as bond insurance, letters of credit or any other instruments to~~
22 ~~carry out the provisions of this section.~~

23 ~~(d) Public or private sale. Bonds shall be sold initially~~
24 ~~at public sale at any price or prices and in any manner as the~~
25 ~~authority may determine, subject to the requirement that the~~
26 ~~chairman shall ensure that minority owned or minority controlled~~
27 ~~firms shall have an opportunity to participate to a significant~~
28 ~~degree in any bond sale activities. Any portion of any bond~~
29 ~~issue so offered and not sold or subscribed for may be disposed~~
30 ~~of by private sale by the authority in such manner and at such~~

1 ~~prices as the authority shall direct.~~

2 ~~(c) No prior preconditions on bond issuance. Bonds may be~~
3 ~~issued under the provisions of this chapter without obtaining~~
4 ~~the consent of any department, division, board, bureau or agency~~
5 ~~of the Commonwealth and without any other proceeding or the~~
6 ~~happening of any other conditions or other things than those~~
7 ~~proceedings, conditions or things which are specifically~~
8 ~~required by this chapter.~~

9 ~~(f) Limitation on obligations. Bonds issued under the~~
10 ~~provisions of this chapter shall not be a debt or liability of~~
11 ~~the Commonwealth or of any of its political subdivisions other~~
12 ~~than the authority and shall not create or constitute any~~
13 ~~indebtedness, liability or obligation of the Commonwealth or of~~
14 ~~any political subdivision. All bonds shall be payable solely~~
15 ~~from revenues or funds pledged or available for their payment as~~
16 ~~authorized in this chapter, including the proceeds of any issue~~
17 ~~of bonds. Each bond shall contain on its face a statement to the~~
18 ~~effect that the authority is obligated to pay the principal~~
19 ~~thereof or the interest thereon only from its revenues, receipts~~
20 ~~or funds pledged or available for their payment as authorized in~~
21 ~~this chapter, that neither the Commonwealth nor any political~~
22 ~~subdivisions are obligated to pay the principal or interest and~~
23 ~~that neither the faith and credit nor the taxing power of the~~
24 ~~Commonwealth or any political subdivision is pledged to the~~
25 ~~payment of the principal of or the interest on the bonds.~~

26 ~~(g) Nature of obligation and payment. Each issue of bonds~~
27 ~~may, if it is determined by the authority, be general~~
28 ~~obligations of the authority payable out of any revenues,~~
29 ~~receipts or funds of the authority, or special obligations~~
30 ~~payable out of particular revenues, receipts or funds, subject~~

~~only to agreements with the holders of the bonds. Bonds may be
secured by one or more of the following:~~

~~(1) Pledges of revenues and other receipts to be derived
from the payment of the interest on and any principal of
notes and bonds issued by one or more governmental units and
purchased by the authority, and any other payment made to the
authority pursuant to agreements with any governmental unit
or a pledge or assignment of any notes and bonds of any
governmental units, and the rights and interests of the
authority therein.~~

~~(2) Pledges of loan payments, rentals, other revenues to
be derived from loan agreements, leases or other contractual
arrangements with any person or entity, public or private, or
a pledged or assignment of any such loan agreements, leases
or other contractual arrangements, and the rights and
interests of the authority therein.~~

~~(3) Pledges of grants, subsidies, contributions,
appropriations or other payments to be received from the
Federal Government or any instrumentality thereof or from the
Commonwealth, any Commonwealth agency or other governmental
unit.~~

~~(4) Pledges of all moneys, funds, accounts, securities
and other funds, including the proceeds of the bonds.~~

~~(5) Mortgages and security interests covering all or
part of any project or other property of any person or
entity, real or personal, then owned or thereafter to be
acquired, or a pledge or assignment of mortgages and security
interests made or granted to the authority by any person or
entity, and the rights and interests of the authority
therein.~~

~~(h) Exemption from taxation. All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes.~~

~~Section 1709. Covenants and express conditions on obligations.~~

~~In any resolution of the authority authorizing or relating to the issuance of bonds, the authority, in order to secure payment of the bonds, and, in addition to its other powers, may, by provisions in the resolution which shall constitute covenants by the authority and contracts with the holders of the bonds, do the following:~~

~~(1) Secure the bonds.~~

~~(2) Make covenants against pledging all or part of its revenues or receipts to other parties.~~

~~(3) Make covenants limiting its right to sell, pledge or otherwise dispose of notes and bonds of governmental units, loan agreements of public or private persons or entities, or other property of any kind.~~

~~(4) Make covenants as to additional bonds to be issued, the limitations thereon, the terms and conditions thereof, and the custody, application, investment and disposition of the proceeds thereof.~~

~~(5) Make covenants as to the incurring of other debts by it.~~

~~(6) Make covenants as to the payment of principal of or interest on bonds, the sources and methods of the payment, the rank or priority of bonds with respect to liens or security interests or the acceleration of maturity of bonds.~~

~~(7) Provide for replacement of lost, stolen, destroyed or mutilated bonds.~~

~~(8) Make covenants as to the redemption, purchase or~~

1 tender of bonds by the authority, or the holders thereof, and
2 the privileges of exchanging them for other bonds.

3 ~~(9) Make covenants to create or authorize the creation~~
4 ~~of special funds or accounts to be held in trust or otherwise~~
5 ~~for the benefit of holders of bonds, or of reserves for other~~
6 ~~purposes and as to the use, investment and disposition of~~
7 ~~moneys held in those funds, accounts or reserves.~~

8 ~~(10) Provide for the rights, liabilities, powers and~~
9 ~~duties arising upon the breach of a covenant, condition or~~
10 ~~obligation and prescribe the events of default and the terms~~
11 ~~and conditions upon which any or all of the bonds shall~~
12 ~~become or may be declared due and payable before maturity and~~
13 ~~the terms and conditions upon which the declaration and its~~
14 ~~consequences may be waived.~~

15 ~~(11) Vest in a trustee or trustees within or without~~
16 ~~this Commonwealth in trust any property, rights, powers and~~
17 ~~duties as the authority may determine. These may include any~~
18 ~~or all of the rights, powers and duties of any trustee~~
19 ~~appointed by the holders of bonds or notes, including rights~~
20 ~~with respect to the sale or other disposition of notes and~~
21 ~~bonds of governmental units and other instruments and~~
22 ~~security pledged pursuant to a resolution or trust indenture~~
23 ~~for the benefit of the holders of bonds and the right, by~~
24 ~~suit or action, to foreclose any mortgage pledged pursuant to~~
25 ~~the resolution or trust indenture for the benefit of the~~
26 ~~holders of the bonds, notes or other obligations, and to~~
27 ~~limit the right of the holders of any bonds to appoint a~~
28 ~~trustee under this chapter and to limit the rights, powers~~
29 ~~and duties of the trustee.~~

30 ~~(12) Pay the costs or expenses incident to the~~

~~enforcement of the bonds or the provisions of the resolution authorizing the issuance of those bonds, or the trust indenture securing the bonds or any covenant or agreement of the authority with the holders of the bonds, notes or other obligations.~~

~~(13) Limit the rights of the holders of any bonds to enforce any pledge or covenant securing bonds.~~

~~(14) Make covenants other than or in addition to the covenants authorized by this chapter of like or different character and make covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or which, in the absolute discretion of the authority, will tend to make bonds more marketable, notwithstanding that the covenants, acts or things may not be enumerated in this chapter.~~

~~Section 1710. Nature and effect of pledges.~~

~~A pledge of revenues, receipts, moneys, funds or other property or instruments made by the authority shall be valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds or other property pledged and thereafter received by the authority shall be immediately subject to the lien of the pledge without its physical delivery or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge under this section is created or evidenced need be filed or recorded except in the records of the authority.~~

~~Section 1711. State Employees' Retirement System and Public~~

~~School Employees' Retirement System.~~

~~The State Employees' Retirement System and the Public School Employees' Retirement System are authorized to invest funds through the authority, to make investments in conjunction with that authority, to partner with the authority or any financial manager contracting with the authority in making investments in biomedicine. Investments and commitment of funds shall meet the same fiduciary standard applied to investments made by the authority and shall be deemed to meet the applicable fiduciary standard for each retirement system. Investments or commitment of funds shall not apply against any limitation in statute or regulation on the amount or percentage of retirement system funds that can be invested in high risk ventures.~~

~~CHAPTER 19~~

~~INSTITUTE FOR BIOMEDICAL RESEARCH AND TECHNOLOGY~~

~~Section 1901.— Scope of chapter.~~

~~This chapter deals with biomedical research and technology.~~

~~Section 1902.— 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:~~

~~"Board."— The board of directors of the Institute for Biomedical Research and Technology established in this chapter.~~

~~"Center."— A Regional Center for Biomedical Research and Technology Innovation established in this chapter.~~

~~"Institute."— The Institute for Biomedical Research and Technology established in this chapter.~~

~~Section 1903.— Institute for Biomedical Research and Technology.~~

~~(a) Establishment.— There is hereby established an Institute for Biomedical Research and Technology.~~

