

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 725 Session of 2019

INTRODUCED BY YUDICHAK, KILLION, FONTANA, FARNESE, LEACH,
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TOMLINSON AND IOVINO, JUNE 6, 2019

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 6, 2019

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for infrastructure revenue; and making
11 a related repeal.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

17 ARTICLE XXVI

18 INFRASTRUCTURE REVENUE

19 PART I

20 PRELIMINARY PROVISIONS

21 Section 2601. Short title.

1 This article shall be known and may be cited as the Restore
2 Pennsylvania Act.

3 Section 2602. Definitions.

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

7 "Average annual price of natural gas." As defined in 58
8 Pa.C.S. § 2301 (relating to definitions).

9 "Fund." The Restore Pennsylvania Fund established under
10 section 2636.

11 "Lease." An agreement conveying to a lessee the right to
12 remove or recover oil, natural gas or gas of any other
13 designation from land of the lessor.

14 "Meter." A device to measure the passage of volumes of gases
15 or liquids past a certain point.

16 "Natural gas." As defined in 58 Pa.C.S. § 2301.

17 "Producer." As defined in 58 Pa.C.S. § 2301.

18 "Royalty payment." A payment made by a lessee to a lessor in
19 accordance with section 2612 and the act of July 20, 1979
20 (P.L.183, No.60), known as the Oil and Gas Lease Act.

21 "Sever." The extraction or other removal of natural gas from
22 an unconventional formation in this Commonwealth. The term does
23 not include the extraction or other removal of natural gas, in
24 gaseous or liquid form, which is burned, used, consumed or
25 otherwise employed in oil and gas operations at a natural gas
26 well site:

27 (1) for secondary recovery;

28 (2) for re-pressuring;

29 (3) for pressure maintenance; or

30 (4) as fuel for equipment.

1 "Storage field." A natural gas formation or other site that
2 is used to store natural gas that did not originate from and has
3 been transplanted into the formation or site.

4 "Trigger date." The date 60 days after the effective date of
5 this section.

6 "Unconventional formation." As defined in 58 Pa.C.S. § 2301.

7 "Unconventional gas well." As defined in 58 Pa.C.S. § 2301.

8 "Unit." A thousand cubic feet (MCF) of natural gas at a
9 temperature of 60 degrees Fahrenheit and an absolute pressure of
10 14.73 pounds per square inch, in accordance with American Gas
11 Association (AGA) standards and according to Boyle's law for the
12 measurement of gas under varying pressures with deviations
13 therefrom as follows:

14 (1) The average absolute atmospheric pressure shall be
15 assumed to be 14.4 pounds to the square inch, notwithstanding
16 the actual elevation or location of point of delivery above
17 sea level or variations in the atmospheric pressure.

18 (2) The temperature of the gas passing the meters shall
19 be determined by the continuous use of a recording
20 thermometer installed so that the thermometer may properly
21 record the temperature of the gas flowing through the meters.
22 The arithmetic average of the temperature recorded each 24-
23 hour day shall be used in computing gas volumes. If a
24 recording thermometer is not installed, or if installed and
25 not operating properly, an average flowing temperature of 60
26 degrees Fahrenheit shall be used in computing gas volume.

27 (3) The specific gravity of the gas shall be determined
28 by tests made by the use of an Edwards or Acme gravity
29 balance annually or at intervals as are found necessary in
30 practice. Specific gravity shall be used in computing gas

1 volumes.

2 (4) The deviation of the natural gas from Boyle's law
3 shall be determined by tests annually or at other shorter
4 intervals as are found necessary in practice. The apparatus
5 and the method to be used in making the tests shall be in
6 accordance with recommendations of the National Bureau of
7 Standards of the Department of Commerce or Report No. 3 of
8 the Gas Measurement Committee of the American Gas
9 Association, or any amendments of the report. The results of
10 the tests shall be used in computing the volume of gas
11 delivered.

12 "Wellhead meter." A meter placed at a producing site to
13 measure the actual volume of natural gas severed.

14 PART II

15 IMPOSITION AND PAYMENT OF TAX

16 Section 2611. Volumetric severance tax.

17 (a) Imposition.--Each unconventional gas well shall pay a
18 volumetric severance tax. The imposition of the volumetric
19 severance tax under this article shall not affect the collection
20 and distribution of the unconventional gas well fee imposed
21 under 58 Pa.C.S. Ch. 23 (relating to unconventional gas well
22 fee).

23 (b) Computation.--The volumetric severance tax payable under
24 subsection (a) shall be calculated by applying the applicable
25 rate under subsection (b.1) to natural gas severed from the
26 unconventional gas well subject to the tax during the imposition
27 period under subsection (b.2).

