

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2328 Session of
1998

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READSHAW, COWELL AND PESCI, MARCH 12, 1998

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 12, 1998

AN ACT

1 Providing for the creation of keystone opportunity zones to
2 foster economic opportunities in this Commonwealth, to
3 facilitate economic development, stimulate industrial,
4 commercial and residential improvements and prevent physical
5 and infrastructure deterioration of geographic areas within
6 this Commonwealth; authorizing expenditures; providing tax
7 exemptions, tax deductions, tax abatements and tax credits;
8 creating additional obligations of the Commonwealth and local
9 governmental units; prescribing powers and duties of certain
10 State and local departments, agencies and officials; and
11 making appropriations.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 CHAPTER 1

20 PRELIMINARY PROVISIONS

21 Section 101. Short title.

22 This act shall be known and may be cited as the Pennsylvania
23 Keystone Opportunity Zone Act.

24 Section 102. Legislative findings.

25 (1) There exists in this Commonwealth areas of economic
26 distress characterized by high unemployment, low investment
27 of new capital, inadequate dwelling conditions, blighted
28 conditions, underutilized, obsolete or abandoned industrial,
29 commercial and residential structures and deteriorating tax
30 bases.

1 (2) These areas require coordinated efforts by private
2 and public entities to restore prosperity and enable the
3 areas to make significant contributions to the economic and
4 social life of this Commonwealth.

5 (3) Long-term economic viability of these areas requires
6 the cooperative involvement of residents, businesses, State
7 and local elected officials and community organizations. It
8 is in the best interest of the Commonwealth to assist and
9 encourage the creation of keystone opportunity zones and to
10 provide temporary relief from certain taxes within the
11 keystone opportunity zones to accomplish the purposes of this
12 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 "Business." An association, partnership, corporation, sole
18 proprietorship, limited liability corporation or employer.

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

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

29 "Domicile." The place where a person has a true and fixed
30 home and principal establishment for an indefinite time and to

1 which, whenever absent, that person intends to return. Domicile
2 continues until another place of domicile is established.

3 "Keystone opportunity zone." A defined geographic area
4 comprised of one or more political subdivisions or portions of
5 political subdivisions designated by the Department of Community
6 and Economic Development under Chapter 3. A keystone opportunity
7 zone may be comprised of not more than 12 subzones.

8 "Opportunity plan." A written plan that addresses the
9 criteria and meets the requirements in section 302(a).

10 "Person." Any natural person.

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

14 "Qualified business." Any business authorized to do business
15 in this Commonwealth that is located within a keystone
16 opportunity zone and is engaged in the active conduct of a trade
17 or business in accordance with the requirements of section 307.

18 "Qualified political subdivision." A political subdivision
19 that has been designated as a keystone opportunity zone.

20 "Resident." A person who is domiciled and resides in an area
21 that is designated a keystone opportunity zone who meets the
22 requirements of section 306.

23 "Subzone." A clearly defined geographic area containing a
24 minimum of 20 contiguous acres.

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

28 CHAPTER 3

29 KEYSTONE OPPORTUNITY ZONES

30 Section 301. Keystone opportunity zones.

1 (a) Establishment.--There is hereby established within the
2 department a program providing for the designation of portions
3 of this Commonwealth as keystone opportunity zones. A keystone
4 opportunity zone shall be comprised of deteriorated property and
5 shall not exceed a total of 5,000 acres.

6 (b) Designation.--The department shall designate not more
7 than 12 keystone opportunity zones in this Commonwealth. Persons
8 and businesses within the designated keystone opportunity zone
9 that are qualified under this act shall be entitled to all tax
10 exemptions, deductions, abatements and credits set forth in this
11 act for a period not to exceed 12 years beginning January 1,
12 1999, and ending on or before December 31, 2010.

13 (c) Subzones.--A keystone opportunity zone may be comprised
14 of up to 12 clearly defined subzones containing a minimum of 20
15 contiguous acres each. The subzones may or may not be contiguous
16 to each other. The total number of subzones shall not exceed
17 5,000 acres in the aggregate.

18 (d) Authorization for local tax exemption.--Every political
19 subdivision in which a proposed keystone opportunity zone is
20 located is hereby authorized to provide tax exemptions,
21 deductions, abatements or credits to persons and businesses
22 qualified under this act. The political subdivision shall agree
23 to provide exemptions, deductions, abatements or credits from
24 all local taxes set forth in this act in order to qualify to be
25 designated a keystone opportunity zone within that political
26 subdivision. Except as provided in section 303(e), the
27 exemptions, deductions, abatements or credits shall be effective
28 January 1, 1999, if designation of a keystone opportunity zone
29 within the political subdivisions is granted by the department.
30 The exemptions, deductions, abatements or credits shall be

1 binding upon the political subdivision for the duration of the
2 keystone opportunity zone designation.

3 Section 302. Application.

4 (a) Initial application.--One or more political
5 subdivisions, or a designee of one or more political
6 subdivisions, may apply to the department to designate a
7 keystone opportunity zone within the political subdivision or
8 portions thereof. The application shall contain the following:

9 (1) The geographic area of the proposed keystone
10 opportunity zone. The geographic area shall be located within
11 the boundaries of the political subdivision and shall not
12 contain more than 5,000 acres.

13 (2) An opportunity plan that shall include the
14 following:

15 (i) A detailed map of the proposed keystone
16 opportunity zone, including all subzones, to include
17 geographic boundaries, total area and present use and
18 conditions of the land and structures.

19 (ii) Evidence of support from and participation of
20 local government, school districts and other educational
21 institutions, business groups, community organizations
22 and the public.

23 (iii) A proposal to increase economic opportunity,
24 reduce crime, improve education, facilitate
25 infrastructure improvement, reduce the local regulating
26 burden and identify potential jobs and job training
27 opportunities.

28 (iv) A description of the current social, economic
29 and demographic characteristics of the proposed keystone
30 opportunity zone and anticipated improvements in

1 education, health, human services, public safety and
2 employment.

