
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10

Session of
2003

INTRODUCED BY BRIGHTBILL, JUBELIRER, PICCOLA, WENGER, THOMPSON,
EARLL, ROBBINS, M. WHITE, KUKOVICH, WONDERLING, D. WHITE,
PILEGGI, CONTI, MADIGAN, COSTA, DENT, LEMMOND, RHOADES,
ARMSTRONG, RAFFERTY AND PUNT, MARCH 28, 2003

AS AMENDED ON THIRD CONSIDERATION, JUNE 25, 2003

AN ACT

1 Amending Titles 12 (Commerce and Trade) and 72 (Taxation and
2 Fiscal Affairs) of the Pennsylvania Consolidated Statutes,
3 codifying portions of the Economic Development Financing Law
4 and further providing for contract requirements and for
5 Commonwealth obligations; codifying portions of the Job
6 Enhancement Act and further providing for contract
7 requirements, for guidelines, for administration and for
8 application and review requirements; codifying portions of
9 the Keystone Opportunity Zone and Keystone Opportunity
10 Expansion Zone Act and further providing for keystone
11 opportunity expansion subzones and for keystone opportunity
12 improvement zones; providing for the Project Review
13 Committee, for Keystone Innovation Zones, for the Economic
14 Enhancement Program, for the Economic Enhancement Financing
15 Program, for the Core Industries Infrastructure
16 Capitalization Program, for the Water and Wastewater
17 Infrastructure Capitalization Program, for the First
18 Industries Program, for the Secondary Growth Stage Financing
19 Program, for primary growth stage investment providing for
20 the Economic Enhancement Fund; codifying the Capital
21 Facilities Debt Enabling Act; further providing for
22 definitions, for procedures for capital budget and debt
23 authorizing legislation, for bonds, for appropriations for
24 and limitations on redevelopment assistance and site
25 development capital projects, and for funding and
26 administration of redevelopment assistance capital projects;
27 providing for funding and administration of site development
28 capital projects and for the Capital Project Oversight and
29 Review Committee; continuing debt authorization; making
30 repeals; requiring a referendum; and making appropriations.

31 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. The General Assembly finds and declares as
3 follows:

4 (1) An economic stimulus program which provides direct
5 immediate economic assistance to Pennsylvania businesses and
6 industries is needed to preserve and to create jobs within
7 this Commonwealth.

8 (2) By targeting grant and loan assistance to
9 Pennsylvania businesses and industries for job creation,
10 health care safety and industrial and commercial site
11 development, the Commonwealth will trigger the needed
12 redevelopment and economic growth of industrial and
13 commercial activities conducted within this Commonwealth.

14 (3) By targeting grant and loan assistance to
15 Pennsylvania communities for water and wastewater
16 infrastructure projects, the Commonwealth will trigger the
17 redevelopment of existing brownfield sites and improve the
18 environment and health of all residents of this Commonwealth.

19 (4) By expanding tax-based financing of economic
20 development projects, the Commonwealth will assist local
21 governments in retaining employers of and recruiting
22 employers to this Commonwealth.

23 (5) By targeting loan assistance to the tourism and
24 agriculture sectors of the Commonwealth's economy, the
25 Commonwealth will provide additional financial support to
26 those leading Commonwealth industries hard hit by world
27 events and economic instability.

28 (6) By targeting capital investment and subsidized loan
29 assistance to emerging business, the Commonwealth will
30 stimulate the growth and increase the stability of small

businesses within this Commonwealth.

(7) By preparing the Commonwealth to face the Federal Base Realignment and Closure (BRAC) process, the Commonwealth will increase the number of existing jobs it retains during the next round of Federal base realignment and closures.

Section 1.1. Title 12 of the Pennsylvania Consolidated Statutes is amended by adding parts to read:

PART I

GENERAL PROVISIONS

Chapter

1. (Reserved)

3. Economic Development Financing Strategy

5. Small Business Council

7. Tax-Exempt Bond Allocation (Reserved)

CHAPTER 1

(RESERVED)

CHAPTER 3

ECONOMIC DEVELOPMENT FINANCING STRATEGY

Sec.

301. Scope.

302. Definitions.

303. Development.

304. Oversight.

§ 301. Scope.

This chapter relates to the development of an annual economic development financing strategy.

§ 302. Definitions.

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

1 "Department." The Department of Community and Economic
2 Development of the Commonwealth.

3 "Economic development program." A program which is
4 administered by and which provides financial assistance for
5 economic development to persons or a program of a public entity
6 which provides financial assistance for economic development to
7 persons in coordination with the Department of Community and
8 Economic Development. The term includes all of the following:

9 (1) Any program created under Part III (relating to
10 economic development programs).

11 (2) Any program of an entity created under Part IV
12 (relating to economic development financing).

13 (3) The Pennsylvania Industrial Development Authority.

14 (4) The Pennsylvania Minority Business Development
15 Authority.

16 (5) The Infrastructure Development Program.

17 (6) The Industrial Sites Reuse Program.

18 (7) The tax credit programs established in Articles
19 XVII-B and XVIII-B of the act of March 4, 1971 (P.L.6, No.2),
20 known as the Tax Reform Code of 1971.

21 § 303. Development.

22 The department shall annually develop a report containing a
23 financing strategy for economic development within this
24 Commonwealth. In developing the report, the department shall
25 gather input and recommendations from businesses, community
26 leaders and organizations, legislators and private citizens. The
27 report shall include all of the following:

28 (1) A financial audit or statement of operations for
29 each economic development program.

30 (2) A narrative description of accomplishments for each

1 economic development program during the preceding fiscal
2 year.

3 (3) A detailed description of the parameters of
4 operation for the economic development programs during the
5 upcoming fiscal year. The description shall include the terms
6 and conditions under which the economic development programs
7 shall be administered.

8 (4) A description of the performance measurements and
9 accountability factors to be applied and the performance
10 targets or goals to be met for each economic development
11 program.

12 (5) A description of long-range planning for the
13 economic development programs through the next five fiscal
14 years.

15 (6) A list of the loans, grants or credits approved by
16 the economic development programs during the fiscal year. The
17 list shall include a brief description of and details
18 regarding each loan, grant or credit approved.

19 (7) A review of pending projects.

20 § 304. Oversight.

21 Concurrent with the submission of the Governor's annual
22 budget message, the department shall submit the report required
23 by this chapter to all of the following:

24 (1) The Secretary of the Senate.

25 (2) The chairperson of the Appropriations Committee of
26 the Senate.

27 (3) The Chief Clerk of the House of Representatives.

28 (4) The chairperson of the Appropriations Committee of
29 the House of Representatives.

SMALL BUSINESS COUNCIL

Sec.

501. Scope.

502. Definitions.

503. Small Business Council.

504. Regulatory review.

§ 501. Scope.

This chapter relates to the Small Business Council.

§ 502. Definitions.

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

"Council." The Small Business Council established under section 503 (relating to Small Business Council).

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

"Executive agency." The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth. The term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies or any independent agency or State-affiliated entity.

"Secretary." The Secretary of Community and Economic Development of the Commonwealth.

"Small business." A person that employs fewer than 100 employees.

§ 503. Small Business Council.

(a) Establishment.--There is established within the department an agency to be known as the Small Business Council. The council shall do all of the following:

1 (1) Assist with the development of policies and
2 regulations which affect small businesses within this
3 Commonwealth.

4 (2) Provide advice relating to the nature of small
5 business practices and problems in this Commonwealth.

6 (3) Provide a review of existing and proposed policies
7 and regulations which are relevant to small business.

8 (b) Composition.--The council shall be composed of 13
9 members. The secretary shall serve ex officio. Twelve members
10 shall be appointed as follows:

11 (1) Four individuals appointed by the Governor.

12 (2) Two individuals appointed by the President pro
13 tempore of the Senate.

14 (3) Two individuals appointed by the Minority Leader of
15 the Senate.

16 (4) Two individuals appointed by the Speaker of the
17 House of Representatives.

18 (5) Two individuals appointed by the Minority Leader of
19 the House of Representatives.

20 (c) Qualifications.--In order to be eligible for appointment
21 to the council, an individual must:

22 (1) have a background in improving small businesses; and

23 (2) be one of the following:

24 (i) a present owner or operator of a small business
25 within this Commonwealth;

26 (ii) a member of the academic community who has
27 expertise regarding small business practices; or

28 (iii) a professional who specializes in representing
29 small businesses.

30 (d) Term.--Each member of the council shall serve for a

1 period of two years.

2 (e) Organization.--The secretary shall serve as chairperson.
3 The members of the council shall elect from among themselves a
4 vice chairperson, secretary, treasurer and such other officers
5 as they may determine.

6 (f) Meetings.--The council shall meet at the call of the
7 chairperson but shall meet at least once each quarter.

8 (g) Quorum.--A majority of the board shall constitute a
9 quorum. A majority of the members present shall be necessary to
10 transact business on behalf of the council.

11 (h) Expenses.--A member shall not receive compensation or
12 remuneration, but shall be entitled to reimbursement for all
13 reasonable and necessary actual expenses.

14 (i) Administrative assistance.--The department shall do all
15 of the following:

16 (1) Provide administrative and technical support to the
17 council.

18 (2) Publish notice of council meetings in accordance
19 with 65 Pa.C.S. Ch.7 (relating to open meetings).

20 (3) Maintain a mailing list of persons who have
21 requested specific notification of meetings and activities of
22 the council.

23 (4) Designate a deputy secretary to attend council
24 meetings and to serve as the public's liaison of the council.

25 (j) Cooperation.--Upon the council's request, an executive
26 agency shall provide the council with officially promulgated
27 regulatory and nonregulatory documents which regulate or would
28 regulate small businesses.

29 § 504. Regulatory review.

30 (a) Notification.--To the extent known to the secretary, the

1 department shall, on a semiannual basis, provide the council
2 with a list of regulations being proposed by all executive
3 agencies which may affect small businesses in this Commonwealth.

4 (b) Conference.--The department shall, upon request of the
5 council, arrange a meeting between the council and
6 representatives of an executive agency to discuss regulatory
7 proposals and policy initiatives of the executive agency which
8 might affect small businesses in this Commonwealth.

9 (c) Written comments.--The council shall provide the
10 department with written comments regarding the council's
11 position on the proposed regulations. The department shall
12 transmit the comments to the appropriate executive agencies. The
13 written comments shall include an impact statement and any other
14 information which the council deems necessary for the public to
15 make an informed opinion on the proposals.

16 (d) Exceptions.--The requirements under subsections (a) and
17 (b) shall not apply to the promulgation of the following
18 regulations relating to small businesses:

19 (1) Regulations required by court order.

20 (2) Regulations necessitated by a Federal or State
21 declaration of emergency.

22 (3) Interim regulations which are authorized by statute.

23 CHAPTER 7

24 TAX-EXEMPT BOND ALLOCATION

25 (RESERVED)

26 PART II

27 ECONOMIC DEVELOPMENT ENTITIES

28 Chapter

29 11. Ben Franklin (Reserved)

30 13. Industrial Resource Centers (Reserved)

1 15. (Reserved)
2 17. (Reserved)
3 19. (Reserved)

4 CHAPTER 11
5 BEN FRANKLIN
6 (RESERVED)

7 CHAPTER 13
8 INDUSTRIAL RESOURCE CENTERS
9 (RESERVED)

10 CHAPTER 15
11 (RESERVED)
12 CHAPTER 17

13 (RESERVED)
14 CHAPTER 19
15 (RESERVED)

16 PART III
17 ECONOMIC DEVELOPMENT PROGRAMS

18 Chapter

19 21. Opportunity Grants
20 23. Small Business First
21 25. Industrial Development Assistance (Reserved)
22 27. Customized Job Training (Reserved)
23 29. Machinery and Equipment (Reserved)
24 31. Family Savings Account (Reserved)
25 33. Economic Enhancement
26 35. Keystone Economic Development Zones
27 37. Keystone Innovation Zones

28 CHAPTER 21
29 OPPORTUNITY GRANTS

30 Sec.

- 1 2101. Scope.
- 2 2102. Definitions.
- 3 2103. Establishment.
- 4 2104. Application.
- 5 2105. Review.
- 6 2106. Approval.
- 7 2107. Penalty.
- 8 2108. Limitations.
- 9 2109. Guidelines.

10 § 2101. Scope.

11 This chapter relates to the Opportunity Grant Program.

12 § 2102. Definitions.

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

16 "Applicant." A person that applies for a grant in accordance
17 with this chapter.

18 "Department." The Department of Community and Economic
19 Development of the Commonwealth.

20 "Developer." A person that has as a purpose the promotion or
21 construction of economic development projects and that is
22 engaged in the development of real estate for use by more than
23 one person.

24 "Eligible recipient." Any of the following persons:

25 (1) A municipality.

26 (2) An entity created under the act of August 23, 1967
27 (P.L.251, No.102), known as the Economic Development
28 Financing Law.

29 (3) An entity certified as an industrial development
30 agency under the act of May 17, 1956 (1955 P.L.1609, No.537),

1 known as the Pennsylvania Industrial Development Authority
2 Act.

3 (4) An entity created under 53 Pa.C.S. Ch.56 (relating
4 to municipal authorities) or under the former act of May 2,
5 1945 (P.L.382, No.164), known as the Municipality Authorities
6 Act of 1945.

7 (5) An entity created under the act of May 24, 1945
8 (P.L.991, No.385), known as the Urban Redevelopment Law.

9 (6) A developer.

10 (7) A person that is engaged in any of the following
11 activities:

12 (i) The production or processing of farm
13 commodities.

14 (ii) Manufacturing.

15 (iii) Research and development.

16 (iv) Export services.

17 (v) Any other activity which offers a significant
18 economic impact on the Commonwealth, as determined by the
19 department.

20 "Eligible use." Any of the following activities:

21 (1) Job training.

22 (2) The acquisition of land, buildings or rights-of-way.

23 (3) The construction or rehabilitation of buildings.

24 (4) The construction or rehabilitation of
25 infrastructure.

26 (5) The purchase or upgrading of machinery and
27 equipment.

28 (6) Working capital.

29 (7) Site preparation, including demolition and
30 clearance.

- 1 (8) Environmental assessments.
- 2 (9) Remediation of hazardous material.
- 3 (10) Architectural and engineering fees up to 10% of the
- 4 award.

5 "Job-creating economic development." Includes the expansion

6 or preservation of existing industry.

7 "Program." The Opportunity Grant Program established in

8 section 2103 (relating to establishment.)

9 "Project." An activity conducted in this Commonwealth.

10 "Recipient." A person who receives a grant under this

11 chapter.

12 § 2103. Establishment.

13 There is established within the department a program to be

14 known as the Opportunity Grant Program. The program shall be

15 administered by the department to provide grants to eligible

16 persons for certain projects which encourage job-creating

17 economic development within this Commonwealth.

18 § 2104. Application.

19 A person may submit an application to the department

20 requesting a grant for a project. The application shall be on

21 the form required by the department and shall include or

22 demonstrate all of the following:

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

24 (2) A statement that the applicant is an eligible

25 recipient under the program.

26 (3) A statement of the amount of grant sought.

27 (4) A statement of the project, including a detailed

28 statement of the cost of the project.

29 (5) A statement identifying the economic impact of the

30 project to the region and the estimated impact on State and

1 local revenues.

2 (6) A firm financial commitment from a responsible
3 source for at least 80% of the cost of the project.

4 (7) A firm commitment from the applicant to complete the
5 project.

6 (8) Any other information required by the department.

7 § 2105. Review.

8 The department shall review the application to determine all
9 of the following:

10 (1) If the applicant is an eligible recipient under the
11 program.

12 (2) If the project is an eligible use of grant proceeds
13 under the program.

14 (3) If a financial commitment exists for at least 80% of
15 the cost of the project.

16 (4) If the financial commitment from the source is firm.

17 (5) If the source of the financial commitment is
18 responsible.

19 (6) If the applicant complied with all other criteria
20 established by the department.

21 § 2106. Approval.

22 The following shall apply:

23 (1) Upon being satisfied that all requirements have been
24 met, the department may approve the application and award a
25 grant. Grants shall be awarded in a manner which maximizes
26 geographic diversity.

27 (2) Prior to providing grant funds to the applicant, the
28 department shall enter into a contract with the applicant.

29 The contract shall include provisions requiring the applicant
30 to do all of the following:

1 (i) Use the grant to pay the costs of the project.

2 (ii) Repay the grant from any proceeds resulting
3 from a sale or partial sale of the project by the
4 applicant in accordance with the following:

5 (A) If the project is sold less than two years
6 after receipt of the grant, the applicant shall repay
7 the Commonwealth 90% of the grant received.

8 (B) If the project is sold more than two years
9 but less than four years after receipt of the grant,
10 the applicant shall repay the Commonwealth 80% of the
11 grant received.

12 (C) If the project is sold more than four years
13 but less than six years after receipt of the grant,
14 the applicant shall repay the Commonwealth 70% of the
15 grant received.

16 (D) If the project is sold more than six years
17 but less than eight years after receipt of the grant,
18 the applicant shall repay the Commonwealth 60% of the
19 grant received.

20 (E) If the project is sold more than eight years
21 but less than ten years after receipt of the grant,
22 the applicant shall repay the Commonwealth 50% of the
23 grant received.

24 (3) The department may impose any other terms and
25 conditions on the grants authorized by this chapter as the
26 department determines is in the best interests of the
27 Commonwealth, including a provision requiring collateral for
28 any penalty imposed under the program.

29 § 2107. Penalty.

30 (a) Imposition.--Except as provided in subsection (b), the

1 department shall impose a penalty upon a recipient for any of
2 the following:

3 (1) Failing to create the number of jobs specified in
4 the recipients application.

5 (2) Failing to inject the required amount of private
6 matching funds into the project.

7 (b) Exception.--The department may waive the penalty
8 required by subsection (a) if the department determines that the
9 failure was due to circumstances outside the control of the
10 recipient.

11 (c) Amount.--The amount of the penalty shall be equal to the
12 full amount of the grant received plus an additional amount of
13 up to 10% of the amount of the grant received. The penalty shall
14 be payable in one lump sum or in installments, with or without
15 interest, as the department deems appropriate.

16 § 2108. Limitations.

17 (1) An applicant may not receive a grant under this
18 chapter for more than two consecutive fiscal years for the
19 same project.

20 (2) A grant awarded under this chapter may not be used
21 to do any of the following:

22 (i) Refinance or retire existing debt.

23 (ii) Pay cost unrelated to a project location at a
24 site in this Commonwealth.

25 (3) In no case shall the aggregate amount of grants paid
26 in any fiscal year under this chapter exceed the annual
27 appropriation to the department for the program.

28 (4) A grant awarded under this chapter shall in no way
29 constitute an entitlement derived from the Commonwealth or a
30 claim on any other funds of the Commonwealth.

1 § 2109. Guidelines.

2 (a) Development.--The department shall develop written
3 guidelines for the program. The guidelines shall do all of the
4 following:

5 (1) Limit grant size for any single project.

6 (2) Clarify eligible uses of grants.

7 (3) Clarify standards for eligibility.

8 (b) Use.--No projects may be approved until the written
9 guidelines have been completed and copies of the guidelines have
10 been submitted to the General Assembly.

11 CHAPTER 23

12 SMALL BUSINESS FIRST

13 Sec.

14 2301. Scope.

15 2302. Definitions.

16 2303. Establishment.

17 2304. Fund and accounts.

18 2305. Department responsibilities.

19 2306. Capital development loans.

20 2307. EDA loans.

21 2308. Loans in distressed communities.

22 2309. Pollution prevention assistance loans.

23 2310. Export financing loans.

24 2311. Reporting and inspection.

25 2312. Limitations.

26 § 2301. Scope.

27 This chapter relates to the Small Business First Program.

28 § 2302. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Agricultural producer." A person involved in the management
3 and use of a normal agricultural operation for the production of
4 a farm commodity.

5 "Apparel products." Products manufactured, woven, cut, sewn
6 or otherwise similarly processed by mechanical or human effort
7 from fabrics, leather or cloth and made for use as clothing,
8 shoes or other attire.

9 "Applicant." A person that applies for a loan in accordance
10 with this chapter.

11 "Area loan organization." A local development district, an
12 industrial development agency organized and existing under the
13 act of May 17, 1956 (1955 P.L.1609, No.537), known as the
14 Pennsylvania Industrial Development Authority Act, or any other
15 nonprofit economic development organization certified by the
16 Department of Community and Economic Development as possessing
17 the qualifications necessary to evaluate and administer loans
18 made under this chapter.

19 "Capital development project." Land, buildings, equipment
20 and machinery and working capital which is acquired,
21 constructed, renovated or used by a small business in accordance
22 with any of the following:

23 (1) As part of a for-profit project or venture not of a
24 mercantile or service-related nature, except for hospitality
25 industry projects.

26 (2) As part of an effort to:

27 (i) bring a small business into compliance with
28 Federal or State environmental laws or regulations;

29 (ii) complete an approved remediation project; or

30 (iii) permit a small business to adopt generally

1 acceptable pollution prevention practices.

2 (3) As part of an effort to provide assistance to a
3 small business that is a recycler of municipal or commercial
4 waste or that is a manufacturer using recycled municipal or
5 commercial waste materials.

6 (4) As part of an effort to assist a small business with
7 defense conversion activities.

8 (5) As part of a for-profit project or venture to
9 manufacture products to be exported out of the United States
10 by a small business which is not of a mercantile or service-
11 related nature, except for export-related services and
12 international export-related mercantile ventures or advanced
13 technology and computer-related services and mercantile
14 ventures and which will increase this Commonwealth's national
15 or international market shares.

16 (6) As part of a for-profit project or venture that
17 meets the requirements of section 2308 (relating to loans in
18 distressed communities)

19 (7) As part of an effort to assist in the start-up or
20 expansion of a for-profit or not-for-profit child day-care
21 center subject to licensure by the Commonwealth.

22 "Child day-care center." Any premises in which child day
23 care is provided simultaneously for seven or more children who
24 are not related to the provider.

25 "Community development institution." Any of the following:

26 (1) An area loan organization for a distressed
27 community.

28 (2) A community development financial institution
29 located in a distressed community and approved by the
30 Department of Community and Economic Development.

1 "Department." The Department of Community and Economic
2 Development of the Commonwealth.

3 "Distressed community." A community which has any of the
4 following:

5 (1) A census tract or other specifically defined
6 geographic area in which there is any of the following:

7 (i) A median income below 80% of the median income
8 for the United States or this Commonwealth.

9 (ii) Twenty percent or more of the population is
10 below the poverty level by family size published by the
11 Bureau of the Census.

12 (iii) An unemployment rate 50% higher than the
13 national average.

14 (2) An area which is designated a subzone, expansion
15 subzone, or improvement subzone under the act of October 6,
16 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone
17 and Keystone Opportunity Expansion Zone Act.

18 (3) Any other geographic area designated by the
19 Department of Community and Economic Development as
20 distressed. The designation shall be published in the
21 Pennsylvania Bulletin.

22 "EDA loan." A loan made under this chapter utilizing funds
23 made available to the department under the Public Works and
24 Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. §
25 3121 et seq.).

26 "Ex-Im Bank." The Export-Import Bank of the United States.

27 "Export activity." An activity undertaken by a person within
28 this Commonwealth related to exports.

29 "Export business." A person that is engaged in a for-profit
30 enterprise involving export activities and that employs 250 or

1 fewer individuals.

2 "Exports." Goods and services to be sold outside the United
3 States.

4 "Farm commodity." Any Pennsylvania-grown agricultural,
5 horticultural, aquacultural, vegetable, fruit and floricultural
6 product of the soil, livestock and meats, wools, hides, furs,
7 poultry, eggs, dairy products, nuts, mushrooms, honey products
8 and forest products.

9 "Fund." The Small Business First Fund continued under
10 section 2304 (relating to fund and accounts).

11 "Hazardous substance." Any element, compound or material
12 which is any of the following:

13 (1) Regulated as a hazardous air pollutant under section
14 6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787),
15 known as the Air Pollution Control Act.

16 (2) Defined as a hazardous waste under section 103 of
17 the act of July 7, 1980 (P.L.380, No.97), known as the Solid
18 Waste Management Act.

19 (3) Regulated under the act of December 7, 1990
20 (P.L.639, No.165), known as the Hazardous Material Emergency
21 Planning and Response Act.

22 "Hospitality industry project." A for-profit project or
23 venture which involves a small business that operates a hotel,
24 motel or other lodging facility and that employs at least five
25 full-time equivalent employees at the time an application is
26 submitted to the Department of Community and Economic
27 Development for financing. The term includes a for-profit
28 project or venture which involves a small business that operates
29 a restaurant or food service operation open to the public, that
30 has been in continuous operation for at least five years and

1 that employs at least five full-time equivalent employees at the
2 time an application is submitted.

3 "Insurance policy." An export credit insurance policy for
4 small businesses offered by the Export-Import Bank of the United
5 States.

6 "Natural disaster." As defined in 35 Pa.C.S. § 7102
7 (relating to definitions).

8 "Normal agricultural operation." As defined in section 2 of
9 the act of June 10, 1982 (P.L.454, No.133), entitled "An act
10 protecting agricultural operations from nuisance suits and
11 ordinances under certain circumstances.

12 "Pollution prevention." The reduction or elimination of
13 pollution at its source. The term does not include any of the
14 following:

15 (1) A substitution of one hazardous or toxic substance
16 for another which will cause an increased risk to the
17 environment or to human health.

18 (2) A cross-media transfer.

19 (3) A delisting of a hazardous waste or toxic chemical.

20 "Pollution prevention assistance agency." Any of the
21 following:

22 (1) An area loan organization.

23 (2) An industrial resource center created pursuant to
24 the act of June 22, 2001 (P.L.400, No.31), known as the
25 Industrial Resources Center Partnership Act.

26 "Pollution prevention infrastructure." A capital development
27 project which permits a small business to adopt or install
28 pollution prevention equipment or processes to:

29 (1) Reduce or reuse raw materials onsite.

30 (2) Reduce the production of waste.

1 (3) Reduce energy consumption.

2 "Program." The Small Business First Program established
3 under section 2303 (relating to establishment).

4 "Reuse." Use of a product or component in its original form
5 more than once.

6 "Small business." A person that is engaged in a for-profit
7 enterprise and that employs 100 or fewer individuals. The term
8 includes the following:

9 (1) An enterprise located in a small business incubator
10 facility.

11 (2) An agricultural processor.

12 (3) An agricultural producer.

13 (4) An enterprise which manufactures apparel products.

14 (5) An enterprise which is a for-profit or not-for-
15 profit child day-care center subject to licensure by the
16 Commonwealth.

17 "Working capital." Capital used by a small business for
18 operations, excluding fixed assets and production machinery and
19 equipment.

20 § 2303. Establishment.

21 There is established within the department a program to be
22 known as the Small Business First Program. The program shall be
23 administered by the department and provide loans to eligible
24 persons for certain projects which encourage job creating and
25 job preserving economic development within this Commonwealth.

26 § 2304. Fund and accounts.

27 (a) Fund.--The Small Business First Fund, created under
28 section 1302(a) of the act of June 29, 1996 (P.L.434, No.67),
29 known as the Job Enhancement Act, is continued. The Treasury
30 Department shall credit the following to the fund:

1 (1) Appropriations made by the General Assembly to the
2 department for the program.

3 (2) Federal funds made available under the Public Works
4 and Economic Development Act of 1965 (Public Law 89-136, 42
5 U.S.C. § 3121 et seq.), or any other Federal statute,
6 regulation or program for the program.

7 (3) Payments from recipients of loans made from the
8 fund.

9 (4) Payments from recipients of loans made under the
10 former act of July 2, 1984 (P.L.545, No.109), known as the
11 Capital Loan Fund Act.

12 (5) Interest income derived from investment of the money
13 in the fund.

14 (6) Any other deposits, payments or contributions from
15 any other source made available to the department for the
16 program.

17 (b) Pollution prevention assistance.--The Pollution
18 Prevention Assistance Account, created under the act of June 29,
19 1996 (P.L.434, No.67), known as the Job Enhancement Act, is
20 continued. The Treasury Department shall credit the following to
21 this account:

22 (1) Appropriations made by the General Assembly to the
23 department for pollution prevention assistance.

24 (2) Payments from recipients of loans made from the
25 Pollution Prevention Assistance Account.

26 (3) Transfers from the Hazardous Sites Cleanup Fund as
27 established in section 602.3 of the act of March 4, 1971
28 (P.L.6, No.2), known as the Tax Reform Code of 1971.

29 (4) Interest income derived from investment of the money
30 in the Pollution Prevention Assistance Account.

(5) Any other deposits, payments or contributions from any other source made available to the department for pollution prevention assistance.

(c) Export financing.--There is created within the fund an account to be known as the Export Financing Assistance Account. The Treasury Department shall credit the following to this account:

(1) Appropriations made by the General Assembly to the department for export financing assistance.

(2) Payments from recipients of loans made from the Export Financing Assistance Account.

(3) Interest income derived from investment of the money in the Export Financing Assistance Account.

(4) Any other deposits, payments or contributions from any other source made available to the department for export financing assistance.

(d) Use of fund.--Money in the fund may be used as follows:

(1) By the department to make loans in accordance with this chapter and for administrative costs of the department in administering the program.

(2) By area loan organizations for administrative costs associated with the program which are approved by the department.

(e) Use of Pollution Prevention Assistance Account.--Money in the Pollution Prevention Assistance Account may be used by the department to provide loans to small businesses for the adoption or installation of pollution-prevention or energy-efficient equipment or processes in accordance with section 2309 (relating to pollution prevention assistance loans).

(f) Use of Export Financing Assistance Account.--Money in

1 the Export Financing Assistance Account may be used by the
2 department to provide loans to export businesses for export
3 activities in accordance with section 2310 (relating to export
4 financing loans).