28 (b.1) Tax rate.--The tax rate shall be as follows:

29 (1) If the average annual price of natural gas for the
30 calendar year immediately preceding the start of the

1 imposition period is less than \$3.00, the tax rate shall be
2 \$0.091 per unit severed.

3 (2) If the average annual price of natural gas for the
4 calendar year immediately preceding the start of the
5 imposition period is equal to or greater than \$3.00 and less
6 than \$5.00, the tax rate shall be \$0.109 per unit severed.

7 (3) If the average annual price of natural gas for the
8 calendar year immediately preceding the start of the
9 imposition period is equal to or greater than \$5.00 and less
10 than \$6.00, the tax rate shall be \$0.131 per unit severed.

11 (4) If the average annual price of natural gas for the
12 calendar year immediately preceding the start of the
13 imposition period is equal to or greater than \$6.00, the tax
14 rate shall be \$0.157 per unit severed.

15 (b.2) Imposition period.--The imposition period shall be as
16 follows:

17 (1) For fiscal year 2019-2020, the imposition period
18 shall be from January 1, 2020, to April 30, 2020.

19 (2) For fiscal year 2020-2021 and each fiscal year
20 thereafter, the imposition period shall be from May 1 of the
21 preceding fiscal year to April 30 of the current fiscal year.

22 (b.3) Payment.--The volumetric severance tax imposed under
23 this article shall be due on the same day the report is due
24 under subsection (b.4). The tax shall become delinquent if not
25 remitted to the Department of Revenue on the reporting date.

26 (b.4) Report.--By June 15, 2020, and June 15 of each year
27 thereafter, each producer shall submit payment of the volumetric
28 severance tax to the Department of Revenue and a report on a
29 form prescribed by the Department of Revenue for the imposition
30 period.

1 (b.5) Exemptions.--The volumetric severance tax imposed
2 under this article shall not be imposed on the following:

3 (1) natural gas severed, sold and delivered by a
4 producer at or within five miles of the producing site for
5 the processing or manufacture of tangible personal property
6 as defined under section 201;

7 (2) natural gas severed under a natural gas lease and
8 provided to a lessor for no consideration for the lessor's
9 own use;

10 (3) natural gas severed from a storage field; or

11 (4) a stripper well as defined under 58 Pa.C.S. § 2301
12 (relating to definitions).

13 (c) Volume measurement.--

14 (1) Except as provided under paragraph (2), for purposes
15 of computing the volumetric severance tax, natural gas
16 severed shall be measured at the wellhead meter.

17 (2) Natural gas severed prior to the trigger date shall
18 be measured according to the standards and methods used for
19 reporting natural gas production to the Department of
20 Environmental Protection.

21 (d) Administration.--The Department of Revenue shall enforce
22 the provisions of this article and may prescribe, adopt,
23 promulgate and enforce rules and regulations relating to any
24 matter or thing pertaining to the administration or enforcement
25 of the provisions of this article and the collection of taxes
26 imposed by this article.

27 (e) Deposit.--Money collected from the volumetric severance
28 tax under this section shall be deposited by the State Treasurer
29 into the fund.

30 (f) Payment of tax.--A producer may not make the tax imposed

1 under this section on natural gas severed under a lease an
2 obligation, indebtedness or liability of the lessor and may not
3 otherwise require the lessor to reimburse the producer for the
4 amount of the tax.

5 Section 2612. Minimum royalty.

6 (a) Royalty.--The term "royalty" under the act of July 20,
7 1979 (P.L.183, No.60), known as the Oil and Gas Lease Act, shall
8 mean the lessor's ownership interest in the gross proceeds
9 generated at the first arm's length point of sale of oil,
10 natural gas or gas of other designations, to a third-party
11 purchaser unaffiliated with the lessee, or to the extent the
12 underlying lease allows the lessor to take the lessor's royalty
13 in-kind, the lessor's ownership interest in the oil, natural gas
14 or gas of other designations at the same location, but from
15 which ownership interest is excluded the costs of development
16 and drilling and all postproduction expenses incurred by the
17 lessee between the well-head and the point of sale.

18 (b) Applicability.--The application of the term "royalty"
19 under subsection (a) shall only apply to oil, natural gas or gas
20 of any other designation recovered and sold by a lessee on or
21 after the effective date of this section.

22 Section 2613. Remedy.

23 (a) Civil action and venue.--A lessor who is party to a
24 lease may file an action for failure of the lessee to pay the
25 royalty as defined in section 2612 in the court of common pleas
26 of the county where the land of the lessor is located or the
27 county in this Commonwealth in which the lessor resides.

