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An Evaluation of the Keystone Opportunity Zone (KOZ) Program

As Required by House Resolution 115 of 2007

June 2009

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Report Summary

KOZ Program Overview

Pennsylvania's Keystone Opportunity Zone (KOZ) Program was established in 1998 as a tool to assist in the revitalization of economically distressed urban and rural communities in the Commonwealth. Using the incentive of tax abatement, this initiative seeks to foster both private business and residential reinvestment in designated areas to restore the economic stability of these communities.

As defined in the enabling legislation, Keystone Opportunity Zones¹ are defined-parcel-specific areas with greatly reduced or no tax burden for qualifying property-owners, residents, and businesses. The concept underlying the KOZ Program is that by greatly reducing or eliminating certain state and local taxes within specific distressed and underdeveloped areas, communities within Pennsylvania can experience increased job creation, capital investment, and overall economic growth.

Qualified persons and businesses within each of these KOZs receive certain state and local tax exemptions, deductions, abatements, or credits provided in the act for a set number of years. The state and local taxes for which exceptions and credits may be granted are listed below.

State and Local Taxes for Which KOZ Exemptions and Credits May Be Granted	
<u>State Taxes:</u>	
➤ Corporate Net Income Tax	➤ Mutual Thrift Institutions Tax
➤ Insurance Premium Tax	➤ Capital Stock & Foreign Franchise Tax
➤ Personal Income Tax	➤ Bank and Trust Company Shares Tax
➤ Sales and Use Tax	
<u>Local Taxes:</u>	
➤ Local Real Estate Tax	➤ Mercantile License Tax
➤ Business Privilege Tax	➤ Earned Income/Net Profits Tax
➤ Business Gross	➤ Receipts/Business Privilege Tax
➤ Sales and Use Tax	➤ Wage and Net Profits Tax
➤ Realty Use & Occupancy Tax	(Sterling Act)

KOZs are designated by local communities and approved by the state. While both the Departments of Revenue and Labor and Industry also have a role, the De-

¹Subsequent expansions of the program added Keystone Opportunity Expansion Zones (KOEZs) in 2000 and Keystone Opportunity Improvement Zones (KOIZs) in 2002.

partment of Community and Economic Development (DCED) has primary administrative responsibility for the KOZ Program, including the certification of KOZs and the overall administration and oversight of the KOZ Program. At the local level, the program is administered by Zone Coordinators and Subzone Coordinators.

The statute limited DCED to authorizing not more than 12 KOZs, each with a maximum of 12 subzones. As shown on the map on page S-11, 12 zones in 61 Pennsylvania counties are in the program. As of 2007, the total size of the 12 KOZ zones and 193 subzones was 46,695 acres.

Under the original enabling legislation, KOZ, KOEZ, and KOIZ subzones were scheduled to expire beginning in 2008, with additional subzones expiring in 2010, 2013, and 2018. Legislation enacted in 2008 (Act 79) allowed for new expiration dates in certain circumstances.

Summary of Findings and Conclusions

Pennsylvania's KOZ Program² began in 1998 as a limited "one-time only" program modeled after the Michigan Renaissance Program. By 2000, the KOZ Program was described as one of the boldest and most innovative economic and community development programs in the country, and, in 2001, a national business magazine rated it as "the number one economic development strategy in the nation." House Resolution 115 sought a comprehensive examination of the program to determine if the potential economic development benefits suggested by the program's initial high ratings have been realized.

The following is a summary of the findings and conclusions resulting from our study. Many of the findings and conclusions relating to deficiencies in DCED program data and monitorship and evaluation activities are based on file reviews and fieldwork activities we conducted, for the most part, during calendar year 2008. It should be noted that both during and since that time DCED officials have acknowledged that there is a need to refocus and increase accountability throughout the program. To this end, the Department has taken a proactive approach in addressing a number of the identified deficiencies and implementing program improvements even before the report was finalized.

The Department has, for example, converted paper application files to electronic storage, made changes and improvements to the KOZ guidelines and on-line application, appointed a KOZ Program manager, and developed an improved program management information database. DCED has also developed an initiative entitled the "Keystone Coordinator Program" to promote greater uniformity

²As used in this report, the term "KOZ Program" is used to refer to the total program and all of its individual components (i.e., KOZ, KOEZ, and KOIZ). The term or acronym, KOEZ is used when the intent is to refer just to the expansion subzones and KOIZ when the reference is to improvement subzones.

and accountability among the KOZ Regions. Please refer to part F. of this summary, the report text, and the DCED response to this report for further information.

A. Serious deficiencies in existing program data prevented a comprehensive and quantifiable assessment of the overall operation and effectiveness of the KOZ Program.

Reasonably complete and accurate program records and data systems are necessary for effective program implementation, management, and monitoring purposes. Such records and data are also the starting point for any comprehensive study or evaluation of the effectiveness of a governmental program. We found, however, that the data needed to make a comprehensive assessment of the KOZ Program as envisioned in HR 115 is, in most cases, either unavailable or unreliable. While the accolades given the KOZ Program in 2001 as “the number one economic development strategy in the nation” may have been warranted at that time, we found that the quantifiable program data and performance measures needed to reliably evaluate the program’s current effectiveness are not available. In particular:

1. The job creation and retention figures attributed to the KOZ Program to date are not adequately documented and appear to be substantially overstated.

The number of jobs that have either been created or retained as a direct result of the KOZ initiative is perhaps the key measure of the program’s performance. We examined DCED records on the KOZ Program in an attempt to determine the total cumulative number of new jobs that have been created and retained since the inception of the program, as well as in individual calendar years during the period 2003 through 2008. Using existing program records, we were not able to verify either cumulative or single-year job creation/retention figures.

DCED program materials and press releases issued during 2007 and 2008 stated that the KOZ Program had resulted in the creation of 63,966 new jobs and the retention of over 48,158 jobs since the program began in 1999. These figures also appeared in a “Four-Year Program Report” prepared by the DCED but not publicly released due to data discrepancies identified by this study. For the reasons cited below, we concluded that this KOZ jobs data was substantially overstated and not supportable.

**Problems With the Job Creation Statistics
DCED Attributes to the KOZ Program**

- The reported KOZ jobs figures are not based on common, uniform definitions of “job creation” and “job retention” that are included with the KOZ Program application or that the DCED otherwise clearly communicates to the applicants.
- All job creation and job retention data available from DCED is self-reported by KOZ Program participants on their annual program applications; in some cases, the reported data appears to reflect both actual and “anticipated,” or projected employment and does not appear to account for job losses.
- Internal DCED printouts referred to as “jobs and capital investment reports” contain various irregularities and inconsistencies. For example, we found some instances of exact double-listings of businesses and, therefore, double-counting of reported jobs figures.
- It is not clear whether the number of jobs created and retained as reported by a given participant on their KOZ application is a cumulative, multi-year figure, or an unduplicated, single-year number.
- DCED does not audit or spot-check the job creation/retention figures submitted by businesses in the program or require that officials of businesses participating in the KOZ Program certify, or that Regional KOZ Coordinators verify, reported KOZ-induced employment gains.
- All of the jobs created and retained that are claimed on the KOZ Program application submitted by an individual business are credited in full to the KOZ Program although the reporting business may simultaneously be receiving state economic development grants or other forms of assistance in addition to the KOZ benefits. For example, a KOZ participant may at the same time be receiving other forms of state economic assistance through such programs as Customized Job Training, Opportunity Grants, Machinery and Equipment Loan funding, and/or other forms of state economic development aid. Some portion of any job creation activity would presumably be attributable to some or all of these other non-KOZ forms of assistance.

2. The amounts of capital investment reportedly generated by the KOZ Program are also not supportable and appear to be overstated.

As is the case with job creation and retention data, KOZ participants self-report on their annual applications the amounts of capital investment they make as a result of their participation in the KOZ Program. Based on applicant submissions, the DCED reported this number to be \$17.6 billion for the period CY 2002 through CY 2006. For the reasons cited below, we concluded that this KOZ-associated investment data was substantially overstated and not supportable. In a more recent document issued in late 2008, the DCED reported a substantially lower figure, \$10.7 billion, as the amount of capital investment generated since the inception of the program. As of May 2009, we had not received the DCED’s documentation for this revised amount.

Problems With the Capital Investment Data DCED Reports Was Generated by the KOZ Program

- The reported investment figures are not based on a common, uniform definition of “capital investment” that is included with the KOZ Program application or that the DCED otherwise clearly communicates to the applicants.
- The KOZ-induced capital investment amounts are self-reported by program participants, and DCED does not spot-check or otherwise require documentation of the purpose(s) for certification of the accuracy of these figures.
- It is not clear whether the capital investment figures represent a point-in-time, a specific time period (e.g., 2002 to 2006), a single CY reporting period, or a cumulative capital investment total since the inception of the program. In many cases, applicants seem to report the same amount in several consecutive years.
- It is not clear whether the figures include both public (e.g., funded by municipalities and/or other economic development programs) as well as private capital investment or private investment only.
- Some capital investment figures may represent actual investment, while others appear to include both actual and anticipated or projected investment.
- The total capital investment amount that is reported on the KOZ Program application is attributed, in full, to the KOZ Program although the reporting business may simultaneously be receiving state economic development grants or other forms of state economic assistance in addition to KOZ-related tax exemptions, deduction, abatements, and credits. In such case, it is reasonable to assume, but almost impossible to quantify, that some amounts of the total capital investment figure would be assignable or attributable to one or more of the other non-KOZ sources of economic development assistance the business is receiving.

3. The total cost of the KOZ Program is not known and currently cannot be reliably estimated.

The key cost component of the KOZ Program is the amount of state and local tax exemptions, credits, and deductions that are granted to KOZ businesses, residents, and property-owners. In this case, program costs are referred to as “tax expenditures.” The DCED does not have a system to collect or a method to calculate total program costs and, reportedly, few local tax jurisdictions maintain such records.

While the Governor’s annual budget document includes an estimated cost figure for the KOZ Program, the Department of Revenue does not calculate the total actual dollar value of state tax expenditures associated with the KOZ Program. We requested the actual dollar values of tax credits and exemptions awarded to a sample of KOZ participants. The Department did not

provide this information, however, citing the confidentiality provisions of the Fiscal Code.

Other elements of the program's total cost include state agency administrative costs, implementation grants that were awarded to the regions for program start-up costs, and KOZ marketing costs. As a point of comparison, the annual state cost of a similar program, the New York State Empire Zones Program, is in excess of \$650 million.

4. Other data deficiencies contribute to a general lack of accountability and transparency in the KOZ Program.

The absence of reliable job creation and capital investment data and, indeed, the absence of job creation and capital investment requirements in the KOZ Act, are primary contributors to the low level of accountability in the program. Also, based on an examination of the KOZ Program records, we identified other data-related shortcomings that are contributing factors.

These other data issues, which are listed on the exhibit on the following page, relate, for example, to program-wide data on the total number of projects or participants currently active in the program, comprehensive information on KOZ parcels available and developed, the types of businesses that are enrolled, the products and/or services they provide, the types of jobs and associated salaries/wages they generate, and the amounts of tax abatement benefits received by individual participants.

Data Deficiencies That Contribute to a General Lack of Accountability and Transparency in the KOZ Program

- The program does not have a defined management information system or clearly defined program performance measures.
- While DCED has a procedures manual governing the KOZ application process, there are no formal central office standards or guidelines relating to program record-keeping practices or filing requirements; many of the program records we examined were poorly organized and/or incomplete.
- The nature and content of program records and files to be maintained at the KOZ regional or subzone levels are not defined or standardized.
- It is not possible to accurately determine the total number of projects or participants currently active in the program due to conflicting reports and records.
- DCED does not collect and compile program-wide data either on the specific nature and types of businesses that are enrolled in the KOZ Program, the products and/or services they provide, or the types of jobs and associated salaries/wages they generate.
- Program records do not identify participating businesses as a new business start-up or an in-state or out-of-state expansion or relocation, even though program requirements vary for these types of businesses.
- DCED does not know the amounts of tax abatement benefits received by individual participants.
- To date, the program has not been closely monitored to determine if/when the “claw-back,” or recapture provisions of the KOZ Act should be invoked.
- The DCED does not have a comprehensive database of KOZ parcels or current information on the acreage and types of sites that have been developed.
- DCED does not separately track and monitor projects authorized in executive orders and designated as “Keystone Opportunity Improvement Zones.”
- Relatively few program participants are in compliance with the requirement that they submit a “business synopsis” to DCED.
- Required KOZ application checklists and “change of status notification” forms are generally not in central office program files.
- Central office files do not include evidence that the eligibility of residential program participants has been verified.
- DCED does not know how many, if any, local jurisdictions require residents/owners of deteriorated KOZ properties to invest a portion of their tax exemptions in property improvements.
- Neither DCED nor the KOZ regions track the total amount of local tax exemptions granted to program participants.

***Note:** In response to this study, the DCED has, in some cases, initiated program changes to address certain of the above-referenced identified deficiencies. See Section III of the report text for further information.*

5. Many of the existing deficiencies in KOZ Program administration, data, and recordkeeping can be traced to weaknesses in program structure, staffing, and definition.

Although based on a relatively complex statute, DCED has not promulgated regulations to govern and guide implementation of the program. The application processing system had been poorly defined and associated guidelines were frequently changed and inadequately communicated to the field. Moreover, at the central office level, the program has been administered as what appears to be a part-time function under the Deputy Secretariat for Business Assistance, with a heavy emphasis on application processing. At various times during the study, the program was without a full-time staff capability and operated without a program director or manager. The program also does not have a formally defined regional or local administrative structure with the positions and duties and responsibilities of regional zone coordinator and subzone coordinators having evolved in each of the 12 zones since the program began.

6. DCED compiles and reports relatively little, if any, information on the residential component of the KOZ Program.

Attracting residential reinvestment in economically distressed urban and rural communities in Pennsylvania through the incentive of tax abatement is another objective of the KOZ Program. Residents qualified for KOZ tax benefits are those who reside within a designated KOZ parcel for a minimum of 184 consecutive days during a tax year.

According to DCED program records, the KOZ Program had 903 resident participants in 2006, which represented 23 percent of all program participants in that year. About 61 percent of these participants were residents of a single retirement community in the Southeast KOZ Region.

Other than including resident participants on internal program listings, DCED does not centrally document residential eligibility, does not regularly compile and analyze information on the residential component of the program, and does not reference the residential portion of the program in the required four-year program report.

B. On an individual project basis, numerous KOZ projects appear to be working as intended and are rated as “success stories,” although KOZ status alone is generally not the sole contributing factor in a business’ decision to locate or relocate in a KOZ.

With its tax abatement incentives, state and local officials report that the KOZ Program has proven to be a valuable tool for specific state, regional, and local

economic development efforts in Pennsylvania. While various studies have found that the availability of tax abatement incentives and tax credits is not typically the single overriding consideration in a business' site selection choice, the Director of Pennsylvania's Governor's Action Team as well as other state and local economic development officials report that it is often among the key deciding factors and is an important element in an overall economic development incentive package.

According to the Director of the Governor's Action Team, the KOZ Program ranks among the most valuable economic development initiatives made available in his 21-plus year tenure with the Commonwealth's economic development office. He describes the KOZ Program as an important business attraction and retention tool that has been essential to the state's ability to secure numerous new major business development projects. The Director further stated that he is sure that Pennsylvania would have been eliminated from consideration in many of these cases if the state had not been able to provide tax benefits available through the KOZ Program.

He notes that in addition to Pennsylvania, many other states have adopted similar programs and because the Commonwealth routinely competes with these states for new businesses, the benefits the KOZ Program can offer a company are critical in order for the state to remain competitive. In addition to the direct job creation and capital investment benefits, KOZ projects also often produce "spin-off benefits" including the purchase by new KOZ companies of equipment, supplies, and services, typically from local vendors and contractors.

While often citing difficulties with the administration and oversight of the program, regional KOZ coordinators and representatives of local industrial and economic development organizations also expressed support for the KOZ concept. For example, one coordinator told us that the "KOZ Program has significantly impacted the economy" in his region. According to the coordinator, it has enabled the region to recruit quality Fortune 500/100 companies they would not have otherwise located there. A third coordinator's position is that the program "is not a panacea but it is a very useful and necessary tool to have in the economic development toolbox, especially when competing with other states on bigger projects."

In Section III.C, the report provides specific "success story" case summaries within each of the 12 KOZ regions. Among these are the former International Paper Company site in Erie, the DuPont Company facility in Bradford County, the Humboldt Industrial Park in Hazleton, the Cira Centre and Urban Outfitters in Philadelphia, and Olympus America, Inc., in the Lehigh Valley, among others.

C. While individual “success stories” clearly exist in the KOZ Program, much of the program’s available acreage has not been developed and many program participants are not creating jobs or generating capital investment.

1. After about ten years of program operation, most (about 70 percent) approved KOZ acreage statewide has not yet been developed.

The Commonwealth’s 12 designated KOZs include properties totaling more than 46,500 acres within 61 Pennsylvania counties. Parcel sizes range from 10 acres to over 500 acres. We found that, only about 30 percent of total KOZ acreage statewide has been developed. As shown on the map on the next page, 9 of the 12 zones had more than 50 percent of their designated acreage in the “unused” category as of the latest reporting date and in five regions the percentage of acreage unused is 75 percent or higher.

