

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1142 Session of
2007

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MAY 18, 2007

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 20, 2007

AN ACT

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

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

Section 1. Sections 302, 303, 305 and 306 of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act, are amended to read:

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 Account established in section 303(c) and the Biotechnology Commercialization Account established in section 303(d).

"Bioscience product." As defined in section 1702.

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

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

"Department." The Department of Community and Economic

1 Development of the Commonwealth.

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

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

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

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

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

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

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

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

29 (c) Health Venture Investment Account.--There is hereby
30 established within the [fund] Tobacco Settlement Fund the Health

Venture Investment Account. All proceeds received as a result of investments from the Health Venture Investment Account shall be deposited into the Health Venture Investment Account.

(d) Biotechnology Commercialization Account.--There is hereby established within the Tobacco Settlement Fund the Biotechnology Commercialization Account. Interest earned on moneys in the Biotechnology Commercialization Account shall be credited to the account. Moneys in the account shall only be used to fund applications submitted and approved under Chapter 17.

Section 305. Investment of fund and accounts.

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

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

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

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

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

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

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

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

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

no less than 5% to all limited partners.

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

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

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

(6) The partnership must issue to the board audited 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.

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

(b) Appropriations.--

(1) [The] Except as provided in the act of April 9, 1929

1 (P.L.343, No.176), known as The Fiscal Code, the General
2 Assembly hereby appropriates funds in the fund in accordance
3 with the following percentages based on actual funds received
4 in each year or upon receipt of the final annual payment:

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

8 (ii) Thirteen percent for home and community-based
9 services pursuant to Chapter 5. For fiscal year 2001-
10 2002, up to \$13.5 million may be used for expanded
11 counseling, area agency on aging training and education,
12 assistive technology and for reducing waiting lists for
13 services in the Department of Aging.

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

16 (iv) Eighteen percent for health and related
17 research pursuant to section 906 and one percent for
18 health and related research pursuant to section 909.

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

21 (vi) Thirty percent for health investment insurance
22 pursuant to Chapter 13 and for the purchase of Medicaid
23 benefits for workers with disabilities pursuant to
24 Chapter 15.

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

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

29 (ix) Two percent for deposit into the Biotechnology
30 Commercialization Account pursuant to this chapter for

commercialization activities.

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

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

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

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

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

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

Section 2. The definition of "applicant" in section 902 of the act is amended and the section is amended by adding definitions to read:

Section 902. Definitions.

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

* * *

"Applicant." Any of the following located in this Commonwealth:

- 1 (1) A person.
- 2 (2) An institution.
- 3 (3) An entity established under the act of August 24,
4 1951 (P.L.1304, No.315), known as the Local Health
5 Administration Law.
- 6 (4) A small business.

7 * * *

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

12 * * *

13 "Small business." Any for-profit business located in this
14 Commonwealth employing less than 500 employees.

15 Section 3. Sections 903(b), 904(3), 908 and 910 of the act
16 are amended to read:

17 Section 903. Health research program.

18 * * *

19 (b) Advisory committee.--

20 (1) There is hereby established in the department the
21 Health Research Advisory Committee.

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

23 (i) The secretary or a designee, who shall serve as
24 chairperson.

25 (ii) Four members appointed by the Governor.

26 (iii) One member appointed by the President pro
27 tempore of the Senate and one member appointed by the
28 Minority Leader of the Senate.

29 (iv) One member appointed by the Speaker of the
30 House of Representatives and one member appointed by the

1 Minority Leader of the House of Representatives.

2 (3) [Members] At least one member appointed by the
3 Governor must be a small business leader with experience in
4 commercializing life sciences focused research. Remaining
5 members appointed to the committee by the Governor must
6 possess expertise in health care or research, with
7 representation by institution-based research specialists,
8 practicing clinicians, clinical investigators and public
9 health professionals.

10 (4) Terms are as follows:

11 (i) The secretary shall serve ex officio.

12 (ii) A member under paragraph (2)(ii) shall serve a
13 term of six years.