5 § 2305. Department responsibilities.

6 (a) General rule.--The department shall do all of the
7 following:

8 (1) Administer the program.

9 (2) Establish written guidelines as necessary. Any
10 guidelines established shall be included in the report
11 required by Chapter 3 (relating to economic development
12 financing strategy).

13 (3) Deposit payments made by recipients in the fund, the
14 Pollution Prevention Assistance Account or Export Financing
15 Assistance Account, as appropriate.

16 (4) Approve standards for area loan organization
17 application fees.

18 (5) Approve community development financial
19 institutions.

20 (b) Program.--In administering the program, the department
21 may do any of the following:

22 (1) Provide grants or other financial assistance to area
23 loan organizations for any of the following purposes:

24 (i) To establish loan reserve funds.

25 (ii) To reimburse loan losses to commercial banks
26 and other financial institutions as a means of
27 encouraging the expansion and financing of small
28 businesses.

29 (2) Apply to the Ex-Im Bank for delegated authority
30 lender status under the Ex-Im Bank's Working Capital Guaranty

1 Program.

2 (3) Utilize the outstanding portfolio of loans made
3 under this chapter to raise additional funds by selling,
4 securing, hypothecating or otherwise using such loan proceeds
5 as a financing vehicle if the funds raised are used by the
6 department for either of the following purposes:

7 (i) To make new and additional loans under this
8 chapter.

9 (ii) To pay costs associated with financing.

10 § 2306. Capital development loans.

11 (a) Application.--A small business may submit an application
12 and any applicable application fee to its area loan organization
13 requesting a loan for certain costs of a capital development
14 project. The application shall be on the form required by the
15 department and shall include or demonstrate all of the
16 following:

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

18 (2) A statement of the amount of loan assistance sought.

19 (3) A statement of the capital development project
20 including a detailed statement of the cost of the project.

21 (4) A firm financial commitment from a responsible
22 source for any cost of the capital development project in
23 excess of the amount requested.

24 (5) Any other information required by the department.

25 (b) Area loan organization review.--

26 (1) Upon receipt of a completed application, an area
27 loan organization shall investigate and determine all of the
28 following:

29 (i) If the applicant is a small business.

30 (ii) If the project is a capital development

1 project.

2 (iii) If, when the applicant is a small business,
3 the capital development project demonstrates a
4 substantial likelihood of creating or preserving
5 employment activities in this Commonwealth or if, when
6 the applicant is an agriculture producer, the project
7 demonstrates a substantial likelihood of enhancing and
8 growing normal agriculture operations.

9 (iv) The ability of the applicant to meet and
10 satisfy the debt service as it becomes due and payable.

11 (v) The existence and sufficiency of collateral for
12 the loan. Collateral may include lien positions on
13 nonresidential real property and on personal property.

14 (vi) Relevant criminal and credit history and
15 ratings of the applicant as determined from outside
16 credit reporting services and other sources.

17 (vii) The number of employment opportunities to be
18 created or preserved by the proposed capital development
19 project.

20 (viii) If the applicant complied with all other
21 criteria established by the department.

22 (2) Upon being satisfied that all requirements have been
23 met, the area loan organizations shall recommend the
24 applicant to the department and forward the application with
25 all supporting documentation to the department for its review
26 and approval.

27 (c) Department review.--

28 (1) Within 30 days of receiving a recommendation and
29 application, the department shall review the application. If
30 the department is satisfied that all requirements have been

1 met, the department may approve the loan request in
2 accordance with the following:

3 (i) A loan for land, buildings and machinery and
4 equipment may not exceed \$200,000 or 50% of the total
5 capital development project costs, whichever is less.

6 (ii) A loan for working capital may not exceed
7 \$100,000 or 50% of the total capital development project
8 costs, whichever is less.

9 (iii) Except for loans to agriculture producers, a
10 loan must create or preserve one job for every \$25,000
11 loaned.

12 (2) The department shall notify the area loan
13 organization and applicant of its decision.

14 (d) Approvals.--For applications which are approved, the
15 department shall draw an advance equal to the principal amount
16 of the loan from the fund. The advance shall be forwarded to the
17 area loan organization and, upon receipt by the area loan
18 organization, shall become an obligation of the area loan
19 organization. Prior to providing loan funds to the applicant,
20 the area loan organization shall require the applicant to
21 execute a note and to enter into a loan agreement. In addition
22 to the requirements of subsection (e), the loan agreement shall
23 include a provision requiring the recipient to use the loan
24 proceeds to pay the costs of the capital development project.
25 The department may require the area loan organization to impose
26 other terms and conditions on the recipient if the department
27 determines that they are in the best interests of this
28 Commonwealth, including a provision requiring collateral for any
29 penalty imposed under subsection (g).

30 (e) Loan terms.--A loan agreement entered into in accordance

1 with subsection (c) shall do all of the following:

2 (1) State the collateral securing the loan. All loans
3 shall be secured by lien positions on collateral at the
4 highest level of priority as may be determined by the area
5 loan organization with the approval of the department. The
6 collateral may include nonresidential real estate purchased
7 as part of the capital development project.

8 (2) State the repayment period in accordance with the
9 following:

10 (i) A loan for real property shall have a repayment
11 period of up to 15 years.

12 (ii) A loan for machinery and equipment shall have a
13 repayment period of up to ten years.

14 (iii) A loan for working capital shall have a
15 repayment period of up to three years.

16 (iv) If, in a capital development project, there are
17 two or more uses planned, the loan terms may be blended.

18 (3) State the interest rate in accordance with the
19 following:

20 (i) Except as provided in subparagraph (ii), loans
21 shall be made at an interest rate not to exceed 5% for
22 the term of the loan.

23 (ii) A loan to a small business which is an
24 agricultural producer shall be made at an interest rate
25 of not less than 2% for the term of the loan if all of
26 the following apply:

27 (A) A declaration under 35 Pa.C.S. § 7301(c)
28 (relating to general authority of Governor) is in
29 effect for at least ten days prior to the date of
30 application.

1 (B) The application is made within nine months
2 of termination of the declaration.

3 (C) The agricultural producer is in the area
4 which has been declared to be a natural disaster
5 area.

6 (f) Loan administration.--A loan made under this section
7 shall be administered in accordance with departmental policies
8 and procedures by the area loan organization which made the
9 loan. Each area loan organization shall submit an annual report
10 on the form required by the department and which includes or
11 demonstrates all of the following:

- 12 (1) Each outstanding loan.
- 13 (2) The date approved.
- 14 (3) The original principal amount.
- 15 (4) The current principal balance.
- 16 (5) The interest rate.
- 17 (6) The purpose for which the loan was made.
- 18 (7) An enumeration of any problems or issues which have
19 arisen with regard to each loan.
- 20 (8) A statement regarding the progress of the small
21 business in creating or preserving its requisite number of
22 employment opportunities.
- 23 (9) Any other information or documentation required by
24 the department.

25 (g) Penalty.--

26 (1) Except as provided in paragraph (2), the department
27 shall impose a penalty upon a recipient if the recipient
28 fails to create or preserve the number of employment
29 opportunities specified in its approved application.

30 (2) The department may waive the penalty required by

paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.

(3) The amount of the penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.

(h) Defaults.--The department may by foreclosure take title to a capital development project which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from moneys held in the fund. The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw moneys from the fund to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed where purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any moneys derived from the sale of any first mortgages in the fund.

§ 2307. EDA loans.

(a) Application and administration procedures.--The department shall establish application and administration procedures to be used for EDA loans. The procedures shall be established by guidelines and shall conform in all respects to those procedures required or established by the Economic Development Administration for use of Federal funds under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.).

(b) Eligibility for EDA loans.--The department shall establish eligibility requirements to be used for EDA loans. The requirements shall be established by guidelines and shall conform in all respects to those procedures required or established by the Economic Development Administration for use of Federal funds under the Public Works and Economic Development Act of 1965.

§ 2308. Loans in distressed communities.

(a) Application.--A small business located in a distressed community may submit an application and any applicable application fee to a community development institution requesting a loan for certain costs of a capital development project. The application shall be on the form required by the department and shall include or demonstrate all of the following:

- (1) The name and address of the applicant.
- (2) A statement that the small business is engaged in business-to-public service or in the mercantile, commercial or point-of-sale retail business sectors.
- (3) A statement of the amount of loan assistance sought.
- (4) A statement of the capital development project, including a detailed statement of the cost of the project.
- (5) A firm financial commitment from a responsible source for the cost of the capital development project in excess of the amount requested.
- (6) Any other information required by the department.

(b) Community development institution review.--

(1) Upon receipt of a completed application, a community development institution shall investigate and determine all of the following:

1 (i) If the applicant is a small business which is
2 engaged business-to-public service or in the mercantile,
3 commercial or point-of-sale retail business sectors in
4 accordance with conditions or criteria established by the
5 department.

6 (ii) If the project is a capital development
7 project.

8 (iii) If the applicant has demonstrated a direct
9 impact on the community in which the capital development
10 project is or will be located, on residents of that
11 community or on the local and/or regional economy. The
12 department shall establish criteria that will assist in
13 making this demonstration.

14 (iv) The ability of the applicant to meet and
15 satisfy the debt service as it becomes due and payable.
16 In reviewing repayment obligations, loans shall not be
17 approved on the basis of direct financial return on
18 investment and shall not be held to the loan loss
19 standards of private commercial lenders. Loans shall
20 review for the purpose of establishing a strong economic
21 base and promoting entrepreneurial activity within the
22 distressed community.

23 (v) The existence and sufficiency of collateral for
24 the loan. Collateral may include lien positions on
25 nonresidential real property and on personal property.

26 (vi) Relevant criminal and credit history and
27 ratings of the applicant as determined from outside
28 credit reporting services and other sources.

29 (vii) Number of employment opportunities to be
30 created or preserved by the proposed capital development

1 project.

2 (viii) If the applicant complied with all other
3 criteria established by the department.

4 (2) Upon being satisfied that all requirements have been
5 met, the community development institution shall recommend
6 the applicant to the department and forward the application
7 with all supporting documentation to the department for its
8 review and approval.

9 (c) Department review.--

10 (1) Within 30 days of receiving a recommendation and
11 application, the department shall review the application. If
12 the department is satisfied that all requirements have been
13 met, the department may approve the loan request in
14 accordance with the following:

15 (i) A loan for land, buildings and machinery and
16 equipment may not exceed \$200,000 or 50% of the total
17 capital development project costs, whichever is less.

18 (ii) A loan for working capital may not exceed
19 \$100,000 or 50% of the total capital development project
20 costs, whichever is less.

21 (iii) Except for loans to agriculture producers, a
22 loan would create or preserve one job for every \$25,000
23 loaned.

24 (2) The department shall notify the community
25 development institution and applicant of its decision.

26 (d) Approvals.--For applications which are approved, the
27 department shall draw an advance equal to the principal amount
28 of the loan from the fund. The advance shall be forwarded to the
29 community development institution and, upon receipt by the
30 community development institution, become an obligation of the

1 community development institution. Prior to providing loan funds
2 to the applicant, the community development institution shall
3 require the applicant to execute a note and to enter into a loan
4 agreement. In addition to the requirements of subsection (e),
5 the loan agreement shall include a provision requiring the
6 recipient to use the loan proceeds to pay the costs of the
7 capital development project. The department may require the
8 community development institution to impose other terms and
9 conditions on the recipient if the department determines they
10 are in the best interests of this Commonwealth, including a
11 provision requiring collateral for any penalty imposed under
12 subsection (g).

13 (e) Loan terms.--A loan agreement entered into in accordance
14 with subsection (d) shall do all of the following:

15 (1) State any collateral securing the loan. The
16 department may use its best judgment to identify and secure
17 collateral.

18 (2) State the repayment period which may be flexible.

19 (3) State the interest rate which may not be less than
20 2% nor more than 5% for the term of the loan.

21 (4) State that the recipient agrees to maintain, at a
22 minimum, the number of jobs in existence as of the date of
23 loan application.

24 (f) Loan administration.--A loan made under this section
25 shall be administered in accordance with departmental policies
26 and procedures by the community development institution which
27 made the loan. Each community development institution shall
28 submit an annual report on the form required by the department
29 which includes or demonstrates all of the following:

30 (1) Each outstanding loan.

1 (2) The date approved.

2 (3) The original principal amount.

3 (4) The current principal balance.

4 (5) The interest rate.

5 (6) The purpose for which the loan was made.

6 (7) An enumeration of any problems or issues which have

7 arisen with regard to each loan.

8 (8) A statement regarding the progress of the small

9 business in creating or preserving its requisite number of

10 employment opportunities.

11 (9) Any other information or documentation required by

12 the department.

13 (g) Penalty.--

14 (1) Except as provided in paragraph (2), the department

15 shall impose a penalty upon a recipient if the recipient

16 fails to create or preserve the number of employment

17 opportunities specified in its approved application.

18 (2) The department may waive the penalty required by

19 paragraph (1) if the department determines that the failure

20 was due to circumstances outside the control of the

21 recipient.

22 (3) The amount of any penalty imposed under paragraph

23 (1) shall be equal to an increase in the interest rate to 2%

24 greater than the current prime interest rate for the

25 remainder of the loan.

26 (h) Defaults.--The department may take title by foreclosure

27 to a capital development project which it financed where

28 acquisition is necessary to protect a loan made under this

29 section. The department shall pay all costs arising out of the

30 foreclosure and acquisition from money held in the fund. The

1 department may, in order to minimize financial losses and
2 sustain employment, lease the capital development project. The
3 department may withdraw money from the fund to purchase first
4 mortgages and to make payments on first mortgages on any capital
5 development project which it financed if purchase or payment is
6 necessary to protect a loan made under this section. The
7 department may sell, transfer, convey and assign the first
8 mortgages and shall deposit in the fund money derived from the
9 sale of any first mortgages.

10 § 2309. Pollution prevention assistance loans.

11 (a) Application.--A small business may submit an application
12 and any application fee to a pollution prevention assistance
13 agency requesting a loan for a pollution prevention
14 infrastructure. The application shall be on the form required by
15 the department and shall include or demonstrate all of the
16 following:

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

18 (2) A statement of the amount of loan assistance sought.

19 (3) A statement of the pollution prevention
20 infrastructure, including a detailed statement of the cost of
21 the infrastructure.

22 (4) A firm financial commitment from a responsible
23 source for the cost of the pollution prevention
24 infrastructure in excess of the amount requested.

25 (5) Any other information required by the department.

26 (b) Pollution prevention assistance agency review.--

27 (1) Upon receipt of a completed application, a pollution
28 prevention assistance agency shall investigate and determine
29 all of the following:

30 (i) If the applicant is a small business.

(ii) If the project is for pollution prevention infrastructure.

(iii) If the pollution prevention infrastructure demonstrates a substantial likelihood of preventing or reducing pollution.

(iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable. In reviewing repayment obligations, loans shall not be approved on the basis of direct financial return on investment and shall not be held to the loan loss standards of private commercial lenders. Loans shall be reviewed for the purpose of reducing pollution through source reduction technologies or processes.

(v) The existence and sufficiency of collateral for the loan. Collateral may include lien positions on nonresidential real property and on personal property.

(vi) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.

(vii) If the applicant complied with all other criteria established by the department.

(2) Upon being satisfied that all requirements have been met, the pollution prevention assistance agency shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.

(c) Department review.--

(1) Within 30 days of receiving a recommendation and application, the department shall review the application. The Department of Environmental Protection shall assist the

department in reviewing the applications and provide technical assistance. If the department is satisfied that all requirements have been met, the department may approve the loan request. A loan approved under this subsection may not exceed the lesser of:

(i) \$100,000; or

(ii) 75% of infrastructure costs.

(2) The department shall notify the pollution prevention assistance agency and applicant of its decision.

(d) Approvals.--For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the Pollution Prevention Assistance Account. The advance shall be forwarded to the pollution prevention assistance agency and, upon receipt by the pollution prevention assistance agency, become an obligation of the pollution prevention assistance agency. Prior to providing loan funds to the applicant, the pollution prevention assistance agency shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the pollution prevention infrastructure. The department may require the pollution prevention assistance agency to impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).

(e) Loan terms.--A loan agreement entered into in accordance with subsection (d) shall do all of the following:

(1) State the collateral securing the loan. All loans

1 shall be secured by lien positions on collateral at the
2 highest level of priority as may be determined by the
3 pollution prevention assistance agency with the approval of
4 the department. The collateral may include nonresidential
5 real estate purchased as part of the pollution prevention
6 infrastructure.

7 (2) State the repayment period which may not exceed 10
8 years.

9 (3) State that the interest rate is 2%.

10 (4) State that any loan fee is not to exceed 5% of the
11 loan amount.

12 (f) Loan administration.--A loan made under this section
13 shall be administered in accordance with departmental policies
14 and procedures by the pollution prevention assistance agency
15 which made the loan. Each pollution prevention assistance agency
16 shall submit an annual report on the form required by the
17 department which includes or demonstrates all of the following:

18 (1) Each outstanding loan.

19 (2) The date approved.

20 (3) The original principal amount.

21 (4) The current principal balance.

22 (5) The interest rate.

23 (6) The purpose for which the loan was made.

24 (7) An enumeration of any problems or issues which have
25 arisen with regard to each loan.

26 (8) Any other information or documentation required by
27 the department.

28 (g) Penalty.--

29 (1) Except as provided in paragraph (2), the department
30 shall impose a penalty upon a recipient if the recipient

1 fails to prevent or reduce pollution as specified in its
2 approved application.

3 (2) The department may waive the penalty required by
4 paragraph (1) if the department determines that the failure
5 was due to circumstances outside the control of the
6 recipient.

7 (3) The amount of any penalty imposed under paragraph
8 (1) shall be equal to an increase in the interest rate to 2%
9 greater than the current prime interest rate for the
10 remainder of the loan.

11 (h) Defaults.--The department may take title by foreclosure
12 to a pollution prevention infrastructure which it financed if
13 acquisition is necessary to protect a loan made under this
14 section. The department shall pay all costs arising out of the
15 foreclosure and acquisition from money held in the Pollution
16 Prevention Assistance Account. The department may, in order to
17 minimize financial losses and sustain employment, lease the
18 pollution prevention infrastructure. The department may withdraw
19 money from the Pollution Prevention Assistance Account to
20 purchase first mortgages and to make payments on first mortgages
21 on any pollution prevention infrastructure which it financed if
22 the purchase or payment is necessary to protect a loan made
23 under this section. The department may sell, transfer, convey
24 and assign the first mortgages and shall deposit any money
25 derived from the sale of any first mortgages in the Pollution
26 Prevention Assistance Account.

27 § 2310. Export financing loans.

28 (a) Application.--A person may submit an application and any
29 applicable application fee to the department or its area loan
30 organization requesting a loan for certain costs of a capital

development project which will be used in export activities. The application must be on the form required by the department and must include or demonstrate all of the following:

- (1) The name and address of the applicant.
- (2) A statement of the amount of loan assistance sought.
- (3) A statement of the capital development project, including a detailed statement of the cost of the project.
- (4) A statement that the capital development project is based upon an export contract which requires payment in United States dollars.
- (5) A firm financial commitment from a responsible source for any cost of the capital development project in excess of the amount requested.
- (6) A statement that the loan, if approved, would not supplant funding from private sector sources on commercially reasonable terms.
- (7) Any other information required by the department.

(b) Review.--

(1) Upon receipt of a competed application, the department or, if applicable, an area loan organization shall investigate and determine all of the following:

- (i) If the applicant is an export business.
- (ii) If the project is a capital development project.
- (iii) If the capital development project demonstrates a substantial likelihood of creating or preserving employment activities in this Commonwealth.
- (iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable.
- (v) The existence and sufficiency of collateral for

1 the loan. Collateral may include lien positions on
2 nonresidential real property and on personal property.

3 (vi) Relevant criminal and credit history and
4 ratings of the applicant as determined from outside
5 credit reporting services and other sources.

6 (vii) Number of employment opportunities to be
7 created or preserved by the proposed capital development
8 project.

9 (viii) If the applicant complied with all other
10 criteria established by the department.

11 (2) Upon being satisfied that all requirements have been
12 met, the department may approve the application in accordance
13 with subsection (c) or the area loan organization shall
14 recommend the applicant to the department and forward the
15 application with all supporting documentation to the
16 department for its review and approval.

17 (c) Department review.--The department shall review an
18 application within 30 days of receiving it. If the department is
19 satisfied that all requirements have been met, the department
20 may approve the loan request. A loan approved under this section
21 may not exceed \$350,000. The department shall notify the
22 applicant and, if applicable, the area loan organization of its
23 decision.

24 (d) Approvals.--

25 (1) For applications which were submitted directly to
26 the department and which are approved, the department shall
27 draw an advance equal to the principal amount of the loan
28 from the Export Activities Assistance Account. Prior to
29 providing funds to the applicant, the department shall
30 require the applicant to execute a note and enter into a loan

1 agreement. In addition to the requirements of subsection (e),
2 the loan agreement shall include a provision requiring the
3 recipient to use the loan proceeds to pay the costs of the
4 capital development project. The department may impose other
5 terms and conditions on the recipient if the department
6 determines they are in the best interests of this
7 Commonwealth, including any of the following:

8 (i) A provision requiring collateral for any penalty
9 imposed under subsection (g).

10 (ii) A provision requiring the person to be eligible
11 for an insurance policy.

12 (iii) A provision requiring the loan to be
13 guaranteed by the Working Capital Guaranty Program
14 offered by the Ex-Im Bank.

15 (iv) A provision requiring an export credit sales
16 contract insured by an insurance policy.

17 (2) For applications which were submitted to the
18 department through an area loan organization and which are
19 approved, the department shall draw an advance equal to the
20 principal amount of the loan from the Export Activities
21 Assistance Account. The advance shall be forwarded to the
22 area loan organization and, upon receipt by the area loan
23 organization, become an obligation of the area loan
24 organization. Prior to providing loan funds to the applicant,
25 the area loan organization shall require the applicant to
26 execute a note and enter into a loan agreement. In addition
27 to the requirements of subsection (e), the loan agreement
28 shall include a provision requiring the recipient to use the
29 loan proceeds to pay the costs of the capital development
30 project. The department may require the area loan

1 organization to impose other terms and conditions on the
2 recipient if the department determines they are in the best
3 interests of this Commonwealth, including any of the
4 following:

5 (i) A provision requiring collateral for any penalty
6 imposed under subsection (g).

7 (ii) A provision requiring the person to be eligible
8 for an insurance policy.

9 (iii) A provision requiring the loan to be
10 guaranteed by the Working Capital Guaranty Program
11 offered by the Ex-Im Bank.

12 (iv) A provision requiring an export credit sales
13 contract insured by an insurance policy.

14 (e) Loan terms.--A loan agreement entered into in accordance
15 with subsection (d) shall do all of the following:

16 (1) State the collateral securing the loan. All loans
17 shall be secured by lien positions on collateral at the
18 highest level of priority as may be determined by the area
19 loan organization with the approval of the department. The
20 collateral may include nonresidential real estate purchased
21 as part of a capital development project.

22 (2) State the repayment period as determined by the
23 department.

24 (3) State the interest rate as determined by the
25 department.

26 (f) Loan administration.--A loan made under this section
27 shall be administered in accordance with departmental policies
28 and procedures. If a loan was made through an area loan
29 organization, the area loan organization shall submit an annual
30 report on the form required by the department which includes or

1 demonstrates all of the following:

2 (1) Each outstanding loan.

3 (2) The date approved.

4 (3) The original principal amount.

5 (4) The current principal balance.

6 (5) The interest rate.

7 (6) The purpose for which the loan was made.

8 (7) An enumeration of any problems or issues which have
9 arisen with regard to each loan.

10 (8) A statement regarding the progress of the person
11 creating or preserving its requisite number of employment
12 opportunities.

13 (9) Any other information or documentation required by
14 the department.

15 (g) Penalty.--

16 (1) Except as provided in paragraph (2), the department
17 shall impose a penalty upon a recipient if the recipient
18 fails to create or preserve the number of employment
19 opportunities specified in its approved application.

20 (2) The department may waive the penalty required by
21 paragraph (1) if the department determines that the failure
22 was due to circumstances outside the control of the
23 recipient.

24 (3) The amount of the penalty imposed under paragraph
25 (1) shall be equal to an increase in the interest rate to 2%
26 greater than the current prime interest rate for the
27 remainder of the loan.

28 (h) Defaults.--The department may, by foreclosure, take
29 title to a capital development project which it financed if
30 acquisition is necessary to protect a loan made under this

1 section. The department shall pay all costs arising out of the
2 foreclosure and acquisition from money held in the Export
3 Activities Assistance Account. The department may, in order to
4 minimize financial losses and sustain employment, lease the
5 capital development project. The department may withdraw money
6 from the Export Activities Assistance Account to purchase first
7 mortgages and to make payments on first mortgages on any capital
8 development project which it financed if purchase or payment is
9 necessary to protect a loan made under this section. The
10 department may sell, transfer, convey and assign the first
11 mortgages and shall deposit any money derived from the sale of
12 any first mortgages in the Export Activities Assistance Account.
13 § 2311. Reporting and inspection.

14 (a) Inspection.--An applicant or a recipient shall, upon
15 request, permit authorized employees of the department or its
16 agent to inspect the plant, books and records of the applicant
17 or recipient.

18 (b) Updating.--An applicant or a recipient shall provide
19 updated information to the department and its agents if
20 conditions change or to the extent that the information
21 originally given becomes inaccurate or misleading.

22 (c) Periodic reports.--A recipient shall provide the
23 department and its agents with such periodic financial reports
24 as the department may require until the loan is repaid in full.

25 (d) Financial and performance audits.--An agent of the
26 department shall annually submit to the department, at the
27 agent's expense, an independent financial audit. If the audit
28 reveals misconduct of a material nature on the part of the
29 agent, the department shall take appropriate action.

30 § 2312. Limitations.

1 No loans shall be recommended or approved if the proceeds of
2 the loan could do any of the following:

3 (1) Cause, aid or assist directly in the relocation of
4 any business operations from one part of this Commonwealth to
5 another unless there is at least a 25% net increase in
6 employment.

7 (2) Refinance any portion of the total cost of a capital
8 development project, pollution prevention infrastructure or
9 other existing loans or debt.

10 (3) Finance a capital development project or pollution
11 prevention infrastructure located outside the geographic
12 boundaries of this Commonwealth.

13 (4) Provide funds, directly or indirectly, for payment
14 distribution or as loan owners, partners or shareholders of a
15 small business, except as ordinary compensation for services
16 rendered.

17 (5) Provide funds for speculation in real or personal
18 property, whether tangible or intangible.

19 CHAPTER 25

20 INDUSTRIAL DEVELOPMENT ASSISTANCE

21 (RESERVED)

22 CHAPTER 27

23 CUSTOMIZED JOB TRAINING

24 (RESERVED)

25 CHAPTER 29

26 MACHINERY AND EQUIPMENT

27 (RESERVED)

28 CHAPTER 31

29 FAMILY SAVINGS ACCOUNT

30 (RESERVED)

1 CHAPTER 33

2 ECONOMIC ENHANCEMENT

3 Sec.

4 3301. Scope of chapter.

5 3302. Definitions.

6 3303. Establishment.

7 3304. Review Committee.

8 3305. Application.

9 3306. Review and approval.

10 3307. Designation.

11 § 3301. Scope of chapter.

12 This chapter relates to the Economic Enhancement Program.

13 § 3302. Definitions.

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

17 "Authority." The Pennsylvania Economic Development Financing
18 Authority established in Chapter 43 (relating to Pennsylvania
19 Economic Development Financing Authority).

20 "Committee." The Review Committee established in section
21 3304 (relating to review committee).

22 "Department." The Department of Community and Economic
23 Development of the Commonwealth.

24 "Deteriorated property." A blighted, impoverished area
25 containing residential, industrial, commercial or other real
26 property which is abandoned, unsafe, vacant, undervalued,
27 underutilized, overgrown, defective, condemned, demolished or
28 which contains economically undesirable land use. The term
29 includes all of the following:

30 (1) A tax increment district.

1 (2) Property adjacent to deteriorated property which is
2 significantly undervalued and underutilized due to the
3 proximity of the deteriorated property.

4 "Issuing authority." As that term is defined in the act of
5 July 11, 1990 (P.L.465, No.113), known as the Tax Increment
6 Financing Act.

7 "Tax incentive district." A contiguous geographic area
8 designated by the Department of Community and Economic
9 Development under section 3307 (relating to designation).

10 "Tax increment district." The term as it is defined in the
11 act of July 11, 1990 (P.L.465, No.113), known as the Tax
12 Increment Financing Act.

13 § 3303. Establishment.

14 There is hereby established within the department a program
15 to be known as the Economic Enhancement Program. The program
16 shall provide economic assistance to deteriorated property by
17 using certain tax revenues from property located in incentive
18 districts to increase economic development in incentive
19 districts.

20 § 3304. Review Committee.

21 (a) Establishment.--There is hereby established a committee
22 to be known as the Review Committee. The committee shall review
23 and recommend applications to the Governor. The committee shall
24 be composed of the following five members:

25 (1) The Governor or the Secretary of the Budget.

26 (2) The Majority Leader of the Senate, or a designee.

27 (3) The Minority Leader of the Senate, or a designee.

28 (4) The Majority Leader of the House of Representatives,
29 or a designee.

30 (5) The Minority Leader of the House of Representatives,

1 or a designee.

2 (b) Operation.--The Governor or the Secretary of the Budget
3 shall serve as chairperson. The committee shall meet at the call
4 of the chairperson. Four members shall constitute a quorum, and
5 the consent of four members of the committee shall be required
6 to recommend an application.

7 § 3305. Application.