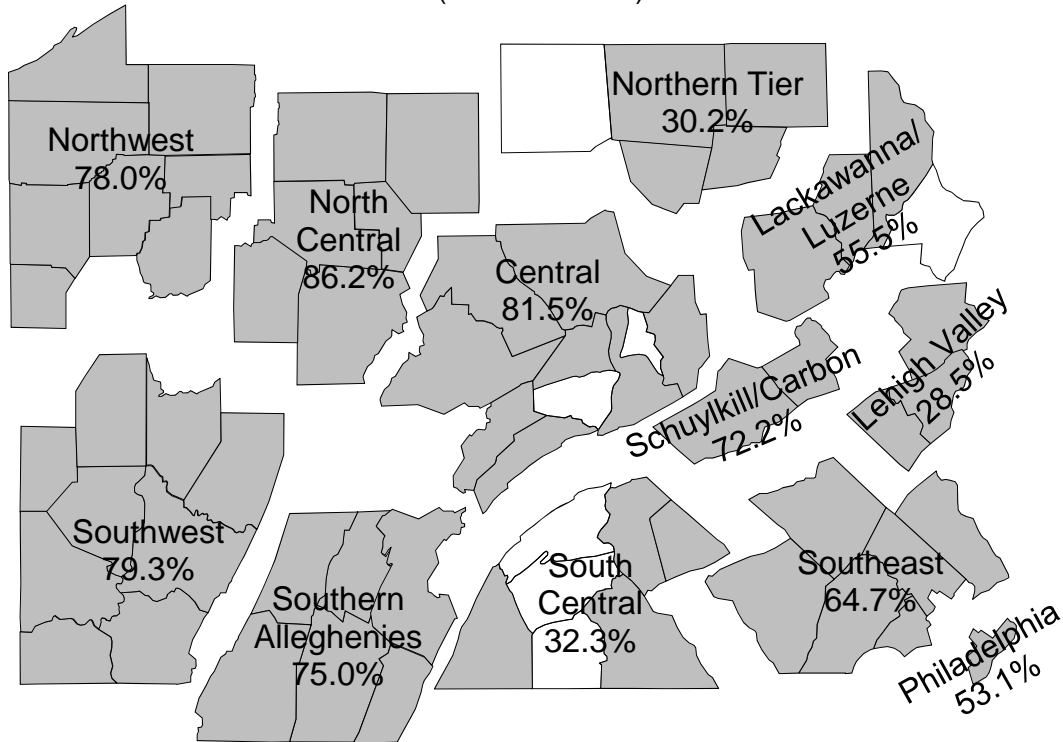
It appears that the lack of development is often due to one or a combination of factors, including a lack of available infrastructure, costly remediation requirements, land speculation, inadequate marketing of the program, and other shortcomings in program administration.

2. Many KOZ participants and their associated KOZ projects provide little, if any, job creation or capital investment in return for the KOZ tax exemptions/abatement benefits they receive.

Weaknesses in both statute and program administration create opportunities for businesses and other KOZ participants to receive KOZ benefits without having to create jobs or generate capital investment. Although not explicitly stated in the KOZ Act, it is reasonable to assume that job creation and capital investment are important objectives given the economic revitalization focus of the program. However, in the absence of a specific mandate, DCED program officials told us that, technically, KOZ Program participants are not required to create or retain any jobs or make any capital investment to qualify for participation in the program because it is not required in the statute.

Unlike certain other types of economic development assistance that are dependent upon the merits of a specific project or proposal or which require a grant agreement, all a business or individual needs to do to qualify for KOZ benefits is to own or lease real property in a zone and be in compliance with state and local tax provisions. A qualified business is not required to address any of the economic-distress criteria that were a reason for the geographic region being made eligible for KOZ status. In short, a qualified business or property owner may receive full tax credits and exemptions while not creating a single job or making any capital investment in the zone.

Percentage of KOZ Acreage That Is Undeveloped/Unoccupied
(As of CY 2007)



Statewide Average = 70.1%

<u>Zone</u>	<u>Total Acreage</u>	<u>Percentage of Acres</u>	
		<u>Developed</u>	<u>Undeveloped</u>
Northwest	5,983.0	22.0%	78.0%
Southwest.....	6,255.4	20.7	79.3
North Central	4,185.8	13.8	86.2
Southern Alleghenies	6,449.9	25.0	75.0
Northern Tier	366.0	69.8	30.2
Central PA	5,081.1	18.5	81.5
South Central	979.0	67.7	32.3
Lackawanna/Luzerne	6,500.0	44.5	55.5
Schuylkill/Carbon.....	3,524.5	27.8	72.2
Lehigh Valley	1,377.4	71.5	28.5
Southeast	3,238.3	35.3	64.7
Philadelphia	<u>2,755.0</u>	46.9	53.1
Totals.....	46,695.3	29.9%	70.1%

Our examination of KOZ Program records indicates that, without such conditions in place, most participants in the program are not creating jobs. As a result, it is difficult to identify the benefits, if any, taxpayers are receiving on the investment of “tax expenditures” that are being made to such businesses. Specifically, about three-quarters of all program participants (excluding residential participants who would not be expected to create jobs or generate capital investment) did not report any job creation activity. Among these are real estate development corporations (public and private), property owners, and a concentration of firms in the financial and investment services field that, while receiving the tax benefit, exhibit a pattern of zero job creation.

Lack of job creation, however, is not limited to financial and investment services. We found numerous examples of firms in other business, industry, and manufacturing sectors that have reported zero job creation for three or more consecutive years and, in some cases, for as many as six or more years. In other cases, businesses report static job numbers or job reductions.

The lack of specific job creation or investment requirements for businesses participating in Pennsylvania’s Keystone Opportunity Zone Program is unlike the situation in certain other states with similar programs. For example, businesses seeking to participate in the State of New York’s Empire Zones Program, must apply to become a “certified business,” a process which involves setting forth future job creation and investment projections, annual reporting by the business, monitoring of the business by a local zone certification officer, and the threat of de-certification and removal from the program if the business fails to meet its projections. Specific job and capital investment requirements also exist in the Maine, Michigan, and Minnesota programs.

3. The DCED’s application processing system does not include a step to test and ensure that all non-residential program applicants meet the KOZ Act’s “qualified business” eligibility requirement.

Pennsylvania’s KOZ law makes certain tax abatement benefits available to residents (and sometimes nonresidents) as well as to “qualified businesses.” A “qualified business” is defined under the law as a business authorized to do business in the Commonwealth which is located or partially located within a [zone] and is engaged in the active conduct of a trade or business.

Because regulations have not been promulgated for the KOZ Program and because the “qualified business” requirement is not addressed in program guidelines, there is no further formal definition of this provision and how it is to be implemented in terms of establishing program eligibility.

We found that DCED does not currently employ any test of the statutory “qualified business” eligibility provision as part of the KOZ application

process and no indication that any business was ever denied participation in the program because it did not meet the “qualified business” requirement. Rather, all a business need do to qualify for the program is to be located in or relocate to a KOZ, file the required application and be in compliance with all state and local tax laws, ordinances and resolutions, as well as with any applicable state and local zoning, building and housing laws, ordinances, or codes. Such applications received by the DCED central office receive relatively routine approval with no apparent testing of the “qualified business” requirement and, as discussed previously, with no conditions attached in terms of job creation or capital investment commitments to be provided in return for the tax benefits the businesses receive. Other states with similar programs require a much more rigorous application and certification process including specific job and investment plans and commitments and in the case of New York, a specific cost-benefit analysis followed by annual performance reviews.

D. State and regional program administrators have done relatively little to formally monitor and evaluate the operations and effectiveness of the KOZ Program.

1. The DCED has not established performance measures for the KOZ Program and does not require standardized regional reporting of KOZ data for program monitoring and accountability purposes.

DCED has not established adequate procedures to evaluate the effectiveness of the KOZ Program. Neither the state nor the KOZ regions know the total cost of the program to taxpayers or the total benefits provided to the community. As such, neither the state nor the regions are able to comprehensively assess the success of the program. We also found that the DCED has not effectively established clear, quantifiable, and measurable program goals and objectives that can be tied to the intent of the program as stated in the enabling legislation.

2. The mandated “Four-Year Program Reports” done by DCED do not provide a sufficient assessment of the economic impacts of the KOZ Program.

The DCED is not evaluating and reporting on the economic effects of the program in each of the 12 KOZs to the extent required in law. By law, DCED is to report to the General Assembly “on the economic effects of this act in each Keystone Opportunity Zone every four years.”

An initial program report, which was due in 2002, was prepared by a contractor for DCED and was released in 2002. The subsequent report, due in 2006, was not issued but a draft of this report was provided to LB&FC staff during the course of this study. Due to data problems we identified in the draft, the report was not released. The Department subsequently prepared a “2007

KOZ Update Report” and released it in November 2008 in lieu of the “Four-Year Report” that was due in 2006. The format and content of this report, however, provides little information upon which to assess the “economic effects of the program in each of the individual zones.”

3. Neither state nor regional program administrators have evaluated the extent of local progress made in implementing “KOZ Opportunity Plans.”

“Opportunity Plans” are defined in the KOZ Act and were to be developed by each KOZ region as a precondition to a zone’s acceptance into the program. The act states that the plans were to include a number of specific provisions and proposals “to increase economic opportunity, reduce crime, improve education, facilitate infrastructure improvement, reduce the local regulatory burden and identify potential jobs and job training opportunities.”

The Opportunity Plans were also intended to serve as documents against which the outcomes and effectiveness of the KOZ Program in the individual regions could be measured. The act required “annual update reports” on real property-ownership and progress in the respective KOZs “on all proposals required as part of the Opportunity Plan” and on other information as required by DCED.

Neither DCED nor the Department of Revenue has any record of having received annual “Opportunity Plan update reports” from the KOZ regions. We also found that the DCED has not used the “Opportunity Plans” as baseline measurement documents or as a reference against which KOZ-related activities in the individual KOZ regions can be measured. Further, individual KOZ regions have also apparently not used the plans as a means of measuring actual KOZ Program impacts against the goals and objectives originally established in their plans.

E. Similar type programs in Maine, Michigan, Minnesota, and New York provide a useful point-of-reference for Pennsylvania’s KOZ Program.

House Resolution 115 directed that in conducting this study we take into consideration the structure and features of similar programs in certain other states. The state programs examined as part of this study included the Maine Pine Tree Development Zone Program, the Michigan Renaissance Zone Program, the Minnesota Jobs Opportunity Building Zones Program, and the New York Empire Zones Program. (Summaries of each of these programs are included in Section III.F of this report.)

We found that the missions of each of these programs, like Pennsylvania’s, stress economic revitalization in economically distressed areas through tax reduction or elimination for a specified time period. In comparing Pennsylvania’s KOZ Program, we found, however, that the other state programs have more

stringent eligibility criteria, additional accountability and reporting requirements, and better defined state/local administrative structures. For example, the New York Empire Zones Program requires a business seeking to participate in the program to demonstrate, using a cost-benefit analysis, that it will create jobs and investments in greater proportion than the tax credits that may be claimed. The Minnesota Jobs Opportunity Building Zones Program (JOBZ) requires qualifying businesses in the program to enter into subsidy agreements with the corresponding local government so as to establish the job, wage, and capital investment requirements that must be met in order for the businesses to receive JOBZ tax breaks. Similarly, job creation is one factor among others to be considered by the Michigan Renaissance Zone Program in its participant approval processes.

Enhanced accountability and reporting requirements were also found in the other state programs. For example, the Minnesota JOBZ Program reports, as of January 2009, that it has removed 57 businesses from the JOBZ Program for failure to meet targets, for going out-of-business or otherwise violating the JOBZ statute (46 of these businesses were subject to repayment provisions as well). Maine, Minnesota and New York each require some form of annual reporting by participating businesses and/or the local zone administrators, and an annual report to the Michigan Legislature is developed by the Michigan Economic Development Corporation, the state level administrator of the program.

Additionally, we found that statutes in some of the states examined more specifically define the administrative structure and responsibilities of their respective programs. At the state level, responsibilities may include the promulgation of program regulations, the establishment of zone designation and business certification criteria, and the periodic evaluation of program progress. Responsibilities at the local level may include program marketing, required monitoring of business performance and the filing of reports with the state level administration.

F. DCED officials recognize and acknowledge that there is a need to refocus and increase accountability throughout the KOZ Program and to make improvements in numerous administrative and operational areas.

The Department's Deputy Secretary for Business Assistance and KOZ Program staff have taken a proactive approach to address a number of identified deficiencies and implement program improvements even before the report was finalized. The Department has, for example:

- **Converted Paper Application Files to Electronic Storage.** At the start of this study, the DCED had begun a transition from paper to electronic record-keeping and had converted approximately one-half of the CY 2006 KOZ application files to an electronic format. As of April

2009, all files through CY 2008 were stored and accessible electronically.

- **Made Changes/Improvements to the KOZ Guidelines and On-line Application.** We initially reviewed and examined KOZ applications and program files on the basis of the April 2007 version of the KOZ guidelines and application. During the course of the project, subsequent revisions to the guidelines and/or application were made in September 2007, February 2008, and August 2008. These changes included:
 - modification of the requirements regarding the submission of a “Business Synopsis”;
 - requesting applicant to specify whether they were submitting an initial or renewal application;
 - requesting applicant to specify the type of business (e.g. manufacturing, commercial, retail, etc.); and
 - clarifying the request for capital investment information to a specific amount (rather than estimate) and for the specific year for which benefits are requested.
- **Developed, in Conjunction With DCED Information Technology Staff, a Relational Database That Permits KOZ Staff to More Easily Access Information That Is Included on KOZ Program Applications.** Until the fall of 2008, each year’s applications were self-contained and, for applicants who remained in the KOZ Program for multiple years, no master file existed to review an applicant’s history with the program. While DCED officials indicate that the KOZ database continues to be a work-in-progress, and the modifications performed do not as yet constitute a true master file of applicants, it is at least now possible to review applications over multiple years by conducting a search using the federal employer identification number (FEIN).
- **Developed an Initiative Entitled the Keystone Coordinator Program (KCP) to Promote Greater Uniformity and Accountability Among the KOZ Regions.** Specifically, the KCP provides grants in the amount of \$24,000 (\$12,000 per year to each coordinator for a two-year period) to support the operating costs associated with monitoring, collecting, and reporting functions performed by the coordinators. Guidelines were finalized in March 2009 and stipulate the scope of services to be provided by the KOZ Coordinators, including the following duties and responsibilities:
 - Completion of a local approval form for each applicant (this form is to be used by the coordinator after verification of the applicant’s

compliance with local taxes and codes and confirmation that the business/resident resides in a KOZ). This form is to include the applicant's name, exit date (which helps to indicate whether applicant is located in a KOZ, KOEZ, or KOIZ), and whether the applicant resides in a brownfield site.

- Assistance in collecting certain data as requested by DCED, which may include verification of job creation data, types of jobs created, average hourly wage, types of annual public and private capital investment, primary business activities, etc.
- Conducting a number of specific activities, including confirmation that KOZ entities are conducting business at the KOZ location; identification and reporting on duplicate applications; completion of an annual report (to be issued May 1st and completed by June 30th); confirmation of 184-day residency requirements for applicants, etc.
- **Appointed a KOZ Program Manager.** During the early phase of the LB&FC's KOZ study project, a vacancy existed in the KOZ Program Manager position. Administrative functions continued to be performed on a part-time basis by DCED analyst staff, one member of which subsequently assumed the position of KOZ Program Manager.
- **Taken Steps to Enhance Performance Monitoring With Regard to the KOZ Program.** The KOZ Act assigns several monitoring and enforcement functions to the DCED, especially in relation to businesses which relocate into a KOZ and businesses which move out of a KOZ within five years. Since 2002, these functions have been carried out by a Performance Monitoring Division, which has been assigned this responsibility for all DCED economic development programs subject to performance requirements. The DCED administration informed LB&FC staff that it plans to enhance this function with respect to the KOZ Program in particular, but is currently hampered by the lack of full-time staff assigned to the division.
- **Begun to Apply Statutory Criteria in Approving Extension, Expansion, and Designation of Additional Zones.** Pursuant to Act 79 of 2008, which extends the statutory duration of the KOZ programs, allows for certain program expansions, and also authorizes the possible designation of additional zones, program officials told us that it is applying the same statutory criteria used in establishing the original KOZ designations. Such criteria includes, for example, assessment of support from and participation of local government and community organizations; the extent to which newly designated properties will increase economic and job opportunities; and the level of potential private and public investment in the zone.

Recommendations

1. **The Department of Community and Economic Development (DCED) should develop and implement a comprehensive plan of action to improve the administration and management of the Keystone Opportunity Zone (KOZ) Program, enhance program oversight and control, and introduce accountability measures into the program.**

This proposed “Action Plan to Improve KOZ Program Administration, Results and Accountability” should encompass, expand, and formalize the improvement actions that the Department has recently initiated in response to the results of this study. We recommend that the plan include, but not necessarily be limited to, the steps outlined below. We also recommend that plan be completed by December 31, 2009, and that copies of the plan be provided to each KOZ Regional Coordinator and to members of the House Commerce Committee and the Senate Community, Economic, and Recreational Development Committee. Specifically, we recommend that DCED’s plan include steps to:

- a. Formalize the collection and analysis of KOZ Program data through the design and development of a state/regional program statistical and management information system.
- b. Establish a comprehensive set of performance measures for the program that is geared to the mission and intent of the KOZ Act and covers all aspects of the program, including business, property-owner, and residential.
- c. Collaborate with the 12 KOZ regions in setting annual performance targets and measuring regional progress against the targeted measures. In this effort, DCED should engage the assistance of its Center for Local Government Services in establishing annual KOZ-specific benchmarks and reporting requirements as is required in the current KOZ statute.
- d. Promote standardized and consistent program reporting across all regions, develop uniform reporting guidelines and standard definitions of relevant terms such as “job creation” and “capital investment” and disseminate such guidelines to all regional coordinators and program participants.
- e. Improve the accuracy and reliability of job creation and capital investment figures reported by KOZ-participating businesses. DCED should require that business CEOs or CFOs attest to the accuracy of the data they report, and that regional KOZ-coordinators and subzone coordinators undertake reasonable steps, such as periodic spot-checks, to verify the accuracy of jobs and investment figures reported by businesses in each KOZ region.
- f. Develop an operational definition of the statutory term “qualified business” for purposes of KOZ Program eligibility and, using this definition, develop and implement an eligibility test for all new businesses applying to the program.