14 (iii) A member under paragraph (2)(iii) shall serve
15 a term of four years but may be removed at the pleasure
16 of the appointing authority.

17 (iv) A member under paragraph (2)(iv) shall serve a
18 term of two years but may be removed at the pleasure of
19 the appointing authority.

20 (v) An appointment to fill a vacancy shall be for
21 the period of the unexpired term or until a successor is
22 appointed and qualified.

23 (5) The committee shall meet as needed, but at least
24 [twice] once a year, to fulfill the purposes provided for in
25 this chapter. A majority of the members of the committee
26 constitutes a quorum. A majority of the members of the
27 committee has authority to act upon any matter properly
28 before it. The committee is authorized to establish rules for
29 its operation and shall hold public hearings, as necessary,
30 to obtain public input and make recommendations to the

1 department regarding research priorities, evaluation and
2 accountability procedures and related issues. Meetings of the
3 committee shall be conducted under 65 Pa.C.S. Ch. 7 (relating
4 to open meetings).

5 (6) Members shall receive no payment for their services.
6 Members who are not employees of State government shall be
7 reimbursed for necessary and reasonable expenses incurred in
8 the course of their official duties.

9 Section 904. Department responsibilities.

10 The department has the following powers and duties:

11 * * *

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

17 * * *

18 Section 908. National Institutes of Health funding formula.

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

1 years shall be considered eligible to receive a grant pursuant
2 to section 906(1).

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

5 (1) Twenty percent shall be distributed to each
6 institution that receives more than \$175,000,000 as an
7 average amount from the National Institutes of Health during
8 each of the three [immediately preceding] most recent Federal
9 fiscal years[.] for which finalized data is available from
10 the National Institutes of Health as of June 30 of the State
11 fiscal year prior to the State fiscal year in which the grant
12 is awarded.

13 (2) Seventeen percent shall be distributed to each
14 institution that receives more than \$175,000,000 in federally
15 sponsored research and development obligations in the
16 [immediately available preceding] most recent Federal fiscal
17 year [as reported by] for which finalized data is available
18 from the National Science Foundation and receives more than
19 [\$60,000,000] \$50,000,000 in direct research grant funding as
20 an average amount from the National Institutes of Health
21 during [the three immediately preceding] each of the three
22 most recent Federal fiscal years[.] for which finalized data
23 is available as of June 30 of the State fiscal year prior to
24 the State fiscal year in which the grant is awarded.

25 (3) The remaining funds shall be distributed to eligible
26 institutions based on the percentage calculated by dividing
27 an institution's average direct research grant award from the
28 National Institutes of Health for [the three immediately
29 preceding] each of the three most recent Federal fiscal years
30 for which finalized data is available as of June 30 of the

State fiscal year prior to the State fiscal year in which the grant is awarded by the sum of the average annual direct research grant funding award from the National Institutes of Health for all Pennsylvania-based eligible institutions during the three [immediately available preceding] most recent Federal fiscal years[.] for which finalized data is available as of June 30 of the State fiscal year prior to the State fiscal year in which the grant is awarded.

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

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

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

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

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

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

(4) A description of the training opportunities provided for researchers employed by the institution relating to the

1 licensing and commercial development of research.

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

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

9 Section 910. Accountability procedures.

10 (a) Requirements.--An applicant that receives a research
11 grant under this chapter shall be subject to a performance
12 review by the department upon completion of a research project
13 or more often as deemed necessary by the department. The
14 performance review shall be based on an evaluation process
15 developed by the department in consultation with the advisory
16 committee. Information shall be submitted by research grant
17 recipients and shall include, as applicable, the following:

18 (1) The progress made in achieving expected research
19 goals and objectives.

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

26 (3) The number of peer-reviewed publications and the
27 number of licenses and patents filed, including commercial
28 development opportunities.

29 (4) Any changes in risk factors, services provided,
30 incidence of disease, death from disease, stage of disease at

1 the time of diagnosis or other relevant measures of the
2 outcome, impact and effectiveness of the research being
3 conducted.