28 (b) Burden of proof.--

29 (1) Demonstration by a lessor who is party to a lease
30 that the lessee has made a royalty payment which is less than

1 the amount required under section 2612(a) shall create a
2 presumption that a violation has occurred.

3 (2) The presumption under paragraph (1) may be rebutted
4 if the lessee presents clear and convincing evidence that the
5 required royalty payment was made.

6 (c) Effect of notice and failure to cure.--In an action in
7 which a court finds that the lessee who is party to a lease has
8 violated the terms relating to guaranteed royalty, the lessor
9 shall be entitled to the remedies under subsections (d) and (e)
10 if, before filing suit, the lessor gave to the lessee 30 days'
11 written notice by certified mail of the deficiency and the
12 lessee failed to cure the deficiency.

13 (d) Additional remedies.--In addition to actual damages and
14 any other remedy deemed appropriate by the court, the court
15 shall award to the lessor reasonable attorney fees and costs in
16 bringing the action, including expert witness fees.

17 (e) Treble damages.--If the court finds that the lessee
18 acted willfully in failing to pay the royalty payment due or
19 where a lessee has been previously found to have failed to pay
20 the royalty payment due, the court may award treble damages to
21 the lessor.

22 (f) Other remedies not precluded.--The remedies provided
23 under this section are not exclusive of, do not require
24 exhaustion of and shall be in addition to any other remedies
25 provided by the lease, by law or in equity.

26 PART III

27 RESTORE PENNSYLVANIA PROGRAM

28 Section 2621. Definitions.

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

1 context clearly indicates otherwise:

2 "Authority." The Pennsylvania Economic Development Financing
3 Authority.

4 "Board." The Restore Pennsylvania Board established under
5 section 2623.

6 "Commonwealth agency." A department, board, commission,
7 authority or other officer or agency of the Commonwealth. The
8 term does not include any court or other officer or agency of
9 the unified judicial system or the General Assembly or an
10 officer or agency of the General Assembly.

11 "Department." The Department of Community and Economic
12 Development.

13 "Program." The Restore Pennsylvania Program established
14 under section 2622.

15 Section 2622. Establishment of program.

16 There is established the Restore Pennsylvania Program. The
17 program shall provide financial assistance in the form of
18 grants, loans or other forms of financing or funding for
19 eligible uses under section 2624.

20 Section 2623. Restore Pennsylvania Board.

21 (a) Establishment.--The Restore Pennsylvania Board is
22 established within the department.

23 (b) Composition.--The board shall be composed of the
24 following members:

25 (1) Three individuals appointed by the Governor.

26 (2) One individual appointed by the President pro
27 tempore of the Senate.

28 (3) One individual appointed by the Minority Leader of
29 the Senate.

30 (4) One individual appointed by the Speaker of the House

1 of Representatives.

2 (5) One individual appointed by the Minority Leader of
3 the House of Representatives.

4 (c) Chairperson.--The Governor shall select a member of the
5 board to serve as chairperson. The members of the board shall
6 select from among themselves any other officers as they shall
7 determine.

8 (d) Meetings.--The board shall meet at the call of the
9 chairperson. The board shall meet at least once every 12 months.

10 (e) Quorum.--Six members of the board shall constitute a
11 quorum. The following apply:

12 (1) Consent of at least six members shall be necessary
13 to take action to allocate funds under section 2624(a).

14 (2) A majority of the members of the board shall be
15 necessary to take any other action.

16 (f) Participation and voting.--The following apply:

17 (1) Members of the board may participate in a meeting by
18 telephone conference or other electronic technology by means
19 in which all individuals participating in the meeting can
20 hear each other.

21 (2) Members of the board may delegate votes to designees
22 acting on their behalf only after informing the chairperson
23 in writing.

24 (g) Compensation.--The members of the board shall receive no
25 compensation for their services as members of the board but
26 shall be reimbursed for all necessary and reasonable expenses
27 incurred in connection with the performance of their duties as
28 members of the board.

29 (h) Appointments.--Appointing authorities shall appoint
30 initial members to the board within 30 days of the effective

1 date of this subsection. Any appointee to the board may be
2 removed with or without cause by the appointing authority.
3 Whenever a vacancy occurs on the board, the appointing authority
4 shall appoint a successor member within 30 days of the vacancy.

5 (i) Administrative assistance.--The department shall provide
6 administrative assistance to the board.

7 Section 2624. Use of funds.

8 (a) Allocation of funds.--The following apply:

9 (1) After the bond proceeds have been applied under Part
10 IV, the board shall allocate the remaining bond proceeds
11 among all of the following categories:

12 (i) High-speed Internet access.

13 (ii) Flood control infrastructure.

14 (iii) Disaster response.