- g. Develop guidelines to govern the property-owner and residential components of the program.
- h. Improve record-keeping systems to identify classify and record all business participants as one of the following: a new business start-up; an in-state or out-of-state expansion; or a relocation. Improved information, especially in the case of identifying in-state relocations, is needed to enforce compliance with provisions of the KOZ Act. (See below.)
- i. Enhance enforcement of the provisions of the KOZ Act requiring that businesses which relocate to a KOZ from another location within Pennsylvania meet certain relocation requirements. DCED, through its Performance Monitoring Division, needs to consistently follow-up to verify that all relocating firms submit required notarized affidavits certifying their compliance.
- j. Enhance record-keeping oversight and controls on waivers that are granted to relocating firms and develop formal guidelines and criteria to govern the award of such waivers.
- k. Identify, in conjunction with the 12 regional KOZ Coordinators, those participating businesses that could be classified as “KOZ Under-Performers” in terms of job creation and capital investment. Initially, the Department should focus on those participating businesses that have reported no job creation or no capital investment for two or more years despite receiving KOZ tax credits and exemptions. The Secretary of DCED should send correspondence to these businesses seeking an explanation for their underperformance in the jobs and/or investment areas and why they should continue to receive such benefits if no economic benefits for the state and state taxpayers is provided in return. In this initial review, DCED should, in particular, examine the lack of job creation activity among investment and financial services firms that account for a substantial amount of program activity in some parts of the state. This initial review should be completed and the results provided to the House Commerce Committee and the Senate Community, Economic, and Recreational Development Committee by March 31, 2010.
- l. Develop, in collaboration with the Department of Revenue and the local taxing authorities, a supportable estimate of the total cost of the KOZ Program. In concert with accurate and unduplicated job creation and capital investment figures, this cost data is needed to determine if KOZ Program impacts are commensurate with the state and local tax credits the program is providing to individual businesses, residents, and property-owners.
- m. Disclose KOZ Program participants and the amounts of tax credits and exemptions they receive under the program. To enhance program accountability and transparency, the DCED should provide, ideally through their website and by December 31, 2009, (1) the total number and names of qualifying businesses, residents, and property-owners receiving tax exemptions, deductions, abatements, or credits through the KOZ Program during CY 2008;

(2) for businesses, the nature of each business and the types of products/ services they provide; and (3) the total amount of tax benefits authorized and received by each qualified business, resident, and property-owner. This information should also become part of the statutorily required *Four-Year KOZ Program Report* that is to be issued by DCED.³

- n. Develop a comprehensive, centralized “KOZ Zone/Subzone/Acreage and Parcel Database” that includes all relevant data on the location, type, ownership, size, development status, and other information on all KOZ acreage and parcels. This database should also record the names of all businesses that have developed in the KOZs, differentiate among KOZ, KOEZ, and KOIZ parcels, and indicate the KOZ expiration date of all parcels. This database should be online, regularly updated by DCED, and its availability be made known through the marketing of the program referenced in p. below.
- o. Identify all “other” or non-KOZ forms of economic development assistance that individual KOZ participants may also be receiving and the eventual development and maintenance by the Department of a comprehensive database that would allow the access of such information for not only the KOZ Program but for all economic development assistance administered by DCED.
- p. Increase awareness of the availability of undeveloped KOZ acreage in the business and economic development communities by developing a renewed marketing plan for the KOZ Program. The KOZ Act requires that DCED “develop and implement a consolidated marketing strategy for the KOZ Program for use in job retention and attraction activities.”
- q. Issue the next “*Four-Year KOZ Program Report*” in CY 2010, as would be due according to the schedule provided for in the KOZ Act, despite the CY 2006 report not being issued until late 2008.
- r. Require that each political subdivision in which a zone is located annually submit a report to DCED (by January 31) listing the address of each real property designated a subzone, improvement subzone, or expansion subzone and its owner of record, as is required in the current KOZ statute.

2. Before taking any actions to further expand or extend the Keystone Opportunity Zone (KOZ) Program, the General Assembly should amend the law to require that program eligibility for new KOZ business will require specific commitments to create jobs and/or make capital investments in the zone.

³To fully accomplish this, it is likely DCED would require an amendment to the KOZ Program legislation. A similar requirement is placed upon the Department of Revenue relating to Pennsylvania’s Research and Development Tax Credit. 72 P.S. §8711-B specifically requires that the Secretary of Revenue submit an annual report to the General Assembly that includes the names of all taxpayers utilizing the research and development tax credit and the amount of credits approved and utilized.

Unlike similar programs in other sample states, Pennsylvania's KOZ Act does not specifically cite job creation and retention or capital investment as program objectives or require that program participants commit to creating or retaining a certain number of jobs or generating a specified amount of capital investment as a condition of their initial participation or continuation in the program.

In the event the General Assembly chooses at some point in the future to reauthorize and continue the KOZ Program beyond current statutory deadlines, amendments should be advanced to specifically require that businesses that seek to participate in the program be required to first become "KOZ Zone-Certified" by:

- Filing an application that includes a commitment to a specified level of new job creation and capital investment.
- Submitting with the application a cost-benefit analysis that estimates the benefit (i.e., in terms of the volume of wages and benefits paid to all existing and projected employees at the location(s) for which the applicant is seeking certification), plus the value of capital investments at such location(s) versus the cost (i.e., the estimated amount of state and local tax credits/abatement that would be claimed by the applicant).
- Through an annual review process, demonstrating satisfactory progress in these areas in order to maintain continued certification/eligibility for program benefits.

We also recommend the General Assembly consider amendments to:

- Restrict program eligibility by further defining the term "qualified business."
- More specifically define the terms "job creation" and "capital investment," and the manner in which they should be reported and credited to the participant for purposes of qualifying for and continuing participation in the KOZ Program.
- Limit future KOZ authorization to acreage and parcels that are truly deteriorated as opposed to merely "underutilized."
- Require residents and owners of deteriorated KOZ properties to invest a portion of their tax exemptions in property improvements.

I. Introduction

House Resolution 115 of 2007 directed that the Legislative Budget and Finance Committee examine and evaluate the overall results and effectiveness of Pennsylvania's Keystone Opportunity Zone (KOZ) Program. The objectives established for this study are listed below.

Study Objectives

1. To determine if Pennsylvania's "Keystone Opportunity Zones" (KOZs), Keystone Opportunity Expansion Zones (KOEZs), and Keystone Opportunity Improvement Zones (KOIZs) are achieving their stated goals and objectives.
2. To document major trends, if any, in the types of new businesses that have resulted from these programs.
3. To identify program costs and quantifiable benefits and determine if:
 - a. reported program benefits (e.g., jobs created/retained and capital investment) and costs are accurate and supportable; and
 - b. the program benefits generated exceed program costs.
4. To assess the adequacy of existing systems, if any, that are intended to monitor and evaluate the performance and effectiveness of individual zones.
5. To examine a sample of Keystone Opportunity Zones, Keystone Opportunity Expansion Zones and/or Keystone Opportunity Improvement Zones projects and review the criteria upon which their inclusion in the program is based.
6. To summarize the results of statutorily required DCED assessments of the Pennsylvania KOZ Program; also to compare the Pennsylvania program to similar programs in other states including Maine, Michigan, Minnesota, and New York.

Scope and Methodology

The study involved a review and evaluation of the administration, results, and effectiveness of Pennsylvania's Keystone Opportunity Zone (KOZ) Program. The scope of this study included the original KOZ Program and its Keystone Opportunity Zones (KOZs) as well as Keystone Opportunity Expansion Zones, or KOEZs (added in 2000) and Keystone Opportunity Improvement Zones, or KOIZs (added in 2002). As used in this report, the term "KOZ Program" is used to refer to the total program and all of its individual components (i.e., KOZ, KOEZ, and KOIZ). This

term or acronym, KOEZ is used when the intent is to refer just to the expansion or improvement subzones and the acronym KOIZ when the reference is to the improvement subzones.

HR 115 of 2007 sought an overall assessment of the results and effectiveness of the KOZ Program. However, as documented in the text of this report, serious deficiencies in existing KOZ Program data prevented the comprehensive and quantifiable assessment of the overall operation and effectiveness of the program that was envisioned by HR 115.

During the preliminary survey phase of the study, we researched the history and legal background of the program and initiated a series of meetings and interviews with program officials and staff of the Site Development Division in the Department of Community and Economic Development's Center for Businesses Financing. These DCED personnel and organizational units report to the Department's Deputy Secretary for Business Assistance. During the survey phase of the study, we also contacted the Department of Revenue and the Department of Labor and Industry to determine their respective roles and administrative responsibilities in the program.

As a result of these contacts, we obtained copies of and/or access to pertinent program records, guidelines, internal reports, and other materials. Program records for the period 1998 through 2002 could not be located and were not available. The timeframe covered by our study is, therefore, CY 2003 through CY 2008, although only a portion of program records for CY 2007 and CY 2008 were available to us prior to the end of the fieldwork phase of the project in early May 2009. (For example, we received the KOZ jobs and capital investment report for 2008 on May 18, 2009.) Therefore, for purposes of analysis, we focused primarily on CY 2006, the last full calendar year for which complete information was available.

We submitted requests for initial information needed to proceed with the project and held initial meetings to obtain explanations of program structure, record-keeping, database administration, and the applicant processing system. We also obtained and analyzed available statistical data and reports, program applications submitted by individual participants, and related program public information and website materials developed by DCED.

To provide additional opportunity for input from KOZ field administrators, we distributed a study questionnaire to all KOZ Coordinators and Subzone Coordinators. We also sent similar surveys to pertinent stakeholder groups including members of economic development corporations (EDCs), industrial development corporations (IDCs), and county and local chambers of commerce statewide. These questionnaires were intended to gauge respondents' assessment of the effectiveness of the program in achieving stated goals, to obtain their perspectives on program strengths and weaknesses, and to identify program success stories as well as less

than successful projects. The surveys also included other programs-related questions pertaining to land use, residential participants, program costs, program administrative structure, and input on potential legislative or administrative changes to the program. Questionnaire responses were utilized by the study team to guide further research and facilitate follow-up discussions with zone and subzone coordinators.

During the fieldwork phase of the study, we met extensively with staff of the DCED, examined and analyzed existing program records and applications, and examined program records relating to acreage in the program, and job creation/retention and capital investment by KOZ Program participants. We also determined the number and types of program participants and attempted to quantify program costs and benefits.

In seeking to determine the total cost of the program, we examined “tax expenditure” estimates included in the Governor’s budget documents and met with pertinent staff of the Department of Revenue. Our contacts with Revenue were intended to gain a more precise understanding of the Department’s role in the KOZ Program as well as to obtain an understanding of how tax credits and exemptions are calculated for individual KOZ Program participants.

We also requested information from the Department of Revenue on the actual dollar value of tax credits and exemptions received by a sample of specific businesses during CY 2006 and/or the most recent period for which information is available. The Department did not provide this information, however, citing confidentiality provisions of the Fiscal Code. As a result, we could not determine the actual tax benefits for a sample of KOZ participants, one of the steps in our work plan. This portion of the plan was designed to examine and quantify the job creation and capital investment generated by individual businesses in relation to the actual dollar value of the tax credits/exemptions they receive by virtue of their participation in the KOZ Program. No uniform source of information on local tax credits and exemptions is available.

We also met with the Director of the Governor’s Action Team to gain perspective on his experience with the KOZ Program. In conjunction with this contact, we identified KOZ projects which, in the view of the Action Team Director, KOZ regional coordinators, and local economic and industrial development officials, are considered program “success stories.”

As directed by HR 115, we examined similar programs in Maine, Minnesota, Michigan, and New York. We contacted program officials in these states, researched pertinent state statutes and examined and analyzed program materials and related reports obtained from both agency and website sources.

HR 115 also stated that the study should examine the impact of the KOZ Program on rural areas of the Commonwealth. Because the Center for Rural Pennsylvania recently worked with researchers from Kutztown University on a study of this question, our study did not include detailed study activities that would have duplicated the Center's work. A summary of the Center for Rural Pennsylvania/Kutztown University evaluation of the impact of the KOZ Program in rural Pennsylvania is provided in Appendix D of this report.

For purposes of assessing program administration at the local level, we conducted field visits to five of the KOZ regions, meeting with the Zone Coordinator of each. We made visits to the Philadelphia, Lackawanna/Luzerne, Schuylkill/Carbon, Southcentral, and Central Regions. These visits included a review of the duties and responsibilities of the zone coordinators in program administration, record-keeping, and their perspectives on the most and least successful program participants within each zone. During the visits, we also accompanied the Zone Coordinators on visits to several KOZ parcels in their respective regions.

In addition to examining the structure and content of KOZ Program records, we also sampled and tested selected compliance provisions from the KOZ procedure manual and program guidelines as well as from the KOZ statute (e.g., related to reporting and enforcing relocation requirements). We were not able, however, to test regulatory compliance as the DCED has not promulgated rules and regulations to govern the administration of the KOZ Program.

We also assessed the level and adequacy of DCED efforts to monitor and evaluate the operation and effectiveness of the program. This part of the study included consideration of regional and local reporting requirements, the presence of established program performance measures, DCED performance in meeting the statutory four-year program reporting requirements, and state and local evaluation of the extent to which progress has been made in implementing the "KOZ Opportunity Plans."

It is important to note that the study findings, and especially those related to data collection and statistical program data, are based on file reviews and fieldwork activities that were finalized during late CY 2008. Even as this work was in process, the DCED began a proactive approach to address a number of the administrative, data, and program monitorship issues that we identified and, in some cases, initiated corrective action or was in the process of doing so when this report was finalized.

Acknowledgements

LB&FC staff acknowledge the excellent cooperation and assistance provided by the Department of Community and Economic Development during this study. In

particular, appreciation is extended to Dennis J. Yablonsky, former Secretary of DCED; current Acting Secretary George Cornelius; Dorothy D. Kaplan, Deputy Secretary for Business Assistance; Scott Dunkelberger, Chief Operating Officer for the Center for Business Financing; Brian Eckert, Director of Site Development; Kevin Rowland, former Director of the Performance Monitoring Division; and Andrew Sheaf, KOZ Program Manager.

We also greatly appreciate the assistance provided by KOZ Zone Coordinators and Subzone Coordinators in providing input and assistance during the course of this study, as well as members of local economic development corporations, industrial development corporations, and chambers of commerce who responded to a study questionnaire. Thanks are also extended to Michael Rossman, Director of the Governor's Action Team, for his input.

We also wish to acknowledge the assistance provided by officials and staff of the Department of Revenue and personnel in state agencies in Maine, Minnesota, Michigan, and New York who provided information on their state programs.

Important Note

This report was developed by Legislative Budget and Finance Committee staff. The release of this report should not be construed as an indication that the Committee or its individual members necessarily concur with the report's findings and recommendations.

Any questions or comments regarding the contents of this report should be directed to Philip R. Durgin, Executive Director, Legislative Budget and Finance Committee, P.O. Box 8737, Harrisburg, Pennsylvania 17105-8737.

II. An Overview of the Keystone Opportunity Zone (KOZ) Program

A. Origin and Purpose

Program Origin¹

Generally, areas that are economically distressed, including brownfields,² cannot attract necessary economic investment without incentives to the private sector. While the availability of public sector grants and loans constitutes one approach to stimulating private investment, another strategy in recent decades has been the provision of tax credits, exemptions, or deductions.

One such program, which began to be implemented by states during the 1980s, is known as the Enterprise Zone Program.³ The enterprise zone concept targeted economically distressed areas in urban or rural contexts where tax incentives, and often regulatory relief and financial assistance, were offered to encourage the private sector to revitalize the local economy. The enterprise zone concept has been employed in various forms in nearly 40 states. Pennsylvania created the state's Enterprise Zone Program in 1983 and enterprise zones continue to exist in Pennsylvania as one component of DCED's New Communities Program, along with the Main Street and Elm Street programs.

An Enterprise Zone is an area that has been designated by DCED as financially distressed and disadvantaged. The Enterprise Zone Program provides grants to financially disadvantaged communities for preparing and implementing business development strategies within municipal Enterprise Zones. Those eligible are municipalities, redevelopment authorities, nonprofit economic development organizations, or other nonprofit organizations on a case-by-case basis. Typically, a zone is comprised of several municipalities. The purpose of an Enterprise Zone is to promote job growth and to help municipalities take advantage of business expansion opportunities when they arise. Tax credits are available to businesses making physical improvements to properties located in Enterprise Zones.

¹The historical and philosophical basis of the KOZ Program has been researched and discussed at some length by various authors. Studies examined by the LB&FC staff include *A Policy Analysis of the First Six Years of Pennsylvania's Keystone Opportunity Zone Program, 1998 to 2004: Enlightened Economic Development or Corporate Welfare?*, A Thesis in Public Administration by David G. Argall, May 2006; and *An Evaluation of the Keystone Opportunity Zone (KOZ) and the Keystone Opportunity Expansion Zone (KOEZ) Programs in Rural Pennsylvania*, Paula A. Holoviak, Ph.D. and Damian Carabello, MPA, July 2006.

²As many Commonwealth industries declined (especially anthracite coal mining, transportation, railroading, manufacturing, and steelmaking), pockets of industrial and residential blight became evident in rural and urban areas alike. Such areas, generally referred to as "brownfields," are made up of abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

³See Appendix A for further information on Pennsylvania's Enterprise Zone Program.

As adopted in Pennsylvania, the KOZ Program was derived from the enterprise zone concept, but more directly owes its statutory language, structure, and purpose to the Michigan Renaissance Zone Act. Enacted in 1996 as the nation's first state program of its type, the Renaissance Zone Program offered Michigan businesses and residents certain tax exemptions and credits for up to 15 years if located in specifically designated "distressed areas."

During the late 1990s and, because of the mixed record of the state's Enterprise Zone Program, Pennsylvania's governor and his top economic policy advisors were looking for a policy alternative. They found this in the Michigan Renaissance Zone Program. Under the Michigan Program, certain regions of the state were designated as virtually tax-free for any business or resident presently in or moving to a zone. The zones were designed to provide selected communities with the most powerful market-based incentive—no taxes—to spur new jobs and investments.

Pennsylvania officials visited Michigan and subsequently utilized both the "Renaissance Zone" concept and design in creating Pennsylvania's Keystone Opportunity Zones." On January 16, 1998, Governor Tom Ridge announced this initiative and described his goals for the program:

Pennsylvania Keystone Opportunity Zones will seek to revive economically distressed urban and rural areas with a very powerful incentive: No taxes. This new tool is a dramatic enticement to attract private-sector investment and ultimately, to create jobs and build communities. . . . Therein lies the simple but novel logic behind this initiative. Why should government continue to tax areas that are economically barren? Instead, let's waive the taxes in those areas for up to 12 years in an effort to stimulate jobs and community development.

Program Purpose

Pennsylvania's Keystone Opportunity Zone (KOZ) Program was subsequently established in 1998 by the Pennsylvania Keystone Opportunity Zone Act, 73 P.S. §§820.101-820.1309. The program was intended to revive economically distressed urban and rural communities in Pennsylvania. Using the incentive of tax abatement, this initiative seeks to foster both private business and residential reinvestment in designated areas to regain the economic stability of these communities.

Under the "legislative findings" section of the 1998 Keystone Opportunity Zone Act, the General Assembly acknowledged the existence of economically distressed areas within the Commonwealth that are characterized by:

. . . high unemployment, low investment of new capital, inadequate dwelling conditions, blighted conditions, underutilized, obsolete or

abandoned industrial, commercial and residential structures and deteriorating tax bases.

This section of the act further states that these distressed areas require coordinated efforts by private and public entities to restore prosperity and the cooperative involvement of residents, businesses, state and local elected officials, and community organizations to create long-term economic viability.

