

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 635 Session of  
1989

INTRODUCED BY DALEY, STAIRS, HALUSKA, WOZNIAK, ITKIN, DeWEESE, ARGALL, KASUNIC, S. H. SMITH, LUCYK, BLACK, COLAIZZO, COWELL, LEVDANSKY, WASS, LAUGHLIN, TELEK, TRICH, KONDRICH, STISH, BELARDI, BURD, KAISER, PETRARCA, McCALL, BILLOW, CESSAR, CARLSON, J. L. WRIGHT, GEIST, CAWLEY, HESS, PHILLIPS, DISTLER, JAROLIN, TANGRETTI, McVERRY AND MARKOSEK, MARCH 6, 1989

REFERRED TO COMMITTEE ON CONSERVATION, MARCH 6, 1989

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
 2 "An act providing for and reorganizing the conduct of the  
 3 executive and administrative work of the Commonwealth by the  
 4 Executive Department thereof and the administrative  
 5 departments, boards, commissions, and officers thereof,  
 6 including the boards of trustees of State Normal Schools, or  
 7 Teachers Colleges; abolishing, creating, reorganizing or  
 8 authorizing the reorganization of certain administrative  
 9 departments, boards, and commissions; defining the powers and  
 10 duties of the Governor and other executive and administrative  
 11 officers, and of the several administrative departments,  
 12 boards, commissions, and officers; fixing the salaries of the  
 13 Governor, Lieutenant Governor, and certain other executive  
 14 and administrative officers; providing for the appointment of  
 15 certain administrative officers, and of all deputies and  
 16 other assistants and employes in certain departments, boards,  
 17 and commissions; and prescribing the manner in which the  
 18 number and compensation of the deputies and all other  
 19 assistants and employes of certain departments, boards and  
 20 commissions shall be determined," establishing the Department  
 21 of Energy and providing for its powers and duties; creating  
 22 the Energy Research and Development Advisory Board and  
 23 prescribing its functions; further providing for the  
 24 composition of the Environmental Quality Board and for  
 25 special powers relating to State vehicles; providing for  
 26 energy or fuel supply emergencies and for coordination of  
 27 monitoring of supplies of energy resources; further providing  
 28 for the composition of the Energy Development Authority and  
 29 for indebtedness of the Energy Development Authority; and

1 transferring personnel, appropriations and equipment.

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

4 Section 1. Section 201 of the act of April 9, 1929 (P.L.177,  
5 No.175), known as The Administrative Code of 1929, amended  
6 December 30, 1984 (P.L.1299, No.245) and repealed in part May  
7 26, 1988 (P.L.414, No.72), is amended to read:

8 Section 201. Executive Officers, Administrative Departments  
9 and Independent Administrative Boards and Commissions.--The  
10 executive and administrative work of this Commonwealth shall be  
11 performed by the Executive Department, consisting of the  
12 Governor, Lieutenant Governor, Secretary of the Commonwealth,  
13 Attorney General, Auditor General, State Treasurer, and  
14 Secretary of Education; by the Executive Board, and the  
15 Pennsylvania State Police; by the following administrative  
16 departments: Department of State, Office of Attorney General,  
17 Department of Corrections, Department of the Auditor General,  
18 Treasury Department, Department of Education, Department of  
19 Military Affairs, Insurance Department, Department of Banking,  
20 Department of Agriculture, Department of Transportation,  
21 Department of Health, Department of Labor and Industry,  
22 Department of Aging, Department of Public Welfare, Department of  
23 General Services, Department of Revenue, Department of Commerce,  
24 Department of Community Affairs [and], Department of  
25 Environmental Resources and Department of Energy; and by the  
26 following independent administrative boards and commissions:  
27 Pennsylvania Game Commission, Pennsylvania Fish Commission,  
28 State Civil Service Commission, Pennsylvania Public Utility  
29 Commission and the Pennsylvania Securities Commission.

30 All of the provisions of this act, which apply generally to

1 administrative departments, or generally except to the  
2 Department of the Auditor General, the Treasury Department and  
3 the Office of Attorney General, shall apply to the Executive  
4 Board and to the Pennsylvania State Police.

5 Section 2. Section 203 of the act, amended December 3, 1970  
6 (P.L.834, No.275), July 22, 1975 (P.L.75, No.45), June 20, 1978  
7 (P.L.477, No.70), December 6, 1982 (P.L.774, No.223) and June  
8 30, 1988 (P.L.475, No.80) and repealed in part April 29, 1988  
9 (P.L.381, No.60), is amended to read:

10 Section 203. Advisory Boards and Commissions.--The following  
11 advisory boards and commissions are placed in and made parts of  
12 the respective administrative departments, as follows:

13 In the Department of Military Affairs,

14 State Military Reservation Commission,

15 In the Department of Environmental Resources,

16 Citizens Advisory Council;

17 In the Department of Health,

18 Advisory Health Board;

19 In the Department of Labor and Industry,

20 Advisory Council on Affairs of the Handicapped,

21 Advisory Board on Problems of Older Workers,

22 Policy, Planning and Evaluation Advisory Committee;

23 In the Department of Public Welfare,

24 State Board of Public Welfare,

25 Advisory Committee for the Blind,

26 Advisory Committee for General and Special Hospitals,

27 Advisory Committee for Children and Youth,

28 Advisory Committee for Public Assistance,

29 Advisory Committee for Mental Health and Mental

30 Retardation;

1 In the Department of Commerce,

2 Board of the Ben Franklin Partnership Fund[.];

3 In the Department of Energy,

4 Energy Research and Development Advisory Board.

5 Section 3. Sections 206 and 207.1(d)(1) of the act, amended  
6 December 30, 1984 (P.L.1299, No.245), are amended to read:

7 Section 206. Department Heads.--Each administrative  
8 department shall have as its head an officer who shall, either  
9 personally, by deputy, or by the duly authorized agent or  
10 employe of the department, and subject at all times to the  
11 provisions of this act, exercise the powers and perform the  
12 duties by law vested in and imposed upon the department.