8 A person or an issuing authority may apply to the department
9 to have deteriorated property designated an incentive district.
10 The application shall be on a form provided by the department
11 and shall include all of the following:

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

13 (2) A legal description of the property which is to be
14 included in the incentive district.

15 (3) A statement that the property is deteriorated.

16 (4) A firm commitment of future economic development on
17 the property if the property were designated an incentive
18 district.

19 (5) Any other information required by the department.

20 § 3306. Review and approval.

21 (a) Review.--The department shall forward the application to
22 the committee when it is complete. The committee shall review
23 the application to determine all of the following:

24 (1) If the applicant is firmly committed to improving
25 the property upon designation.

26 (2) If the applicant complied with all other criteria
27 established by the committee.

28 (b) Approval.--Upon being satisfied that all requirements
29 have been met, the committee may approve the application and
30 recommend that the property be designated an incentive district.

1 The recommendation shall specify the time period for which the
2 property may be designated, not to exceed 20 years. The
3 department shall immediately notify affected municipalities of
4 the recommendation.

5 § 3307. Designation.

6 Within 90 days of receiving notification in accordance with
7 section 3306 (relating to review and approval), a municipality
8 may request the department to designate the deteriorated
9 property as a tax incentive district. The request shall be on a
10 form provided by the department and shall include a copy of the
11 ordinance, resolution or other required action from the
12 governing body of the municipality approving the designation of
13 the property as a tax incentive district. All appropriate
14 ordinances and resolutions shall be binding and nonrevocable on
15 the municipality. If all municipalities within a recommended tax
16 incentive district submit timely completed requests, the
17 department shall approve the requests and designate the property
18 as a tax incentive district. Upon designation, persons owning
19 property located within a tax incentive district and issuing
20 authorities of tax increment districts located within a tax
21 incentive district shall be eligible to receive grants and loans
22 under the Economic Enhancement Financing Program administered by
23 the Pennsylvania Economic Development Financing Authority.

24 CHAPTER 35

25 KEYSTONE ECONOMIC DEVELOPMENT ZONES

26 Subchapter

27 A. General Provisions

28 B. Keystone Opportunity Zones and Keystone Opportunity

29 Expansion Zones

30 C. State Taxes (Reserved)

- 1 D. Local Taxes (Reserved)
- 2 E. Administration of Tax Provisions(Reserved)
- 3 F. Procedures for Zones (Reserved)
- 4 G. Miscellaneous Provisions (Reserved)

5 SUBCHAPTER A

6 GENERAL PROVISIONS

7 Sec.

8 3501. Scope.

9 3502. Legislative findings (Reserved).

10 3503. Definitions.

11 § 3501. Scope.

12 This chapter relates to Keystone Opportunity Zones and
13 Keystone Opportunity Expansion Zones.

14 § 3502. Legislative findings.

15 (Reserved)

16 § 3503. Definitions.

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

20 "Business." An association, partnership, corporation, sole
21 proprietorship, limited liability company or employer.

22 "Department." The Department of Community and Economic
23 Development of the Commonwealth.

24 "Deteriorated property." Any blighted, impoverished area
25 containing residential, industrial, commercial or other real
26 property which is abandoned, unsafe, vacant, undervalued,
27 underutilized, overgrown, defective, condemned, demolished or
28 which contains economically undesirable land use. The term
29 includes property adjacent to deteriorated property which is
30 significantly undervalued and underutilized due to the proximity

1 of the deteriorated property.

2 "Domicile." The place where a person has a true and fixed
3 home and principal establishment for an indefinite time and to
4 which, whenever absent, that person intends to return. Domicile
5 continues until another place of domicile is established.

6 "Expansion subzone." A clearly defined geographic area
7 containing a minimum of 15 contiguous acres or a minimum of five
8 contiguous acres in a rural area.

9 "Improvement subzone." A clearly defined geographic area.

10 "Institution."

11 (1) Every bank operating as such and having capital
12 stock which is incorporated under any law of this
13 Commonwealth, under the law of the United States or under the
14 law of any other jurisdiction and is located within this
15 Commonwealth.

16 (2) Every operating company having capital stock located
17 within this Commonwealth having any of the powers of
18 companies entitled to the benefits of section 29 of the act
19 of April 29, 1874 (P.L.73, No.32), entitled "An act to
20 provide for the incorporation and regulation of certain
21 corporations," and any supplements thereto and under the act
22 of June 27, 1895 (P.L.399, No.286), entitled "An act
23 conferring upon certain fidelity, insurance, safety deposit,
24 trust and savings companies the powers and privileges of
25 companies incorporated under the provisions of section
26 twenty-nine of an act, entitled 'An act to provide for the
27 incorporation and regulation of certain corporations,'
28 approved April twenty-ninth, Anno Domini one thousand eight
29 hundred and seventy-four, and of the supplements thereto."

30 (3) Every company organized and operating as a bank and

1 trust company or as a trust company having capital stock
2 located in this Commonwealth, whether the institution is
3 incorporated under any law of this Commonwealth, the law of
4 the United States or any law of any jurisdiction. The term
5 shall not include any of such companies, all of the shares of
6 capital stock of which, other than shares necessary to
7 qualify directors, are owned by a company which is liable to
8 pay to the Commonwealth a tax pursuant to Article VII of the
9 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
10 Code of 1971.

11 (4) A mutual thrift institution.

12 "Insurance company." Every insurance company, association or
13 exchange incorporated or organized by or under the laws of this
14 Commonwealth, the United States, territories, dependencies,
15 other states or foreign governments and engaged in transacting
16 insurance business of any kind or classification within this
17 Commonwealth, except title insurance companies subject to tax
18 under Article VIII or XVI of the act of March 4, 1971 (P.L.6,
19 No.2), known as the Tax Reform Code of 1971, as the case may be,
20 except purely mutual beneficial associations whose funds for the
21 benefit of members and families or heirs are made up entirely of
22 the weekly, monthly, quarterly, semiannual or annual
23 contributions to their members and the accumulated interest
24 thereon and corporations organized under the former act of June
25 21, 1937 (P.L.1948, No.378), known as the Nonprofit Hospital
26 Plan Act, and under the former act of June 27, 1939 (P.L.1125,
27 No.399), known as the Nonprofit Medical, Osteopathic, Dental and
28 Podiatry Service Corporation Act.

29 "Keystone Act." The act of October 6, 1998 (P.L.705, No.92),
30 known as the Keystone Opportunity Zone and Keystone Opportunity

1 Expansion Zone Act.

2 "Keystone opportunity expansion zone." A defined geographic
3 area comprised of one or more political subdivisions or portions
4 of political subdivisions designated by the Department of
5 Community and Economic Development under Subch. B (relating to
6 keystone opportunity zones and keystone expansion zones). A
7 keystone opportunity expansion zone may be comprised of not more
8 than eight expansion subzones.

9 "Keystone opportunity zone." A defined geographic area
10 comprised of one or more political subdivisions or portions of
11 political subdivisions designated by the Department of Community
12 and Economic Development under Subch. B (relating to keystone
13 opportunity zones and keystone opportunity expansion zones). A
14 keystone opportunity zone may be comprised of not more than 12
15 subzones.

16 "Metropolitan statistical area." A core area containing a
17 city with a population of 50,000 or more or a Bureau of Census
18 defined urbanized area of 50,000 with a total metropolitan
19 population of at least 100,000.

20 "Mutual thrift institution." Every:

- 21 (1) savings bank without capital stock;
22 (2) building and loan association;
23 (3) savings and loan association;
24 (4) savings institution having capital stock;

25 whether the mutual thrift institution is incorporated under any
26 law of this Commonwealth or under the law of the United States,
27 or is incorporated under the law of any other jurisdiction and
28 is located within this Commonwealth.

29 "Opportunity plan." A written plan that addresses the
30 criteria and meets the requirements in section 3514(a) (relating

1 to application).

2 "Person." An individual.

3 "Political subdivision." A county, city, borough, township,
4 town or school district with taxing jurisdiction in a defined
5 geographic area within this Commonwealth.

6 "Qualified business." A business authorized to do business
7 in this Commonwealth that is located or partially located within
8 a subzone or expansion subzone and is engaged in the active
9 conduct of a trade or business in accordance with the
10 requirements of section 3519 (relating to qualified businesses)
11 for the taxable year. An agent, broker or representative of a
12 business is not engaged in the active conduct of trade or
13 business for the business.

14 "Qualified political subdivision." A political subdivision
15 that has real property within its jurisdiction which has been
16 designated by the department as a subzone or expansion subzone.

17 "Resident." A person who is domiciled and resides in an area
18 that is designated a subzone or expansion subzone and who meets
19 the requirements of section 3518 (relating to residency).

20 "Subzone." A clearly defined geographic area containing a
21 minimum of 20 contiguous acres or a minimum of ten contiguous
22 acres in a rural area.

23 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971, and any subsequent
25 amendments thereto.

26 SUBCHAPTER B

27 KEYSTONE OPPORTUNITY ZONES AND KEYSTONE

28 OPPORTUNITY EXPANSION ZONES

29 Sec.

30 3511. Keystone opportunity zones.

1 3512. Keystone opportunity expansion zones.
2 3513. Keystone opportunity improvement zones.
3 3514. Application.
4 3515. Review.
5 3516. Criteria for authorization of keystone opportunity
6 zone.
7 3517. Zone limitations.
8 3518. Residency.
9 3519. Qualified businesses.
10 3520. Forms.
11 3521. Decertification.
12 § 3511. Keystone opportunity zones.
13 (a) Establishment.--There is established within the
14 department a program providing for keystone opportunity zones. A
15 keystone opportunity zone shall be comprised of deteriorated
16 property and shall not exceed a total of 5,000 acres.
17 (b) Zone authorization.--The department shall authorize not
18 more than 12 keystone opportunity zones in this Commonwealth.
19 Persons and businesses within an authorized keystone opportunity
20 zone that are qualified under this chapter shall be entitled to
21 all tax exemptions, deductions, abatements or credits set forth
22 in Chapters 5 and 7 of the Keystone Act for a period not to
23 exceed 15 years beginning January 1, 1999, and ending on or
24 before December 31, 2013.
25 (c) Subzone designation.--The department may designate not
26 more than 12 subzones in each keystone opportunity zone. The
27 total number of subzone acres in a keystone opportunity zone
28 shall not exceed 5,000 acres in the aggregate.
29 (d) Authorization for local tax exemption.--Every political
30 subdivision within which a proposed subzone is located, whether

1 in whole or in part, is authorized to provide tax exemptions,
2 deductions, abatements or credits to persons and businesses
3 qualified under this chapter. The political subdivision must
4 agree to provide exemptions, deductions, abatements or credits
5 from all local taxes set forth in Chapter 7 of the Keystone Act
6 in order to qualify to be designated a subzone. Except as
7 provided in section 3515(e) (relating to review), the
8 exemptions, deductions, abatements or credits must be effective
9 January 1, 1999, if designation of a subzone within the
10 political subdivision is granted by the department. The
11 exemptions, deductions, abatements or credits shall be binding
12 upon the political subdivision for the duration of the subzone
13 designation.

14 (e) Authorization to extend the duration of a keystone
15 opportunity zone or subzone.--A subzone of a keystone
16 opportunity zone may request to extend its designation as a
17 subzone for a period of three years. A subzone that is part of a
18 keystone opportunity zone that will expire on December 31, 2008,
19 may extend its designation as a subzone to December 31, 2010, or
20 to December 31, 2013. The request to extend a subzone
21 designation must be made on a subzone-by-subzone basis. A
22 qualified political subdivision having an approved subzone
23 within its jurisdiction and seeking to extend the subzone
24 designation must pass the required ordinances, resolutions or
25 other required action of the qualified political subdivision for
26 the exemptions, deductions, abatements or credits set forth in
27 Chapter 7 of the Keystone Act for the period beginning after
28 December 31, 2008, or December 31, 2010, as the case may be, and
29 must submit copies of the ordinance, resolution or other action
30 to the department by June 30, 2001. The department may grant the

1 request to extend if all the proper binding ordinances,
2 resolutions or other governing documents are passed by all
3 qualified political subdivisions within the subzone extending
4 the necessary exemptions, deductions, abatements and credits to
5 the entire subzone to December 31, 2010, or December 31, 2013.
6 The department shall approve or deny the request for extension
7 of duration of a subzone by July 31, 2001, and shall provide
8 written notice, irrespective of whether approved or denied, to
9 each qualified political subdivision, resident and qualified
10 business affected. Upon approval of a request for extension of
11 duration of a subzone, the exemptions, deductions, abatements or
12 credits shall be binding upon the qualified political
13 subdivision as provided in subsection (d).

14 (f) Authorization to enhance existing subzones.--Unless as a
15 result of a request the limitation on size established in
16 subsection (a) would be exceeded, a subzone of a keystone
17 opportunity zone may request to enhance its size. The request to
18 enhance a subzone must be made on a subzone-by-subzone basis. A
19 qualified political subdivision having an approved subzone
20 within its jurisdiction which is seeking to enhance its size
21 must pass the required ordinances, resolutions or other required
22 action of the qualified political subdivision for the
23 exemptions, deductions, abatements or credits set forth in
24 Chapter 7 of the Keystone Act for the period beginning on the
25 date of designation and ending on the date the subzone expires
26 and must submit copies of the ordinance, resolution or other
27 action to the department by June 1, 2003.

28 § 3512. Keystone opportunity expansion zones.

29 (a) Establishment.--There is established within the
30 department a program providing for keystone opportunity

1 expansion zones. A keystone opportunity expansion zone shall be
2 comprised of deteriorated property and shall not exceed a total
3 of 1,500 acres.

4 (b) Authorization.--The department shall authorize not more
5 than 12 keystone opportunity expansion zones in this
6 Commonwealth. Persons and businesses within an authorized
7 keystone opportunity expansion zone that are qualified under the
8 Keystone Act shall be entitled to all tax exemptions,
9 deductions, abatements or credits set forth in Chapters 5 and 7
10 of the Keystone Act for a period of ten or 13 years beginning
11 January 1, 2001, and ending on December 31, 2010, or December
12 31, 2013.

13 (c) Expansion subzone designation.--The department may
14 designate not more than eight expansion subzones in a keystone
15 opportunity expansion zone. The total number of expansion
16 subzone acres in a keystone opportunity expansion zone shall not
17 exceed 1,500 acres in the aggregate.

18 (d) Authorization for local tax exemption.--Every political
19 subdivision within which a proposed expansion subzone is
20 located, whether in whole or in part, is authorized to provide
21 tax exemptions, deductions, abatements or credits to persons and
22 businesses qualified under this chapter for a period ending
23 December 31, 2010, or December 31, 2013. The exemption period
24 must be uniform within each expansion subzone. The political
25 subdivision must agree to provide exemptions, deductions,
26 abatements or credits from all local taxes set forth in Chapter
27 7 of the Keystone Act in order to qualify to be designated an
28 expansion subzone. The exemptions, deductions, abatements or
29 credits must be effective January 1, 2001, if designation of an
30 expansion subzone within the political subdivision is granted by

1 the department. The exemptions, deductions, abatements or
2 credits shall be binding upon the political subdivision for the
3 duration of the expansion subzone designation.

4 (e) Authorization to enhance existing expansion subzones.--
5 Unless as a result of a request the limitation on size
6 established in subsection (a) would be exceeded, a keystone
7 opportunity expansion zone may request to enhance its size. The
8 request to enhance the expansion zone must be made on an
9 expansion-subzone-by-expansion-subzone basis. A qualified
10 political subdivision which is seeking an expansion subzone
11 within its jurisdiction must pass the required ordinance,
12 resolution or other required action of the qualified political
13 subdivision for the exemptions, deductions, abatements or
14 credits set forth in Chapter 7 of the Keystone Act for the
15 period beginning on January 1, 2004, and ending on December 31,
16 2010, or on December 31, 2013. Copies of the ordinance,
17 resolution or other action must be submitted to the department
18 by December 31, 2003.

19 § 3513. Keystone opportunity improvement zones.

20 (a) Establishment.--There is established within the
21 department a program for keystone opportunity improvement zones.
22 A keystone opportunity improvement zone shall be comprised of
23 improvement subzones consisting of deteriorated property
24 designated by the Governor.

25 (b) Proposal.--By January 1, 2003, and notwithstanding any
26 designation under sections 3511 (relating to keystone
27 opportunity zones) and 3512 (relating to keystone opportunity
28 expansion zones), the Governor may, by executive order,
29 designate deteriorated property in this Commonwealth as a
30 proposed improvement subzone. The executive order shall specify

1 the period of time, not to exceed 15 years, for which the tax
2 exemptions, deductions, abatements or credits provided by
3 Chapters 5 and 7 of the Keystone Act may be granted. The
4 department shall immediately notify political subdivisions
5 located within the area designated.

6 (c) Application.--By June 1, 2004, a political subdivision
7 may apply to the department for approval of the designation of
8 the deteriorated property as an improvement subzone for the
9 period designated under subsection (b). The application must be
10 on a form provided by the department and must include a copy of
11 an ordinance, resolution or other required action from the
12 governing body of the political subdivision exempting or
13 providing the deductions, abatements or credits set forth in
14 Chapter 7 of the Keystone Act to qualified persons and qualified
15 businesses within the proposed improvement subzone. Except as
16 provided in section 3521 (relating to decertification), all
17 appropriate ordinances and resolutions must be effective for the
18 period specified in the executive order and must be binding and
19 nonrevocable on the political subdivision.

20 (d) Designation.--If all political subdivisions within a
21 proposed improvement subzone submit timely completed
22 applications, the department shall approve the applications and
23 designate the property as an improvement subzone. If a proposed
24 improvement subzone is an existing subzone or an existing
25 expansion subzone, failure of a political subdivision to submit
26 the application as required by this section shall not terminate
27 the existing designation as either a subzone or an expansion
28 subzone. Qualified persons and qualified businesses within the
29 improvement subzone shall be entitled to the State exemptions,
30 deductions, abatements or credits set forth in Chapter 5 of the

1 Keystone Act and the local tax exemptions, deductions,
2 abatements or credits set forth in Chapter 7 of the Keystone Act
3 for the period for which the improvement subzone has been
4 designated.

5 § 3514. Application.

6 (a) Initial application.--One or more political
7 subdivisions, or a designee of one or more political
8 subdivisions, may apply to the department to designate
9 deteriorated property within the political subdivision or
10 portions thereof a subzone or expansion subzone. The application
11 must contain the following:

12 (1) The geographic area of the proposed keystone
13 opportunity zone or proposed keystone opportunity expansion
14 zone. The geographic area must be located within the
15 boundaries of the participating political subdivision and
16 must not contain more than 5,000 acres in the case of a
17 keystone opportunity zone or 1,500 acres in the case of a
18 keystone opportunity expansion zone.

19 (2) An opportunity plan that must include the following:

20 (i) A detailed map of the proposed keystone
21 opportunity zone or proposed keystone opportunity
22 expansion zone, including geographic boundaries, total
23 area and present use and conditions of the land and
24 structures of the proposed keystone opportunity zone or
25 proposed keystone opportunity expansion zone.

26 (ii) Evidence of support from and participation of
27 local government, school districts and other educational
28 institutions, business groups, community organizations
29 and the public.

30 (iii) A proposal to increase economic opportunity,

1 reduce crime, improve education, facilitate
2 infrastructure improvement, reduce the local regulating
3 burden and identify potential jobs and job training
4 opportunities and which states whether or not the zone is
5 located in an area which has tax revenue dedicated to the
6 payment of debt.

7 (iv) A description of the current social, economic
8 and demographic characteristics of the proposed keystone
9 opportunity zone or proposed keystone opportunity
10 expansion zone and anticipated improvements in education,
11 health, human services, public safety and employment,
12 that will result from keystone opportunity zone or
13 keystone opportunity expansion zone designation.

14 (v) A description of anticipated activity in the
15 proposed keystone opportunity zone or proposed keystone
16 opportunity expansion zone, including, industrial use,
17 industrial site reuse, commercial or retail use and
18 residential use.

19 (vi) Evidence of potential private and public
20 investment in the proposed keystone opportunity zone or
21 proposed keystone opportunity expansion zone.

22 (vii) The role of the proposed keystone opportunity
23 zone or proposed keystone opportunity expansion zone in
24 regional economic and community development.

25 (viii) Plans to utilize existing resources for the
26 administration of the proposed keystone opportunity zone
27 or proposed keystone opportunity expansion zone.

28 (ix) Any other information deemed appropriate by the
29 department.

30 (3) A report on youth at risk to include issues relating

1 to health, welfare and education.

2 (4) The duration of the proposed subzones or proposed
3 expansion subzones. The duration of a subzone may not exceed
4 15 years. The duration of an expansion subzone may not exceed
5 13 years.

6 (5) A formal, binding ordinance or resolution passed by
7 every political subdivision in which the proposed subzone or
8 proposed expansion subzone is located that specifically
9 provides for all local tax exemptions, deductions, abatements
10 or credits for persons and businesses set forth in the
11 Keystone Act.

12 (6) Evidence that the proposed keystone opportunity zone
13 or proposed keystone opportunity expansion zone meets the
14 required criteria under section 3516 (relating to criteria
15 for authorization of keystone opportunity zone).

16 (a.1) Enhancement application.--One or more political
17 subdivisions within an existing keystone opportunity zone or
18 keystone opportunity expansion zone, or a designee of one or
19 more political subdivisions within an existing keystone
20 opportunity zone or keystone opportunity expansion zone, may
21 apply to the department to designate deteriorated property
22 within the political subdivision or portions of the political
23 subdivision as enhancements to a subzone or an expansion
24 subzone. The application must satisfy the requirements of
25 subsection (a)(1), (2), (3), (5) and (6).

26 (b) Participation limitation.--A political subdivision may
27 not be a part of more than one proposed keystone opportunity
28 zone or proposed keystone opportunity expansion zone. A proposed
29 expansion subzone may not overlap the boundaries of a subzone.

30 (c) Application limitation.--A political subdivision may

1 submit only one application to the department for authorization
2 as a keystone opportunity zone. A political subdivision may
3 submit only one application to the department for authorization
4 as a keystone opportunity expansion zone. A political
5 subdivision may submit only one application to the department
6 for designation of enhancements to existing keystone opportunity
7 zones and keystone opportunity expansion zones. If a political
8 subdivision seeks to enhance its existing keystone opportunity
9 zone under section 3511(f) (relating to keystone opportunity
10 zones) or a keystone opportunity expansion zone under section
11 3512(e) (relating to keystone opportunity expansion zones) and
12 the Governor has designated an improvement subzone located
13 within the political subdivision under section 3513(b) (relating
14 to keystone opportunity improvement zones), the political
15 subdivision must submit one application containing both the
16 request required by section 3511(f) or 3512(e) and the
17 application required by section 3513(c).

18 § 3515. Review.

19 (a) Action of department.--The department, in consultation
20 with the Department of Revenue, shall review all completed
21 applications submitted under this chapter. An application for
22 authorization as a keystone opportunity zone and designation of
23 subzones must be received by the department by September 30,
24 1998, in order to be considered by the department. An
25 application for authorization as a keystone opportunity
26 expansion zone and designation of expansion subzones must be
27 received by the department by February 28, 2001, in order to be
28 considered by the department. An application for enhancement of
29 an existing keystone opportunity zone or of a keystone
30 opportunity expansion zone must be received by the department by

1 December 31, 2003.

2 (b) Process.--The department shall authorize up to 12
3 keystone opportunity zones from applications meeting the
4 criteria in section 3516 (relating to criteria for authorization
5 of keystone opportunity zone), based upon need and likelihood of
6 success. The department shall authorize up to 12 keystone
7 opportunity expansion zones from applications meeting the
8 criteria in section 3516, based upon need and likelihood of
9 success. Additionally, the department shall not alter the
10 geographic boundaries of a subzone or expansion subzone or the
11 duration of a subzone or expansion subzone described in an
12 application. The department shall designate additional
13 enhancements to existing keystone opportunity zones and keystone
14 opportunity expansion zones from applications meeting the
15 criteria in section 3516 based upon need and likelihood of
16 success.

17 (c) Authorizations.--The department shall authorize all
18 keystone opportunity zones by November 30, 1998. The department
19 shall authorize all keystone opportunity expansion zones by
20 March 30, 2001. The department shall designate all enhancements
21 to existing keystone opportunity zones and to keystone
22 opportunity expansion zones by January 31, 2004.

23 (d) Effective date of designation.--The designation of a
24 subzone under this chapter shall take effect on January 1, 1999.
25 The designation of an expansion subzone under this chapter shall
26 take effect on January 1, 2001. The designation of enhancements
27 to existing keystone opportunity zones and to keystone
28 opportunity expansion zones under this chapter shall take effect
29 January 1, 2004.

30 (e) Extension.--The department may extend the deadline for

1 the receipt of applications for keystone opportunity zones until
2 December 31, 1998, if all 12 zones have not been authorized and
3 the extension is necessary to allow eligible political
4 subdivisions to apply. The department shall authorize additional
5 keystone opportunity zones under this subsection by February 28,
6 1999. The authorization shall take effect January 1, 1999; or,
7 if the authorization occurs after January 1, 1999, that
8 subsequent authorization shall for all purposes be retroactive
9 to January 1, 1999. The keystone opportunity zone authorization
10 shall end as provided in section 3511(b) (relating to keystone
11 opportunity zones).

12 § 3516. Criteria for authorization of keystone opportunity
13 zone.

14 (a) Specific criteria.--In order to qualify for
15 authorization under this chapter, the proposed keystone
16 opportunity zone or proposed keystone opportunity expansion zone
17 must meet at least two of the following criteria:

18 (1) At least 20% of the population is below the poverty
19 level.

20 (2) The unemployment rate is 1.25 times the Statewide
21 average.

22 (3) At least 20% of all real property within a five-mile
23 radius of the proposed keystone opportunity zone, proposed
24 keystone opportunity expansion zone, proposed subzone or
25 proposed expansion subzone in a nonurban area is deteriorated
26 or underutilized.

27 (4) At least 20% of all real property within a one-mile
28 radius of the proposed keystone opportunity zone, proposed
29 keystone opportunity expansion zone, proposed subzone or
30 proposed expansion subzone in an urban area is deteriorated

1 or underutilized.

2 (5) At least 20% of all occupied housing within a two-
3 mile radius of the proposed keystone opportunity zone,
4 proposed keystone opportunity expansion zone, proposed
5 subzone or proposed expansion subzone in a nonurban area is
6 deteriorated.

7 (6) At least 20% of all occupied housing within a one-
8 mile radius of the proposed keystone opportunity zone,
9 proposed keystone opportunity expansion zone, proposed
10 subzone or proposed expansion subzone in an urban area is
11 deteriorated.

12 (7) In an urban area, the median family income is 80% or
13 less of the urban median family income for that metropolitan
14 statistical area.

15 (8) In an area other than an urban area, the median
16 family income is 80% or less of the Statewide nonurban median
17 family income.

18 (9) The population loss exceeds 10% in an area that
19 includes the proposed keystone opportunity zone or proposed
20 keystone opportunity expansion zone and its surrounding area
21 but is not larger than the county or counties in which the
22 proposed keystone opportunity zone or proposed keystone
23 opportunity expansion zone is located, based on census data
24 for the period between 1980 and 1990 or census estimates
25 since 1990 establishing a pattern of population loss.

26 (10) The political subdivision in which the proposed
27 keystone opportunity zone or proposed keystone opportunity
28 expansion zone is located has experienced a sudden or severe
29 job loss.

30 (11) At least 33% of the real property in a proposed

1 keystone opportunity zone or proposed keystone opportunity
2 expansion zone in a nonurban area would otherwise remain
3 underdeveloped or nonperforming due to physical
4 characteristics of the real property.

5 (12) The area has substantial real property with
6 adequate infrastructure and energy to support new or expanded
7 development.

8 (b) Additional criteria.--In addition to the required
9 criteria under subsection (a), the department shall consider the
10 following criteria:

11 (1) Evidence of distress, including unemployment,
12 percentage of population below 80% of the State median
13 income, poverty rate, deteriorated property and adverse
14 economic and socioeconomic conditions, in the proposed
15 keystone opportunity zone or proposed keystone opportunity
16 expansion zone.

17 (2) The strength and viability of the proposed goals,
18 objectives and strategies, in the opportunity plan.

19 (3) Whether the opportunity plan is creative and
20 innovative in comparison to other applications.

21 (4) Local public and private commitment to the
22 development of the proposed keystone opportunity zone or
23 proposed keystone opportunity expansion zone and the
24 potential cooperation of surrounding communities.

25 (5) Existing resources available to the proposed
26 keystone opportunity zone or proposed keystone opportunity
27 expansion zone.

28 (6) How keystone opportunity zone or keystone
29 opportunity expansion zone authorization or economic
30 redevelopment relates to other current economic and community

development projects and to regional initiatives or programs.

(7) How the local regulatory burden will be eased for businesses operating in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(8) Proposals to implement educational opportunities and improvements.

(9) Crime statistics and proposals to implement local crime reduction measures.

(10) Proposals to establish and link job creation and job training.

(c) Tax exemption ordinances.--An area shall not be authorized as a keystone opportunity zone or a keystone opportunity expansion zone unless, as a part of the application, each political subdivision in which the proposed subzone or proposed expansion subzone is to be located adopts and provides a copy of an ordinance, resolution or other required action from the governing body of each political subdivision that exempts or provides deductions, abatements or credits to qualified persons and qualified businesses from local taxes upon designation of the area as a subzone or expansion subzone. All appropriate ordinances and resolutions must be effective by January 1, 1999, if designation as a subzone is granted. All appropriate ordinances and resolutions must be effective on January 1, 2001, if designation as an expansion subzone is granted. All appropriate ordinances and resolutions must be effective January 1, 2004, if designation of enhancements to an existing keystone opportunity zone or to a keystone opportunity expansion zone are granted. Except as provided in section 3521 (relating to decertification), the resolution, ordinance or other required action shall be binding and nonrevocable on the qualified

1 political subdivisions for the duration of the opportunity plan.