~~(b) Function. The institute shall establish Regional Centers for Biomedical Research and Technology Innovation within this Commonwealth; aid the centers in seeking private capital and other public investments; assist the center in developing licensing and royalty agreements and arranging clinical trials; provide technical, legal and administrative support; and coordinate and provide oversight of research activities performed by the regional centers.~~

~~(c) Board of directors. The institute shall be governed by a board of directors consisting of:~~

~~(1) The Secretary of Community and Economic Development, who shall serve as chairperson.~~

~~(2) The Secretary of Health.~~

~~(3) The Secretary of Education.~~

~~(4) One member who shall be the director of a Ben Franklin Technology Partnership Center, who shall serve a term of two years and shall be replaced, on a rotating basis, by the director of a different Ben Franklin Technology Partnership Center.~~

~~(5) Four members of the Senate, two of whom shall be appointed by the President pro tempore and two of whom shall be appointed by the Minority Leader.~~

~~(6) Four members of the House of Representatives, two of whom shall be appointed by the Speaker and two of whom shall be appointed by the Minority Leader.~~

~~(7) Five members appointed by the Governor, meeting the following criteria:~~

~~(i) Two members from either academic medical centers or cancer research centers; one of whom shall be a research scientist and one of whom shall have expertise~~

~~in technology transfer, intellectual property rights or
research licensing agreements.~~

~~(ii) One member from a trade association
representing private pharmaceutical companies.~~

~~(iii) One member from a trade association
representing private biotechnology companies.~~

~~(iv) One member from a regional technology council
or an economic development organization.~~

~~(d) Terms of members. The Secretary of Community and
Economic Development, the Secretary of Health and the Secretary
of Education shall serve on the board for the length of their
respective terms. Legislative appointments shall serve at the
pleasure of the appointing authority. Except as otherwise
indicated, other appointees shall serve for terms of three years
and may not serve successive terms.~~

~~(e) Compensation and expenses. Members of the board shall
serve without compensation but shall be reimbursed for actual
and reasonable expenses incurred in the performance of their
official duties.~~

~~(f) Staffing. The institute shall be served by the existing
staff of the Department of Community and Economic Development.
Section 1904. Regional Centers for Biomedical Research and
Technology Innovation.~~

~~(a) Establishment. The institute shall establish three
regional centers, located within this Commonwealth, to
facilitate the enhancement of biomedical research and
technology.~~

~~(b) Functions of centers. The regional centers shall
develop and implement biomedical and technology research
projects which promote and coordinate research in this~~

~~Commonwealth in order to:~~

~~(1) Create or enhance research and related industries in Pennsylvania.~~

~~(2) Develop high quality and commercially useful patents.~~

~~(3) Attract venture capital investments.~~

~~(4) Attract and retain leading scientists.~~

~~(5) Encourage training and educational programs.~~

~~(6) Develop regional research specialties.~~

~~(7) Implement the commercial development of new research discoveries.~~

~~(c) Application for selection. The board shall solicit and receive applications for selection as a regional center from academic medical centers, research universities, cancer research centers and other biomedical research centers. Each application for consideration shall include the following:~~

~~(1) A listing of the for profit and nonprofit institutions and organizations that will comprise the nonprofit corporation and that will own and operate the research center.~~

~~(2) The names and affiliations of the members of the board of directors for the nonprofit corporation.~~

~~(3) The proposed programs, activities and categories of research to be conducted at the center.~~

~~(4) The plans for marketing the research center to regional institutions and corporations to build awareness and encourage participation.~~

~~(5) The proposed location of the research center.~~

~~(6) A proposed budget for the first year of operations of the facility including projected infrastructure costs and~~

~~projections on permanent staff to be employed at the research center.~~

~~(7) The anticipated health, scientific, commercial and economic development outcomes to be achieved by the research center.~~

~~(8) The amount of funds or infrastructure to be contributed by each participant to the research center.~~

~~(9) Any other information deemed necessary by the Secretary of Community and Economic Development.~~

~~(d) Selection of regional centers. The board shall approve three applications, from those submitted for review, for selection as regional centers. The board shall evaluate applications on a competitive basis and shall consider the applicant's expertise in the subject area selected, ability to attract private investment, quality of research facilities, strength of the technology transfer program, intellectual property rights policy and prior success of the applicant in licensing products and securing patents. Priority consideration shall be given to applicants which draw upon the resources of multiple institutions.~~

~~(e) Participation. In order to participate in research or product development at a Regional Center for Biomedical Research and Technology, an applicant shall make financial or other substantially equivalent contributions to the research being conducted in an amount established by the Department of Community and Economic Development. The regional center shall develop royalty agreements or other revenue streams to fund ongoing operations of the regional center. The board of directors shall also reach agreement with the Department of Community and Economic Development on allowing access to and~~

~~commercialization of intellectual property. Intellectual property shall include work of the mind or intellect associated with an idea, invention, trade secret, process, program, data, formula, patent, copyright or trademark, or an application, right or registration relating thereto.~~

~~(1) The Department of Community and Economic Development shall reach agreement with the board of directors of each research center regarding the amount of capital to be raised from the for profit and nonprofit participants prior to disbursement of any State funds.~~

~~(2) Regarding that portion of revenue which will be returned to the Commonwealth due to successful new inventions or new patents issued as a result of research undertaken at the research center.~~

~~(f) Personnel. A regional center may hire personnel to coordinate research projects.~~

~~(g) Review and report.—~~

~~(1) Each regional center shall be subject to annual review by the department.~~

~~(2) Each regional center shall annually submit a report to the Department of Community and Economic Development, the Department of Health, the chairman and the minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives, the chairman and minority chairman of the Community and Economic Development Committee of the Senate and the chairman and minority chairman of the Commerce and Economic Development Committee of the House of Representatives. This report shall be in a form and manner developed by the Department of Community and Economic~~

~~Development working in cooperation with the Department of Health and shall include the following:~~

~~(i) The current members of the board of directors for the center.~~

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

~~(iii) The center's current policies for the management and development of intellectual property and ownership of new inventions created during the course of research undertaken at the center.~~

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

~~(v) A listing of all organizations, for profit and nonprofit institutions utilizing the services of the center during the prior year.~~

~~(vi) A listing of any licenses or other contractual obligations in effect, or anticipated, for the intellectual property developed at the center during the prior year.~~

~~(vii) A listing of any new inventions, any new patent applications or patents issued as a result of research undertaken at the center during the prior year.~~

~~(viii) A copy of the annual operating budget for the year, including a listing of the sources of all funds including financial and in kind personnel, equipment or other material donations and contributions by all parties involved in the center, grants obtained, Federal funds leveraged and expenditures made including infrastructure expenditures, administrative and staffing costs.~~

~~(h) Expiration. This chapter shall expire five years from the effective date of this act.~~

1 CHAPTER 21

2 MINORITY HEALTH

3 ~~Section 2101. Scope of chapter.~~

4 ~~This chapter deals with establishing an Office of Minority~~
5 ~~Health Affairs in the Department of Health and a grant program~~
6 ~~to address disparities in health status experienced by racial~~
7 ~~and ethnic minorities.~~

8 ~~Section 2102. 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 ~~"Department." The Department of Health of the Commonwealth.~~

13 ~~"Office." The Office of Minority Health Affairs established~~
14 ~~in section 2103.~~

15 ~~"Minority." An African American, Native American, Hispanic~~
16 ~~American or Asian American.~~

17 ~~Section 2103. Office of Minority Health Affairs.~~

18 ~~(a) Office established. There is hereby established an~~
19 ~~Office of Minority Health Affairs in the department. The office~~
20 ~~shall identify and address public health issues affecting~~
21 ~~minorities and the underlying causes of higher levels of disease~~
22 ~~and disability in racial and ethnic minority communities.~~

23 ~~(b) Grant program. The office shall develop a program to~~
24 ~~award grants to:~~

25 ~~(1) Institutions engaged in conducting research on~~
26 ~~issues of minority health.~~

27 ~~(2) Organizations providing minority health programs and~~
28 ~~services.~~

29 ~~(c) Use of grants. Grants may be used for:~~

30 ~~(1) Research dedicated to a better understanding of the~~

~~relationships between health status and different racial and ethnic minority backgrounds.~~

~~(2) Minority health education or outreach programs.~~

~~(3) Minority community health improvement projects.~~

~~(d) Administration of grant program. The office shall:~~

~~(1) Provide for the criteria for the granting of moneys and for publicizing the grant program.~~

~~(2) Administer the grant program and award grants, including, but not limited to, by establishing procedures and utilizing forms as may be necessary to implement the program, and monitor the expenditure of grant moneys.~~

~~(3) Provide for publicizing successful public health initiatives funded by the grant program and facilitate the exchange of information among grantees and other interested parties.~~

~~(4) Report to the Governor and the General Assembly annually on the grants awarded, the impact on grantees, the amount of funds spent and the amount projected to be spent.~~

~~Section 2104. Accountability.~~

~~(a) Audits. Grants shall be subject to audit by the department. Audits of grants are to be conducted in accordance with generally accepted accounting principles.~~