13 The following officers shall be the heads of the  
14 administrative departments following their respective titles:

15 Secretary of the Commonwealth, of the Department of State;

16 Auditor General, of the Department of the Auditor General;

17 State Treasurer, of the Treasury Department;

18 Attorney General, of the Office of Attorney General;

19 Secretary of Education, of the Department of Education;

20 Adjutant General, of the Department of Military Affairs;

21 Insurance Commissioner, of the Insurance Department;

22 Secretary of Banking, of the Department of Banking;

23 Secretary of Agriculture, of the Department of Agriculture;

24 Secretary of Transportation, of the Department of

25 Transportation;

26 Secretary of Health, of the Department of Health;

27 Secretary of Labor and Industry, of the Department of Labor

28 and Industry;

29 Secretary of Aging, of the Department of Aging;

30 Secretary of Public Welfare, of the Department of Public

1 Welfare;  
2 Secretary of Revenue, of the Department of Revenue;  
3 Secretary of Commerce, of the Department of Commerce;  
4 Secretary of Community Affairs, of the Department of  
5 Community Affairs;  
6 Secretary of Environmental Resources, of the Department of  
7 Environmental Resources;  
8 Secretary of Energy, of the Department of Energy;  
9 Secretary of General Services, of the Department of General  
10 Services;  
11 Secretary of Corrections, of the Department of Corrections.

12 Section 207.1. Gubernatorial Appointments.--\* \* \*

13 (d) The Governor shall nominate in accordance with the  
14 provisions of the Constitution of the Commonwealth of  
15 Pennsylvania and, by and with the advice and consent of a  
16 majority of the members elected to the Senate appoint persons to  
17 fill the following positions:

18 (1) The Secretary of Education, the Secretary of the  
19 Commonwealth, the Adjutant General, the Insurance Commissioner,  
20 the Secretary of Banking, the Secretary of Agriculture, the  
21 Secretary of Transportation, the Secretary of Health, the  
22 Commissioner of the State Police, the Secretary of Corrections,  
23 the Secretary of Labor and Industry, the Secretary of Aging, the  
24 Secretary of Public Welfare, the Secretary of General Services,  
25 the Secretary of Revenue, the Secretary of Commerce, the  
26 Secretary of Community Affairs [and], the Secretary of  
27 Environmental Resources and the Secretary of Energy.

28 \* \* \*

29 Section 4. Section 448 of the act is amended by adding a  
30 clause to read:

1 Section 448. Advisory Boards and Commissions.--The advisory  
2 boards and commissions, within the several administrative  
3 departments, shall be constituted as follows:

4 \* \* \*

5 (q) The Energy Research and Development Advisory Board shall  
6 consist of the Secretary of Energy, the Secretary of Commerce,  
7 the Secretary of Environmental Resources, the Chairman of the  
8 Pennsylvania Public Utility Commission, the Executive Director  
9 of the Energy Development Authority and twelve (12) members  
10 appointed by the Governor, one (1) of whom shall be designated  
11 as chairman. The twelve (12) appointed members shall be  
12 knowledgeable in fields related to energy development,  
13 production and use and shall be appointed by the Governor as  
14 follows: two (2) members shall be from an electric power utility  
15 which operates at least one coal-fired generating station, one  
16 (1) member shall be the owner or an operator of a gas or oil  
17 producing operation, one (1) member shall be the owner or an  
18 operator of an anthracite coal mining operation, one (1) member  
19 shall be the owner or an operator of a bituminous coal mining  
20 operation, one (1) member shall be from a small power producer  
21 or shall be knowledgeable in renewable energy resources, two (2)  
22 members shall be from the energy research staff of an accredited  
23 Pennsylvania university or college, one (1) member shall be from  
24 a consumer organization interested in energy-related matters,  
25 one (1) member shall be a member of organized labor employed by  
26 one or more energy-related industries, one (1) member shall be  
27 from an organization which represents environmental interests  
28 and (1) member shall be a local government official. The  
29 membership of the Energy Research Development Advisory Board  
30 shall also include four (4) members of the General Assembly or

1 their designees, one (1) appointed by the President pro tempore  
2 of the Senate, one (1) by the Minority Leader of the Senate, one  
3 (1) by the Speaker of the House of Representatives and one (1)  
4 by the Minority Leader of the House of representatives.

5 The term of office of each member appointed by the Governor  
6 shall be four (4) years, measured from the third Tuesday of  
7 January of the year in which the member takes office, or until  
8 his successor has been appointed except, that in the initial  
9 appointments of the members of the board, the Governor shall  
10 appoint six (6) members for terms of two (2) years each and six  
11 (6) members for terms of three (3) years each.

12 Any member appointed to fill a vacancy created otherwise than  
13 by expiration of a term shall be appointed for the unexpired  
14 term of the member whom he is to succeed. Members of the board  
15 shall not receive any compensation for their service, but shall  
16 be reimbursed for actual and necessary expenses incurred in the  
17 performance of their duties and shall receive a per diem  
18 allowance of ninety dollars (\$90).

19 A majority of the members shall constitute a quorum. Meetings  
20 of the board shall be held at least quarterly or at the call of  
21 the chairman, or at the request of at least nine (9) members of  
22 the board.

