
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 781 Session of
2023

INTRODUCED BY MASTRIANO, ARGALL, GEBHARD, SCHWANK, CULVER,
J. WARD AND DUSH, JUNE 19, 2023

REFERRED TO FINANCE, JUNE 19, 2023

AN ACT

1 Providing for the creation of keystone opportunity dairy zones
2 to facilitate the economic development of Pennsylvania's
3 dairy industry; authorizing expenditures; providing tax
4 exemptions, tax deductions, tax abatements and tax credits;
5 creating additional obligations of the Commonwealth and local
6 governmental units; prescribing powers and duties of certain
7 State and local departments, agencies and officials; and
8 imposing penalties.

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

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 Section 101. Short title.

15 This act shall be known and may be cited as the Keystone
16 Opportunity Dairy Zone Act.

17 Section 102. Legislative findings.

18 The General Assembly finds and declares as follows:

19 (1) Dairy farmers are a vital, integral and
20 irreplaceable part of the agricultural heritage of this
21 Commonwealth.

22 (2) Dairy farmers contribute to the continued economic
23 health of this Commonwealth's agricultural sector, provide
24 jobs and pay taxes, provide local and sustainable food
25 products for nourishment and enjoyment and promote the
26 preservation of farmland in the public interest of all
27 residents of this Commonwealth.

28 (3) The continued viability of dairy farming is in the
29 best interest of the residents of this Commonwealth.

30 (4) In light of continued economic forces and market

1 pressures, the long-term viability of dairy farming requires
2 coordinated efforts by private and public entities to ensure
3 economic viability and ensure the continuation of the
4 significant contributions dairy farmers make to the economic
5 and social life of this Commonwealth.

6 (5) The long-term economic viability of dairy farming
7 requires the cooperative involvement of residents,
8 businesses, State and local elected officials and community
9 organizations.

10 (6) It is in the best interest of this Commonwealth to
11 assist and encourage the creation of zones to accomplish the
12 purposes of this act.

13 Section 103. Definitions.

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

17 "Applicant." A resident or business that submits or intends
18 to submit a zone application to the department.

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

22 "Dairy processing facility." A factory or plant directly and
23 primarily involved in processing, refining or manufacturing raw
24 milk which is at least 75% Pennsylvania milk or Pennsylvania
25 milk products into milk, butter, milk powder, cheese, yogurt,
26 ice cream, sour cream or a value-added dairy product intended
27 for the wholesale or retail market.

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

30 "Domicile." The place where a resident has a true and fixed

1 home and principal establishment for an indefinite time and to
2 which, whenever absent, that resident intends to return.
3 Domicile continues until another place of domicile is
4 established.

5 "Keystone opportunity dairy zone" or "zone." A defined
6 geographic area comprised of one or more qualified political
7 subdivisions or portions of qualified political subdivisions as
8 designated by the department under section 301.

9 "Opportunity plan." A written plan that meets the
10 requirements and addresses the criteria under section 302 and
11 304.

12 "Pennsylvania dairy farm." A farm that produces Pennsylvania
13 milk.

14 "Pennsylvania milk." Raw milk produced by the milking of
15 cows physically located on a farm within the geographic
16 boundaries of this Commonwealth and certified as such by the
17 Pennsylvania Milk Marketing Board.

18 "Pennsylvania milk product." A food or beverage made from or
19 primarily made from at least 75% Pennsylvania milk, or a value-
20 added dairy product, processed within this Commonwealth, which
21 utilized 75% or more Pennsylvania milk in its manufacture.

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

25 "Qualified business." A business incorporated under the laws
26 of this Commonwealth and authorized to do business in this
27 Commonwealth that owns or leases real property in a zone from
28 which the qualified business actively operates a dairy
29 processing facility or small scale dairy processing facility as
30 certified by the department.

1 "Qualified political subdivision." A political subdivision
2 which has real property within its jurisdiction which has been
3 designated by the department as a zone.

4 "Resident." A resident who is domiciled and resides in an
5 area that is designated a zone.

6 "Small scale dairy processing facility." A factory, plant or
7 operation that exclusively utilizes Pennsylvania milk produced
8 from a single Pennsylvania dairy farm with a total average herd
9 size of 250 milking cows or fewer, or a combination of
10 Pennsylvania dairy farms with a total collective average herd
11 size of 250 milking cows or fewer, and that is directly and
12 primarily involved in processing, refining or manufacturing raw
13 Pennsylvania milk or Pennsylvania milk products into milk,
14 butter, milk powder, cheese, yogurt, ice cream, sour cream or a
15 value-added dairy product intended for the wholesale or retail
16 market.

17 "Subzone." A parcel within an authorized zone.

18 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
19 No.2), known as the Tax Reform Code of 1971, and its subsequent
20 amendments.

21 "Value-added dairy product." Pennsylvania milk or a
22 Pennsylvania milk product that has been additionally processed,
23 improved, shredded, combined, aged, flavored, separated,
24 condensed or otherwise prepared to provide additional value or
25 convenience for the wholesale or retail market.

26 CHAPTER 3

27 KEYSTONE OPPORTUNITY DAIRY ZONES

28 Section 301. Keystone opportunity dairy zones.

29 (a) Establishment.--The department may designate up to 30
30 zones in accordance with this section, with up to 15 Class A

1 zones and up to 20 Class B zones.