Tax Abatement Benefits Available to KOZ Participants

State Taxes. The KOZ Program allows for certain state tax abatements to companies and individuals in the zones (KOZs, KOEZs, and KOIZs) for the life of the zones. (See Exhibit 1 for a summary of available state tax abatements.) While the KOZ Program does not eliminate all taxes within a zone, the following are examples:

- A qualified business or hired contractor is completely exempted from the payment of sales and use tax on goods or services used in a zone.
- Some or all (depending on the scenario) personal income taxes may be offset by a credit given to an individual who has resided in a zone for 184 consecutive days in a tax year.
- Income earned by a qualified business in a zone is not subject to personal income tax when passed through to the resident/non-resident shareholder, partner, or member.
- Corporation taxes for stock and franchise tax as well as corporate net income tax receive a credit that is apportioned based on a ratio of the business' activity in the zone compared with its overall state activity in the areas of property owned/rented and payroll paid.
- Tax credits are also available to certain financial institutions, for bank and trust company shares tax, alternative bank and trust company shares tax and mutual thrift institutions tax.
- Financial institutions that are qualified businesses may claim a credit against tax liability for business activity in a zone in a tax year, apportioned as a ratio of in-zone activity versus total state activity. The apportionment formula examines the financial institution's payroll, receipts, and deposits. The tax credit to financial institutions may not exceed 50 percent of the institution's available tax liability.

"Qualified businesses" in a KOZ are potentially eligible to receive credits or other abatements of certain state taxes. Under the KOZ law, a "qualified business" is "a business authorized to do business in [PA] which is located or partially located within a [zone] and is engaged in the active conduct of a trade or business . . . for the taxable year." Individual persons who are residents (and sometimes non-residents) of a zone for 184 consecutive days each year also receive applicable KOZ

Exhibit 1

State Tax Abatements Available Under the KOZ Program

Applicable Tax	What Is Covered	Level of Tax Abatement	Procedure
Sales and Use Tax	Goods and services used by a Qualified Business (QB) ^a in zone.	100 percent exemption	DCED determines QB; Revenue issues Cert. of Exemption; QB does not pay tax or can claim a refund if necessary.
Personal Income Tax	Specified (8) sources of personal income.	100 percent exemption for some sources of income; others are prorated based on ratio or relevant activity in zone to total activity. ^{b,c}	DCED determines QB (if relevant); Revenue sends KOZ PIT return form to control list of applicants. Form must be returned to Revenue by tax deadline.
Corp. Net Income Tax	Business activity in a zone that is directly attributable to QB in zone. ^d	A tax credit is given prorated based on the QB's activity in the zone (real and tangible personal property rented and used in the zone as well as payroll activity, such as compensation paid in the zone) divided by QB activity state-wide.	DCED determines QB; QB indicates KOZ/EIP on page 1 of Revenue Form RCT-101; tax is calculated without regard to KOZ benefits; form RCT-101 KOZ must be completed calculating apportionment; credit is then posted by Revenue when report is received.
Capital Stock Franchise Tax	Capital employed in a zone by QB.	A tax credit is given based on tax value attributable to capital employed in the zone. This is prorated similar to the NIT based on activity (property and payroll) in the zone divided by QB statewide activity.	Same as NIT.
B&T Co. Shares Tax, alternative B&T Co. Shares Tax, and Mutual Thrift Institutions tax.	Business activity in a zone that is directly attributable to QB in zone.	May not exceed 50 percent of tax liability. Tax credit given based on prorated apportionment calculation, looking at payroll, receipts, and deposits in the zone divided by state-wide activity of the QB.	DCED determines QB; QB calculates tax liability without regard to KOZ benefit; QB must complete one page credit schedule to compute tax credit.

^a"Qualified Business" under the KOZ law.

^bPersonal income tax exemptions are, briefly, as follows:

- Compensation received by zone resident (100 percent);
- NI of QB received by zone resident of nonresident attributable to business activity in zone (apportioned if includes out-of-state activity.)
- Net gains or income (less net losses) by resident or non-resident derived from certain property dispositions (prorated);
- Net gains (less net losses) by resident from disposition of publicly issued intangible personal property or obligations (prorated);
- Net gains or income for rents from property (real or tangible personal) in zone (prorated—only net income attributable to use in zone is exempt);
- Dividends received by zone resident (100 percent);
- Interest received by zone resident (100 percent);
- Income or gains, the part of which is received by an estate or trust required to be distributed or credited to a resident-beneficiary and which would have been exempt under the KOZ Act if received by resident-beneficiary directly.

^cNet income or gain attributable to certain transportation companies may not be used to calculate any of the PIT exemptions.

^dNot applicable to certain transportation companies.

Source: Developed by LB&FC staff.

tax benefits for the duration of the zone. For more discussion on the residential component of KOZ Program, see Section III.A-12.

No qualified business may claim or receive any type of abatement under the KOZ law unless that qualified business or person is in full compliance with all state and local tax laws, ordinances, and resolutions. At the local level this determination is to be made by regional KOZ Coordinators. At the state level, the DCED forwards completed applications to the Department of Revenue's Bureau of Compliance for review to see if all tax numbers on the application are registered. The Bureau then initially checks to determine if the applicant and all affiliates with 20 percent or more ownership have filed and paid all taxes on their records. Notice of any problems is given to the applicant's contact to work to resolve.

There is also an end-of-the-year review conducted by the Department of Revenue to ensure continued compliance by an applicant. This allows for benefits to be revoked after being granted if subsequent compliance issues arise. Revenue is implementing a new compliance program in 2009: the Revenue Integrated Clearance System (RICS). Under the RICS system, all tax numbers found on the KOZ applications will be automatically processed by the system and will indicate if the number is "clean." Clean tax numbers will be communicated to DCED for approval. Non-clean tax numbers will then be manually checked by a KOZ Compliance Unit employee in the Department of Revenue. Once DCED determines an applicant qualifies, the tax abatements are administered through the Department of Revenue.

Local Taxes. The KOZ law also authorizes and requires local municipalities (within approved zones) to grant relief (abatements, credits, etc.) from certain local taxes. Local municipalities must abate 100 percent of any real property taxation on the assessed value of deteriorated property in a zone. Qualifying residents of a zone also receive a 100 percent exemption from local earned income tax, and a 100 percent exemption, deduction, abatement or credit from any occupational privilege tax, income tax, or occupancy or use of real property tax imposed locally under the Sterling Act, the Public School Code of 1949, the First Class A School District Earned Income Tax Act, Act 1963-338, or the Intergovernmental Cooperation Authority Act for Cities of the First Class. Qualifying businesses in a zone receive relief from the following local taxes:

- Business gross receipts tax;
- Net profits tax;
- Business privilege tax;
- Occupancy or use tax;
- Mercantile license tax; and
- Local sales and use tax under construction contracts.

Local tax benefits under the KOZ law must be enacted by the local municipality by way of local ordinances and resolutions.

B. Legislative History

KOZ Enabling Legislation, Act 1998-92

As defined in the original enabling legislation, Keystone Opportunity Zones are defined-parcel-specific areas with greatly reduced or no tax burden for property owners, residents, and businesses. KOZs are designated by local communities and approved by the state. The Keystone Opportunity Zone Act, 73 P.S. §§820.101 – 820.1309, originally adopted by Act 1998-92, specifically provides that a Keystone Opportunity Zone (KOZ) is “a defined geographic area comprised of one or more political subdivisions or portions of political subdivisions designated by [the Department of Community and Economic Development (DCED)].” A KOZ is to be “comprised of deteriorated property⁴ and shall not exceed a total of 5,000 acres. KOZs are designated upon application of local political subdivisions and approval of DCED. (See the “KOZ Designation, Locations, and Expiration Dates” subsection which follows.)

DCED is to provide the organizational framework including the certification and oversight of KOZs. The statute also limited the DCED to authorizing not more than 12 KOZs in the Commonwealth. Once the zones were designated by DCED, each zone could then be further divided into a maximum of 12 subzones (with a minimum size of 20 acres for urban areas and 10 acres for rural areas).

Qualified persons or businesses within each KOZ receive certain tax exemptions, deductions, abatements, or credits provided in the act for a set period. Projects in Keystone Opportunity Zones are to receive priority consideration for State assistance under State community and economic development programs as well as community building initiatives. Projects in designated KOZs that are approved for Pennsylvania Industrial Development Authority (PIDA), or Small Business Financing receive the lowest interest rate extended to borrowers.

The original KOZ legislation gave KOZs an expiration date of December 31, 2008.

KOEZ Legislation, Act 2000-119

Act 2000-119 added Keystone Opportunity Expansion Zones (KOEZs). This legislation enabled areas of qualified property in the Commonwealth that missed inclusion in the original KOZ Program to be included through the creation of the

⁴Act 1998-92 defines “deteriorated property” as any blighted, impoverished area containing residential, industrial, commercial, or other real property that is abandoned, unsafe, vacant, undervalued, underutilized, overgrown, defective, condemned, demolished, or which contains economically undesirable land use. The term includes property adjacent to deteriorated property that is significantly undervalued and underutilized due to the proximity of the deteriorated property and property which has been designated as deteriorated property in accordance with any other act.

KOEZ component of the program. While the KOEZs are separately defined geographic regions, they appear simply to be expansions of the preexisting KOZs.

Under the KOZ Act, there are to be no more than 12 KOEZs, each designated pursuant to the same application process as the KOZs and each qualified pursuant to the same criteria. All qualified persons and businesses in a KOEZ receive the same tax breaks as in the original KOZs. KOEZs were to be comprised of no more than eight expansion subzones consisting of deteriorated property in any designated KOZ and not to exceed 1,500 acres in the aggregate. These KOEZs, which could be authorized by DCED until either December 31, 2010, or December 31, 2013, required the approval of all political subdivisions within which the proposed expansion subzones were to be located.

KOIZ Legislation, Act 2002-217

Keystone Opportunity Improvement Zones (KOIZs) were added in 2002 (Act 2002-217). Their insertion into the law is somewhat different from the expansion zones in that they are not specifically defined by the statutory definitions. And, instead of being applied for by local political subdivisions and then authorized by DCED, the KOIZs are designated by the Governor by executive order and then approved by local political subdivisions through resolutions or binding ordinances who seek approval of DCED for designation of certain deteriorated property as subzones. A KOIZ is comprised of subzones of deteriorated property designated by the Governor. The authorization criteria used for KOZs and KOEZs listed on Exhibit 2 do not apply. By January 1, 2003, the Governor had authority to designate deteriorated property as KOIZs, notwithstanding an area's designation as a KOZ or KOEZ. The period of tax break within a KOIZ is determined by the executive order creating it, not to exceed 15 years.

Additional Statutory Changes to the KOZ Program

The following additional statutory changes to the program have occurred since the last expansion of the program in 2002.

Enhancements to Existing Zones—Act 217 of 2002. Act 217 also provided for enhancements of existing zones. Existing zones may be enhanced, or enlarged, to include new property. All applications to enhance existing zones had to be filed with DCED on or before June 1, 2003, and required substantially all of the components of the applications that created the existing zones. Total acreage allotted to the original KOZ (5,000) or KOEZ (1,500) cannot be exceeded by the addition of the enhancement acreage. The enhancement will expire on the date on which the zone being enhanced expires.

Decertification—Act 217 of 2002. Act 217 also created a decertification process whereby one or more political subdivisions (or their designees) may apply to DCED to decertify and remove the designation of deteriorated property as part of a KOZ, KOEZ, or KOIZ subzone.⁵ Applications for decertification must contain an identification of the property to be removed, a copy of an agreement in which each entity which possesses an interest in the real property to be removed waives the party's right to any tax benefits granted in law, and a copy of a binding governing document (binding ordinance, resolution, or other document) removing any tax benefits granted in law upon official decertification by DCED. Grants for requests of decertification and removal of property may be given at any time by DCED provided that completed applications have been submitted by all qualified political subdivisions in which a property is located.

Enhancement Extension—Act 53 of 2003. Act 53 extended the time frame to accept applications for enhancements to the KOZs from June 1, 2003, to June 1, 2004. The resolutions required from local governments for this enhancement extension had to be completed by May 1, 2004.

KOIZ Extension—Act 53 of 2003. Act 53 also extended the deadline to submit applications for KOIZs from June 1, 2003, to June 1, 2004.

In addition, projects in Keystone Opportunity Zones are to receive priority consideration for state assistance under state community and economic development programs as well as community building initiatives. Further, projects in designated KOZs that are approved for Pennsylvania Industrial Development Authority (PIDA) or Small Business First Financing receive the lowest interest rate extended to borrowers. KOZ benefit recipients may be eligible for other programs administered by the DCED.⁶

KOZ Expansion Legislation—Act 79 of 2008. On July 10, 2008, Governor Rendell approved Act 2008-79, amending and expanding the KOZ Program. Act 79 extended the statutory duration of the KOZ Program and allows for certain program expansions. Specifically, Act 79 provided for the following:

- **Extension of Zones for Unoccupied Parcels** – Municipalities are permitted to request that KOZ benefits be extended to unoccupied parcels located within an existing KOZ, KOEZ, or KOIZ for either a flat seven-year period or ten years from the point of occupancy. Applications must be in by June 30, 2009. Also, subzones expiring on December 31, 2008, could apply to delay expiration until June 30, 2009.

⁵To date, no property in the KOZ Program has been decertified.

⁶KOZ Program Guidelines state that the DCED's Single Application for Assistance can be completed to apply for financial assistance from the Department's various funding sources. DCED encourages applicants to submit the Single Application for Assistance via online submission at www.newpa.com. Applicants may also call the DCED's Customer Service Center at 1-800-379-7448 or their local KOZ Coordinator.

- **Designation of Additional Zones** – DCED may designate up to 15 additional KOEZs, each to be not less than 10 acres in size (unless contiguous to an existing zone) and not to exceed, in the aggregate, 350 acres. These additional zones would be authorized for 10 years, from January 1, 2010, through December 31, 2020. Eligible parcels include those that are either (1) deteriorated, underutilized, or unoccupied at time of Act 79; or (2) occupied by a business that creates at least 1,400 jobs within three years and invests \$750 million in capital investment. Applications were to be received by May 1, 2009, for certification by DCED by June 30, 2009.
- **Expansion of Existing Zones for New Parcels** – Political subdivisions may apply to add up to 15 acres of contiguous deteriorated property to existing zones. Applications were to be received by December 31, 2008.
- **Substitution of Parcels Outside Existing Zone** – Existing subzones where development is substantially adversely impacted by governmental environmental prohibitions may apply to substitute other similar parcels within five miles (and the same county) for the affected parcels. Applications must be submitted by May 31, 2009.
- **Prohibition on Payments to Municipalities** – Businesses may not make payments to political subdivisions in exchange for designation or extension as a zone in excess of 110 percent of the amount of real property taxes payable for the prior tax year, which percentage may increase by the percentage increase in payments that would occur if the property was not tax exempt.
- **Prohibition on Illegal Alien Labor** – No person or business receiving KOZ benefits may knowingly (i.e., to have active knowledge or reason to know) employ or permit illegal alien labor under contract to which the person or business is a party. It is an affirmative defense to a violation of this provision if the person or business has required a contractor to certify compliance with the federal Immigration and Control Act attesting to their not using illegal labor. Violations of this provision require full repayment of the value or amount of the KOZ tax benefits only if the person or business is sentenced under Federal law for the knowing use of illegal alien labor or a contractor to that person is so sentenced and the person or business had reason to know of the contractor's knowing use of illegal alien labor.
- **Extension of Sales and Use Tax Exemption** – Current KOZ provisions for sales tax exemptions are extended to cover construction within a KOZ.
- **Modification of Formula for Attribution of KOZ-Specific Revenue** – The act changes the attribution of KOZ-specific revenue—for exemption from taxes—to a formula using only payroll and property, and removes the sales factor within the zone. This change went into effect December 31,

2008, while the remainder of Act 79 was effective within 60 days of the act.

KOZ Program Qualifications

- **Business Qualifications** – A business must own or lease real property in a KOZ and actively conduct a trade, profession, or business from the property and remain compliant with state and local tax laws and building codes. Existing business that are expanding, new businesses, and out-of-state businesses moving into Pennsylvania need only move into a KOZ, file a one-page annual application for benefits, and submit the application with a synopsis of the business, which contains a description of the business, job creation potential, and the anticipated capital investment.
- **Property Owner Qualifications** – Property owners must apply annually to the Department in order to receive approval for property tax abatement. If found to be noncompliant with any tax or zoning requirements during the calendar year, the applicant's status will be revoked and may be subject to penalties and/or recapture under the act.
- **Resident Qualifications** – Residents must maintain compliance with all state and local tax laws. They must reside 184 consecutive days, in the KOZ during each tax year.

Other related qualification provisions follow:

- All KOZ applicants must file an annual application with the Department.
- An existing Pennsylvania business relocating into a KOZ must meet one of the relocation provisions of the act.
- Any qualified business that has received KOZ benefits and moves out of the zone within the first five years may be subject to penalties.
- The KOZ Change of Status Notification must be submitted to the Department, if a change takes place.

Legislation Creating a Similar Program

Act 2006-151 amended the Tax Code to allow for the designation of Strategic Development Areas (SDAs). Act 151 provided for the creation of four SDAs to attract new businesses and encourage job growth. Modeled after the state's Keystone Opportunity Zone Program, this program provides tax incentives for businesses that commit to creating jobs and making significant monetary investments in key geographic areas of Pennsylvania. See Appendix B for further information.

C. KOZ Selection, County Coverage, and Expiration Schedule

The Selection Designation Process

The Keystone Opportunity Zone Act required that proposed Keystone Opportunity Zones and Keystone Opportunity Expansion Zones meet at least 2 of 12 criteria in order to qualify for authorization. The act also set forth 10 additional criteria which, although not required to qualify for zone designation and authorization, were to be considered by DCED in making zone designation determinations. A listing of these criteria is presented in Exhibit 2.

DCED (in consultation with the Department of Revenue) was charged in law to authorize up to 12 KOZs and up to 12 KOEZs meeting the criteria specified in law and “based upon need and likelihood of success.” Upon approval, DCED could not, however, alter the geographic boundaries or duration of any subzones or expansion subzone described in an application. Enhancements to existing KOZs and KOEZs were also authorized to be made by DCED meeting the criteria in law and “based upon need and likelihood of success as determined by [DCED].”

For proposed KOZs and KOEZs, one or more political subdivisions (or their designee(s)) were required to submit an application to DCED to designate deteriorated property within the political subdivision or portions thereof as a subzone or expansion subzone.