~~(b) Review procedures. An institution or organization that receives a grant under this chapter shall be subject to review by the department. As appropriate, information deemed necessary by the department shall be submitted by a grantee upon the department's request.~~

~~CHAPTER 23~~

~~VOLUNTEER FIRE AND EMERGENCY SERVICES~~

~~ORGANIZATION GRANT PROGRAM~~

1 ~~Section 2301. Scope of chapter.~~

2 ~~This chapter deals with volunteer fire and emergency services~~
3 ~~organization grants.~~

4 ~~Section 2302. Definitions.~~

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

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

10 ~~"Volunteer fire and emergency services organization." A~~
11 ~~nonprofit chartered corporation, association or organization~~
12 ~~located in this Commonwealth which provides fire protection~~
13 ~~services. Voluntary emergency services provided by a volunteer~~
14 ~~fire and emergency services organization may include voluntary~~
15 ~~ambulance and rescue services.~~

16 ~~Section 2303. Volunteer Fire and Emergency Services~~
17 ~~Organization Grant Program.~~

18 ~~(a) Program established. There is established in the~~
19 ~~department the Volunteer Fire and Emergency Services~~
20 ~~Organization Grant Program, which shall be administered by the~~
21 ~~department. Grants provided under this program shall be used for~~
22 ~~the following purposes:~~

23 ~~(1) To establish recruitment and retention incentive~~
24 ~~programs for the volunteer fire and emergency services~~
25 ~~organizations membership.~~

26 ~~(2) To purchase and maintain modern firefighting and~~
27 ~~fire protection equipment or emergency services equipment,~~
28 ~~not to include the purchase or maintenance of vehicles or~~
29 ~~apparatus.~~

30 ~~(b) Guidelines and procedures. The department, in~~

~~consultation with the Fire Safety Advisory Council, as defined under the act of November 13, 1995 (P.L.604, No.61), known as the State Fire Commissioner Act, shall develop guidelines and procedures to implement the grant program.~~

~~Section 2304. Grants.~~

~~(a) Authorization. The department is hereby authorized to make grants to eligible volunteer fire and emergency services organizations, based on preestablished eligibility criteria developed by the department and the Fire Safety Advisory Council.~~

~~(b) Limits. Grants shall be limited to no more than \$25,000 per volunteer fire and emergency services organization in any one fiscal year.~~

~~(c) Restrictions. Eligible fire and emergency services organizations shall only spend grant funds for the purposes requested in their grant application. Volunteer fire and emergency services organizations must provide proof of these bona fide expenditures to the department within 180 days of receiving funds under this grant program and prior to any subsequent applications for future grants.~~

~~CHAPTER 25~~

~~JUVENILE DIABETES~~

~~Section 2501. Scope of chapter.~~

~~This chapter deals with establishing grant programs relating to juvenile diabetes.~~

~~Section 2502. 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:~~

~~"Department." The Department of Health of the Commonwealth.~~

1 ~~"Secretary."—The Secretary of Health of the Commonwealth.~~

2 ~~"Type 1 diabetic."—A person from birth to 18 years of age~~
3 ~~who has been diagnosed with Type 1 diabetes.~~

4 ~~"Type 1 diabetes research facility."—A facility located~~
5 ~~within this Commonwealth, with an existing program conducting~~
6 ~~research of Type 1 diabetes and integrally related areas~~
7 ~~affecting persons with Type 1 diabetes, as well as the~~
8 ~~development of immunology and transplantation.~~

9 ~~Section 2503.—Payment for Type 1 diabetes research.~~

10 ~~(a)—Grants authorized.—The department shall provide grants~~
11 ~~for research on Type 1 diabetes.~~

12 ~~(b)—Distribution of funding.—~~

13 ~~(1)—The secretary, in cooperation with the Physician~~
14 ~~General, shall administer and distribute each annual~~
15 ~~appropriation as grants to Type 1 diabetes research~~
16 ~~facilities.~~

17 ~~(2)—The funds appropriated under this act for grants~~
18 ~~under this section shall be paid to the research facility~~
19 ~~only if the funds are used to supplement and not supplant~~
20 ~~existing funding from the Board of Regents for the Diabetes~~
21 ~~Institute for Immunology and Transplantation.~~

22 ~~(c)—Terms and conditions.—Each grant approved by the~~
23 ~~department under this act shall contain the following terms and~~
24 ~~conditions:~~

25 ~~(1)—The facility shall use the funds for research~~
26 ~~relating to islet cell transplantation, islet cell~~
27 ~~distribution and related areas affecting Type 1 diabetics.~~

28 ~~(2)—The facility shall use advanced technology to~~
29 ~~enhance the longevity and the quality of the lives of Type 1~~
30 ~~diabetics.~~

~~(d) Amount of grants. The amount of each grant awarded under this act shall be determined by the secretary.~~

~~(e) Regulations. The department shall promulgate rules, regulations and standards for the award of the grants authorized by this chapter.~~

~~Section 2504. Reporting.~~

~~Each grant recipient shall annually report to the secretary and to the Health and Human Services Committee of the Senate and the Health and Human Services Committee of the House of Representatives on its use of funds received under this chapter and the progress made in research on islet cell transplantation, islet cell distribution and related areas. In reporting on its use of the funds, the annual report must include, but is not limited to, the amount of money the institute received from the academic health center, the specific purposes for which the funds were spent and verification that the funds were spent for allowable purposes according to this section. In reporting on progress made in research on transplantation, distribution and related areas, the annual report must include, but is not limited to:~~

~~(1) Data generated from the transplants on the benefits and disadvantages of islet cell transplantation, including data on the restoration and maintenance of tight blood sugar control and insulin independence following transplantation.~~

~~(2) Data on health care dollars per quality adjusted life year saved.~~

~~(3) Progress on achievement of health insurance coverage for islet cell transplantation procedures.~~

~~Section 2505. Payment for Type 1 diabetics.~~

~~(a) Grants authorized. The department shall utilize a~~

~~portion of the fund to provide grants to Type 1 diabetics as provided in this section.~~

~~(b) Eligibility. A Type 1 diabetic shall be eligible for a grant for diabetic treatments and equipment if the diabetic:~~

~~(1) does not have health insurance; or~~

~~(2) is not covered by Medicaid, the Children's Health Insurance Program under Article XXIII of the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921, or a health insurance plan, that provides coverage for the treatment or equipment, including, but not limited to, insulin pumps.~~

~~(c) Amount of grants. The amount of each grant awarded under this act shall be equal to the cost of diabetic treatment and equipment, including, but not limited to, insulin pumps, not covered by the grant recipient's health insurance plan, provided that no grant shall be in excess of \$2,500.~~

~~(d) Regulations. The department shall administer this section and shall promulgate rules, regulations and standards for its proper enforcement and administration.~~

~~CHAPTER 27~~

~~OCCUPATIONAL RESPIRATORY DISEASE~~

~~Section 2701. Scope of chapter.~~

~~This chapter authorizes grants to certain persons with occupational respiratory disease.~~

~~Section 2702. 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:~~

~~"Occupational respiratory disease." Coal workers pneumoconiosis or a related respiratory disease caused by~~

~~inhaling coal dust or other harmful airborne particles for
prolonged periods in an occupational setting.~~

~~Section 2703. Payment for persons with occupational respiratory
disease.~~

~~The Department of Health shall utilize a portion of the fund
to provide grants to assist persons medically diagnosed as
suffering from an occupational respiratory disease or their
survivors, but who have been denied a claim for benefits under
the Black Lung Benefits Act (Public Law 91-173, 30 U.S.C. § 901
et seq.), the act of June 2, 1915 (P.L. 736, No. 338), known as
the Workers' Compensation Act and the Social Security Act (49
Stat. 620, 42 U.S.C. § 301 et seq.), at least, in part, because
the condition was also determined to have been the result of
smoking.~~

~~Section 2704. Eligibility.~~

~~An individual with occupational respiratory disease or his
survivor shall be eligible for a grant if the individual:~~

~~(1) has been medically diagnosed as suffering from an
occupational respiratory disease as a result of prolonged
occupational exposure to coal dust or other harmful airborne
particles; and~~

~~(2) was denied a claim for benefits under the Black Lung
Benefits Act (Public Law 91-173, 30 U.S.C. § 901 et seq.),
the act of June 2, 1915 (P.L. 736, No. 338), known as the
Workers' Compensation Act and the Social Security Act (49
Stat. 620, 42 U.S.C. § 301 et seq.), at least, in part,
because his condition was also determined to have been the
result of smoking.~~

~~Section 2705. Occupational Respiratory Disease Interim Coverage
Fund.~~

~~The Occupational Respiratory Disease Interim Coverage Fund is hereby established as a separate fund in the State Treasury. The moneys of the fund are appropriated on a continuing basis to carry out the provisions of this chapter.~~

~~Section 2706. Regulations.~~

~~The Department of Health shall administer this chapter and shall promulgate rules, regulations and standards for its proper enforcement and administration.~~

~~CHAPTER 29~~

~~PHARMACEUTICAL ASSISTANCE~~

~~Section 2901. Scope of chapter.~~

~~This chapter deals with pharmaceutical grants to Medicare beneficiaries who are not eligible for PACE or PACENET.~~