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

7 (5.1) Any technology transfer that has occurred due to
8 the completed research project. Technology transfer shall
9 include discoveries or products licensed to nonprofit or for-
10 profit companies for further development or
11 commercialization, spin-off companies created, new jobs
12 created, or new investments received to commercialize the
13 discovery or product.

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

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

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

22 Section 1702. Definitions.

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

26 * * *

27 "Bioscience product." A therapeutic agent, diagnostic
28 biomedical device, process or service related to human health
29 that is developed or marketed by a for-profit or not-for-profit
30 institution or organization that is in the jurisdiction of a

1 regional biotechnology research center established under section
2 1703.

3 * * *

4 Section 5. Section 1703(a) and (j) of the act are amended
5 and the section is amended by adding a subsection to read:
6 Section 1703. Regional biotechnology research centers.

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

12 * * *

13 (i.1) Application for commercialization activities.--Each
14 regional biotechnology research center created under this
15 section, acting with the approval of its board of directors,
16 shall annually submit an application to the department
17 requesting funding from the Biotechnology Commercialization
18 Account for commercialization activities in its respective
19 region. The application shall be based on a five-year funding
20 strategy. The application shall include the proposed amount of
21 money requested, the types of commercialization activities to be
22 funded, the process for identifying the commercialization
23 activities to be funded and the investment vehicle or vehicles
24 to support the commercialization activities. Regional
25 biotechnology research earnings on funds received from the
26 Biotechnology Commercialization Account under this subsection
27 shall not be subject to the provisions of subsection (g)(3). The
28 department may request any other information deemed necessary
29 related to the application by a regional biotechnology research
30 center. Prior to the conclusion of the fifth year of each five-

year funding strategy, the regional biotechnology research center shall develop a new five-year funding strategy on which its next five annual applications will be based.

(j) Review and report.--

(1) Each regional biotechnology research center shall be subject to an annual performance review by the department.

The department may request other materials or information from a regional biotechnology research center at such other frequency or interval that the department deems appropriate.

(2) Each regional biotechnology research center shall, by November 30, 2002, and annually thereafter, prepare and submit a report to the department, the Department of Health, the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives, the chair and minority chair of the Community and Economic Development Committee of the Senate and the chair and minority chair 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 working in cooperation with the Department of Health and shall include the following:

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

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

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

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

3 (v) A listing of all organizations and for-profit
4 and nonprofit institutions utilizing the services of the
5 research center during the prior year.

6 (vi) A listing of any licenses or other contractual
7 obligations in effect or anticipated for the intellectual
8 property developed at the research center during the
9 prior year.

10 (vii) A listing of any inventions, any patent
11 applications or patents issued, any products or other
12 intellectual property developed as a result of research
13 conducted through the research center during the prior
14 year.

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

23 (ix) Information relating to commercialization
24 activities including:

25 (A) A list of commercialization activities
26 supported by a research center in the prior year to
27 enter or develop markets for inventions, patents
28 issued, products or other intellectual property.

29 (B) The amount of moneys expended by each for-
30 profit and not-for-profit institution and

1 organization in the preceding year on
2 commercialization activities supported by a research
3 center and the amount of any return on investment to
4 the research center from those activities.

5 (C) The amount of moneys each for-profit and
6 not-for-profit institution and organization projects
7 to spend on commercialization activities supported by
8 a research center in the current year and the return
9 on investment to the research center projected from
10 that activity.

11 (D) The name of any organization within or
12 outside this Commonwealth that has committed funding
13 to a for-profit and not-for-profit institution and
14 organization in the current year for
15 commercialization activities supported by a research
16 center and the type and amount of that funding.

17 (E) A list of potential markets for the
18 bioscience product supported by a research center and
19 any and all target populations that could benefit
20 from the commercialization activity.

21 (F) Any other information deemed necessary by
22 the department related to commercialization
23 activities supported by a research center.

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

25 CHAPTER 29

26 BIOSCIENCE RESEARCH DEVELOPMENT

27 Section 2901. Definitions.

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

1 "Advisory review panel." A panel of physicians, scientists
2 and researchers engaged by the Jonas Salk Legacy Fund Board
3 under section 2903.

