

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 700 Session of  
2007

INTRODUCED BY FERLO, STOUT, C. WILLIAMS, KITCHEN, FONTANA,  
BOSCOLA AND LAVALLE, MAY 31, 2007

REFERRED TO FINANCE, MAY 31, 2007

AN ACT

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

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

26 Section 1. Sections 302, 303, 305 and 306 of the act of June  
27 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act,  
28 are amended to read:

1 Section 302. Definitions.

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

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

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

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

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

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

29 Section 303. Establishment of special fund and [account]  
30 accounts.

(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] Tobacco Settlement Fund.

(b) Health Account.--There is hereby established within the [fund] Tobacco Settlement Fund the Health Endowment Account for Long-Term Hope. [The] Except as provided in the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, 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) Earnings derived from the investment of the money in the [fund] Tobacco Settlement Fund after deduction of investment expenses, including such earnings as may have accrued prior to the effective date of this chapter.

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

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

(c) Health Venture Investment Account.--There is hereby 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.

1     (d) Biotechnology Commercialization Account.--There is  
2 hereby established within the Tobacco Settlement Fund the  
3 Biotechnology Commercialization Account. Interest earned on  
4 moneys in the Biotechnology Commercialization Account shall be  
5 deposited into the Biotechnology Commercialization Account.  
6 Moneys in the Biotechnology Commercialization Account shall only  
7 be used to fund applications submitted and approved under  
8 Chapter 17.

9     Section 305. Investment of fund and accounts.

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

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

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

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

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

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

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

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

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

21 (1) Each general partner must:

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

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

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

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

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

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

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

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

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

23 Section 306. Use of Tobacco Settlement Fund.

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

27 (b) Appropriations.--

28 (1) [The] Except as provided in the act of April 9, 1929  
29 (P.L.343, No.176), known as The Fiscal Code, the General  
30 Assembly hereby appropriates funds in the fund in accordance

1 with the following percentages based on actual funds received  
2 in each year or upon receipt of the final annual payment:

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

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

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

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

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

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

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

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

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

30 (2) In addition, any Federal funds received for any of



1       these programs is hereby specifically appropriated to those  
2       programs.

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

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

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

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

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

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

21      Section 902. Definitions.

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

25      \* \* \*

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

30      \* \* \*

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

Section 903. Health research program.

\* \* \*

(b) Advisory committee.--

\* \* \*

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

\* \* \*

Section 904. Department responsibilities.

The department has the following powers and duties:

\* \* \*

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

\* \* \*

Section 908. National Institutes of Health funding formula.

(a) Eligibility.--An institution that conducts research in

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

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

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

24 (2) Seventeen percent shall be distributed to each  
25 institution that receives more than \$175,000,000 in federally  
26 sponsored research and development obligations in the  
27 [immediately available preceding] most recent Federal fiscal  
28 year [as reported by] for which finalized data is available  
29 from the National Science Foundation and receives more than  
30 [\$60,000,000] \$50,000,000 in direct research grant funding as

1 an average amount from the National Institutes of Health  
2 during [the three immediately preceding] each of the three  
3 most recent Federal fiscal years[.] for which finalized data  
4 is available as of June 30 of the State fiscal year prior to  
5 the State fiscal year in which the grant is awarded.

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

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

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

28 (c) Additional requirements.--An institution that receives  
29 \$400,000 or more pursuant to this section shall include the  
30 following information with its application under section 907(a):

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

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

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

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

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

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

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). The board shall develop criteria that evaluates  
29 the applicant's commitment and plan to provide fair and  
30 representative opportunities for disadvantaged businesses in its

1 projects and in contracts relating to its projects as well as  
2 the applicant's commitment and plan to employ in the project a  
3 diverse professional and scientific work force, including  
4 minorities and women. In those cases where the board has cause  
5 to believe that an applicant receiving a grant under this  
6 chapter has failed to comply with the provisions of the  
7 applicant's plan, the applicant shall be subject to sanctions.  
8 The sanctions may include:

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

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

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

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

18 Section 2903. Jonas Salk Legacy Fund Board.

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

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

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

26 (3) One individual appointed by each of the following:  
27 the President pro tempore of the Senate, the Minority Leader  
28 of the Senate, the Speaker of the House of Representatives  
29 and the Minority Leader of the House of Representatives, all  
30 of whom shall have professionally relevant experience and

1 none of whom may be members of the General Assembly or staff  
2 of members of the General Assembly.

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

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

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

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

22 (d) Terms.--Members shall serve a term of two years from the  
23 date of their appointment and until their respective successors  
24 are duly appointed and qualified. Members shall be eligible for  
25 reappointment.

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

28 (f) Quorum and vote.--Seven voting members of the board  
29 shall constitute a quorum. The consent of at least a majority of  
30 the voting members of the board in attendance at a meeting with

1 a quorum shall be necessary for the board to take action.

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

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

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

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

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

20 (l) Staff and legal representation.--The department shall  
21 provide administrative staff to the board and shall provide the  
22 board with legal representation. The board shall reimburse, from  
23 interest earned on moneys in the fund, the department for the  
24 cost of providing these services to the board.

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

29 (1) To enter into contracts with investment advisors,  
30 fund managers and other consultants and advisors as the board

1 deems necessary to efficiently and competently carry out the  
2 provisions of this chapter.

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

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

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

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

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

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

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

6 (i) The proceeds of CURE receipts bonds.

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

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

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

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

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

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

29 (k) CURE receipts bonds deemed valid.--Any CURE receipts  
30 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.