~~Section 2902. Payment of pharmaceutical grants to assist~~

~~Medicare beneficiaries not eligible for PACE and PACENET.~~

~~The Department of Health shall utilize a portion of the Tobacco Settlement Fund to provide grants to assist pharmacies and pharmacists to charge Medicare beneficiaries within 300% of the poverty level not eligible for the PACE program or PACENET program a price that does not exceed the Commonwealth's PACE program payment rate for prescription medicines, a copayment and an amount, as set by the Commonwealth, to cover electronic transmission charges.~~

~~Section 2903. Regulations.~~

~~The Department of Health shall promulgate rules and regulations for the proper administration of the grant program as well as be responsible for the development of grant applications and standards for pharmacist and pharmacy participation in the program.~~

CHAPTER 31

PENNSYLVANIA HEALTH CENTER INVESTMENT PLAN

~~Section 3101. Scope of chapter.~~

~~This chapter deals with the establishment of the community-coordinated care program and authorizing grants to certain community based health care provider organizations, establishing the Pennsylvania Patient SafetyNet Care Network Program, which will authorize the reimbursement of certain providers and will make appropriations deemed necessary for the implementation of this chapter.~~

~~Section 3102. 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:~~

~~"Community based health improvement partnership."—A collaboration between the Department of Health and local, municipal, public, private and voluntary organizations, agencies and individuals to improve the health status of local communities or regions through the development of programs to address priority health needs within the community or region, or as otherwise defined in the Department of Health State Health Center Improvement Plan.~~

~~"Federally qualified health center."—A Pennsylvania nonprofit corporation which meets all the requirements of and has been granted funds under section 329, 330, 340 or 340A of the Public Health Service Act (58 Stat. 682, 42 U.S.C. §§ 254b, 254c, 256 and 256a), or an entity which otherwise meets all of the requirements for receiving a grant under section 329, 330, 340 or 340A of the Public Health Service Act, as determined by the Secretary of the United States Department of Health and~~

~~Human Services, or does not currently meet all of such requirements, but receives a temporary waiver from the Secretary of the United States Department of Health and Human Services allowing the entity to act as a federally qualified health center on an interim basis, meets all applicable requirements for participation in the medical assistance program as set forth in 55 Pa. Code Chs. 1101 and 1129, and otherwise meets all licensure and certification standards established under Pennsylvania law for providers of health services.~~

~~"Independent rural health clinic." An entity which meets the requirements for participation in the medical assistance program as set forth at 42 C.F.R. § 481.1 and is not part of a hospital, skilled nursing facility or home health agency, as otherwise defined at 55 Pa. Code § 1129.2.~~

~~"Integrated delivery system." A group of federally qualified health centers or independent rural health clinics horizontally organized to improve access to care for the uninsured, to improve the quality of care for the uninsured and to achieve cost effectiveness through practices which integrate services and optimize patient outcomes.~~

~~"Master Settlement Agreement." The Master Settlement Agreement and related documents entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers and approved by the court in Commonwealth v. Philip Morris, April Term 1997, No. 2443 (C.P. Philadelphia County), on January 13, 1999.~~

~~Section 3103. Community Coordinated Care Program.~~

~~(a) Establishment. There is hereby established the Community Coordinated Care Program of the Pennsylvania Health Center to improve the quality of care, track and measure~~

~~outcomes and contain the overall costs by providing outreach and care management opportunities to eligible uninsured Pennsylvanians. The program shall be administered by the Department of Health with the advice of the Insurance Department, the Department of Public Welfare and the Department of Aging and shall be funded as provided for in this chapter.~~

~~(b) Purpose. The purpose of the program established in subsection (a) shall be to support community based health care collaborative in this Commonwealth in locating, assessing and managing the care for eligible uninsured Pennsylvanians who suffer from chronic diseases that are related to tobacco use and to improve the delivery of preventative, curative and palliative care to these individuals. Grants made under this program shall be used for all of the following purposes:~~

~~(1) To identify and assess the general health status of eligible uninsured individuals with or at risk for chronic diseases and to provide enrollment assistance to available health benefit insurance programs.~~

~~(2) To provide case management services to eligible uninsured individuals to improve their physical health, behavioral health and social condition and to reduce medical complications.~~

~~(3) To refer and coordinate care for individuals that require additional health care services through assessment, particularly as to diseases which are related to tobacco use.~~

~~(4) To reduce the inappropriate use of hospital emergency departments and hospital inpatient stays by persons who are chronically ill.~~

~~(5) To educate patients, providers, caregivers and the community on the coordinated management of chronic diseases.~~

1 ~~(6) To improve the delivery of preventive, curative and~~
2 ~~palliative care to individuals through proactive coordination~~
3 ~~of community based care.~~

4 ~~(7) To develop additional regional, nonprofit,~~
5 ~~community based integrated delivery systems capable of~~
6 ~~carrying out the purposes and goals specified in this~~
7 ~~subsection.~~

8 ~~(c) Eligibility for grants. Any Pennsylvania nonprofit~~
9 ~~community based health care provider organization, including,~~
10 ~~but not limited to, an integrated delivery system capable of~~
11 ~~fulfilling the purposes of this section, or any community based~~
12 ~~health improvement partnership recognized by the Department of~~
13 ~~Health, or a health care provider approved by the Department of~~
14 ~~Public Welfare to participate in the medical assistance program~~
15 ~~shall be eligible to apply for grants under this section.~~

16 ~~(d) Application. Any eligible applicant must demonstrate to~~
17 ~~the Department of Health its ability to carry out the provisions~~
18 ~~of this section and, in terms of fulfilling the purpose of~~
19 ~~subsection (b)(3), shall provide matching funds or contribute~~
20 ~~in kind services as to such purpose equal to at least 25% of the~~
21 ~~amount of the grant.~~

22 ~~(e) Report. An applicant receiving a grant under this~~
23 ~~section shall report at least regularly, but no less than~~
24 ~~annually, to the Department of Health as specified by the~~
25 ~~department and to the General Assembly on the progress of its~~
26 ~~efforts to improve the management of care to uninsured persons~~
27 ~~suffering from chronic diseases related to tobacco use, the~~
28 ~~reduction of unnecessary and redundant health care services to~~
29 ~~such persons and the positive outcomes in terms of the overall~~
30 ~~health and use of available services by such persons.~~

~~Section 3104. Pennsylvania Patient SafetyNet Care Network
Program.~~

~~(a) Establishment There is hereby established the SafetyNet
Care Network Program of the Pennsylvania Health Center
Investment Plan to improve the quality of care and contain
overall costs by providing necessary care to uninsured
Pennsylvanians. The network program shall be administered by the
Department of Health with the advice of the Insurance
Department, the Department of Public Welfare and the Department
of Aging and funded as provided for in this chapter.~~

~~(b) Purpose.~~

~~(1) The purpose of the program established in subsection
(a) shall be to support and expand the availability and use
of preventive, curative and palliative health care by
eligible uninsured Pennsylvanians through the appropriate
reimbursement of the reasonable costs of such services to
qualified community based providers and networks providing
care to uninsured Pennsylvanians needing such care. Such
providers and networks shall include federally qualified
health centers, independent rural health clinics and
community based health improvement partnerships.~~

~~(2) Such provisions or networks shall increase access to
and the appropriate use of medical, dental, social and
behavioral health services to uninsured persons at existing
primary health care clinics and other sites, to reduce
inappropriate use of hospital emergency rooms and to
stabilize the appropriate delivery of health care services to
Pennsylvanians who lack insurance and otherwise have no
access to such services.~~

~~(c) Eligibility for network services. All eligible adult~~

~~1 Pennsylvanians whose income does not exceed 200% of the Federal
2 poverty level and who are otherwise not eligible for any public
3 or private health benefits program and who have no other health
4 benefits or insurance shall be eligible for network services.
5 Eligibility shall be determined by each participating federally
6 qualified health center or independent rural health clinic
7 through an individual application process by each such provider
8 which eligibility shall be verified by an annual audit review of
9 each provider subject to appropriate oversight and verification
10 by the Department of Health.~~

~~11 (d) Qualifications as network provider. Any federally
12 qualified health center, independent rural health center or
13 nonprofit community based integrated delivery system or other
14 qualified nonprofit community based provider organization
15 approved by the Department of Public Welfare to participate in
16 the medical assistance program or otherwise approved by the
17 Department of Health shall be eligible to participate as a
18 network provider.~~

~~19 (e) Reimbursement. All network providers shall be
20 reimbursed for their reasonable costs of providing primary care,
21 specialty dental, pharmacy, vision and related social and
22 behavioral health services otherwise provided to eligible
23 recipients of the medical assistance program on the same basis
24 that such providers are reimbursed for such services by the
25 medical assistance program, as such reasonable allowable costs
26 are defined by Federal regulations at 42 C.F.R. § 413, the
27 Medicare Reimbursement Manual (HCFA 15-1), and as otherwise set
28 forth in guidelines promulgated by the Department of Public
29 Welfare for federally qualified health centers on July 1, 1998.~~