The applications were to include the following:

- The geographic area of the proposed KOZ or KOEZ (not to exceed 5,000 acres for a KOZ and 1,500 acres for a KOEZ).
- A nine-part “Opportunity Plan.”
- A report on youth at risk, including issues relating to health, welfare, and education.
- The duration of the proposed subzones or expansion subzones (not to exceed 15 years for subzones and 13 years for expansion subzones).
- Formal, binding ordinances or resolutions passed by every political subdivision in which the proposed subzone or expansion subzone is located, specifically providing for all local tax exemptions, deductions, abatements, or credits for persons and businesses as set forth in law.
- Evidence that the proposed KOZ or KOEZ meets the criteria for authorization.

Selection Criteria Used to Evaluate Pennsylvania KOZ Program Zone Applications

By law, there are 12 primary criteria that the DCED was to use in evaluating KOZ/KOEZ applications. The proposed zone must have met at least two of the following criteria to qualify:

- At least 20 percent of the population is below poverty level.
- The unemployment rate is 1.25 times the statewide average.
- At least 20 percent of all real property within a five-mile radius of the proposed KOZ or sub-zone in a non-urban area is underutilized or deteriorated.
- At least 20 percent of all real property within a one-mile radius of the proposed KOZ or sub-zone in an urban area is underutilized or deteriorated.
- At least 20 percent of all occupied housing within a two-mile radius in a non-urban area is deteriorated.
- At least 20 percent of all occupied housing within a one-mile radius in an urban area is deteriorated.
- Urban area: The median family income is 80 percent or less of the median family income for that metropolitan statistical area.
- Non-urban area. The median family income is 80 percent or less of the non-MSA statewide median family income.
- Population loss exceeds 10 percent in an area that includes the proposed zone and its surrounding area.
- The area has experienced a severe job loss.
- At least 33 percent of the real property (in a non-urban area) would remain underdeveloped or non-performing due to physical characteristics of the real property.
- The area has substantial real property with adequate infrastructure and energy to support new or expanded development.

In addition to meeting two of the previous 12 criteria, other factors to be considered included:

- Evidence of distress (including, but not limited to, unemployment, percentage of population below 80 percent of the state median income, poverty rate, deteriorated property, and adverse economic and socioeconomic conditions).
- Strength and viability of proposed goals, objectives, and strategies included in the opportunity plan.
- Creativity and innovation of the opportunity plan, compared to other applications.
- Local public and private commitment to the development of the zone and cooperation of surrounding communities.
- Existing resources available.

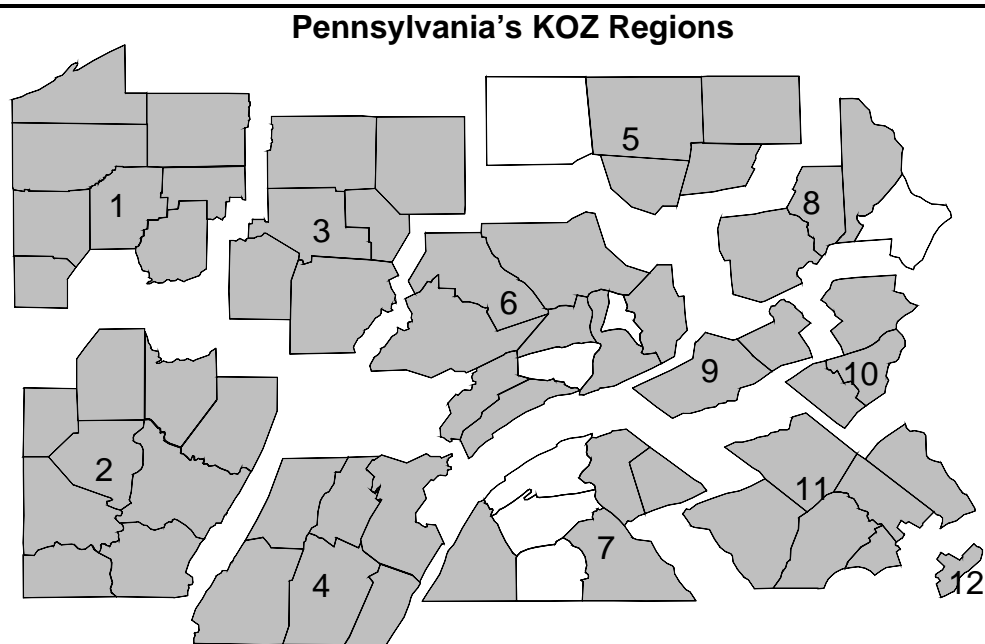
Exhibit 2 (Continued)

- How the KOZ and economic redevelopment relate to other current economic and community development projects and regional initiatives or programs.
- How the local regulatory burden will be alleviated.
- Proposals for educational opportunities and improvement.
- Crime statistics and proposals for crime reduction.
- Proposals linking job creation and training.
- All political subdivisions participating in the application process must have passed an ordinance or resolution (effective on or before January 1, 1999) that exempts or provides deductions, abatements, or credits to qualified persons and businesses from local taxes. If the political subdivision was designated as part of a KOZ, the resolution/ordinance is binding and non-revocable for the duration of the opportunity plan.
- The Department of Community and Economic Development defines “urban area” for the purposes of receiving applications and designation of KOZ.

County Coverage

DCED subsequently approved 12 zones (see Exhibit 3) and 198 subzones covering 61 of the Commonwealth's 67 counties. As shown in Table 1, total acreage in the 12 zones as of CY 2006 was reported to be 46,853 acres. (This is the latest acreage data available from DCED as of May 2009.)

Exhibit 3



Note: Counties with no KOZ subzones (those not shaded on the above map) include Adams, Cumberland, Montour, Perry, Pike, Snyder, and Tioga.

Source: Developed by LB&FC staff from DCED program materials.

Table 1

Keystone Opportunity Zone Descriptions
(As of CY 2006)*

<u>Zone</u>	<u>Counties^a</u>	<u>KOZ Acres</u>	<u>KOEZ Acres</u>	<u>KOIZ Acres</u>	<u>Total Acres</u>
Northwest	Butler, Clarion, Crawford, Erie, Forest, Lawrence, Mercer, Venango, Warren	5,000.00	1,000.00	162.00	6,162.00
Southwest	Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington, Westmoreland	4,947.51	1,242.35	65.57	6,255.43
North Central	Cameron, Clearfield, Elk, Jefferson, McKean, Potter	2,666.13	1,486.47	12.06	4,164.66
Southern Alleghenies	Bedford, Blair, Cambria, Fulton, Huntingdon, Somerset	4,972.26	1,477.59	0.00	6,449.85
Northern Tier	Bradford, Sullivan, Susquehanna, Wyoming	187.00	179.00	0.00	366.00
Central	Centre, Clinton, Columbia, Juniata, Lycoming, Mifflin, Northumberland, Union	3,631.45	1,335.72	114.04	5,081.21
South Central	Dauphin, Franklin, Lebanon, York	820.00	119.00	40.00	979.00
Lackawanna/Luzerne	Lackawanna, Luzerne, Wayne	5,000.00	1,500.00	0.00	6,500.00
Schuylkill/Carbon	Carbon, Schuylkill	2,551.97	973.50	0.00	3,524.47
Lehigh Valley	Lehigh, Monroe, Northampton	660.93	716.48	0.00	1,377.41
Southeast	Berks, Bucks, Chester, Delaware, Lancaster, Montgomery	1,430.93	548.48	1,258.90	3,238.31
Philadelphia	Philadelphia	<u>1,393.00</u>	<u>892.00</u>	<u>470.00</u>	<u>2,755.00</u>
Totals		33,260.20	11,470.59	2,122.57	46,853.34

*Most recent data available as of May 2009.

^aCounties with no KOZ subzones were Adams, Cumberland, Montour, Perry, Pike, Snyder, and Tioga.

Source: Developed by LB&FC staff from DCED program materials.

KOZ Expiration Dates

KOZ, KOEZ, and KOIZ subzones are scheduled to expire in 2008, 2010, 2013, and 2018. As shown in Table 2 the majority of the existing 195 program subzones are scheduled to expire in 2010; at which time 103 will expire, followed by the scheduled expiration of 76 subzones in 2013. Seven KOIZ subzones are scheduled to expire in 2018. Nine subzones were scheduled to expire in 2008; seven of which are in the Southern Alleghenies zone and two in the Central zone.

Table 2

Expiration Dates of Pennsylvania KOZ, KOEZ, and KOIZ Subzones, by Region*				
<u>KOZ Regions</u>	<u>Number of Subzones Expiring</u>			
	<u>2008</u>	<u>2010</u>	<u>2013</u>	<u>2018</u>
Northwest.....	0	9	10	1
Southwest	0	13	9	1
North-Central	0	17	2	1
Southern Alleghenies.....	7	3	7	0
Northern Tier.....	0	3	7	0
Central.....	2	5	9	0
South-Central	0	5	3	1
Lackawanna-Luzerne.....	0	8	7	0
Schuylkill-Carbon	0	12	6	0
Lehigh Valley	0	15	0	0
Southeast.....	0	1	8	1
Philadelphia	<u>0</u>	<u>12</u>	<u>8</u>	<u>2</u>
Total	9	103	76	7

*Note: This expiration schedule does not take into account any zone or subzone expansions or extensions authorized by Act 2008-79. Applications for expansions and extensions were to be submitted to DCED between December 2008 and May 2009.

Source: Developed by LB&FC staff using information obtained from the PA Department of Community and Economic Development.

D. Program Implementation and Administration

Implementation and administrative responsibilities for the KOZ Program are shared among state agencies, local KOZ coordinators and subzone coordinators, and local political subdivisions. The state agencies include the DCED, which is the lead agency for the program, the Department of Revenue and the Department of Labor and Industry. (See Exhibit 4 for a summary of the key administrative duties and responsibilities involved in KOZ operations.)

A Summary of Statutory Duties and Responsibilities Related to the KOZ Program*

Department of Community and Economic Development

- Administratively houses the program.
- Authorizes and oversees the designation of KOZs/KOEZs, the subzones and any decertification of zone property. (KOIZs were designated by the Governor by executive order.)
- Receives and reviews completed applications for benefits.
- Must notify applicants of approval or denial.
- May enforce violations through civil penalties.
- Is to enforce statutory requirements pertaining to businesses that relocate from outside a KOZ to within a KOZ.
- May waive recapture provisions in certain relocation situations.
- Provides technical assistance to local governments, including assistance to political subdivisions in using the Internet as a tool for encouraging new business development, establishing annual benchmarks, and annual reporting requirements.
- Provides one-time implementation grants.
- May give priority consideration (and financing rates) for KOZ projects.
- May promulgate regulations.
- Is to develop and implement a consolidated marketing strategy for the KOZs for use in job attraction and retention activities.
- Must give four-year report on program effectiveness to the General Assembly.

Department of Revenue

- Conducts tax compliance checks on program applicants.
- Oversees the implementation and enforcement of the tax benefits aspect of the program.
- May recapture (or waive recapture) tax benefits where businesses move out within five years if notified by the DCED Monitoring Division.
- May promulgate regulations.
- May enforce violations through administrative penalties.

Department of Labor and Industry

- Determines program applicants' Unemployment Compensation tax compliance status.

Exhibit 4 (Continued)

Local Political Subdivisions

- Apply for zone and subzone designations (meeting statutory criteria).
- Must allow for local tax benefits.
- May recapture local taxes if business relocates out of zone within five years.
- May apply to decertify zone property.
- Must provide an annual update of real property ownership and other information to the Department of Revenue.

Applicants

- File application for tax benefits by 12/31 each year.
- Must meet statutory qualifications.

*Note: There is no statutory reference to local KOZ Coordinators and Subzone Coordinators in the law.

Source: Developed by LB&FC staff using information obtained from the KOZ statutes.

Department of Community and Economic Development (DCED)

Program administration is organizationally located in the Site Development Division and the Performance Monitoring Division within the DCED's Center for Business Financing.

The Site Development Division in the Center for Business Financing has primary program administrative responsibility. The Director of the Site Development Division, who works part-time on KOZ-related duties, has supervisory responsibility over program administration, with a KOZ Manager and several assistant analysts charged with the processing and approval of KOZ Program applications.

The KOZ Manager and assistant analysts receive and process program applications and maintain electronic and hard-copy files of program participants' completed applications and supporting documentation. The KOZ Manager oversees the electronic applicant and program participant database (maintained in Microsoft Access), which serves as the central repository of records on all program applicants and participants. The KOZ Manager also serves as the Department's central point-of-contact for questions related to the program from program applicants, program participants, and Zone and Subzone coordinators.

The Performance Monitoring Division within the Center for Business Financing is charged with two functions with respect to the KOZ Program: (1) measuring whether program participants that were existing Pennsylvania businesses and subsequently relocated into a KOZ had met one of three requirements specified in law to maintain eligibility for KOZ tax benefits; and (2) determining whether businesses that moved from a KOZ after having been located there for less than five years and receiving program tax benefits are required to refund any portion of those benefits received to state and local authorities (known as the "clawback" provision of the program). The Division does not engage in any monitoring of resident KOZ applicants.

The Performance Monitoring Division was created in late 2002 in order to achieve centralization of the performance monitoring function within the Department. As such, in addition to KOZ, the Division has been involved with a number of other DCED programs that have performance monitoring requirements. From its creation until early 2008, the Division was staffed by a Director, two analysts, a full-time clerk typist and part-time clerk typist. By mid-2008, both analyst positions became vacant and, since that time, an analyst with the Small Business Financing Division has provided services to the Performance Monitoring Division on a part-time basis. Also, until the current year, the same individual has served as Director of the Division. However, in January 2009 he accepted a position in a different division within the Center for Business Financing and, since that time, the

Director position has been vacant. As of May 2009, the functions of the Performance Monitoring Division are being carried out on a part-time basis solely by one individual assigned to a different organizational location.

Department of Revenue

The Department of Revenue is responsible for verifying the state tax compliance status of program participants and processing tax returns filed by program participants claiming program tax benefits.^{7, 8} The Department completes these functions for both business and resident program participants. The Department's point-of-contact for the program is located within the Bureau of Business Trust Fund Taxes. This position is staffed by a DCED Liaison/Economic Coordinator, who is assigned KOZ Program responsibilities on a part-time basis. While a Department staff member previously worked full-time on KOZ Program-related duties, no Department staff currently work full-time on KOZ Program-related duties. The Department's KOZ liaison indicated that there are four Department of Revenue staff members who have part-time responsibilities related to the KOZ Program. On a combined basis, 2.8 full-time equivalent Revenue Department staff persons are assigned to the KOZ Program.

Department of Labor & Industry

The Department of Labor and Industry is responsible for determining program applicants' Unemployment Compensation tax compliance status. The Tax Clearance Section of the Department's Office of Unemployment Compensation Tax Services receives completed KOZ applications and, upon determining an applicant's Unemployment Compensation Tax compliance status, classifies each applicant as being either "compliant," "non-compliant," or "unknown" (if no record is present). Approval is granted if a "compliant" or "unknown" is assigned to an applicant. Staff responsible for this action within the Department is networked with and have "write access" to the Site Development Division's KOZ database, allowing for direct access and changes to be made on a designated compliance status box located on a form within an applicant's record.

KOZ Zone and Subzone Coordinators

Keystone Opportunity Zone Coordinators serve as the local point-of-contact for the program. KOZ Coordinators are typically either members of a regional or

⁷No qualified business may claim or receive program tax benefits if any person or business with a 20 percent interest or greater in that qualified business is not in full compliance with all state and local tax laws, ordinances, and resolutions.

⁸The Department of Revenue is also the intended recipient of annual updates of real property ownership and other information from KOZs and KOEZs that received implementation grants as per the Keystone Opportunity Act.

local planning and/or development commission or an economic/industrial development entity. One coordinator is designated for each of the 12 zones. While their designation, duties, and responsibilities are not set forth in law, KOZ coordinators are responsible for determining program applicants' compliance with all applicable local taxes and codes during the application process. KOZ coordinators also serve as providers of technical assistance to subzone coordinators, program participants, and applicants related to program policies and procedures. In this regard, coordinators may assist prospective participants in the identification of KOZ parcel locations (buildings and/or land).

During the application process, KOZ coordinators are to forward the applicant's compliance status to DCED within 15 business days of receipt of the application. This is completed via e-mail to the KOZ Manager in DCED's Site Development Division. Prior to the electronic submission of program applications through the DCED website, Zone Coordinators serve as the initial point-of-receipt for paper applications. Zone Coordinators reportedly receive completed applications simultaneously with DCED, the Department of Revenue, and the Department of Labor and Industry.

Zone Coordinators fulfill the role of general oversight of all designated KOZ, KOEZ, and KOIZ parcels located within the geographic boundaries of the zone. In this capacity, they are to serve as the local point-of-contact and liaison between program participants and DCED. Zone coordinators designate subzone coordinators to oversee individual subzones within the geographical boundaries of their KOZ. Zone Coordinators also assist entities within their zone in the program application process, and respond to questions regarding program opportunities emanating from program participants and prospective applicants.

Subzone coordinators primarily serve as an intermediary between program participants/applicants and the Zone Coordinator. In this role, they may facilitate the application process, respond to questions from applicants and program participants, and compile data for Zone Coordinators. In some cases, subzone coordinators are employed by program participants.

III. Study Findings and Conclusions

A. Deficiencies in Program Data Prevent a Comprehensive and Quantifiable Assessment of the Overall Effectiveness of the KOZ Program.

1. KOZ Program Records Are Poorly Organized and Incomplete.

Reasonably complete and accurate program records and data systems are necessary for effective program implementation, management, and monitoring purposes. Such records and data are also the starting point for any comprehensive study or evaluation of the effectiveness of a governmental program. We found, however, that records for the KOZ Program's first four years (1998 through 2002) are missing, with the assumption being that these files were either retained by a contractor or misplaced when a four-year review of the program was conducted in 2002.

We therefore focused our examination of KOZ Program records for the period CY 2003 through CY 2006. We found these KOZ Program records to be poorly organized and incomplete. We also found that the program does not have a formal management information system¹ or applicant master files and there are no central office guidelines or standards relating to program record-keeping practices or filing requirements. Likewise, reporting requirements and the nature and content of program files to be maintained at the KOZ regional and subzone levels are not defined.

Records maintained by DCED on the KOZ Program consist primarily of the single-page application form that is filed annually by program participants along with copies of related file notes, e-mails, and internal and external correspondence.