15 (iv) Green infrastructure.

16 (v) Blight demolition and redevelopment.

17 (vi) Storm water infrastructure.

18 (vii) Brownfield clean-up.

19 (viii) Contaminant remediation.

20 (ix) Business development and site selection.

21 (x) Energy efficiency.

22 (xi) Transportation infrastructure.

23 (2) The board may annually adjust the allocations under
24 paragraph (1) as permitted by law.

25 (3) Within 15 days of the determination of the
26 allocations or adjustment of the allocations under paragraph
27 (1) or (2), the board shall provide the authority and the
28 Secretary of the Budget with a written notification of the
29 allocations of funds.

30 (b) Financial assistance.--After the board provides the

1 written notification required under subsection (a)(3), the funds
2 shall be used to provide financial assistance in the form of
3 grants, loans or other forms of financing or funding, as
4 determined by the Secretary of the Budget, as provided under
5 subsection (c).

6 (c) Use.--The following apply:

7 (1) For high-speed Internet access, funds may be used by
8 the department for the establishment by the department of a
9 Pennsylvania Broadband Development Program. The Pennsylvania
10 Broadband Development Program shall provide grants, loans or
11 other forms of financing for the planning and construction of
12 infrastructure to provide broadband service to unserved and
13 underserved areas of this Commonwealth. The following may
14 apply for funding under the Pennsylvania Broadband
15 Development Program:

16 (i) For-profit and nonprofit entities.

17 (ii) Commonwealth agencies and political
18 subdivisions.

19 (iii) Rural electric cooperatives organized or
20 qualified to do business in this Commonwealth under 15
21 Pa.C.S. Ch. 73 (relating to electric cooperative
22 corporations).

23 (2) For flood control infrastructure, funds may be used
24 as follows:

25 (i) For the Stream Improvement Program administered
26 by the Department of Environmental Protection to provide
27 grants to municipalities and county conservation
28 districts for stream restoration and maintenance
29 projects.

30 (ii) For grants from the Pennsylvania Infrastructure

1 Investment Authority to Commonwealth agencies and
2 political subdivisions for the acquisition, construction,
3 improvement, including the installation of security
4 measures, expansion, repair or rehabilitation of all or
5 part of a flood control system. As used in this
6 subparagraph, the term "flood control system" includes
7 levees, dikes, walls, culverts, revetments, dams,
8 including high hazard unsafe dams, lakes, reservoirs and
9 other works and improvements deemed necessary to prevent
10 floods or control, preserve, restore and regulate the
11 flow of rivers and streams.

12 (3) For disaster response measures, funds may be used by
13 the Pennsylvania Emergency Management Agency as follows:

14 (i) To establish the Disaster Assistance Trust Fund
15 for the purpose of providing grants to meet disaster-
16 related necessary expenses or serious needs of
17 individuals or families directly affected by a declared
18 disaster emergency under 35 Pa.C.S. Ch. 73 Subch. A
19 (relating to the Governor and disaster emergencies),
20 regardless of whether a Presidential disaster declaration
21 was issued for the area. Grants under this subparagraph
22 shall be limited to expenses or needs that are not
23 covered by private insurance or do not qualify for
24 Federal assistance.

25 (ii) To establish the Pipeline Preparedness and
26 Response Fund for the following purposes:

27 (A) Funding State-administered emergency
28 response training, planning and coordination for
29 county or municipal employees, volunteer firefighters
30 or volunteer emergency medical technicians.

1 (B) Providing grants to counties, municipalities
2 and school districts where a natural gas or hazardous
3 liquid pipeline is located in a high consequence area
4 as determined by the Pennsylvania Emergency
5 Management Agency. Grants under this clause shall be
6 awarded for emergency planning, coordination,
7 communication and implementation, training and
8 equipment acquisition.

9 (iii) To provide a reimbursement for the costs
10 incurred by a county or municipality during a response to
11 an emergency relating to pipelines within the county or
12 municipality. The costs eligible for reimbursement may
13 include police and fire protection costs for the county
14 or municipality during the response.

15 (4) For green infrastructure, funds may be used as
16 follows:

17 (i) By the Department of Environmental Protection
18 for existing programs for watershed protection, mine and
19 acid mine drainage remediation and for plugging of
20 abandoned oil and gas wells.

21 (ii) By the Department of Conservation and Natural
22 Resources for existing programs to improve State parks
23 and State forests, watershed restoration and open space
24 preservation, and provide community park and recreation
25 grants.

26 (iii) By the Department of Agriculture for existing
27 programs for county-based farmland preservation and for
28 transfer to the State Conservation Commission to provide
29 financial and technical assistance grants to conservation
30 districts for the implementation of best management

1 practices on farms within this Commonwealth.

