

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1223 Session of 2019

INTRODUCED BY LAWRENCE, CAUSER, BERNSTINE, BURGOS, CALTAGIRONE, DeLUCA, FEE, GREGORY, HEFFLEY, HERSHEY, HICKERNELL, KAUFFMAN, MILLARD, MOUL, OWLETT, PICKETT, RYAN, SNYDER, TOPPER, ZIMMERMAN, GILLEN, GREINER AND MENTZER, APRIL 17, 2019

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 23, 2019

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; and prescribing powers and duties of
7 certain State and local departments, agencies and officials.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 CHAPTER 1

11 PRELIMINARY PROVISIONS

12 Section 101. Short title.

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

15 Section 102. Legislative findings.

16 The General Assembly finds and declares as follows:

17 (1) That dairy farmers are a vital, integral and
18 irreplaceable part of the agricultural heritage of this
19 Commonwealth.

1 (2) Dairy farmers contribute to the continued economic
2 health of this Commonwealth's agricultural sector, provide
3 jobs and pay taxes, provide local and sustainable food
4 products for nourishment and enjoyment and promote the
5 preservation of farmland in the public interest of all
6 residents of this Commonwealth.

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

9 (4) In light of continued economic forces and market
10 pressures, the long-term viability of dairy farming requires
11 coordinated efforts by private and public entities to ensure
12 economic viability and ensure the continuation of the
13 significant contributions dairy farmers make to the economic
14 and social life of this Commonwealth.

15 (5) The long-term economic viability of dairy farming
16 requires the cooperative involvement of residents,
17 businesses, State and local elected officials and community
18 organizations.

19 (6) It is in the best interest of this Commonwealth to
20 assist and encourage the creation of zones to accomplish the
21 purposes of this act.

22 Section 103. Definitions.

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

26 "Applicant." An individual or business that submits or
27 intends to submit a zone application to the department.

28 "Business." An association, partnership, cooperative,
29 corporation, sole proprietorship, limited liability company or
30 employer.

1 "Dairy processing facility." A factory or plant directly and
2 primarily involved in processing, refining or manufacturing raw
3 MILK WHICH IS AT LEAST 75% Pennsylvania milk or Pennsylvania <--
4 milk products into milk, butter, milk powder, cheese, yogurt,
5 ice cream, sour cream, OR a value-added dairy product intended <--
6 for the wholesale or retail market ~~or any other product approved~~ <--
7 ~~by the Secretary of Agriculture.~~

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

10 "Domicile." The place where an individual has a true and
11 fixed home and principal establishment for an indefinite time
12 and to which, whenever absent, that individual intends to
13 return. Domicile continues until another place of domicile is
14 established.

15 "Keystone opportunity dairy zone." A defined geographic area
16 comprised of one or more political subdivisions or portions of
17 political subdivisions as designated by the department under
18 section 301.

19 "Opportunity plan." A written plan that addresses the
20 criteria and meets the requirements under section 302.

21 "Pennsylvania dairy farm." A farm that produces Pennsylvania
22 milk.

23 "Pennsylvania milk." Raw milk produced by the milking of
24 cows physically located on a farm within the geographic
25 boundaries of this Commonwealth and certified as such by the
26 Pennsylvania Milk Marketing Board.

27 "Pennsylvania milk product." A food or beverage made from or
28 primarily made from at least 75% Pennsylvania milk, or a value-
29 added ~~milk~~ DAIRY product, processed within this Commonwealth, <--
30 which utilized 75% or more Pennsylvania milk in its manufacture.

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

4 "Qualified business." A business authorized to do business
5 in this Commonwealth which is located or partially located
6 within a zone.

7 "Qualified political subdivision." A political subdivision
8 which has real property within its jurisdiction which has been
9 designated by the department as a zone.

10 "Resident." An individual who is domiciled and resides in an
11 area that is designated a zone.

12 "Small scale dairy processing facility." A factory, plant or
13 operation that exclusively utilizes Pennsylvania milk produced
14 from a single Pennsylvania dairy farm with a total average herd
15 size of 250 milking cows or fewer, or a combination of
16 Pennsylvania dairy farms with a total collective average herd
17 size of 250 milking cows or fewer, and that is directly and
18 primarily involved in processing, refining or manufacturing raw
19 Pennsylvania milk or Pennsylvania milk products into milk,
20 butter, milk powder, cheese, yogurt, ice cream, sour cream, OR a <--
21 value-added ~~milk~~ DAIRY product intended for the wholesale or <--
22 retail market ~~or any other product approved by the Secretary of~~ <--
23 ~~Agriculture.~~

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

27 "Value-added ~~milk~~ DAIRY product." Pennsylvania milk or a <--
28 Pennsylvania milk product that has been additionally processed,
29 improved, shredded, combined, aged, flavored, separated,
30 condensed or otherwise prepared to provide additional value or

1 convenience for the wholesale or retail market.