4 "Bioscience industry." Research and development of
5 technology, therapies and treatments relative to human health,
6 medical and life science, including medical devices, chemical
7 and biological pharmaceuticals and the biological or
8 technological delivery of such materials.

9 "Board." The Jonas Salk Legacy Fund Board established under
10 section 2903.

11 "Bonds." Bonds, notes, instruments, refunding notes and
12 other evidences of indebtedness or obligations that the
13 Pennsylvania Economic Development Financing Authority is
14 authorized to issue pursuant to this chapter.

15 "CURE." The Commonwealth Universal Research Enhancement
16 Program established under section 903.

17 "CURE participant." A recipient of funds under section 908
18 or 909 in the fiscal year immediately preceding the effective
19 date of this chapter.

20 "CURE receipts." Up to one-half of the funds required to be
21 distributed for health and related research under section
22 306(b)(1)(iv).

23 "CURE receipts bonds." Limited obligation revenue bonds
24 issued by the Pennsylvania Economic Development Financing
25 Authority pursuant to section 2906.

26 "Department." The Department of Community and Economic
27 Development of the Commonwealth.

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

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

1 "Donor funds." Contributions made to the Jonas Salk Legacy
2 Fund on which no specific use conditions have been placed by the
3 donor.

4 "Economic Development Financing Law." The act of August 23,
5 1967 (P.L.251, No.102), known as the Economic Development
6 Financing Law.

7 "Financing authority." The Pennsylvania Economic Development
8 Financing Authority established under the act of August 23, 1967
9 (P.L.251, No.102), known as the Economic Development Financing
10 Law.

11 "Fund." The Jonas Salk Legacy Fund established under section
12 2904.

13 "Incubator." A facility in which small units of space are
14 leased by new companies in the bioscience industry and in which
15 management of the facility maintains or provides access to
16 business development services for use by all companies leasing
17 space in the facility.

18 "Infrastructure project." An activity designed to expand,
19 remodel, renovate, alter or construct biomedical research
20 laboratories including biology, biochemistry, cell biology,
21 microscopy, molecular biology, virology, immunology, physiology,
22 pathology and clinical research, including any of the following:

23 (1) Wet laboratories, including tissue culture
24 laboratories, anaerobic chambers, fermenters and laboratories
25 to conduct studies related to biochemistry, molecular
26 biology, cell biology, pathology, organic chemistry and
27 physical chemistry.

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

30 (3) Special function laboratories, including the use of

electrophysiology, biophysics, electron microscopes, confocal microscopes, laser equipment, magnetic resonance imaging, electron spin resonance spectroscopy, X-ray crystallography, mass spectrometry, flow cytometry and robotic equipment.

(4) Clinical research centers.

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (4) Produces new insights and innovative solutions to
8 community health problems.

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

12 "Starter kit project." An activity to renovate, furnish and
13 equip research facilities, including the acquisition of
14 equipment and advanced instrumentation, to assist in attracting
15 highly rated research faculty to the applicant.

16 Section 2902. Jonas Salk Legacy Fund Program.

17 (a) Establishment.--There is established a program to be
18 known as the Jonas Salk Legacy Fund Program. The program shall
19 provide grants to eligible applicants for projects and for the
20 purposes set forth in section 2904(b). The board shall develop
21 eligibility criteria for applicants and projects, including
22 permitted project costs, priorities in the consideration of
23 applications and guidelines for the implementation of the
24 program, including the payment of application fees. The board
25 shall insure the funds are used to support basic and applied
26 research and economic development focused on improved health.
27 The department shall submit for publication in the Pennsylvania
28 Bulletin a notice of the date that the board will begin
29 accepting grant applications.

30 (b) Advisory review panels.--

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

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

23 (c) Starter kit project.--

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

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

30 (ii) The location of the project.

1 (iii) A description of the project.

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

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

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

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

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

21 (d) Infrastructure projects.--

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

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

28 (ii) The location of the project.