23 The Department of Energy shall provide technical assistance  
24 and support services to the board.

25 Section 5. Section 471 of the act, amended November 1, 1979  
26 (P.L.251, No.83), is amended to read:

27 Section 471. Environmental Quality Board.--The Environmental  
28 Quality Board shall consist of the Secretary of Environmental  
29 Resources, who shall be chairman thereof, the Secretary of  
30 Health, the Secretary of Commerce, the Secretary of

1 Transportation, the Secretary of Agriculture, the Secretary of  
2 Labor and Industry, the Secretary of Community Affairs, the  
3 Secretary of Energy, the Executive Director of the Fish  
4 Commission, the Executive Director of the Game Commission, the  
5 Chairman of the Public Utilities Commission, [the Executive  
6 Director of the State Planning Board,] the Executive Director of  
7 the Pennsylvania Historical and Museum Commission, five members  
8 of the Citizens Advisory Council, and four members of the  
9 General Assembly. The Citizens Advisory Council members shall be  
10 designated by, and serve at the pleasure of, the Citizens  
11 Advisory Council. One of the General Assembly members shall be  
12 designated by, and serve at the pleasure of, the President Pro  
13 Tempore of the Senate, one by the Minority Leader of the Senate,  
14 one by the Speaker of the House of Representatives and one by  
15 the Minority Leader of the House of Representatives. In addition  
16 to the heads of the various departments as elsewhere in this act  
17 provided, the other members of the board may have named  
18 alternates to serve in their stead, the alternates for the  
19 members of the board from the Citizens Advisory Council to be  
20 selected by that council from members of the council and each  
21 other alternate to be selected by that particular member of the  
22 board in whose stead he is to serve. No person will serve as  
23 alternate for more than one board member.

24 Eight members of the board shall constitute a quorum.

25 Section 6. The act is amended by adding an article to read:

26 ARTICLE XIX-B

27 POWERS AND DUTIES OF THE DEPARTMENT OF ENERGY,

28 ITS OFFICERS AND ITS ADVISORY BOARD

29 Section 1901-B. Department of Energy Established.--The

30 Department of Energy, which is hereby established as an

1 administrative department, shall have the powers and duties  
2 granted to and imposed upon it by this article and by any other  
3 statutory provisions. In addition, the Department of Energy and  
4 the Secretary of Energy shall have all the powers and duties  
5 granted to and imposed upon the former Pennsylvania Energy  
6 Office prior to the effective date of this article.

7 Section 1902-B. The Department of Energy shall have the  
8 power and its duty shall be:

9 (1) To promote the development of this Commonwealth's  
10 indigenous energy resources, consistent with economic  
11 feasibility, environmental protection and public health and  
12 safety by providing information, technical assistance and  
13 financial assistance.

14 (2) To promote the efficient use and conservation of energy  
15 in this Commonwealth through the conduct of a Statewide  
16 educational program and by providing information, technical  
17 assistance and financial assistance.

18 (3) To serve as the primary agency in this Commonwealth for  
19 the collection, maintenance and analysis of information on all  
20 forms of energy, conservation of energy and related subjects.

21 (4) To maintain a liaison with energy producers, suppliers,  
22 distributors and consumers and other State and Federal agencies  
23 concerning energy-related matters.

24 (5) In cooperation with the Energy Research and Development  
25 Advisory Board and the Energy Development Authority, to promote  
26 research and development efforts which will contribute to the  
27 integrity and adequacy of Pennsylvania's energy resources, with  
28 priority given to research and development involving utilization  
29 of Pennsylvania's coal resources and pollution control methods  
30 which will facilitate utilization of Pennsylvania coal.

1       (6) To encourage the development of new markets for  
2 Pennsylvania's indigenous energy resources.

3       (7) To monitor energy prices and evaluate rate and price  
4 policies.

5       (8) To establish an energy information forecasting system.

6       (9) To determine the effect of energy and fuel shortages on  
7 consumers.

8       (10) To coordinate the monitoring of energy or fuel supplies  
9 to determine whether there exists or is likely to exist an  
10 emergency shortage pursuant to section 2802-C(a) of this act and  
11 to conduct emergency allocation measures during a period of  
12 declared energy or fuel supply emergencies, pursuant to section  
13 2802-C(b) of this act in accordance with an Emergency Allocation  
14 Plan. The Emergency Allocation Plan shall be developed and  
15 implemented by the department in conjunction with the  
16 Pennsylvania Public Utility Commission and the Pennsylvania  
17 Emergency Management Agency and shall be part of the  
18 Pennsylvania Energy Policy and Plan.

19       (11) To review, study and monitor the efficiency of energy  
20 utilization in State Government operations and suggest remedial  
21 measures. The department shall direct all Commonwealth agencies  
22 to develop, subject to the department's approval, contingency  
23 plans for dealing with energy or fuel supply emergencies.  
24 Portions of emergency allocation or contingency plans which  
25 pertain to energy industries regulated by the Pennsylvania  
26 Public Utility Commission shall be made available to the  
27 department upon request.

28       (12) To assist in the review of plans, policies, rules and  
29 regulations of other Commonwealth agencies regarding energy  
30 development, production, conversion, distribution, transmission,

1 use or conservation.

2 (13) To intervene in the proceedings of the Pennsylvania  
3 Public Utility Commission and regulatory proceedings of other  
4 State or Federal agencies if the proceedings relate to energy  
5 development, production, conversion, distribution, transmission,  
6 use or conservation.

7 (14) To apply for, accept and expend grants-in-aid and  
8 assistance for energy programs from public and private sources  
9 and to serve as the manager and coordinator of Federal energy  
10 grants, petroleum overcharge funds and private energy funds.