2 (d) Urban areas.--The department shall promulgate guidelines
3 that include the definition of "urban area" for the purposes of
4 receiving applications for authorization as a keystone
5 opportunity zone or keystone opportunity expansion zone.

6 § 3517. Zone limitations.

7 The department shall not authorize more than 12 keystone
8 opportunity zones within this Commonwealth. No subzone shall
9 encompass an entire political subdivision. The department shall
10 not authorize more than 12 keystone opportunity expansion zones
11 within this Commonwealth. No expansion subzones shall encompass
12 an entire political subdivision.

13 § 3518. Residency.

14 In order to qualify each year for the tax exemptions,
15 deductions, abatements or credits under Chapters 5 and 7 of the
16 Keystone Act, a person must be domiciled and must reside in a
17 subzone or expansion subzone for a period of 184 consecutive
18 days during each taxable year, which may begin on the date of
19 designation by the department or on the date the person first
20 resides within the subzone or expansion subzone.

21 § 3519. Qualified businesses.

22 (a) Qualifications.--In order to qualify each year for the
23 tax exemptions, deductions, abatements or credits under Chapters
24 5 and 7 of the Keystone Act, a business must own or lease real
25 property in a subzone, improvement subzone or expansion subzone
26 from which the business actively conducts a trade, profession or
27 business. The qualified business must receive certification from
28 the department that the business is located and is in the active
29 conduct of a trade, profession or business, within the subzone,
30 improvement subzone or expansion subzone. The business must

1 obtain annual renewal of the certification from the department
2 to continue to qualify under this section.

3 (b) Relocation.--

4 (1) Any business that relocates from outside a subzone,
5 improvement subzone or expansion subzone into a subzone,
6 improvement subzone or expansion subzone shall not receive
7 any of the exemptions, deductions, abatements or credits set
8 forth in the Keystone Act unless that business either:

9 (i) increases full-time employment by at least 20%
10 in the first full year of operation within the subzone,
11 improvement subzone or expansion subzone; or

12 (ii) makes a capital investment in the property
13 located within a subzone, improvement subzone or
14 expansion subzone equivalent to 10% of the gross revenues
15 of that business in the immediately preceding calendar or
16 fiscal year.

17 (2) The department, in consultation with the Department
18 of Revenue, may waive or modify the requirements of this
19 subsection, as appropriate.

20 § 3520. Forms.

21 (a) Application forms.--Applications for authorization as a
22 keystone opportunity zone or keystone opportunity expansion zone
23 must be on forms prescribed by the department.

24 (b) Department assistance.--The department shall assist
25 political subdivisions in using the Internet as a tool for
26 encouraging new business development, including assisting
27 political subdivisions in making available via the Internet
28 information, applications and other forms necessary under this
29 chapter or the Keystone Act.

30 § 3521. Decertification.

1 (a) Application.--One or more political subdivisions, or a
2 designee of one or more political subdivisions, may apply to the
3 department to decertify and remove the designation of
4 deteriorated property as part of a subzone, improvement subzone
5 or expansion subzone. The application must contain all of the
6 following:

7 (1) An identification of the property to be removed.

8 (2) A copy of an agreement which was supported by
9 consideration in which each entity which possesses an
10 interest in the real property to be removed, including any
11 holder of an option either to purchase the real estate or to
12 enter into a ground lease of the real estate or any other
13 leasehold interest in the real estate, waives the party's
14 right to any exemptions, deductions, abatements or credits
15 granted by the Keystone Act.

16 (3) A copy of a binding ordinance, resolution or other
17 governing document passed by the political subdivision
18 removing any exemptions, deductions, abatements or credits
19 set forth in Chapter 7 of the Keystone Act, effective upon
20 decertification by the department.

21 (b) Process.--The department may grant the request to
22 decertify and remove the property if completed applications have
23 been submitted by all qualified political subdivisions in which
24 the property is located.

25 CHAPTER 37

26 KEYSTONE INNOVATION ZONES

27 Sec.

28 3701. Scope of chapter.

29 3702. Definitions.

30 3703. Keystone innovation zones.

1 3704. Assistance.

2 3705. Expansion subzone designation.

3 § 3701. Scope of chapter.

4 This chapter deals with keystone innovation zones.

5 § 3702. Definitions.

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

9 "Department." The Department of Community and Economic
10 Development of the Commonwealth.

11 "Eligible property." Real property which is located within a
12 five-mile radius of an institution of higher education in a
13 rural setting and which is located within a one-mile radius of
14 an institution of higher education in an urban setting.

15 "Institution of higher education." A public or private
16 institution within this Commonwealth authorized by the
17 Department of Education to grant an associate degree or higher
18 academic degree.

19 "Keystone innovation zone." A clearly defined geographic
20 area comprised of eligible property designated by the Department
21 of Community and Economic Development.

22 "Qualified employer." An entity that meets all of the
23 following:

24 (1) Is located within a keystone innovation zone.

25 (2) Employs three or more individuals within the
26 keystone innovation zone.

27 (3) Has been in operation seven years or less.

28 "Secretary." The Secretary of Community and Economic
29 Development of the Commonwealth.

30 § 3703. Keystone innovation zones.

1 (a) Establishment.--There is hereby established within the
2 department a program to be known as the keystone innovation
3 zones program. The program shall provide economic assistance in
4 areas surrounding institutions of higher education.

5 (b) Application.--On or before January 1, 2005, an
6 institution of higher education may submit to the department an
7 application to establish a keystone innovation zone. The
8 application shall be on a form provided by the department and
9 shall include all of the following:

10 (1) A list of which eligible properties are to be
11 included in the keystone innovation zone.

12 (2) The name and address of the keystone innovation
13 zone.

14 (3) The name and address of the coordinator or executive
15 director of the keystone innovation zone.

16 (4) Any other information required by the department.

17 (c) Review and designation.--The department shall review the
18 application. Upon being satisfied that the application is
19 complete and accurate, the department may approve the
20 application. If the department approves the application, the
21 secretary shall designate the property as a keystone innovation
22 zone.

23 § 3704. Assistance.

24 (a) Existing programs.--A qualified employer shall be given
25 priority consideration in applying for assistance under any of
26 the programs established by:

27 (1) This part and Part IV (relating to economic
28 development financing).

29 (2) The act of May 17, 1956 (1955 P.L.1609, No.537),
30 known as the Pennsylvania Industrial Development Authority

1 Act.

2 (3) The act of August 23, 1967 (P.L.251, No.102), known
3 as the Economic Development Financing Law.

4 (4) The act of June 22, 2001 (P.L.569, No.38), known as
5 the Ben Franklin Technology Development Authority Act.

6 (5) The act of June 26, 2001 (P.L.755, No.77), known as
7 the Tobacco Settlement Act.

8 (b) Loans.--A qualified employer with a project approved for
9 financing under this part, Part IV or by the Pennsylvania
10 Industrial Development Authority shall receive the lowest
11 interest rate extended to borrowers.

12 (c) Grants.--The department may provide a one-time \$250,000
13 grant to a keystone innovation zone to establish and implement
14 the zone. The grant shall be drawn down as needed over a period
15 not to exceed the first five years of authorization as a
16 keystone innovation zone. Grant recipients shall comply with the
17 provisions of the grant.

18 § 3705. Expansion subzone designation.

19 (a) Establishment.--Notwithstanding sections 301.1, 303 and
20 304 of the act of October 6, 1998 (P.L. 705, No.92), known as the
21 Keystone Opportunity Zone and Keystone Opportunity Expansion
22 Zone Act, and within one year of being designated a keystone
23 innovation zone under this chapter, a keystone innovation zone
24 may apply to the department to be designated as an expansion
25 subzone under the Keystone Opportunity Zone and Keystone
26 Opportunity Expansion Zone Act. The application shall be on a
27 form provided by the department. In addition to the completed
28 application, the keystone innovation zone shall submit a copy of
29 an ordinance, resolution or other required action from the
30 governing body of each of the political subdivisions located

1 within the keystone innovation zone which exempts or provides
2 the deductions, abatements or credits required by Chapter 7 of
3 the Keystone Opportunity Zone and Keystone Opportunity Expansion
4 Zone Act to qualified persons and qualified businesses within
5 the keystone innovation zone as those terms are defined within
6 that act. The department may approve the application and
7 designate the property located within the keystone innovation
8 zone as an expansion subzone for the period beginning on the
9 date of designation and ending on December 31, 2013. Qualified
10 persons and qualified businesses within the expansion subzone
11 shall be entitled to the State tax exemptions, deductions,
12 abatements or credits set forth in Chapter 5 of the Keystone
13 Opportunity Zone and Keystone Opportunity Expansion Zone Act and
14 the local tax exemptions, deductions, abatements or credits set
15 forth in Chapter 7 of the Keystone Opportunity Zone and Keystone
16 Opportunity Expansion Zone Act for the period for which the
17 expansion subzone has been designated.

18 (b) Construction.--A keystone innovation zone designated an
19 expansion subzone under this section shall be subject to the
20 requirements of the Keystone Opportunity Zone and Keystone
21 Opportunity Expansion Zone Act.

22 PART IV

23 ECONOMIC DEVELOPMENT FINANCING

24 Chapter

- 25 41. Pennsylvania Industrial Development Authority (Reserved)
- 26 43. Pennsylvania Economic Development Financing Authority
- 27 45. Local Economic Development Financing Authority
- 28 (Reserved)
- 29 47. Pennsylvania Infrastructure Investment Authority
- 30 (Reserved)

1 CHAPTER 41

2 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

3 (RESERVED)

4 CHAPTER 43

5 PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY

6 Subchapter

7 A. General Provisions

8 B. Structure and Powers

9 C. Bonds

10 D. Programs

11 E. Miscellaneous

12 SUBCHAPTER A

13 GENERAL PROVISIONS

14 Sec.

15 4301. Scope of chapter.

16 4302. Definitions.

17 § 4301. Scope of chapter.

18 This chapter relates to the Pennsylvania Economic Development
19 Financing Authority.

20 § 4302. Definitions.

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

24 "Acquisition." The act of acquiring or equipping a project.
25 The term includes installation of equipment.

26 "Agricultural production." The raising, preparing or
27 marketing of crops, livestock or other related farm products.

28 "Applicant." A person that applies for financial assistance
29 in accordance with this chapter.

30 "Authority." The Pennsylvania Economic Development Financing

1 Authority created in section 4303 (relating to authority).

2 "Board." The board of Pennsylvania Economic Development
3 Financing Authority created in accordance with section 4304
4 (relating to board).

5 "Business site infrastructure." Tangible personal property
6 which is purchased and used to construct utility services and to
7 provide access to a location within the Commonwealth to be used
8 by a business. The term includes electric lines, water
9 pipelines, wastewater facilities and pipelines,
10 telecommunications lines, natural gas pipelines and roads. The
11 term does not include working capital, buildings or land except
12 those acquired to provide utilities or access to the location.

13 "Committee." The Project Review Committee established in
14 section 4303 (relating to authority).

15 "Construction." The act of erecting, reconstructing,
16 expanding, extending, improving, rehabilitating, remodeling,
17 renovating or repairing a building or structure employed in or
18 related to a project.

19 "Cost of the project." An expense associated with a project.
20 The term includes all of the following:

21 (1) Costs and expenses of acquisition of interests in
22 real estate, buildings, structures, equipment, furnishings
23 and other tangible or intangible property comprising the
24 project.

25 (2) Costs and expenses of construction of buildings and
26 structures.

27 (3) Costs and expenses of demolishing, removing or
28 relocating any buildings or structures on lands acquired or
29 to be acquired, including the cost or expense of acquiring
30 any lands onto which buildings or structures may be moved or

1 relocated.

2 (4) Financing charges and other costs and expenses of
3 financing and issuing bonds.

4 (5) Interest expenses prior to and during construction
5 and for a period of 12 months after construction is
6 completed, including any reserves for interest and such other
7 expenses as may be necessary or incidental to the
8 development, implementation or use of the project and
9 placement of the same in operation.

10 (6) Costs and expenses of administrative expenses and
11 professional services, including the costs of engineering,
12 financial services, accounting and legal services.

13 (7) Costs and expenses associated with the preparation
14 of plans, specifications, studies, surveys necessary or
15 incidental to determining the feasibility or practicability
16 of constructing the project.

17 (8) Operating capital or other capital needs related to
18 the project subject to limitation by the authority.

19 "Department." The Department of Community and Economic
20 Development of the Commonwealth.

21 "Economic Enhancement Fund." The Economic Enhancement Fund
22 established in 72 Pa.C.S. § 7203 (relating to establishment).

23 "Federal agency." The President of the United States of
24 America; the Congress and any department, agency or
25 instrumentality of the government of the United States of
26 America.

27 "Infrastructure." Tangible personal property which is
28 purchased and used in creation or provision of goods or
29 services. The term does not include working capital, buildings,
30 structures or land.

1 "Interagency project." A project which meets the definition
2 of project under the provisions of the act of March 1, 1988
3 (P.L.82, No.16), known as the Pennsylvania Infrastructure
4 Investment Authority Act.

5 "Local economic development agency." An entity certified as
6 an industrial development agency under the act of May 17, 1956
7 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial
8 Development Authority Act.

9 "Local economic development financing authority." An entity
10 created under the act of August 23, 1967 (P.L.251, No.102),
11 known as the Economic Development Financing Law.

12 "Manufacturer." An entity which is engaged in the giving of
13 new shapes, new qualities or new combinations to matter by the
14 application of skill and labor.

15 "Medical facility." A private entity licensed as a medical
16 facility under the act of June 13, 1967 (P.L.31, No.21), known
17 as the Public Welfare Code, or under the act of July 19, 1979
18 (P.L.130, No.48), known as the Health Care Facilities Act.

19 "Medical infrastructure." Tangible personal property which
20 is purchased and used by a medical facility in providing patient
21 care. The term does not include working capital, buildings,
22 structures or land.

23 "Municipal authority." A public authority created under 53
24 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the
25 former act of May 2, 1945 (P.L.382, No.164), known as the
26 Municipality Authorities Act of 1945.

27 "Project." An activity which increases economic activity
28 within this Commonwealth. The term includes the acquisition of
29 real or personal property, whether tangible or intangible.

30 "Project user." A person that owns, leases or uses all or

1 any part of a project.

2 "Water and wastewater infrastructure." Real property or
3 tangible personal property which is part of a publicly owned
4 facility or system:

5 (1) for the collection, treatment or disposal of sewage
6 and wastewater, including industrial waste; or

7 (2) for the supply, treatment, storage or distribution
8 of drinking water.

9 SUBCHAPTER B

10 STRUCTURE AND POWERS

11 Sec.

12 4303. Authority.

13 4304. Board.

14 4305. Powers and duties.

15 § 4303. Authority.

16 (a) Establishment.--There is hereby established a public
17 authority to be known as the Pennsylvania Economic Development
18 Financing Authority. The authority shall be an instrumentality
19 of the Commonwealth and a body corporate and politic which shall
20 assist persons in funding industrial and commercial development
21 within this Commonwealth.

22 (b) Governance.--The powers and duties of the authority
23 shall be exercised by a board.

24 (c) Committee.--There is hereby established a committee to
25 be known as the Project Review Committee. The committee shall
26 review and recommend certain projects to the board. The
27 committee shall be composed of the following five members:

28 (1) The Governor or the Secretary of the Budget.

29 (2) The Majority Leader of the Senate, or a designee.

30 (3) The Minority Leader of the Senate, or a designee.

1 (4) The Majority Leader of the House of Representatives,
2 or a designee.

3 (5) The Minority Leader of the House of Representatives,
4 or a designee.

5 The Governor or the Secretary of the Budget shall serve as
6 chairperson. The committee shall meet at the call of the
7 chairperson. Four members shall constitute a quorum, and the
8 consent of four members of the committee shall be required to
9 award a grant or recommend a loan for a project.

10 (d) Revenues.--Expenses of the authority shall be paid from
11 assets or income of the authority. Except as provided in this
12 chapter, the Commonwealth shall not be responsible for funding
13 the annual budget of the authority.

14 (e) Fiscal year.--The fiscal year of the authority shall be
15 the same as the fiscal year of the Commonwealth.

16 (f) Audit.--The authority shall conduct an independent audit
17 of its accounts and records annually.

18 (g) General Assembly review.--

19 (1) The Appropriations Committee of the Senate and the
20 Appropriations Committee of the House of Representatives
21 shall have the right at any time to examine the books,
22 accounts and records of the authority.

23 (2) The authority shall file an annual report with the
24 Appropriations Committee of the Senate and the Appropriations
25 Committee of the House of Representatives. The report shall
26 include all of the following:

27 (i) A copy of the authority's budget.

28 (ii) The total amount of debt service to become due
29 on authority bonds for the ensuing fiscal year, including
30 payments of interest and principal, maturity value or

1 sinking fund payments.

2 (iii) The amount, if any, due to any provider of any
3 credit or liquidity facility representing payments made
4 by the provider as provided in the applicable resolution
5 or trust indenture as a result of any previous failure of
6 the authority to make any payment provided for in the
7 applicable resolution or trust indenture, including any
8 related reasonable interest, fees or charges and interest
9 rate exchange agreements, interest rate cap and floor
10 agreements and other similar agreements which the
11 authority enters into to manage the interest costs of the
12 authority.

13 (iv) The amount, if any, required to restore a debt
14 service reserve fund and the resolution of the authority
15 establishing the fund.

16 (v) The amount, if any, required to be rebated to
17 the United States for continued Federal tax exemption for
18 bonds of the authority.

19 (h) Publication.--The authority shall annually publish a
20 concise financial statement in the Pennsylvania Bulletin.

21 (i) Funds of authority.--

22 (1) The authority may create funds and accounts
23 necessary or desirable for its corporate purposes and shall
24 pay into each fund or account any money of the authority
25 available. No other provision of this chapter shall be
26 construed to prohibit the authority from creating within any
27 fund one or more accounts which may be used or pledged by the
28 authority for a special purpose.

29 (2) All funds of the authority received from any source
30 shall be delivered to or upon the order of the treasurer of

1 the authority or to such other agent of the authority as the
2 board may designate. Funds received by the authority shall be
3 promptly deposited in a bank or banks in this Commonwealth
4 chosen by the board. The money in the accounts of the
5 authority may be paid by the treasurer of the authority or
6 other designated agent of the authority on warrant of the
7 treasurer of the authority. All deposits of money may, if
8 required by the authority, be secured by obligations of the
9 United States or of the Commonwealth of a market value equal
10 at all times to the amount of the deposit, and all banks and
11 trust companies are authorized to give security for such
12 deposits.

13 (3) Subject to the provisions of any agreements with
14 obligees of the authority, all funds of the authority,
15 including the proceeds from the sale of bonds, which are not
16 required for immediate use may be invested in obligations of
17 the Federal Government or of the Commonwealth or other
18 obligations which are legal investments for Commonwealth
19 funds.

20 (j) Termination.--The authority may, with the approval of
21 the Governor, terminate one year after all of its liabilities
22 have been fully paid and discharged. Upon the termination, all
23 of its rights and properties, including funds remaining in the
24 debt service reserve fund, shall be paid to the Commonwealth.

25 (k) Applicability.--The following acts shall apply to the
26 board:

27 (1) The act of June 21, 1957 (P.L.390, No.212), referred
28 to as the Right-to-Know Law.

29 (2) The act of July 19, 1957 (P.L.1017, No.451), known
30 as the State Adverse Interest Act.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

§ 4304. Board.

(a) Composition.--The board of the authority shall be composed of the following 15 members:

(1) The Secretary of Community and Economic Development.

(2) The Secretary of the Budget.

(3) The Secretary of Labor and Industry.

(4) The Secretary of Agriculture.

(5) The Secretary of Banking.

(6) One member appointed by the Majority Leader of the Senate, or a designee; one member appointed by the Minority Leader of the Senate, or a designee; one member appointed by the Majority Leader of the House of Representatives, or a designee; and one member appointed by the Minority Leader of the House of Representatives, or a designee. Legislative appointments shall serve at the pleasure of the appointing authority.

(7) Six members of the public with experience in finance or management appointed, with the advice and consent of the Senate, by the Governor.

(b) Term.--The members of the board appointed by the Governor shall serve for a term of three years.

(c) Organization.--The Secretary of Community and Economic Development shall serve as chairperson. The members of the board shall elect from among themselves a vice chairperson, secretary, treasurer and any other officers as they may determine.

(d) Meetings.--The board shall meet at the call of the chairperson but shall meet at least once each month.

1 (e) Quorum.--Eleven members of the board shall constitute a
2 quorum for the transaction of any authority business. The
3 consent of at least ten members of the board shall be necessary
4 to transact business on behalf of the authority.

5 (f) Expenses.--A member of the board shall not receive
6 compensation or remuneration, but shall be entitled to
7 reimbursement for all reasonable and necessary actual expenses.

8 (g) Public officials and party officers.--The members of the
9 board appointed by the Governor shall not seek or hold a
10 position as a public official within this Commonwealth or as a
11 party officer while being a member of the board.

12 (h) Liability.--Members of the board and the committee shall
13 not be liable personally on any obligations of the authority,
14 including, without limitation, bonds of the authority and shall
15 be immune from suit.

16 § 4305. Powers and duties.

17 (a) Powers.--The authority, through action of the board,
18 shall have all of the following powers:

19 (1) The power to adopt bylaws and guidelines as it deems
20 necessary.

21 (2) The power to contract and to execute instruments,
22 including financing agreements, letters of credit,
23 guarantees, sureties, mortgages, loans, standby loan
24 commitments and contracts of insurance, which are necessary
25 or convenient for the carrying on of its business.

26 (3) The power to sue and be sued, implead and be
27 impleaded, complain and defend in court.

28 (4) The power to borrow money, obtain lines and letters
29 of credit, incur debt and, in anticipation of the receipt of
30 income of the authority, make, issue and secure taxable and

1 tax-exempt bonds or notes, including limited obligation
2 revenue bonds.

3 (5) The power to acquire, accept, purchase, receive,
4 collect, hold, convey and invest funds, fees and property,
5 whether tangible or intangible, from all sources, directly or
6 by assignment, pledge or otherwise.

7 (6) The power to sell, transfer, convey and dispose of
8 any property, tangible or intangible.

9 (7) The power to adopt, use and alter at will a
10 corporate seal.

11 (8) The power to employ an executive director and such
12 other persons as are necessary or convenient for the carrying
13 on of its business.

14 (9) The power to retain counsel and auditors to render
15 professional services as the authority deems appropriate.

16 (10) The power to pledge the credit of the authority and
17 to provide security and liquidity as may be required by
18 creditors.

19 (11) The power to cooperate with any Federal agency or
20 Commonwealth agency.

21 (12) Any other power necessary or convenient for the
22 promotion or general welfare of the authority.

23 (b) Duties.--The authority shall provide financial
24 assistance to applicants for projects. The financial assistance
25 shall be in the form of loans or single-year or multiyear grants
26 and may include proceeds from the sale of bonds. Prior to
27 providing funds to an applicant, the authority shall enter into
28 a contract with the applicant. The contract shall include all of
29 the following:

30 (1) A provision requiring the applicant to repay any

1 grant made under this chapter from any proceeds resulting
2 from a sale or partial sale of the project by the applicant.
3 Grants shall be repaid in accordance with the following:

4 (i) If the project is sold less than two years after
5 receipt of the grant, the applicant shall pay to the
6 authority 90% of the grant received.

7 (ii) If the project is sold more than two years but
8 less than four years after receipt of the grant, the
9 applicant shall pay to the authority 80% of the grant
10 received.

11 (iii) If the project is sold more than four years
12 but less than six years after receipt of the grant, the
13 applicant shall pay to the authority 70% of the grant
14 received.

15 (iv) If the project is sold more than six years but
16 less than eight years after receipt of the grant, the
17 applicant shall pay to the authority 60% of the grant
18 received.

19 (v) If the project is sold more than eight years but
20 less than ten years after receipt of the grant, the
21 applicant shall pay to the authority 50% of the grant
22 received.

23 (2) Any other terms or conditions on the financial
24 assistance authorized by this chapter as the board determines
25 to be in the best interests of the Commonwealth.

26 (c) Limitations.--

27 (1) In accordance with section 8 of Article VIII of the
28 Constitution of Pennsylvania, the board and the authority
29 shall have no power to pledge the credit or taxing powers of
30 the Commonwealth or of a political subdivision or other

1 instrumentality of the Commonwealth, nor, except as provided
2 in this chapter, shall any of the bonds of the authority be
3 deemed a debt or liability of the Commonwealth or a political
4 subdivision or instrumentality of the Commonwealth.

5 (2) Except as provided in this chapter, the authority
6 shall be solely liable for the payment of the principal,
7 interest or premium on any bonds issued by the authority.
8 Except as provided in this chapter, the Commonwealth or a
9 political subdivision or instrumentality of the Commonwealth
10 shall have no legal or moral obligation for the payment of
11 any expenses or obligations of the authority, including bond
12 principal and interest, the funding or refunding of any
13 reserves and any administrative or operating expenses
14 whatsoever. Bonds issued by the authority shall contain a
15 prominent statement of the limitations set forth in this
16 subsection and shall further recite that obligees of the
17 authority shall have no recourse, either legal or moral, to
18 the Commonwealth or a political subdivision or
19 instrumentality of the Commonwealth for payment of the bonds
20 of the authority.

21 SUBCHAPTER C

22 BONDS

23 Sec.

24 4306. Bonds issuances.

25 4307. Commonwealth taxation.

26 4308. Federal taxation.

27 4309. Validity of bonds; limitation on actions.

28 4310. Provisions of bonds; trust indentures.

29 4311. Remedies of obligee of authority.

30 4312. Validity of pledge.

1 4313. Commonwealth pledges.
2 4314. Resolution and law are contracts with holders of bonds.
3 4315. Bonds to be legal investments.
4 4316. Right to enforcement of pledge of revenues.
5 4317. Debt service reserve fund.
6 4318. Debt service funds.
7 § 4306. Bonds issuances.

8 (a) Authorization.--

9 (1) Bonds of the authority, whether taxable or tax
10 exempt, shall be authorized by a resolution of the board and
11 shall be of a series, bear such date or dates and bear or
12 accrue interest at the rate or rates determined by the board
13 to be necessary to issue and sell the authorized bonds.

14 (2) The bonds shall:

15 (i) be in the denominations;

16 (ii) be in the form, either coupon or fully
17 registered without coupons or in certificated or book-
18 entry-only form;

19 (iii) carry such registration, exchangeability and
20 interchangeability privileges;

21 (iv) be payable in the medium of payment and at such
22 place or places;

23 (v) be subject to the terms of redemption; and

24 (vi) be entitled to the priorities of payment in the
25 revenues or receipts of the authority as the board
26 provides by resolution.

27 (3) Bonds shall be signed by or shall bear the facsimile
28 signatures of the officer designated by the board.

29 (4) Interest coupons shall be attached to coupon bonds
30 and shall bear the facsimile signature of the treasurer of

1 the authority.

2 (5) Bonds shall be authenticated by an authenticating
3 agent, fiscal agent or trustee.

4 (6) Bonds may be issued and delivered notwithstanding
5 that the officer signing the bonds or the treasurer whose
6 facsimile signature is on a coupon shall have ceased to be
7 the officer at the time when the bond is actually delivered.

8 (b) Maturity date.--

9 (1) Except as provided in paragraph (2), bonds issued to
10 finance the costs of a project shall mature at a time or
11 times not exceeding the weighted average useful life of the
12 projects being financed and in no event exceeding 30 years
13 from their respective dates of original issue.

14 (2) Bonds issued in anticipation of income of the
15 authority shall mature within the fiscal year of the date of
16 issuance thereof, except for bonds issued in anticipation of
17 a grant or appropriation from the Commonwealth, a
18 Commonwealth agency or a Federal agency, which bonds shall
19 mature no later than the time of anticipated receipt of the
20 grant or appropriation.

21 (c) Sale.--Bonds may be sold at public sale or invited sale
22 for the price or prices and at the rate or rates of interest as
23 the authority determines. Bonds may be sold at private sale by
24 negotiation at the price or prices and at the rate or rates of
25 interest as the authority determines, but only if the authority
26 makes a written public explanation of the circumstances and
27 justification for the private sale by negotiation. Pending the
28 preparation of the definitive bonds, interim receipts may be
29 issued to the purchaser or purchasers of the bonds and shall
30 contain the terms and conditions established by the authority.

1 The authority shall ensure that minority-owned or minority-
2 controlled firms shall have a opportunity to participate in a
3 significant way in any bond sale activities.

4 (d) Negotiable instruments.--Bonds of the authority shall
5 have the qualities of negotiable instruments under 13 Pa.C.S.
6 (relating to commercial code).

7 (e) Use of proceeds.--The proceeds of an issue of bonds may
8 be used for any of the following:

9 (1) To pay the costs of issuance of the bonds.

10 (2) To fund reserves for the bond.

11 (3) To capitalize interest on the bonds for a period not
12 to exceed 12 months.

13 (4) To pay costs of administration of the authority.

14 (5) To make grants in accordance with sections 4321
15 (relating to Water and Wastewater Infrastructure
16 Capitalization Program) and 4324 (relating to Economic
17 Enhancement Financing Program).

18 (6) To make loans in accordance with sections 4319
19 (relating to the Infrastructure Development Program), 4320
20 (relating to Core Industries Infrastructure Capitalization
21 Program), 4321, 4322 (relating to Business in Our Sites
22 Program), 4323 (relating to First Industries Program), 4324
23 and 4325 (relating to Secondary Growth Stage Financing
24 Program).

25 (7) To purchase loans, mortgages, security interests or
26 loan participations agreements which the authority determines
27 is in its best interest.