2 "Zone." A keystone opportunity dairy zone.

3 CHAPTER 3

4 KEYSTONE OPPORTUNITY DAIRY ZONES

5 Section 301. Keystone opportunity dairy zones.

6 (a) Establishment.--The department may designate up to 20
7 zones in accordance with this section, with up to 12 Class A
8 zones and up to 12 Class B zones.

9 (b) Zone authorization.--The department shall authorize not
10 more than 20 zones in this Commonwealth. Individuals and
11 businesses within an authorized zone that are qualified under
12 this act shall be entitled to all tax exemptions, deductions,
13 abatements or credits provided under this act for a period not
14 to exceed 10 years beginning no sooner than one year from the
15 effective date of this act and no later than three years from
16 the effective date of this act. The department shall, upon
17 approval, specify the precise beginning and ending dates for the
18 tax exemptions, deductions, abatements or credits provided under
19 this act.

20 (c) Authorization for local tax exemption.--Every political
21 subdivision within which a proposed zone is located, whether in
22 whole or in part, is hereby authorized to provide tax
23 exemptions, deductions, abatements or credits to individuals and
24 businesses qualified under this act. The political subdivision
25 shall agree to provide exemptions, deductions, abatements or
26 credits from all local taxes provided under this act in order to
27 qualify to be designated a zone. The exemptions, deductions,
28 abatements or credits shall be effective on the date determined
29 by the department. The exemptions, deductions, abatements or
30 credits shall be binding upon the political subdivision for the

1 duration of the zone designation.

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

25 Section 302. Application.

26 (a) Initial application.--An applicant may apply to the
27 department to designate a parcel as a zone. The application
28 shall contain the following:

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

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

3 (i) A detailed map of the proposed zone, including
4 geographic boundaries, total area and present use and
5 conditions of the land and structures of the proposed
6 zone.

7 (ii) Evidence of support from and participation of
8 local government, school districts and other educational
9 institutions, business groups, community organizations
10 and the public.

11 (iii) A detailed proposal outlining the proposed
12 improvements in the zone, including, but not limited to,
13 proposed capital investment, job creation and increased
14 dairy processing capacity for Pennsylvania milk OR <--
15 PENNSYLVANIA MILK PRODUCTS according to the
16 specifications of this act.

17 (iv) A description of anticipated activity in the
18 proposed zone, including, but not limited to, site
19 improvements.

20 (v) Evidence of potential private and public
21 investment in the proposed zone.

22 (vi) The role of the proposed zone in economic
23 development of the dairy industry in this Commonwealth
24 and the anticipated impacts to dairy farmers producing
25 Pennsylvania milk.

26 (vii) Any other information deemed appropriate by
27 the department or by the Secretary of Agriculture in
28 consultation with the department.

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

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

6 (5) Evidence that the proposed zone meets the required
7 criteria under this act.

8 Section 303. Review.

9 (a) Action of department.--The department, in consultation
10 with ~~the Department of Revenue and~~ the Secretary of Agriculture, <--
11 shall review all completed applications submitted under section
12 302. An application for authorization as a zone must be received
13 by a date to be determined by the department in order to be
14 considered by the department. The date to be determined by the
15 department shall not be sooner than 120 days after the effective
16 date of this act, nor later than two years after the effective
17 date of this act.

18 (b) Process.--The department shall authorize up to 20 zones
19 from applications meeting the criteria under section 304 based
20 upon need, likelihood of success, potential for increased dairy
21 processing capacity and overall impact on the market for
22 Pennsylvania milk OR PENNSYLVANIA MILK PRODUCTS. The department <--
23 may not alter the geographic boundaries of a zone described in
24 an application unless mutually agreed upon between the
25 department, the applicant and any affected local municipality.
26 THE DEPARTMENT SHALL NOT DENY AN APPLICATION DUE TO AN <--
27 APPLICANT'S PRIOR RECEIPT OF OR CONSIDERATION FOR ANY OTHER
28 STATE COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAM FUNDING.

29 (c) Authorizations.--Any zone approved shall be approved no
30 later than three years after the effective date of this act.