11 (15) To update and publish, at least once every five years,  
12 a Pennsylvania Energy Policy and Plan developed by the Energy  
13 Research and Development Advisory Board. The Pennsylvania Energy  
14 Policy and Plan shall include information regarding the  
15 development, production, distribution, consumption and  
16 conservation of energy in this Commonwealth. The Emergency  
17 Allocation Plan shall be included in the Pennsylvania Energy  
18 Policy and Plan. The Pennsylvania Energy Policy and Plan and any  
19 amendments thereto shall be submitted to the Governor and the  
20 General Assembly.

21 (16) To provide necessary staff and assistance to the Energy  
22 Research and Development Advisory Board and the Energy  
23 Development Authority.

24 (17) To assist in the implementation of the act of December  
25 15, 1980 (P.L.1203, No.222), known as the "Building Energy  
26 Conservation Act," and to establish a Building Energy  
27 Conservation Committee, pursuant to section 304 of the "Building  
28 Energy Conservation Act."

29 (18) To enter into interstate compacts or agreements to  
30 carry out energy research and planning with other states or the

1 Federal Government.

2 (19) To advise the Governor and the General Assembly  
3 regarding State, Federal and international energy policies,  
4 practices, programs and legislation and to submit proposed  
5 legislation to the General Assembly for its consideration.

6 (20) To issue subpoenas and conduct hearings and  
7 investigations.

8 (21) To acquire, purchase, grant and contract for eminent  
9 domain title to real property to demonstrate facilities for  
10 improved energy efficiency.

11 (22) To construct and operate facilities which improve  
12 energy efficiency.

13 (23) To contract with any other public agency or  
14 corporation.

15 (24) To keep complete and accurate minutes of all hearings  
16 held before the department or any division of the department.

17 (25) To promulgate regulations necessary to administer this  
18 article and to administer any applicable Federal regulations.

19 (26) To cooperate with all other Federal and State agencies  
20 in carrying out its responsibilities.

21 Section 1903-B. Organization.--The Department of Energy  
22 shall be organized into an Executive Office and three divisions.  
23 The Secretary of Energy shall appoint as the head of each of the  
24 following divisions a person knowledgeable and experienced in  
25 the areas for which that division is responsible:

26 (1) Office of Administration.

27 (2) Office of Energy Policy and Programs.

28 (3) Office of Energy Planning and Evaluation.

29 Section 1904-B. Divisions.--(a) The Secretary of Energy  
30 shall be responsible for the general administration and

1 coordination of the Department of Energy and its divisions. The  
2 Secretary shall appoint a Chief Counsel who shall provide legal  
3 services to the department.

4 (b) The Office of Administration shall be headed by a Deputy  
5 Secretary for Administration who shall be appointed by the  
6 Secretary of Energy. The Office of Administration shall have  
7 responsibility for personnel and fiscal management, information  
8 systems and office systems and services and shall have such  
9 other responsibilities as may be assigned by the Secretary of  
10 Energy.

11 (c) The Office of Energy Policy and Programs shall be headed  
12 by a Deputy Secretary for Energy Policy and Programs who shall  
13 be appointed by the Secretary of Energy. The Office of Energy  
14 Policy and Programs shall have responsibility for administration  
15 of grants, nuclear energy, fossil fuels, renewable energy  
16 resources, utility issues and energy conservation programs and  
17 shall have such other responsibilities as may be assigned by the  
18 Secretary of Energy.

19 (d) The Office of Energy Planning and Evaluation shall be  
20 headed by a Deputy Secretary for Energy Planning and Evaluation  
21 who shall be appointed by the Secretary of Energy. The Office of  
22 Energy Planning and Evaluation shall have responsibility for  
23 regulatory affairs, emergency preparedness, market evaluation  
24 and promotion, intergovernmental relations, community relations,  
25 public information and shall have such other responsibilities as  
26 may be assigned by the Secretary of Energy.

27 Section 1905-B. Salary of the Secretary of Energy.--The  
28 Secretary of Energy shall receive an annual salary, payable in  
29 equal semi-monthly installments of seventy-two thousand dollars  
30 (\$72,000).

1       Section 1906-B. Energy Research and Development Advisory  
2 Board.--(a) The Energy Research and Development Advisory Board  
3 shall have the responsibility for developing a Pennsylvania  
4 Energy Policy and Plan for this Commonwealth.

5       (b) The board shall assist and provide advice to the  
6 Secretary of Energy and the Energy Development Authority. The  
7 Secretary of Energy and the Energy Development Authority shall  
8 work with and receive advice from the Energy Research and  
9 Development Advisory Board in the development of energy programs  
10 and projects in this Commonwealth.

11       (c) The functions of the Energy Research and Development  
12 Advisory Board shall include, but not be limited to, the  
13 following:

14       (1) Providing liaison among energy producers, labor  
15 organizations, academia and agencies of the Commonwealth and the  
16 United States on matters relating to energy and encouraging the  
17 exchange of information regarding energy research and  
18 development between the Commonwealth and other states and  
19 nations.

20       (2) Providing coordination and oversight of all energy  
21 research programs conducted at colleges and universities located  
22 within this Commonwealth and, where possible, provide  
23 coordination and oversight of all energy research programs  
24 conducted in the private sector.

25       (3) Recommending energy research and development projects,  
26 with priority being given to demonstrations of technology which  
27 enhance the production and use of Pennsylvania coals and the  
28 more efficient combustion of all fossil fuels. Before the board  
29 makes any recommendation, it shall first consult with agencies  
30 of the Federal government that have jurisdiction over matters

1 involving energy, colleges and universities within this  
2 Commonwealth, and other state governments in order to avoid  
3 duplication of effort and expense.

4 (4) Assisting the Energy Development Authority in the  
5 evaluation of energy research and development projects which  
6 apply to the Energy Development Authority for financial or  
7 technical assistance.

