

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1

Special Session No. 1 of 2007-2008

INTRODUCED BY DePASQUALE, BELFANTI, BENNINGTON, CALTAGIRONE, DALEY, EACHUS, FRANKEL, FREEMAN, GEIST, GEORGE, KESSLER, KORTZ, McCALL, McGEEHAN, McILVAINE SMITH, M. O'BRIEN, PASHINSKI, SIPTROTH, SURRA, VITALI, YUDICHAK, PARKER, WOJNAROSKI, JOSEPHS, WALKO, YOUNGBLOOD, HORNAMAN, MANDERINO, MELIO, SCAVELLO AND K. SMITH, NOVEMBER 15, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 13, 2008

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes, in
3 Commonwealth Financing Authority, further providing for
4 indebtedness; establishing the Clean Energy Program;
5 consolidating provisions of The Administrative Code of 1929
6 relating to the Energy Development Authority and emergency
7 powers; further providing for board directors, meetings and
8 quorum, for the powers of the Pennsylvania Energy Development
9 Authority and for authority indebtedness; and making a
10 related repeal.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 1543(b) and (d) of Title 64 of the
14 Pennsylvania Consolidated Statutes are amended by adding
15 paragraphs to read:

16 § 1543. Indebtedness.

17 * * *

18 (b) Program limitations.--Indebtedness incurred by the
19 authority under subsection (a) shall not, in aggregate, exceed

1 any of the following:

2 * * *

3 (9) \$250,000,000 for the programs established in section
4 1559 (relating to Clean Energy Program).

5 (10) \$600,000,000 for the programs established in
6 section 1806(21) (relating to powers and duties).

7 * * *

8 (d) Exception.--Subsection (c) shall not apply to the
9 aggregate amount of indebtedness incurred by the authority,
10 including through the issuance of bonds, for the following
11 programs:

12 * * *

13 (4) The programs established in section 1559.

14 (5) The programs established in section 1806(21).

15 * * *

16 Section 2. Title 64 is amended by adding a section to read:

17 § 1559. Clean Energy Program.

18 (a) Establishment.--There is hereby established a program to
19 be known as the Clean Energy Program, and the program shall
20 provide financial assistance for the preparation of sites
21 located within this Commonwealth for future development.

22 (b) Funding.--An amount not to exceed \$20,000,000 of the
23 gross receipts collected during each fiscal year under Article
24 XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
25 Reform Code of 1971, shall be annually appropriated from the
26 General Fund to the authority for the program established in
27 this section.

28 (c) Uses of funds by authority.--With respect to funding
29 under subsection (b), the authority shall have the powers and
30 duties to fulfill the obligations of a bond for alternative

1 energy projects, including, but not limited to, funding for
2 alternative and renewable energy projects, such as:

3 (1) An amount up to 20% of the revenues transferred to
4 the authority, but no more than \$50,000,000 to provide loans
5 to venture capital partnerships. The funds designated for
6 this purpose shall be transferred to the New Pennsylvania
7 Venture Capital Investment Program under section 1557
8 (relating to New Pennsylvania Venture Capital Investment
9 Program).

10 (2) An amount up to 20% of the revenues transferred to
11 the authority, but no more than \$50,000,000 to provide grants
12 and loans for working capital, equipment acquisition,
13 construction and site preparation.

14 (3) An amount up to 60% of the revenues transferred to
15 the authority, but no more than \$150,000,000 to provide
16 grants and loans to businesses and municipalities, municipal
17 authorities, redevelopment authorities and industrial
18 development agencies for infrastructure preparation and
19 development of high efficient advanced energy business sites.

20 (d) Policy.--In exercising its powers and duties under
21 subsection (a), the authority shall:

22 (1) Promote the diversification of energy generation by
23 supporting a broad cross section of clean energy
24 technologies.

25 (2) Encourage the deployment of distributed generation
26 projects for public infrastructure around this Commonwealth.

27 (3) Consider the economic development potential of each
28 proposed project as it fits into the larger context of this
29 Commonwealth's advanced energy market.

30 (4) Establish the goal of expanding the market for clean

1 energy technologies, services and fuels. In pursuit of this
2 goal, the authority shall emphasize the following investment
3 priorities:

4 (i) Attracting or expanding clean energy
5 manufacturing operations in this Commonwealth.

6 (ii) Deployment of clean energy projects at
7 manufacturing facilities to enhance their
8 competitiveness.

9 For purposes of this subsection, "clean energy" shall
10 mean alternative energy sources as defined in the act of
11 November 30, 2004 (P.L.1672, No.213), known as the
12 Alternative Energy Portfolio Standards Act, and
13 alternative fuels, including those defined in the act of
14 November 29, 2004 (P.L.1376, No.178), known as the
15 Alternative Fuels Incentive Act.

16 (5) Bring the most flexibility possible to the design of
17 its financing vehicles and to the focus of its solicitations.
18 Financing vehicles such as loan guarantees, insurance
19 products and flex loans, which can have delayed repayment
20 schedules or very low interest rates, may be utilized in
21 addition to traditional financing for some types of projects.
22 The authority shall emphasize flexibility in its
23 solicitations, which may be broadly targeted to the general
24 advanced energy community or narrowly targeted toward
25 specific areas where market gaps exist.

26 (6) Seek to leverage its capital to the maximum extent
27 possible. The authority may work with the investment and
28 developer community to leverage its funds by requiring
29 significant matching funds for all projects except in rare
30 circumstances and, when allowable, by investing in projects

1 that are likely to yield significant returns. The authority
2 shall consider ways to manage and increase its own funding,
3 including exploration of a variety of potential avenues,
4 including, but not limited to, Federal grants, private
5 foundation grants and legislative appropriations.

6 (7) Require, except in rare circumstances, all projects
7 to demonstrate that they have obtained significant matching
8 funds, including, but not limited to, funds from Federal,
9 State, local or private sources.