3 (v) A description of anticipated activity in the
4 keystone opportunity zone and each subzone, including,
5 but not limited to, industrial use, industrial site re-
6 use, commercial or retail use and residential use.

7 (vi) Evidence of potential private and public
8 investment in the keystone opportunity zone.

9 (vii) The role of the proposed keystone opportunity
10 zone in regional economic and community development.

11 (viii) Plans for the administration of the proposed
12 keystone opportunity zone utilizing existing resources.

13 (ix) Any other information deemed appropriate by the
14 department.

15 (3) A report on youth at risk to include issues relating
16 to health, welfare and education.

17 (4) The proposed duration of the keystone opportunity
18 zone, not to exceed 12 years.

19 (5) A formal, binding ordinance or resolution passed by
20 every political subdivision in which the proposed keystone
21 opportunity zone is located that specifically provides for
22 all local tax exemptions, deductions, abatements or credits
23 for persons and businesses set forth in this act if
24 designation is received by the department, to be effective
25 January 1, 1999.

26 (6) Evidence that the keystone opportunity zone meets
27 the required criteria under section 304.

28 (b) Participation limitation.--A qualified political
29 subdivision shall not be a part of more than one keystone
30 opportunity zone.

1 (c) Application limitation.--A qualified political
2 subdivision may submit only one application to the department
3 for designation as a keystone opportunity zone.

4 Section 303. Review.

5 (a) Action of department.--The department in consultation
6 with the Department of Revenue shall review all completed
7 applications submitted under this act. An application for
8 designation as a keystone opportunity zone shall be received by
9 the department on or before September 30, 1998, in order to be
10 considered by the department.

11 (b) Process.--The department shall do all of the following:

12 (1) Designate up to 12 keystone opportunity zones from
13 applications meeting the criteria in section 304 based upon
14 need and likelihood of success.

15 (2) The department shall not alter the geographic
16 boundaries of the keystone opportunity zone or the duration
17 of the keystone opportunity zone described in the
18 application.

19 (c) Award of designations.--The department shall designate
20 all keystone opportunity zones by November 30, 1998.

21 (d) Effective date of designation.--The designation of a
22 keystone opportunity zone under this act shall take effect on
23 January 1, 1999.

24 (e) Extension.--The department may extend the deadline for
25 the receipt of applications under subsection (a) until December
26 31, 1998, if all 12 zones have not been designated and the
27 extension is necessary to allow eligible political subdivisions
28 to apply. The department shall designate additional keystone
29 opportunity zones under this subsection by February 28, 1999.
30 The designation shall take effect January 1, 1999, or if the

1 designation occurs after January 1, 1999, that subsequent
2 designation shall for all purposes be retroactive to January 1,
3 1999. The designation shall end as provided in section 301(b).
4 Section 304. Criteria for designation of keystone opportunity
5 zone.

6 (a) Specific criteria.--In order to qualify for designation
7 under this act, the proposed keystone opportunity zone shall
8 meet at least two of the following criteria:

9 (1) At least 20% of the population is below the poverty
10 level.

11 (2) The unemployment rate is 1.25 times the Statewide
12 average.

13 (3) At least 20% of all real property within a five-mile
14 radius of the proposed keystone opportunity zone or subzone
15 is abandoned, unoccupied or underutilized.

16 (4) At least 20% of all occupied housing within a two-
17 mile radius of the proposed keystone opportunity zone or
18 subzone is deteriorated.

19 (5) In an urban area, the median family income is 80% or
20 less of the Statewide urban median family income.

21 (6) In an area other than an urban area, the median
22 family income is 80% or less of the Statewide nonurban median
23 family income.

24 (7) The population loss exceeds 10% in an area that
25 includes the proposed keystone opportunity zone and its
26 surrounding area, but is not larger than the county or
27 counties in which the keystone opportunity zone is located,
28 based on census data for the period between 1980 and 1990 or
29 census estimates since 1990 establishing a pattern of
30 population loss.

1 (8) The political subdivision in which the proposed
2 keystone opportunity zone is located has experienced a sudden
3 or severe job loss.

4 (9) At least 33% of the real property in a proposed
5 keystone opportunity zone in a nonurban area would otherwise
6 remain underdeveloped or nonperforming due to physical
7 characteristics of the real property.

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

11 (1) Evidence of distress, including, but not limited to,
12 unemployment, percentage of population below 80% of the State
13 median income, poverty rate, deteriorated property and
14 adverse economic and socioeconomic conditions in the proposed
15 keystone opportunity zone.

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

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

20 (4) Local public and private commitment to the
21 development of the keystone opportunity zone and the
22 potential cooperation of surrounding communities.

23 (5) Existing resources available to the proposed
24 keystone opportunity zone.

25 (6) How keystone opportunity zone designation or
26 economic redevelopment relate to other current economic and
27 community development projects and to regional initiatives or
28 programs.

29 (7) How the local regulatory burden will be eased for
30 businesses operating in the proposed keystone opportunity

1 zone.

2 (8) Proposals to implement educational opportunities and
3 improvements.

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

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

8 (c) Tax exemption ordinances.--An area shall not be
9 designated as a keystone opportunity zone unless, as a part of
10 the application, each political subdivision in which the
11 proposed keystone opportunity zone is to be located adopts and
12 provides a copy of an ordinance, resolution or other required
13 action from the governing body of each political subdivision
14 that exempts or provides deductions, abatements or credits to
15 qualified persons and qualified businesses from local taxes upon
16 designation of the area as a keystone opportunity zone. All
17 appropriate ordinances and resolutions shall be effective on or
18 before January 1, 1999, if designation as a keystone opportunity
19 is granted. The resolution, ordinance or other required action
20 shall be binding and nonrevocable on the qualified political
21 subdivisions for the duration of the opportunity plan.

22 (d) Urban areas.--The department shall promulgate guidelines
23 which include the definition of "urban area" for the purposes of
24 receiving applications for designation as a keystone opportunity
25 zone.