2 (iv) By the department to fund main street and
3 downtown redevelopment relating to smart growth.

4 (v) By the Pennsylvania Fish and Boat Commission for
5 capital improvement projects for existing lands and
6 facilities.

7 (vi) By the Pennsylvania Game Commission for capital
8 improvement projects to existing lands and facilities.

9 (vii) By the Department of Transportation and the
10 Department of Conservation and Natural Resources for the
11 purpose of funding the development of new all-terrain
12 vehicle trails, connectors and feasibility studies.

13 (5) For blight demolition and redevelopment, funds may
14 be used by the department to establish the Blight Demolition
15 and Redevelopment Fund for the purpose of providing grants,
16 loans or other forms of financing to local entities,
17 including land banks, counties, cities, municipalities,
18 redevelopment authorities, economic development groups,
19 community development agencies and others for the planning,
20 demolition, remediation and redevelopment of blighted areas.

21 (6) For storm water infrastructure, funds may be used by
22 the Department of Environmental Protection for the
23 establishment of the Storm Water Control Grant Program for
24 the purpose of providing grants to authorities and
25 municipalities with separate storm sewers as defined by 40
26 CFR 122.26(b) (8) (relating to storm water discharges
27 (applicable to State NPDES programs, see § 123.25)) to
28 implement pollution reduction plans and for compliance with
29 the act of October 4, 1978 (P.L.864, No.167), known as the
30 Storm Water Management Act. Priority for participation in the

1 Storm Water Control Grant Program shall be given to eligible
2 applicants that are currently subject to a Federal or State
3 court or agency order, consent decree or new permit discharge
4 requirements and eligible applicants that propose to work to
5 achieve cost effective compliance as part of a regional
6 collaborative approach.

7 (7) For brownfield clean-up, funds may be used for
8 providing funding to the Hazardous Sites Cleanup Fund
9 established under section 1761-A of The Fiscal Code, for uses
10 consistent with the act of October 18, 1988 (P.L.756,
11 No.108), known as the Hazardous Sites Cleanup Act.

12 (8) The following apply:

13 (i) For contaminant remediation, funds may be used
14 as follows:

15 (A) By the Department of Health to provide
16 grants to abate lead contaminated paint found in
17 schools, child care centers and residences in this
18 Commonwealth.

19 (B) By the Department of Education and the
20 Department of Human Services to provide grants to
21 remediate lead contamination in the drinking water of
22 schools and child care centers in this Commonwealth.

23 (C) By the Pennsylvania Infrastructure
24 Investment Authority for funding a Perfluorinated
25 Compound Remediation Program to provide grants to
26 treat per- and polyfluoroalkyl substances (PFAS) in
27 drinking water throughout this Commonwealth. The
28 Pennsylvania Infrastructure Investment Authority
29 shall be authorized to recover funds from responsible
30 parties.

1 (ii) As used in this paragraph, "child care center"
2 means the premises where care is provided at any one time
3 for seven or more children unrelated to the operator.

4 (9) For business development and site selection, funds
5 may be used for the Business in Our Sites Program established
6 under 64 Pa.C.S. § 1551 (relating to Business in Our Sites
7 Program) to provide financial assistance.

8 (10) For energy efficiency, funds may be used as
9 follows:

10 (i) By the department for the Alternative and Clean
11 Energy Program to provide grants or loans for the
12 utilization, development and construction of alternative
13 and clean energy projects in this Commonwealth.

14 (ii) To provide funds to the Natural Gas
15 Infrastructure Development Fund established under section
16 1742-A.1 of the act of April 9, 1929 (P.L.343, No.176),
17 known as The Fiscal Code.

18 (11) For transportation infrastructure, funds may be
19 used as follows:

20 (i) By the Department of Transportation to provide
21 funds to the Multimodal Transportation Fund for all of
22 the following purposes:

23 (A) The construction, reconstruction or
24 maintenance of any roads and bridges owned or
25 maintained by a county, municipality, person,
26 association or corporation, other than a highway or
27 bridge owned, controlled or maintained by the
28 Department of Transportation or any tolling
29 authority.

30 (B) To increase bike and pedestrian paths and

1 access.

2 (ii) By the Department of Transportation to fund the
3 maintenance of State-owned four-digit roads in counties
4 with a population of less than 150,000.

5 (iii) By the Department of Conservation and Natural
6 Resources and the State Conservation Commission to
7 provide grants for dirt, gravel and low-volume road
8 maintenance as provided under 75 Pa.C.S. § 9106 (relating
9 to dirt, gravel and low-volume road maintenance).