~~30 (f) Reports. Each provider or network organization~~

~~receiving reimbursement under this section shall file annual cost reports as to such reimbursement in the same form as the annual cost reports to the medical assistance program to the Department of Health as to costs of services provided and further demonstrate appropriate outcomes as to the improved health status of eligible Pennsylvanians as a result of this program in such format and with such frequency as the Department of Health shall require.~~

~~Section 3105.—Allocations.~~

~~The following sums are hereby allocated from the appropriation for the Pennsylvania Health Center Investment Plan under section 5102 as follows:~~

~~(1) The sum of \$2,100,000 for the purposes set forth in section 3103(b)(1) through (6).~~

~~(2) The sum of \$2,100,000 for the purposes set forth in section 3103(b)(7).~~

~~(3) The sum of \$8,424,000 for the purposes set forth in section 3104.~~

~~CHAPTER 33~~

~~MENTAL HEALTH AND MENTAL RETARDATION~~

~~DIRECT CARE WORKER SALARY~~

~~Section 3301.—Scope of chapter.~~

~~This chapter deals with the salaries of direct care staff who work with individuals diagnosed with mental disabilities in public funded community based mental health and mental retardation programs.~~

~~Section 3302.—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:~~

~~"Department."—The Department of Public Welfare of the Commonwealth.~~

~~"Direct care services."—Services provided directly to persons with mental disabilities in a residential or nonresidential setting that include, but are not limited to, activities of daily living, prevocational and vocational training and rehabilitation, social rehabilitation, individual and family support services, family living services, residential treatment and rehabilitation and adult day services.~~

~~"Direct care worker."—A worker that provides direct care services to persons with mental disabilities in a public funded community based residential or nonresidential mental health or mental retardation program. This includes supervisory personnel who spend at least 50% of their work hours in providing direct care services for persons with mental disabilities.~~

~~"Provider."—A county mental health/mental retardation office or an agency that contracts with a county mental health/mental retardation office to provide direct care residential and/or nonresidential community based services to persons with mental disabilities.~~

~~Section 3303.—Mental health and mental retardation direct care worker salary.~~

~~Appropriations from the fund to the department for mental health and mental retardation residential and nonresidential community based programs shall be used to pay workers who provide direct care to persons with mental disabilities receiving services from these programs.~~

~~(1) The department shall create a separate funding source where counties will have the means to fund salaries for direct care workers as agreed on in contracts negotiated~~

1 ~~with providers of public funded community based services for~~
2 ~~persons with mental disabilities.~~

3 ~~(2) The department shall draw down Federal funds through~~
4 ~~Medicaid Waiver programs applicable to services for persons~~
5 ~~with mental retardation.~~

6 ~~(3) The appropriated funds are not to be extended for~~
7 ~~the salaries of executive or upper level supervisory staff~~
8 ~~that spend less than 50% of their work hours providing direct~~
9 ~~care services.~~

10 ~~CHAPTER 35~~

11 ~~PRESUMPTIVE ELIGIBILITY FOR CHILDREN'S~~

12 ~~HEALTH CARE SERVICES~~

13 ~~Section 3501. Scope of chapter.~~

14 ~~This chapter deals with presumptive eligibility for free or~~
15 ~~subsidized children's health care services.~~

16 ~~Section 3502. Presumptive eligibility.~~

17 ~~(a) General rule. Notwithstanding any inconsistent~~
18 ~~provision of law to the contrary and subject to the availability~~
19 ~~of Federal financial participation under Title XIX of the Social~~
20 ~~Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), a child~~
21 ~~shall be presumed eligible for payments under Article XXIII of~~
22 ~~the act of May 17, 1921 (P.L.682, No.284), known as The~~
23 ~~Insurance Company Law of 1921, once during a 12 month period,~~
24 ~~beginning on the first day of the enrollment period following~~
25 ~~the date that a contractor determines, on the basis of~~
26 ~~preliminary information, that a child is eligible for free or~~
27 ~~subsidized health care insurance under section 2311 of The~~
28 ~~Insurance Company Law of 1921. The presumptive eligibility~~
29 ~~period shall continue until the earlier date an eligibility~~
30 ~~determination is made pursuant to Article XXIII of The Insurance~~

~~Company Law of 1921, the child is found eligible for medical assistance, or 60 days after the date of presumptive eligibility begins. However, a presumptive eligibility period may be extended in the event a determination of eligibility for benefits under Article XXIII of The Insurance Company Law of 1921 or for medical assistance is not made within the 60 day period through no fault of the applicant.~~

~~(b) Follow up by Insurance Department. The Insurance Department shall assure that children who are enrolled under this section receive appropriate follow up for a determination of eligibility for benefits under Article XXIII of The Insurance Company Law of 1921 or for medical assistance prior to the termination of the presumptive eligibility period. The Insurance Department shall assure that outreach activities under section 2312 of The Insurance Company Law of 1921 include information related to presumptive eligibility under this section.~~

~~(c) Limited eligibility. Notwithstanding any other provision of this section, a child determined to be ineligible for payments under Article XXIII of The Insurance Company Law of 1921 or for medical assistance shall nonetheless be eligible once during a 12 month period for payment under Article XXIII of The Insurance Company Law of 1921.~~

~~CHAPTER 37~~

~~MUNICIPAL FIRE AND EMERGENCY SERVICES~~

~~ORGANIZATION GRANT PROGRAM~~

~~Section 3701. Scope of chapter.~~

~~This chapter deals with municipal fire and emergency services organization grants.~~

~~Section 3702. 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:~~

~~"Department."—The Department of Community and Economic Development of the Commonwealth.~~

~~"Municipal fire and emergency services organization."—A nonvolunteer fire department or emergency services department located in a city, borough, town, township or county, within this Commonwealth which provides fire protection services.~~

~~Emergency services provided by a municipal fire and emergency services organization may include ambulance and rescue services.~~

~~Section 3703.—Municipal Fire and Emergency Services Organization Grant Program.~~

~~(a) Program established.—There is established in the department the Municipal Fire and Emergency Services Organization Grant Program, which shall be administered by the department. Grants provided under this program shall be used for the following purposes:~~

~~(1) To establish recruitment, retention incentive programs and training programs for the municipal fire and emergency services organizations membership.~~

~~(2) To purchase and maintain modern firefighting and fire protection equipment or emergency services equipment, not to include the purchase or maintenance of vehicles or apparatus.~~

~~(b) Guidelines and procedures.—The department, in consultation with the Fire Safety Advisory Council, as defined under the act of November 13, 1995 (P.L.604, No.61), known as the State Fire Commissioner Act, shall develop guidelines and procedures to implement the grant program.~~

~~Section 3704.—Grants.~~

~~(a) Authorization. The department is hereby authorized to make grants to eligible municipal fire and emergency services organizations, based on preestablished eligibility criteria developed by the department and the Fire Safety Advisory Council.~~

~~(b) Limits. Grants shall be limited to no more than \$25,000 per municipal fire and emergency services organization in any one fiscal year.~~

~~(c) Restrictions. Eligible fire and emergency services organizations shall only spend grant funds for the purposes requested in their grant application. Municipal fire and emergency services organizations must provide proof of these bona fide expenditures to the department within 180 days of receiving funds under this grant program and prior to any subsequent applications for future grants.~~

~~CHAPTER 51~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 5101. Health care services.~~

~~An individual receiving free or subsidized health care services under Article XXIII of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, on the date of the individual's 18th birthday shall continue to be eligible for free or subsidized health care services under that act until such time as the individual reaches his 22nd birthday if all of the following apply:~~

~~(1) The individual is otherwise eligible under Article XXIII of The Insurance Company Law of 1921 for free or subsidized health care services.~~

~~(2) The individual has a serious life threatening illness or a disability.~~

1 ~~(3) The individual is not eligible for or receiving~~
2 ~~Medicaid, Medicare or Social Security disability benefits.~~

3 ~~Section 5102. Appropriations for 2001-2002.~~

4 ~~The following sums, or as much thereof as may be necessary,~~
5 ~~are hereby specifically appropriated from the Tobacco Settlement~~
6 ~~Fund for the fiscal year 2001-2002:~~

7 ~~(1) Governor. The following~~
8 ~~amounts are appropriated to the~~

9 ~~Governor:_____ Federal_____ State~~

10 ~~For the Pennsylvania Biomedical~~
11 ~~Research Authority.~~

12 ~~State appropriation.....~~ ~~87,487,000~~

13 ~~(2) Department of Aging. The~~
14 ~~following amounts are appropriated to~~

15 ~~the Department of Aging:_____ Federal_____ State~~

16 ~~For the home and community based~~
17 ~~services:~~

18 ~~State appropriation.....~~ ~~8,567,000~~

19 ~~The following Federal amounts are~~
20 ~~appropriated to supplement the sum~~
21 ~~appropriated for home and community~~
22 ~~based services and support:~~

23 ~~"Medical Assistance—Home and~~
24 ~~Community Based Care."~~

25 ~~Federal appropriation.....~~ ~~17,243,000_____~~

26 ~~For transfer to the PACE Fund for~~
27 ~~expansion of the PACENET program.~~