2 (b) Zone authorization.--The department shall authorize not
3 more than 30 zones in this Commonwealth. Residents and
4 businesses within an authorized zone that are qualified under
5 this act shall be entitled to all tax exemptions, deductions,
6 abatements or credits provided under this act for a period not
7 to exceed 10 years beginning no sooner than one year from the
8 effective date of this subsection and no later than three years
9 from the effective date of this subsection. The department
10 shall, upon approval, specify the precise beginning and ending
11 dates for the tax exemptions, deductions, abatements or credits
12 provided under this act.

13 (c) Authorization for local tax exemption.--Every political
14 subdivision within which a proposed zone is located, whether in
15 whole or in part, is authorized to provide tax exemptions,
16 deductions, abatements or credits to residents and qualified
17 businesses under this act. The political subdivision shall agree
18 to provide exemptions, deductions, abatements or credits from
19 all local taxes provided under this act in order to qualify to
20 be designated a zone. The exemptions, deductions, abatements or
21 credits shall be effective on the date determined by the
22 department. The exemptions, deductions, abatements or credits
23 shall be binding upon the qualified political subdivision for
24 the duration of the zone designation.

25 (d) Authorization to extend the duration of a zone.--A zone
26 may request to extend its designation for a period of three
27 years. The request to extend a zone designation shall be made on
28 a zone-by-zone basis. A qualified political subdivision having
29 an approved zone within its jurisdiction and seeking to extend
30 the zone designation shall pass the required ordinances,

1 resolutions or other required action of the qualified political
2 subdivision for the necessary exemptions, deductions, abatements
3 or credits under this act, and shall submit copies of the
4 ordinance, resolution or other action to the department. The
5 department may grant the request to extend the duration of the
6 designation of the zone provided all the proper binding
7 ordinances, resolutions or other governing documents are passed
8 by all qualified political subdivisions within the zone
9 extending the necessary exemptions, deductions, abatements and
10 credits to the entire zone. The department shall approve or deny
11 the request for extension of duration of a subzone within 90
12 days of receipt, and shall provide written notice, irrespective
13 of whether approved or denied, to each qualified applicant,
14 qualified political subdivision, resident and qualified business
15 affected. Upon approval of a request for extension of duration
16 of a zone, the exemptions, deductions, abatements or credits
17 shall be binding upon the qualified political subdivision as
18 provided in subsection (c).

19 Section 302. Application.

20 (a) Initial application.--An applicant may apply to the
21 department to designate a parcel as a zone.

22 (b) Content.--The application shall contain the following:

23 (1) The geographic area of the proposed zone, including
24 the specific political subdivision or subdivisions.

25 (2) An opportunity plan that shall include the
26 following:

27 (i) A detailed map of the proposed zone, including
28 geographic boundaries, total area and present use and
29 conditions of the land and structures of the proposed
30 zone.

1 (ii) Evidence of support from and participation of
2 local government, school districts and other educational
3 institutions, business groups, community organizations
4 and the public.

5 (iii) A detailed proposal outlining the proposed
6 improvements in the zone, including, but not limited to,
7 proposed capital investment, job creation and increased
8 dairy processing capacity for Pennsylvania milk or
9 Pennsylvania milk products according to the
10 specifications of this act.

11 (iv) A description of anticipated activity in the
12 proposed zone, including, but not limited to, site
13 improvements.

14 (v) Evidence of potential private and public
15 investment in the proposed zone.

16 (vi) The role of the proposed zone in economic
17 development of the dairy industry in this Commonwealth
18 and the anticipated impacts to dairy farmers producing
19 Pennsylvania milk.

20 (vii) Any other information deemed appropriate by
21 the department or by the Secretary of Agriculture in
22 consultation with the department.

23 (3) The duration of the proposed zone, including the
24 anticipated beginning and end date.

25 (4) A formal, binding ordinance or resolution passed by
26 every political subdivision in which the proposed zone is
27 located that specifically provides for all local tax
28 exemptions, deductions, abatements or credits for businesses
29 provided in this act.

30 (5) Evidence that the proposed zone meets the required

1 criteria under this act.

2 Section 303. Review.

3 (a) Action of department.--The department, in consultation
4 with the Secretary of Agriculture, shall review all completed
5 applications submitted under section 302. An application for
6 authorization as a zone must be received by a date to be
7 determined by the department in order to be considered by the
8 department. The date to be determined by the department shall
9 not be sooner than 120 days after the effective date of this
10 subsection, nor later than two years after the effective date of
11 this subsection.

12 (b) Process.--The department shall authorize up to 30 zones
13 from applications meeting the criteria under section 304 based
14 upon need, likelihood of success, potential for increased dairy
15 processing capacity and overall impact on the market for
16 Pennsylvania milk or Pennsylvania milk products. The department
17 may not alter the geographic boundaries of a zone described in
18 an application unless mutually agreed upon between the
19 department, the applicant and any affected local municipality.
20 The department shall not deny an application due to an
21 applicant's prior receipt of or consideration for any other
22 State community and economic development program funding.

23 (c) Authorizations.--Any zone approved shall be approved no
24 later than three years after the effective date of this
25 subsection.