29 (iii) A description of the project.

30 (iv) A detailed description of proposed expenditures

1 for the project.

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

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

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

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

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

23 (f) Donor-directed funds.--Donor-directed funds shall be
24 used, to the extent allowed by the direction, to enhance
25 existing Commonwealth programs, including the program
26 established under this chapter. Donor-directed funds that are
27 required to be used for public health programs shall be
28 transferred to the DOH to be used as directed.

29 (g) Limitations.--

30 (1) A grant awarded for an infrastructure project or a

1 starter kit project shall not exceed 50% of the estimated
2 cost of the project as approved by the board. The balance of
3 the cost of the project shall be funded by the applicant from
4 other non-State public and private sources. Moneys derived
5 from non-State public and private sources that are used to
6 recruit or retain faculty by an eligible applicant may be
7 counted toward the match required by this paragraph.

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

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

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

20 (1) A CURE participant shall be enrolled in the program
21 unless the CURE participant provides written notice to the
22 board by the opt out date that it does not desire to
23 participate in the program. If a CURE participant enrolled in
24 the program desires to apply for a grant under this chapter,
25 it shall apply and be approved as provided in this chapter.
26 CURE participants enrolled in the program shall also continue
27 to be eligible to receive funding under CURE through June 30,
28 2012, at the same level provided in section 908 or 909, as
29 applicable, as if none of the CURE receipts had been sold or
30 assigned under section 2905. The board shall have the

1 authority to use moneys in the fund to supplement moneys
2 available under section 908 or 909 for CURE in order to
3 continue to provide funding at this level through June 30,
4 2012. A CURE participant may use National Institutes of
5 Health funds as a match against moneys in the fund used to
6 supplement moneys available under this act for CURE in order
7 to continue to provide funding at this level through June 30,
8 2012. This commitment shall not apply to any reduction in
9 funding under CURE that occurs for reasons unrelated to the
10 sale or assignment of CURE receipts authorized under section
11 2905. After June 30, 2012, CURE participants enrolled in the
12 program shall continue to be eligible to receive funding
13 under CURE at the level then available under section 908 or
14 909.

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

23 (3) Notwithstanding any provision of law to the
24 contrary, the DOH is authorized to reduce the amount of a
25 grant to be awarded under CURE to a CURE participant who is
26 enrolled in the program to the extent of the amount of any
27 moneys in the fund used by the board under paragraph (1) to
28 supplement moneys available under CURE for such grant. In
29 such event, the grant agreement entered into by the DOH and
30 the CURE participant will govern the use of that portion of

1 the grant being funded by MSA payments through sections 908
2 and 909 and administered by the DOH. A separate grant
3 agreement shall be entered into by the board and the CURE
4 participant to govern the use of that portion of the grant
5 being funded by the board pursuant to paragraph (1).

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

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

24 (i) Evaluation criteria relating to diversification.--In
25 reviewing applications for grants under the program, the board
26 shall evaluate the use and development of disadvantaged
27 businesses as defined in 62 Pa.C.S. § 2102 (relating to
28 definitions). In reviewing applications for grants under the
29 program, the board shall give priority consideration to projects
30 in the Keystone Innovation Zones. The board shall develop

criteria that evaluates the applicant's commitment and plan to provide fair and representative opportunities for disadvantaged businesses in its projects and in contracts relating to its projects as well as the applicant's commitment and plan to employ in the project a diverse professional and scientific work force, including minorities and women. In those cases where the board has cause to believe that an applicant receiving a grant under this chapter has failed to comply with the provisions of the applicant's plan, the applicant shall be subject to sanctions. The sanctions may include:

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

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

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

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

Section 2903. Jonas Salk Legacy Fund Board.

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

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

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

(3) ~~One individual~~ TWO INDIVIDUALS appointed by each of the following: the President pro tempore of the Senate, the Minority Leader of the Senate, the Majority Leader of the

<—

1 House of Representatives and the Minority Leader of the House
2 of Representatives, all of whom shall have professionally
3 relevant experience and none of whom may be members of the
4 General Assembly or staff of members of the General Assembly.