10 (iv) To provide funds to the Public Transportation
11 Trust Fund to provide financial assistance for programs
12 of Statewide significance under 74 Pa.C.S. § 1516
13 (relating to programs of Statewide significance).

14 (d) Diversity.--In providing financial assistance in the
15 form of grants, loans or other forms of financing or funding
16 under subsection (b), a Commonwealth agency shall consider
17 regional and socioeconomic diversity. When a Commonwealth agency
18 uses a competitive grant process as the method for providing
19 financial assistance, the Commonwealth agency shall provide
20 outreach and educational programming to encourage and support
21 the submission of applications from varying types of
22 communities.

23 (e) Matching funds.--

24 (1) Notwithstanding any other provision of law, a
25 Commonwealth agency shall determine whether financial
26 assistance provided under subsection (b) shall be matched
27 with other funds. When matching is required, the Commonwealth
28 agency shall establish criteria for the amount and type of
29 matching funds.

30 (2) Nothing in this part shall be construed to prohibit

1 an applicant or a Commonwealth agency from using the funds
2 received under this section as matching funds for other grant
3 opportunities or from using other Federal or State funds to
4 match funds received under this section.

5 (f) Applications.--To the extent feasible, Commonwealth
6 agencies may permit an applicant to apply to more than one grant
7 program in one application.

8 (g) Rules and regulations.--A Commonwealth agency may
9 promulgate any rules, regulations, guidelines, forms or
10 procedures and standards as it deems necessary to administer
11 this section.

12 (h) Program administration.--In order to facilitate the
13 administration of the Restore Pennsylvania Program, a
14 Commonwealth agency may promulgate, adopt and use guidelines
15 which shall be transmitted to the Legislative Reference Bureau
16 for publication in the Pennsylvania Bulletin. Guidelines under
17 this subsection shall not be subject to review under any of the
18 following:

19 (1) Section 205 of the act of July 31, 1968 (P.L.769,
20 No.240), referred to as the Commonwealth Documents Law.

21 (2) Sections 204(b) and 301(10) of the act of October
22 15, 1980 (P.L.950, No.164), known as the Commonwealth
23 Attorneys Act.

24 (3) The act of June 25, 1982 (P.L.633, No.181), known as
25 the Regulatory Review Act.

PART IV

RESTORE PENNSYLVANIA BONDS

27 Section 2631. Definitions.

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

1 context clearly indicates otherwise:

2 "Authority." The Pennsylvania Economic Development Financing
3 Authority.

4 "Bond." Any type of revenue obligation, including a bond or
5 series of bonds, note, certificate or other instrument, issued
6 by the authority under this part.

7 "Bond administrative expenses." Expenses incurred to
8 administer bonds as provided under the Financing Law, or as
9 otherwise necessary to ensure compliance with applicable Federal
10 or State laws.

11 "Bond obligations." The principal of a bond and any premium
12 and interest payable on a bond, together with any amount owed
13 under a related credit agreement or a related resolution of the
14 authority authorizing a bond.

15 "Commonwealth agency." A department, board, commission,
16 authority or other officer or agency of the Commonwealth. The
17 term does not include any court or other officer or agency of
18 the unified judicial system or the General Assembly or an
19 officer or agency of the General Assembly.

20 "Credit agreement." Any loan agreement, revolving credit
21 agreement, agreement establishing a line of credit, letter of
22 credit or another agreement that enhances the marketability,
23 security or creditworthiness of a bond.

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

26 "Financing Law." The act of August 23, 1967 (P.L.251,
27 No.102), known as the Economic Development Financing Law, as
28 amended.

29 "Restore Pennsylvania Bond Account" or "account." The
30 restricted account established under section 2635.

1 "Restore Pennsylvania Program" or "program." The program
2 established under section 2622.

3 "Secretary." The Secretary of the Budget of the
4 Commonwealth.

5 Section 2632. Program funding.

6 (a) Declaration of policy.--The General Assembly finds and
7 declares that funding the Restore Pennsylvania Program through
8 the authority protects the health, safety and general welfare of
9 the residents of this Commonwealth, is in the best interest of
10 this Commonwealth and is consistent with the Financing Law.

11 (b) Financing.--Notwithstanding any other provision of law,
12 the following apply:

13 (1) The authority may issue bonds under the Financing
14 Law, consistent with this article, to provide funding for the
15 Restore Pennsylvania Program or refunding or redeeming of
16 prior bonds.

17 (2) Participation of an industrial and commercial
18 development authority shall not be required to finance the
19 program or any project or use of funds permitted by this
20 article.

21 (3) A Commonwealth agency shall be an eligible project
22 applicant under the Financing Law for the purposes consistent
23 with this article.