For most of the program's history, KOZ records were maintained in hard-copy paper format. Each year, DCED staff filed applicant/program participant records in folders numbered sequentially by year and in the order received (i.e., year - #). Under this approach, each year's records are self-contained with no provision to cross-walk individual program participants' records from one year to another, making it difficult, if not impossible, to monitor changes in a KOZ business over time.

In mid-2006, DCED program staff discontinued the filing of paper records of program files and supporting documents.² In lieu of paper record-keeping, an

¹As used in this context, this term refers to a computer-based system that regularly collects and transforms program data into information useful in the support of program administration, and for analysis, decision-making, and oversight purposes.

²Paper records are still maintained, however, for existing Pennsylvania businesses that have relocated into a qualified zone.

electronic archive of applicant files, by year and applicant name, is now used. Stored in each applicant's electronic file are their completed application and supporting documents such as leases and official program letters mailed to applicants. E-mail messages associated with applicants are also stored in these electronic files or archived in Microsoft Outlook. Files are set up on a year-by-year basis based on the chronological order of application receipt.

We made the following additional observations concerning the structure and content of KOZ Program files:

- *Absence of Program Participant Master Files.* As previously noted, the DCED uses a method of file management that provides each individual application and applicant a new identification number every year. Further, for businesses or other entities that submit more than one application, different file numbers and files are established for each.

All participants that renew their KOZ application(s) receive new identification numbers that are entirely different from their identification numbers from previous years. Therefore, participants may be assigned many different identification numbers over the course of their participation in the KOZ Program. There are no master files, in hard-copy or electronic form, for program participants in this filing system. Without a single file for each business or a cross-walking system, it is very difficult to track the files and records of program participants from one year to another.

No program participant "master files" are maintained. Ideally, a master file would be maintained for each program participant that would contain key program data such as historical job creation, job retention, and capital investment figures, business synopses, and other performance benchmarks. The absence of a master file for each program participant fragments program record-keeping and makes program monitorship difficult.

- *Incomplete Program Files.* We found that the program records we reviewed for CY 2006 were incomplete. Specifically, we observed that program records are "incomplete" in the sense that entire project files, in some cases, could not be located. As discussed later in this section, we also found that project files are "incomplete" in the sense that certain required items and documentation that should be in each file are not there. Based on our examination of CY 2006 files, 3 percent of program applications (i.e., 97 of 3,274 files) could not be located.
- *General Absence of Information on Actions Taken by KOZ Program Participants to Remedy Noncompliance Notices.* The CY 2006 applicant files that we examined typically included copies of correspondence from the DCED Secretary approving their application and stating that they are entitled to certain tax credits or exemptions. The files also frequently

include an initial letter of noncompliance from the DCED Secretary to the applicant. Such letters state that certain actions are necessary in order for the applicant to come into compliance and gain eligibility for KOZ benefits. We observed that acceptance correspondence signed by the DCED Secretary often follows the Secretary's initial notices of noncompliance, although there is no documentation in the file to verify when and what corrective actions the applicant had taken to become compliant.

- *Program Records Do Not Differentiate Between KOZ, KOEZ, and KOIZ Participants.* Program files do not indicate whether or not a program participant is located in a KOZ, a KOEZ, or a KOIZ. It is important to differentiate between participants who are located in a KOZ, KOEZ, or KOIZ because the program provisions and guidelines differ for each. The KOZ application does not require that KOZ "type" be provided by the program participant, and this information does not otherwise appear in the program participant files we examined.
- *Non-Uniform Recordkeeping at the Local Level.* At the local level, the content and structure of program files are determined by the various KOZ coordinators. We observed substantial variation in local record-keeping in the KOZ Program based on field visits to five KOZ regions. Based on limited sampling, we also observed inconsistencies in program participant data between reports obtained from KOZ coordinators and data obtained from central office reports based on program applications.

The program records and application files for CY 2007 were not provided to LB&FC staff until late January 2009. As previously discussed, CY 2007 was the first year in which DCED created a complete electronic file for all applications. Due to acknowledged data and performance measurement shortcomings, the DCED, in 2007, had staff contact all program applicants by telephone in an attempt to clarify and verify reported information.

Update on Related DCED Actions:

As of April 1, 2009, the KOZ staff was continuing to work on improvements to the KOZ online application, the primary source of data on businesses enrolled in the program. In order to create a central repository of data coming in, DCED staff members worked with IT staff to develop a relational database that allows KOZ staff to easily access information that is included on KOZ Program applications.³

With this database, all businesses are assigned a FEIN (Federal Employer Identification Number). This number is comparable to an individual's Social

³As defined in *PC World Magazine* online, a relational database is a database that maintains a set of separate, related files (tables), but combines data elements from the files for queries and reports when required. (http://www.pcmag.com/encyclopedia_term/0,2542,t=relational+database&i=50369,00.asp#)

Security Number. The number is unchanging and stays with the business for the lifetime of the business. This number can then be used to search for businesses in the DCED electronic database. Even though the business, depending on the number of years in the program, will have several application numbers (and even variations in the business name), searching using the FEIN will pull up all relevant KOZ information from all years in the program (i.e., all information included in the applications).

DCED has also addressed the problem of missing paper files. Previous to the creation of the relational database, DCED had a database that combined information entered from the paper KOZ applications. This previous database had very limited functionality. Reports could be generated, but there was no guarantee that the number and names of applicants from one report would match those of other reports. However, DCED staff manually entered all information into the previous database, generating an electronic record for each program participant. Additionally, all supplementary information (decline letters, compliance letters, etc.) has been scanned and appears on the DCED shared drive (R:\ drive). Although paper files were found to be missing, we were able to find an electronic file with requisite information for the participant.

Non-uniform record-keeping at the local level will likely remain an issue, although some improvement should be realized. KOZ coordinators will continue to be allowed to maintain records as they choose, but accountability is expected to be enhanced by assigning certain duties and responsibilities to KOZ coordinators as documented in the Keystone Coordinator Program guidelines (released by DCED in March 2009). Included among the enhanced “scope of services” to be provided by KOZ coordinators are obligations to complete local approval forms for each new applicant, and assist in collecting data (including jobs and investment data) as requested at any time by DCED. Coordinators will also have increased monitoring and reporting responsibilities.

2. From Available KOZ Records, It Is Very Difficult to Determine the Total Number of Projects or Participants Currently Active in the Program.

The number of individuals, businesses, or other entities classified as program clients, beneficiaries, or participants is a basic measure of program activity. In the case of the KOZ Program, references in DCED materials during the early years of the program were to “KOZ projects” rather than individual businesses or property owners. For example, for the period January 1, 1999, through February 25, 2000, the 12 KOZs reported a total of 70 “projects.”

KOZ Program staff told us, however, that the term “project” is no longer used to refer to program activity. Instead, individuals and entities that successfully apply for acceptance into the KOZ Program are referred to as “program participants” and are further categorized as one of the following: a business, a resident, or a property owner. We requested statistical data from DCED on the numbers of businesses, residents, and property owners in the program in CY 2006 and annual data and overall trends since the start of the program.

We found that detailed annual data on program participation is not available for the early years of the program (1999 through 2002). One internal document we examined, however, listed total “KOZ applications filed and processed per year” for the period 1999 through 2005. This information showed the number of KOZ Program applications filed and processed increasing from 918 in 1999 to 2,877 in 2005. There is presumably duplication in this figure but no further breakdown or documentation of this statistical report is available.

While KOZ Program staff were not able to provide us with a specific count on the number of CY 2006 program participants, they initially estimated it to be in the 3,500 to 4,000 range. In an attempt to calculate the number of program participants, we subsequently conducted a physical count of CY 2006 KOZ Program files. We found that the filing system numbered from 1 through 3,274. Paper files numbered to 1,813, and the remaining 1,462 files were available electronically. Of the 1,813 paper files, we could not locate 97. We therefore concluded that the number of program participants, based on the KOZ applications file for 2006, was 3,178.⁴

To corroborate this figure, we requested various other program records from DCED. We obtained several individual data reports and listings of businesses, residents, and property owners whose KOZ Program applications had been approved. In some cases, this information pertained only to 2006 while others covered calendar years 2003 through 2006. The records provided by DCED staff included the following:

⁴DCED staff subsequently reported locating the 97 missing files. DCED staff discontinued paper filing of KOZ applications during CY 2006. In lieu of paper record-keeping, an electronic archive of applicant files, by year and applicant name, is now used. Completed applications and related supporting documents such as leases and pertinent letters mailed to applicants are to be stored in each applicant’s electronic file.

- A listing of “KOZ Program Participants, by Application Number and Date,” CY 2006.
- An untitled printout containing information on reported jobs and capital investment, by KOZ region and program participant, CY 2003 through CY 2006.
- A listing entitled “DCED Approved Status Report,” by KOZ region and entity name, CY 2003 through CY 2006.
- Untitled printouts listing KOZ Program participants, residents, property owners, and businesses, by KOZ region and address, CY 2006.

Using the above-listed reports, we focused on CY 2006 data and sought to arrive at what could be considered the actual number of “program participants” in the KOZ Program. In working with the four listings, however, we found an overriding lack of consistency and agreement from one set of data to another for the same KOZ regions and time periods. Overall, we were not able to arrive at a reliable figure on the number of participants in the program. Instead, depending upon the list used, we found the total reported number of KOZ participants in 2006 ranging from a low of 1,049 based on a listing of program participants on the “jobs and capital investment report” to a high of 3,898 based on a report referred to as the “program participant breakdown report” (see Table 3). These compare to our previously described physical count of program files that totaled 3,178.

Table 3

Number of 2006 KOZ Program Participants, by Region			
<u>Region</u>	<u>Number of Participants Based on the:</u>		
	<u>Jobs/Capital Investment Report</u>	<u>DCED Approved Status Report</u>	<u>Program Participant Breakdown Report</u>
Northwest.....	112	233	320
Southwest	92	229	287
North Central.....	69	176	234
Southern Alleghenies....	29	87	110
Northern Tier.....	4	12	19
Central PA.....	50	112	174
South Central	44	104	142
Lackawanna/Luzerne....	200	592	901
Schuylkill/Carbon	53	147	189
Lehigh Valley	47	92	129
Southeast.....	102	745	820
Philadelphia	<u>247</u>	<u>446</u>	<u>573</u>
Total.....	1,049 ^a	2,975	3,898

^aDCED staff speculated that there was a substantially lower number of participants on this list because the list included only those participants who had reported jobs and/or capital investment on their CY 2006 applications. We found, however, that 326 participants, or 31.1 percent of the total, reported no job creation on this report.

Source: Developed by LB&FC staff using KOZ Program records obtained from DCED.

The “jobs and capital investment report” is particularly confusing. This is an internal print-out report that lists KOZ Program participants, by region, county, and municipality. While it is presumably intended as a complete list of all program participants that report job creation and/or capital investment activity, the CY 2003 through CY 2006 reports we examined also listed other participants. We found, for example:

- a substantial number of cases in which a participant is included on this list even though they report no job creation and/or no capital investment (DCED staff told us, however, that this report lists only those participants who report jobs or capital investment); and
- numerous instances in which participants appear on the “jobs and capital investment report listing” but not on DCED’s “approved project status report.” Based on our examination of CY 2006 program records, a total of 97 businesses reported (in the DCED “Jobs and Capital Investment Report”) that they created jobs and/or generated capital investment in a KOZ despite not being listed by DCED as an “approved project” for CY 2006 (on the “DCED Approved Status Report”).

Using yet another DCED internal report that represents a chronological listing of KOZ Program applicants (based on the date of application submission), we calculated the total number of 2006 KOZ Program participants at 2,988.

Other factors further complicate the determination of exactly how many “participants” are enrolled in the program:

- When DCED uses the term “participant” it is actually referring to an “application.” Some participants have many separate applications. For example, various financial services and investment firms submit many individual applications for separate and individual funds, accounts, or sub-units within the same business organization. Thus, in equating the terms “application” to “program participant,” one firm with 20 applications would be counted as 20 “participants” (rather than one).
- Some entities and individuals having the exact same, or similar, name are listed separately multiple times on the DCED listings.
 - In some cases, entries that are exact duplicates exist on program participant listings (e.g., on the “jobs and capital investment report”). For example, the ABC Company is listed twice or more as a participant in a given calendar year, with each listing having a different KOZ file number and application form but the same street address.
 - In other cases, business entities with very similar names (often at the same address) are listed numerous times each with a different KOZ file number, application form, and file.

- Some listings differ only in abbreviation that follows their name, i.e., Inc., Ltd., LLC, LP, Partnership: for example, Smith Technologies, Ltd., Smith Technologies LLC, Smith Technologies, LP. It appears that DCED records each of these as a separate KOZ “participant.”
- There are inconsistent listings of KOZ residential and property owner participants in the program depending upon the list examined.

We concluded that, given the current method of program application and record-keeping at the central office level, it is not possible to compile an accurate, unduplicated listing of KOZ Program participants.

Update on Related DCED Actions:

DCED staff report that they have been working on reconciling internal reports and that there are different reports available that can be tailored to meet specific inquiries. They note, however, that the standard “Application Dates Report” is the report that can be used to determine the actual number of program participants. The DCED’s current description of this report is as follows:

Applicant Dates Report – This report lists applicants in numerical order by application identification number. It contains the applicant name, date the application was received, date the application was entered, date the most recent letter was mailed, zone and current status. It can be filtered by year, zone, and status.

We concur that the refined “Applications Dates Report” should provide an accurate number of program applications for a given calendar year. The problem that remains, however, is the distinction that needs to be made between “program applications” and “program participants.” While program application should equate on a one-to-one basis for residential participants, such would not be the case for property owners and businesses.

For example, it is clear from KOZ Program records that a single property owner (e.g., a developer), who would legitimately be viewed as a single “program participant,” may have many separate applications for many separate parcels of land. Likewise, a single firm or business often has multiple applications for various sub-units or subsidiary operations of the business enterprise. In such cases, the business represents just one program participant even though it may have ten separate KOZ applications. While it may seem a technicality, it is not accurate to use the terms “application” and “program participant” interchangeably when referring to the KOZ Program.

3. DCED Does Not Maintain Information on the Types or Nature of Business Activity Generated by the Program.

Another key measure of the operation and effectiveness of an economic development initiative such as KOZs is the nature of the businesses that participate in and benefit from the program and the kinds of jobs they bring to the community. To assess this measure, HR 115 requires that the LB&FC identify the kinds of businesses that participate in the KOZ Program and the types of new businesses that have been created as a result of the program.

We found, however, that DCED does not collect or compile program-wide data either on the specific nature and types of businesses that are enrolled in the KOZ Program or the types of jobs and associated salaries/wages they generate. The provision of information on the applicant's business type (for example, by business or industrial classification types/codes) has not been a part of the application process and it is not otherwise available at the DCED Central Office. Likewise, DCED does not require or request that participating businesses supply information on the categories or types of jobs created or retained as a result of their KOZ status and/or the salary/wage levels associated with created and retained jobs.

In attempting to analyze the nature of the businesses participating in the KOZ Program, it was first necessary to determine the number of all program participants that are actually operating businesses. As discussed in the previous subsection ("Number of Program Participants"), businesses, residents, and/or property owners are enrolled in the KOZ Program. One of the three primary DCED print-outs on program participants differentiates among applicants on this basis. Using this listing for CY 2006, we determined that the reported split among these groups was as follows: 41 percent businesses, 23 percent residents, and 36 percent property owners. (See Table 4.)

The only information contained in the CY 2006 program applications regarding the type of business applying for benefits is an indication of how the applicant business reports to the Internal Revenue Service (IRS.) These classifications include LLC, C Corp, S Corp, Non-Profit, Trust/Estate, Sole Proprietorship, or Non-Profit Authority and are not meaningful for purposes of responding to the question posed by HR 115. No other information is present on the program application that could identify businesses by type. DCED program staff indicated that Zone Coordinators may be able to classify participating businesses by type but have not been requested to do so in a comprehensive manner. The absence of this program data on business types prevents the compilation and classification of data for purposes of central office program management, legislative oversight, and public information.

Table 4

Classification of KOZ Program Participants, by Region
(Based on CY 2006 Data)

	<u>KOZ</u>	<u>Residents</u>	<u>Businesses</u>	<u>Property Owners</u>	<u>Total</u>
1. Northwest		24	152	144	320
2. Southwest.....		17	117	153	287
3. North Central		0	107	127	234
4. Southern Alleghenies		16	29	65	110
5. Northern Tier		0	9	10	19
6. Central.....		0	80	94	174
7. South Central.....		34	63	45	142
8. Lackawanna/Luzerne		197	311	393	901
9. Schuylkill/Carbon.....		6	86	97	189
10. Lehigh Valley		18	66	45	129
11. Southeast		591	103	126	820
12. Philadelphia.....		0	453	120	573
Totals.....		903	1,576	1,419	3,898
% of Total		23.2%	40.4%	36.6%	100.0%

Source: Developed by LB&FC staff using information obtained from DCED program files.

We also sought to compile information on KOZ Program business types by accessing individual “business synopses” that program participants are to submit with their program applications. As discussed further in part III.A-10 of this section, compliance with the business synopsis requirement has been low. Further, where business synopses are found, their content is generally inconsistent with program guidelines and does not allow for an accurate classification of the type of business(es), involved.

As another means of assessing the nature of businesses currently in the program, we selected a sample of KOZ Program participants from the 2006 program listing and conducted internet searches and other follow-up to learn more about their businesses. As a result of this activity, we compiled a listing of examples of the kinds of businesses represented among CY 2006 program participants. (See Exhibit 5.) Although not necessarily representative of the program as a whole, this listing provides some perspective on the question.

In the absence of an actual business synopsis or other descriptive materials, DCED can be in the position of approving for program participation many businesses for which they have relatively little information. In such cases, staff generally have even less information on the job-creating plans or capital investment potential of the applicants. As discussed previously, all an individual or business needs to do to gain entry to the program is to locate or relocate in a KOZ, KOEZ, or KOIZ, complete and file an application for program benefits, and be in compliance with all state and local tax laws and codes.