28 (f) Refunding.--Subject to provisions of this chapter and
29 bonds, notes or other obligations issued in accordance with this
30 chapter, the authority may refund any outstanding debt of the

1 authority, whether the debt represents principal or interest, in
2 whole or in part, at any time. For the purposes of this
3 subsection, the term "refund" and its variations shall mean the
4 issuance and sale of obligations the proceeds of which are used
5 or are to be used for the payment or redemption of outstanding
6 obligations upon or prior to maturity. The term of any bonds
7 issued for refunding purposes shall not extend to a maturity
8 date which could not have been included in the original issue of
9 bonds being refunded.

10 § 4307. Commonwealth taxation.

11 The effectuation of Subchapter D (relating to programs) by
12 the authority shall and will be in all respects for the benefit
13 of the people of this Commonwealth, for the increase of their
14 commerce and prosperity and for the improvement of their health,
15 safety, welfare and living conditions. Since the authority will
16 be performing essential governmental functions in effectuating
17 such purposes, the authority shall not be required to pay any
18 taxes or assessments upon any property acquired or used or
19 permitted to be used by the authority for its purposes, and the
20 bonds issued by the authority, their transfer and the income
21 therefrom, including any profits made on their sale, shall at
22 all times be free from State and local taxation within this
23 Commonwealth. This exemption shall not extend to gift, estate,
24 succession or inheritance taxes or any other taxes not levied
25 directly on the bonds, their transfer, the income therefrom or
26 the realization of profits on their sale.

27 § 4308. Federal taxation.

28 (a) Allocation.--If the bonds issued by the authority for a
29 project are federally tax-exempt bonds for which Federal law
30 requires an allocation, the department shall, upon receipt of a

1 written request from the authority, issue an allocation charging
2 the project's pro rata share of the issue to the county in which
3 the project will be located.

4 (b) Approval.--If gubernatorial approval is required by a
5 Federal agency in order for a bond issue of the authority to
6 qualify for tax-exempt status, the Governor shall, upon receipt
7 of a written request from the authority, approve the bond issue.
8 The request shall state that the authority has conducted a
9 hearing in accordance with 65 Pa.C.S. Ch. 7 (relating to open
10 meetings) and shall contain a description of the project to be
11 financed, a summary of the method of financing and a summary of
12 the comments made and questions posed at the hearing.

13 § 4309. Validity of bonds; limitation on actions.

14 (a) Presumption.--A bond reciting in substance that it has
15 been issued by the authority to accomplish the public purposes
16 of this chapter shall be conclusively deemed in any suit, action
17 or proceeding involving the validity or enforceability of the
18 bonds or their security to have been issued for the public
19 purposes of this chapter.

20 (b) Filing.--

21 (1) The authority shall file a copy of a resolution
22 authorizing the issuance of bonds in its office for public
23 inspection and shall publish in three newspapers of general
24 circulation in this Commonwealth a notice stating:

25 (i) The fact and date of the resolution.

26 (ii) The places where the resolution has been filed
27 for public inspection.

28 (iii) The date of publication of the notice.

29 (iv) Any action or proceeding of any kind or nature
30 in any court questioning the validity or proper

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

5 (2) If no action or proceeding questioning the validity
6 or proper authorization of bonds provided for by the
7 resolution referred to in the notice required under paragraph
8 (1) or questioning the validity of any covenant, agreement or
9 contract provided by the resolution is commenced within ten
10 days after the publication of the notice required under
11 paragraph (1):

12 (i) All persons shall be forever barred and
13 foreclosed from instituting or commencing any action or
14 proceeding in any court or pleading any defense to any
15 action or proceedings questioning the validity or proper
16 authorization of the bonds or the validity of the
17 covenants, agreements or contracts; and

18 (ii) the bonds, covenants, agreements and contracts
19 shall be conclusively deemed to be valid and binding
20 obligations in accordance with their terms and tenor.

21 (c) Estoppel.--After issuance, bonds shall be conclusively
22 presumed to be fully authorized and issued by all the laws of
23 this Commonwealth, and any person shall be estopped from
24 questioning their sale, execution or delivery by the authority.
25 § 4310. Provisions of bonds; trust indentures.

26 (a) Powers.--In connection with the issuance of bonds and in
27 order to secure the payment of its bonds, the authority, in
28 addition to its other powers, shall have the power to do all of
29 the following:

30 (1) Pledge or grant a security interest in all or any

1 part of its gross or net revenues to which its right then
2 exists or which may later come into existence.

3 (2) Grant a security interest in all or any part of its
4 personal property then owned or later acquired.

5 (3) Covenant against:

6 (i) pledging or granting a security interest in all
7 or any part of its revenues or all or any part of its
8 personal property to which its right or title exists or
9 which may later come into existence; or

10 (ii) permitting or suffering any lien on its
11 revenues or property.

12 (4) Covenant with respect to limitations on its right to
13 sell, lease or otherwise dispose of any of its real property.

14 (5) Covenant as to which other or additional debts or
15 obligations may be incurred by it.

16 (6) Covenant as to the bonds to be issued and as to the
17 issuance of the bonds, in escrow or otherwise, and as to the
18 use and disposition of the proceeds thereof.

19 (7) Provide for the replacement of lost, destroyed or
20 mutilated bonds.

21 (8) Covenant against extending the time for the payment
22 of bonds or interest thereon.

23 (9) Redeem bonds.

24 (10) Covenant for their redemption and provide the terms
25 and conditions thereof.

26 (11) Covenant as to the amount of revenues to be
27 received in each fiscal year or other period of time by the
28 authority and to the use and disposition to be made of the
29 revenues.

30 (12) Create or authorize the creation of special funds

1 or reserves for debt service or other purposes and covenant
2 as to the use and disposition of the money held in the
3 special funds.

4 (13) Prescribe the procedure, if any, by which the terms
5 of any contract with bondholders may be amended or abrogated,
6 the amount of bonds the holders of which must consent to and
7 the manner in which the consent may be given.

8 (14) Covenant as to the use of any or all of its real or
9 personal property to warrant its title.

10 (15) Covenant as to the maintenance of its real and
11 personal property, the replacement of its real and personal
12 property, the insurance to be carried on its real and
13 personal property and the use and disposition of insurance
14 proceeds.

15 (16) Covenant as to the rights, liabilities, powers and
16 duties arising upon the breach by it of any covenant,
17 condition or obligation, except that the authority shall not
18 be permitted to covenant that upon a breach any or all of its
19 bonds shall become or may be declared due before their stated
20 maturity.

21 (17) Pay the costs or expenses incident to:

22 (i) the enforcement of the bonds;

23 (ii) the provisions of the resolution authorizing
24 the issuance of the bonds;

25 (iii) the trust indenture securing the bonds; or

26 (iv) any covenant or agreement of the financing
27 authority with the holders of the bonds, notes or other
28 obligations.

29 (18) Vest in a trustee or the holders of bonds or any
30 proportion of them the right to enforce the payment of the

1 bonds or any covenants securing or relating to the bonds.

2 (19) Vest in a trustee the right, in the event of
3 default in payments of interest or on principal of bonds by
4 the authority, to take possession and use, operate and manage
5 any real or personal property, to collect the revenues and
6 receipts of an authority and to dispose of the money in
7 accordance with the agreement of the authority with the
8 trustee.

9 (20) Provide for the:

10 (i) powers and duties of a trustee and to limit the
11 trustee's liabilities; and

12 (ii) terms and conditions upon which a trustee or
13 the holders of bonds or any proportion of them may
14 enforce any covenant or rights securing or relating to
15 the bonds.

16 (21) Enter into interest rate exchange agreements,
17 interest rate cap and floor agreements and other similar
18 agreements which in the judgment of the authority will assist
19 the authority in managing the interest costs of the
20 authority.

21 (22) Obtain letters of credit, bonds insurance and other
22 facilities for credit enhancement and liquidity.

23 (23) Exercise all or any part or combination of the
24 powers granted in this chapter.

25 (24) Make covenants other than and in addition to the
26 covenants expressly authorized by this chapter.

27 (25) Make any other covenants and do any and all other
28 acts and things as may be necessary, convenient or desirable
29 in order to secure its bonds or, in the absolute discretion
30 of the authority, as will tend to accomplish the purposes of

1 this chapter by making the bonds more marketable,
2 notwithstanding that the covenants, acts or things may not be
3 specifically enumerated by this chapter.

4 (b) Limitations.--Notwithstanding any provision of this
5 chapter to the contrary, the real property of the authority
6 shall not be mortgaged and shall not be subject to attachment
7 nor levied upon by execution or otherwise. The revenues of the
8 authority and the personal property of the authority shall be
9 pledged or otherwise encumbered only as expressly provided in
10 this chapter and, except to the extent necessary to effectuate
11 the pledge or encumbrance, shall not be subject to attachment
12 nor levied upon by execution or otherwise.

13 § 4311. Remedies of obligee of authority.

14 In addition to all other rights which may be conferred on the
15 obligee subject only to any contractual restrictions binding
16 upon the obligee, an obligee of the authority shall have all of
17 the following rights:

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

26 (2) To obtain, by proceeding in equity, an injunction
27 against any acts or things which may be unlawful or the
28 violation of any of the rights of the obligee.

29 (3) To require the authority to account as if it were
30 the trustee of an express trust for the obligees of the

1 authority for any pledged revenues received.

2 § 4312. Validity of pledge.

3 Any pledge of or grant of a security interest in revenues or
4 personal property of the authority made by the authority shall
5 be valid and binding from the time when the pledge is made. The
6 revenues or other property pledged and later received by the
7 authority shall immediately be subject to the lien of the pledge
8 or security interest without any physical delivery thereof or
9 further act. The lien of the pledge or security interest shall
10 be valid and binding as against all parties having claims of any
11 kind in tort, contract or otherwise against the authority
12 irrespective of whether the parties have notice. Neither the
13 resolution nor any other instrument of the authority by which a
14 pledge or security interest is created need be recorded or filed
15 to perfect the pledge or security interest.

16 § 4313. Commonwealth pledges.

17 (a) Bondholders.--The Commonwealth does hereby pledge to and
18 agree with each and every obligee of the authority that the
19 Commonwealth will not limit or alter the rights hereby vested in
20 the authority in any manner inconsistent with the obligations of
21 the authority to its obligees until all bonds at any time
22 issued, together with the interest on the bonds, are fully paid
23 and discharged.

24 (b) Lessees.--The Commonwealth does hereby pledge to and
25 agree with any person who, as owner of property that is leased
26 or subleased to or from the authority, that it will not limit or
27 alter the rights and powers vested in the authority or otherwise
28 created by this chapter in any manner which impairs the
29 obligations of the authority until all the obligations of the
30 authority under the lease or sublease are fully met and

1 discharged.

2 § 4314. Resolution and law are contracts with holders of bonds.

3 Except as otherwise provided in any resolution of the
4 authority authorizing or awarding bonds, the terms of a
5 resolution and any agreement authorized by the resolution and
6 the terms of this chapter as in effect when the bonds were
7 authorized shall constitute a contract between the authority and
8 the obligees, subject to modification by the vote by holders of
9 the percentage of bonds as the resolution authorizing or
10 awarding the bonds provides.

11 § 4315. Bonds to be legal investments.

12 Bonds issued pursuant to this chapter are made securities in
13 which all government agencies, insurance companies, trust
14 companies, banking associations, banking corporations, savings
15 banks, investment companies, executors, the trustees of any
16 retirement, pension or annuity fund or system of the
17 Commonwealth, trustees and other fiduciaries may properly and
18 legally invest funds, including capital, deposits or other funds
19 in their control or belonging to them. The bonds are hereby made
20 securities which may properly and legally be deposited with and
21 received by any government agency for any purpose for which the
22 deposit of bonds or other obligations of the Commonwealth are
23 authorized by law.

24 § 4316. Right to enforcement of pledge of revenues.

25 The obligees of the authority shall have the right to enforce
26 a pledge of or security interest in revenues of the authority
27 securing payment of bonds of the authority against all
28 government agencies in possession of any such revenues at any
29 time. The revenues may be collected directly from such officials
30 upon notice by the obligees or a trustee for the obligees for

1 application to the payment of the bonds as and when due or for
2 deposits in any sinking, bond or debt service fund established
3 in accordance with this chapter or established by resolution of
4 the authority with the trustee at the times and in the amounts
5 specified in the bonds or the resolution or indenture or trust
6 agreement securing the bonds. Any government agency in
7 possession of any such revenues shall make payment against
8 receipt and shall be discharged from any further liability or
9 responsibility for such revenues. If payment is made to a holder
10 of bonds, it shall be made against surrender of the bonds to the
11 payor for delivery to the authority in the case of payment in
12 full; otherwise, it shall be made against production of the
13 bonds for notation thereon of the amount of the payment. The
14 provisions of this section with respect to the enforceability
15 and collection of revenues which secure bonds shall supersede
16 any contrary or inconsistent statutory provision or rule of law.
17 This section shall be construed and applied to fulfill the
18 legislative purpose of clarifying and facilitating the financing
19 of the authority by assuring to the obligees of the authority
20 the full and immediate benefit of the security for the bonds
21 without delay, diminution or interference based on any statute,
22 decision, ordinance or administrative rule or practice.

23 § 4317. Debt service reserve fund.

24 (a) Authorization.--

25 (1) The authority may establish one or more debt service
26 reserve funds into which it shall deposit:

27 (i) Proceeds from the sale of bonds, to the extent
28 provided in the resolution or resolutions authorizing the
29 bonds.

30 (ii) Any other money made available to the authority

1 from any source.

2 (2) All money held in any debt service reserve fund,
3 except as provided in this subsection, shall be used when
4 required solely for the:

5 (i) payment of the principal of bonds secured in
6 whole or in part by the fund;

7 (ii) payment of sinking fund payments, if any, with
8 respect to the bonds;

9 (iii) purchase or redemption of bonds;

10 (iv) payment of interest on bonds; or

11 (v) payment of any redemption premium required to be
12 paid when bonds and notes are redeemed prior to maturity.

13 (3) Any debt service reserve fund established pursuant
14 to this section shall be a trust fund held for the benefit
15 and security of the obligees of the authority whose bonds are
16 secured by the fund.

17 (4) Money in a debt service reserve fund shall not be
18 withdrawn from the fund at any time in an amount that would
19 reduce the amount of the fund to less than the minimum
20 reserve fund requirement established for the fund in the
21 resolution of the authority creating the fund, except for
22 withdrawals for the purpose of making payments when due of
23 principal, interest, redemption premiums and sinking fund
24 payments, if any, with respect to the bonds for the payment
25 of which other money of the authority are not available.

26 (5) Any income or interest earned by or increments to
27 any debt service reserve fund due to the investment thereof
28 may be transferred by the authority to other funds or
29 accounts of the authority to the extent the transfer does not
30 reduce the amount of the debt service reserve fund below the

1 minimum reserve fund requirement established for that fund.

2 (6) Funds transferred to other accounts in accordance
3 with the requirements of paragraph (5) may be used for
4 whatever purposes the authority deems appropriate if the
5 purposes are consistent with this chapter and the contracts
6 of the authority with obligees of the authority.

7 (b) Bond limitation.--The authority shall not at any time
8 issue bonds secured in whole or in part by a debt service
9 reserve fund if issuance of the bonds would cause the amount in
10 the debt reserve fund to fall below the minimum reserve
11 requirement for the fund, unless the authority at the time of
12 issuance of the bonds shall deposit in the fund an amount, from
13 the proceeds of the bonds to be issued or from other sources,
14 which when added to the amount already in the fund will cause
15 the total amount on deposit in the fund to equal or exceed the
16 minimum reserve fund requirement.

17 (c) Definition.--For the purposes of this section, the term
18 "minimum reserve fund requirement" shall mean that amount
19 defined as the minimum reserve fund requirement in the
20 resolution of the authority authorizing the bonds.

21 § 4318. Debt service funds.

22 Any money deposited in any fund created by the authority to
23 be used to pay debt service, including, without limitation, the
24 bond payment account, any sinking fund or debt service reserve
25 fund and all investments and proceeds of investments thereof
26 shall, without further action or filing, be subjected to a
27 perfected security interest for the obligees of the authority
28 for whom the fund is held until the money or investments shall
29 be properly disbursed in accordance with this chapter and with
30 the terms of the contract of the authority with its obligees.

SUBCHAPTER D

PROGRAMS

Sec.

4319. Infrastructure Development Program.

4320. Core Industries Infrastructure Capitalization Program.

4321. Water and Wastewater Infrastructure Capitalization
Program.

4322. Business in Our Sites Program.

4323. First Industries Program.

4324. Economic Enhancement Financing Program.

4325. Secondary Growth Stage Financing Program.

4326. Community Development Bank Program. (Reserved)

§ 4319. Infrastructure Development Program.

(a) Establishment.--There is hereby established within the authority a program to be known as the Infrastructure Development Program. The program shall provide financial assistance in the form of loans for projects which, when completed, increase economic development within this Commonwealth.

(b) Application.--A person may submit an application to the authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the amount of finance assistance sought.

(3) A statement of the project, including a detailed statement of the cost of the project.

(4) A firm financial commitment from a responsible source for any cost of the project in excess of the amount

1 requested.

2 (5) A firm commitment from the applicant or project user
3 to use or lease the project upon completion.

4 (6) Any other information required by the authority.

5 (c) Additional requirements for certain projects.--If the
6 applicant is not a political subdivision, local economic
7 development agency or local economic development financing
8 authority, the applicant shall, in addition to the information
9 required by subsection (b), submit a copy of the document
10 verifying approval of the project by the appropriate local
11 economic development agency or local economic development
12 financing authority. If the applicant is requesting financial
13 assistance for a project which is an interagency project, the
14 applicant shall, in addition to the information required by
15 subsection (b), submit a copy of the document issued by the
16 Pennsylvania Infrastructure Investment Authority referring the
17 applicant to the authority for financial assistance. If the
18 applicant is not a municipality or municipal authority and is
19 requesting financial assistance for a project constructing or
20 improving transportation infrastructure, the applicant shall, in
21 addition to the information required by subsection (b), submit a
22 copy of the document verifying approval of the project by the
23 appropriate municipality or municipal authority or a
24 Commonwealth agency and a determination by the applicant that
25 financing the project through the authority will reduce the cost
26 of the project.

27 (d) Local economic development agencies.--If the applicant
28 is a local economic development agency, in addition to the
29 information required by subsection (b), the applicant shall do
30 all of the following:

1 (1) Be incorporated under the laws of this Commonwealth.

2 (2) Agree to be bound by the rules of the authority
3 relating to projects which receive financial assistance under
4 this chapter.

5 (3) Agree to submit to examination of its books, records
6 and accounts by the authority at times as the authority may
7 require during the term of any loan made to it by the
8 authority.

9 (e) Local economic development financing authorities.--If
10 the applicant is a local economic development financing
11 authority, in addition to the information required by subsection
12 (b), the applicant shall do all of the following:

13 (1) Submit an application verified by the chairperson of
14 the local economic development financing authority and any
15 other information required by the authority, including any
16 application fee.

17 (2) Agree to be bound by the rules of the authority
18 relating to projects which receive financial assistance under
19 this chapter.

20 (3) Agree to submit to examination of its books, records
21 and accounts by the authority at times as the authority may
22 require during the term of any loan made to it by the
23 authority.

24 (f) Review.--Within 45 days of a completed application being
25 submitted, the board shall review the application to determine
26 all of the following:

27 (1) If the financial commitment exists for any cost of
28 the project in excess of the amount requested.

29 (2) If the financial commitment from the source is firm.

30 (3) If the source of the financial commitment is

1 responsible.

2 (4) If the commitment to use or lease the project upon
3 completion is firm.

4 (5) If, in the case where the project will not be used
5 by the applicant, the project user may reasonably be expected
6 to comply with the terms of the use or lease.

7 (6) If the applicant satisfied the requirements of
8 subsections (c), (d) and (e), if applicable.

9 (7) If the project complies with all other rules and
10 regulations of the authority governing projects.

11 (g) Approval.--Upon being satisfied that all applicable
12 requirements have been met, the board may approve the
13 application. If the board approves the application, the board
14 shall enter into a contract with the applicant and finance the
15 loan.

16 (h) Applicability.--If a project of a local economic
17 development agency or a local economic development financing
18 authority has been approved for financing and the project is to
19 be financed with the proceeds of bonds which are not exempt from
20 Federal income taxation, the provisions of Chapter 27 of the act
21 of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement
22 Act, shall not apply to the financing of the project.

23 (i) Limitations.--

24 (1) Except upon foreclosure or default or violation of a
25 loan made, the authority may not approve an application and
26 finance a project if the authority would be required to
27 operate, service or maintain the project under a lease or
28 other agreement. Nothing in this paragraph shall prohibit the
29 authority from approving an application or financing a
30 project if, at the end of the term of a loan, the authority

transferred the project to the applicant, any project user or a designee of either.

(2) The authority may not approve an application and finance a project which is a public facility if the authority determines that, if the project was financed by an entity other than the authority, the project could receive a rating of A or better from either Moodys Investors Service or Standard & Poors Corporation.

§ 4320. Core Industries Infrastructure Capitalization Program.

(a) Establishment.--There is established within the authority a program to be known as the Core Industries Infrastructure Capitalization Program. The program shall provide financial assistance in the form of loans to all of the following:

(1) To medical facilities for the acquisition or construction of projects which, when completed, improve or construct medical infrastructure directly related to patient safety.

(2) To manufacturers for the acquisition or construction of projects which, when completed, improve or construct infrastructure which creates additional full-time jobs.

(b) Application.--A medical facility or a manufacturer may submit an application to the authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the amount of financial assistance sought.

(3) A statement of the project, including a detailed

1 statement of the cost of the project, and how it directly
2 relates to patient safety.

3 (4) A firm financial commitment from a responsible
4 source for any cost of the project in excess of the amount
5 requested.

6 (5) A firm commitment from the applicant to use or lease
7 the project upon completion.

8 (6) Any other information required by the authority.

9 (c) Review.--The authority shall forward the application to
10 the committee when it is complete. The committee shall review
11 the application to determine all of the following:

12 (1) If the project is for the construction or
13 acquisition of medical infrastructure directly related to
14 patient safety or for the construction or acquisition of
15 manufacturing infrastructure which creates additional full-
16 time jobs.

17 (2) If a financial commitment exists for any cost of the
18 project in excess of the amount requested.

19 (3) If the financial commitment from the source is firm.

20 (4) If the source of the financial commitment is
21 responsible.

22 (5) If the applicant is firmly committed to using or
23 leasing the project upon completion.

24 (6) If the applicant complied with all other criteria
25 established by the committee.

26 (d) Approval.--Upon being satisfied that all requirements
27 have been met, the committee may approve the application and
28 notify the board. Upon being notified that a loan has been
29 approved, the board shall enter into a contract with the
30 applicant and finance the loan. As provided in subsection (e),

1 the contract may permit performance-based loan forbearance or
2 forgiveness.

3 (e) Forbearance or forgiveness.--The board, in consultation
4 with the department, may establish guidelines permitting
5 performance-based forbearance or forgiveness of payments by loan
6 recipients under this program. If the board establishes
7 guidelines, the guidelines shall permit the board to forbear or
8 forgive payments by loan recipients under this program when, in
9 the discretion of the board, the board determines that it is in
10 the interest of the Commonwealth to grant forbearance or
11 forgiveness.

12 (f) Applicability.--If a project of a medical facility or a
13 manufacturer has been approved for loan financing and the
14 project is to be financed with the proceeds of bonds which are
15 not exempt from Federal income taxation, the provisions of
16 Chapter 27 of the act of June 29, 1996 (P.L.434, No.67), known
17 as the Job Enhancement Act, shall not apply to the financing of
18 the project.

19 (g) Limitation.--Except upon foreclosure or default or
20 violation of a loan made, the board may not approve an
21 application or finance a project if the authority would be
22 required to operate, service or maintain the project under a
23 lease or other agreement. Nothing in this subsection shall
24 prohibit the authority from approving an application or
25 financing a project if at the end of the term of a loan the
26 authority transferred the project to the medical facility or
27 manufacturer or a designee of the medical facility or
28 manufacturer.

29 § 4321. Water and Wastewater Infrastructure Capitalization
30 Program.

1 (a) Establishment.--There is established within the
2 authority a program to be known as the Water and Wastewater
3 Infrastructure Capitalization Program. The program shall provide
4 financial assistance in the form of loans or single-year or
5 multiyear grants to municipalities and municipal authorities for
6 projects which, when completed, improve or construct water and
7 wastewater infrastructure related to economic development.

8 (b) Application.--A municipality or a municipal authority
9 may submit an application to the authority requesting financial
10 assistance for a project. The application must be on the form
11 required by the authority and must include or demonstrate all of
12 the following:

13 (1) The name and address of the municipality or
14 municipal authority.

15 (2) A statement of the type and amount of financial
16 assistance sought. If the applicant is requesting financial
17 assistance in the form of a grant, the request may not exceed
18 75% of the cost of the project.

19 (3) A statement of the project, including a detailed
20 statement of the cost of the project.

21 (4) A firm financial commitment from a responsible
22 source for any cost of the project in excess of the amount
23 requested. If the applicant is requesting financial
24 assistance in the form of a grant from the authority, the
25 commitment may not be in the form of a grant from a
26 Commonwealth agency.

27 (5) A firm commitment from the municipality or municipal
28 authority to use the project upon completion.

29 (6) Any other information required by the authority.

30 (c) Grants.--

1 (1) If an applicant is requesting financial assistance
2 in the form of a grant, the authority shall forward the
3 application to the committee when it is complete. The
4 committee shall review the application to determine all of
5 the following:

6 (i) If the project is for the improvement or
7 construction of water and wastewater infrastructure
8 related to economic development.

9 (ii) If there is a financial commitment for at least
10 25% of the project.

11 (iii) If the financial commitment from the source is
12 firm.

13 (iv) If the source of the financial commitment is
14 responsible.

15 (v) If the municipality or municipal authority is
16 firmly committed to using the project upon completion.

17 (vi) If the municipality or municipal authority
18 complied with all other criteria established by the
19 committee.

20 (2) Upon being satisfied that all requirements have been
21 met, the committee may approve the application and award a
22 grant to the applicant for the project in accordance with all
23 of the following:

24 (i) The grant may not exceed \$10,000,000 in the
25 aggregate.

26 (ii) The aggregate amount of grants awarded to all
27 applicants under this subsection shall not exceed
28 \$250,000,000.

29 (3) Upon being notified that a grant has been awarded to
30 an applicant, the board shall enter into a contract with the

1 applicant and finance the grant.

2 (d) Authority loans.--

3 (1) If an applicant is requesting financial assistance
4 in the form of a loan, the authority shall forward the
5 application to the board when it is complete. Within 45 days
6 of a completed application being submitted, the board shall
7 review the application to determine all of the following:

8 (i) If the project is for the improvement or
9 construction of water and wastewater infrastructure
10 related to economic development.

11 (ii) If a financial commitment exists for any cost
12 of the project in excess of the amount requested.

13 (iii) If the financial commitment from the source is
14 firm.

15 (iv) If the source of the financial commitment is
16 responsible.

17 (v) If the municipality or municipal authority is
18 firmly committed to using the project upon completion.

19 (vi) If the municipality or municipal authority
20 complied with all other criteria established by the
21 board.

22 (2) Upon being satisfied that all program requirements
23 have been met, the board may approve the application. If the
24 board approves the application, the board shall enter into a
25 contract with the applicant and finance the loan.

26 (e) Pennvest loans.--In order to facilitate additional
27 funding for water and wastewater infrastructure projects related
28 to economic development, the authority may utilize the remaining
29 amount of voter-approved debt under the act of March 16, 1992
30 (P.L.10, No.5), known as the Small Water Systems Assistance Act,

1 in accordance with the following:

2 (1) If an applicant is requesting financial assistance
3 in the form of a loan, the authority shall forward the
4 application to the board when it is complete. Within 45 days
5 of a completed application being submitted, the board shall
6 review the application to determine all of the following:

7 (i) If the project is for the improvement or
8 construction of water and wastewater infrastructure
9 related to economic development.

10 (ii) If a financial commitment exists for any cost
11 of the project in excess of the amount requested.

12 (iii) If the financial commitment from the source is
13 firm.

14 (iv) If the source of the financial commitment is
15 responsible.

16 (v) If the municipality or municipal authority is
17 firmly committed to using the project upon completion.

18 (vi) If the municipality or municipal authority
19 complied with all other criteria established by the
20 board.

21 (2) Upon being satisfied that all program requirements
22 have been met, the board may approve the application. If the
23 board approves the application, the board shall do all of the
24 following:

25 (i) Notify the applicant of the approval.

26 (ii) Notify the Pennsylvania Infrastructure
27 Investment Authority of the amount approved.

28 (3) Loans approved under paragraph (2) shall not exceed
29 \$220,000,000 in the aggregate.

30 (4) Upon being notified that a loan has been approved

1 for an applicant, the Pennsylvania Infrastructure Investment
2 Authority shall enter into a contract with the applicant and
3 finance the loan.

4 (f) Limitation.--Except upon foreclosure or default or
5 violation of a loan made, the board may not approve an
6 application or finance a project if the authority would be
7 required to operate, service or maintain the project under a
8 lease or other agreement. Nothing in this subsection shall
9 prohibit the authority from approving an application or
10 financing a project if, at the end of the term of a loan, the
11 authority transferred the project to the municipal authority.

12 (g) Debt.--If the question is submitted to the electors and
13 approved in accordance with law, the authority is authorized to
14 incur a maximum of \$250,000,000 to finance grants and loans
15 awarded under subsection (c) and (d). Annual payments for
16 principal and interest resulting from grants made under this
17 section shall be annually appropriated to the authority from the
18 General Fund.

19 § 4322. Business in Our Sites Program.