10 (8) Evaluate a proposed project to ascertain whether the
11 project has sufficient funding to enable project completion.

12 (9) When considering loans or loan guarantees,
13 thoroughly evaluate, in partnership with the department, the
14 credit of all borrowers and ensure that all financing is
15 awarded to borrowers who evidence a reasonable likelihood of
16 being able to repay the loans.

17 (e) Evaluation criteria.--In addition to specific criteria
18 developed by the authority, the following general criteria shall
19 be considered by the authority for all deployment projects:

20 (1) Potential to expand the market for the indigenous
21 energy resources of this Commonwealth.

22 (2) Potential to enhance this Commonwealth's energy
23 security and diversity.

24 (3) Ability to demonstrate significant environmental
25 benefits.

26 (4) Potential to either promote energy conservation or
27 to increase energy production from alternative energy
28 sources.

29 (5) Potential economic benefits for the Commonwealth,
30 which may be in the form of job creation, new investment,

savings to consumers or revenue generation for other beneficiaries, such as farmers, local governments or other landowners.

(6) Technical feasibility and cost-effectiveness of the project.

Section 3. Title 64 is amended by adding a chapter to read:

CHAPTER 18

ENERGY DEVELOPMENT AUTHORITY AND EMERGENCY POWERS

Sec.

10 1801. Definitions.

1802. Emergency petroleum product shortages.

12 1803. Energy Development Authority.

13 1804. Technical and financial support.

14 1805. Annual report.

15 1806. Powers and duties.

16 1807. Authority indebtedness.

17 1808. Financial assistance.

18 1809. Energy development plan.

19 1810. Exemption from taxation.

20 1811. Funding of authority.

21 1812. Limitation of powers.

22 1813. Audit.

23 § 1801. Definitions.

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

27 Authority." The Energy Development Authority established in
28 section 1803 (relating to Energy Development Authority).

29 "Board." The board of directors of the Energy Development
30 Authority.

1 "Bonds." Notes, bonds, refunding or renewal notes and bonds
2 and other evidence of indebtedness or obligations which the
3 Energy Development Authority is authorized to issue.

4 "Cost." The expense of construction and the expense of
5 acquisition of all structures, lands and other property rights
6 and interests in land necessary to a project. The term also
7 includes the expense of demolishing, removing or relocating any
8 buildings or structures on lands acquired or to be acquired,
9 including the following:

10 (1) the expense of acquiring any lands to which the
11 buildings or structures may be moved or relocated;

12 (2) sewage treatment, waste treatment and pollution
13 control facilities;

14 (3) railroad sidings, spurs or branch lines;

15 (4) all labor, materials, machinery and equipment and
16 fixtures;

17 (5) financing charges;

18 (6) interest on all bonds prior to and during
19 construction and for a period of one year thereafter;

20 (7) engineering, financial and legal services;

21 (8) plans, specifications, studies, surveys necessary or
22 incidental to determining the feasibility or practicability
23 of constructing a project;

24 (9) administrative expenses;

25 (10) reserves for interest and for extension,
26 enlargements, additions and improvements; and

27 (11) such other expenses as may be necessary or
28 incidental to the construction of the project and the placing
29 of the same in operation.

30 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC

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1 DEVELOPMENT OF THE COMMONWEALTH.

2 "HIGH-PERFORMANCE BUILDING." A BUILDING WHICH IS DESIGNED TO
3 ACHIEVE INTEGRATED SYSTEMS OF DESIGN AND CONSTRUCTION SO AS TO
4 SIGNIFICANTLY REDUCE OR ELIMINATE THE NEGATIVE IMPACT OF THE
5 BUILT ENVIRONMENT.

6 "Person." A natural person, corporation, partnership,
7 association or municipality of this Commonwealth and any public
8 corporation, authority or body whatsoever.

9 "Petroleum product." Motor gasoline, kerosene, distillates,
10 including Number 2 fuel oil, and diesel fuel.

11 "POLLUTION CONTROL TECHNOLOGY PROJECT." THE ACQUISITION,
12 CONSTRUCTION OR INSTALLATION OF POLLUTION CONTROL TECHNOLOGY AND
13 EQUIPMENT THAT ENABLES AN ELECTRIC GENERATING UNIT OR
14 COGENERATION UNIT TO MEET ANY OF THE FOLLOWING REQUIREMENTS:

15 (1) MERCURY EMISSION REDUCTIONS UNDER 25 PA. CODE CH.
16 123 (RELATING TO STANDARDS FOR CONTAMINANTS).

17 (2) THE REGULATIONS ADOPTED BY THE UNITED STATES
18 ENVIRONMENTAL PROTECTION AGENCY KNOWN AS THE CLEAN AIR
19 MERCURY RULE CODIFIED AT 40 CFR PTS. 60 (RELATING TO
20 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES), 72
21 (RELATING TO PERMITS REGULATION) AND 75 (RELATING TO
22 CONTINUOUS EMISSION MONITORING).

23 (3) NITROGEN OXIDES AND SULFUR DIOXIDE EMISSION
24 REDUCTION UNDER 25 PA. CODE CHS. 121 (RELATING TO GENERAL
25 PROVISIONS), 129 (RELATING TO STANDARDS FOR SOURCES) AND 145
26 (RELATING TO INTERSTATE POLLUTION TRANSPORT REDUCTION).

27 (4) THE CLEAN AIR INTERSTATE RULE IN 40 CFR (RELATING TO
28 PROTECTION OF ENVIRONMENT).