26 Section 305. Zone limitation.

27 The department shall not designate more than 12 keystone
28 opportunity zones within this Commonwealth.

29 Section 306. Residency.

30 In order to qualify each year for a tax exemption, deduction,

1 abatement or credit under this act, a person shall be domiciled
2 and shall reside in the keystone opportunity zone for a period
3 of 183 consecutive days. The 183-day period may begin on the
4 date of designation by the department or on the date the person
5 first resides within the zone.

6 Section 307. Qualified businesses.

7 (a) Qualifications.--In order to qualify each year for a tax
8 exemption, deduction, abatement or credit under this act, a
9 business shall own or lease real property in the keystone
10 opportunity zone from which the business actively conducts a
11 trade, profession or business. The qualified business shall
12 receive certification from the department that the business is
13 located, and is in the active conduct of a trade, profession or
14 business, within the keystone opportunity zone. The business
15 shall obtain annual renewal of the certification from the
16 department to continue to qualify under this section.

17 (b) Relocation.--Any business that relocates from outside a
18 keystone opportunity zone into a keystone opportunity zone shall
19 not receive any of the exemptions, deductions, abatements or
20 credits set forth in this act unless that business either:

21 (1) increases full-time employment by at least 20% in
22 the first full year of operation within the keystone
23 opportunity zone; or

24 (2) makes a capital investment equivalent to 10% of the
25 gross revenues of that business in the immediately preceding
26 calendar or fiscal year.

27 The department, in consultation with the Department of Revenue,
28 may waive or modify the requirements of this subsection, as
29 appropriate.

30 Section 308. Forms.

1 Applications for designation as a keystone opportunity zone
2 shall be on forms prescribed by the department.

3 CHAPTER 5
4 STATE TAXES
5 SUBCHAPTER A
6 GENERAL PROVISIONS

7 Section 501. State taxes.

8 (a) General rule.--A person who is a resident of a keystone
9 opportunity zone, a qualified business or a nonresident under
10 section 514 shall receive the exemptions, deductions, abatements
11 or credits as provided in this chapter and Chapter 7 for the
12 duration of the keystone opportunity zone designation.

13 Exemptions, deductions, abatements or credits shall expire on
14 the date of expiration of the keystone opportunity zone
15 designation.

16 (b) Duties of Department of Revenue.--The Department of
17 Revenue shall administer, construe and enforce the provisions of
18 this chapter in conjunction with Articles II, III, IV and VI of
19 the Tax Reform Code of 1971.

20 SUBCHAPTER B
21 PARTICULAR STATE TAXES

22 Section 511. Sales and use tax.

23 (a) Exemption.--Sales at retail of services or tangible
24 personal property, other than motor vehicles, to a qualified
25 business for the exclusive use, consumption and utilization of
26 the tangible personal property or service by the qualified
27 business at a facility located within a keystone opportunity
28 zone are exempt from the sales and use tax imposed under Article
29 II of the Tax Reform Code of 1971.

30 (b) Limitation.--Retail sales or use of tangible personal

1 property or services to the tangible personal property that will
2 become a permanent part of real property in accordance with
3 Department of Revenue regulations shall not be eligible for
4 sales or use tax exemption under this section.

5 Section 512. Personal income tax.

6 (a) General rule.--For the 1999 taxable year and each tax
7 year after 1999 and to the extent and for the duration provided
8 in this act a person shall be allowed an exemption for:

9 (1) Compensation received during the time period when
10 the person was a resident of a keystone opportunity zone.

11 (2) Net income from the operation of a qualified
12 business received by a resident or nonresident of a keystone
13 opportunity zone attributable to business activity conducted
14 within a keystone opportunity zone after provision for all
15 costs and expenses incurred in the conduct thereof,
16 determined either on a cash or accrual basis in accordance
17 with accepted accounting principles and practices but without
18 deduction of taxes based on income.

19 (3) (i) Net gains or income, less net losses, derived
20 by a resident or nonresident of a keystone opportunity
21 zone from the sale, exchange or disposition of real or
22 tangible personal property located in a keystone
23 opportunity zone as determined in accordance with
24 accepted accounting principles and practices.

25 (ii) Net gains, less net losses, realized by a
26 resident of a keystone opportunity zone from the sale,
27 exchange or disposition of intangible personal property
28 or obligations issued on or after February 1, 1994, by
29 the Commonwealth, a public authority, commission, board
30 or other Commonwealth agency, political subdivision or

1 authority created by a political subdivision or by the
2 Federal Government as determined in accordance with
3 accepted accounting principles and practices.

4 (iii) The exemption from income for gain or loss
5 provided for in this subparagraph shall be prorated based
6 on either:

7 (A) the percentage of time, based on calendar
8 days, the property was held by the taxpayer while a
9 resident of a keystone opportunity zone in relation
10 to the total time held by the taxpayer; or

11 (B) the percentage of time, based on calendar
12 days, the real or tangible personal property located
13 in the keystone opportunity zone was held by a
14 nonresident of a keystone opportunity zone during the
15 time period the keystone opportunity zone was in
16 effect in relation to the total time held.

17 (4) Net gains or income derived from or in the form of
18 rents received by a person, whether a resident or nonresident
19 of a keystone opportunity zone, to the extent that income or
20 loss from the rental of real or tangible personal property is
21 allocable to a keystone opportunity zone. For purposes of
22 calculating this exemption:

23 (i) Net rents derived from real or tangible personal
24 property located in a keystone opportunity zone are
25 allocable to a keystone opportunity zone.

26 (ii) If the tangible personal property was used both
27 within and without the keystone opportunity zone during
28 the taxable year, only the net income attributable to use
29 in the keystone opportunity zone is exempt. The net
30 rental income shall be multiplied by a fraction, the

1 numerator of which is the number of days the property was
2 used in the keystone opportunity zone and the denominator
3 which is the total days of use.

4 (5) Dividends received during the time the person was a
5 resident of a keystone opportunity zone.