20 (a) Establishment.--There is established within the
21 authority a program to be known as the Business in Our Sites
22 Program. The program shall provide financial assistance in the
23 form of loans to persons for projects which, when completed,
24 improve existing business sites, construct new business sites or
25 improve or construct business site infrastructure.

26 (b) Application.--A person may submit an application to the
27 authority requesting financial assistance for a project. The
28 application shall be on the form required by the authority and
29 shall include or demonstrate all of the following:

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

1 (2) A statement of the amount of financial assistance
2 sought.

3 (3) A statement of the project, including a detailed
4 statement of the cost of the project.

5 (4) If the applicant is not a local economic development
6 agency, a copy of the document verifying approval of the
7 project by the appropriate local economic development agency.

8 (5) A firm financial commitment from a responsible
9 source for any cost of the project in excess of the amount
10 requested.

11 (6) A firm commitment from the applicant to use or lease
12 the project upon completion.

13 (7) Any other information required by the authority.

14 (c) Review.--The authority shall forward the application to
15 the committee when it is complete. The committee shall review
16 the application to determine all of the following:

17 (1) If the project is for the improvement of existing
18 business sites, the construction of new business sites or the
19 improvement or construction of business site infrastructure.

20 (2) If the project is approved by the appropriate local
21 economic development agency when the applicant is not a local
22 economic development agency.

23 (3) If a financial commitment exists for any cost of the
24 project in excess of the amount requested.

25 (4) If the financial commitment from the source is firm.

26 (5) If the source of the financial commitment is
27 responsible.

28 (6) If the applicant is firmly committed to using or
29 leasing the project upon completion.

30 (7) If the applicant complied with all other criteria

1 established by the committee.

2 (d) Approval.--Upon being satisfied that all requirements
3 have been met, the committee may approve the application and
4 notify the board. Upon being notified that a loan has been
5 approved, the board shall enter into a contract with the
6 applicant and finance the loan. As provided in subsection (e),
7 the contract may permit performance-based loan forbearance or
8 forgiveness.

9 (e) Forbearance or forgiveness.--The board, in consultation
10 with the department, may establish guidelines permitting
11 performance-based forbearance or forgiveness of payments by loan
12 recipients under this program. If the board establishes
13 guidelines, the guidelines shall permit the board to forbear or
14 forgive payments by loan recipients under this program when, in
15 the discretion of the board, the board determines that it is in
16 the interest of the authority to grant forbearance or
17 forgiveness.

18 (f) Limitation.--Except upon foreclosure or default or
19 violation of a loan made, the board may not approve an
20 application or finance a project if the authority would be
21 required to operate, service or maintain the project under a
22 lease or other agreement. Nothing in this subsection shall
23 prohibit the authority from approving an application or
24 financing a project if, at the end of the term of a loan, the
25 authority transferred the project to the local economic
26 development authority.

27 § 4323. First Industries Program.

28 (a) Establishment.--There is established within the
29 authority a program to be known as the First Industries Program.
30 The program shall provide financial assistance in the form of

1 loans to persons engaged in agriculture production or to persons
2 involved in tourism-related activities.

3 (b) Application.--A person may submit an application to the
4 authority requesting financial assistance for a project. The
5 application shall be on the form required by the authority and
6 shall include or demonstrate all of the following:

7 (1) The name and address of the person.

8 (2) A statement that the person is engaged in
9 agriculture production or is involved in tourism-related
10 activities.

11 (3) A statement of the amount of financial assistance
12 sought.

13 (4) A statement of the project, including a detailed
14 statement of the cost of the project.

15 (5) Any additional information required by Chapter 23
16 (relating to small business first).

17 (6) Any other information required by the authority.

18 (c) Review.--The authority shall forward the application to
19 the department when it is complete. The department shall review
20 the application in accordance with the requirements of this
21 section and Chapter 23 (relating to Small Business First). If
22 the department is satisfied that all requirements have been met,
23 the department may recommend approval of the application to the
24 board.

25 (d) Approval.--If the board receives a recommendation for
26 approval of an application from the department, the board may
27 approve the application and finance the loan.

28 (e) Loan service.--Any loan financed by the authority under
29 this program shall be administered by the department. The
30 authority and the department shall enter into an agreement in

1 which the department agrees to transfer to the authority in a
2 timely manner any payments the department receives on loans made
3 in accordance with this section.

4 § 4324. Economic Enhancement Financing Program.

5 (a) Establishment.--There is established within the
6 authority a program to be known as the Economic Enhancement
7 Financing Program. The program shall provide financial
8 assistance to persons in the form of loans or single-year or
9 multiyear grants for projects.

10 (b) Application.--A person may submit an application to the
11 authority requesting financial assistance for a project. The
12 application shall be on the form required by the authority and
13 shall include or demonstrate all of the following:

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

15 (2) A statement of the type of financial assistance
16 sought.

17 (3) A statement of the project, including a detailed
18 statement of the cost of the project.

19 (4) Any other information required by the authority.

20 (c) Review.--The authority shall forward the application to
21 the committee when it is complete. The committee shall review
22 the application to determine all of the following:

23 (1) If the applicant is a person that owns property in a
24 tax incentive district or if the applicant is an issuing
25 authority of a tax increment district located within a tax
26 incentive district.

27 (2) The project would be located in a tax incentive
28 district or is located in a tax increment district.

29 (3) The project would do or does any of the following:

30 (i) Creates career-oriented net new jobs or preserve

1 jobs.

2 (ii) Increases and diversifies the manufacturing
3 base of this Commonwealth.

4 (iii) Aids in the expansion of existing private
5 companies, particularly those that sell their products
6 outside this Commonwealth.

7 (iv) Attracts new industries with new products into
8 this Commonwealth.

9 (v) Promotes industrial, commercial and other
10 economic development within this Commonwealth.

11 (vi) Promotes a healthy environment through the
12 abatement, safe storage, transportation, reduction,
13 elimination, remediation and disposal within this
14 Commonwealth of pollutants and wastes.

15 (vii) Otherwise promotes the health, welfare and
16 safety of the residents of this Commonwealth by promoting
17 economic activity and efficiency or alleviating or
18 eliminating unemployment, blight and other unhealthy
19 conditions.

20 (4) If the applicant complied with all other criteria
21 established by the committee.

22 (d) Award.--Upon being satisfied that all requirements have
23 been met, the committee may approve an application and award a
24 grant or loan for a project in accordance with the following:

25 (1) The grant or loan may not exceed \$10,000,000 in the
26 aggregate.

27 (2) The aggregate amount of grants or loans awarded to
28 all applicants under this section shall not exceed financing
29 supported by the Economic Enhancement Fund.

30 (e) Financing.--Upon being notified that a grant or loan has

1 been awarded to an applicant, the board shall finance the grant
2 or loan.

3 (f) Debt limitation.--The authority is authorized on a
4 continuing basis to incur debt supported by the Economic
5 Enhancement Fund to finance grants and loans awarded under this
6 section. All payments for the debt resulting from grants or
7 loans made under this section shall be paid from the Economic
8 Enhancement Fund.

9 (g) Contract proceeds.--Any money received from a grant or
10 loan recipient under this program shall be deposited in the
11 Economic Enhancement Fund.

12 (h) First issuance.--The first series of bonds to be issued
13 by the authority shall be issued in a manner and at a time so
14 that the net proceeds of the bonds shall be available on or
15 before June 30, 2004, or as soon as practicable after June 30,
16 2004.

17 § 4325. Secondary Growth Stage Financing Program.

18 (a) Establishment.--There is established within the
19 authority a program to be known as the Secondary Growth Stage
20 Financing Program. The program shall provide financial
21 assistance to certain persons in the form of loans for projects.

22 (b) Growth stage partners.--

23 (1) A person may submit an application to the authority
24 requesting designation as a growth stage partner. The
25 application shall be on the form required by the authority
26 and shall include or demonstrate all of the following:

27 (i) The name and address of the person.

28 (ii) A statement demonstrating that the person is
29 experienced in financing expanding businesses.

30 (iii) A statement of the maximum amount of

1 investment the person is willing to make in the program.

2 (iv) Any other information required by the
3 authority.

4 (2) The authority shall forward the application to the
5 committee. The committee shall review the application and
6 determine if the person possesses prudent investment
7 experience. Upon being satisfied that all requirements have
8 been met, the committee shall recommend the person to the
9 board.

10 (3) If the board receives a recommendation from the
11 committee, the board shall enter into a contract with the
12 person and designate the person a growth stage partner in
13 accordance with all of the following:

14 (i) The board shall ensure that at least one growth
15 stage partner exists in each geographic region of the
16 Commonwealth.

17 (ii) The contract shall specify that loan payments
18 will be applied on a pro rata basis.

19 (c) Loans.--

20 (1) A person may submit an application to a growth stage
21 partner requesting financial assistance for a project. The
22 application shall be on the form required by the authority
23 and shall include or demonstrate all of the following:

24 (i) The name and address of the person.

25 (ii) A statement that the person has been in
26 business more than two years but less than seven.

27 (iii) A statement of the amount of financial
28 assistance sought.

29 (iv) A statement of the project including a detailed
30 statement of the cost of the project.

(v) Any other information required by the authority or by the growth stage partner.

(2) The growth stage partner shall review the application to determine if the project is a responsible investment. If the growth stage partner is satisfied that the project is responsible, the growth stage partner may recommend approval of the application to the board.

(3) If the board receives a recommendation for approval of an application from a growth stage partner, the board may approve the application.

(4) Upon approval of the application, the growth stage partner and the authority shall enter into a contract with the applicant and finance the loan in accordance with the following:

(i) The growth stage partner shall finance at least 25% of the loan amount.

(ii) The authority may finance the loan in an amount not to exceed 75% of the loan.

(iii) The contract may include a provision granting the growth stage partner a mortgage interest in property owned by the applicant.

(d) Loan service.--Any loan financed by the authority under this section shall be administered by the growth stage partner. The authority and each growth stage partner shall enter into an agreement pursuant to which the growth stage partner agrees to transfer to the authority in a timely manner its pro rata share of any payments received by the growth stage partner on loans made in accordance with this section.

§ 4326. Community Development Bank Program (Reserved).

1 MISCELLANEOUS
2 (RESERVED)
3 CHAPTER 45
4 LOCAL ECONOMIC DEVELOPMENT FINANCING AUTHORITIES
5 (RESERVED)
6 CHAPTER 47
7 PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY
8 (RESERVED)
9 Section 2. Title 72 is amended by adding parts to read:

10 PART III
11 FUNDS

12 Chapter

13 72. Economic Enhancement Fund

14 CHAPTER 72
15 ECONOMIC ENHANCEMENT FUND

16 Sec.

17 7201. Scope.

18 7202 Definitions.

19 7203. Establishment.

20 7204. Calculation.

21 7205. Transfer.

22 7206. Appropriation and payments.

23 § 7201. Scope.

24 This chapter relates to the Economic Enhancement Fund.

25 § 7202. Definitions.

26 The following words and phrases when used in this chapter
27 shall having the meaning given to them in this section unless
28 the context clearly indicates otherwise:

29 "Authority." The Pennsylvania Economic Development Authority
30 established by 12 Pa.C.S. Ch. 43 (relating to Pennsylvania

1 Economic Development Financing Authority).

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

3 "Fund." The Economic Enhancement Fund established by section
4 7203 (relating to establishment).

5 "Tax incentive district." Property designated by the
6 Department of Community and Economic Development as a tax
7 incentive district in accordance with 12 Pa.C.S. Ch. 33
8 (relating to economic enhancement).

9 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
10 No.2), known as the Tax Reform Code of 1971.

11 § 7203. Establishment.

12 There is hereby established a special fund known as the
13 Economic Enhancement Fund. Interest income derived from
14 investment of the money in the fund shall be credited by the
15 Treasury Department to the fund.

16 § 7204. Calculation.

17 Within 30 days of the end of each quarter, the department
18 shall calculate and notify the Secretary of the Budget of the
19 aggregate revenue received pursuant to Articles II, IV and VI of
20 the Tax Reform Code of 1971 from taxpayers located within tax
21 incentive districts.

22 § 7205. Transfer.

23 Within ten days of receiving notification in accordance with
24 section 7204 (relating to calculation), the Secretary of the
25 Budget shall direct the State Treasurer to transfer a sum, equal
26 to 25% of the aggregate revenue received pursuant to Articles
27 II, IV and VI of the Tax Reform Code of 1971, from taxpayers
28 located within tax incentive districts, from the General Fund to
29 the fund. Transfers from the General Fund to the fund shall not
30 exceed \$10,000,000 in the aggregate in any one fiscal year.

1 § 7206. Appropriation and payments.

2 Money in the fund is hereby appropriated on a continuing
3 basis to the authority for the Economic Enhancement Financing
4 Program established in 12 Pa.C.S. § 4324 (relating to Economic
5 Enhancement Financing Program). The State Treasurer shall
6 provide semiannual payments to the authority on August 1 and
7 February 1 of each year until the authority is terminated in
8 accordance with 12 Pa.C.S. § 4303(j) (relating to authority).
9 August 1 payments shall be equal to the balance of the fund on
10 July 15 of that calendar year, and February 1 payments shall be
11 equal to the balance of the fund on January 15 of that calendar
12 year.

13 PART IV

14 DEBT

15 Chapter

16 91. Capital Facilities

17 92. Sports Facilities

18 CHAPTER 91

19 CAPITAL FACILITIES

20 Sec.

21 9101. Scope of chapter.

22 9102. Definitions.

23 9103. Procedures for capital budget bill and debt-authorizing
24 legislation.

25 9104. Certificates of the Auditor General.

26 9105. Constitutional limitations, authorizations, issuing
27 officials.

28 9106. Temporary borrowing.

29 9107. Bonds, issue of bonds and notes, maturity, interest.

30 9108. Direct obligations, exemption from taxation, means of

1 payment.

2 9109. Sale of bonds.

3 9110. Disposition and use of proceeds.

4 9111. Capital Debt Fund; investments; redemption of bonds.

5 9112. Funding bonds.

6 9113. Reporting requirements.

7 9114. Registration of bonds.

8 9115. Voting requirements.

9 9116. Appropriation.

10 9117. Appropriation for and limitation on redevelopment
11 assistance and site development capital projects.

12 9118. Funding and administration of redevelopment assistance
13 capital projects.

14 9119. Funding and administration of site development capital
15 projects.

16 9120. Capital Project Oversight and Review Committee.

17 § 9101. Scope of chapter.

18 This chapter deals with capital facilities.

19 § 9102. Definitions.

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

23 "Acquisition cost." The cost of acquiring:

24 (1) buildings;

25 (2) structures;

26 (3) facilities;

27 (4) property, real, personal or mixed, tangible or
28 intangible; or

29 (5) any other interest;

30 necessary or desirable in connection with a capital project,

1 whether the acquisition be by purchase or by condemnation,
2 including the amount of an award or final judgment in a
3 proceeding to acquire by condemnation lands, rights-of-way,
4 rights-of-slope, property rights, franchises, easements or other
5 interests as deemed necessary or convenient in connection with
6 the acquisition or construction of a project, and costs of
7 options and partial payments on and under options.

8 "Capital project." A project which is financed by debt or by
9 other funds and which meets all of the following:

10 (1) Is an undertaking to construct, repair, renovate,
11 improve, equip, furnish or acquire any:

12 (i) building, structure, facility or physical public
13 betterment or improvement;

14 (ii) land or rights in land; or

15 (iii) furnishings, machinery, apparatus or equipment
16 for a building, structure, facility or physical public
17 betterment or improvement.

18 (2) Is designated in a capital budget as a capital
19 project.

20 (3) Has an estimated useful life in excess of five
21 years.

22 (4) Has an estimated financial cost in excess of
23 \$250,000. This paragraph does not apply to original equipment
24 or furnishings for previously authorized public improvement
25 projects.

26 Capital projects are categorized as flood control projects,
27 highway projects, public improvement projects, redevelopment
28 assistance capital projects, site development capital projects
29 and transportation assistance projects.

30 "Committee." The Capital Project Oversight and Review

1 Committee established in section 9120 (relating to Capital
2 Project Oversight and Review Committee).

3 "Commonwealth agency or authority." Excludes an agency or
4 authority organized by action of a political subdivision.

5 "Construction cost." Obligations incurred:

6 (1) for labor and to contractors, builders and
7 materialmen in connection with the construction, fabrication
8 or assembly of a capital project;

9 (2) for machinery and equipment required for
10 construction under paragraph (1);

11 (3) for the restoration of property damaged or destroyed
12 in connection with construction under paragraph (1); and

13 (4) for the payment of damages incurred by others
14 incident to or consequent upon construction under paragraph
15 (1) which the Commonwealth or its agency or authority is
16 under legal obligation to pay or desires to pay in settlement
17 of a disputed claim of liability.

18 "Debt." The issued and outstanding obligations of the
19 Commonwealth incurred without a vote of the electorate or
20 incurred with such vote under a law making such debt subject to
21 the provisions of section 7(a)(4) of Article VIII of the
22 Constitution of Pennsylvania. The term includes obligations of
23 Commonwealth agencies and authorities to the extent that such
24 obligations are to be repaid from lease rentals or other charges
25 payable directly or indirectly from revenues of the
26 Commonwealth. The term does not include:

27 (1) that portion of debt which is to be repaid from
28 charges made to the public for the use of the capital
29 projects financed, as such portion of debt may be determined
30 by the Auditor General;

1 (2) obligations to be repaid from lease rentals or other
2 charges payable by a school district or other local taxing
3 authority; or

4 (3) obligations to be repaid by agencies or authorities
5 created for the joint benefit of the Commonwealth and one or
6 more other state governments.

7 "Debt-authorizing act." The legislation required by section
8 9103(d) (relating to procedures for capital budget bill and
9 debt-authorizing legislation).

10 "Financial cost." Acquisition cost and construction cost,
11 where applicable, and an allocated portion of all of the
12 following:

13 (1) Fees, expenses and costs of issuing obligations the
14 proceeds of which are used to finance the project.

15 (2) Fees, expenses and costs of issuing and selling
16 notes or replacement notes issued under this chapter.

17 (3) Establishing and maintaining any purchase, loan or
18 credit agreements in connection with an issue or series of
19 issues of notes, and the fees and expenses of any fiscal or
20 loan and transfer agent and bond counsel incurred in
21 connection with the issue of the obligations.

22 (4) Premiums on insurance in connection with a project
23 during construction.

24 (5) Taxes and other municipal or governmental charges
25 lawfully levied or assessed during construction.

26 (6) Fees and expenses of architects, engineers and other
27 professionals for:

28 (i) making preliminary studies, reports or estimates
29 of costs;

30 (ii) preparing plans and specifications and

1 inspecting and reviewing the progress of construction;

2 and

3 (iii) obtaining abstracts of title, title insurance
4 or title opinions.

5 (7) Costs and expenses of preliminary investigations,
6 preplanning, surveys and reports to determine the proper
7 scope, feasibility and probable costs of capital projects to
8 be included in future capital budgets.

9 (8) Costs of administration, including the salaries and
10 expenses of administrators, reviewing architects and
11 engineers, construction inspectors, accountants and legal
12 counsel of the Commonwealth and its agencies or authorities,
13 incurred for the proper planning and supervision of the
14 capital projects program.

15 "Flood control projects." Projects of the type which the
16 Water and Power Resources Board is authorized to construct,
17 improve, equip, maintain, acquire or operate under the
18 provisions of the act of August 7, 1936 (1st Sp.Sess., P.L.106,
19 No.46), referred to as the Flood Control Law.

20 "Fund." Any fund other than a fund, or an account in a fund,
21 established by this chapter.

22 "Funding bonds." General obligation bonds used to provide
23 funds for and towards the payment of outstanding notes or to
24 refund other outstanding bonds prior to or at or after the
25 stated maturity date of the bonds being refunded or of the notes
26 being funded.

27 "Highway projects." Projects of a type which the Department
28 of Transportation is authorized to construct, improve, equip,
29 maintain, acquire or operate.

30 "Hospital." As defined in section 802.1 of the act of July

1 19, 1979 (P.L.130, No.48), known as the Health Care Facilities
2 Act.

3 "Issuing officials." The Governor, the Auditor General and
4 the State Treasurer.

5 "Net debt."

6 (1) The aggregate principal amount of all debt; plus

7 (2) the amount of any past due and unpaid interest on
8 that debt; minus

9 (3) all funds held exclusively for the payment of that
10 principal and past due interest.

11 Neither accrued but not yet past due interest nor funds held for
12 the payment of the interest next falling due, up to the amount
13 of such interest, shall be included in such computations.

14 "Notes." Temporary obligations and replacement notes issued
15 by the Commonwealth pursuant to this chapter in anticipation of
16 bonds.

17 "Obligations." Notes or bonds of the Commonwealth, its
18 agencies or authorities, issued pursuant to any debt authorizing
19 act.

20 "Public improvement projects." Projects of a type which the
21 General State Authority is authorized to construct, improve,
22 equip, furnish, maintain, acquire or operate under the
23 provisions of the act of March 31, 1949 (P.L.372, No.34), known
24 as The General State Authority Act of one thousand nine hundred
25 forty-nine, and projects which the Department of General
26 Services is authorized to construct, improve, equip, furnish,
27 maintain, acquire or operate.

28 "Redevelopment assistance capital project." The design and
29 construction of facilities which meet the following:

30 (1) Are facilities, other than housing units, highways,

1 bridges, waste disposal facilities, sewage facilities or
2 water facilities. This paragraph includes:

3 (i) water and sewer infrastructure, bridges and
4 roads included in business or industrial park facilities;
5 and

6 (ii) hospital facilities and capital improvements
7 for hospital facilities.

8 (2) Are economic development projects which generate
9 substantial increases in employment, tax revenues or other
10 measures of economic activity. This paragraph includes
11 projects with cultural, historical or civic significance.

12 (3) Are facilities which have a regional or
13 multijurisdictional impact.

14 (4) Are eligible for tax-exempt bond funding under
15 existing Federal law and regulations.

16 (5) Have a 50% non-State participation documented at the
17 time of application, including a portion of any funds
18 reserved for future physical maintenance and operation of the
19 facilities:

20 (i) at least half of which is secured funding;

21 (ii) toward which the only noncash non-State
22 participation permitted is land or fixed assets which
23 have a substantial useful life and are directly related
24 to the project;

25 (iii) toward which State funds from other programs
26 may not be used; and

27 (iv) toward which funds from Federal sources may be
28 used.

29 (6) Have a total project cost of at least \$1,000,000.

30 Applicants must be one of the following:

(i) A redevelopment authority.

(ii) An industrial development authority.

(iii) A general purpose unit of local government.

(iv) A local development district which has an agreement with a general purpose unit of local government under which the unit assumes ultimate responsibility for debt incurred to obtain the 50% non-State participation required by paragraph (5).

(v) An industrial development corporation.

"Replacement notes." Notes:

(1) the net proceeds of which are used to pay principal, accrued interest and premium of previously issued notes or replacement notes; and

(2) which evidence the same temporary borrowing of the Commonwealth as the notes or replacement notes replaced.

"Site development capital projects." The design and construction of infrastructure and improvements for locations which meet all of the following:

(1) Are locations suitable for the siting of business, industrial or research facilities upon completion of the project.

(2) Create opportunities to develop new facilities or to expand existing facilities for business, service industries, manufacturing, research and development or other business or industrial operations which produce goods or services as determined by the Secretary of Community and Economic Development.

(3) Result in the creation of new jobs or the preservation of existing jobs.

(4) Have a 50% non-State participation documented at the

time of application:

(i) at least one-half of which is secured funding;

(ii) toward which the only noncash, non-State participation permitted is land or fixed assets which have a substantial useful life and are directly related to the project; and

(iii) toward which State funds from other programs may not be used.

(5) Have a total project cost of at least \$1,000,000.

(6) The project applicant is a municipality, municipal authority, industrial development authority, redevelopment authority, industrial development corporation or a general purpose unit of local government.

(7) The project applicant can demonstrate to the secretary that the location will be occupied by a business or industrial tenant within five years of completion of the project or such other reasonable period of time as may be designated by the secretary.

"Tax revenues." All revenues from Commonwealth imposed taxes, regardless of the fund to which they are deposited, including revenues from motor vehicle licenses, which are declared to be taxes for purposes of this chapter. The term does not include revenues from any other licenses or from interest, fees, fines or penalties.

"Transportation assistance projects." Projects of a type which the Department of Transportation is authorized to construct, improve, equip, furnish, maintain, acquire or operate under 74 Pa.C.S. Pt. II (relating to public transportation) and capital projects which the Department of Transportation is authorized to construct, improve, equip or furnish under the

1 provisions of the act of February 11, 1976 (P.L.14, No.10),
2 known as the Pennsylvania Rural and Intercity Common Carrier
3 Surface Transportation Assistance Act, including the acquisition
4 of property authorized in those statutes.

5 § 9103. Procedures for capital budget bill and debt-authorizing
6 legislation.

7 (a) Legislative process.--A capital budget prepared in
8 accordance with this chapter shall be submitted for each fiscal
9 year by the Governor to the General Assembly and shall be
10 considered in the form of a bill as provided in Article III of
11 the Constitution of Pennsylvania.

12 (b) Itemization.--

13 (1) Except as set forth in paragraph (2), the capital
14 budget bill must specifically itemize, by brief identifying
15 description and estimated financial cost, the capital
16 projects to be financed from:

17 (i) the proceeds of obligations of the Commonwealth;

18 or

19 (ii) current revenues.

20 (2) Paragraph (1) does not apply if the itemization is:

21 (i) contained in or approved by prior legislation
22 referred to in the capital budget bill; or

23 (ii) included in one or more supplemental capital
24 budget bills.

25 (3) Projects must be listed in separate categories as
26 well as according to the fund to be charged with the
27 repayment of the obligations to be incurred.

28 (4) The capital budget bill must state the maximum
29 amount of such obligations which may be incurred in the
30 ensuing fiscal year to provide funds for and towards the

1 financial costs of each category of capital projects, which
2 shall be by the issue of general obligations of the
3 Commonwealth.

4 (c) Timing.--Each year the Governor shall submit a capital
5 budget bill for the ensuing fiscal year.

6 (d) Debt-authorizing legislation.--At the time the Governor
7 submits the capital budget or a supplement, the Governor shall,
8 to the extent the debt to be incurred is not within the limits
9 of legislation then in force authorizing the incurring of debt,
10 submit additional bills for each category of capital projects,
11 authorizing the incurring of debt to provide funds for and
12 towards the payment of the financial costs of capital projects
13 in such category which have been specifically itemized in a
14 capital budget for the same or any prior year.

15 (e) Categories.--Each debt-authorizing bill must do all of
16 the following:

17 (1) State the category of capital projects to be
18 financed by the debt so authorized but need not enumerate the
19 capital projects to be financed.

20 (2) Authorize the incurring of debt in not less than the
21 amount of the incurred or expected to be incurred financial
22 cost of all capital projects in such category not covered by
23 a previous debt authorization, including any overall
24 allowance for contingencies.

25 (3) State the estimated useful lives of the capital
26 projects to be financed in such detail as may be requisite if
27 capital projects of varying useful lives are to be combined
28 for financing purposes.

29 (4) State the maximum term of the debt to be incurred.

30 § 9104. Certificates of the Auditor General.

1 (a) Requirement.--By March 1 and September 1, the Auditor
2 General shall certify to the Governor and the General Assembly
3 the average annual tax revenues deposited in all funds in the
4 five fiscal years ended next preceding the date of the
5 certificate, determined by adding the total of such revenues so
6 deposited and dividing the sum by five. At the time of each
7 certification, the Auditor General shall also certify as
8 separate items:

9 (1) the amount of outstanding net debt as of the end of
10 the preceding fiscal year;

11 (2) the amount of outstanding net debt as of the date of
12 the certificate;

13 (3) the difference between the limitation upon all
14 outstanding net debt as provided in section 7(a)(4) of
15 Article VIII of the Constitution of Pennsylvania and
16 paragraph (2);

17 (4) the amount of outstanding net debt scheduled to be
18 repaid during the remainder of the fiscal year in which the
19 certificate is issued;

20 (5) the amount of debt authorized by law to be issued
21 but not yet incurred; and

22 (6) the amount of outstanding obligations excluded from
23 outstanding debt as self-sustaining pursuant to section
24 7(c)(1), (2) and (3) of Article VIII of the Constitution of
25 Pennsylvania.

26 (b) Additional certificates.--As required in connection with
27 the sale of or settlement for obligations of the Commonwealth,
28 the Auditor General shall issue certificates containing items
29 listed in subsection (a)(2) and (3) as of the dates determined
30 by the Governor to be relevant to such sales or settlements.

1 (c) Reliance on certifications.--In making certificates, the
2 Auditor General shall be entitled to rely, as to any of items
3 listed in subsection (a)(1) through (5), upon:

4 (1) any certificate furnished by the State Treasurer
5 with respect to outstanding Commonwealth general obligation
6 bonds;

7 (2) any certificate furnished by the Department of
8 Revenue; and

9 (3) any certificate furnished by the appropriate bank or
10 trust company operating as fiscal agent or trustee with
11 respect to the outstanding obligations of any authority.

12 § 9105. Constitutional limitations, authorizations, issuing
13 officials.

14 Within the limitation set forth in section 7(a)(4) of Article
15 VIII of the Constitution of Pennsylvania, the issuing officials
16 are authorized and directed to borrow, on the credit of the
17 Commonwealth and subject to the conditions and limitations of
18 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
19 Code, money necessary to carry out the purposes of debt-
20 authorizing acts passed in accordance with the provisions of
21 this chapter.

22 § 9106. Temporary borrowing.