Exhibit 5

**Examples of Business Types Represented Among a
Sample of KOZ Program Participants**

Apartment Rentals	Economic Development Corporation
Auto and Truck Repair	Electric Co-Op
Auto Body Repair	Electrical Contractor
Auto Sales	Environmental Lobbying
Bakery	Entertainment
Bank	Financial Management
Beer Wholesaler	Food Service
Bio Research	Glass Processor
Biomedical Technology Education	HVAC Metal Fabrication
Cabinetmaker & Designer	Hedge Fund Management
Carpentry	Highway Paving
Carpet/Office Cleaning	Hi Tech Incubator
Casino and Racetrack	Hydraulic Presses Manufacturer
Catering	Ice Cream Store
Child Care Center	Importer/Wholesale Supplier of Toys and Hobby Goods
Clothing Manufacturer	Industrial Supplier of Hydraulic Rings
Coal Mining	Investment Banking
Coal Supplier	Investment Securities and Private Equity Funds
Collection Service	IT Technical Support
Commercial Janitorial Service	Laundromat
Commercial Real Estate	Law Firm
Commercial Producer of Insect Repellants and Plant Growth Stimulators	Licensed Continuing Care/Skilled Nursing Facility
Computer Detective Firm	Limousine Service
County Economic Development Organization	Local Economic Development Authority
County Government	Local Economic Development Commission
Custom Millwork/Wood Products	Local Industrial Development Enterprise
Developer/Construction Company	Local Union
Discount Grocery Retailer	Manufacturer of Graphic Arts, Tools, and Supplies
Distribution & Repair of Survey Equipment and GPS	Manufacturer of High-Pressure Coolant Products
Distribution—Displacement Pumps	Manufacturer of Precision Turning and Milling Equipment
Distribution of Major Appliances and Consumer Electronics	Manufacturing—Field Installation of Shielding Systems
Direct Mail Advertising	Manufacturing—Roll Shop Equipment
Donut Shop	Meat Processing

Exhibit 5 (Continued)

Medical Service Providers	Riggers and Warehousing
Metal Fabricator	Salon and Spa
Military Software Engineering and Design	Self Storage
Military Technology Developer	Senior Aging and Health Care
Mining-Coal Impoundment	Sightseeing Tours and Specialty Transportation
Moving and Storage	Software Development
Not-for-Profit Development Corporation	Specialty Displays
Office Furnishings Supplier	Specialty Wholesaler and Retailer
Package Delivery	Steel Pipe Manufacturer
Parking Garage	Structural Steel Erection
Personnel Service	Tax Law Consulting
Pharmacy	Technical Training School
Plant and Industrial Process Outsourcing	Thread and Needlework
Printing	Trolley Tours
Railroad Car Rebuilding and Repair	Trucking
Real Estate Development, Investment, Private Equity	Warehouse/Distribution
Restaurant	Waterways Shipper/Terminal
Retail Management and Consulting	Well Services—Pressure Pumping, Well Testing and Other Related Activities
Retail Pharmacy	Wholesale Grocer
Retirement Home	Wine Importer

Note: This listing is intended to provide examples of the types of businesses and organizations that are KOZ participants; it does not represent a full and complete accounting of all business types in the KOZ Program.

Source: Developed by LB&FC staff from an internet search for business descriptions on a sample of KOZ project applicants.

Update on Related DCED Actions:

In discussions with DCED officials, we noted that collecting consistent information on the types and nature of business activity generated by the KOZ Program would require changes to the program application and/or strict enforcement of the business synopsis requirement. DCED subsequently changed both the application and modified the “business synopsis” requirement.

The KOZ Program guidelines and application in use at the time we began this study had last been revised in April 2007. Since then, the DCED made a number of changes to the KOZ application process and to the application itself. Many of the changes were of a minor editorial nature, but some were more substantive. Following the April 2007 revision, DCED subsequently issued modified versions of the application and guidelines in September 2007, February 2008, and August 2008.

Although no major changes were made in the KOZ Program application and record-keeping processes for 2007, the DCED did take additional measures during 2008 in an attempt to verify the data that was reported on the program applications for CY 2007. After experiencing problems early in the year with the program’s automated application system, DCED staff contacted individual KOZ Program participants by telephone in order to confirm and verify their program application data for CY 2007. Based on these contacts, DCED representatives also solicited information upon which a preliminary classification of participating business types was done. This effort resulted in the classification of businesses into one of the following categories: commercial, manufacturing, retail, research and development, holding companies, and export.

Based on this classification, DCED reported jobs and capital investment in the “2007 KOZ Update Report” it issued in November 2008. (See Table 5.)

Table 5

Reported KOZ-Produced Jobs and Capital Investment, by Industry Sector		
<u>Sector</u>	<u>Jobs</u>	<u>Capital Investment</u>
Commercial	19,034	\$6,838,273,350
Manufacturing.....	8,473	2,788,350,323
Retail	6,430	859,293,185
Research and Development.....	344	116,800,008
Holding Companies	445	83,504,796
Export	<u>75</u>	<u>9,500,000</u>
Total.....	34,801	\$10,695,721,662

Note: Documentation supporting these figures was not available to LB&FC staff.

Source: Department of Community and Economic Development.

The DCED's February 2008 revision made a substantive change in the application. Prior to this time, a business located in a KOZ was to submit along with its annual application "a synopsis of the business, which contains a description of the business, job creation potential, and the anticipated capital investment." In the February 2008 revision, the synopsis requirement was deleted and changed to: submit the application with "a description of the business." This is a significant revision in that, through file reviews, we had identified a substantial number of 2006 applicants who had not submitted the required business synopsis. With the 2008 revision, a space was provided on the application for the business to indicate business type in lieu of having the applicant attach a written synopsis.

Several other significant changes to the application were made at this time, including (1) adding a question on the first line of the application that asks whether this is an initial or a renewal application, (2) adding a check-off for Type of Business—whether manufacturing, commercial, retail, agriculture, research and development, export, or other, (3) adding the aforementioned space after Business Description with the notation "attach separate sheet if necessary," and (4) for capital investment requesting the "amount" rather than the "estimate" of public and private investment in the KOZ site. A later revision also asks the applicant to indicate the nature of products and services the business offers.

Presumably, information on applications received during 2008 and 2009 will enable the Department to begin to compile and report improved data on the types of businesses participating in the program and the nature of the products and services they provide.

4. Program Records Do Not Identify Participating Businesses as a New Business Start-Up or an In-State or Out-of-State Expansion or a Relocation.

An analysis of the effectiveness of an economic development program such as the KOZ Program also requires (1) a knowledge of the extent to which the program is instrumental in generating new business start-ups; (2) the number of business expansions that can be attributed to KOZ incentives; and (3) whether the KOZ Program is a major determining factor in a business' decision to relocate, especially those decisions to relocate to Pennsylvania from an out-of-state location. We found that information of this kind has not been collected through the program's application process and is not routinely recorded at the DCED Central Office level.

While program personnel may have a working knowledge or recollection of the circumstances under which some program participants came into the program and where they came from, program-wide information of this kind is not available. Information of this kind is important for program evaluation purposes, for analyzing and reporting on trends in the types of businesses locating within zones, and for monitoring an important compliance requirement in the KOZ Act.

In reviewing historical program records, we observed that the Allegheny Institute of Public Policy did compile information of this type on the KOZ "projects" that were enrolled in the program as of 2002. The Institute presented this information in the first "four-year report" on the program.⁵

At that time, the Allegheny Institute determined that a total of 391 KOZ "projects" had been approved over the first four years of program operations. Of this number, 262, or 67 percent were reported as "in-state" projects, meaning that a business already located in Pennsylvania either relocated or expanded to a KOZ property; 80, or 20 percent were identified as "start-ups" (i.e., a new business venture); and 49, or 13 percent, were classified as "out-of-state" projects, meaning that a business located outside of Pennsylvania either relocated or expanded to a KOZ site in the Commonwealth.

Information on whether KOZ participants are new business start-ups, in-state, or out-of-state expansions, or business relocations is also necessary to determine compliance with a key provision of the KOZ Act. This provision relates specifically to in-state business relocations and requires that any business existing in Pennsylvania that moves from its current Pennsylvania location into a KOZ may not receive any exemptions, deductions, abatements, or credits provided for in the KOZ Act unless that business meets one of the following conditions:

⁵This is a statutorily-required report that DCED is to submit to the General Assembly every four years. For completion of the initial report, DCED contracted with the Allegheny Institute of Public Policy. (See Section III.D.2 for further information.)

- increases full-time employment⁶ by at least 20 percent in the first full year of operation within the KOZ, or:
- makes a capital investment⁷ in the property located within the KOZ equivalent to 10 percent of the gross revenues of that business in the immediately preceding calendar or fiscal year attributable to the business location or locations that are being relocated to a subzone;
- enters into a lease agreement for property located within the subzone, improvement subzone or expansion subzone for a term at least equivalent to the duration of the subzone and with the aggregate payment under the lease agreement at least equivalent to 5 percent of the gross revenues of that business in the immediately preceding calendar or fiscal year.

Our attempt to test compliance with this requirement was hampered by the lack of complete and reliable data on existing Pennsylvania businesses that have relocated to a KOZ in any given calendar year. We found that a comprehensive record of “relocations”⁸ is not available at the DCED Central Office and that the Department does not have adequate internal measures in place to systematically and reliably identify all businesses that would fit into this classification. We base this conclusion on observations made during our file reviews. These observations use, as a baseline, records we obtained from DCED’s Performance Monitoring Division on the annual numbers of relocations they report as having been identified by DCED staff for calendar years 2003 through 2006.

As shown on Table 6, DCED records show that the annual number of existing Pennsylvania businesses relocating into a KOZ from a non-KOZ site somewhere in the Commonwealth ranged from 4 in 2003 to 60 in 2006, or an average of 31 per year.

We believe this annual average number of 13 relocations, and even the high year of 60 in 2006, to be substantially understated. As noted earlier in this section,

⁶According to program guidelines, “Full-Time Employment” for the purpose of determining relocation compliance is to coincide with the definition of full-time, permanent employment of the specific industry sector within which the company operates.

⁷“Capital Investment” is defined as (i) an undertaking to construct, repair, renovate, improve, equip, furnish, or acquire any building, structure, facility, or physical betterment or improvement; (ii) land; or (iii) furnishing, machinery, apparatus of equipment for building structure, facility or physical betterment or improvement, the term includes soft costs related to the project (including items directly related to the completion of the project, e.g., professional services/consultants, architectural fees, engineering fees, inspection fees, insurance, environmental assessment, legal fees, closing costs and contingencies). Soft costs may not exceed 10 percent of the capital investment.

⁸The KOZ act defines a relocation as “any business that relocates from outside” of a zone as being subject to additional requirements to qualify for program benefits. While existing businesses that are expanding into a KOZ are not subject to the additional requirements in the act to receive program benefits, program guidelines indicate that, if any part of the existing business operations, equipment, or employees are relocated into a qualified zone, DCED is to deem such action as a relocation.

Table 6

Number of KOZ Program Participants the DCED Identified as In-State Business Relocations (Calendar Years 2003 Through 2006)				
CY	Total Number of Business Relocations	Compliance Option Selected		
		Increase Employment	Increase Cap. Invest.	Lease/Gross Revenues
2003	4	4	0	0
2004	22	13	9	0
2005	38 ^a	25	11	0
2006	<u>60</u>	<u>38</u>	<u>12</u>	<u>10</u>
Totals	124 ^a	80	32	10

^aIncludes two firms that went out-of-business.

Source: Developed by LB&FC staff using information obtained from the DCED.

the Allegheny Institute found that 262, or 67 percent of the 391 KOZ projects approved in the first four years of the program were in-state relocations and expansions. It is very unlikely that the number of in-state relocations would drop over the next four years to only 124, especially when the total number of KOZ projects exceeded 3,000⁹ compared to a total of 391 between 1998 and 2002.

Further, through just a partial review of 2006 program files, we identified several participants that should be classified as relocations but that do not appear among the 60 relocations shown on the 2006 listing we obtained from the DCED's Program Monitoring Division.

DCED's ability to comprehensively identify program participants that are relocating businesses can be traced to general deficiencies in the program's management information system and specifically to the Department's failure to capture data on business type at the time of application (i.e., a new business start-up, an in-state expansion or relocation, or an out-of-state expansion or relocation).

For example, the KOZ application does not contain a field whereby applicants indicate whether they are an existing business relocating into a KOZ (and therefore

⁹As noted in several other findings, the exact number of KOZ projects or participants in the years 2003 through 2006 cannot be determined from existing DCED files.

subject to the additional program requirements).¹⁰ In the absence of such a field, DCED staff have relied on an alternative method in attempting to identify relocating businesses.

The alternate method is dependent upon Site Development Division staff first identifying applicants that are first-time participants in the program. DCED staff then sends those applicants who are identified as first-time participants a letter (copied to the appropriate KOZ Coordinator). This correspondence is intended to confirm the recipient's identification as a new applicant and requests a business synopsis of the company; identification of whether the company is a start-up moving into Pennsylvania from out-of-state, or relocating from within the state; and, if the company is the property owner, requesting submission of either proof of purchase/ownership of the property or a signed copy of the lease between the company applying for KOZ benefits and the property owner.

The applicant must return this letter to DCED within 30 days to avoid denial of program benefits. If the applicant's response indicates that a business is in operation in the Commonwealth and is moving into a KOZ to conduct business, the Site Development Division classifies the business as a relocation. When this classification is made, the Site Development Division notifies the Performance Monitoring Division which, in turn, sends another letter to the applicant indicating that they must meet one of the three statutory requirements previously cited (i.e., a 20 percent employment increase, a 10 percent capital investment increase, or specified lease agreements).¹¹

Within 30 days of the receipt of this letter, the applicant must then determine which of the three criteria on which to be evaluated for program eligibility, and notify DCED in writing of its selection. Upon receipt, the Performance Monitoring Division sends a commitment letter to the applicant that confirms the requirement selected and the date on which compliance will be checked.

DCED also sends an official monitoring form/affidavit to the affected business. This form is to be signed, notarized, and returned to the Performance Monitoring Division by the business to affirm compliance with the selected relocation requirements through the presentation of data on the requirement imposed upon that business (e.g., job figures, capital investment totals, etc.). Qualified businesses that

¹⁰While existing businesses that are expanding into a KOZ are not subject to the additional requirements in the act to receive program benefits, if any part of the existing business operations, equipment, or employees are relocated into the KOZ, DCED will deem such action as a relocation. If the business is a relocation, the letter requests the address of the company prior to moving into the zone, whether the company is bringing any employees or equipment from such address to the zone, and the projected number of full-time jobs in the zone.

¹¹DCED, in consultation with the Department of Revenue, may, however, waive or modify the requirements of this subsection, as deemed appropriate. Relocating businesses must request a modification to the requirements of this subsection within 30 days of receiving their initial relocation notification letter. We were not able to obtain data on the number of such waivers of this type that had been granted in CY 2006, to whom they were granted, and for what reasons.

are required but fail to meet the relocation requirements of the program are subject to the revocation of future benefits and the repayment of benefits previously received.

DCED staff advised us that all 124 of the “in-state relocating businesses” listed on Table 7 had complied with the statutory relocation provisions and, therefore, were eligible for program benefits.

In January 2009, we examined compliance affidavit records for these 124 businesses in the files of the DCED’s Performance Monitoring Unit. Because the DCED does not conduct any on-site verification, the affidavit is the only documentation available that indicates whether a particular business has met its KOZ relocation requirement. The table below summarizes the results of our compliance review.

Table 7

Number of Participating Businesses That Verified Compliance With KOZ Program Relocation Requirements (CY 2003 Through CY 2006)					
	Number of Businesses				
	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Number That Relocated	4	22	38	60	124
<u>Results of LB&FC File Review</u>					
1. Have a Notarized Affidavit:					
Number	3	9	7	26	45
Percentage.....	75.0%	40.9%	18.4%	43.3%	36.3%
2. Affidavit – But Not Notarized:					
Number	1	1	0	0	2
Percentage.....	25.0%	4.5%	0.0%	0.0%	1.6%
3. No Information in File:					
Number	0	11	31	34	76
Percentage.....	0.0%	50.0%	81.6%	56.7%	61.3%
4. Other – Facility Not Ready:					
Number	0	1	0	0	1
Percentage.....	0.0%	4.5%	0.0%	0.0%	0.8%
5. Totals:					
Number	4	22	38	60	124
Percentage.....	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Developed by LB&FC staff based on an examination of DCED affidavit compliance files.

As indicated above, the Performance Monitoring Unit’s records indicated that of the 124 identified relocations, only 45 (36 percent) had a properly notarized and valid affidavit (i.e., an original DCED form that is signed by a responsible member of the firm or its representative and that has been embossed with the seal of a notary) certifying that they had complied with the agreed-upon relocation requirement.

In six additional cases, other related information was in the file about the company either related to its relocation status or compliance status. In three cases, the affidavit indicated that the business had met a different requirement than the one selected or indicated on the information received from the Performance Monitoring Unit. For example, the affidavit indicated the business hired one additional employee, whereas information indicated they were to have increased their capital investment. Also, two affidavit forms were submitted but not notarized. Finally, in one case, construction on the company's facility had not been completed in time to be subject to monitoring.

We also sampled approximately one-third of the entries on the DCED's "New Business Report" for CY 2006. Although relocating businesses are not to be included on the "New Business Report," we found six businesses that were clearly relocations and that should have been subject to meeting the relocation requirements.

In summary, we concluded that the procedures and controls in place are not sufficient to properly identify all existing Pennsylvania businesses that are relocated into a zone and are, therefore, subject to additional compliance and reporting requirements.

Update on Related DCED Actions:

In an attempt to improve its ability to identify relocating businesses, DCED has updated the KOZ online application to include a field that asks applicants to indicate whether their application is an initial submission or a renewal application. The process is then to work as follows:

- Each time an "initial" business is entered into the DCED system, an initial business letter is to be generated. A copy of this letter is to be saved as part of the permanent record in the digital file. The purpose of this letter is to discover the circumstances under which the applicant is coming into the zone. Many times a business is moving from somewhere in Pennsylvania into a zone and should be "flagged as a relocation."
- If it is determined that this business is relocating from inside Pennsylvania, an initial relocation letter is to be mailed. A copy of this letter is to be saved in the "applications digital file." The initial relocation letter explains that certain requirements must be met if they are to receive benefits. Currently, DCED's policy is that the only acceptable requirement is creating an increase of jobs by at least 20 percent. Also a relocation field in the database is to be marked for the permanent record.
- If a business chooses to pursue meeting a requirement, a commitment letter is to be drawn up and signed by the Deputy Secretary for Business Assistance and the business. A copy of the signed letter is to be sent to DCED's Monitoring Division. When the monitoring date approaches, an

affidavit is to be sent to the business. Every agreement is to be saved on the digital file along with the original signed letter in a folder for relocation agreements. Under no circumstances is a business to receive benefits without meeting the relocation obligations.