28 ~~State appropriation.....~~ ~~27,754,000~~

29 ~~For the Pennsylvania Extraordinary~~
30 ~~Prescription Plan Program.~~

1	State appropriation.....	83,987,000
2	(3) Department of Community and	
3	Economic Development. The following	
4	amounts are appropriated to the	
5	Department of Community and Economic	
6	Development:_____	Federal_____State
7	For the Institute for Biomedical	
8	Research and Technology and Regional	
9	Centers for Biomedical Research and	
10	Technology Innovation.	
11	For Volunteer Fire and Emergency	
12	Services Organization Grant Program.	
13	State appropriation.....	58,324,000
14	For Municipal Fire and Emergency	
15	Services Organization Grant Program.	
16	State appropriation.....	58,324,000
17	(4) Department of Health. The	
18	following amounts are appropriated to	
19	the Department of Health:_____	Federal_____State
20	For health and related research.	
21	State appropriation.....	81,048,000
22	For rural research initiative.	
23	State appropriation.....	2,041,000
24	For medical research improvement	
25	grants.	
26	State appropriation.....	29,162,000
27	For tobacco use prevention and	
28	cessation programs.	
29	State appropriation.....	38,242,000
30	For Pennsylvania Health Center	

1	Investment Plan.	
2	State appropriation.....	12,624,000
3	For minority health programs. No	
4	more than \$250,000 of this	
5	appropriation may be used for	
6	administrative costs of the	
7	department.	
8	State appropriation.....	1,166,000
9	For Type 1 diabetes research	
10	grants.	
11	State appropriation.....	6,999,000
12	For grants to Type 1 diabetics.	
13	State appropriation.....	1,750,000
14	For pharmaceutical grants to	
15	Medicare beneficiaries not eligible	
16	for PACE and PACENET as authorized by	
17	this act.	
18	State appropriation.....	2,916,000
19	For a Catastrophic Illness in	
20	Children Relief Program.	
21	State appropriation.....	2,916,000
22	(5) Insurance Department. The	
23	following amounts are appropriated to	
24	the Insurance Department:_____	Federal_____State
25	For the Adult Basic Coverage	
26	Insurance program.	
27	State appropriation.....	81,183,000
28	For health care for parents under	
29	the Children's Health Care Program.	
30	State appropriation.....	11,665,000

~~1 For transfer to the Occupational~~
~~2 Respiratory Disease Interim Coverage~~
~~3 Fund.~~
~~4 State appropriation..... 2,333,000~~
~~5 For the extension of benefits for~~
~~6 health care services under section~~
~~7 5101.~~
~~8 State appropriation..... 2,916,000~~
~~9 For transfer to the Children's~~
~~10 Health Fund for expansion of the~~
~~11 program of free and subsidized health~~
~~12 care services for children, including~~
~~13 the presumptive eligibility for~~
~~14 children's health care services~~
~~15 program component.~~
~~16 State appropriation..... 1,166,000~~
~~17 (6) Department of Public~~
~~18 Welfare. The following amounts are~~
~~19 appropriated to the Department of~~
~~20 Public Welfare:_____ Federal _____ State~~
~~21 For medical coverage for workers~~
~~22 with disabilities.~~
~~23 State appropriation..... 14,469,000~~
~~24 The following Federal amounts are~~
~~25 appropriated to supplement the sum~~
~~26 appropriated for home and community~~
~~27 medical coverage for workers with~~
~~28 disabilities:~~
~~29 "Medical Assistance—Medical~~
~~30 Coverage for Workers with~~

1 ~~Disabilities."~~

2 ~~Federal appropriation.....~~ ~~29,121,000~~_____

3 ~~For hospital uncompensated care.~~

4 ~~State appropriation.....~~ ~~13,205,000~~

5 ~~The following Federal amounts are~~

6 ~~appropriated to supplement the sum~~

7 ~~appropriated for hospital~~

8 ~~uncompensated care:~~

9 ~~"Medical Assistance—Uncompensated~~

10 ~~Care."~~

11 ~~Federal appropriation.....~~ ~~26,175,000~~_____

12 ~~For reimbursement of hospital~~

13 ~~extraordinary expense program.~~

14 ~~State appropriation.....~~ ~~5,832,000~~

15 ~~The following Federal amounts are~~

16 ~~appropriated to supplement the sum~~

17 ~~appropriated for hospital~~

18 ~~extraordinary expense program.~~

19 ~~"Medical Assistance—Hospital~~

20 ~~Extraordinary Expenses."~~

21 ~~Federal appropriation.....~~ ~~11,561,000~~_____

22 ~~For home and community based~~

23 ~~services.~~

24 ~~State appropriation.....~~ ~~19,990,000~~

25 ~~The following Federal amounts are~~

26 ~~appropriated to supplement the sum~~

27 ~~appropriated for home and community~~

28 ~~services:~~

29 ~~"Medical Assistance—Home and~~

30 ~~Community Based Care."~~

1 Federal appropriation..... 40,233,000
2 For community mental health
3 services.
4 State appropriation..... 3,084,000
5 The following Federal amounts are
6 appropriated to supplement the sum
7 appropriated for community mental
8 health services:
9 "Community Mental Health Services."
10 Federal appropriation..... 6,307,000
11 For increased compensation of
12 mental health/mental retardation
13 direct care workers.
14 State appropriation..... 28,472,000
15 The following Federal amounts are
16 appropriated to supplement the sum
17 appropriated for mental retardation
18 direct care worker salaries.
19 Federal appropriation..... 53,668,000
20 (7) PHEAA. The following amounts
21 are appropriated to the Pennsylvania
22 Higher Education Assistance Agency: Federal State
23 For a medical school loan program
24 to benefit Pennsylvania residents
25 attending Pennsylvania medical schools
26 by creating a fund to ensure that
27 lenders will offer the lowest interest
28 rates and loan fees for private loans.
29 State appropriation..... 2,333,000
30 Section 5103. Repeals.

~~(a) Absolute. The following acts or parts of acts are repealed:~~

~~Article XXIII of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~(b) Inconsistent. The following acts or parts of acts are repealed to the extent specified:~~

~~The act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, is repealed insofar as it is inconsistent with Chapter 16.~~

~~Section 5104. Effective date.~~

~~This act shall take effect as follows:~~

~~(1) Chapters 3 and 8 and this section shall take effect immediately.~~

~~(2) The remainder of this act shall take effect July 1, 2001.~~

CHAPTER 1

PRELIMINARY PROVISIONS

SECTION 101. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE TOBACCO SETTLEMENT ACT.

CHAPTER 3

HEALTH INVESTMENT

SECTION 301. SCOPE.

THIS CHAPTER DEALS WITH HEALTH INVESTMENT.

SECTION 302. 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:

"ACCOUNTS." THE HEALTH ENDOWMENT ACCOUNT FOR LONG-TERM HOPE ESTABLISHED IN SECTION 303(B) AND THE HEALTH VENTURE INVESTMENT

1 ACCOUNT ESTABLISHED IN SECTION 303(C).

2 "BOARD." THE TOBACCO SETTLEMENT INVESTMENT BOARD ESTABLISHED
3 IN SECTION 304(A).

4 "FUND." THE TOBACCO SETTLEMENT FUND ESTABLISHED IN SECTION
5 303(A).

6 "HEALTH ACCOUNT." THE HEALTH ENDOWMENT ACCOUNT FOR LONG-TERM
7 HOPE ESTABLISHED IN SECTION 303(B).

8 "HEALTH VENTURE INVESTMENT ACCOUNT." THE ACCOUNT ESTABLISHED
9 IN SECTION 303(C).

10 "JURISDICTIONAL PAYMENT." A PAYMENT RECEIVED BY THE
11 COMMONWEALTH RESULTING FROM A COURT RETAINING JURISDICTION OVER
12 THE ESCROW AGREEMENT PURSUANT TO SECTION IX(B) OF THE MASTER
13 SETTLEMENT AGREEMENT.

14 "MASTER SETTLEMENT AGREEMENT." THE SETTLEMENT AGREEMENT AND
15 RELATED DOCUMENTS ENTERED INTO ON NOVEMBER 23, 1998, BY THE
16 COMMONWEALTH AND LEADING UNITED STATES TOBACCO PRODUCT
17 MANUFACTURERS APPROVED BY THE COURT OF COMMON PLEAS,
18 PHILADELPHIA COUNTY, ON JANUARY 13, 1999.

19 "STRATEGIC CONTRIBUTION PAYMENT." A PAYMENT RECEIVED BY THE
20 COMMONWEALTH PURSUANT TO SECTION IX(C)(2) OF THE MASTER
21 SETTLEMENT AGREEMENT.

22 "TOBACCO SETTLEMENT FUND." THE TOBACCO SETTLEMENT FUND
23 ESTABLISHED IN SECTION 303(A).