1 Section 304. Criteria for authorization of zone.

2 (a) Class A zones.--

3 (1) A class A zone shall:

4 (i) Be not less than 5 acres, unless contiguous to
5 or co-located with an existing or proposed dairy
6 processing facility.

7 (ii) Be not more than 150 acres.

8 (2) In order to qualify for authorization as a class A
9 zone under this section, an application shall:

10 (i) Provide specific geographic information on the
11 proposed zone location.

12 (ii) Show anticipated private investment of \$10
13 million or more in a dairy processing facility.

14 (iii) Create 25 or more new jobs as defined by the
15 department.

16 (iv) Demonstrate an exceptional and meaningful
17 opportunity for the expansion of dairy processing
18 capacity within this Commonwealth.

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

20 (1) Be not less than 5 acres, unless contiguous to or
21 co-located with an existing or proposed dairy processing
22 facility.

23 (2) Be not more than 25 acres, unless co-located with a
24 Pennsylvania dairy farm directly supplying Pennsylvania milk
25 for an existing or proposed small-scale dairy processing
26 facility.

27 (3) In order to qualify for authorization as a class B
28 zone under this section, an application shall:

29 (i) Provide specific geographic information on the
30 proposed zone location.

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

3 (iii) Demonstrate an exceptional and meaningful
4 opportunity for the expansion of small-scale, boutique or
5 locally based dairy processing capacity within this
6 Commonwealth.

7 Section 305. Zone limitations.

8 No zone shall encompass an entire political subdivision.

9 Section 306. Residency.

10 In order to qualify each year for a tax exemption, deduction,
11 abatement or credit under this act, an individual shall be
12 domiciled and shall reside in a zone for a period of 184
13 consecutive days during each taxable year.

14 Section 307. Qualified businesses.

15 In order to qualify each year for a tax exemption, deduction,
16 abatement or credit under this act, a qualified business shall
17 be incorporated under the laws of this Commonwealth and own or
18 lease real property in a zone from which the qualified business
19 actively conducts ~~a trade, profession or business related to~~ <--

20 ~~dairy processing. The qualified business shall receive~~
21 ~~certification from the department that the business is located~~
22 ~~and is in the active conduct of processing dairy products within~~

23 ~~the zone~~ A DAIRY PROCESSING FACILITY OR SMALL SCALE DAIRY <--

24 PROCESSING FACILITY AS CERTIFIED BY THE DEPARTMENT. The
25 qualified business shall obtain annual renewal of the
26 certification from the department to continue to qualify under
27 this section. The following shall apply:

28 (1) For a class A zone, the certification form shall
29 include, but not be limited to, all of the following:

30 (i) The duration of the zone designation.

- 1 (ii) The number of jobs created.
- 2 (iii) The number of jobs retained.
- 3 (iv) The amount of capital investment.
- 4 (v) Gross value of Pennsylvania ~~dairy~~ MILK products <--
5 produced in the past year.
- 6 (vi) The percentage of Pennsylvania milk utilized in
7 the production of Pennsylvania ~~dairy~~ MILK products. <--
- 8 (vii) Any other information, conditions or
9 requirements reasonably required by the department.
- 10 (2) For a class B zone, the certification form shall
11 include all of the following:
 - 12 (i) The duration of the zone designation.
 - 13 (ii) Gross value of Pennsylvania ~~dairy~~ MILK products <--
14 produced in the past year.
 - 15 (iii) Any other information, conditions or
16 requirements required by the department.

17 Section 308. Forms.

18 Applications for authorization as a zone shall be on forms
19 prescribed by the department. The department shall make
20 application forms available on the department's publicly
21 accessible Internet website, or upon request by a potential
22 applicant, on paper forms or other method as determined by the
23 department.

24 CHAPTER 5

25 STATE TAXES

26 SUBCHAPTER A

27 GENERAL PROVISIONS

28 Section 501. State taxes.

29 (a) General rule.--An individual who is a resident of, or a
30 qualified business located in, a zone shall receive the

1 exemptions, deductions, abatelements or credits as provided in
2 this chapter and Chapter 7 for the duration of the zone
3 designation. Exemptions, deductions, abatelements or credits shall
4 expire on the date of expiration of the zone.