29 "Project." An activity entirely or largely conducted in this
30 Commonwealth which cannot be effectively funded using privately

1 available resources, relating to:

2 (1) basic and applied research concerning energy use,
3 renewable energy resources and energy extraction,
4 transmission, storage or conversion;

5 (2) limited scale demonstration of innovative or
6 commercially unproven technology to promote the production,
7 use or conservation of energy;

8 (3) activities to promote or remove obstacles to the
9 utilization and transportation of Pennsylvania energy
10 resources, including, but not limited to, limited scale
11 synthetic fuel facilities and the conversion or technological
12 improvement of industrial, commercial or agricultural systems
13 to utilize Pennsylvania coal or renewable energy resources,
14 except that the facility shall not unreasonably interfere
15 with private waste recycling industries;

16 (4) activities designed to further development or
17 deployment of:

18 (i) alternative energy sources, including those
19 defined in the act of November 30, 2004 (P.L.1672,
20 No.213), known as the Alternative Energy Portfolio
21 Standards Act;

22 (ii) alternative fuels, including those defined in
23 the act of November 29, 2004 (P.L.1376, No.178), known as
24 the Alternative Fuels Incentive Act;

25 (iii) energy efficiency technology; and

26 (iv) energy conservation measures.

27 (5) Activities designed to improve the energy efficiency
28 of large-scale industrial production facilities.

29 § 1802. Emergency petroleum product shortages.

30 (a) General rule.--The Governor may, by executive order,

1 proclaim a state of emergency based upon a finding that there
2 impends or exists a substantial shortage of petroleum products
3 available for use in this Commonwealth which poses a serious
4 threat to the health, safety or welfare of the public. A state
5 of emergency shall remain in effect for the maximum period of 90
6 days and may be extended by the Governor unless the extension is
7 disapproved by concurrent resolution adopted by both houses of
8 the General Assembly. A state of emergency may be declared for
9 all or any portion of this Commonwealth.

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

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

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

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

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

29 (c) Regulations.--The agency designated by the Governor to
30 conduct emergency measures may, during the period of the

1 emergency, adopt rules and regulations pursuant to section 204
2 of the act of July 31, 1968 (P.L.769, No.240), referred to as
3 the Commonwealth Documents Law. Any regulation adopted during a
4 state of emergency shall be automatically rescinded upon the
5 expiration of the emergency.

6 (d) Monitoring.--The Governor may designate a State agency
7 to monitor supplies of petroleum products available for use in
8 this Commonwealth to determine whether there exists, or is
9 likely to exist, a shortage.

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

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

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

28 (4) No employee or appointee of the agency or any other
29 person may release information from a petroleum product
30 company that would enable data provided by or relating to

1 individual customers of the petroleum company to be
2 identified as relating to or coming from the individual
3 customer. Any person disclosing the information in violation
4 of this section commits a misdemeanor of the third degree,
5 shall be subject to disciplinary action, including reprimand,
6 suspension or termination, and may be ordered to make
7 restitution to any injured or aggrieved party for losses or
8 damages shown.

9 (5) In order to obtain information required pursuant to
10 this subsection, the agency designated by the Governor to
11 monitor supplies of petroleum products may receive or share
12 information from any other Federal, State or local agency.
13 The agency shall provide the same confidentiality to
14 information recovered as is provided by the supplying agency.

15 § 1803. Energy Development Authority.

16 (a) Establishment.--There is established the Energy
17 Development Authority.

18 (b) Board of directors.--The authority shall be governed and
19 all of its corporate powers exercised by a board of directors
20 which shall be composed of the following individuals:

21 (1) The Secretary of Environmental Protection or a
22 designee.

23 (2) The Secretary of Banking or a designee.

24 (3) The Secretary of Community and Economic Development
25 or a designee.

26 (4) The Secretary of Agriculture or a designee.

27 (5) Four legislative appointees.

28 (i) Appointments are as follows:

29 (A) One individual appointed by the President
30 pro tempore of the Senate.

(B) One individual appointed by the Minority Leader of the Senate.

(C) One individual appointed by the Majority Leader of the House of Representatives.

(D) One individual appointed by the Minority Leader of the House of Representatives.

(ii) Legislative appointees shall serve at the pleasure of the appointing authority.

(iii) An individual appointed to the board pursuant to subparagraph (i) may not be a member of the General Assembly or staff of a member of the General Assembly.

12 (c) Organization.--The Governor shall select a member of the
13 board to serve as chairperson. The members shall select from
14 among themselves such officers as they shall determine.

15 (d) Compensation.--Members of the board of directors shall
16 be entitled to no compensation for their services as members but
17 shall be entitled to reimbursement for all necessary expenses
18 incurred in connection with the performance of their duties as
19 members.

20 (e) Meetings and quorum.--The board of directors shall
21 provide for the holding of regular and special meetings. The
22 consent of at least five directors, with at least four of the
23 consenting directors being appointed under subsection (b)(5),
24 shall be required to adopt any action on behalf of the
25 authority.

26 § 1804. Technical and financial support.

27 (a) General rule.--The Governor shall designate a State
28 agency to provide staff services to the authority for its
29 administration of this chapter, including technical services to
30 assist the authority in carrying out the provisions of this

1 chapter.

2 **(b) Personnel and services.**--The authority may utilize
3 personnel and services from any departments, agencies or other
4 authorities of the Commonwealth whose facilities and services
5 may be useful to the authority for implementation of this
6 chapter upon approval of the departments, agencies or
7 authorities.

8 **(c) Reimbursement.**--The authority may make reimbursement to
9 an agency, department or authority of the Commonwealth for
10 expenses incurred in providing services or use of facilities
11 acquired by the authority.

12 **(d) Construction.**--Notwithstanding 66 Pa.C.S. § 511
13 (relating to disposition, appropriation and disbursement of
14 assessments and fees) or any other law of this Commonwealth, no
15 funds received as reimbursement under this section shall be
16 deemed to be in substitution for funds from another source, nor
17 shall the funds reduce assessments to any utility. No funds
18 shall lapse at termination of a fiscal year, nor shall the funds
19 reduce any assessment by the Pennsylvania Public Utility
20 Commission in any fiscal year.

21 § 1805. Annual report.

22 The board shall make an annual report of the activities of
23 the authority for the preceding fiscal year, not later than 120
24 days after the conclusion of the fiscal year, to the Governor
25 and General Assembly. Each report shall contain a statement of
26 activities and a complete operating and financial statement
27 covering the operations of the authority.