8 (5) Assisting the Secretary of Energy in developing  
9 environmentally sound, cost-effective energy programs and  
10 policies and procedures to implement such programs.

11 Section 7. Sections 2407.1, 2801-C and 2802-C of the act,  
12 added December 14, 1982 (P.L.1213, No.280), are amended to read:

13 Section 2407.1. Special Power Relating to State Vehicles.--

14 (a) The Department of General Services, in cooperation with the  
15 Department of Energy, shall, on an ongoing basis, monitor the  
16 research and development efforts to produce synthetic motor  
17 vehicle fuel derived in whole or in part from coal and shall  
18 determine the feasibility of converting State-owned vehicles to  
19 operate on such synthetic fuel.

20 (b) In making [its] the determination of the feasibility of  
21 using a synthetic motor vehicle fuel derived in whole or in part  
22 from coal, the [department is] departments are authorized to  
23 utilize such synthetic fuel in a limited number of State-owned  
24 vehicles on an experimental basis and to make necessary  
25 mechanical changes in those vehicles to facilitate the  
26 experimentation.

27 (c) If, as a result of the monitoring and experimentation  
28 conducted in accordance with subsections (a) and (b), the  
29 [department determines] departments determine that there is a  
30 sufficient, assured supply of such synthetic fuel which can be

1 used in one or more State-owned vehicles at a reasonable cost  
2 and without creating any significant threat to the environment,  
3 the [department] departments shall submit to the General  
4 Assembly a plan for such conversion. Such plan shall be  
5 accompanied by a summary report setting forth the basis for the  
6 [department's] determination that such conversion is feasible.

7 Section 2801-C. Definitions.--The following words and  
8 phrases when used in this article shall have the meanings given  
9 to them in this section unless the context clearly indicates  
10 otherwise:

11 "Authority" means the Energy Development Authority.

12 "Board" means the board of directors of the authority.

13 "Bond" or "Bonds" means notes, bonds, refunding or renewal  
14 notes and bonds and other evidence of indebtedness or  
15 obligations which the authority is authorized to issue.

16 "Cost" means the expense of construction and the expense of  
17 acquisition of all structures, lands and other property rights  
18 and interests in land necessary to a project. The term also  
19 includes the expense of demolishing, removing or relocating any  
20 buildings or structures on lands acquired or to be acquired,  
21 including the expense of acquiring any lands to which such  
22 buildings or structures may be moved or relocated; sewage  
23 treatment, waste treatment and pollution control facilities;  
24 railroad sidings, spurs or branch lines; all labor, materials,  
25 machinery and equipment, fixtures; financing charges; interest  
26 on all bonds prior to and during construction, and for a period  
27 of one year thereafter; engineering, financial and legal  
28 services; plans, specifications, studies, surveys necessary or  
29 incidental to determining the feasibility or practicability of  
30 constructing a project; administrative expenses; reserves for

1 interest and for extension, enlargements, additions and  
2 improvements; and such other expenses as may be necessary or  
3 incidental to the construction of the project and the placing of  
4 the same in operation.

5 "Energy or fuel supply emergency" means a state of emergency,  
6 declared by proclamation of the Governor within twenty-four  
7 hours after the occurrence of an energy resource shortage or  
8 supply or distribution problem resulting because of an absence  
9 of availability or a critically reduced supply of any energy  
10 source, which cannot be satisfactorily alleviated or resolved by  
11 or under the authority of State regulatory authorities having  
12 jurisdiction over such energy resources, thereby jeopardizing  
13 the health, safety, welfare and economic well-being of the  
14 inhabitants of this Commonwealth.

15 "Energy resource" means any force or material which yields or  
16 has the potential to yield energy, including, but not limited  
17 to, electrical, fossil and nuclear sources.

18 "Person" means a natural person, corporation, partnership,  
19 association, and any municipality of this Commonwealth and any  
20 public corporation, authority or body whatsoever.

21 "Petroleum product" includes motor gasoline, kerosene,  
22 distillates (including Number 2 fuel oil) and diesel fuel.

23 "Project" means an activity, entirely or largely conducted in  
24 Pennsylvania, which cannot be effectively funded using privately  
25 available resources, relating to:

26 (1) basic and applied research concerning energy use,  
27 renewable energy resources and energy extraction, transmission,  
28 storage or conversion;

29 (2) limited scale demonstration of innovative or  
30 commercially unproven technology to promote the production, use

1 or conservation of energy; [or]

2 (3) activities to promote or remove obstacles to the  
3 utilization and transportation of Pennsylvania energy resources,  
4 including but not limited to limited scale synthetic fuel  
5 facilities and the conversion or technological improvement of  
6 industrial, commercial or agricultural systems to utilize  
7 Pennsylvania coal or renewable energy resources: Provided, That  
8 no such facility unreasonably interferes with private waste  
9 recycling industries[.];

10 (4) activities to promote and develop projects, on a local  
11 or regional basis, for the cogeneration of power through the  
12 utilization of solid waste; or

13 (5) activities which seek to reduce pollution and are  
14 associated with energy development, production or distribution.

15 "Renewable energy source" means any method, process or  
16 substance whose supply is rejuvenated through natural processes  
17 and, subject to those material processes, remains relatively  
18 constant, including, but not limited to, biomass conversion,  
19 geothermal energy, solar and wind energy and hydroelectric  
20 power, and excluding those sources of energy used in the fission  
21 and fusion processes.