6 (6) Interest received during the time period the person
7 was a resident of a keystone opportunity zone.

8 (7) Net gains or income derived through estates or
9 trusts received by a resident of a keystone opportunity zone
10 at the time of such receipt.

11 (b) Limitation.--A resident or nonresident may not apply an
12 exemption from income under this act for any class of income
13 against any other classes of income or gain. A resident or
14 nonresident may not carry back or carry forward any exemption
15 under this act from year to year.

16 Section 513. Residency considerations.

17 If a person completes the residency requirements under
18 section 306 or if a nonresident realizes income attributable to
19 business activity or property within a keystone opportunity zone
20 on or before the end of the tax year, the person may claim the
21 exemptions from income for the items set forth in section 512
22 for that portion of the tax year that the person was a resident
23 or for that portion of the tax year during which the area is
24 designated as a keystone opportunity zone. If the person
25 completes the residency requirements under section 306 in a tax
26 year subsequent to the tax year in which the person first
27 resided in the keystone opportunity zone, the person may file an
28 amended tax return within the applicable statute of limitations
29 to claim an exemption from income for the period of residency
30 within the keystone opportunity zone.

1 Section 514. Information for employer.

2 (a) Duty of employee.--Every person who is an employee that
3 qualifies as a resident of a keystone opportunity zone shall
4 furnish to his or her employer information, as prescribed by the
5 Department of Revenue, necessary for the employer to withhold
6 the correct amount of tax. An employee shall furnish
7 notification to his or her employer of any changes to the
8 information within 20 days after the change. An employee shall
9 notify his or her employer that the employee has completed the
10 residency requirements under section 306.

11 (b) Duty of employer.--Within 20 days after an employer
12 receives information from an employee pursuant to subsection
13 (a), the employer shall forward a copy of that information to
14 the Department of Revenue. The information shall not be given
15 retroactive effect for withholding purposes. The employer shall
16 not be required to withhold tax from the compensation paid to a
17 resident of a keystone opportunity zone, if reasonable under the
18 circumstances, unless directed by the Department of Revenue to
19 withhold tax from the compensation on some other basis. If an
20 employee fails or refuses to furnish the information, or
21 furnishes information that the employer reasonably and in good
22 faith believes to be inaccurate, the employer shall withhold the
23 full rate of tax from the employee's total compensation.

24 Section 515. Corporate net income tax.

25 (a) Credits.--For the tax years that begin on or after
26 January 1, 1999, a corporation that qualifies as a qualified
27 business under this act may claim a credit against the tax
28 imposed by Article IV of the Tax Reform Code of 1971 for the
29 taxable year to the extent of the tax liability attributable to
30 business activity conducted within a keystone opportunity zone

1 in the taxable year.

2 (b) Tax liability determinations.--The corporate tax
3 liability attributable to business activity conducted within a
4 keystone opportunity zone shall be determined by multiplying the
5 corporation's taxable income that is attributable to business
6 activity conducted within the keystone opportunity zone by the
7 rate of tax imposed under Article IV of the Tax Reform Code of
8 1971 for the taxable year.

9 (c) Determinations of attributable tax liability.--Tax
10 liability attributable to business activity conducted within a
11 keystone opportunity zone shall be computed, construed,
12 administered and enforced in conformity with Article IV of the
13 Tax Reform Code of 1971 and with specific reference to the
14 following:

15 (1) If the entire business of the corporation in this
16 Commonwealth is transacted wholly within the keystone
17 opportunity zone, the taxable income attributable to business
18 activity within a keystone opportunity zone shall consist of
19 the Pennsylvania taxable income as determined under Article
20 IV of the Tax Reform Code of 1971.

21 (2) If the entire business of the corporation in this
22 Commonwealth is not transacted wholly within the keystone
23 opportunity zone, the taxable income of a corporation in a
24 keystone opportunity zone shall be determined upon such
25 portion of the Pennsylvania taxable income of such
26 corporation attributable to business activity conducted
27 within the keystone opportunity zone and apportioned in
28 accordance with subsection (d).

29 (d) Income apportionment.--All taxable income of a qualified
30 business shall be apportioned to the keystone opportunity zone

1 by multiplying the Pennsylvania taxable income by a fraction,
2 the numerator of which is the property factor plus the payroll
3 factor plus the sales factor and the denominator of which is
4 three.

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

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

24 (ii) Compensation is paid in the keystone
25 opportunity zone if:

26 (A) the person's service is performed entirely
27 within the keystone opportunity zone;

28 (B) the person's service is performed both
29 within and without the keystone opportunity zone, but
30 the service performed without the keystone

1 opportunity zone is incidental to the person's
2 service within the keystone opportunity zone; or

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

12 (3) The sales factor is a fraction, the numerator of
13 which is the total sales of the taxpayer in the keystone
14 opportunity zone during the tax period, and the denominator
15 of which is the total sales of the taxpayer in this
16 Commonwealth during the tax period.

17 (i) Sales of tangible personal property are in the
18 keystone opportunity zone if the property is delivered or
19 shipped to a purchaser within the keystone opportunity
20 zone regardless of the F.O.B. point or other conditions
21 of the sale.

22 (ii) Sales, other than sales of tangible personal
23 property, are in the keystone opportunity zone if:

24 (A) the income-producing activity is performed
25 in the keystone opportunity zone; or

26 (B) the income-producing activity is performed
27 both within and without the keystone opportunity zone
28 and a greater proportion of the income-producing
29 activity is performed in the keystone opportunity
30 zone than in any other location, based on costs of

1 performance.

2 (e) Computation.--A corporation shall compute its
3 Commonwealth taxable income in conformity with Article IV of the
4 Tax Reform Code of 1971 with no adjustments or subtractions for
5 keystone opportunity zone taxable income.

6 (f) Credit.--The credit allowed under this section shall not
7 exceed the corporate net income tax liability of the taxpayer
8 for the tax year.