5 AT LEAST ONE OF EACH OF THE INDIVIDUALS APPOINTED BY EACH <—
6 MEMBER OF THE LEGISLATURE DESIGNATED UNDER THIS PARAGRAPH
7 SHALL BE FROM THE BIOTECHNOLOGY OR BIOMEDICAL COMMUNITY.

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

17 (5) TWO INDIVIDUALS APPOINTED BY THE GOVERNOR, ONE OF <—
18 WHOM SHALL BE A REAL ESTATE DEVELOPMENT PROFESSIONAL AND ONE
19 OF WHOM SHALL BE A COMMERCIALIZATION PROFESSIONAL.

20 ~~(5)~~ (6) Four individuals appointed by the Governor, all <—
21 of whom shall be representatives of an academic medical
22 center, a college or a university located in this
23 Commonwealth. These members shall be nonvoting.

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

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

30 (d) Terms.--Members shall serve a term of two years from the

date of their appointment and until their respective successors are duly appointed and qualified. Members shall be eligible for reappointment.

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

(f) Qualified majority vote.--~~The consent of a qualified majority vote consisting of at least one gubernatorial appointee and the four legislative appointees~~ THE CONSENT OF THE VOTE OF EIGHT VOTING MEMBERS shall be necessary for the board to take action.

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

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

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

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

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

(l) Staff and legal representation.--The department shall provide administrative staff to the board and shall provide the

1 board with legal representation. The board shall reimburse, from
2 interest earned on moneys in the fund, the department for the
3 cost of providing these services to the board.

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

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

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

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

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

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

1 (n) Intent.--It is the intent of the General Assembly that
2 the board promote and ensure diversity in the awarding of grants
3 under the programs authorized under this act. The board shall
4 work to enhance the representation of diverse groups in the
5 awarding of contracts and grants.

6 (1) The board is authorized to investigate investment
7 advisors, fund managers, other consultants and the awarding
8 of grants to ascertain whether effective and meaningful
9 action has been taken or will be taken to enhance the
10 representation of diverse groups in the awarding of contracts
11 and grants.

12 (2) The board shall work to promote and ensure that it
13 and all contractors and grant awardees afford equal
14 employment opportunity to all prospective employees to be
15 employed and to all actual employees employed by the board,
16 contractors and grantees.

17 (3) The board shall prepare an annual report to the
18 General Assembly on the activities undertaken by the board,
19 its contractors and awards to grantees to promote diversity
20 and accord equal employment opportunities in accordance with
21 this subsection.

22 Section 2904. Jonas Salk Legacy Fund.

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

26 (1) Proceeds of the sale or assignment of the CURE
27 receipts to the financing authority received by the
28 Commonwealth.

29 (2) Federal funds.

30 (3) Private funds, including funds from foundations,

donor funds and donor-directed funds, contributed to the fund.

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

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

(6) Interest earned on moneys in the fund.

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

Section 2905. Sale or assignment of CURE receipts.

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

(1) Execute sales or irrevocable assignments of all or a portion of the Commonwealth's right, title and interest in and to the MSA payments to the extent of the amount of the CURE receipts. If sales are utilized, each sale shall be

1 deemed a true sale of property and shall be evidenced by a
2 purchase and sale agreement and such other documentation as
3 the financing authority deems necessary or desirable.

4 (2) Effectuate the sale or assignment without regard to
5 existing laws governing other property sales or financial
6 transactions by the Commonwealth.

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

11 (4) Exercise such powers in accordance with such terms
12 and conditions and documentation as the financing authority
13 deems necessary or desirable.