22 Section 2802-C. [Emergency Petroleum Product Shortages.--(a)  
23 The Governor may, by executive order, proclaim a state of  
24 emergency based upon a finding that there impends or exists a  
25 substantial shortage of petroleum products available for use in  
26 Pennsylvania which poses a serious threat to health, safety or  
27 welfare of the public.] Energy or Fuel Supply Emergency.--(a)  
28 In the event that the threat or danger of an energy or fuel  
29 supply emergency is imminent, the Governor may, after  
30 consultation with the Lieutenant Governor, the Department of

1 Energy, the Pennsylvania Public Utility Commission and the  
2 Department of Environmental Resources, declare a state of energy  
3 or fuel supply emergency. A state of energy or fuel supply  
4 emergency shall remain in effect for the maximum period of  
5 ninety days [and may be extended], but may be terminated or  
6 extended by the Governor unless the termination or extension is  
7 disapproved by concurrent resolution adopted by both Houses of  
8 the General Assembly. A state of emergency may be declared for  
9 all or any portion of the Commonwealth.

10 (b) [Upon proclamation of a state of emergency, the Governor  
11 shall designate a State agency to conduct emergency allocation  
12 measures during the period of the declared emergency. Emergency  
13 allocation measures may consist of:

14 (1) the administration of any emergency allocation powers  
15 delegated to the State by the President or any Federal agency;

16 (2) the implementation of a set aside program, for not more  
17 than one percent (1%) of the petroleum products available for  
18 use in Pennsylvania, to alleviate hardship or meet emergency  
19 needs. A set aside program shall be established in conformity  
20 with any Federal law, regulations or executive orders governing  
21 petroleum allocation, and shall apply only to petroleum products  
22 found to be in a substantial shortage;

23 (3) measures to reduce the demand for or consumption of  
24 gasoline; and

25 (4) other measures identified by the Governor in his  
26 executive order proclaiming a state of emergency as necessary to  
27 protect the public health, safety and welfare.

28 (c) The agency designated by the Governor to conduct  
29 emergency measures may, during the period of the emergency,  
30 adopt rules and regulations pursuant to section 204 of the act

1 of July 31, 1968 (P.L.769, No.240), referred to as the  
2 Commonwealth Documents Law. Any regulation adopted during a  
3 state of emergency shall be automatically rescinded upon the  
4 expiration of the emergency.

5 (d) The Governor may designate a state agency to monitor  
6 supplies of petroleum products available for use in the  
7 Commonwealth to determine whether there exists, or is likely to  
8 exist, an emergency shortage.

9 (1) In order to monitor supplies of petroleum products, the  
10 agency may require recordkeeping and periodic reports from  
11 petroleum suppliers. These reporting and recordkeeping  
12 requirements shall, to the maximum extent possible, employ  
13 Federally mandated reports and records, avoid any unnecessary  
14 duplicative reporting or recordkeeping, and minimize paperwork,  
15 recordkeeping and reporting requirements.

16 (2) Reports filed and records maintained pursuant to this  
17 subsection shall be deemed confidential.

18 (3) When a petroleum supplier or a company providing  
19 information to a petroleum supplier claims that the information  
20 requested by the agency is confidential, proprietary, market or  
21 trade secret information, or when the information is deemed  
22 confidential pursuant to this section, the agency shall not  
23 disclose such information publicly or to any other governmental  
24 agency unless the information is aggregated as part of a  
25 statistical report in which the data and individual companies  
26 supplying the data cannot be identified.

27 (4) No employe or appointee of the agency or other person  
28 may release information from a petroleum product company that  
29 would enable data provided by or relating to individual  
30 customers of the petroleum company to be identified as relating

1 to or coming from the individual customer. Any person disclosing  
2 such information in violation of this section shall be guilty of  
3 a misdemeanor, shall be subject to disciplinary action,  
4 including reprimand, suspension or termination, and may be  
5 ordered to make restitution to any injured or aggrieved party  
6 for losses or damages shown.

7 (5) In order to obtain information required pursuant to this  
8 subsection, the agency designated by the Governor to monitor  
9 supplies of petroleum products may receive or share information  
10 from any other Commonwealth, Federal or local agency: Provided,  
11 That the agency shall provide the same confidentiality to  
12 information recovered as is provided by the supplying agency.]  
13 Upon proclamation of a state of emergency, the Governor shall  
14 have the power:

15 (1) To direct the Department of Energy to conduct emergency  
16 petroleum allocation measures which may consist of any of the  
17 following:

18 (i) The administration of any emergency petroleum allocation  
19 powers delegated to the State by the President or any Federal  
20 agency.

21 (ii) The implementation of a set-aside program, for not more  
22 than one per centum (1%) of the petroleum products available for  
23 use in Pennsylvania, to alleviate hardship or meet emergency  
24 needs. A set-aside program shall be established in conformity  
25 with any Federal law, regulations or executive orders governing  
26 petroleum allocation, and shall apply only to petroleum products  
27 found to be in a substantial shortage.

28 (iii) Measures to reduce the demand for or consumption of  
29 petroleum products.

30 (iv) The adoption of rules and regulations in the manner

1 provided by law. Any regulation adopted during a state of  
2 emergency shall be automatically rescinded upon the expiration  
3 of the emergency.

4 (v) Any other measures deemed necessary to protect the  
5 public health, safety and welfare.

6 (2) To encourage increased use of renewable energy sources.

7 (3) To suspend or modify existing state standards and  
8 requirements affecting or affected by the use of energy  
9 resources, including those related to air quality control.

10 (4) To order specific restrictions on the use and sale of  
11 energy resources, including, but not limited to:

12 (i) Restrictions on the interior temperature of public,  
13 commercial, industrial and school buildings.

14 (ii) Restrictions on the hours and days during which public,  
15 commercial, industrial and school buildings may be open.

16 (iii) Restrictions on lighting levels in public, commercial,  
17 industrial and school buildings.