28 § 1806. Powers and duties.

29 The authority, as a public corporation and governmental
30 instrumentality exercising public powers of the Commonwealth, is

1 granted, shall have and may exercise all powers necessary or
2 appropriate to carry out and effectuate the purposes of this
3 chapter, including, but not limited to, the power:

4 (1) To conduct examinations and investigations and take
5 testimony under oath or affirmation at public or private
6 hearings on matters material for its information and
7 necessary to determination and approval of energy development
8 project loan applications.

9 (2) To have existence until its existence shall be
10 terminated by law.

11 (3) To sue and be sued, implead and be impleaded,
12 complain and defend in all courts.

13 (4) To adopt, use and alter at will a corporate seal.

14 (5) To make bylaws for management and regulation of its
15 affairs and make, amend and repeal rules and regulations
16 governing the business of the authority.

17 (6) To seek technical determinations on project
18 applications.

19 (7) To make contracts of every name and nature and
20 execute all instruments necessary or convenient for the
21 carrying on of its business.

22 (8) To accept grants from and enter into contracts or
23 other transactions with Federal agencies.

24 (9) To take title by foreclosure or otherwise to a
25 project or other property pledged, mortgaged, encumbered or
26 otherwise available as security for a project financed in
27 whole or in part by the authority, whether by loan, loan
28 guarantee or otherwise where acquisition is necessary to
29 protect the interests of the authority regarding a project,
30 to pay costs arising out of the acquisition from money held

1 in the Energy Development Fund and to sell, transfer and
2 convey all or any portion of a project to a responsible
3 buyer.

4 (10) To purchase and make payments of mortgages on any
5 project where the purchase or payment is necessary to protect
6 a loan or loan guarantee previously made by the authority and
7 to sell, transfer, convey or assign any such mortgage. Money
8 so used by the authority in the purchase of any mortgage, or
9 any payments thereon, shall be withdrawn from the Energy
10 Development Fund, and money derived from the sale of any
11 mortgages shall be deposited by the authority in the fund.

12 (11) To lease, lease with an option to purchase, sell by
13 installment sale or otherwise, or otherwise dispose of any or
14 all of its projects, for the rentals or amounts and upon such
15 terms and conditions as the authority deems proper.

16 (12) To finance projects by making loans to persons to
17 provide funds for project costs.

18 (13) To guarantee loans of money made to persons, upon
19 the terms and conditions which the authority may prescribe,
20 relating to projects.

21 (14) To make grants to fund projects.

22 (15) To collect fees and charges determined to be
23 reasonable as to activities undertaken in furtherance of the
24 purposes of this chapter.

25 (16) To borrow money for the operation and work of the
26 authority by making notes and issuing bonds under the
27 provisions of this chapter.

28 (17) To pledge, hypothecate or otherwise encumber
29 revenues or receipts of the authority as security for bonds
30 of the authority.

(18) To receive appropriations and apply for and accept grants, gifts, donations, bequests and settlements from a public or private source. Money received by the authority shall be deposited in the Energy Development Fund and used for the purposes of the authority.

(19) To promote and facilitate the sale through this Commonwealth of alternative energy credits as defined in the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act. This paragraph shall not be construed as conferring on the Commonwealth the authority to purchase, acquire or sell alternative energy credits.

(20) To establish rebate and incentive programs to help defray the costs to persons associated with the purchase, manufacture or distribution of products used to generate alternative energy or employing energy-efficient technology.

(21) To enter into agreements with the Department of Community and Economic Development DEPARTMENT and the Ben Franklin Technology Development Authority to provide for the transfer of funds from the Energy Development Fund or other funds under the control of the authority, to be used for energy-related activities and to fulfill the obligations of a bond for alternative energy projects, including:

(i) An amount up to 9% of the revenues in the fund, but no more than \$56,000,000 to the Ben Franklin Technology Development Authority to support early-stage activities, including incubator support services, management support, translational research activities and early-stage capital. The funds designated for these purposes shall be allocated to the Ben Franklin

Technology Partners. Funding shall be subject to the guidelines established by the Ben Franklin Technology Development Authority. The guidelines shall be posted on its official Internet website.

(ii) An amount up to 8% of the revenues in the fund, but not more than \$44,000,000 to create a rebate program to lower the retail price of new energy-efficient appliances AND FOR A LOAN PROGRAM TO PROVIDE FINANCING FOR ENERGY-EFFICIENT HOME IMPROVEMENTS. AN AMOUNT NOT TO EXCEED \$5,000,000 SHALL BE ALLOCATED TO THE TREASURY DEPARTMENT TO ESTABLISH A LOAN PROGRAM, TO BE KNOWN AS THE KEYSTONE HELP PROGRAM, AS A REVOLVING LOAN PROGRAM OFFERING FINANCING FOR ENERGY-EFFICIENT APPLIANCES AND OTHER ENERGY EFFICIENCY MEASURES TO HOMEOWNERS OCCUPYING THEIR HOMES IN ALL CUSTOMER CLASSES. THE FUNDS DESIGNATED FOR THESE PURPOSES SHALL BE LIMITED TO USE AS LOAN-LOSS RESERVE FUNDS AND TO OFFER LOANS TO LOW-INCOME HOMEOWNERS OCCUPYING THEIR HOMES AT RATES LOWER THAN THOSE OFFERED TO OTHER CUSTOMER CLASSES.

(iii) An amount up to 33% of the revenues in the fund, but not more than \$200,000,000 toward rebates and grants for solar photovoltaic, other solar electric or solar thermal projects and toward production incentives to encourage the establishment or expansion of solar manufacturing operations in this Commonwealth. Not less than 65% of the total funding under this subsection shall be used for rebates and grants for solar photovoltaic, other solar electric or solar thermal projects. Projects installing solar equipment manufactured in this Commonwealth are eligible for rebates and grants up to

1 15% greater than comparable projects installing equipment
2 manufactured outside this Commonwealth.