9 (g) Section not applicable to certain businesses.--Any
10 portion of the taxpayer's taxable income that is attributable to
11 the operation of a railroad, truck, bus or airline company,
12 pipeline or natural gas company, water transportation company, a
13 corporation that qualifies as a regulated investment company
14 under Article IV of the Tax Reform Code of 1971, or holding
15 company as defined in Article VI of the Tax Reform Code of 1971
16 and any business activity that is associated or affiliated with
17 the operation of these business activities shall not be used to
18 calculate a credit under this section.

19 Section 516. Capital stock franchise tax.

20 (a) Credits.--For tax years that begin on or after January
21 1, 1999, a corporation that is a qualified business under
22 section 501(c) may claim a credit against the tax imposed by
23 Article VI of the Tax Reform Code of 1971 for the taxable year
24 to the extent of the tax liability attributable to the capital
25 employed within a keystone opportunity zone in the taxable year.

26 (b) Tax liability.--The corporation's tax liability
27 attributable to capital employed within a keystone opportunity
28 zone shall be determined by multiplying the corporation's
29 taxable value attributable to capital employed within the
30 keystone opportunity zone by the rate of tax imposed under

1 Article VI of the Tax Reform Code of 1971 for the taxable year.
2 The corporation shall compute its Pennsylvania taxable value in
3 conformity with Article VI of the Tax Reform Code of 1971 with
4 no adjustments or subtractions for the capital employed in the
5 keystone opportunity zone.

6 (c) Determination of attributable tax liability.--The
7 determination of the corporation's taxable value attributable to
8 the capital employed within a keystone opportunity zone shall be
9 determined with specific reference to the following:

10 (1) If the entire business of the corporation in this
11 Commonwealth is transacted wholly within a keystone
12 opportunity zone, the taxable value attributable to the
13 capital employed within a keystone opportunity zone shall
14 consist of the Pennsylvania taxable value as determined under
15 Article VI of the Tax Reform Code of 1971.

16 (2) If the entire business of the corporation in this
17 Commonwealth is not wholly transacted within a keystone
18 opportunity zone, the taxable value of a corporation in a
19 keystone opportunity zone shall be determined upon such
20 portion of the Pennsylvania taxable value attributable to the
21 capital employed within the keystone opportunity zone by
22 employing the apportionment factors set forth in subsection
23 (d).

24 (d) Capital stock and franchise tax apportionment.--For
25 purposes of apportionment of the capital stock and franchise
26 tax, the apportionment fraction shall be the property factor
27 plus the payroll factor plus the sales factor as the numerator
28 and the denominator shall be three. In determining the relevant
29 apportionment factors, the numerator of the property, payroll
30 and sales factors shall not include any property, payroll and

1 sales attributable to manufacturing, processing, research and
2 development activities conducted within a keystone opportunity
3 zone and the denominator of the property, payroll and sales
4 factors shall not include any property, payroll and sales
5 attributable to manufacturing, processing and research and
6 development activities conducted within this Commonwealth but
7 without a keystone opportunity zone.

8 (e) Limitation on amount of credit.--The credit allowed
9 under this section shall not exceed the capital stock franchise
10 tax liability of the taxpayer for the tax year.

11 (f) Credit not available.--Any portion of the taxpayer's tax
12 liability that is attributable to the capital employed in the
13 operation of a railroad, truck, bus or airline company, pipeline
14 or natural gas company, water transportation company, a
15 corporation that qualifies, regulated investment company under
16 Article IV of the Tax Reform Code of 1971, or holding company as
17 defined in Article VI of the Tax Reform Code of 1971 and any
18 capital employed in a business activity that is associated or
19 affiliated with the operation of these business activities shall
20 not be used to calculate a credit under this section.

21 CHAPTER 7

22 LOCAL TAXES

23 Section 701. Local taxes.

24 Every political subdivision in which a designated keystone
25 opportunity zone is located shall exempt, deduct, abate or
26 credit local taxes in accordance with ordinances and resolutions
27 adopted under section 301(d). Failure to exempt, deduct, abate
28 or credit local taxes shall result in the revocation of the
29 keystone opportunity zone designation.

30 Section 702. Real property tax.

1 (a) General rule.--Notwithstanding the act of May 22, 1933
2 (P.L.853, No.155), known as The General County Assessment Law,
3 and the act of May 21, 1943 (P.L.571, No.254), known as The
4 Fourth to Eighth Class County Assessment Law, each qualified
5 political subdivision for taxable years beginning on or after
6 January 1, 1999, shall by ordinance or resolution abate 100% of
7 the real property taxation on the assessed valuation of
8 deteriorated property in an area designated as a keystone
9 opportunity zone within this Commonwealth.

10 (b) Application for tax abatement.--Any person requesting
11 real property tax abatement pursuant to ordinances or
12 resolutions adopted pursuant to this act shall notify each
13 political subdivision granting such abatement in writing on a
14 form provided by that political subdivision within 30 days of
15 the designation as a keystone opportunity zone or within 30 days
16 of the transfer of ownership of the real property subject to
17 abatement. A copy of the abatement request shall be forwarded by
18 the political subdivision to the board of assessment or other
19 appropriate assessment agency.

20 (c) Annual real property report.--Every qualified political
21 subdivision shall submit to the department an annual report by
22 December 31 of each calendar year of all real property and the
23 owners and addresses of that real property at any time during
24 the year which is located in a designated keystone opportunity
25 zone.

26 (d) Interest and penalties.--If the department or a
27 political subdivision finds that a person claimed an abatement
28 of real property tax to which the person was not entitled under
29 this act, the person shall be liable for the abated taxes and
30 subject to the applicable interest and penalty provisions

1 provided by law.

2 (e) Calculations for education subsidy for school
3 districts.--In determining the market value of real property in
4 each school district, the State Tax Equalization Board shall
5 exclude any increase in value above the base value prior to the
6 effect of the abatement of local taxes to the extent and during
7 the period of time that real estate tax revenues attributable to
8 such increased value are not available to the school district
9 for general school district purposes.