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

17 (c) Payments to financing authority.--Notwithstanding any
18 provision of law to the contrary, if the Commonwealth sells or
19 assigns, in whole or in part, to the financing authority the
20 Commonwealth's right, title and interest in and to the CURE
21 receipts, then to the extent of the CURE receipts sold or
22 assigned, all moneys that otherwise would be required to be paid
23 to the DOH for CURE under section 306, and all rights to receive
24 those payments whether now existing or hereafter coming into
25 existence, shall be paid directly by the State Treasurer to the
26 financing authority or its trustee immediately upon receipt by
27 the Commonwealth, deposited into a trust fund established by the
28 financing authority and pledged to pay the CURE receipts bonds
29 until all CURE receipts bonds, together with the interest on
30 those bonds, and all obligations of the financing authority

1 relating to the CURE receipts bonds are fully paid or provided
2 for. The authority of the State Treasurer to make payments to
3 the financing authority as provided in this subsection shall
4 constitute a continuing appropriation, and funds to be paid
5 pursuant to this subsection shall not lapse. All CURE receipts
6 sold or assigned to the financing authority at all times shall
7 be property of the financing authority and shall not be property
8 of the Commonwealth.

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

13 Section 2906. CURE receipt bonds.

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

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

25 (c) Use of proceeds.--The proceeds of an issue of CURE
26 receipts bonds shall be used to pay the purchase price for the
27 CURE receipts; to fund any required reserves, including debt
28 service reserves; to capitalize interest; and to pay costs of
29 issuance, including, but not limited to, costs of obtaining
30 credit enhancement for the CURE receipts bonds.

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

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

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

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

20 (h) Interest rate management.--With respect to bonds, the
21 financing authority may negotiate and enter into interest rate
22 exchange agreements, interest rate cap agreements, collar
23 agreements, corridor agreements, ceiling agreements, floor
24 agreements, forward agreements, float agreements and other
25 similar agreements, which, in the judgment of the financing
26 authority, will assist the financing authority in managing the
27 interest costs of the financing authority.

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

29 (1) CURE receipts bonds issued under this chapter shall
30 not be a debt or liability of the Commonwealth or any

political subdivision and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth or any political subdivision, legal, moral or otherwise.

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

(i) The proceeds of CURE receipts bonds.

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

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

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

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

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

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

(k) CURE receipts bonds deemed valid.--Any CURE receipts bond reciting in substance that it has been issued by the

1 financing authority to accomplish the public purposes of this
2 chapter shall be conclusively deemed in any suit, action or
3 proceeding involving the validity or enforceability of the CURE
4 receipts bonds or security for the bonds to have been issued for
5 such purpose.

6 (1) Notice and challenges.--

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

20 (2) Upon publication of notice in the Pennsylvania
21 Bulletin and if no action or proceeding questioning the
22 validity or proper authorization of CURE receipts bonds or
23 the validity of any covenants, agreements or contracts
24 provided for by the resolution shall be commenced within ten
25 days after the publication of the notice in the Pennsylvania
26 Bulletin, then all residents, taxpayers and all other persons
27 forever shall be barred and foreclosed from instituting or
28 commencing any action or proceeding in any court or pleading
29 any defense to any action or proceedings, questioning the
30 validity or proper authorization of such CURE receipts bonds

1 or the validity of the covenants, agreements or contracts,
2 and the CURE receipts bonds, covenants, agreements and
3 contracts shall be conclusively deemed to be valid and
4 binding obligations in accordance with their terms and tenor.

5 (3) After the issuance of CURE receipts bonds, all CURE
6 receipts bonds shall be conclusively presumed to be fully
7 authorized and issued by all the laws of this Commonwealth,
8 and any person shall be estopped from questioning their sale,
9 execution or delivery by the financing authority.

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

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

20 (1) The Commonwealth pledges to and agrees with each
21 obligee of the financing authority that the Commonwealth will
22 not limit or alter the rights and powers vested in the
23 financing authority or otherwise created by this chapter in
24 any manner inconsistent with the obligations of the financing
25 authority to its obligees until all CURE receipts bonds at
26 any time issued, together with the interest on the CURE
27 receipts bonds, are fully paid and discharged.

28 (2) If and to the extent that the Commonwealth sells or
29 assigns CURE receipts pursuant to section 2905, the
30 Commonwealth pledges to and agrees with each obligee of the

financing authority that the Commonwealth will not abolish or reduce the financing authority's rights to receive amounts set forth in section 2905(c), including, but not limited to, abolishing or reducing the amounts required to be transferred to the DOH under section 306.