3 (iv) An amount up to 50% 45% of the revenues in the ←
4 fund, but no more than \$300,000,000 \$270,000,000 to ←
5 provide grants and loans for alternative energy projects,
6 alternative fuels and demand-side management and
7 efficiency measures for all customer classes., including, ←
8 but not limited to, energy efficient building
9 construction, equipment and renovation. THE SUM OF ←
10 \$25,000,000 UNDER THIS SUBPARAGRAPH SHALL BE FOR GRANTS
11 TO HIGH-PERFORMANCE BUILDINGS WHICH MEET STANDARDS
12 ESTABLISHED IN GUIDELINES ADOPTED BY THE DEPARTMENT IN
13 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL
14 PROTECTION. THESE STANDARDS SHALL MEET THE FOLLOWING
15 MINIMUM CRITERIA:

16 (A) BE CONSENSUS-BASED, AS DEFINED BY THE OFFICE
17 OF MANAGEMENT AND BUDGET, CIRCULAR NO. A-119, DATED
18 FEBRUARY 10, 1998.

19 (B) INCLUDE PERFORMANCE-BASED CATEGORIES WHICH
20 WILL FOSTER ACHIEVEMENT OF THE FOLLOWING:

21 (I) OPTIMIZATION OF THE ENERGY PERFORMANCE
22 OF BUILDINGS THROUGHOUT THIS COMMONWEALTH.

23 (II) INCREASE IN THE DEMAND FOR
24 ENVIRONMENTALLY PREFERABLE BUILDING MATERIALS,
25 FURNISHINGS AND FINISHES.

26 (III) IMPROVEMENT IN ENVIRONMENTAL QUALITY
27 IN THIS COMMONWEALTH BY DECREASING THE DISCHARGE
28 OF POLLUTANTS FROM BUILDINGS AND THEIR
29 MANUFACTURE.

30 (IV) IMPROVEMENT IN WORKING CONDITIONS AND A

REDUCTION IN RELATED HEALTH PROBLEMS.

(V) REDUCTION IN THIS COMMONWEALTH'S
DEPENDENCE ON IMPORTED SOURCES OF ENERGY THROUGH
BUILDINGS WHICH CONSERVE ENERGY AND UTILIZE LOCAL
AND RENEWABLE ENERGY SOURCES.

(VI) PROTECTION AND RESTORATION OF THIS COMMONWEALTH'S NATURAL RESOURCES BY AVOIDING DEVELOPMENT OF INAPPROPRIATE BUILDING SITES.

(VII) REDUCTION IN THE BURDEN OF MUNICIPAL
WATER SUPPLY AND TREATMENT BY REDUCING POTABLE
WATER CONSUMPTION.

(VIII) REDUCTION IN WASTE GENERATION AND THE
MANAGEMENT OF WASTE THROUGH RECYCLING AND
DIVERSION FROM LANDFILL DISPOSAL.

(C) REQUIRE DOCUMENTATION, VERIFIABLE CALCULATIONS OR THE EQUIVALENT PROCEDURE TO SUBSTANTIATE AND SUPPORT CLAIMS MADE ABOUT PERFORMANCE-BASED CATEGORIES.

(D) EMPLOY THIRD-PARTY, POSTCONSTRUCTION REVIEW AND VERIFICATION OF THE ACHIEVEMENT OF STANDARDS ESTABLISHED IN GUIDELINES ADOPTED BY THE DEPARTMENT.

(E) HAVE A PERFORMANCE RECORD OF CERTIFIED GREEN BUILDINGS IN THE UNITED STATES.

(v) An amount not to exceed \$45,000,000 of the gross receipts collected during each fiscal year under Article XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall be annually appropriated from the General Fund to the authority for the programs established under this subsection.

(VI) AN AMOUNT UP TO 3% OF THE REVENUES IN THE FUND,

1 BUT NO MORE THAN \$25,000,000, TO PROVIDE FOR POLLUTION
2 CONTROL TECHNOLOGY PROJECTS WHICH SHALL BE UTILIZED FOR
3 GRANTS TO ELECTRIC GENERATING UNITS OR COGENERATION
4 UNITS, AS DEFINED UNDER 25 PA. CODE § 123.202 (RELATING
5 TO DEFINITIONS), THAT UTILIZE COAL, AS DEFINED UNDER 25
6 PA. CODE § 123.202, AS THEIR PRIMARY FUEL SOURCE, AND
7 THAT HAVE AN INSTALLED CAPACITY OF LESS THAN 500
8 MEGAWATTS, LOCATED IN THIS COMMONWEALTH. EACH ELECTRIC
9 GENERATING UNIT OR COGENERATION UNIT SHALL BE ELIGIBLE TO
10 RECEIVE A PRO RATA SHARE OF MONEYS ALLOCATED FOR
11 POLLUTION CONTROL TECHNOLOGY PROJECTS BASED ON CRITERIA
12 DEVELOPED BY THE DEPARTMENT.

13 (VII) AN AMOUNT UP TO 5% OF THE REVENUES IN THE
14 FUND, BUT NO LESS THAN \$30,000,000 TO PROVIDE GRANTS AND
15 LOANS TO SUPPORT THE DEVELOPMENT OF WIND ENERGY PROJECTS,
16 GRANTS AND LOANS TO SUPPORT THE DEVELOPMENT OF
17 MANUFACTURING FACILITIES FOR WIND TURBINES AND OTHER WIND
18 ENERGY COMPONENTS, AND TO PROVIDE GRANTS TO
19 MUNICIPALITIES THAT HOST WIND ENERGY FACILITIES.

20 § 1807. Authority indebtedness.