26 Section 304. Criteria for authorization of zone.

27 (a) Class A zones.--

28 (1) A Class A zone shall:

29 (i) Be not less than five acres, unless contiguous
30 to or colocated with an existing or proposed dairy

1 processing facility.

2 (ii) Be not more than 150 acres.

3 (2) In order to qualify for authorization as a Class A
4 zone under this section, an application shall:

5 (i) Provide specific geographic information on the
6 proposed zone location.

7 (ii) Show anticipated private investment of
8 \$10,000,000 or more in a dairy processing facility.

9 (iii) Create 25 or more new jobs as defined by the
10 department.

11 (iv) Demonstrate an exceptional and meaningful
12 opportunity for the expansion of dairy processing
13 capacity within this Commonwealth.

14 (b) Class B zones.--A Class B zone shall:

15 (1) Be not less than five acres, unless contiguous to or
16 colocated with an existing or proposed dairy processing
17 facility.

18 (2) Be not more than 25 acres, unless colocated with a
19 Pennsylvania dairy farm directly supplying Pennsylvania milk
20 for an existing or proposed small scale dairy processing
21 facility.

22 (3) In order to qualify for authorization as a Class B
23 zone under this section, an application shall:

24 (i) Provide specific geographic information on the
25 proposed zone location.

26 (ii) Show anticipated private investment of \$100,000
27 or more in a small scale dairy processing facility.

28 (iii) Demonstrate an exceptional and meaningful
29 opportunity for the expansion of small scale, boutique or
30 locally based dairy processing capacity within this

1 Commonwealth.

2 Section 305. Zone limitations.

3 A zone shall not encompass an entire political subdivision.

4 Section 306. Residency.

5 In order to qualify each year for a tax exemption, deduction,
6 abatement or credit under this act, a resident shall be
7 domiciled and shall reside in a zone for a period of 184
8 consecutive days during each taxable year.

9 Section 307. Annual certification.

10 (a) Qualification.--In order to qualify each year for a tax
11 exemption, deduction, abatement or credit under this act, a
12 qualified business shall obtain annual renewal of the
13 certification from the department.

14 (b) Requirements.--For a class zone, the following shall
15 apply:

16 (1) For a Class A zone, the certification form shall
17 include, but not be limited to, all of the following:

18 (i) The duration of the zone designation.

19 (ii) The number of jobs created.

20 (iii) The number of jobs retained.

21 (iv) The amount of capital investment.

22 (v) The gross value of Pennsylvania milk products
23 produced in the past year.

24 (vi) The percentage of Pennsylvania milk utilized in
25 the production of Pennsylvania milk products.

26 (vii) Any other information, conditions or
27 requirements reasonably required by the department.

28 (2) For a Class B zone, the certification form shall
29 include all of the following:

30 (i) The duration of the zone designation.

1 (ii) The gross value of Pennsylvania milk products
2 produced in the past year.

3 (iii) Any other information, conditions or
4 requirements required by the department.

5 Section 308. Forms.

6 Applications for authorization as a zone shall be on forms
7 prescribed by the department. The department shall make
8 application forms available on the department's publicly
9 accessible Internet website, or upon request by a potential
10 applicant, on paper forms or other method as determined by the
11 department.

12 CHAPTER 5

13 STATE TAXES

14 SUBCHAPTER A

15 GENERAL PROVISIONS

16 Section 501. State taxes.

17 (a) General rule.--A resident who is a resident of, or a
18 qualified business located in, a zone shall receive the
19 exemptions, deductions, abatements or credits as provided in
20 this chapter and Chapter 7 for the duration of the zone
21 designation. Exemptions, deductions, abatements or credits shall
22 expire on the date of expiration of the zone.

23 (b) Construction.--The Department of Revenue shall
24 administer, construe and enforce the provisions of this chapter
25 in conjunction with Articles II, III, IV, VI, VII, IX and XV of
26 the Tax Reform Code of 1971.

27 SUBCHAPTER B

28 PARTICULAR STATE TAXES

29 Section 511. Sales and use tax.

30 Sales at retail of services or tangible personal property,

1 other than motor vehicles, to a qualified business or a
2 construction contractor under a construction contract with a
3 qualified business, landowner or lessee for the exclusive use,
4 consumption and utilization of the tangible personal property or
5 service by the qualified business at the qualified business's,
6 landowner's or lessee's facility located within a zone are
7 exempt from the sales and use tax imposed under Article II of
8 the Tax Reform Code of 1971. An exemption shall not be permitted
9 for sales conducted prior to designation of the real property as
10 part of a zone.

11 Section 512. Personal income tax.

12 (a) General rule.--A resident shall be allowed an exemption
13 for:

14 (1) Compensation received during the time period when
15 the resident was a resident of a zone.

16 (2) Net income from the operation of a qualified
17 business received by a resident or nonresident of a zone
18 attributable to business activity conducted within a zone,
19 determined in accordance with section 514, except that any
20 business that operates both within and outside this
21 Commonwealth, before computing its zone exemption, shall
22 first determine its Pennsylvania activity over its activity
23 everywhere by applying the three-factor apportionment formula
24 as provided in Department of Revenue personal income tax
25 regulations applicable to income apportionment in connection
26 with a business, trade or profession carried on both within
27 and outside this Commonwealth.