23 (a) Authorization.--Pending the issuance of bonds of the
24 Commonwealth as authorized in section 9107 (relating to bonds,
25 issue of bonds and notes, maturity, interest), the issuing
26 officials are authorized, in accordance with the provisions of
27 this chapter and on the credit of the Commonwealth, to make
28 temporary borrowings not to exceed three years in anticipation
29 of the issue of bonds in order to provide funds in such amounts
30 as deemed advisable to carry out the purposes of any debt-

1 authorizing acts prior to the issue of bonds. In order to
2 provide for and in connection with the temporary borrowings, the
3 issuing officials are authorized in the name and on behalf of
4 the Commonwealth to enter into any purchase, loan or credit
5 agreement or other agreement with banks, trust companies,
6 lending institutions, investment banking firms or persons in the
7 United States having the appropriate power. Agreements may
8 contain provisions not inconsistent with the provisions of this
9 chapter, as authorized by the issuing officials.

10 (b) Evidence.--All temporary borrowings made under the
11 authorization of this section shall be evidenced by notes of the
12 Commonwealth, which shall be issued for such amounts not
13 exceeding in the aggregate the applicable statutory and
14 constitutional debt limitation, in form and denominations and
15 subject to terms and conditions of sale and issue, prepayment or
16 redemption and maturity, rate of interest and time of payment of
17 interests, as the issuing officials authorize and direct and in
18 accordance with the applicable debt-authorizing act.

19 Authorization and direction may provide for the subsequent
20 issuance of replacement notes to refund outstanding notes or
21 replacement notes. Replacement notes shall, upon issuance,
22 evidence the borrowing and may specify other terms and
23 conditions with respect to the notes and replacement notes
24 authorized for issuance as the issuing officials may determine
25 and direct.

26 (c) Replacement notes.--

27 (1) If the authorization and direction of the Governor,
28 the Auditor General and the State Treasurer provide for the
29 issuance of replacement notes, the Governor, the Auditor
30 General and the State Treasurer are authorized, in the name

1 and on behalf of the Commonwealth, to issue, enter into or
2 authorize and direct the State Treasurer to do the following:

3 (i) Enter into agreements with banks, trust
4 companies, investment banking firms or other institutions
5 or persons in the United States having appropriate power
6 to purchase or underwrite an issue or series of issues of
7 notes.

8 (ii) Enter into a purchase, loan or credit
9 agreement.

10 (iii) Draw money pursuant to a purchase, loan or
11 credit agreement on the terms and conditions set forth in
12 the agreement.

13 (iv) Issue notes as evidence of borrowings made
14 under a purchase, loan or credit agreement.

15 (v) Appoint an issuing and paying agent or agents
16 with respect to notes.

17 (vi) Perform acts necessary or appropriate to
18 provide for the payment, when due, of the interest on and
19 principal of notes.

20 (2) Agreements under paragraph (1) may provide that the
21 compensation of purchasers or underwriters of notes or
22 replacement notes, by discount in the purchase price of the
23 notes or by payment of a fixed fee or commission at the time
24 of issuance of the notes, and that all other costs and
25 expenses, including fees for agreements related to the notes,
26 issuing and payment agent costs and costs and expenses of
27 issuance, may be paid from the proceeds of the notes.

28 (d) Issuance of replacement notes.--If the authorization and
29 direction of the Governor, the Auditor General and the State
30 Treasurer provide for the issuance of replacement notes, the

1 State Treasurer shall, by the time of delivery of these notes or
2 replacement notes, determine the principal amounts, dates of
3 issuance, interest rates or procedures for establishing interest
4 rates, rates of discount, denominations and all other terms and
5 conditions relating to the issuance and shall perform all acts
6 necessary to pay or cause to be paid when due all principal of
7 and interest on the notes being refunded by replacement notes
8 and to assure that payment may draw upon any money available for
9 that purpose pursuant to any purchase, loan or credit agreements
10 established with respect to the notes, subject to the
11 authorization and direction of the Governor, the Auditor General
12 and the State Treasurer.

13 (e) Funding and retirement.--Outstanding notes evidencing
14 borrowings may be funded and retired by the issuance and sale of
15 the bonds of the Commonwealth under section 9112 (relating to
16 funding bonds). Funding bonds must be issued and sold not later
17 than a date three years after the date of issuance of the first
18 notes evidencing the borrowings, to the extent that payment of
19 the notes has not otherwise been made or provided for by sources
20 other than proceeds of replacement notes.

21 (f) Proceeds.--The proceeds of temporary borrowings except
22 those evidenced by replacement notes shall be paid to the State
23 Treasurer to be held and disposed of under section 9110
24 (relating to disposition and use of proceeds). The proceeds of
25 temporary borrowings evidenced by replacement notes shall be
26 paid to the State Treasurer to be held and disposed of under
27 subsection (d).

28 § 9107. Bonds, issue of bonds and notes, maturity, interest.

29 (a) Issue.--As evidence of indebtedness as authorized,
30 bonds, which may be for one or more purposes, shall be issued

1 under this chapter for all of the following purposes:

2 (1) To fund or retire notes issued under section 9106
3 (relating to temporary borrowing) and bonds issued under
4 paragraph (2).

5 (2) To provide money necessary to carry out the purposes
6 of a debt-authorizing statute.

7 (b) Series.--The bonds of each issue shall constitute a
8 separate series to be designated by the issuing officials or may
9 be combined for sale as one series with other general obligation
10 bonds of the Commonwealth. Each series of bonds shall bear such
11 rate of interest as determined by the issuing officials. Bonds
12 shall be issued in denominations and in form, whether coupon or
13 registered as to both principal and interest, and with or
14 without such provisions of interchangeability, as the issuing
15 officials determine. If interest coupons are attached, they
16 shall, unless the debt-authorizing act provides otherwise,
17 contain the facsimile signature of the State Treasurer.

18 (c) Terms and conditions.--

19 (1) Except as set forth in subsection (a) or (b), the
20 terms and conditions of issue, redemption and maturity and
21 time of payment of interest shall be as the issuing officials
22 shall specify. Bonds of any series shall mature within a
23 period not to exceed the estimated useful lives of the
24 capital projects as stated in the debt-authorizing act but
25 not later than 30 years from the date of issuance.

26 (2) The issuing officials shall provide for the
27 amortization of the bonds in substantial and regular amounts
28 over the term of the debt, but the first retirement of
29 principal shall be stated to mature prior to the expiration
30 of a period of time equal to one-tenth of the time from the

1 date of the first obligation issued to evidence the debt to
2 the date of the expiration of the term of the debt.

3 (3) Retirements of principal shall be regular and
4 substantial if made in annual or semiannual amounts whether
5 by stated serial maturities or by mandatory sinking fund
6 retirements computed in accordance with either a level annual
7 debt service plan as nearly as may be or upon the equal
8 annual maturities plan.

9 (4) If debt is incurred in one issue of bonds to provide
10 funds for and towards the financial cost of capital projects
11 having estimated useful lives of varying length, the
12 following shall apply:

13 (i) The aggregate of the financial costs shall be
14 considered as the debt to be incurred for the purpose of
15 fixing the regular and substantial amounts of principal
16 to be retired.

17 (ii) The term of the debt shall be to the end of the
18 longest estimated useful life for the purpose of
19 determining the first date for the retirement of
20 principal. At the end of the estimated useful life of
21 each project, the aggregate principal retirements
22 required to be made at or before that date shall exceed:

23 (A) the aggregate financial cost of all capital
24 projects having the same or shorter estimated useful
25 lives; or

26 (B) if bonds are issued for less than the full
27 financial cost of all projects being financed in the
28 same category, a proportionate amount in each case.

29 (5) The issuing officials may enter into the following
30 agreements and contracts, which in the judgment of the

1 issuing officials will assist in managing the interest costs
2 of the debt of the Commonwealth:

3 (i) Interest rate exchange agreements, interest rate
4 cap and floor agreements and other similar agreements.

5 (ii) Contracts to insure or secure payment of
6 principal, interest or the purchase price of bonds.

7 (6) The issuing officials are authorized to carry out
8 the provisions of this chapter relating to the issuance of
9 bonds and shall determine all matters in connection with the
10 issuance of bonds subject to the provisions hereof.

11 (d) Verification.--

12 (1) Bonds issued under the authority of this chapter,
13 unless the debt-authorizing acts provide another method of
14 signature, shall bear the facsimile signatures of the issuing
15 officials and a facsimile of the Great Seal of the
16 Commonwealth of Pennsylvania and shall be countersigned by an
17 officer of an authorized loan and transfer agent of the
18 Commonwealth.

19 (2) The action taken by the issuing officials
20 authorizing the issuance of bonds or notes shall set forth
21 the title and citation of the debt-authorizing acts.

22 (3) Notes and bonds issued under the authority of this
23 chapter shall:

24 (i) either contain a similar recital or refer to the
25 recital of titles and citations set forth in the action
26 authorizing issuance; and

27 (ii) state that the bonds or notes are issued in
28 accordance with the provisions of this chapter. In any
29 action or proceeding involving the validity or
30 enforceability of bonds or notes under this chapter, a

1 recital under paragraph (3) shall be conclusive as to
2 their authorization.

3 § 9108. Direct obligations, exemption from taxation, means of
4 payment.

5 (a) Direct obligation.--Notes and bonds issued under this
6 chapter shall be direct obligations of the Commonwealth, and the
7 full faith and credit of the Commonwealth are pledged for the
8 payment of the interest as it becomes due and the payment of the
9 principal at maturity.

10 (b) Exemptions.--Notes and bonds issued under this chapter
11 shall be exempt from taxation for State and local purposes
12 except as provided under the act of March 4, 1971 (P.L.6, No.2),
13 known as the Tax Reform Code of 1971.

14 (c) Payment.--The principal of and interest on notes and
15 bonds issued under this chapter shall be payable in lawful money
16 of the United States of America.

17 § 9109. Sale of bonds.

18 (a) Public sale.--When bonds are issued under this chapter,
19 they shall be offered for sale at not less than 98% of the
20 principal amount and accrued interest and shall be sold by the
21 issuing officials to the highest and best bidder or bidders
22 after public advertisement on terms and conditions and upon open
23 competitive bidding as the issuing officials direct. The manner
24 and times of advertising shall be prescribed by the issuing
25 officials.

26 (b) Private sale.--Any portion of a bond issue offered under
27 subsection (a) and not sold or subscribed to may be disposed of
28 by private sale by the issuing officials in a manner and at
29 prices, not less than 98% of the principal amount and accrued
30 interest, as the Governor directs. No commission shall be

1 allowed or paid for the sale of bonds issued under this chapter.

2 (c) Temporary bonds.--Until permanent bonds can be prepared,
3 the issuing officials may issue, in lieu of permanent bonds,
4 temporary bonds in form and with privileges as to the
5 registration and exchange for permanent bonds as may be
6 determined by the issuing officials.

7 § 9110. Disposition and use of proceeds.

8 (a) General rule.--The proceeds of temporary borrowings made
9 under section 9106 (relating to temporary borrowing), other than
10 the proceeds of replacement notes, and the proceeds from the
11 sale of bonds, other than funding bonds, shall be paid to the
12 State Treasurer and be held by the State Treasurer in a separate
13 fund and shall be deposited in depositories as selected by the
14 State Treasurer to the credit of the Capital Facilities Fund,
15 which shall have such separate accounts as may be deemed
16 desirable by the issuing officials, but not less than one
17 separate account for each category of capital projects. The
18 proceeds of replacement notes shall be deposited and applied as
19 provided in section 9106(d). The proceeds of funding bonds shall
20 be deposited and applied as provided in section 9112 (relating
21 to funding bonds).

22 (b) Dedication.--The money in the Capital Facilities Fund is
23 specifically dedicated to meeting the financial costs of capital
24 projects. The money shall be paid by the State Treasurer to
25 those departments, agencies or authorities authorized to expend
26 it as required by them to pay financial costs at the time the
27 department, agency or authority certifies the payment to be due
28 and payable.

29 (c) Investment.--Pending their application to the purposes
30 authorized, money held or deposited by the State Treasurer may

1 be invested and reinvested as are other funds in the custody of
2 the State Treasurer in the manner provided by law. Earnings
3 received from the investment or deposit of the funds shall be
4 paid into the State Treasury to the credit of the account in the
5 Capital Facilities Fund to which the funds were originally
6 deposited.

7 § 9111. Capital Debt Fund; investments; redemption of bonds.

8 (a) Capital Debt Fund.--Bonds issued under this chapter
9 shall be paid at maturity. Interest due after July 1, 1968, on
10 bonds and on notes issued under this chapter shall be paid by
11 the Board of Finance and Revenue from the Capital Debt Fund. The
12 General Assembly shall appropriate annually the money necessary
13 to pay the interest on the bonds and notes and the principal of
14 the bonds and notes at maturity if no other provision is made.
15 Money appropriated shall be paid into the Capital Debt Fund by
16 the State Treasurer.

17 (b) Investment.--Money received under subsection (a) prior
18 to the date for disbursement shall be invested by the board
19 pending disbursement in securities as are provided by law for
20 the investment of surplus money of the Commonwealth. The
21 investment and the accumulations in the Capital Debt Fund shall
22 be devoted to and be used exclusively for the payment of the
23 interest accruing on the bonds and notes and for the redemption
24 of the bonds and notes at maturity or upon the redemption date
25 if called for prior redemption. The board is authorized to use
26 such funds for the purchase and retirement of all or any part of
27 the bonds issued under this chapter; but no purchase may be made
28 which will reduce the money in the Capital Debt Fund below the
29 amount necessary to pay all principal and interest still to
30 become due in the fiscal year of the purchase. If all or any

1 part of any bonds issued under this chapter are purchased by the
2 Commonwealth, they shall be canceled and returned to the State
3 Treasurer as canceled and paid bonds. Thereafter, all payment of
4 interest on the bonds shall cease; and the canceled bonds and
5 coupons shall be destroyed in accordance with the act of April
6 27, 1925 (P.L.319, No.180), entitled, "An act relating to the
7 destruction of canceled or unused bonds or other evidences of
8 indebtedness of this Commonwealth."

9 § 9112. Funding bonds.

10 The issuing officials, subject to the provisions of a bond
11 resolution or trust indenture, are authorized to issue funding
12 bonds for the purpose of refunding obligations then outstanding
13 to provide funds to redeem and retire such outstanding
14 obligations with accrued interest and any premium payable
15 thereon at maturity or any call date. The issuance of funding
16 bonds, the maturities and other details, the rights of the
17 holders and the duties of the issuing officials shall be
18 governed by the applicable provisions of sections 9103 (relating
19 to procedures for capital budget bill and debt-authorizing
20 legislation) through 9111 (relating to Capital Debt Fund;
21 investments; redemption of bonds). Funding bonds may be issued
22 to refund bonds previously issued for refunding purposes. The
23 proceeds of the sale of funding bonds shall be paid to the State
24 Treasurer and applied to the payment of the principal of, and
25 any accrued interest and premium on, the bonds or notes for the
26 refunding of which funding bonds have been issued. No funding
27 bonds shall be issued having a stated maturity date later than
28 the expiration of the useful life of the capital projects
29 constructed or acquired from the proceeds of the debt originally
30 incurred in respect of the bonds or notes being refunded, nor

1 shall funding bonds be issued to refund beyond the same fiscal
2 year any portion of debt required by this chapter and the
3 Constitution of Pennsylvania to be retired in the year of issue
4 of the funding bonds in order to comply with the retirement in
5 substantial and regular amounts as provided in section 9107(d)
6 (relating to bonds, issue of bonds and notes, maturity,
7 interest).

8 § 9113. Reporting requirements.

9 The State Treasurer shall determine and report to the
10 Secretary of the Budget and the chairman and minority chairman
11 of the Appropriations Committee of the Senate and the chairman
12 and minority chairman of the Appropriations Committee of the
13 House of Representatives by January 1 of each year the amount of
14 money necessary for the payment of interest on outstanding
15 obligations and the principal of the obligations for the
16 following fiscal year and the time and amounts of payments.

17 § 9114. Registration of bonds.

18 The Auditor General shall prepare the necessary registry
19 books to be kept in the office of the authorized loan and
20 transfer agent of the Commonwealth for the registration of any
21 bonds of the Commonwealth according to the terms and conditions
22 of issue specified by the issuing officials under section
23 9107(d) (relating to bonds, issue of bonds and notes, maturity,
24 interest). Bonds issued without interest coupons attached shall
25 be registered in the registry books kept by the authorized loan
26 and transfer agent of the Commonwealth.

27 § 9115. Voting requirements.

28 If this chapter requires an action to be taken or a decision
29 to be made by the issuing officials and the three officers shall
30 not be able to agree unanimously, the action or decision of the

1 Governor and either the Auditor General or State Treasurer shall
2 be binding and final.

3 § 9116. Appropriation.

4 The money received by the Commonwealth from the issuance and
5 sale of bonds and notes pursuant to this chapter and any debt-
6 authorizing act adopted after July 23, 1984, shall be
7 appropriated by the General Assembly from the Capital Facilities
8 Fund in the debt-authorizing acts for the purposes set forth in
9 those acts.

10 § 9117. Appropriation for and limitation on redevelopment

11 assistance and site development capital projects.

12 (a) Appropriation.--The amount necessary to pay principal of
13 and interest on all obligations issued to provide funds for
14 redevelopment assistance capital projects and site development
15 capital projects is hereby appropriated from the General Fund
16 and shall be transferred to the Capital Debt Fund upon
17 authorization by the Governor.

18 (b) Limitation.--

19 (1) The maximum amount of redevelopment assistance
20 capital projects undertaken by the Commonwealth for which
21 obligations are outstanding shall not exceed, in the
22 aggregate, ~~\$1,950,000,000~~ \$1,550,000,000. On or after the <—
23 effective date of this section, at least \$100,000,000 shall
24 be specifically set aside for projects for the construction
25 of or improvements to hospital facilities.

26 (2) The maximum amount of site development capital
27 projects for which obligations are outstanding shall not
28 exceed, in the aggregate, \$100,000,000.

29 § 9118. Funding and administration of redevelopment assistance
30 capital projects.

1 (a) Applications.--Persons seeking funding for redevelopment
2 assistance capital projects itemized in accordance with section
3 9103(b) (relating to procedures for capital budget bill and
4 debt-authorizing legislation) may request an application from
5 the Office of the Budget. Completed applications shall be
6 submitted to the Office of the Budget which shall review them to
7 determine if the proposed project meets the definition of
8 redevelopment assistance capital project and for compliance with
9 application requirements, including the submission of all
10 project descriptions, schedules, budgets and other materials as
11 may be required. Deficient applications shall be returned to the
12 applicant for revision. Applications found to be complete by the
13 Office of the Budget shall be forwarded to the committee for
14 review. The Secretary of the Budget may recommend projects to
15 the committee for approval. The committee shall not be bound by
16 a recommendation by the Secretary of the Budget.

17 ~~(b) Review. The following shall apply:~~

18 ~~(1) The committee shall review an application for a~~
19 ~~redevelopment assistance capital project to determine all of~~
20 ~~the following:~~

21 ~~(i) If the project has a regional or~~
22 ~~multijurisdictional impact.~~

23 ~~(ii) The project's potential to enhance regional~~
24 ~~vitality.~~

25 ~~(iii) If the project is eligible for tax exempt bond~~
26 ~~funding under existing Federal law and regulations.~~

27 ~~(iv) If the project has a 50% non State~~
28 ~~participation documented at the time of application.~~

29 ~~(v) The number of direct jobs created by the~~
30 ~~project.~~

~~(vi) The number of permanent indirect jobs created by support, supplier and secondary industries attracted by the project.~~

~~(vii) The total state and local tax generation.~~

~~(viii) The extent to which blighted areas or facilities are eliminated or reused.~~

~~(ix) Any other information as may be required by the committee.~~

~~(x) If the project has a total cost of at least \$1,000,000.~~

~~(2) The committee may consider the following when reviewing redevelopment assistance capital projects:~~

~~(i) The geographic distribution of redevelopment assistance capital projects throughout this Commonwealth.~~

~~(ii) The ratio of State share to non State share of the total project cost.~~

~~(c) Approval. The following shall apply:~~

~~(1) The committee may approve a redevelopment assistance capital project for which an application has been submitted if it determines that the proposed project meets the requirements of the definitions of redevelopment assistance capital project contained in section 9102 (relating to definitions) and will result in a significant positive impact as evidenced by the review criteria contained in subsection (b).~~

~~(2) Upon the approval of an application by the committee, the Secretary of the Budget shall execute a grant~~
THE SECRETARY OF THE BUDGET FOR REVIEW.

(B) REVIEW AND APPROVAL.--THE SECRETARY OF THE BUDGET, IN
CONSULTATION WITH THE SECRETARY OF COMMUNITY AND ECONOMIC

1 DEVELOPMENT, SHALL REVIEW COMPLETED APPLICATIONS AND SHALL
2 APPROVE OR DISAPPROVE APPLICATIONS FOR REDEVELOPMENT ASSISTANCE
3 CAPITAL PROJECTS. IF AN APPLICATION IS APPROVED, THE SECRETARY
4 OF THE BUDGET SHALL EXECUTE A GRANT agreement or contract with
5 the applicant. State funding for approved redevelopment
6 assistance projects shall be paid in accordance with subsection
7 ~~(d)~~ (C). <—

8 ~~(3) The Commonwealth shall not contract with or enter~~ <—
9 ~~into a grant agreement with an applicant for a redevelopment~~
10 ~~assistance capital project itemized in a capital budget~~
11 ~~itemization act for the purpose unless the project has been~~
12 ~~approved by at least four members of the committee.~~

13 ~~(d)~~ (C) Time period.--State funding for approved <—
14 redevelopment assistance capital projects shall be paid over not
15 less than a 36-month period unless the ~~secretary or the~~ <—
16 ~~committee~~ SECRETARY OF THE BUDGET authorizes a shorter period. <—

17 ~~(e)~~ (D) Costs.--Fees for professional services incurred for <—
18 the design and construction of redevelopment assistance capital
19 projects shall be paid from non-State funds. Land acquisition is
20 a permissible State-funded expenditure if the acquisition cost
21 is supported by an appraisal done by a certified appraiser.

22 ~~(f)~~ (E) Proportion.--Expenditure of State and non-State <—
23 funds shall be made on a proportional basis for direct land and
24 building acquisition costs and construction expenses.

25 ~~(g)~~ (F) Verification.--Redevelopment assistance capital <—
26 project cost estimates must be verified by the Office of the
27 Budget or its designated agent before final approval is given to
28 a project application ~~by the committee~~. Cost estimates include <—
29 total project cost, projected use for State and non-State funds
30 and a year-by-year schedule of costs for the entire project

1 construction phase.

2 ~~(h)~~ (G) Bids.--

<—

3 (1) Notwithstanding any other provisions of law and
4 subject to paragraph (2), the solicitation of a minimum of
5 three written bids for all contracted construction work on
6 redevelopment assistance capital projects shall be the sole
7 requirement for the composition, solicitation, opening and
8 award of bids on such projects.

9 (2) The construction work shall be performed subject to
10 the act of March 3, 1978 (P.L.6, No.3), known as the Steel
11 Products Procurement Act.

12 ~~(i)~~ (H) Review and audit.--Redevelopment assistance capital <—
13 projects shall be reviewed at regular intervals by the Office of
14 the Budget or its designated agent during the funding phase to
15 ensure financial and program compliance. A final closeout audit
16 shall be performed by the Office of the Budget or its designated
17 agent for all projects. Copies of closeout audits shall be
18 provided to the committee by the Office of the Budget upon
19 completion.

20 ~~(j)~~ (I) Grant administration.--In the event an applicant <—
21 does not administer the grant, the applicant shall enter into a
22 cooperation agreement with the entity administering the grant
23 which agreement shall be subject to the approval of the Office
24 of the Budget.

25 § 9119. Funding and administration of site development capital
26 projects.

27 (a) Applications.--Persons seeking funding for site
28 development capital projects itemized in a capital budget
29 itemization act may request an application from the Office of
30 the Budget. Completed applications shall be submitted to the

1 Office of the Budget which shall review them to determine if the
2 proposed project meets the definition of site development
3 capital project and for compliance with application
4 requirements, including the submission of all project
5 descriptions, schedules, budgets and other materials as may be
6 required. Deficient applications shall be returned to the
7 applicant for revision. Applications found to be complete by the
8 Office of the Budget shall be forwarded to the committee for
9 review. The Secretary of the Budget may recommend projects to
10 the committee for approval. The committee shall not be bound by
11 a recommendation by the Secretary of the Budget.

12 (b) Review.--The following shall apply:

13 (1) The committee shall review an application for a site
14 development capital project to determine all of the
15 following:

16 (i) If the project locations are suitable for the
17 siting of business, industrial or research facilities.

18 (ii) If the project creates opportunities to develop
19 new facilities or to expand existing facilities for
20 business, service industries, manufacturing, research and
21 development or other business or industrial operations
22 that produce goods or services.

23 (iii) If the project will result in the creation of
24 new jobs or the preservation of existing jobs.

25 (iv) If the project has 50% non-State participation
26 documented at the time of application.

27 (v) If the project has a total project cost of at
28 least \$1,000,000.

29 (vi) If it is likely that the project will be
30 occupied by a business or industrial tenant within five

1 years of completion or any other reasonable period of
2 time as may be designated by the Secretary of Community
3 and Economic Development.

4 (2) The committee may consider the following when
5 reviewing site development capital projects:

6 (i) The geographic distribution of site development
7 capital projects throughout this Commonwealth.

8 (ii) The ratio of State share to non-State share of
9 the total project cost.

10 (c) Approval.--The following shall apply:

11 (1) The committee may approve a site development capital
12 project for which an application has been submitted if it
13 determines that the proposed project meets the requirements
14 of the definitions of site development capital project
15 contained in section 9102 (relating to definitions) and will
16 result in a significant positive impact as evidenced by the
17 review criteria contained in subsection (b).

18 (2) Upon the approval of an application by the
19 committee, the Secretary of the Budget shall execute a grant
20 agreement or contract with the applicant. State funding for
21 approved site development capital projects shall be paid in
22 accordance with subsection (d).

23 (3) The Commonwealth shall not contract with or enter
24 into a grant agreement with an applicant for a site
25 development capital project itemized in a capital budget
26 itemization act for the purpose of providing funding unless
27 the project has been approved by at least four members of the
28 committee.

29 (d) Time period.--State funding for approved site
30 development capital projects shall be paid over not less than a

1 36-month period unless the Secretary of the Budget or the
2 committee authorizes a shorter period.

3 (e) Costs.--Fees for professional services incurred for the
4 design and construction of site development capital projects
5 shall be paid from non-State funds. Land acquisition shall be a
6 permissible State-funded expenditure if the acquisition cost is
7 supported by an appraisal done by a certified appraiser.

8 (f) Proportion.--Expenditure of State and non-State funds
9 shall be made on a proportional basis for direct land
10 acquisition costs and construction expenses.

11 (g) Verification.--Site development capital project cost
12 estimates must be verified by the Office of the Budget or its
13 designated agent before final approval is given to a project
14 application by the committee. Cost estimates shall include total
15 project cost, projected use for State and non-State funds and a
16 year-by-year schedule of costs for the entire project
17 construction phase.

18 (h) Bids.--The following shall apply:

19 (1) Notwithstanding any other provisions of law and
20 subject to paragraph (2), the solicitation of a minimum of
21 three written bids for all contracted construction work on
22 site development capital projects shall be the sole
23 requirement for the composition, solicitation, opening and
24 award of bids on such projects.

25 (2) The construction work shall be performed subject to
26 the act of March 3, 1978 (P.L.6, No.3), known as the Steel
27 Products Procurement Act.

28 (i) Review and audit.--Site development capital projects
29 shall be reviewed at regular intervals by the Office of the
30 Budget or its designated agent during the funding phase to

1 ensure financial and program compliance. A final closeout audit
2 shall be performed by the Office of the Budget or its designated
3 agent for all projects. Copies of closeout audits shall be
4 provided to the committee by the Office of the Budget upon
5 completion.

6 (j) Grant administration.--In the event an applicant does
7 not administer the grant, the applicant shall enter into a
8 cooperation agreement with the entity administering the grant.
9 The cooperation agreement shall be subject to the approval of
10 the Office of the Budget.

11 § 9120. Capital Project Oversight and Review Committee.

12 (a) Establishment.--There is established a Capital Project
13 Oversight and Review Committee for the purpose of reviewing and
14 approving ~~redevelopment assistance capital projects and site~~ <—
15 development capital projects.

16 (b) Composition.--The following shall apply:

17 (1) The Capital Project Oversight and Review Committee
18 shall consist of:

19 (i) the Governor or a designee;

20 (ii) the Majority Leader of the Senate or a
21 designee;

22 (iii) the Minority Leader of the Senate or a
23 designee;

24 (iv) the Majority Leader of the House of
25 Representatives or a designee;

26 (v) the Minority Leader of the House of
27 Representatives or a designee.

28 (2) The Governor or the Governor's designee shall act as
29 chairman of the committee.

30 (3) The Secretary of the Budget shall act as the

committee secretary and shall provide staff support as required by the committee. The Secretary of the Budget shall not be a voting member of the committee.

(c) Meetings.--

(1) The committee shall meet at the call of the chairman but at least once during each quarter of the fiscal year.

(2) Four members shall constitute a quorum.

(3) The consent of four members of the committee shall be required to approve an application for ~~a redevelopment assistance capital project or~~ a site development capital project. <—

CHAPTER 92

SPORTS FACILITIES

Sec.

9201. Definitions.

9202. Commonwealth funds.

9203. Eligibility.

9204. Requirement.

9205. Other agreements.

9206. Report.

9207. Financial commitment.

9208. Enforcement and penalties.

9209. Expiration.

9210. Scope.

§ 9201. Definitions.