21 (a) General rule.--The authority shall have the power and is
22 authorized from time to time, by resolution of the authority and
23 subject to the written approval of the Governor, to issue its
24 negotiable bonds in such principal amount as, in the opinion of
25 the authority, shall be necessary to provide sufficient funds
26 for any of its corporate purposes, the establishment of reserves
27 to secure the bonds and all other expenditures of the authority
28 incident to and necessary or convenient to carry out its
29 corporate purposes and powers. The aggregate principal amount of
30 bonds and notes of the authority shall not exceed \$800,000,000

1 outstanding at any one time.

2 (b) Refund or renewal.--The authority, whenever it deems it
3 expedient, shall have the power to refund or renew any bonds by
4 the issuance of new bonds whether the bonds to be refunded or
5 renewed have or have not matured. Refunding bonds shall be sold
6 and the proceeds applied to the purchase, redemption or payment
7 of the bonds to be refunded.

8 (c) No personal liability.--Neither the members of the board
9 of the authority nor any person executing the bonds shall be
10 liable personally on the bonds or be subject to any personal
11 liability or accountability by reason of the issuance thereof.

12 (d) No Commonwealth debt.--Bonds issued under the provisions
13 of this chapter shall not be deemed to constitute a debt of the
14 Commonwealth or any political subdivision or a pledge of the
15 faith and credit of the Commonwealth or any political
16 subdivision.

17 (e) Bond requirements.--

18 (1) The bonds of the authority shall be of the series,
19 bear date or dates, mature at the time or times not exceeding
20 40 years from their respective dates, bear interest at the
21 rate or rates, payable at least semiannually, be in the
22 denominations, be in the form, either coupon or fully
23 registered without coupons, carry the registration,
24 exchangeability and interchangeability privileges, by payment
25 in medium of payment and at the place or places, be subject
26 to the terms of redemption, with or without premium, and be
27 entitled to the priorities in the revenue or receipts of the
28 authority as the resolution or resolutions of the authority
29 may provide.

30 (2) The bonds shall be signed by or shall bear the

1 facsimile signature of the officers the authority shall
2 determine, and coupon bonds shall have attached to the coupon
3 bond in interest coupons bearing the facsimile signature of
4 the chairman of the authority, all as may be prescribed in
5 the resolution or resolutions of the authority.

6 (3) Bonds may be issued and delivered, notwithstanding
7 that one or more of the officers signing the bonds shall have
8 ceased to be the officer or officers at the time when the
9 bonds shall actually be delivered.

10 (4) Bonds may be sold at public or private sales for the
11 price or prices as the authority shall determine. Pending the
12 preparation of the definitive bonds, interim receipts may be
13 issued to the purchaser or purchasers of the bonds and may
14 contain such terms and conditions as the authority may
15 determine.

16 (5) Any bond reciting in substance that it has been
17 issued by the authority to aid in the financing of one or
18 more projects to accomplish the public purposes of this
19 chapter shall be conclusively deemed in proceedings involving
20 the validity or enforceability of the bond or security for
21 the bond to have been issued for that purpose.

22 (f) Bond provisions.--A resolution or resolutions
23 authorizing bonds may contain provisions, which shall be part of
24 the contract with holders of the bonds, as to any of the
25 following:

26 (1) Pledging the full faith and credit of the authority.

27 (2) The terms and provisions of the bonds.

28 (3) Limitations on the purposes to which the proceeds of
29 the bonds then or from then on to be issued may be applied.

30 (4) The setting aside of reserves or sinking funds and

1 the regulation and disposition of the reserves or sinking
2 funds.

3 (5) Limitations on the issuance of additional bonds.

4 (6) The terms and provisions of any indenture under
5 which the bonds may be issued.

6 (7) Any other or additional agreements with the holders
7 of the bonds.

8 (g) Indentures and other agreements.--The authority may
9 enter into indentures or other agreements, with a bank or trust
10 company in or outside this Commonwealth, including a Federal
11 agency, and may assign and pledge all or any of the revenues or
12 receipts of the authority. The indenture or other agreement may
13 contain such provisions as may be customary in such instruments
14 or as the authority may authorize, including, but without
15 limitation, provisions as to:

16 (1) the application of funds and the safeguarding of
17 funds on hand or on deposit;

18 (2) the rights and remedies of the trustee and the
19 holders of the bonds, which may include restrictions upon the
20 individual right of action of the holders; and

21 (3) the terms and provisions of the bonds or any
22 additional bonds or the resolutions authorizing the issuance
23 of the bonds or additional bonds.

24 (h) Negotiable instruments.--The bonds shall have all the
25 qualities of negotiable instruments under 13 Pa.C.S. Div. 3
26 (relating to negotiable instruments).

27 (i) Rights and remedies.--The rights and remedies conferred
28 upon or granted to the bondholders shall be in addition to and
29 not in limitation of any rights and remedies lawfully granted to
30 the bondholders by the resolution or resolutions providing for

1 the issuance of bonds or by any indenture or other agreement
2 under which the bonds may be issued.

3 (j) Default.--In the event that the authority shall default
4 in the payment of principal or premium, if any, or interest on
5 any issue of bonds after the principal, premium or interest
6 shall become due, whether at maturity, upon call for redemption
7 or otherwise and the default shall continue for a period of 30
8 days, or in the event that the authority shall fail or refuse to
9 comply with the provisions of this chapter or shall default in
10 any agreement made with the holders of the bonds, the holders of
11 25% in aggregate principal amount of the bonds then outstanding
12 of the issues, by instrument or instruments filed in the Office
13 of the Prothonotary of the Commonwealth Court, may appoint a
14 trustee to represent the bondholders for the purposes provided
15 in this subsection. The trustee and any trustee under any
16 indenture or other agreement may, and upon written request of
17 the holders of 25% or other percentage as may be specified in
18 any indenture or other agreement, in principal amount of the
19 particular issues of bonds then outstanding shall, in the
20 trustee's own name:

21 (1) By mandamus or other suit, action or proceeding at
22 law or in equity, enforce all rights of the bondholders,
23 including the right to require the authority to carry out any
24 agreement as to or pledge of the revenues or receipts of the
25 authority and to require the authority to carry out any other
26 agreements with or for the benefit of the bondholders and to
27 perform its and their duties under this chapter.