18 (iv) Restrictions on the use of display and decorative  
19 lighting.

20 (v) Restrictions on the use of privately owned vehicles or a  
21 reduction in speed limits.

22 (vi) Restrictions on the use of public transportation,  
23 including directions to close a public transportation facility.

24 (vii) Restrictions on the use of pupil transportation  
25 programs operated by public schools.

26 (viii) Reduction in the number of elevators operating in  
27 office buildings during nonpeak hours.

28 (ix) Curtailment of nighttime sports, entertainment and  
29 recreational activities.

30 (x) Closing of public museums, art galleries and historic

1 buildings.

2 (xi) Requiring Sunday closings of retail establishments,  
3 except for those retail establishments that provide goods or  
4 services essential to the public welfare.

5 (xii) Reduction in the number of hours during which retail  
6 establishments may be open for business, except for those retail  
7 establishments which provide goods or services essential to the  
8 public welfare. Any retail establishment subject to this  
9 subclause shall be permitted to set its specific hours of  
10 operation, provided the total number of hours does not exceed  
11 the maximum number of hours authorized pursuant to this  
12 subclause.

13 (c) Any restrictions ordered by the Governor shall be  
14 automatically rescinded upon the expiration of the emergency.

15 (d) Any actions taken by the Governor pursuant to this  
16 section, insofar as they may apply to a regulated utility, shall  
17 not conflict with or supersede regulations or orders of the  
18 Pennsylvania Public Utility Commission or curtailment procedures  
19 on file with the Pennsylvania Public Utility Commission, nor  
20 shall any restrictions on the use of fuel for the generation of  
21 energy or on the transportation of fuel for the generation of  
22 energy be imposed prior to consultation with the Pennsylvania  
23 Public Utility Commission.

24 (e) An executive order, proclamation or directive issued  
25 under this section shall be disseminated promptly by means  
26 calculated to bring its contents to the attention of the  
27 citizens of this Commonwealth and published in accordance with  
28 the law. The Governor shall notify the General Assembly promptly  
29 of an executive order, proclamation or directive issued under  
30 this article.

1       (f) Any person who knowingly violates any order,  
2 proclamation or directive issued by the Governor under this  
3 section commits a misdemeanor of the third degree and shall,  
4 upon conviction, be sentenced to pay a fine of not more than  
5 \$500. Each day of a continuing violation shall be a separate  
6 offense.

7       (g) Nothing in this article shall limit the authority of the  
8 Pennsylvania Public Utility Commission to regulate public  
9 utility service as provided in Title 66 of the Pennsylvania  
10 Consolidated Statutes (relating to public utilities).

11       Section 8. The act is amended by adding a section to read:

12       Section 2802.1-C. Coordination of Monitoring of Supplies of  
13 Energy Resources.--(a) The Department of Energy shall  
14 coordinate the monitoring of supplies of energy resources  
15 available for use in this Commonwealth to determine whether  
16 there exists, or is likely to exist, an emergency shortage.

17       (b) In order to coordinate the monitoring of energy  
18 resources, the Department of Energy may require recordkeeping  
19 and periodic reports from energy resource suppliers. These  
20 reporting and recordkeeping requirements shall, to the maximum  
21 extent possible, employ mandated reports and records of other  
22 Commonwealth, Federal or local agencies, avoid any unnecessary  
23 duplicative reporting or recordkeeping, and minimize paperwork,  
24 recordkeeping and reporting requirements.

25       (c) Any agency that provides or receives reports or records  
26 under this act, any other act, any rule or regulation or any  
27 executive order or similar directive for the purpose of  
28 monitoring or coordinating the monitoring of supplies of energy  
29 resources shall keep such records or reports confidential unless  
30 the reports or records are deemed to be public information

1 pursuant to the act, rule or regulation, executive order or  
2 directive under which they are provided.

3 (d) When an energy resource supplier or a company providing  
4 information to an energy resource supplier claims that the  
5 information requested by the agency is confidential,  
6 proprietary, market or trade secret information, or when the  
7 information is deemed confidential pursuant to this section, the  
8 agency shall not disclose such information publicly or to any  
9 other governmental agency unless the information is aggregated  
10 as part of a statistical report in which the data and individual  
11 companies supplying the data cannot be identified.

12 (e) No employe or appointee of the agency or other person  
13 may release information from an energy resource company that  
14 would enable data provided by or relating to individual  
15 customers of the energy resource company to be identified as  
16 relating to or coming from the individual customer. Any person  
17 disclosing such information in violation of this section shall  
18 be guilty of a misdemeanor of the third degree, shall be subject  
19 to disciplinary action, including reprimand, suspension or  
20 termination, and may be ordered to make restitution to any  
21 injured or aggrieved party for losses or damages shown.

22 (f) In order to obtain information required pursuant to this  
23 section, the Department of Energy may receive or share  
24 information from any other Commonwealth, Federal or local  
25 agency: Provided, however, That the Department of Energy shall  
26 provide the same confidentiality to information received as is  
27 provided by the supplying agency.

28 Section 9. Section 2803-C of the act, amended or added  
29 December 14, 1982 (P.L.1213, No.280) and July 11, 1985 (P.L.211,  
30 No.55), is amended to read:

1 Section 2803-C. Energy Development Authority.--(a) There is  
2 hereby established within the Department of Energy the Energy  
3 Development Authority.