24 SECTION 303. ESTABLISHMENT OF SPECIAL FUND AND ACCOUNT.

25 (A) TOBACCO SETTLEMENT FUND.--THERE IS HEREBY ESTABLISHED A
26 SPECIAL FUND KNOWN AS THE TOBACCO SETTLEMENT FUND. EXCEPT AS
27 PROVIDED IN SUBSECTION (B), ALL PAYMENTS RECEIVED BY THE
28 COMMONWEALTH PURSUANT TO THE MASTER SETTLEMENT AGREEMENT SHALL
29 BE DEPOSITED BY THE TREASURY DEPARTMENT IN THE FUND.

30 (B) HEALTH ACCOUNT.--THERE IS HEREBY ESTABLISHED WITHIN THE

FUND THE HEALTH ENDOWMENT ACCOUNT FOR LONG-TERM HOPE. THE
FOLLOWING AMOUNTS SHALL BE DEPOSITED BY THE TREASURY DEPARTMENT
INTO THE ACCOUNT:

(1) THE JURISDICTIONAL PAYMENT RECEIVED BY THE
COMMONWEALTH PURSUANT TO THE MASTER SETTLEMENT AGREEMENT.

(2) THE STRATEGIC CONTRIBUTION PAYMENTS RECEIVED BY THE
COMMONWEALTH PURSUANT TO THE MASTER SETTLEMENT AGREEMENT.

(3) TEN PERCENT OF ANY OTHER PAYMENT RECEIVED BY THE
COMMONWEALTH PURSUANT TO THE MASTER SETTLEMENT AGREEMENT.

(4) EARNINGS DERIVED FROM THE INVESTMENT OF THE MONEY IN
THE FUND AFTER DEDUCTION OF INVESTMENT EXPENSES, INCLUDING
SUCH EARNINGS AS MAY HAVE ACCRUED PRIOR TO THE EFFECTIVE DATE
OF THIS CHAPTER.

(5) EARNINGS DERIVED FROM THE INVESTMENT OF THE MONEY IN
THE HEALTH ACCOUNT AFTER DEDUCTION OF INVESTMENT EXPENSES AND
THE APPROVED EXPENSES OF THE BOARD.

(6) MONEYS RECEIVED AS A RESULT OF INVESTMENTS FROM THE
HEALTH VENTURE INVESTMENT ACCOUNT.

(7) MONEYS FROM AN APPROPRIATION, PURSUANT TO SECTION
306, WHICH LAPSE.

(C) HEALTH VENTURE INVESTMENT ACCOUNT.--THERE IS HEREBY
ESTABLISHED WITHIN THE FUND THE HEALTH VENTURE INVESTMENT
ACCOUNT.

SECTION 304. TOBACCO SETTLEMENT INVESTMENT BOARD.

(A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED THE TOBACCO
SETTLEMENT INVESTMENT BOARD, CONSISTING OF 11 MEMBERS AS
FOLLOWS: THE GOVERNOR OR A DESIGNEE; THE SECRETARY OF THE
BUDGET; THE STATE TREASURER OR A DESIGNEE; ONE MEMBER APPOINTED
BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND ONE MEMBER
APPOINTED BY THE MINORITY LEADER OF THE SENATE; ONE MEMBER

1 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE
2 MEMBER APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
3 REPRESENTATIVES; THREE MEMBERS APPOINTED BY THE GOVERNOR; AND
4 ONE MEMBER APPOINTED BY THE STATE TREASURER. LEGISLATIVE
5 APPOINTMENTS SHALL SERVE AT THE PLEASURE OF THE APPOINTING
6 AUTHORITY. OTHER APPOINTED MEMBERS SHALL SERVE FOR A TERM OF
7 FOUR YEARS AND UNTIL A SUCCESSOR IS APPOINTED. MEMBERS OF THE
8 BOARD SHALL SERVE WITHOUT COMPENSATION, BUT SHALL BE REIMBURSED
9 FOR ACTUAL AND REASONABLE EXPENSES INCURRED IN THE PERFORMANCE
10 OF THEIR OFFICIAL DUTIES. THE GOVERNOR SHALL SELECT ONE MEMBER
11 AS CHAIRPERSON, AND THE MEMBERS OF THE BOARD SHALL SELECT ONE
12 MEMBER AS SECRETARY.

13 (B) PROFESSIONAL PERSONNEL.--THE BOARD MAY EMPLOY INVESTMENT
14 ADVISORS, FUND MANAGERS AND STAFF AS THE BOARD DEEMS ADVISABLE.

15 (C) EXPENSES.--ALL APPROVED EXPENSES OF THE BOARD AND
16 RELATED PROFESSIONAL PERSONNEL EXPENSES SHALL BE PAID AND
17 DEDUCTED FROM INVESTMENT EARNINGS OF THE HEALTH ACCOUNT. THE
18 BOARD SHALL, THROUGH THE GOVERNOR, SUBMIT TO THE GENERAL
19 ASSEMBLY AN ANNUAL BUDGET COVERING ITS PROPOSED ADMINISTRATIVE
20 EXPENSES. CONCURRENTLY WITH ITS ANNUAL BUDGET REQUEST, THE BOARD
21 SHALL SUBMIT TO THE GENERAL ASSEMBLY A LIST OF PROPOSED
22 EXPENDITURES FOR THE PERIOD COVERED BY THE BUDGET REQUEST THAT
23 THE BOARD INTENDS TO PAY THROUGH THE USE OF DIRECTED
24 COMMISSIONS, TOGETHER WITH A LIST OF THE ACTUAL EXPENDITURES
25 FROM THE PREVIOUS YEAR ACTUALLY PAID BY THE BOARD THROUGH THE
26 USE OF DIRECTED COMMISSIONS. ALL SUCH DIRECTED COMMISSION
27 EXPENDITURES SHALL BE MADE BY THE BOARD FOR THE EXCLUSIVE
28 BENEFIT OF THE FUND AND THE HEALTH ACCOUNT.

29 (D) RECORDS AND MEETINGS.--THE BOARD SHALL KEEP A RECORD OF
30 ITS PROCEEDINGS, WHICH SHALL BE OPEN TO INSPECTION BY THE

1 PUBLIC. MEETINGS OF THE BOARD SHALL BE CONDUCTED UNDER 65
2 PA.C.S. CH 7 (RELATING TO OPEN MEETINGS).

3 SECTION 305. INVESTMENT OF FUND AND ACCOUNTS.

4 (A) CONTROL AND MANAGEMENT.--NOTWITHSTANDING ANY OTHER
5 PROVISION OF LAW, THE BOARD SHALL HAVE EXCLUSIVE CONTROL AND
6 AUTHORITY TO MANAGE, INVEST AND REINVEST MONEY IN THE FUND AND
7 THE HEALTH ACCOUNT IN ACCORDANCE WITH THIS SECTION, SUBJECT,
8 HOWEVER, TO THE EXERCISE OF THAT DEGREE OF JUDGMENT, SKILL AND
9 CARE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT PERSONS OF
10 PRUDENCE, DISCRETION AND INTELLIGENCE, WHO ARE FAMILIAR WITH
11 INVESTMENT MATTERS, EXERCISE IN THE MANAGEMENT OF THEIR OWN
12 AFFAIRS, NOT IN REGARD TO SPECULATION BUT IN REGARD TO PERMANENT
13 DISPOSITION OF THE FUNDS, CONSIDERING THE PROBABLE INCOME TO BE
14 DERIVED FROM THE INVESTMENTS AND THE PROBABLE SAFETY OF THEIR
15 CAPITAL. THE BOARD MAY HOLD, PURCHASE, SELL, LEND, ASSIGN,
16 TRANSFER OR DISPOSE OF ANY SECURITIES AND INVESTMENTS, INCLUDING
17 EQUITY SECURITIES, IN WHICH MONEY IN THE FUND OR THE ACCOUNTS
18 HAS BEEN INVESTED AND OF THE PROCEEDS OF THE INVESTMENTS,
19 INCLUDING ANY DIRECTED COMMISSIONS THAT HAVE ACCRUED TO THE
20 BENEFIT OF THE FUND OR THE ACCOUNTS AS A CONSEQUENCE OF THE
21 INVESTMENTS, AND OF MONEY BELONGING TO THE FUND OR THE ACCOUNTS
22 SUBJECT TO THE STANDARD OF PRUDENCE IN THIS SECTION.

23 (B) FIDUCIARY STATUS OF BOARD.--THE MEMBERS OF THE BOARD AND
24 THEIR PROFESSIONAL PERSONNEL SHALL STAND IN A FIDUCIARY
25 RELATIONSHIP TO THE COMMONWEALTH AND ITS CITIZENS REGARDING THE
26 INVESTMENTS OF THE MONEY OF THE FUND AND THE ACCOUNTS AND SHALL
27 NOT PROFIT, EITHER DIRECTLY OR INDIRECTLY, WITH RESPECT THERETO.