10 Section 703. Local earned income and net profits taxes;
11 business privilege taxes.

12 (a) General exemption.--To the extent that a qualified
13 political subdivision has enacted any tax on the privilege of
14 engaging in any business or profession, measured by gross
15 receipts or on a flat rate basis, earned income or net profits,
16 as defined in the act of December 31, 1965 (P.L.1257, No.511),
17 known as The Local Tax Enabling Act, imposed within the
18 boundaries of a keystone opportunity zone, such qualified
19 political subdivision shall exempt from the imposition or
20 operation of such local tax ordinances, statutes, regulations or
21 otherwise:

22 (1) The business gross receipts for operations conducted
23 by a qualified business within a keystone opportunity zone.

24 (2) The earned income received by a resident of a
25 keystone opportunity zone.

26 (3) The net profits of a qualified business received by
27 a resident or nonresident of a keystone opportunity zone
28 attributable to business activity conducted within a keystone
29 opportunity zone.

30 (b) Additional exemptions.--To the extent that a qualified

1 political subdivision has:

2 (1) pursuant to the act of August 5, 1932, (Sp.Sess.
3 P.L.45, No.45), referred to as the Sterling Act, the act of
4 March 10, 1949 (P.L.30, No.14), known as the Public School
5 Code of 1949, the act of August 24, 1961 (P.L.1135, No.508),
6 referred to as the First Class A School District Earned
7 Income Tax Act, the act of August 9, 1963 (P.L.640, No.338)
8 entitled, "An act empowering cities of the first class,
9 coterminous with school districts of the first class, to
10 authorize the boards of public education of such school
11 districts to impose certain additional taxes for school
12 district purposes, and providing for the levy, assessment and
13 collection of such taxes," the act of May 30, 1984 (P.L.345,
14 No.69), known as the First Class City Business Tax Reform
15 Act, or the act of June 5, 1991 (P.L.9, No.6), known as the
16 Pennsylvania Intergovernmental Cooperation Authority Act for
17 Cities of the First Class, enacted a tax on:

- 18 (i) the privilege of engaging in a profession or
19 business;
- 20 (ii) wages or compensation;
- 21 (iii) net profits from the operation of a business,
22 profession or other activity; or
- 23 (iv) the occupancy or use of real property.

24 (2) The qualified political subdivision shall provide an
25 exemption, deduction, abatement or credit from the imposition
26 and operation of such local tax ordinance or resolution any
27 of the following:

- 28 (i) a person or qualified business, whether a
29 resident or a nonresident of a keystone opportunity zone,
30 for the privilege of engaging in a business or profession

1 within a keystone opportunity zone;

2 (ii) salaries, wages, commissions, compensation or
3 other income received for services rendered or work
4 performed by a resident of a keystone opportunity zone;

5 (iii) the gross or net income or gross or net
6 profits realized from the operation of a qualified
7 business to the extent attributable to business activity
8 conducted within a keystone opportunity zone; or

9 (iv) the occupancy or use of real property located
10 within the keystone opportunity zone.

11 (c) Limitation on withholding.--Every employer required to
12 withhold any local tax on the earned income, wages or
13 compensation of one or more persons within the particular
14 political subdivision shall not withhold such tax on earned
15 income, wages or compensation paid to any person or his personal
16 representative during any period when the qualified political
17 subdivision has by ordinance or resolution provided for the
18 exemption from tax as provided in section 701 and the person is
19 a resident of a keystone opportunity zone.

20 (d) Information for employer.--Every person who is an
21 employee that qualifies as a resident of a keystone opportunity
22 zone shall furnish to his or her employer information, as
23 prescribed by the political subdivision, necessary for the
24 employer to withhold the correct amount of tax. An employee
25 shall furnish notification to his or her employer of any changes
26 to the information within 20 days after the change. An employee
27 shall notify his or her employer that the employee has completed
28 the residency requirements under section 306.

29 (e) Duty of employer.--Within 20 days after an employer
30 receives information from an employee pursuant to subsection

1 (a), the employer shall forward a copy of that information to
2 the political subdivision. The information shall not be given
3 retroactive effect for withholding purposes. The employer shall
4 not be required to withhold tax from the compensation paid to a
5 resident of a keystone opportunity zone, if reasonable under the
6 circumstances, unless directed by the political subdivision to
7 withhold tax from the compensation on some other basis. If an
8 employee fails or refuses to furnish the information, or
9 furnishes information that the employer reasonably and in good
10 faith believes to be inaccurate, the employer shall withhold the
11 full rate of tax from the employee's total compensation.

12 (f) Calculation for education subsidy for school district.--
13 In determining the personal income valuation of a school
14 district, the Secretary of Revenue shall exclude any increase in
15 the valuation as defined in section 2501(9.1) of the act of
16 March 10, 1949 (P.L.30, No.14), known as the Public School Code
17 of 1949, above the base value prior to the abatement of local
18 taxes in a keystone opportunity zone located within the school
19 district to the extent and during the period of time that
20 personal income revenues attributable to the increase in the
21 personal income valuation are not available to the school
22 district for general school district purposes.

23 Section 704. Mercantile license tax.

24 No person or qualified business in a keystone opportunity
25 zone shall be required to pay any fee authorized pursuant to a
26 mercantile license tax imposed under the act of June 20, 1947
27 (P.L.745, No.320), entitled, as amended, "An act to provide
28 revenue for school districts of the first class A by imposing a
29 temporary mercantile license tax on persons engaging in certain
30 occupations and businesses therein; providing for its levy and

1 collection; for the issuance of mercantile licenses upon the
2 payment of fees therefor; conferring and imposing powers and
3 duties on boards of public education, receivers of school taxes
4 and school treasurers in such districts; saving certain
5 ordinances of council of certain cities, and providing
6 compensation for certain officers, and employes and imposing
7 penalties."