24 (c) Debt or liabilities.--

25 (1) Bonds issued under this article shall not be a debt
26 or liability of the Commonwealth and shall not create or
27 constitute any indebtedness, liability or obligation of the
28 Commonwealth.

29 (2) Bond obligations and bond administrative expenses
30 shall be payable solely from revenues or funds pledged or

1 available for the repayment of the bond obligations and bond
2 administrative expenses as authorized under this article.
3 Revenues or funds pledged or available under this paragraph
4 include the proceeds of any issuance of bonds.

5 (3) Each bond shall contain on the bond's face the
6 following statement:

7 The authority is obligated to pay the principal of
8 the bond or the interest on the bond only from funds
9 made available under Article XXVI of the act of March
10 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
11 of 1971. The Commonwealth or a political subdivision
12 is not obligated to pay the principal or interest of
13 the bond. The full faith and credit of the
14 Commonwealth is not pledged to the payment of the
15 principal or interest of the bond.

16 Section 2633. Bond terms.

17 (a) Terms.--

18 (1) The department and the authority, in consultation
19 with the secretary, shall determine all of the the following:

20 (i) The maximum principal amount of the bonds for
21 each separate bond issue.

22 (ii) The maximum term of the bonds, which shall not
23 exceed 20 years.

24 (2) The total principal amount of bonds outstanding
25 under this article for all bonds issued shall not exceed
26 \$4,500,000,000.

27 (b) Refunding bonds.---Notwithstanding any other limitation,
28 the authority may issue refunding bonds at any time while bonds
29 that were issued under this article are outstanding.

30 Section 2634. Issuance of bonds and security.

1 (a) Issuance.--The issuance of bonds shall be subject to the
2 provisions of the Financing Law, unless otherwise specified
3 under this article.

4 (b) Agreements.--The authority and the department may enter
5 into loan agreements, credit agreements, bond purchase
6 agreements and other contracts, instruments, service agreements
7 and other agreements in connection with the bonds as necessary
8 to effectuate the purposes of the Financing Law and this
9 article.

10 (c) Security.--

11 (1) Bond obligations and bond administrative expenses
12 are secured, for the benefit of the holders of the bonds and
13 the obligees under an agreement under subsection (b), by
14 pledge of security interest in and first lien on all of the
15 following:

16 (i) All money deposited in the Restore Pennsylvania
17 Bond Account established under section 2635, including
18 all investment income on the money in the account.

19 (ii) All money relating to the bonds held on deposit
20 in any other fund or account under an instrument or
21 agreement pertaining to the bonds, including bond
22 reserves and interest income on the money.

23 (2) The security provided under this subsection shall
24 not apply to money in any fund relating to arbitrage rebate
25 obligations.

26 (d) General revenue.--The Commonwealth may pledge revenues
27 collected by the Commonwealth for the payment of bond
28 obligations and bond administrative expenses. If money deposited
29 in the Restore Pennsylvania Bond Account is insufficient to
30 timely pay in full bond obligations and bond administrative

1 expenses, the department shall request an appropriation as
2 provided for in the service agreement authorized in section
3 2637. Payments of general revenue money are subject to and
4 dependent upon the appropriation of money by the General
5 Assembly.

6 Section 2635. Restore Pennsylvania Bond Account.

7 (a) Establishment.--There is established in the State
8 Treasury a restricted account in the General Fund to be known as
9 the Restore Pennsylvania Bond Account.

10 (b) Transfers.--The following apply:

11 (1) Money held in the fund established under section
12 2636 and certified by the secretary for the payment of bond
13 obligations and bond administrative expenses for bonds issued
14 under this article shall be deposited into the Restore
15 Pennsylvania Bond Account in sufficient amounts to ensure the
16 timely payment of bond obligations and bond administrative
17 expenses and replenishment of bond reserves under any
18 instrument or agreement relating to the bonds.

19 (2) General revenues pledged by the Commonwealth under
20 section 2634(d) and certified by the secretary for payment of
21 bond obligations and bond administrative expenses shall be
22 deposited in the Restore Pennsylvania Bond Account to
23 supplement money received under paragraph (1).

24 Section 2636. Restore Pennsylvania Fund.

25 (a) Establishment.--The Restore Pennsylvania Fund is
26 established as a special nonlapsing fund in the State Treasury.

27 (b) Allocations.--Money deposited into the Restore
28 Pennsylvania Fund shall first be allocated to meet the bond
29 obligations and bond administrative expenses as specified under
30 section 2634. The secretary shall certify to the State Treasurer

1 the amounts necessary to meet the bond obligations and bond
2 administrative expenses for the fiscal year, and the State
3 Treasurer shall transfer the amount certified to the Restore
4 Pennsylvania Bond Account without further appropriation.