4 (b) The authority shall be governed and all of its corporate  
5 powers exercised by a board of directors which shall be composed  
6 of the following individuals:

7 (1) Nine members to be appointed by the Governor, one of  
8 whom shall be designated as chairman. At least two members shall  
9 be members of the general public. The members initially  
10 appointed shall serve for terms of two, three and four years,  
11 respectively, the particular term of each to be designated by  
12 the Governor at the time of appointment. The terms of all of  
13 their successors shall be four years each, except that any  
14 person appointed to fill a vacancy shall serve only for the  
15 unexpired term. Every member's term shall extend until his  
16 successor is appointed and qualified. Any appointment of a  
17 member of the authority shall be subject to the advice and  
18 consent of a majority of all of the members of the Senate. Any  
19 appointed member of the authority shall be eligible for  
20 reappointment.

21 (2) The Secretary of Energy or his designee.

22 [(2)] (3) The Secretary of Environmental Resources or his  
23 designee.

24 [(3)] (4) The Secretary of Banking or his designee.

25 [(4)] (5) The Secretary of Commerce or his designee.

26 [(5)] (6) The Secretary of Agriculture or his designee.

27 [(6)] (7) Two members of the Senate, one from the majority  
28 party and one from the minority party, to be appointed by the  
29 President pro tempore to serve at his pleasure, or the designees  
30 appointed by such members.

1        [(7)] (8) Two members of the House of Representatives, one  
2 from the majority party and one from the minority party, to be  
3 appointed by the Speaker of the House to serve at his pleasure,  
4 or the designees appointed by such members.

5        [(8)](9) The Consumer Advocate or his designee.

6        [(9)] (10) The Chairman of the Public Utility Commission or  
7 his designee.

8        (11) The Chairman of the Energy Research and Development  
9 Advisory Board.

10        (c) The members of the board of directors shall be entitled  
11 to no compensation for their services as members but shall be  
12 entitled to reimbursement for all necessary expenses incurred in  
13 connection with the performance of their duties as members.

14        (d) The board of directors shall provide for the holding of  
15 regular and special meetings. Ten directors attending shall  
16 constitute a quorum for the transaction of any business and at  
17 least six votes shall be required to adopt any action, except  
18 that at least nine votes shall be required to approve financial  
19 assistance for any project.

20        Section 10. Section 2804-C(a) of the act, added December 14,  
21 1982 (P.L.1213, No.280), is amended to read:

22        Section 2804-C. Technical and Financial Support.--(a) The  
23 [Governor shall designate a State agency to] Department of  
24 Energy shall provide staff services to the authority for its  
25 administration of the act, including technical services to  
26 assist the authority in carrying out the provisions of this  
27 article.

28        \* \* \*

29        Section 11. Section 2807-C(a) of the act, amended December  
30 15, 1988 (P.L. , No.152), is amended to read:

1 Section 2807-C. Authority Indebtedness.--(a) The authority  
2 shall have the power and hereby is authorized from time to time,  
3 by resolution of the authority and subject to the written  
4 approval of the Governor, to issue its negotiable bonds in such  
5 principal amount as, in the opinion of the authority, shall be  
6 necessary to provide sufficient funds for any of its corporate  
7 purposes, the establishment of reserves to secure such bonds and  
8 all other expenditures of the authority incident to and  
9 necessary or convenient to carry out its corporate purposes and  
10 powers. The authority may issue its bonds to provide financial  
11 assistance for projects only after the authority has first  
12 identified and approved such projects. The aggregate principal  
13 amount of bonds and notes of the authority shall not exceed  
14 [~~\$300,000,000~~] \$400,000,000 outstanding at any one time.

15 \* \* \*

16 Section 12. All personnel, allocations, appropriations,  
17 equipment, files, records, contracts, agreements, obligations  
18 and other material which are used, employed or expended in  
19 connection with the powers, duties or functions of the  
20 Pennsylvania Energy Office are hereby transferred to the  
21 Department of Energy established by this act with the same force  
22 and effect as if the appropriations had been made to and said  
23 items had been the property of the Department of Energy in the  
24 first instance, and as if said contracts, agreements and  
25 obligations had been incurred or entered into by the Department  
26 of Energy. The personnel, appropriations, equipment and other  
27 items and material transferred by this section shall include  
28 Federal grants and funds and other benefits from any Federal  
29 program. All personnel transferred pursuant to this act shall  
30 retain any civil service employment status assigned to the

1 personnel.

2 Section 13. In addition to the retention of civil service  
3 employment status by employees transferred to the Department of  
4 Energy, all new positions in the Department of Energy shall be  
5 deemed to be included in the list of positions set forth in  
6 section 3(d) of the act of August 5, 1941 (P.L.752, No.286),  
7 known as the Civil Service Act, and the provisions and benefits  
8 of that act shall be applicable to all employees of the  
9 Department of Energy.

10 Section 14. (a) Nothing set forth in this act shall  
11 supersede any curtailment plans which are established and  
12 approved by any Federal regulatory commission, the Pennsylvania  
13 Public Utility Commission or any ordinance duly adopted by any  
14 municipality or public gas system.

15 (b) All orders, permits, regulations, decisions and other  
16 actions of the Pennsylvania Energy Office or any department,  
17 board, commission or agency whose functions have been  
18 transferred by this act to the Department of Energy shall remain  
19 in full force and effect until modified, repealed, superseded or  
20 otherwise changed by appropriate action of the Department of  
21 Energy.

22 (c) The Department of Energy shall not have any authority to  
23 take any action affecting the jurisdiction of the Pennsylvania  
24 Public Utility Commission or any Federal administrative or  
25 regulatory agency. The Secretary of Energy, or his designee,  
26 however, shall have the authority to appear before the  
27 Pennsylvania Public Utility Commission or any Federal  
28 administrative or regulatory agency to provide information  
29 concerning State energy policies.

30 Section 15. All acts and parts of acts are repealed insofar

1 as they are inconsistent with this act.

2 Section 16. This act shall take effect in 180 days.