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

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

(i) Government agencies.

(ii) Insurance companies.

(iii) Trust companies.

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

(v) Investment companies.

(vi) Executors, trustees and other fiduciaries.

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

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

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

(1) By mandamus, suit, action or proceeding at law or in equity, to compel the financing authority and the members,

1 officers, agents or employees of the financing authority to
2 perform each and every term, provision and covenant contained
3 in any bond or contract of the financing authority with or
4 for the benefit of the obligee and to require the carrying
5 out of any or all covenants and agreements of the financing
6 authority and the fulfillment of all duties imposed upon the
7 financing authority by this chapter.

8 (2) By proceeding in equity, to obtain an injunction
9 against any acts or things that may be unlawful or the
10 violation of any of the rights of the obligee of the
11 financing authority.

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

15 (4) To enforce a pledge of or security interest in
16 revenues of the financing authority securing payment of the
17 CURE receipts bonds against all Commonwealth and local public
18 officials in possession of any revenues at any time, which
19 revenues may be collected directly from such officials upon
20 notice by the obligee of the financing authority or a trustee
21 for application to the payment of the CURE receipts bonds as
22 and when due for deposits in any sinking, bond or debt
23 service fund established with the trustee at the times and in
24 the amounts specified in the CURE receipts bonds or the
25 resolution or indenture or trust agreement securing the CURE
26 receipts bonds. Any Commonwealth or local public official in
27 possession of any revenues shall make payment against receipt
28 and shall thereby be discharged from any further liability or
29 responsibility for the revenues. If the payment is to an
30 obligee of the financing authority, it shall be made against

surrender of the CURE receipts bonds to the payor for
delivery to the financing authority in the case of payment in
full, otherwise, it shall be made against production of the
CURE receipts bonds for notation on the bonds of the amount
of the payment. The provisions of this section with respect
to the enforceability and collection of revenues that secure
CURE receipts bonds of the financing authority shall
supersede any contrary or inconsistent statutory provision or
rule of law.

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

(q) Validity of pledge.--Any pledge or grant of a lien on or
security interest in CURE receipts made by the financing
authority shall be valid and binding from the time when the
pledge is made. The CURE receipts so pledged and thereafter
received by the financing authority shall immediately be subject
to the lien of any such pledge, lien or security interest
without any physical delivery of the CURE receipts or further
act. The lien of the pledge or security interest shall be valid
and binding as against all parties having claims of any kind in
tort, contract or otherwise against the financing authority
irrespective of whether the parties have notice of any such
pledge. Neither the resolution nor any other instrument of the
financing authority by which a pledge, lien or security interest

1 is created need be recorded or filed to perfect such pledge or
2 security interest.

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

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

29 (t) Exemptions from Federal taxation.--

30 (1) If the CURE receipts bonds issued by the financing

1 authority are tax-exempt bonds for which Federal law requires
2 a private activity volume cap allocation, the department may
3 issue an allocation upon receipt of a written request by the
4 financing authority. An allocation must be issued by the
5 department prior to the approval of the resolution
6 authorizing the issuance of the bonds by the financing
7 authority.

8 (2) If gubernatorial approval is required by Federal or
9 State law, the Governor may approve the issuance of the CURE
10 receipts bonds by the financing authority upon receipt of
11 written request for approval from the financing authority.
12 The written request must state all of the following:

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

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

18 (iii) A description of the grant or grants awarded
19 for the project or projects.

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

22 (u) Rights and remedies of obligees.--The rights and
23 remedies conferred upon or granted to obligees of the financing
24 authority pursuant to this chapter shall be in addition to and
25 not in limitation of rights and remedies lawfully granted to
26 obligees of the authority by resolution providing for the
27 issuance of bonds or by any trust agreement or another agreement
28 under which the CURE receipts bonds may be issued or secured.

29 Section 7. This act shall take effect immediately.