
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 995 Session of
2023

INTRODUCED BY LAWRENCE, OWLETT, ARMANINI, BARTON, M. BROWN,
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TWARDZIK AND ZIMMERMAN, MAY 18, 2023

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MAY 18, 2023

AN ACT

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

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

14 CHAPTER 1

15 PRELIMINARY PROVISIONS

16 Section 101. Short title.

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

19 Section 102. Legislative findings.

20 The General Assembly finds and declares as follows:

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

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

30 (3) The continued viability of dairy farming is in the

1 best interest of the residents of this Commonwealth.

2 (4) In light of continued economic forces and market
3 pressures, the long-term viability of dairy farming requires
4 coordinated efforts by private and public entities to ensure
5 economic viability and ensure the continuation of the
6 significant contributions dairy farmers make to the economic
7 and social life of this Commonwealth.

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

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

15 Section 103. Definitions.

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

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

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

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

30 "Department." The Department of Community and Economic

1 Development of the Commonwealth.

2 "Domicile." The place where an individual has a true and
3 fixed home and principal establishment for an indefinite time
4 and to which, whenever absent, that individual intends to
5 return. Domicile continues until another place of domicile is
6 established.

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

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

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

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

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

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

26 "Qualified business." A business authorized to do business
27 in this Commonwealth which is located or partially located
28 within a zone.

29 "Qualified political subdivision." A political subdivision
30 which has real property within its jurisdiction which has been

1 designated by the department as a zone.

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

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

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

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

23 "Zone." A keystone opportunity dairy zone.

24 CHAPTER 3

25 KEYSTONE OPPORTUNITY DAIRY ZONES

26 Section 301. Keystone opportunity dairy zones.

27 (a) Establishment.--The department may designate up to 30
28 zones in accordance with this section, with up to 15 Class A
29 zones and up to 20 Class B zones.

30 (b) Zone authorization.--The department shall authorize not

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

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

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

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

16 Section 302. Application.

17 (a) Initial application.--An applicant may apply to the
18 department to designate a parcel as a zone. The application
19 shall contain the following:

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

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

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

28 (ii) Evidence of support from and participation of
29 local government, school districts and other educational
30 institutions, business groups, community organizations

1 and the public.

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

8 (iv) A description of anticipated activity in the
9 proposed zone, including, but not limited to, site
10 improvements.

11 (v) Evidence of potential private and public
12 investment in the proposed zone.

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

17 (vii) Any other information deemed appropriate by
18 the department or by the Secretary of Agriculture in
19 consultation with the department.

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

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

27 (5) Evidence that the proposed zone meets the required
28 criteria under this act.

29 Section 303. Review.

30 (a) Action of department.--The department, in consultation

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

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

20 (c) Authorizations.--Any zone approved shall be approved no
21 later than three years after the effective date of this
22 subsection.

23 Section 304. Criteria for authorization of zone.

24 (a) Class A zones.--

25 (1) A class A zone shall:

26 (i) Be not less than five acres, unless contiguous
27 to or co-located with an existing or proposed dairy
28 processing facility.

29 (ii) Be not more than 150 acres.

30 (2) In order to qualify for authorization as a class A

1 zone under this section, an application shall:

2 (i) Provide specific geographic information on the
3 proposed zone location.

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

6 (iii) Create 25 or more new jobs as defined by the
7 department.

8 (iv) Demonstrate an exceptional and meaningful
9 opportunity for the expansion of dairy processing
10 capacity within this Commonwealth.

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

12 (1) Be not less than five acres, unless contiguous to or
13 co-located with an existing or proposed dairy processing
14 facility.

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

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

21 (i) Provide specific geographic information on the
22 proposed zone location.

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

25 (iii) Demonstrate an exceptional and meaningful
26 opportunity for the expansion of small-scale, boutique or
27 locally based dairy processing capacity within this
28 Commonwealth.

29 Section 305. Zone limitations.

30 A zone shall not encompass an entire political subdivision.

1 Section 306. Residency.

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

6 Section 307. Qualified businesses.

7 In order to qualify each year for a tax exemption, deduction,
8 abatement or credit under this act, a qualified business shall
9 be incorporated under the laws of this Commonwealth and own or
10 lease real property in a zone from which the qualified business
11 actively operates a dairy processing facility or small scale
12 dairy processing facility as certified by the department. The
13 qualified business shall obtain annual renewal of the
14 certification from the department to continue to qualify under
15 this section. The following shall apply:

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

18 (i) The duration of the zone designation.

19 (ii) The number of jobs created.

20 (iii) The number of jobs retained.

21 (iv) The amount of capital investment.

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

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

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

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

30 (i) The duration of the zone designation.