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

9 SUBCHAPTER B

10 PARTICULAR STATE TAXES

11 Section 511. Sales and use tax.

12 Sales at retail of services or tangible personal property,
13 other than motor vehicles, to a qualified business or a
14 construction contractor under a construction contract with a
15 qualified business, landowner or lessee for the exclusive use,
16 consumption and utilization of the tangible personal property or
17 service by the qualified business at the qualified business's,
18 landowner's or lessee's facility located within a zone are
19 exempt from the sales and use tax imposed under Article II of
20 the Tax Reform Code of 1971. No exemption shall be permitted for
21 sales conducted prior to designation of the real property as
22 part of a zone.

23 Section 512. Personal income tax.

24 (a) General rule.--An individual shall be allowed an
25 exemption for:

26 (1) Compensation received during the time period when
27 the individual was a resident of a zone.

28 (2) Net income from the operation of a qualified
29 business received by a resident or nonresident of a zone
30 attributable to business activity conducted within a zone,

1 determined in accordance with section 514, except that any
2 business that operates both within and outside this
3 Commonwealth, before computing its zone exemption, shall
4 first determine its Pennsylvania activity over its activity
5 everywhere by applying the three-factor apportionment formula
6 as provided in Department of Revenue personal income tax
7 regulations applicable to income apportionment in connection
8 with a business, trade or profession carried on both within
9 and outside this Commonwealth.

10 (3) All of the following:

11 (i) Net gains or income, less net losses, derived by
12 a resident or nonresident of a zone from the sale,
13 exchange or other disposition of real or tangible
14 personal property located in a zone as determined in
15 accordance with accepted accounting principles and
16 practices. The exemption provided in this subparagraph
17 shall not apply to the sale, exchange or other
18 disposition of any stock of goods, merchandise or
19 inventory or any operational assets unless the transfer
20 is in connection with the sale, exchange or other
21 disposition of all of the assets in complete liquidation
22 of a qualified business located in a zone. This
23 subparagraph shall apply to intangible personal property
24 employed in a trade, profession or business in a zone,
25 but only when transferred in connection with a sale,
26 exchange or other disposition of all of the assets in
27 complete liquidation of the qualified business in the
28 zone.

29 (ii) Net gains, less net losses, realized by a
30 resident of a zone from the sale, exchange or disposition

1 of intangible personal property or obligations issued on
2 or after February 1, 1994, by the Commonwealth, a public
3 authority, commission, board or other Commonwealth
4 agency, political subdivision or authority created by a
5 political subdivision or by the Federal Government as
6 determined in accordance with accepted accounting
7 principles and practices.

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

11 (A) In the case of gains, less net losses, in
12 subparagraph (i), the percentage of time, based on
13 calendar days, the property located in a zone was
14 held by a resident or nonresident of the zone during
15 the time period the zone was in effect in relation to
16 the total time the property was held.

17 (B) In the case of gains, less net losses, in
18 subparagraph (ii), the percentage of time, based on
19 calendar days, the property was held by the taxpayer
20 while a resident of a zone in relation to the total
21 time the property was held.

22 (4) Net gains or income derived from or in the form of
23 rents received by an individual, whether a resident or
24 nonresident of a zone, to the extent that income or loss from
25 the rental of real or tangible personal property is allocable
26 to a zone. For purposes of calculating this exemption:

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

29 (ii) If the tangible personal property was used both
30 within and without the zone during the taxable year, only

1 the net income attributable to use in the zone is exempt.
2 The net rental income shall be multiplied by a fraction,
3 the numerator of which is the number of days the property
4 was used in the zone and the denominator of which is the
5 total days of use.

6 (5) Dividends received during the time the individual
7 was a resident of a zone.

8 (6) Interest received during the time period the
9 individual was a resident of a zone.

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

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

18 (2) The income or gain of a Pennsylvania S corporation.
19 The shareholder shall be entitled to the exemptions under
20 this section for the shareholder's pro rata share, whether or
21 not distributed, of the income or gain received by the
22 corporation for its taxable year ending within or with the
23 shareholder's taxable year.

24 (c) Limitation.--A partnership, association, Subchapter S
25 corporation, cooperative, resident or nonresident may not apply
26 an exemption from income under this act for any class of income
27 against any other classes of income or gain. A partnership,
28 association, Subchapter S corporation, cooperative, resident or
29 nonresident may not carry back or carry forward any exemption
30 under this act from year to year. The credit allowed under this

1 section shall not exceed the tax liability of the taxpayer under
2 Article III of the Tax Reform Code of 1971 for the tax year.