28 (3) All of the following:

29 (i) Net gains or income, less net losses, derived by
30 a resident or nonresident of a zone from the sale,

1 exchange or other disposition of real or tangible
2 personal property located in a zone as determined in
3 accordance with accepted accounting principles and
4 practices. The exemption provided in this subparagraph
5 shall not apply to the sale, exchange or other
6 disposition of any stock of goods, merchandise or
7 inventory or any operational assets unless the transfer
8 is in connection with the sale, exchange or other
9 disposition of all of the assets in complete liquidation
10 of a qualified business located in a zone. This
11 subparagraph shall apply to intangible personal property
12 employed in a trade, profession or business in a zone,
13 but only when transferred in connection with a sale,
14 exchange or other disposition of all of the assets in
15 complete liquidation of the qualified business in the
16 zone.

17 (ii) Net gains, less net losses, realized by a
18 resident of a zone from the sale, exchange or disposition
19 of intangible personal property or obligations issued on
20 or after February 1, 1994, by the Commonwealth, a public
21 authority, commission, board or other Commonwealth
22 agency, political subdivision or authority created by a
23 political subdivision or by the Federal Government as
24 determined in accordance with accepted accounting
25 principles and practices.

26 (iii) The exemption from income for gain or loss
27 provided for in subparagraphs (i) and (ii) shall be
28 prorated based on the following:

29 (A) In the case of gains, less net losses, in
30 subparagraph (i), the percentage of time, based on

1 calendar days, the property located in a zone was
2 held by a resident or nonresident of the zone during
3 the time period the zone was in effect in relation to
4 the total time the property was held.

5 (B) In the case of gains, less net losses, in
6 subparagraph (ii), the percentage of time, based on
7 calendar days, the property was held by the taxpayer
8 while a resident of a zone in relation to the total
9 time the property was held.

10 (4) Net gains or income derived from or in the form of
11 rents received by a resident, whether a resident or
12 nonresident of a zone, to the extent that income or loss from
13 the rental of real or tangible personal property is allocable
14 to a zone. For purposes of calculating this exemption:

15 (i) Net rents derived from real or tangible personal
16 property located in a zone are allocable to a zone.

17 (ii) If the tangible personal property was used both
18 within and without the zone during the taxable year, only
19 the net income attributable to use in the zone is exempt.
20 The net rental income shall be multiplied by a fraction,
21 the numerator of which is the number of days the property
22 was used in the zone and the denominator of which is the
23 total days of use.

24 (5) Dividends received during the time the resident was
25 a resident of a zone.

26 (6) Interest received during the time period the
27 resident was a resident of a zone.

28 (b) Pass-through entities.--The exemptions provided for in
29 subsection (a) (2), (3) (i) and (4) shall apply to all of the
30 following:

1 (1) The income or gain of a partnership or association.
2 The partner or member shall be entitled to the exemptions
3 under this section for the partner's or member's share,
4 whether or not distributed, of the income or gain received by
5 the partnership or association for its taxable year.

6 (2) The income or gain of a Subchapter S corporation.
7 The shareholder shall be entitled to the exemptions under
8 this section for the shareholder's pro rata share, whether or
9 not distributed, of the income or gain received by the
10 corporation for its taxable year ending within or with the
11 shareholder's taxable year.

12 (c) Limitation.--A partnership, association, Subchapter S
13 corporation, cooperative, resident or nonresident may not apply
14 an exemption from income under this act for any class of income
15 against any other classes of income or gain. A partnership,
16 association, Subchapter S corporation, cooperative, resident or
17 nonresident may not carry back or carry forward any exemption
18 under this act from year to year. The credit allowed under this
19 section shall not exceed the tax liability of the taxpayer under
20 Article III of the Tax Reform Code of 1971 for the tax year.
21 Section 513. Residency considerations.

22 If a resident completes the residency requirements under
23 section 306 or if a nonresident realizes income attributable to
24 business activity or property within a zone, the resident may
25 claim the exemptions from income for the items provided under
26 section 512 for that portion of the tax year that the resident
27 was a resident or for that portion of the tax year during which
28 the area is designated as a zone.

29 Section 514. Corporate net income tax.

30 (a) Credits.--For the tax years that begin on or after

1 January 1, 2023, a corporation that is a qualified business
2 under this act may claim a credit against the tax imposed by
3 Article IV of the Tax Reform Code of 1971 for tax liability
4 attributable to business activity conducted within the zone in
5 the taxable year. A credit may not be claimed for activities
6 conducted prior to designation of the real property as part of a
7 zone. The business activity must be conducted directly by a
8 corporation in the zone in order for the corporation to claim
9 the tax credit.

10 (b) Tax liability determinations.--The corporate tax
11 liability attributable to business activity conducted within a
12 zone shall be determined by multiplying the corporation's
13 taxable income that is attributable to business activity
14 conducted within the zone by the rate of tax imposed under
15 Article IV of the Tax Reform Code of 1971 for the taxable year.

16 (c) Determinations of attributable tax liability.--Tax
17 liability attributable to business activity conducted within a
18 zone shall be computed, construed, administered and enforced in
19 conformity with Article IV of the Tax Reform Code of 1971 and
20 with specific reference to the following:

21 (1) If the entire business of the corporation in this
22 Commonwealth is transacted wholly within the zone, the
23 taxable income attributable to business activity within a
24 zone shall consist of the Pennsylvania taxable income as
25 determined under Article IV of the Tax Reform Code of 1971.