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

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

5 Section 308. Forms.

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

12 CHAPTER 5

13 STATE TAXES

14 SUBCHAPTER A

15 GENERAL PROVISIONS

16 Section 501. State taxes.

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

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

27 SUBCHAPTER B

28 PARTICULAR STATE TAXES

29 Section 511. Sales and use tax.

30 Sales at retail of services or tangible personal property,

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

11 Section 512. Personal income tax.

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

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

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

28 (3) All of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Section 514. Corporate net income tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (ii) A holding company as defined in Article VI of
28 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 zone
10 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. An abatement
23 may not 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 and
11 business privilege taxes.

12 (a) General exemption.--

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

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

24 (ii) The earned income received by a resident of a
25 zone.

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

30 (2) An exemption may not be granted for operations

1 conducted, for earned income received or for activities
2 conducted prior to designation of the real property as part
3 of a zone.

4 (b) Additional exemptions.--

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

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

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

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

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

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

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

30 (2) If there is an enactment under paragraph (1), the

1 qualified political subdivision shall provide an exemption,
2 deduction, abatement or credit from the imposition and
3 operation of such local tax ordinance or resolution for all
4 of the following:

5 (i) The privilege of engaging in a business or
6 profession within a zone by an individual or qualified
7 business, whether a resident or nonresident of the zone.

8 (ii) Salaries, wages, commissions, compensation or
9 other income received for services rendered or work
10 performed by a resident of a zone.

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

15 (iv) The occupancy or use of real property located
16 within the zone.

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

29 (d) Determination of exemption.--For the purposes of
30 determining an exemption under this section, a tax on or

1 measured by any of the following shall be attributed to business
2 activity conducted within a zone by applying the apportionment
3 factors under section 514(d):

4 (1) Business gross receipts.

5 (2) Gross or net income.

6 (3) Gross or net profits.

7 Section 704. Mercantile license tax.

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

22 Section 705. Local sales and use tax.

23 (a) General rule.--A political subdivision shall exempt
24 sales at retail of services or tangible personal property,
25 except motor vehicles, to a qualified business or a construction
26 contractor under a construction contract with a qualified
27 business, landowner or lessee for the exclusive use, consumption
28 and utilization of the tangible personal property or service by
29 the qualified business at the qualified business's, landowner's
30 or lessee's facility located within a zone from a city or county

1 tax on purchase price authorized under Article XXXI-B of the act
2 of July 28, 1953 (P.L.723, No.230), known as the Second Class
3 County Code and the act of June 5, 1991 (P.L.9, No.6), known as
4 the Pennsylvania Intergovernmental Cooperation Authority Act for
5 Cities of the First Class. An exemption may not be granted for
6 sales occurring prior to designation of the real property as
7 part of a zone.

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

11 CHAPTER 9

12 ADMINISTRATION OF TAX PROVISIONS

13 Section 901. Transferability.

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

18 Section 902. Recapture.

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

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

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

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

13 (1) natural disaster;

14 (2) unforeseen industry trends; or

15 (3) loss of a major supplier or market.

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

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

21 (b) Qualified business.--

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

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

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

15 Section 904. Code compliance.

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

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

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

14 Section 905. Appeals.

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

22 Section 906. Notice requirements.

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

29 (b) Transmittal.--The department or its designated official
30 shall, within 15 business days of receipt of a zone application

1 made under this act, forward a copy of the application to the
2 Department of Revenue, the Secretary of Agriculture, the Milk
3 Marketing Board and any other appropriate Commonwealth and local
4 authorities for review and processing.

5 Section 907. Application time.

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

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

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

18 CHAPTER 11

19 PROCEDURES FOR ZONES

20 Section 1101. Keystone opportunity dairy zone prioritizations.

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

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

30 (c) Local governments.--The department shall provide

1 technical assistance to political subdivisions relating to
2 taxation, implementation of the opportunity plan, establishing
3 annual benchmarks and annual reporting requirements.

4 Section 1102. Reporting.

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

7 Section 1103. Other Commonwealth tax credits.

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

14 (1) Tax Reform Code of 1971:

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

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

19 (2) job creation tax credit under the act of June 29,
20 1996 (P.L.434, No.67), known as the Job Enhancement Act;

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

27 Section 1104. Monitoring data.

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

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

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

3 (3) Number of years in the program.

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

6 (5) Description of dairy processing activities.

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

9 CHAPTER 13

10 MISCELLANEOUS PROVISIONS

11 Section 1301. Illegal activity.

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

17 Section 1302. Rules and regulations.

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

21 Section 1303. Compliance.

22 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. An
18 individual or business may not 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.