3 Section 513. Residency considerations.

4 If an individual completes the residency requirements under
5 section 306 or if a nonresident realizes income attributable to
6 business activity or property within a zone, the individual may
7 claim the exemptions from income for the items provided under
8 section 512 for that portion of the tax year that the individual
9 was a resident or for that portion of the tax year during which
10 the area is designated as a zone.

11 Section 514. Corporate net income tax.

12 (a) Credits.--For the tax years that begin on or after
13 January 1, 2020, a corporation that is a qualified business
14 under this act may claim a credit against the tax imposed by
15 Article IV of the Tax Reform Code of 1971 for tax liability
16 attributable to business activity conducted within the zone in
17 the taxable year. ~~For the tax years that begin on or after~~ <--

18 ~~January 1, 2022, a corporation that is a qualified business~~
19 ~~under this act may claim a credit against the tax imposed by~~
20 ~~Article IV of the Tax Reform Code of 1971 for tax liability~~
21 ~~attributable to business activity conducted within the zone in~~
22 ~~the taxable year. For tax years that begin on or after January~~
23 ~~1, 2026, a corporation which is a qualified business under this~~
24 ~~act may claim a credit against the tax imposed by Article IV of~~
25 ~~the Tax Reform Code of 1971 for tax liability attributable to~~
26 ~~business activity conducted within the zone in the taxable year.~~

27 No credit may be claimed for activities conducted prior to
28 designation of the real property as part of a zone. The business
29 activity must be conducted directly by a corporation in the zone
30 in order for the corporation to claim the tax credit.

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

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

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

17 (2) If the entire business of the corporation in this
18 Commonwealth is not transacted wholly within the zone, the
19 taxable income of a corporation in a zone shall be determined
20 upon such portion of the Pennsylvania taxable income of such
21 corporation attributable to business activity conducted
22 within the zone and apportioned in accordance with subsection

23 (d).

24 (d) Income apportionment.--The taxable income of a
25 corporation that is a qualified business shall be apportioned to
26 the zone by multiplying the Pennsylvania taxable income by a
27 fraction, the numerator of which is the property factor plus the
28 payroll factor and the denominator of which is two, in
29 accordance with the following:

30 (1) The property factor is a fraction, the numerator of

1 which is the average value of the taxpayer's real and
2 tangible personal property owned or rented and used in the
3 zone during the tax period and the denominator of which is
4 the average value of all the taxpayer's real and tangible
5 personal property owned or rented and used in this
6 Commonwealth during the tax period but shall not include the
7 security interest of any corporation as seller or lessor in
8 personal property sold or leased under a conditional sale,
9 bailment lease, chattel mortgage or other contract providing
10 for the retention of a lien or title as security for the
11 sales price of the property.

12 (2) (i) The payroll factor is a fraction, the numerator
13 of which is the total amount paid in the zone during the
14 tax period by the taxpayer for compensation and the
15 denominator of which is the total compensation paid in
16 this Commonwealth during the tax period.

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

18 (A) the person's service is performed entirely
19 within the zone;

20 (B) the person's service is performed both
21 within and without the zone, but the service
22 performed without the zone is incidental to the
23 person's service within the zone; or

24 (C) some of the service is performed in the zone
25 and the base of operations or, if there is no base of
26 operations, the place from which the service is
27 directed or controlled is in the zone, or the base of
28 operations or the place from which the service is
29 directed or controlled is not in any location in
30 which some part of the service is performed, but the

1 individual's residence is in the zone.

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 zone taxable income.

6 (f) Limitation on amount of credit.--The credit allowed
7 under this section shall not exceed the tax liability of the
8 taxpayer under Article IV of the Tax Reform Code of 1971 for the
9 tax year.

10 (g) Section not applicable to certain businesses.--The
11 following shall apply:

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

15 ~~(i) Any of the following that are required to use <--~~
16 ~~special apportionment under Article IV of the Tax Reform~~
17 ~~Code of 1971 or would be required to use special~~
18 ~~apportionment under Article IV of the Tax Reform Code of~~
19 ~~1971 if the taxpayer had income from business activity~~
20 ~~taxable both within and without this Commonwealth:~~

21 ~~(A) A railroad, truck, bus or airline company.~~

22 ~~(B) A pipeline or natural gas company.~~

23 ~~(C) A water transportation company.~~

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

27 ~~(iii)~~ (II) A holding company as defined in Article <--
28 VI of the Tax Reform Code of 1971.

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

1 manufacturing or processing.