26 (2) If the entire business of the corporation in this
27 Commonwealth is not transacted wholly within the zone, the
28 taxable income of a corporation in a zone shall be determined
29 upon such portion of the Pennsylvania taxable income of such
30 corporation attributable to business activity conducted

1 within the zone and apportioned in accordance with subsection
2 (d).

3 (d) Income apportionment.--The taxable income of a
4 corporation that is a qualified business shall be apportioned to
5 the zone by multiplying the Pennsylvania taxable income by a
6 fraction, the numerator of which is the property factor plus the
7 payroll factor and the denominator of which is two, in
8 accordance with the following:

9 (1) The property factor is a fraction, the numerator of
10 which is the average value of the taxpayer's real and
11 tangible personal property owned or rented and used in the
12 zone during the tax period and the denominator of which is
13 the average value of all the taxpayer's real and tangible
14 personal property owned or rented and used in this
15 Commonwealth during the tax period but shall not include the
16 security interest of any corporation as seller or lessor in
17 personal property sold or leased under a conditional sale,
18 bailment lease, chattel mortgage or other contract providing
19 for the retention of a lien or title as security for the
20 sales price of the property.

21 (2) (i) The payroll factor is a fraction, the numerator
22 of which is the total amount paid in the zone during the
23 tax period by the taxpayer for compensation and the
24 denominator of which is the total compensation paid in
25 this Commonwealth during the tax period.

26 (ii) Compensation is paid in the zone if:

27 (A) the resident's service is performed entirely
28 within the zone;

29 (B) the resident's service is performed both
30 within and without the zone, but the service

1 performed without the zone is incidental to the
2 resident's service within the zone; or

3 (C) some of the service is performed in the zone
4 and the base of operations or, if there is no base of
5 operations, the place from which the service is
6 directed or controlled is in the zone, or the base of
7 operations or the place from which the service is
8 directed or controlled is not in any location in
9 which some part of the service is performed, but the
10 resident's residence is in the zone.

11 (e) Computation.--A corporation shall compute its
12 Commonwealth taxable income in conformity with Article IV of the
13 Tax Reform Code of 1971 with no adjustments or subtractions for
14 zone taxable income.

15 (f) Limitation on amount of credit.--The credit allowed
16 under this section shall not exceed the tax liability of the
17 taxpayer under Article IV of the Tax Reform Code of 1971 for the
18 tax year.

19 (g) Section not applicable to certain businesses.--

20 (1) Any portion of the taxpayer's taxable income that is
21 attributable to the operation of any of the following may not
22 be used to calculate a credit under this section:

23 (i) A corporation that qualifies as a regulated
24 investment company under Article IV of the Tax Reform
25 Code of 1971.

26 (ii) A holding company as the term is used in
27 Article VI of the Tax Reform Code of 1971.

28 (2) The prohibition under paragraph (1) shall not apply
29 to the portion of a qualified business engaged in
30 manufacturing or processing.

1 CHAPTER 7

2 LOCAL TAXES

3 Section 701. Local taxes.

4 Every qualified political subdivision shall exempt, deduct,
5 abate or credit local taxes in accordance with ordinances and
6 resolutions adopted under section 301(c), as is applicable.
7 Failure to exempt, deduct, abate or credit local taxes shall
8 result in the revocation of the zone designation.

9 Section 702. Real property tax.

10 (a) General rule.--Notwithstanding the act of May 22, 1933
11 (P.L.853, No.155), known as The General County Assessment Law,
12 and 53 Pa.C.S. (relating to municipalities generally), each
13 qualified political subdivision shall by ordinance or resolution
14 abate 100% of the real property taxation on the assessed
15 valuation of property in an area designated as a zone within
16 this Commonwealth during the taxable years determined by the
17 department. The real property tax abatement provided for in this
18 section shall apply to all real property located in a zone,
19 irrespective of the business activity, if any, made of the
20 realty by its owner, when this act is in effect. An abatement
21 may not be provided prior to designation of a zone by the
22 department.

23 (b) Interest and penalties.--If the department or a
24 political subdivision finds that a resident or business claimed
25 an abatement of real property tax to which the resident or
26 business was not entitled under this act, the resident or
27 business shall be liable for the abated taxes and subject to the
28 applicable interest and penalty provisions provided by law.

29 (c) Calculations for education subsidy for school
30 districts.--In determining the market value of real property in

1 each school district, the State Tax Equalization Board shall
2 exclude any increase in value above the base value prior to the
3 effect of the abatement of local taxes to the extent and during
4 the period of time that real estate tax revenues attributable to
5 such increased value are not available to the school district
6 for general school district purposes.

7 Section 703. Local earned income and net profits taxes and
8 business privilege taxes.

9 (a) General exemption.--

10 (1) If a political subdivision has enacted any tax on
11 the privilege of engaging in any business or profession,
12 measured by gross receipts or on a flat rate basis, earned
13 income or net profits, as used in the act of December 31,
14 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act,
15 imposed within the boundaries of a zone, the qualified
16 political subdivision shall exempt from the imposition or
17 operation of the local tax ordinances, statutes, regulations
18 or otherwise:

19 (i) The business gross receipts for operations
20 conducted by a qualified business within a zone.