28 (C) CUSTODIAN.--THE STATE TREASURER SHALL BE THE CUSTODIAN
29 OF THE FUND AND THE ACCOUNTS. ALL INVESTMENT DRAWS FROM THE FUND
30 OR THE ACCOUNTS SHALL BE MADE BY THE STATE TREASURER IN

1 ACCORDANCE WITH REQUISITIONS SIGNED BY THE SECRETARY OF THE
2 BOARD AND RATIFIED BY RESOLUTION OF THE BOARD.

3 (D) AUTHORIZED INVESTMENT VEHICLES FOR THE FUND AND THE
4 HEALTH ACCOUNT.--THE BOARD MAY INVEST THE MONEY IN THE FUND AND
5 THE HEALTH ACCOUNT IN INVESTMENTS THAT MEET THE STANDARD OF
6 PRUDENCE SET FORTH IN SUBSECTION (A) BY ACQUIRING ANY TYPE OF
7 INTEREST IN A BUSINESS ORGANIZATION EXISTING UNDER THE LAWS OF
8 ANY JURISDICTION. THE LIABILITY OF THE FUND OR THE HEALTH
9 ACCOUNT SHALL BE LIMITED TO THE AMOUNT OF THEIR INVESTMENT UNDER
10 THIS SUBSECTION.

11 (E) ADDITIONAL AUTHORIZED INVESTMENT VEHICLES FOR THE HEALTH
12 ACCOUNT.--THE BOARD IN ITS PRUDENT DISCRETION MAY INVEST THE
13 MONEY IN THE HEALTH ACCOUNT IN VENTURE CAPITAL INVESTMENTS,
14 PRIVATE PLACEMENT INVESTMENTS OR OTHER ALTERNATIVE INVESTMENTS
15 OF ANY KIND, STRUCTURE OR MANNER WHICH MEET THE STANDARD OF
16 PRUDENCE SET FORTH IN SUBSECTION (A). THE LIABILITY OF THE
17 HEALTH ACCOUNT SHALL BE LIMITED TO THE AMOUNT OF ITS INVESTMENT
18 UNDER THIS SUBSECTION.

19 (F) AUTHORIZED INVESTMENT VEHICLES FOR THE HEALTH VENTURE
20 INVESTMENT ACCOUNT.--THE BOARD MAY INVEST THE MONEY IN THE
21 HEALTH VENTURE INVESTMENT ACCOUNT IN INVESTMENTS WHICH MEET THE
22 STANDARD OF PRUDENCE SET FORTH IN SUBSECTION (A) BY BECOMING A
23 LIMITED PARTNER IN PARTNERSHIPS THAT MAKE VENTURE CAPITAL
24 INVESTMENTS BY ACQUIRING EQUITY INTERESTS OR A COMBINATION OF
25 DEBT AND EQUITY INTERESTS IN HEALTH CARE, BIOTECHNOLOGY OR ANY
26 OTHER HEALTH-RELATED BUSINESSES THAT ARE EXPECTED TO GROW
27 SUBSTANTIALLY IN THE FUTURE AND IN WHICH THE EXPECTED RETURNS ON
28 INVESTMENT ARE TO COME PREDOMINANTLY FROM INCREASES IN VALUE OF
29 THE EQUITY INTERESTS AND ARE NOT INTERESTS IN OR SECURED BY REAL
30 ESTATE. THE BOARD MAY INVEST IN ONE OR MORE LIMITED PARTNERSHIPS

1 OR COMPARABLE INVESTMENT ENTITIES PROVIDED THAT THE INVESTMENT
2 GUIDELINES AND STRATEGIES OF EACH INVESTMENT ENTITY REQUIRE THAT
3 AT LEAST 70% OF THE INVESTMENTS WILL BE MADE IN COMPANIES
4 LOCATED PRIMARILY IN PENNSYLVANIA OR IN COMPANIES WILLING TO
5 RELOCATE SIGNIFICANT BUSINESS OPERATIONS TO PENNSYLVANIA. THE
6 LIABILITY OF THE FUND OR THE HEALTH VENTURE INVESTMENT ACCOUNT
7 SHALL BE LIMITED TO THE AMOUNT OF ITS INVESTMENT UNDER THIS
8 SECTION.

9 (G) REQUIREMENTS FOR VENTURE CAPITAL INVESTMENTS.--THE
10 FOLLOWING ARE THE REQUIREMENTS TO PARTICIPATE IN A VENTURE
11 CAPITAL INVESTMENT PROGRAM UNDERTAKEN BY THE BOARD UNDER
12 SUBSECTION (D) OR (F):

13 (1) EACH GENERAL PARTNER MUST:

14 (I) CONTRIBUTE 2% OF THE AGGREGATE COMMITTEE CAPITAL
15 AS A GENERAL PARTNER; AND

16 (II) SUBORDINATE 5% OF THE BOARD'S CONTRIBUTION IN
17 TERMS OF THE DISTRIBUTION SCHEDULE, PUTTING THE GENERAL
18 PARTNER IN A FIRST LOSS POSITION WITH RESPECT TO THE
19 BOARD.

20 (2) THE PARTNERSHIP MUST PROVIDE A PREFERRED RETURN OF
21 NO LESS THAN 5% TO ALL LIMITED PARTNERS.

22 (3) THE PARTNERSHIP MUST AGREE TO OPERATE UNDER A
23 PRUDENT EXPERT STANDARD OF CARE.

24 (4) THE BOARD MUST BE GIVEN A SEAT ON ANY LIMITED
25 PARTNER ADVISORY/VALUATION COMMITTEE.

26 (5) THE BOARD MUST BE REIMBURSED FOR EXPENSES FOR
27 ATTENDING LIMITED PARTNER ADVISORY/VALUATION COMMITTEE
28 MEETINGS AND PARTNERSHIP ANNUAL MEETINGS.

29 (6) THE PARTNERSHIP MUST ISSUE TO THE BOARD AUDITED
30 FINANCIAL STATEMENTS ON THE BASIS OF GENERALLY ACCEPTED

ACCOUNTING PRINCIPLES.

(H) LEGISLATIVE DECLARATION.--THE GENERAL ASSEMBLY FINDS AND
DECLARES THAT AUTHORIZED INVESTMENTS OF THE FUND OR THE ACCOUNTS
MADE BY OR ON BEHALF OF THE BOARD UNDER THIS SECTION, WHEREBY
THE BOARD BECOMES A JOINT OWNER, LIMITED PARTNER OR STOCKHOLDER
IN A COMPANY, CORPORATION, LIMITED PARTNERSHIP, ASSOCIATION OR
OTHER LAWFUL BUSINESS ORGANIZATION, ARE OUTSIDE THE SCOPE OF THE
ORIGINAL INTENT OF, AND DO NOT VIOLATE, THE PROHIBITION SET
FORTH IN SECTION 8 OF ARTICLE VIII OF THE CONSTITUTION OF
PENNSYLVANIA.

SECTION 306. USE OF TOBACCO SETTLEMENT FUND.

THE GOVERNOR SHALL INCLUDE A SPENDING PLAN FOR THE FUND IN
THE ANNUAL BUDGET. THE GENERAL ASSEMBLY SHALL APPROPRIATE THE
FUND FOR HEALTH-RELATED PURPOSES IN ACCORDANCE WITH THIS ACT.

SECTION 307. USE OF HEALTH ACCOUNT.

WHENEVER THE GOVERNOR DETERMINES THAT MONEY FROM THE HEALTH
ACCOUNT IS NECESSARY TO MEET THE EXTRAORDINARY OR EMERGENCY
HEALTH CARE NEEDS OF THE CITIZENS OF THIS COMMONWEALTH, THE
GOVERNOR SHALL PRESENT A DETAILED SPENDING PROPOSAL WITH A
REQUEST FOR AN APPROPRIATION AND ANY NECESSARY LEGISLATION TO
THE CHAIRMEN OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND
THE CHAIRMEN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF
REPRESENTATIVES. THE GENERAL ASSEMBLY MAY, THROUGH APPROVAL OF A
SEPARATE APPROPRIATION BILL BY A VOTE OF TWO-THIRDS OF THE
MEMBERS ELECTED TO THE SENATE AND TO THE HOUSE OF
REPRESENTATIVES, APPROPRIATE MONEY FROM THE HEALTH ACCOUNT TO
MEET THE NEEDS IDENTIFIED IN THE GOVERNOR'S REQUEST. ANY MONEY
APPROPRIATED UNDER THIS SECTION THAT LAPSES SHALL BE RETURNED TO
THE HEALTH ACCOUNT.

SECTION 308. ANNUAL REPORT.

1 BY NOVEMBER 1, 2001, AND ANNUALLY THEREAFTER, THE BOARD SHALL
2 SUBMIT A REPORT TO THE GOVERNOR AND TO THE CHAIR AND MINORITY
3 CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND THE
4 CHAIR AND MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE
5 HOUSE OF REPRESENTATIVES. THE REPORT SHALL PROVIDE AN ANALYSIS
6 OF THE STATUS OF THE CURRENT INVESTMENTS AND TRANSACTIONS MADE
7 OVER THE LAST FISCAL YEAR FOR THE FUND AND THE ACCOUNTS.

8 CHAPTER 51

9 MISCELLANEOUS PROVISIONS

10 SECTION 5101. EFFECTIVE DATE.

11 THIS ACT SHALL TAKE EFFECT JULY 1, 2001, OR IMMEDIATELY,
12 WHICHEVER IS LATER.