2 CHAPTER 7

3 LOCAL TAXES

4 Section 701. Local taxes.

5 Every political subdivision in which a designated zone is
6 located shall exempt, deduct, abate or credit local taxes in
7 accordance with ordinances and resolutions adopted under section
8 301(c), as is applicable. Failure to exempt, deduct, abate or
9 credit local taxes shall result in the revocation of the ~~subzone~~ <--
10 ZONE designation. <--

11 Section 702. Real property tax.

12 (a) General rule.--Notwithstanding the act of May 22, 1933
13 (P.L.853, No.155), known as The General County Assessment Law,
14 AND 53 PA.C.S. (RELATING TO MUNICIPALITIES GENERALLY) each <--
15 qualified political subdivision shall by ordinance or resolution
16 abate 100% of the real property taxation on the assessed
17 valuation of property in an area designated as a zone within
18 this Commonwealth during the taxable years determined by the
19 department. The real property tax abatement provided for in this
20 section shall apply to all real property located in a zone,
21 irrespective of the business activity, if any, made of the
22 realty by its owner, when this act is in effect. No abatement
23 may be provided prior to designation of a zone by the
24 department.

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

1 provided by law.

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

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

23 (2) The earned income received by a resident of a zone.

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

28 No exemption may be granted for operations conducted, for earned
29 income received or for activities conducted prior to designation
30 of the real property as part 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 an individual 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 valuation as defined in section 2501(9.1) of the act of
18 March 10, 1949 (P.L.30, No.14), known as the Public School Code
19 of 1949, above the base value prior to the abatement of local
20 taxes in a zone located within the school district to the extent
21 and during the period of time that personal income revenues
22 attributable to the increase in the personal income valuation
23 are not available to the school district for general school
24 district purposes. No exemption under this section may be
25 granted to an individual or qualified business prior to
26 designation of the real property as part of a 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 No individual or qualified business in a zone shall 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. No exemption may be granted for sales
4 occurring prior to designation of the real property as part of a
5 zone.

6 (b) Definition.--The term "sales at retail of tangible
7 personal property and services" shall have the meaning given
8 under Article II of the Tax Reform Code of 1971.

9 CHAPTER 9

10 ADMINISTRATION OF TAX PROVISIONS

11 Section 901. Transferability.

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

16 Section 902. Recapture.

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

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

29 (2) If a qualified business relocates within five to
30 nine years from the date of first locating in a zone, 33% of

1 all exemptions, deductions, abatements or credits attributed
2 to that qualified business's participation in the zone shall
3 be refunded to the Commonwealth and the political
4 subdivision.

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

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

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

15 (a) Individuals.--No individual may claim or receive an
16 exemption, deduction, abatement or credit under this act unless
17 that individual is in full compliance with all State and local
18 tax laws, ordinances and resolutions.

19 (b) Qualified business.--

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

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

29 (c) Later compliance and eligibility.--An individual or
30 qualified business that is not eligible to claim an exemption,

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

13 Section 904. Code compliance.

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

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

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

12 Section 905. Appeals.

13 An individual 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 individual or qualified business had made a
16 timely administrative or judicial appeal for that particular tax
17 or has 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.--No exemption, deduction, abatement or credit
14 may be claimed or received for that calendar year until approval
15 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 ~~every~~ <--
5 ~~four years~~.

6 Section 1103. Other Commonwealth tax credits.

7 An individual or qualified business that is entitled to claim
8 an exemption, deduction, abatement or credit in accordance with
9 the provisions of this act shall not be entitled to claim or
10 accumulate any of the following exemptions, deductions,
11 abatements or credits that it may otherwise have qualified for
12 due to activity in the zone:

13 (1) Tax Reform Code of 1971:

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

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

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

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

26 Section 1104. Monitoring data.

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

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

30 (2) Information on the types of jobs created and average

1 hourly wages.

2 (3) Number of years in the program.

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

5 (5) Description of dairy processing activities.

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

8 CHAPTER 13

9 MISCELLANEOUS PROVISIONS

10 Section 1301. Illegal activity.

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

16 Section 1302. Rules and regulations.

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

21 Section 1303. Compliance.

22 An individual or qualified business eligible for an
23 exemption, deduction or credit under this act shall comply with
24 all 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 by the Tax
29 Reform Code of 1971 for violations of that act, the
30 Department of Revenue may impose an additional administrative

1 penalty not to exceed \$50,000 for any act or violation of
2 this act relating to State and local taxes, including the
3 filing of 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 individual 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. No
18 individual or business may claim any exemption, deduction,
19 abatement or credit until that individual 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 any individual 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.