21 (ii) The earned income received by a resident of a
22 zone.

23 (iii) The net profits of a qualified business
24 attributable to business activity conducted within a zone
25 when imposed by the qualified political subdivision where
26 the qualified business is located.

27 (2) An exemption may not be granted for operations
28 conducted, for earned income received or for activities
29 conducted prior to designation of the real property as part
30 of a zone.

1 (b) Additional exemptions.--

2 (1) Paragraph (2) shall apply if a qualified political
3 subdivision has enacted a tax on the privilege of engaging in
4 a profession or business, on wages or compensation, on net
5 profits from the operation of a business or profession or
6 other activity or on the occupancy or use of real property
7 under any of the following:

8 (i) The act of August 5, 1932 (Sp.Sess., P.L.45,
9 No.45), referred to as the Sterling Act.

10 (ii) The act of March 10, 1949 (P.L.30, No.14),
11 known as the Public School Code of 1949.

12 (iii) The act of August 24, 1961 (P.L.1135, No.508),
13 referred to as the First Class A School District Earned
14 Income Tax Act.

15 (iv) The act of August 9, 1963 (P.L.640, No.338),
16 entitled "An act empowering cities of the first class,
17 coterminous with school districts of the first class, to
18 authorize the boards of public education of such school
19 districts to impose certain additional taxes for school
20 district purposes, and providing for the levy, assessment
21 and collection of such taxes."

22 (v) The act of May 30, 1984 (P.L.345, No.69), known
23 as the First Class City Business Tax Reform Act.

24 (vi) The act of June 5, 1991 (P.L.9, No.6), known as
25 the Pennsylvania Intergovernmental Cooperation Authority
26 Act for Cities of the First Class.

27 (2) If there is an enactment under paragraph (1), the
28 qualified political subdivision shall provide an exemption,
29 deduction, abatement or credit from the imposition and
30 operation of such local tax ordinance or resolution for all

1 of the following:

2 (i) The privilege of engaging in a business or
3 profession within a zone by a resident or qualified
4 business, whether a resident or nonresident of the zone.

5 (ii) Salaries, wages, commissions, compensation or
6 other income received for services rendered or work
7 performed by a resident of a zone.

8 (iii) The gross or net income or gross or net
9 profits realized from the operation of a qualified
10 business to the extent attributable to business activity
11 conducted within a zone.

12 (iv) The occupancy or use of real property located
13 within the zone.

14 (c) Calculation for education subsidy for school district.--
15 In determining the personal income valuation of a school
16 district, the Secretary of Revenue shall exclude any increase in
17 the personal income valuation as defined in section 2501(9.1) of
18 the Public School Code of 1949, above the base value prior to
19 the abatement of local taxes in a zone located within the school
20 district to the extent and during the period of time that
21 personal income revenues attributable to the increase in the
22 personal income valuation are not available to the school
23 district for general school district purposes. An exemption
24 under this section may not be granted to a resident or qualified
25 business prior to designation of the real property as part of a
26 zone.

27 (d) Determination of exemption.--For the purposes of
28 determining an exemption under this section, a tax on or
29 measured by any of the following shall be attributed to business
30 activity conducted within a zone by applying the apportionment

1 factors under section 514(d):

2 (1) Business gross receipts.

3 (2) Gross or net income.

4 (3) Gross or net profits.

5 Section 704. Mercantile license tax.

6 A resident or qualified business in a zone shall not be
7 required to pay any fee authorized pursuant to a mercantile
8 license tax imposed under the act of June 20, 1947 (P.L.745,
9 No.320), entitled "An act to provide revenue for school
10 districts of the first Class A by imposing a temporary
11 mercantile license tax on persons engaging in certain
12 occupations and businesses therein; providing for its levy and
13 collection; for the issuance of mercantile licenses upon the
14 payment of fees therefor; conferring and imposing powers and
15 duties on boards of public education, receivers of school taxes
16 and school treasurers in such districts; saving certain
17 ordinances of council of certain cities, and providing
18 compensation for certain officers, and employes and imposing
19 penalties."

20 Section 705. Local sales and use tax.

21 (a) General rule.--A political subdivision shall exempt
22 sales at retail of services or tangible personal property,
23 except motor vehicles, to a qualified business or a construction
24 contractor under a construction contract with a qualified
25 business, landowner or lessee for the exclusive use, consumption
26 and utilization of the tangible personal property or service by
27 the qualified business at the qualified business's, landowner's
28 or lessee's facility located within a zone from a city or county
29 tax on purchase price authorized under Article XXXI-B of the act
30 of July 28, 1953 (P.L.723, No.230), known as the Second Class

1 County Code and the act of June 5, 1991 (P.L.9, No.6), known as
2 the Pennsylvania Intergovernmental Cooperation Authority Act for
3 Cities of the First Class. An exemption may not be granted for
4 sales occurring prior to designation of the real property as
5 part of a zone.

6 (b) Definition.--As used in this section, the phrase "sales
7 at retail of services or tangible personal property" shall be as
8 the phrase "sales at retail" is used under Article II of the Tax
9 Reform Code of 1971.

10 CHAPTER 9

11 ADMINISTRATION OF TAX PROVISIONS

12 Section 901. Transferability.

13 Any exemption, deduction, abatement or credit provided to any
14 resident or qualified business under Chapter 5 or 7 is
15 nontransferable and cannot be applied, used or assigned to any
16 other resident, business or tax account.