8 Section 705. Local sales and use tax.

9 (a) General rule.--The political subdivision shall exempt
10 sales at retail of services or tangible personal property,
11 except motor vehicles, to a qualified business for the exclusive
12 use, consumption and utilization of the tangible personal
13 property or service, by the qualified business at its facility
14 located within a keystone opportunity zone from a city or county
15 tax on purchase price authorized under Article XXXI-B of the act
16 of July 28, 1953 (P.L.723, No.230), known as the Second Class
17 County Code, as amended, and the act of June 5, 1991 (P.L.9,
18 No.6), known as the Pennsylvania Intergovernmental Cooperation
19 Authority Act for Cities of the First Class, as amended.

20 (b) Exclusion.--Sales at retail or use of tangible personal
21 property or services to that tangible personal property that
22 will become a permanent part of the real property in accordance
23 with Department of Revenue regulations shall not be eligible for
24 the exclusion provided for under this subsection.

25 (c) Definition.--Sales at retail of tangible personal
26 property and services shall be defined in accordance with
27 Article II of the Tax Reform Code of 1971.

28 CHAPTER 9

29 ADMINISTRATION OF TAX PROVISIONS

30 Section 901. Transferability.

1 Any exemption, deduction, abatement or credit provided to any
2 person under Chapter 5 or 7 is nontransferable and cannot be
3 applied, used or assigned to any other person or tax account.
4 Section 902. Recapture.

5 (a) General rule.--If any qualified business located within
6 a keystone opportunity zone has received an exemption,
7 deduction, abatement or credit under this act and subsequently
8 relocates outside of the zone, that business shall refund to the
9 State and political subdivision which granted the exemption,
10 deduction, abatement or credit received in accordance with the
11 following:

12 (1) If a qualified business relocates within three years
13 from the date of any claim, 66% of all the exemptions,
14 deductions, abatements or credits previously received due to
15 that qualified business's participation in the keystone
16 opportunity zone shall be refunded.

17 (2) If a qualified business relocates within three to
18 five years from the date of any claim, 33% of all exemptions,
19 deductions, abatements or credits previously received from
20 participation in the keystone opportunity zone shall be
21 refunded.

22 (3) If the qualified business was located within a
23 facility operated by a nonprofit organization to assist in
24 the creation and development of a start-up business, no
25 exemption, deduction, abatement or credit shall be required.

26 (b) Waiver.--The department, in consultation with the
27 Department of Revenue, may waive or modify recapture
28 requirements under this section if the department determines
29 that the business relocation was due to circumstances beyond the
30 control of the business including, but not limited to:

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

4 (c) Determination of claim date.--For purposes of this
5 section, an exemption, deduction, abatement or credit is deemed
6 to be claimed on the later of:

- 7 (1) the date the return or other report for the tax or
8 fee is due;
- 9 (2) the date the return is filed; or
- 10 (3) the date the tax or fee would be paid.

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

12 (a) Persons.--No person may claim or receive an exemption,
13 deduction, abatement or credit under this act unless that person
14 is in full compliance with all State and local tax laws, and
15 related ordinances and resolutions.

16 (b) Qualified business.--

17 (1) No qualified business may claim or receive an
18 exemption, deduction, abatement or credit under this act
19 unless that qualified business is in full compliance with all
20 State and local tax laws, ordinances and resolutions.

21 (2) No qualified business may claim or receive an
22 exemption, deduction, abatement or credit under this act if
23 any person or business with a 20% or greater interest in that
24 qualified business is not in full compliance with all State
25 and local tax laws, ordinances and resolutions.

26 (c) Later compliance and eligibility.--Any person or
27 qualified business that is not eligible to claim an exemption,
28 deduction, abatement or credit due to noncompliance with any
29 State or local tax law may become eligible if that person
30 subsequently comes into full compliance with all State and local

1 tax laws to the satisfaction of the Department of Revenue or the
2 political subdivision within the calendar year in which the
3 noncompliance first occurred. If full compliance is not attained
4 by December 31 of the calendar year in which noncompliance first
5 occurred, then that person or qualified business is precluded
6 from claiming any exemption, deduction, abatement or credit for
7 that calendar year, whether or not full compliance is achieved
8 in subsequent calendar years.

9 Section 904. Code compliance.

10 (a) General rule.--A person or qualified business shall be
11 precluded from claiming any exemption, deduction, abatement or
12 credit provided for in this act if that person or qualified
13 business owns real property in a keystone opportunity zone and
14 the real property is not in compliance with all applicable State
15 and local zoning, building and housing laws, ordinances or codes
16 and the real property owner has not filed an affidavit with the
17 political subdivision attesting to compliance for that calendar
18 year before December 31 with the political subdivision in which
19 the real property is located.

20 (b) Opportunity to achieve compliance.--The person or
21 qualified business who is not in compliance under subsection (a)
22 shall have until December 31 of the calendar year that the
23 noncompliance first occurred to be in compliance in order to
24 claim any State exemptions, deductions, abatements or credits
25 for that year. If full compliance is not attained by December 31
26 of that calendar year, the person is precluded from claiming any
27 exemption, deduction or credit for that calendar year, whether
28 or not compliance is achieved in a subsequent calendar year.
29 Qualified political subdivisions are required to notify the
30 Department of Revenue in writing of all persons or qualified

1 businesses not in compliance with this subsection within 30 days
2 following the end of each calendar year.

3 Section 905. Appeals.

4 A person shall be deemed to be in noncompliance with any
5 State or local tax for purposes of this section if that person
6 had made a timely administrative or judicial appeal for that
7 particular tax or has entered into and is in compliance with a
8 duly authorized deferred payment plan with the Department of
9 Revenue or political subdivision for that particular tax.