28 (2) Bring suit upon the bonds.

29 (3) By action or suit in equity require the authority to
30 account as if it were the trustee of an express trust for the

1 bondholders.

2 (4) By action or suit in equity enjoin any acts or
3 things which may be unlawful or in violation of the rights of
4 the bondholders.

5 (5) By notice in writing to the authority, declare all
6 bonds due and payable and if all defaults shall be made good,
7 then with the consent of the holders of 25% or such other
8 percentage as may be specified in any indenture or other
9 agreement of the principal amount of bonds then outstanding,
10 to announce the declaration and its consequences.

11 (k) Jurisdiction.--The Commonwealth Court shall have
12 jurisdiction of any suit, action or proceeding by the trustee on
13 behalf of the bondholders.

14 (1) Trustee powers.--

15 (1) A trustee appointed by the court or trustee acting
16 under an indenture or other agreement, and whether or not all
17 bonds have been declared due and payable, shall be entitled
18 as of right to the appointment of a receiver, who may
19 exercise dominion over the mortgages or other security held
20 by or available to the authority or any part of the
21 authority, the revenues or receipts from which are or may be
22 applicable to the payment of the bonds so in default, and
23 collect and receive all revenues arising after default from
24 the bonds in the same manner as the authority might do and
25 shall deposit all money in a separate account and apply the
26 same in the manner as the court shall direct.

27 (2) In any suit, action or proceeding by a trustee, the
28 fees, the counsel fees and expenses of the trustee and of the
29 receiver, if any, and all costs and disbursements allowed by
30 the court shall be a first charge on any revenues and

1 receipts derived from the mortgages of the authority or other
2 security held by or available to the authority, the revenues
3 or receipts from which are or may be applicable to the
4 payment of the bonds in default.

5 (3) A trustee shall also have all of the power necessary
6 or appropriate for the exercise of any function specifically
7 set forth in this section, in any indenture or other
8 agreement or incident to the general representation of the
9 bondholders in the enforcement and protection of their
10 rights.

11 § 1808. Financial assistance.

12 (a) General rule.--When it has been determined by the
13 authority, upon application and hearing in the manner provided
14 in this section, that the granting of financial assistance will
15 accomplish the public purposes of this chapter, the authority
16 may contract to make financial assistance available in an amount
17 not in excess of the cost of the project.

18 (b) Confirmation of other funding.--Prior to committing
19 itself to provide financial assistance under this section, the
20 authority shall have determined that the person requesting the
21 assistance has obtained from other responsible and independent
22 sources, including the Federal Government, banks, savings and
23 loan associations or otherwise, a firm commitment for all other
24 funds, over and above the amount of financial assistance
25 requested from the authority, which in the aggregate shall be
26 sufficient to cover the entire cost of the project.

27 (c) Time period and interest.--Any loan, lease, sale,
28 guarantee or other agreement with response to a project shall be
29 for the period of time and shall bear interest at the rate as
30 shall be determined by the authority and may be secured by

1 mortgage on and security interest in the project which the loan,
2 lease, guarantee or other sale agreement relates, or with
3 respect to any other property of the obligor, or any other
4 security which the authority determines to be necessary.

5 (d) Manner of payment.--Money made available for projects by
6 the authority shall be withdrawn from the appropriate funds and
7 paid over to the obligor in the manner provided and prescribed
8 by the resolutions, rules and regulations of the authority, the
9 loan, lease, sale, guarantee or other agreement and the
10 indenture or agreement of trust, if any, relating to the
11 project.

12 (e) Deposit in appropriate funds.--All payments of interest
13 on funds made available for projects and the principal amount
14 shall be deposited by or on behalf of the authority in the
15 appropriate funds.

16 (f) Application form.--Prior to disbursing any funds for, or
17 committing itself to guarantee any indebtedness relating to, or
18 providing technical assistance for a project, the authority
19 shall receive an application in the form and having the content
20 the authority may prescribe from the person seeking the
21 assistance.

22 § 1809. Energy development plan.

23 (a) Contents.--In order to devise the most effective
24 strategy for providing the financial and technical assistance
25 authorized in this chapter, the authority shall publish by
26 August 15, 1983, a plan for the allocation and distribution of
27 financial and technical assistance. The energy development plan
28 shall do all of the following:

29 (1) Place maximum reliance upon allocation and
30 distribution strategies that exploit the use of other

1 available Federal, State, local and private financial
2 support.

3 (2) Allocate appropriated authority funds, money made
4 available from payment of principal and interest received by
5 the authority not otherwise payable to other creditors or
6 bondholders and other funds available to the authority to
7 projects whose likelihood or implementation would be
8 diminished unless financial and technical assistance from the
9 authority is made available.

10 (3) Provide for the approval of assistance for projects
11 that will make the greatest possible contributions to energy
12 conservation and development.

13 (4) Provide financial and technical assistance only to
14 persons with a demonstrated need and who evidence reasonable
15 likelihood of being able, in the case of loans and loan
16 guarantees, to repay the loans.

17 (5) Identify the various classes of projects to be
18 provided with financial and technical assistance and allocate
19 available authority funds among these classes. Specifically,
20 the authority shall consider increasing coal production and
21 the use of renewable fuels and in energy efficiency in
22 buildings and industry in establishing its priorities.

23 (6) Establish application procedures and criteria for
24 granting financial and technical assistance.

25 (7) Establish procedures for the periodic updating and
26 revision of the energy development plan.

27 (b) Public hearings.--The authority shall hold public
28 hearings at locations throughout this Commonwealth to receive
29 comments upon and suggestions for the improvement of the energy
30 development plan. These hearings shall be concluded within 90

1 days of the publication of the initial plan. Not more than 90
2 days following the completion of hearings, the authority shall
3 promulgate its final energy development plan.