17 Section 902. Recapture.

18 (a) General rule.--If any qualified business located within
19 a zone has received an exemption, deduction, abatement or credit
20 under this act and subsequently relocates outside of the zone
21 within the first nine years of locating in a zone, the qualified
22 business shall refund to the State and political subdivision
23 which granted the exemption, deduction, abatement or credit
24 received in accordance with the following:

25 (1) If a qualified business relocates within five years
26 from the date of first locating in a zone, 66% of all the
27 exemptions, deductions, abatements or credits attributed to
28 that qualified business's participation in the zone shall be
29 refunded to the Commonwealth and the political subdivision.

30 (2) If a qualified business relocates within five to

1 nine years from the date of first locating in a zone, 33% of
2 all exemptions, deductions, abatements or credits attributed
3 to that qualified business's participation in the zone shall
4 be refunded to the Commonwealth and the political
5 subdivision.

6 (b) Waiver.--The department, in consultation with the
7 Department of Revenue, the Secretary of Agriculture and the
8 political subdivision, may waive or modify recapture
9 requirements under this section if the department determines
10 that the business relocation was due to circumstances beyond the
11 control of the business, including, but not limited to:

- 12 (1) natural disaster;
- 13 (2) unforeseen industry trends; or
- 14 (3) loss of a major supplier or market.

15 Section 903. Delinquent or deficient State or local taxes.

16 (a) Residents.--A resident may not claim or receive an
17 exemption, deduction, abatement or credit under this act unless
18 that resident is in full compliance with all State and local tax
19 laws, ordinances and resolutions.

20 (b) Qualified business.--

21 (1) A qualified business may not claim or receive an
22 exemption, deduction, abatement or credit under this act
23 unless that qualified business is in full compliance with all
24 State and local tax laws, ordinances and resolutions.

25 (2) A qualified business may not claim or receive an
26 exemption, deduction, abatement or credit under this act if
27 any resident or business with a 20% or greater interest in
28 that qualified business is not in full compliance with all
29 State and local tax laws, ordinances and resolutions.

30 (c) Later compliance and eligibility.--A resident or

1 qualified business that is not eligible to claim an exemption,
2 deduction, abatement or credit due to noncompliance with any
3 State or local tax law may become eligible if that resident or
4 qualified business subsequently comes into full compliance with
5 all State and local tax laws to the satisfaction of the
6 Department of Revenue or the political subdivision within the
7 calendar year in which the noncompliance first occurred. If full
8 compliance is not attained by February 5 of the calendar year
9 following the calendar year during which noncompliance first
10 occurred, that resident or qualified business is precluded from
11 claiming any exemption, deduction, abatement or credit for that
12 calendar year, whether or not full compliance is achieved
13 subsequently.

14 Section 904. Code compliance.

15 (a) General rule.--A resident or qualified business shall be
16 precluded from claiming an exemption, deduction, abatement or
17 credit provided under this act if the resident or qualified
18 business owns real property in a zone and the real property is
19 not in compliance with all applicable State and local zoning,
20 building and housing laws, ordinances or codes.

21 (b) Opportunity to achieve compliance.--A resident or
22 qualified business who is not in compliance under subsection (a)
23 shall have until December 31 of the calendar year following
24 designation of the real property as part of a zone to be in
25 compliance in order to claim any State exemptions, deductions,
26 abatements or credits for that year. If full compliance is not
27 attained by December 31 of that calendar year, the resident or
28 qualified business is precluded from claiming any exemption,
29 deduction or credit for that calendar year, whether or not
30 compliance is achieved in a subsequent calendar year. The

1 political subdivision may extend the time period in which a
2 resident or qualified business must come into compliance with a
3 local ordinance or building code for a period not to exceed one
4 year if the political subdivision determines that the resident
5 or qualified business has made and shall continue to make a good
6 faith effort to come into compliance and that an extension will
7 enable the resident or qualified business to achieve full
8 compliance. A qualified political subdivision is required to
9 notify the Department of Revenue in writing of all residents or
10 qualified businesses not in compliance with this subsection
11 within 30 days following the end of each calendar year.

12 Section 905. Appeals.

13 A resident or qualified business shall be deemed to be in
14 compliance with any State or local tax for purposes of this
15 section if that resident or qualified business had made a timely
16 administrative or judicial appeal for that particular tax or has
17 entered into and is in compliance with a duly authorized
18 deferred payment plan with the Department of Revenue or
19 political subdivision for that particular tax.

20 Section 906. Notice requirements.

21 (a) Requirement.--After compliance reviews have been
22 conducted by appropriate Commonwealth and local authorities, the
23 department shall notify each zone applicant by regular mail each
24 year of the department's approval or denial of the applicant's
25 zone application. No zone is entitled to any tax benefits unless
26 it receives approval from the department.

27 (b) Transmittal.--The department or its designated official
28 shall, within 15 business days of receipt of a zone application
29 made under this act, forward a copy of the application to the
30 Department of Revenue, the Secretary of Agriculture, the Milk

1 Marketing Board and any other appropriate Commonwealth and local
2 authorities for review and processing.

3 Section 907. Application time.

4 (a) Requirement.--Except as provided under subsection (b),
5 an applicant shall file an application in a manner prescribed by
6 the department by December 31 of each calendar year for which
7 the applicant claims any exemption, deduction, abatement or
8 credit under this act.