5 (c) Excess money.--Money not required to meet the
6 requirements under subsection (b) shall be used for the purposes
7 under section 2624(c).

8 Section 2637. Service agreements.

9 The authority and the department may enter into a service
10 agreement to effectuate the provisions of this article,
11 including an agreement to secure bonds issued for the program.
12 Under the service agreement, the department shall agree to pay
13 service charges to the authority in each fiscal year that the
14 bonds or refunding bonds are outstanding in amounts sufficient
15 to timely pay in full the bond obligations and bond
16 administrative expenses and any other financing costs due on the
17 bonds issued for the program. The department's payment of the
18 service charges shall be subject to and dependent upon the
19 appropriation of money by the General Assembly to the department
20 for the payment of the service charges. The service agreement
21 may be amended or supplemented by the department and the
22 authority in connection with the issuance of any series of bonds
23 or refunding bonds authorized under this article.

24 Section 2638. Use of bond proceeds.

25 Upon the issuance of bonds, the proceeds shall be applied in
26 the following order:

- 27 (1) Paying the costs of the issuance of the bonds.
- 28 (2) Funding bond reserves.
- 29 (3) Paying for bond administrative expenses.
- 30 (4) Redeeming or purchasing outstanding bonds, if

1 applicable.

2 (5) Paying bond obligations.

3 (6) Refunding outstanding bonds, if applicable.

4 (7) Making any other deposit required under any
5 instrument or agreement pertaining to the bonds.

6 Section 2639. Limitation on appropriations.

7 (a) Fund payments.--The amount of payments from the Restore
8 Pennsylvania Fund that are pledged and certified by the
9 secretary for the payments of bond obligations and bond
10 administrative expenses and any other financing costs due on the
11 bonds issued under this article and excess money under section
12 2636 shall not be subject to an appropriation.

13 (b) Account payments.--Payments from the Restore
14 Pennsylvania Bond Account relating to the issuance of bonds
15 under this article shall not be subject to an appropriation.

16 Section 2640. Impairment bond-related obligations.

17 The Commonwealth pledges that it shall not do any of the
18 following actions:

19 (1) Limit or alter the rights and responsibilities of
20 the authority or the department under this article, including
21 paying bond obligations and bond administrative expenses and
22 complying with any other instrument or agreement pertaining
23 to bonds.

24 (2) Alter or limit the security interest or pledge
25 granted under section 2634.

26 (3) Impair the rights and remedies of the holders of
27 bonds, until the bonds and interest on the bonds are fully
28 met and discharged.

29 Section 2641. Personal liability.

30 The members, directors, officers and employees of the

1 department and the authority shall not be personally liable as a
2 result of good faith exercise of the duties provided under this
3 article.

4 Section 2642. Annual report.

5 (a) Submission.--No later than March 1 of the year following
6 the first year that bonds are issued under this article and each
7 year thereafter, if bond obligations exist in the prior year,
8 the department shall submit an annual report with the available
9 data on the bonds for the prior year to all of the following:

10 (1) The chairperson and minority chairperson of the
11 Appropriations Committee of the Senate.

12 (2) The chairperson and minority chairperson of the
13 Appropriations Committee of the House of Representatives.

14 (b) Contents.--The report under subsection (a) shall
15 include, but not be limited to, all of the following
16 information:

17 (1) Existing and anticipated bond principal and
18 interest.

19 (2) Administrative costs, revenue, repayments,
20 refinancing and overall benefits from the bonds.

21 (3) Any other relevant data, facts and statistics as
22 determined by the department.

23 Section 2643. Expiration of article.

24 (a) Notice.--Within 30 days following the repayment of bond
25 obligations, bond administrative expenses and other financing
26 costs incurred under this article, the secretary shall transmit
27 notice to the Legislative Reference Bureau for publication in
28 the Pennsylvania Bulletin.

29 (b) Expiration.--This article shall expire on the date when
30 the notice under subsection (a) is published in the Pennsylvania

1 Bulletin.

2 PART IX

3 MISCELLANEOUS PROVISIONS

4 Section 2661. Severability.

5 The provisions of this article are severable. If any
6 provision of this article or its application to any person or
7 circumstance is held invalid, the invalidity shall not affect
8 other provisions or applications of this article which can be
9 given effect without the invalid provision or application.

10 Section 2. Repeals are as follows:

11 (1) The General Assembly declares that the repeal under
12 paragraph (2) is necessary to effectuate the addition of
13 Article XXVI of the act.

14 (2) 58 Pa.C.S. § 2318 is repealed.

15 Section 3. This act shall take effect immediately.