10 CHAPTER 11

11 PROCEDURES FOR ZONES

12 Section 1101. Community benefits.

13 (a) Implementation grant.--The department may provide a one-
14 time \$250,000 grant to the keystone opportunity zone to
15 implement the opportunity plan and to provide an annual update
16 of real property ownership and other information to the
17 Department of Revenue. The annual update shall describe progress
18 on all proposals required as part of the opportunity plan and
19 other information as required by the department. A separate
20 application must be submitted to the department outlining a
21 budget and implementation narrative. The grant shall be drawn
22 down as needed over a period not to exceed the first five years
23 of designation as a keystone opportunity zone. Grant funds shall
24 be provided from the housing and redevelopment appropriations.
25 Keystone opportunity zones shall comply with the provisions of
26 the appropriation.

27 (b) Reduced interest.--Projects in designated keystone
28 opportunity zones that are approved for Pennsylvania Industrial
29 Development Authority (PIDA), or Small Business First financing
30 shall receive the lowest interest rate extended to borrowers.

1 (c) Priority consideration.--Projects in keystone
2 opportunity zones shall receive priority consideration for State
3 assistance under State economic, community and economic
4 development programs and community building initiatives.

5 (d) Marketing.--The department shall develop and implement a
6 consolidated marketing strategy for the keystone opportunity
7 zones for use in job retention and attraction activities.

8 (e) Education.--The Department of Education shall provide
9 technical assistance to school districts located in or school
10 districts having parts of their districts located in keystone
11 opportunity zones.

12 (f) Local governments.--The Center for Local Government
13 Services in the department shall provide technical assistance to
14 political subdivisions relating to taxation, implementation of
15 the opportunity plan, establishing annual benchmarks and annual
16 reporting requirements to the departments. Additionally, the
17 Center for Local Government Services shall provide political
18 subdivisions in keystone opportunity zones with technical
19 assistance to encourage the implementation of best practices in
20 achieving efficient and effective local government
21 administration and shall coordinate activities with other
22 departments and agencies providing various assistance to
23 communities.

24 (g) Community-based organizations.--The department shall
25 provide technical assistance for capacity building of existing
26 community-based organizations dealing with socio-economic needs,
27 housing assistance and job training in the keystone opportunity
28 zones.

29 Section 1102. Reporting.

30 The department shall report to the General Assembly on the

1 economic effects of this act in each keystone opportunity zone
2 by December 31, 2011.

3 Section 1103. Other Commonwealth tax credits.

4 A person or qualified business that is entitled to claim an
5 exemption, deduction, abatement or credit in accordance with the
6 provisions of this act shall not be entitled to claim or
7 accumulate any of the following exemptions, deductions,
8 abatements or credits that it may otherwise have qualified for
9 due to activity within a keystone opportunity zone:

10 (1) Tax Reform Code of 1971:

11 (i) Article XVII relating to economic revitalization
12 tax credits;

13 (ii) Article XVII-A relating to employment incentive
14 payments;

15 (iii) Article XVII-B relating to research and
16 development tax credits; or

17 (iv) Article XIX-A relating to neighborhood
18 assistance and enterprise zone tax credits;

19 (2) tax credits under section 109 of the act of December
20 19, 1996 (P.L.1478, No.190), known as the Waste Tire
21 Recycling Act;

22 (3) homeowners mortgage credits;

23 (4) insurance premiums tax credits; and

24 (5) job creation tax credit under the act of June 29,
25 1996 (P.L.434, No.67), known as the Job Enhancement Act.

26 The person or qualified business may apply the exemptions,
27 deductions, abatements or credits to income realized from
28 activity or transactions outside the keystone opportunity zone,
29 but only for the taxable year to which the exemptions,
30 deductions, abatements or credits apply. The provisions of this

1 section shall apply only to the taxes set forth in Chapters 5
2 and 7.

3 Section 1104. Illegal activity.

4 Any funds or other forms of consideration received by a
5 person or business conducting any type of illegal activity shall
6 not be eligible for any of the exemptions, deductions,
7 abatements and credits or any other benefits that are created
8 under this act.

9 Section 1105. Rules and regulations.

10 The Department of Revenue shall promulgate such rules and
11 regulations as may be necessary to effectuate the provisions of
12 this act. The department shall promulgate such rules and
13 regulations as may be necessary to effectuate the provisions of
14 this act.

15 Section 1106. Compliance.

16 Any person eligible for an exemption, deduction or credit
17 under this act shall comply with all reporting, filing and
18 compliance requirements pursuant to the Tax Reform Code of 1971,
19 unless otherwise provided for in this act.

20 Section 1107. Penalties.

21 (a) Civil penalty.--

22 (1) In addition to any penalties authorized by the Tax
23 Reform Code of 1971 for violations of that act, the
24 Department of Revenue may impose an additional administrative
25 penalty not to exceed \$10,000 for any act or violation of
26 this act relating to State and local taxes, including the
27 filing of any false statement, return or document.

28 (2) The department may impose a civil penalty not to
29 exceed \$10,000 for a violation of this act, including the
30 filing of any false statement, return or document.

1 (b) Criminal penalty.--In addition to any criminal penalty
2 under the Tax Reform Code of 1971, any person who knowingly
3 violates any of the provisions of this act commits a misdemeanor
4 of the third degree.

5 Section 1108. Construction.

6 This act shall be interpreted to ensure that all provisions
7 relating to State and local tax exemptions, deductions,
8 abatements and credits are strictly construed in favor of the
9 Commonwealth.

10 Section 1109. Applicability.

11 The provisions of this act shall be applied prospectively. No
12 person or business may claim any exemption, deduction, abatement
13 or credit until that person or business becomes qualified under
14 this act, and, in the case of a business, receives certification
15 from the department that the business is qualified.

16 Section 1110. Severability.

17 The provisions of this act are severable. If any provision of
18 this act or its application to any person or circumstance is
19 held invalid, the invalidity shall not affect other provisions
20 or applications of this act which can be given effect without
21 the invalid provision or application.

22 Section 1111. Repeals.

23 All acts and parts of acts are repealed insofar as they are
24 inconsistent with this act.

25 Section 1112. Expiration.

26 This act and all benefits associated with this act shall
27 terminate December 31, 2010.

28 Section 1113. Effective date.

29 This act shall take effect immediately.