9 (b) Extension or waiver.--Upon request of the applicant, the
10 department may extend or waive the application deadline for good
11 cause shown if the political subdivision does not object to the
12 waiver or extension.

13 (c) Approval.--An exemption, deduction, abatement or credit
14 may not be claimed or received for that calendar year until
15 approval has been granted by the department.

16 CHAPTER 11

17 PROCEDURES FOR ZONES

18 Section 1101. Keystone opportunity dairy zone prioritizations.

19 (a) Reduced interest.--Projects in a zone that is approved
20 for Pennsylvania Industrial Development Authority or Small
21 Business First financing shall receive the lowest interest rate
22 extended to borrowers.

23 (b) Priority consideration.--Projects in a zone shall
24 receive priority consideration for State assistance under State
25 community and economic development programs and for necessary
26 approval required from the Department of Environmental
27 Protection.

28 (c) Local governments.--The department shall provide
29 technical assistance to political subdivisions relating to
30 taxation, implementation of the opportunity plan, establishing

1 annual benchmarks and annual reporting requirements.

2 Section 1102. Reporting.

3 The department shall report every four years to the General
4 Assembly on the economic effects of this act in each zone.

5 Section 1103. Other Commonwealth tax credits.

6 (a) Limitation.--A resident or qualified business that is
7 entitled to claim an exemption, deduction, abatement or credit
8 in accordance with the provisions of this act shall not be
9 entitled to claim or accumulate any of the following exemptions,
10 deductions, abatements or credits that it may otherwise have
11 qualified for due to activity in the zone:

12 (1) Provisions under the Tax Reform Code of 1971 of the
13 following:

14 (i) Article XVII-B relating to research and
15 development tax credits.

16 (ii) Article XIX-A relating to neighborhood
17 assistance tax credits.

18 (2) A job creation tax credit under the act of June 29,
19 1996 (P.L.434, No.67), known as the Job Enhancement Act.

20 (b) Non-zone income.--The resident or qualified business may
21 apply the exemptions, deductions, abatements or credits to
22 income realized from activity or transactions outside the zone,
23 but only for the taxable year to which the exemptions,
24 deductions, abatements or credits apply. The provisions of this
25 section shall apply only to the taxes provided in Chapters 5 and
26 7.

27 Section 1104. Monitoring data.

28 In addition to any other requirements of this act, the
29 department shall monitor all of the following:

30 (1) Verifiable job creation and job retention data.

1 (2) Information on the types of jobs created and average
2 hourly wages.

3 (3) Number of years in the program.

4 (4) Annual, unduplicated public and private capital
5 investment amounts.

6 (5) Description of dairy processing activities.

7 (6) Types and amounts of other economic development
8 assistance received from the department, if any.

9 CHAPTER 13

10 MISCELLANEOUS PROVISIONS

11 Section 1301. Illegal activity.

12 Any funds or other forms of consideration received by a
13 resident or qualified business conducting any type of illegal
14 activity shall not be eligible for any of the exemptions,
15 deductions, abatements and credits or any other benefits that
16 are created under this act.

17 Section 1302. Rules and regulations.

18 The department, Department of Revenue and Department of
19 Agriculture may promulgate regulations necessary to effectuate
20 the provisions of this act.

21 Section 1303. Compliance.

22 A resident or qualified business eligible for an exemption,
23 deduction or credit under this act shall comply with all
24 reporting, filing and compliance requirements under the Tax
25 Reform Code of 1971 unless otherwise provided for in this act.

26 Section 1304. Penalties.

27 (a) Civil penalty.--

28 (1) In addition to any penalties authorized for
29 violations under the Tax Reform Code of 1971, the Department
30 of Revenue may impose an additional administrative penalty

1 not to exceed \$50,000 for any act or violation of this act
2 relating to State and local taxes, including the filing of
3 any false statement, return or document.

4 (2) The department may impose a civil penalty not to
5 exceed \$50,000 for a violation of this act, including the
6 filing of any false statement, return or document.

7 (b) Criminal penalty.--In addition to any criminal penalty
8 under the Tax Reform Code of 1971, any resident or qualified
9 business who knowingly violates any of the provisions of this
10 act commits a misdemeanor of the third degree.

11 Section 1305. Construction.

12 This act shall be interpreted to ensure that all provisions
13 relating to State and local tax exemptions, deductions,
14 abatements and credits are strictly construed in favor of the
15 Commonwealth.

16 Section 1306. Applicability.

17 The provisions of this act shall be applied prospectively. A
18 resident or business may not claim any exemption, deduction,
19 abatement or credit until that resident or business becomes
20 qualified under this act and, in the case of a business,
21 receives certification from the department that the business is
22 qualified.

23 Section 1307. Severability.

24 The provisions of this act are severable. If any provision of
25 this act or its application to a resident or circumstance is
26 held invalid, the invalidity shall not affect other provisions
27 or applications of this act which can be given effect without
28 the invalid provision or application.

29 Section 1308. Repeals.

30 All acts and parts of acts are repealed insofar as they are

- 1 inconsistent with this act.
- 2 Section 1309. Effective date.
- 3 This act shall take effect immediately.