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

"Baseline tax amount." The average of taxes referred to in section 9204(7)(i) (relating to requirement) paid to the

1 Commonwealth in 1996, 1997 and 1998.

2 "Contracting authority." An authority created pursuant to 53
3 Pa.C.S. Ch. 56 (relating to municipal authorities), for the
4 purpose of constructing or renovating a facility or other
5 authority established under the laws of this Commonwealth which
6 is eligible to apply for and receive redevelopment assistance
7 capital grants under Chapter 91 (relating to capital facilities)
8 under a contract with the office to receive Commonwealth grants
9 under this chapter.

10 "Contracting municipality." A city, county, township, town
11 or borough which contracts with the office to receive
12 Commonwealth funds to construct or renovate a facility.

13 "Facility." A stadium, arena or other place owned or leased
14 by a professional sports organization at which a professional
15 athletic event is conducted in the presence of individuals who
16 pay admission to view the event. The term includes a facility to
17 be constructed as well as an existing facility.

18 "Office." The Office of the Budget.

19 "Professional sports organization." A sole proprietorship,
20 corporation, limited liability company, partnership or
21 association that:

22 (1) owns a professional major league baseball or
23 national football franchise; and

24 (2) conducts professional athletic events of the
25 franchise at a facility.

26 § 9202. Commonwealth funds.

27 The receipt of grants of Commonwealth funds by a contracting
28 municipality or contracting authority under Chapter 91 (relating
29 to capital facilities) or this chapter to finance any cost
30 related to the construction or renovation of a facility shall be

1 subject to the requirements of this chapter.

2 § 9203. Eligibility.

3 In order for a facility to qualify for grants of Commonwealth
4 funds, the professional sports organization utilizing the
5 facility must certify that:

6 (1) it maintains its headquarters, principal business
7 offices, training facilities and camps, except baseball
8 spring training, and related enterprises and activities,
9 except minor league activities, in this Commonwealth;

10 (2) except for a sole proprietorship, it is
11 incorporated, organized or otherwise created under the laws
12 of this Commonwealth; and

13 (3) it will continue to comply with the certifications
14 under paragraphs (1) and (2) for the duration of the lease
15 under section 9204(1) (relating to requirement) or for the
16 initial term of the debt, whichever is longer.

17 § 9204. Requirement.

18 In order for grants of Commonwealth funds to be used to
19 construct or renovate a facility, the contracting municipality
20 or contracting authority must contract with the professional
21 sports organization to ensure compliance by the professional
22 sports organization with the following terms and conditions:

23 (1) Agreement by the professional sports organization to
24 remain and conduct professional sporting events in the
25 facility for the duration of the lease or for the term of any
26 debt of the Commonwealth, whichever is longer, but in no
27 event longer than 29.5 years. The contract shall include
28 agreement by the professional sports organization that if the
29 agreement to remain and conduct professional sporting events
30 is violated, the contracting municipality or contracting

1 authority shall seek specific performance of the agreement to
2 remain and conduct professional sporting events or receive a
3 payment in the amount set forth in the agreement between the
4 contracting municipality or contracting authority and the
5 professional sports organization and the amount equal to the
6 Commonwealth's principal contribution under Chapter 91
7 (relating to capital facilities) or this chapter to the
8 construction or renovation of the facility.

9 (2) Establishment of a procedure to provide written
10 notice by the professional sports organization to the
11 contracting municipality or contracting authority and the
12 Commonwealth of any sale, transfer or relocation of its
13 sports franchise or team immediately upon entering into any
14 commitment to sell, transfer or relocate the sports franchise
15 or team.

16 (3) Agreement that if the professional sports
17 organization sells or transfers its sports franchise or team,
18 the purchaser or transferee shall be bound by and shall
19 contract to be subject to the same terms and conditions
20 required by this chapter as a condition of the sale.

21 (4) Agreement that all costs of design and construction
22 of a new or renovated facility which are due to delays or
23 which exceed the projected costs set forth in the financial
24 plan or contract with the office shall be the responsibility
25 of the contracting municipality or contracting authority or
26 the professional sports organization.

27 (5) Agreement that during the term of the lease for the
28 facility, the professional sports organization or the
29 contracting municipality or contracting authority shall be
30 responsible for all capital improvements to the facility and

1 for all operating expenses relating to the use of the
2 facility, including security, cleaning, insurance,
3 maintenance and utilities.

4 (6) Agreement to set aside a specified minimum number of
5 days, at reasonable times throughout the year, to be
6 available for the use of the facility by the contracting
7 municipality or contracting authority or by the Commonwealth.
8 Under this agreement, the Commonwealth shall receive the same
9 number of days and be entitled to the same terms as the
10 contracting municipality or contracting authority.

11 (7) Agreement to make an additional rental payment of
12 \$25,000,000 reduced by available credits under subparagraphs
13 (i) through (iii) in the tax year immediately following the
14 expiration of the first ten-year period of occupancy or lease
15 of the facility and at the expiration of every ten-year
16 period thereafter. The professional sports organization shall
17 pay the additional rental payment to the contracting
18 municipality or contracting authority, which shall remit the
19 additional rental payment to the Commonwealth. The additional
20 rental payment made by the professional sports organization
21 shall be reduced by the following credits:

22 (i) The credits available for the first ten-year
23 period of occupancy or lease shall be amounts paid to the
24 Commonwealth which exceed the product of the baseline tax
25 amount multiplied by 7.5. The credits available for each
26 subsequent ten-year period of occupancy shall be the
27 amounts paid to the Commonwealth which exceed the product
28 of the baseline tax amount multiplied by 10. Available
29 credits include all of the following:

30 (A) An amount equal to all corporate net income

1 tax, capital stock and franchise tax and personal
2 income tax related to the ownership and operation of
3 the professional sports organization.

4 (B) An amount equal to:

5 (I) all personal income tax withheld from
6 its employees by the professional sports
7 organization;

8 (II) all personal income tax withheld from
9 the employees of any provider of events at or
10 services to, or any operator of an enterprise in,
11 a facility or facility complex; and

12 (III) all personal income tax to which the
13 Commonwealth would be entitled from performers or
14 other participants, including visiting teams, at
15 an event or activity at the facility.

16 (C) An amount equal to all sales and use tax
17 related to the operation of the professional sports
18 organization and the facility and enterprises
19 developed as part of the facility complex. This
20 clause includes sales and use tax paid by any
21 provider of events or activities at or services to a
22 facility, including sales and use tax paid by vendors
23 and concessionaires and contractors at the facility.

24 (D) An amount equal to all tax paid, by the
25 professional sports organization or by any provider
26 of events or activities at or services to a facility,
27 to the Commonwealth related to the sale of any
28 liquor, wine or malt or brewed beverage in the
29 facility or facility complex.

30 (E) The amount paid by the professional sports

1 organization or by any provider of events or
2 activities at or services to a facility or facility
3 complex of any new tax enacted by the Commonwealth
4 after February 9, 1999.

5 (ii) In addition to the credits available under
6 subparagraph (i), the professional sports organization
7 may credit an amount equal to one-third of the following,
8 incurred prior to the occupancy or lease of the facility:

9 (A) all personal income tax withheld from
10 personnel by the professional sports organization or
11 by a contractor or other entity involved in the
12 construction or renovation of the facility; and

13 (B) sales and use tax paid on materials and
14 other construction costs, whether withheld or paid by
15 the professional sports organization or other entity,
16 directly related to the construction or renovation of
17 the facility.

18 (iii) To the extent the amount of the credits
19 available for a specific ten-year period under
20 subparagraphs (i) and (ii) exceeds \$25,000,000, the
21 excess may be carried over and added to the amount of
22 credits claimed under subparagraphs (i) and (ii) for the
23 following ten-year period. Any excess credit still
24 remaining shall be carried over to subsequent ten-year
25 periods until it is exhausted or until the expiration of
26 this chapter under section 9209 (relating to expiration),
27 whichever is sooner.

28 (iv) Payments shall be made by the professional
29 sports organization and remitted by the contracting
30 municipality or contracting authority at a time and in a

manner, including required documentation of all credits, as the office prescribes. This subparagraph includes annual reconciliation of all credits under subparagraphs (i) through (iii). All tax records and information shall be subject to all confidentiality protections provided by the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971; however, the Department of Revenue shall provide records and information to the office as necessary for the office to enforce this chapter.

(8) An agreement that, upon sale of the facility or the expiration or termination of the lease at the facility, the Commonwealth shall have an option to purchase for \$1 a one-third interest in the facility.

§ 9205. Other agreements.

The contracting municipality or the contracting authority and the professional sports organization may enter into all other agreements necessary and appropriate for the construction, renovation and operation of the facility. The contracting municipality or the contracting authority shall enter into all contracts with the office required to receive Commonwealth funds.

§ 9206. Report.

The office shall file a report every ten years to the General Assembly regarding the additional rental payments under this chapter.

§ 9207. Financial commitment.

The contracting municipality or contracting authority and the professional sports organization must provide to the office all of the following:

(1) A financial plan for all funding related to the

1 construction or renovation of the facility, to include
2 details regarding the financial commitment of the parties to
3 the project.

4 (2) An economic development plan for the area
5 surrounding the facility.

6 (3) A plan to provide affordable seating within a
7 portion of the facility.

8 (4) A representation from the contracting municipality
9 or contracting authority that tax revenues to the
10 Commonwealth will be increased and a description of how the
11 grant of Commonwealth funds will provide the increase.

12 § 9208. Enforcement and penalties.

13 (a) Injunction.--The Commonwealth may enjoin a violation of
14 section 9204 (relating to requirement).

15 (b) Withhold funding.--The Commonwealth has the right to
16 withhold funding under this chapter and to exercise all rights
17 and remedies at law or in equity for any of the following:

18 (1) Failure of a professional sports organization to
19 comply with the provisions of this chapter in a timely and
20 appropriate manner.

21 (2) A violation of a covenant under any agreement with
22 or for the benefit of the Commonwealth relating to the
23 construction or renovation or use of the facility.

24 (3) Any other violation of law applicable to the
25 construction or renovation or use of the facility.

26 (c) Civil penalty.--A person that intentionally, recklessly
27 or negligently violates this chapter shall be subject to a civil
28 penalty of up to \$100,000 per violation.

29 (d) Criminal penalty.--A person that intentionally or
30 knowingly provides false or fraudulent information or makes a

1 material misrepresentation under this chapter commits a
2 misdemeanor of the third degree.

3 § 9209. Expiration.

4 This chapter shall cease to apply to each participating
5 professional sports organization 30 years following the
6 occupancy or lease of the facility.

7 § 9210. Scope.

8 This issuance of grants under this chapter is subject to
9 Chapter 91.

10 Section 2.1. The addition of 12 Pa.C.S. § 3503 is intended
11 to be in pari materia with section 103 of the act of October 6,
12 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone
13 and Keystone Opportunity Expansion Zone Act.

14 Section 2.2. The Pennsylvania Economic Development Financing
15 Authority is authorized to incur debt on behalf of the
16 Commonwealth in an amount equal to the remaining debt authorized
17 by section 16 of act of March 1, 1988 (P.L.82, No.16), known as
18 the Pennsylvania Infrastructure Investment Authority Act, for
19 loans under 12 Pa.C.S. § 4321.

20 Section 3. Repeals are as follows:

21 (1) Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.8
22 of the act of August 23, 1967 (P.L.251, No.102), known as the
23 Economic Development Financing Law, are repealed.

24 (2) The following provisions of the act of June 29, 1996
25 (P.L.434, No.67), known as the Job Enhancement Act, are
26 repealed:

27 (i) Chapter 3.

28 (ii) Chapter 7.

29 (iii) Chapter 13.

30 (iv) Chapter 17.

1 (2.1) Chapter 3 of the act of October 6, 1998 (P.L.705,
2 No.92), known as the Keystone Opportunity Zone and Keystone
3 Opportunity Expansion Zone Act, is repealed.

4 (2.2) The following apply:

5 (i) Except as set forth in subparagraph (ii), the
6 act of February 9, 1999 (P.L.1, No.1), known as the
7 Capital Facilities Debt Enabling Act, is repealed.

8 (ii) Section 301 of the Capital Facilities Debt
9 Enabling Act is saved from repeal.

10 (3) Section 305(e) of the act of June 26, 2001 (P.L.755,
11 No.77), known as the Tobacco Settlement Act, is repealed.

12 (4) All acts and parts of acts are repealed insofar as
13 they are inconsistent with this act.

14 Section 4. Chapters 3, 7, 13, and 17 of the act of June 29,
15 1996 (P.L.434, No.67), known as the Job Enhancement Act, are
16 continued by this codification as follows:

17 (1) The addition of 12 Pa.C.S. Ch. 3 is a continuation
18 of Chapter 3 of the Job Enhancement Act. The following apply:

19 (i) Except as otherwise provided in 12 Pa.C.S. Ch.
20 3, all activities initiated under Chapter 3 of the Job
21 Enhancement Act shall continue and remain in full force
22 and effect and may be completed under 12 Pa.C.S. Ch. 3.
23 Orders, regulations, rules and decisions which were made
24 under Chapter 3 of the Job Enhancement Act and which are
25 in effect on the effective date of section 3(2)(i) of
26 this act shall remain in full force and effect until
27 revoked, vacated or modified under 12 Pa.C.S. Ch. 3.
28 Contracts, obligations and collective bargaining
29 agreements entered into under Chapter 3 of the Job
30 Enhancement Act are not affected nor impaired by the

1 repeal of Chapter 3 of the Job Enhancement Act.

2 (ii) Any difference in language between 12 Pa.C.S.
3 Ch. 3 and Chapter 3 of the Job Enhancement Act is
4 intended only to conform to the style of the Pennsylvania
5 Consolidated Statutes and is not intended to change or
6 affect the legislative intent, judicial construction or
7 administration and implementation of Chapter 3 of the Job
8 Enhancement Act.

9 (2) The addition of 12 Pa.C.S. Ch. 5 is a continuation
10 of Chapter 17 of the Job Enhancement Act. The following
11 apply:

12 (i) All activities initiated under the Chapter 17 of
13 the Job Enhancement Act shall continue and remain in full
14 force and effect and may be completed under 12 Pa.C.S.
15 Ch. 5. Orders, regulations, rules and decisions which
16 were made under Chapter 17 of the Job Enhancement Act and
17 which are in effect on the effective date of section
18 3(2)(iv) of this act shall remain in full force and
19 effect until revoked, vacated or modified under 12
20 Pa.C.S. Ch. 5. Contracts, obligations and collective
21 bargaining agreements entered into under Chapter 17 of
22 the Job Enhancement Act are not affected nor impaired by
23 the repeal of Chapter 17 of the Job Enhancement Act.

24 (ii) Except as set forth in subparagraph (iii), any
25 difference in language between 12 Pa.C.S. Ch. 5 and
26 Chapter 17 of the Job Enhancement Act is intended only to
27 conform to the style of the Pennsylvania Consolidated
28 Statutes and is not intended to change or affect the
29 legislative intent, judicial construction or
30 administration and implementation of Chapter 17 of the

1 Job Enhancement Act.

2 (iii) Subparagraph (ii) does not apply to the
3 following:

4 (A) The addition of 12 Pa.C.S. § 502.

5 (B) The addition of 12 Pa.C.S. § 503.

6 (iv) The members of Small Business Council in office
7 on the effective date of section 3(2)(iv) of this act
8 shall continue in office under the addition of 12 Pa.C.S.
9 Ch. 5.

10 (3) The addition of 12 Pa.C.S. Ch. 21 is a continuation
11 of Chapter 7 of the Job Enhancement Act. The following apply:

12 (i) Except as otherwise provided in 12 Pa.C.S. Ch.
13 21, all activities initiated under the Chapter 7 of the
14 Job Enhancement Act shall continue and remain in full
15 force and effect and may be completed under 12 Pa.C.S.
16 Ch. 21. Orders, regulations, rules and decisions which
17 were made under Chapter 7 of the Job Enhancement Act and
18 which are in effect on the effective date of section
19 3(2)(ii) of this act shall remain in full force and
20 effect until revoked, vacated or modified under 12
21 Pa.C.S. Ch. 21. Contracts, obligations and collective
22 bargaining agreements entered into under Chapter 7 of the
23 Job Enhancement Act are not affected nor impaired by the
24 repeal of Chapter 7 of the Job Enhancement Act.

25 (ii) Except as set forth in subparagraph (iii), any
26 difference in language between 12 Pa.C.S. Ch. 21 and
27 Chapter 7 of the Job Enhancement Act is intended only to
28 conform to the style of the Pennsylvania Consolidated
29 Statutes and is not intended to change or affect the
30 legislative intent, judicial construction or

1 administration and implementation of Chapter 7 of the Job
2 Enhancement Act.

3 (iii) Subparagraph (ii) does not apply to any of the
4 following provisions:

5 (A) The addition of 12 Pa.C.S. § 2106(2).

6 (B) The addition of 12 Pa.C.S. § 2109(b).

7 (4) The addition of 12 Pa.C.S. Ch. 23 is a continuation
8 of Chapter 13 of the Job Enhancement Act. The following
9 apply:

10 (i) Except as otherwise provided in 12 Pa.C.S. Ch.
11 23, all activities initiated under the Chapter 13 of the
12 Job Enhancement Act shall continue and remain in full
13 force and effect and may be completed under 12 Pa.C.S.
14 Ch. 23. Orders, regulations, rules and decisions which
15 were made under Chapter 13 of the Job Enhancement Act and
16 which are in effect on the effective date of section
17 3(2)(iii) of this act shall remain in full force and
18 effect until revoked, vacated or modified under 12
19 Pa.C.S. Ch. 23. Contracts, obligations and collective
20 bargaining agreements entered into under Chapter 13 of
21 the Job Enhancement Act are not affected nor impaired by
22 the repeal of Chapter 13 of the Job Enhancement Act.

23 (ii) Except as set forth in subparagraph (iii), any
24 difference in language between 12 Pa.C.S. Ch. 23 and
25 Chapter 13 of the Job Enhancement Act is intended only to
26 conform to the style of the Pennsylvania Consolidated
27 Statutes and is not intended to change or affect the
28 legislative intent, judicial construction or
29 administration and implementation of Chapter 13 of the
30 Job Enhancement Act.

(iii) Subparagraph (ii) does not apply to any of the following provisions:

(A) The addition of 12 Pa.C.S. § 2305(a).

(B) The addition of 12 Pa.C.S. § 2306(a), (b) and (e).

(C) The addition of 12 Pa.C.S. § 2308(a) and (b).

(D) The addition of 12 Pa.C.S. § 2309(b).

(E) The addition of 12 Pa.C.S. § 2310(b).

(iv) In continuation of section 1302 of the Job Enhancement Act, all funds, accounts, assets, encumbrances and liabilities located in or associated with the Air Quality Improvement Fund, the Storage Tank Loan Fund and the Recycling Incentive Development Account shall be transferred to the Pollution Prevention Assistance Account and shall be administered in accordance with 12 Pa.C.S. §§ 2304 and 2309. The Department of Community and Economic Development shall report annually to the Department of Environmental Protection on the status of the Pollution Prevention Assistance Account and the loans made under 12 Pa.C.S. § 2309.

(v) In continuation of section 1309(a) of the Job Enhancement Act, as of July 1, 1997, all funds, accounts, assets, encumbrances and liabilities located in or associated with the Capital Loan Fund shall be transferred to the Small Business First Fund and shall thereafter be administered in accordance with 12 Pa.C.S. Ch. 23.

(vi) In continuation of section 1309(b) of the Job

Enhancement Act, annually on July 1, the State Treasurer may transfer, upon approval by the Governor, up to \$2,000,000 from the Hazardous Sites Cleanup Fund into the Pollution Prevention Assistance Account. This transfer shall be in addition to other appropriations, Federal funding and private contributions received by the account.

Section 4.1. The addition of 12 Pa.C.S. Ch. 35 is a continuation of Chapter 3 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act. The following apply:

(1) Except as otherwise provided in 12 Pa.C.S. Ch. 35, all activities initiated under Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 35. Orders, regulations, rules and decisions which were made under Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act and which are in effect on the effective date of section 3(2.1) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 35. Contracts, obligations and collective bargaining agreements entered into under Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act are not affected nor impaired by the repeal of Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.

(2) Except as set forth in paragraph (3), any difference in language between 12 Pa.C.S. Ch. 35 and Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act is intended only to conform to the style of the

Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.

(3) Paragraph (2) does not apply to the following:

(i) The addition of 12 Pa.C.S. § 3512(e).

(ii) The addition of 12 Pa.C.S. § 3513(c).

(iii) The addition of 12 Pa.C.S. § 3514(c).

(iv) The addition of 12 Pa.C.S. § 3515(a) and (c).

Section 5. Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.8 of the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, are continued by the addition of 12 Pa.C.S. Ch. 43. The following apply:

(1) Except as otherwise provided in 12 Pa.C.S. Ch. 43, all activities initiated under sections 6.1 through 6.8 of the Economic Development Financing Law shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 43. Orders, regulations, rules and decisions which were made under sections 6.1 through 6.8 of the Economic Development Financing Law and which are in effect on the effective date of section 3(1) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 43. Contracts, obligations, collective bargaining agreements and outstanding bonds entered into under sections 6.1 through 6.8 of the Economic Development Financing Law are not affected nor impaired by the repeal of sections 6.1 through 6.8 of the Economic Development Financing Law. The provisions of 12 Pa.C.S. Ch. 43 shall not in any way impair or in any manner affect the rights and

1 remedies of obligees of the Pennsylvania Economic Development
2 Authority. Notwithstanding any other provision of 12 Pa.C.S.
3 Ch. 43, all such rights and remedies shall be preserved by 12
4 Pa.C.S. Ch. 43 and shall be and shall remain valid, binding
5 and enforceable in all respects. As used in this paragraph,
6 "obligees of the Pennsylvania Economic Development Authority"
7 shall mean the holders of any notes, bonds, refunding notes
8 and bonds, interim certificates, debentures and other
9 evidences of indebtedness, obligees of contracts or other
10 obligations of the Pennsylvania Economic Development
11 Authority established under the provisions of sections 6.1
12 through 6.8 of the Economic Development Finance Law.

13 (2) Except as set forth in paragraph (3), any difference
14 in language between 12 Pa.C.S. Ch. 43 and sections 6.1
15 through 6.8 of the Economic Development Financing Law is
16 intended only to conform to the style of the Pennsylvania
17 Consolidated Statutes and is not intended to change or affect
18 the legislative intent, judicial construction or
19 administration and implementation of sections 6.1 through 6.8
20 of the Economic Development Financing Law.

21 (3) Paragraph (2) does not apply to any of the following
22 provisions:

- 23 (i) The addition of 12 Pa.C.S. § 4303(c).
- 24 (ii) The addition of 12 Pa.C.S. § 4305(b) and (c).
- 25 (iii) The addition of 12 Pa.C.S. § 4320.
- 26 (iv) The addition of 12 Pa.C.S. § 4321.
- 27 (v) The addition of 12 Pa.C.S. § 4322.
- 28 (vi) The addition of 12 Pa.C.S. § 4323.
- 29 (vii) The addition of 12 Pa.C.S. § 4324.
- 30 (viii) The addition of 12 Pa.C.S. § 4325.

1 (4) The members of board of the Pennsylvania Economic
2 Development Financing Authority in office on the effective
3 date of section 3(1) of this act shall continue in office
4 under the addition of 12 Pa.C.S. Ch. 43.

5 Section 5.1. The addition of 72 Pa.C.S. Ch. 91 is a
6 continuation of Chapter 3 of the act of February 9, 1999 (P.L.1,
7 No.1), known as the Capital Facilities Debt Enabling Act. The
8 following apply:

9 (1) Except as otherwise provided in 72 Pa.C.S. Ch. 91,
10 all activities initiated under Chapter 3 of the Capital
11 Facilities Debt Enabling Act shall continue and remain in
12 full force and effect and may be completed under 72 Pa.C.S.
13 Ch. 91.

14 (2) Orders, regulations, rules and decisions which were
15 made under Chapter 3 of the Capital Facilities Debt Enabling
16 Act and which are in effect on the effective date of section
17 3(2.2) of this act shall remain in full force and effect
18 until revoked, vacated or modified under 72 Pa.C.S. Ch. 91.

19 (3) Contracts, obligations and collective bargaining
20 agreements entered into under Chapter 3 of the Capital
21 Facilities Debt Enabling Act are not affected nor impaired by
22 the repeal of the Capital Facilities Debt Enabling Act.

23 (4) Except as set forth in paragraph (5), any difference
24 in language between 72 Pa.C.S. Ch. 91 and Chapter 3 of the
25 Capital Facilities Debt Enabling Act is intended only to
26 conform to the style of the Pennsylvania Consolidated
27 Statutes and is not intended to change or affect the
28 legislative intent, judicial construction or administration
29 and implementation of Chapter 3 of the Capital Facilities
30 Debt Enabling Act.

1 (5) Paragraph (4) does not apply to any of the following
2 provisions:

3 (i) The addition of 72 Pa.C.S. § 9102.

4 (ii) The addition of 72 Pa.C.S. § 9103(b)(1)(ii).

5 (iii) The addition of 72 Pa.C.S. § 9107(c)(5).

6 (iv) The addition of 72 Pa.C.S. § 9113.

7 (v) The addition of 72 Pa.C.S. § 9117.

8 (vi) The addition of 72 Pa.C.S. § 9118(a), ~~(b), (c),~~ <—

9 ~~(d), (g), (h) and (j)~~ (G) AND (I). <—

10 (vii) The addition of 72 Pa.C.S. § 9119.

11 (viii) The addition of 72 Pa.C.S. § 9120.

12 Section 5.2. The addition of 72 Pa.C.S. Ch. 92 is a
13 continuation of Chapter 5 of the act of February 9, 1999 (P.L.1,
14 No.1), known as the Capital Facilities Debt Enabling Act. The
15 following apply:

16 (1) Except as otherwise provided in 72 Pa.C.S. Ch. 92,
17 all activities initiated under Chapter 5 of the Capital
18 Facilities Debt Enabling Act shall continue and remain in
19 full force and effect and may be completed under 72 Pa.C.S.
20 Ch. 92.

21 (2) Orders, regulations, rules and decisions which were
22 made under Chapter 5 of the Capital Facilities Debt Enabling
23 Act and which are in effect on the effective date of section
24 3(2.2) of this act shall remain in full force and effect
25 until revoked, vacated or modified under 72 Pa.C.S. Ch. 92.

26 (3) Contracts, obligations and collective bargaining
27 agreements entered into under Chapter 5 of the Capital
28 Facilities Debt Enabling Act are not affected nor impaired by
29 the repeal of Chapter 5 of the Capital Facilities Debt
30 Enabling Act.

1 (4) Any difference in language between 72 Pa.C.S. Ch. 92
2 and Chapter 5 of the Capital Facilities Debt Enabling Act is
3 intended only to conform to the style of the Pennsylvania
4 Consolidated Statutes and is not intended to change or affect
5 the legislative intent, judicial construction or
6 administration and implementation of Chapter 5 of the Capital
7 Facilities Debt Enabling Act.

8 Section 6. The following apply to the Tobacco Settlement
9 Investment Board:

10 (1) The board is authorized to invest, in addition to
11 any amount invested on the effective date of this section in
12 venture capital, \$30,000,000 in primary growth stage
13 investments:

14 (i) in which at least 70% of the investments will be
15 made in companies located primarily in this Commonwealth
16 or in companies willing to relocate significant business
17 operations to this Commonwealth; and

18 (ii) which are equitably distributed geographically
19 throughout this Commonwealth.

20 (2) Primary growth stage investments must comply with
21 the requirements of section 305(a) and (g) of the act of June
22 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement
23 Act.

24 Section 7. The following shall apply:

25 (1) Pursuant to the provisions of section 7(a)(3) of
26 Article VIII of the Constitution of Pennsylvania, the
27 question of incurring indebtedness of \$250,000,000 for grants
28 and loans for the acquisition, repair, construction,
29 reconstruction, rehabilitation, extension, expansion and
30 improvement of water and wastewater infrastructure, including

1 water supply and sewage treatment systems, subject to
2 implementation through 12 Pa.C.S. § 4321, shall be submitted
3 to the electors at the next primary election following the
4 effective date of this section.

5 (2) The Secretary of the Commonwealth shall forthwith
6 certify the question to the county boards of elections.

7 (3) The question shall be in substantially the following
8 form:

9 Do you favor the incurring of indebtedness by the
10 Commonwealth in the amount of \$250,000,000 for use as
11 grants and loans for construction, expansion and
12 improvement of water and wastewater infrastructure,
13 including water supply and sewage treatment systems?

14 Section 8. Appropriations are as follows:

15 (1) The sum of \$10,000,000, or as much thereof as may be
16 necessary, is hereby appropriated to the Economic Enhancement
17 Fund for the fiscal year July 1, 2003, to June 30, 2004, to
18 carry out the provisions of 12 Pa.C.S. § 4324.

19 (2) The sum of \$2,000,000, or as much thereof as may be
20 necessary, is hereby appropriated to the Department of
21 Community and Economic Development for the fiscal year July
22 1, 2003, to June 30, 2004, for the following:

23 (i) For the Base Retention and Conversion
24 Pennsylvania Action Committee to develop a Statewide
25 strategy.

26 (ii) For matching grants for economic impact
27 studies, environmental impact studies, encroachment
28 studies, community and regional interaction with military
29 bases, infrastructure needs at military bases and job
30 training needs at or near military bases. Grants under

1 this subparagraph:

2 (A) shall be awarded by the Base Retention and
3 Conversion Pennsylvania Action Committee;

4 (B) require a 25% local match; and

5 (C) are limited to less than \$75,000 per
6 military base.

7 Section 8.1. The addition of 12 Pa.C.S. § 3513(c) shall
8 apply retroactively to May 31, 2003.

9 Section 9. This act shall take effect July 1, 2003, or
10 immediately, whichever is later.