4 § 1810. Exemption from taxation.

5 (a) Exemption.--The effectuation of the authorized purposes
6 of the authority is for the benefit of the people of this
7 Commonwealth and since the authority will as a government
8 instrumentality of the Commonwealth be performing essential
9 government functions in effectuating the purposes, the bonds or
10 other evidences of indebtedness issued by the authority, their
11 transfer and the income from the bonds shall at all times be
12 free from taxation within this Commonwealth.

13 (b) Interest on certain bonds.--The authority may covenant
14 and consent that the interest on certain of its bonds shall be
15 includable, under the Internal Revenue Code of 1986 (Public Law
16 99-514, 26 U.S.C. § 1 et seq.) or any subsequent corresponding
17 internal revenue laws of the United States, in the gross income
18 of the holders of the bonds to the same extent and in the same
19 manner that the interest on bills, bonds, notes or other
20 obligations of the United States is includable in the gross
21 income of the holders thereof under the Internal Revenue Code of
22 1986. Notwithstanding any covenant or consent of the authority,
23 the exemption provided in subsection (a) shall not be affected.

24 § 1811. Funding of authority.

25 (a) Energy Development Fund.--A special account is hereby
26 created in the State Treasury to be known as the Energy
27 Development Fund. The fund shall be used to prepare the energy
28 development plan, to pay for initial administrative costs
29 associated with initial bond issues, to make grants for limited
30 research and pursuant to this chapter to establish such reserves

1 as in the judgment of the authority with respect to loans
2 guaranteed or bonds issued by the authority may be necessary or
3 desirable or to accomplish any other of its corporate purposes.

4 (b) Administrative costs.--As often as may be necessary, the
5 authority shall requisition from the appropriate funds the
6 amounts necessary to provide adequate funds for the payment of
7 the administrative costs related to this chapter.

8 (c) Excess funds.--At any time that the authority shall
9 determine that funds held for the credit of the Energy
10 Development Fund are in excess of the amount needed to carry out
11 the purposes of this chapter, the authority shall take such
12 action as shall be required to release the excess from the fund
13 and transfer the same to the General Fund of the State Treasury.

14 § 1812. Limitation of powers.

15 The Commonwealth pledges to and agrees with any person or
16 Federal agency subscribing to or acquiring the bonds to be
17 issued by the authority for the construction of any project or
18 part of the project, that the Commonwealth will not limit or
19 alter adversely the rights vested in the authority until all
20 bonds at any time issued, together with the interest, are fully
21 met and discharged. The Commonwealth further pledges to and
22 agrees with any Federal agency that if the Federal agency shall
23 construct or contribute funds for the construction of any
24 project or any portion of the project, the Commonwealth will not
25 alter or limit the rights and powers of the authority in any
26 manner that would be inconsistent with the continued maintenance
27 and operation of any project or the improvement of the project,
28 or that would be inconsistent with the due performance of any
29 agreements between the authority and the Federal agency, and the
30 authority shall continue to have and may exercise all powers

1 granted under this chapter, as long as the same shall be
2 necessary or desirable for carrying out the purposes of this
3 chapter and the purposes of the United States pertaining to the
4 construction, acquisition or improvement of any project or
5 portion of the project.

6 § 1813. Audit.

7 The accounts and books of the authority, including its
8 receipts, disbursements, contracts, mortgages, investments and
9 other matters relating to its finances, operation and affairs
10 shall be examined and audited every two years by the Auditor
11 General.

12 Section 4. The following apply:

13 (1) The General Assembly declares that the repeal under
14 paragraph (2) is necessary to effectuate the addition of 64
15 Pa.C.S. Ch. 18.

16 (2) Article XXVIII-C of the act of April 9, 1929
17 (P.L.177, No.175), known as The Administrative Code of 1929,
18 is repealed.

19 Section 5. The addition of 64 Pa.C.S. Ch. 18 is a
20 continuation of Article XXVIII-C of the act of April 9, 1929
21 (P.L.177, No.175), known as The Administrative Code of 1929. The
22 following apply:

23 (1) Except as otherwise provided in 64 Pa.C.S. Ch. 18,
24 all activities initiated under Article XXVIII-C of The
25 Administrative Code of 1929 shall continue and remain in full
26 force and effect and may be completed under 64 Pa.C.S. Ch.
27 18. Orders, regulations, rules and decisions which were made
28 under Article XXVIII-C of The Administrative Code of 1929 and
29 which are in effect on the effective date of section 2(2) of
30 this act shall remain in full force and effect until revoked,

1 vacated or modified under 64 Pa.C.S. Ch. 18. Contracts,
2 obligations and collective bargaining agreements entered into
3 under Article XXVIII-C of The Administrative Code of 1929 are
4 not affected nor impaired by the repeal of Article XXVIII-C
5 of The Administrative Code of 1929.

6 (2) Except as set forth in paragraph (3), any difference
7 in language between 64 Pa.C.S. Ch. 18 and Article XXVIII-C of
8 The Administrative Code of 1929 is intended only to conform
9 to the style of the Pennsylvania Consolidated Statutes and is
10 not intended to change or affect the legislative intent,
11 judicial construction or administration and implementation of
12 Article XXVIII-C of The Administrative Code of 1929.

13 (3) Paragraph (2) does not apply to the following
14 provisions:

15 (i) Paragraphs (3), (4) and (5) of the definition of
16 "project" in 64 Pa.C.S. § 1801.

17 (ii) 64 Pa.C.S. § 1802(d)(4).

18 (iii) 64 Pa.C.S. § 1803(b), (c), (d) and (e).

19 (iv) 64 Pa.C.S. § 1806(2), (14), (19), (20) and
20 (21).

21 (v) 64 Pa.C.S. § 1807(a) and (c).

22 (vi) 64 Pa.C.S. § 1809(a).

23 (vii) 64 Pa.C.S. § 1811(a).

24 Section 6. This act shall take effect immediately.