While DCED recognizes the need to maintain an improved capability to identify and monitor “relocations,” staffing deficiencies in the Department’s Program Monitoring Division were hampering these efforts as of May 2009.

5. The DCED Does Not Have Complete and Accurate Data on Job Creation and Job Retention Resulting From the KOZ Program.

Job Creation as a Program Objective

Unlike similar programs in other states and many other Pennsylvania economic developed programs, the KOZ Act does not specifically cite job creation and job retention as program objectives or require that program participants commit to creating or retaining a certain number of jobs as a condition of their participation in the program. However, given the program's stated legislative intent, "to foster economic opportunities in this Commonwealth to facilitate economic development, stimulate industrial, commercial and residential improvements and prevent physical and infrastructure deterioration of geographic areas within this Commonwealth," there is clearly an implied expectation on the part of the state that a program participant's operation in a KOZ should result in job creation and retention. However, no specific commitment on the part of the businesses is required, nor are program participants required to provide job projections or estimates as a condition of initial participation or continuation in the program.

While not explicitly stated in law, the number of jobs that have either been created or retained as a direct result of the KOZ initiative is perhaps the key measure of the program's performance. In recognizing the importance of this measure, HR 115 requires that the LB&FC report on the KOZ Program "include an estimate of the total number of new jobs that have been created since the program's inception." We examined DCED records on the KOZ Program in an attempt to determine the total cumulative number of new jobs that have been created since the inception of the program as well as the number of jobs created and retained by the KOZ Program in calendar years 2006, 2007, and 2008.

Job Creation Since Program Inception

HR 115 specifies that the LB&FC report on the KOZ Program include information on the total number of new jobs that have been created by the KOZ Program. Some DCED program materials and press releases have, in the recent past, stated that the KOZ Program has resulted in the creation of 63,966 new jobs and the retention of over 48,158 jobs since the KOZ Program began in 1999. (See Table 8.) These figures appear to have come from a "Four-Year KOZ Program Report" prepared by the DCED in 2007 but not publicly released due to data discrepancies identified during the course of this study and discussed later in this section.¹²

The source data upon which these figures are based was not available to LB&FC staff. Further, DCED does not have program records for the period 1998

¹²See III.D-2 for further information.

through 2002, and although some aggregate figures for this time period have been cited, DCED officials generally acknowledge that jobs data in the early years of the program most likely included both “actual and anticipated employment.” We, therefore, conclude that these figures, 63,966 new jobs and 48,158 job retentions are not supportable and are not valid for program reporting, legislative oversight, or evaluation purposes.

Table 8

Reported KOZ Job Creation and Retention, by Region* (Based on DCED “Four-Year Program Report,” 2002-2006)			
<u>Region</u>	<u>Jobs Created</u>	<u>Jobs Retained</u>	<u>Total Jobs in Zone</u>
Northwest	5,048	4,498	9,546
Southwest.....	3,406	4,401	7,807
North Central	4,982	3,198	8,180
Southern Alleghenies	2,785	1,255	4,040
Northern Tier	537	322	869
SEDA-COG (Central)	1,158	4,216	5,374
South Central.....	1,923	2,256	4,179
Lackawanna/Luzerne	10,993	8,583	19,576
Schuylkill/Carbon.....	9,964	888	10,852
Lehigh Valley	2,560	1,655	4,215
Southeast	4,508	6,082	10,590
Philadelphia	<u>16,102</u>	<u>10,804</u>	<u>26,906</u>
State Totals	63,966 ^a	48,158 ^a	112,134 ^a

***IMPORTANT NOTE:** The report from which the data on this table was drawn was provided to LB&FC staff in September 2007 prior to its public release. Because of discrepancies we identified in the report, the DCED did not publicly issue the report and subsequently developed a revised report entitled “KOZ Program Update Report.” See Section III.D.2 for further information.

^aThe figures shown above are derived from DCED internal KOZ “jobs and investment” summaries. For reasons stated in this section of the report, they are not considered accurate for legislative oversight and program evaluation purposes.

Source: DCED “*Keystone Opportunity Zone Four-Year Report*,” September 2007 (unpublished).

Job Creation/Retention in CY 2006

Because of the apparent unreliability of the jobs data in the “Four-Year Report,” we sought an alternative method of calculating a jobs created and jobs retained figure for one year, CY 2006. To do this, we used individual “jobs and capital investment” reports obtained from DCED for each of the 12 KOZ regions.

These internal reports are a compilation of jobs information self-reported to DCED by program participants on their annual program applications. Using these reports, we calculated that program participants reported a total of 34,547 job creations and 13,077 job retentions on their 2006 KOZ Program applications. (See Table 9.)

Table 9

Reported KOZ Job Creation and Retention*
(Based on CY 2006 KOZ Program Applications)

<u>Region</u>	<u>Jobs Created</u>	<u>Jobs Retained</u>
Northwest	2,614	1,103
Southwest.....	2,278	1,066
North Central	2,769	1,169
Southern Alleghenies	1,305	226
Northern Tier	102	105
SEDA-COG	1,062	640
South Central.....	1,389	435
Lackawanna Luzerne	6,312	1,842
Schuylkill/Carbon.....	2,158	83
Lehigh Valley	1,964	651
Southeast	4,421	2,041
Philadelphia	<u>8,173</u>	<u>3,716</u>
Total.....	34,547 ^a	13,077 ^a

***IMPORTANT NOTE:** The report from which the data on this table was drawn was provided to LB&FC staff in September 2007 prior to its public release. Because of discrepancies we identified in the report, the DCED did not publicly issue the report and subsequently developed a revised report entitled "KOZ Program Update Report." See Section III.D.2 for further information.

^aThe figures shown above are derived from DCED internal KOZ "jobs and investment" summaries. For reasons stated in this section of the report, they are not considered accurate for legislative oversight and program evaluation purposes.

Source: DCED "Keystone Opportunity Zone Four-Year Report," September 2007 (unpublished).

In the process of examining these reports, however, we encountered a number of questions and issues that also undermine the credibility of the reported jobs data. These questions, which are listed below, apply equally to the jobs data from the DCED's *"Four-Year Program Report"* that is discussed earlier in this section:

- The reported figures are not based on common, uniform definitions of "job creation" and "job retention"; such definitions are not included with the program application or otherwise clearly communicated to the applicant.
- All job creation and job retention data available from DCED is self-reported by KOZ Program participants on their annual program applications and, in some cases, appears to reflect both actual and "anticipated" employment.
- It is not clear whether the number of jobs created and retained as reported by a given participant is a cumulative, multi-year figure, or an unduplicated, single-year number.
- DCED does not audit or spot-check any of the job creation/retention figures submitted by businesses in the program or require that KOZ

participant officials officially certify or that Regional KOZ Coordinators verify reported KOZ-induced employment gains.

- All of the jobs created and retained that are claimed on the KOZ Program application submitted by an individual business are credited in full to the KOZ Program, even though the reporting business may simultaneously be receiving state economic development grants or other forms of assistance in addition to the KOZ benefits. For example, a KOZ participant may at the same time be receiving other forms of state economic assistance through such programs as Customized Job Training, Opportunity Grants, Machinery and Equipment Loan funding, and/or other forms of state economic development aid.¹³

In addition to these factors, we found various irregularities and inconsistencies in internal DCED printouts referred to as “jobs and capital investment reports.” For example, we found some instances of exact double-listing of businesses and, therefore, double-counting of reported jobs figures.

Because of the problems identified with the job creation and job retention data contained in the draft 2006 (prepared in CY 2007) “Four-Year Report,” the DCED decided not to publish and issue the report. Instead, the Department initiated a process during CY 2008 in which staff individually contacted KOZ participants in an attempt to verify all reported job creation and capital investment data.

From this survey, the DCED prepared a revised “KOZ Four-Year Program Report” and issued it in November 2008. This report attributed the creation of 34,801 “new jobs” to the KOZ Program since its initiation, down by 29,165, or 46 percent, from the job creation figure reported in the original draft of the “Four-Year Report.” With the publication of this revised report, DCED also discontinued the reporting of the measure “jobs retained.” We requested but, as of early May 2009, had not yet received the DCED’s internal documentation of the 34,801 figure. A breakdown of the revised job creation figure, by KOZ Region, is shown on Table 10.

¹³Companies in the KOZ Program may also receive benefits from other economic development programs administered by DCED. The DCED was not able to provide specific information on the number of KOZ participants receiving economic development assistance from other Department-administered programs or the amounts they received from the other non-KOZ sources.

Table 10

KOZ Job Creation
(Based on 2008 DCED Survey of CY 2007 Applications)

<u>Region</u>	<u>Jobs Created</u>
Northwest	2,884
Southwest.....	1,420
North Central	2,200
Southern Alleghenies	1,643
Northern Tier	586
SEDA-COG	695
South Central.....	776
Lackawanna Luzerne	6,466
Schuylkill/Carbon.....	3,743
Lehigh Valley	1,138
Southeast	3,680
Philadelphia	<u>9,624</u>
Total.....	34,855 ^a

^aThe total reported here is 54 jobs higher than shown in the “Four-Year Report” due to the addition of data from applications that were in-process and not counted when the “Four-Year Report” was run.

Source: Department of Community and Economic Development survey, CY 2008.

Update on Related DCED Actions:

For CY 2007, DCED modified the application and the database in which all of the information contained in the application is compiled. A decision was made to change the application by eliminating the terms “created” or “retained” for reporting jobs. The application requests that businesses report the number of full-time jobs at a KOZ site when the business first moved into the KOZ and the number of full-time jobs at the site “now.” The former number is meant to provide a base number and the latter number is meant to exhibit how a company has grown during its time spent in the KOZ Program. DCED explained this as follows:

“Full-time jobs at KOZ site when first moved to KOZ” is explicit and self-explanatory. This number should remain static over an applicant’s time in the KOZ. This is the base number and can show how a business has grown in the zone during their lifetime.

“Number of full-time jobs at KOZ site now” provides the number of jobs at the time of making an application. It is the most current number of jobs at the site. This is the best figure to show how many jobs there are, and how far they’ve come.

While this explanation is reasonable, it is not essentially different from prior application wording and still does not allow the Department to determine the

number of jobs gained or lost during a given calendar year or reporting period and does not account for part-time positions.

In addition to modifications made to the application, DCED is also in the process of structuring a monitoring system that will be implemented primarily by the KOZ coordinators. Jobs data will continue to be self-reported by businesses, but the KOZ coordinators will now be required to perform spot-checks to verify the accuracy of numbers reported to DCED. KOZ coordinators will be called upon to perform increased monitoring and reporting duties that are documented in the Keystone Coordinator Program guidelines (released in March of 2009). Included among the enhanced scope of services to be provided by KOZ coordinators are obligations to complete local approval forms for each new applicant, assist in collecting data (including jobs and investment data) as requested at any time by DCED.

Despite the efforts of DCED to improve the application and database, actual job creation and retention numbers that can be attributed directly to the KOZ Program are still difficult, if not impossible, to determine. As previously noted, other economic development programs could be partially responsible for job creation. The KOZ application does not collect data pertaining to businesses' participation in other programs. DCED indicated that this information should be retrievable from other databases and that a cross-comparison could be performed to discover which businesses are enrolled in other programs. DCED has stated that staff is working to determine the best way to collect this information on the KOZ application. This data is not, at present, readily available or accessible. Currently, information is collected from the KOZ applications for the KOZ Program and from the Single Application for other economic development programs. The information collected from each application gets transferred to its respective database, but a central repository for data of this nature does not exist.

6. Reliable Figures Are Not Available on the Amounts of Capital Investment Generated as a Result of the KOZ Program.

As is the case with job creation and retention, the KOZ Act also does not specifically require that program participants commit to any amount of capital investment as a condition for the approval of an application for KOZ status. Again, however, as with job creation and retention, there is an implied expectation on the part of the state that a program participant will engage in some degree of capital investment in furtherance of the program's economic development and community revitalization objectives.

In order to address various questions raised in HR 115 (e.g., program benefits and cost-effectiveness), we requested data from DCED on certain program measures that would be needed to make such determinations. The amounts of capital investment generated by KOZs both since the start of the program and during the most recently completed reporting period was one of these measures.

In response to this request, we received a draft copy of the DCED's 2006 "Four-Year KOZ Program report." This report, which is required by statute,¹⁴ included capital investment figures for each of the program's 12 regions. As shown on Table 11, the capital investment figures contained in this report totaled \$17.6 billion for the 12 KOZ regions, presumably for the period 2002 through 2006.

Table 11

Reported KOZ-Related Capital Investment Totals, by Region* (Based on DCED "Four-Year Program Report," 2002-2006)

<u>Region</u>	<u>Capital Investment</u>	<u>Region</u>	<u>Capital Investment</u>
Northwest.....	\$1,008,904,765	South Central.....	\$ 490,299,969
Southwest	2,562,096,146	Lackawanna/Luzerne	2,471,192,483
North Central.....	735,328,129	Schuylkill/Carbon.....	1,480,825,765
Southern Alleghenies.....	337,762,394	Lehigh Valley.....	566,561,956
Northern Tier.....	15,840,000	Southeast	4,060,773,306
SEDA-COG (Central).....	487,087,743	Philadelphia.....	<u>3,383,729,439</u>
		Total.....	\$17,600,402,095 ^a

***IMPORTANT NOTE:** The DCED report from which the data on this table was drawn was provided to LB&FC staff in September 2007 prior to its public release. Because of discrepancies we identified in the report, the DCED did not publicly issue the report and subsequently developed a revised report entitled "KOZ Program Update Report." See Section III.D.2 for further information.

^aThe figures shown above are derived from DCED internal KOZ "jobs and investment" summaries. For reasons stated in this section of the report, they are not considered accurate for legislative oversight and program evaluation purposes.

Source: DCED "Keystone Opportunity Zone Four-Year Report," September 2007 (unpublished).

¹⁴See part III.D.2 for further discussion of this required four-year report.

We attempted but were unable to verify the figures shown on Table 11. Our examination of them raised the following issues:

- The reported figures are not based on a common, uniform definition of “capital investment”; such a definition is not included with the program application or otherwise clearly communicated to the applicant.¹⁵
- The figures are self-reported by program participants, and DCED does not spot-check or otherwise require certification of the accuracy of these figures.
- It is not clear whether the figures represent a point-in-time, a specific time period (e.g., 2002 to 2006), a single CY reporting period, or a cumulative capital investment total since the inception of the program.
- It is not clear whether the figures include both public (e.g., funded by municipalities and/or other economic development programs) as well as private capital investment or private investment only.
- Some figures may represent actual investment while others likely include both actual and anticipated or projected investment.
- The full capital investment amount that is reported on the KOZ Program application is attributed, in full, to the KOZ Program although the reporting business may simultaneously be receiving state economic development grants or other forms of state economic assistance in addition to KOZ-related tax exemptions, deduction, abatements, and credits. In such case, it is reasonable to assume, but almost impossible to quantify, that some amounts of the total capital investment figure would be assignable or attributable to one or more of the other non-KOZ sources of economic development assistance.

The issue of not knowing to what specific timeframe the capital investment figures apply is especially problematic. For example, assume Business X has been located in a KOZ since 2003 and in each year from CY 2003 through CY 2006 the business made a \$5 million capital investment. Then assume Business X has interpreted the DCED application as requiring that it report its capital investment on a cumulative basis. On this basis, Business X’s applications as well as DCED records would show a \$5 million capital investment in CY 2003, a \$10 million investment in CY 2004, a \$15 million investment in CY 2005 and a \$20 million investment in CY 2006. For Business X, this could be read as a total \$50 million investment over four years when, in fact, the company’s capital investment was \$5 million each year, or a total of \$20 million.

¹⁵Program guidelines include a definition of “capital investment” for purposes of the provision that relates to existing Pennsylvania businesses relocating to a KOZ. The program application does not include any reference to this or another definition.

Another business, Business Y may also have made a capital investment of \$5 million in CY 2003 but no further capital investment in subsequent years. It appears that in such a case, some businesses may report the \$5 million on the 2003 application only, while others may report the \$5 million in CY 2003 but then also to report the same amount on each of their CY 2004, 2005, and 2006 applications since, in their view, that is the cumulative amount of their capital investment.

We concluded that the absence of clear and uniform reporting instructions coupled with the record-keeping system employed by DCED and the resulting lack of clarity in what the capital investment dollar figures represent does not allow an accurate determination of the actual amount of capital investment made by program participants.

Because DCED was not able to address these issues, or provide back-up to substantiate the investment data, we advised Department officials that we would not be able to use the “Four-Year Report” as a source document and requested an alternative means of compiling data on KOZ-related capital investment.

Due, at least in part, to the problems identified with the capital investment data, the DCED decided to postpone the public release of the 2006 “KOZ Four-Year Report.” Although the report was not issued, DCED did use the report’s aggregate total capital investment figure of \$17.6 billion in various public information releases and on the program’s website. The use of this figure, however, was also later discontinued because it overstated KOZ-associated capital investment.

We subsequently attempted to calculate and verify a capital investment figure for CY 2006. To do this, we used individual “jobs and capital investment” reports for each of the 12 KOZ regions. Using this method, we arrived at a figure of \$6.5 billion for CY 2006 (see Table 12).

When examining these reports, however, we encountered even with the \$6.5 billion figure essentially the same data issues stated above. For example, neither the application nor the associated instructions precisely define the term “capital investment.” Also, neither the application nor associated instructions indicate whether the capital investment the participants are reporting is cumulative (from the beginning of its participation in the KOZ Program until the present time) or if the amount reported is for the current calendar year only (i.e., CY 2006). Therefore, some businesses could be reporting for a single year, whereas others could be reporting a cumulative total that would include capital investments made the current year as well as all previous years.

Table 12

Reported KOZ-Related Capital Investment Totals, by Region*

(Based on CY 2006 KOZ Program Applications)

<u>Region</u>	<u>Capital Investment</u>	<u>Region</u>	<u>Capital Investment</u>
Northwest	\$ 333,947,078	South Central	\$ 167,110,028
Southwest.....	673,426,395	Lackawanna Luzerne....	772,973,179
North Central.....	175,173,330	Schuylkill/Carbon	254,515,443
Southern Alleghenies	106,206,232	Lehigh Valley	166,377,705
Northern Tier	2,495,410	Southeast.....	2,125,895,426
SEDA-COG (Central)	312,010,422	Philadelphia	1,442,430,493
		Total	\$6,532,561,141

***IMPORTANT NOTE:** The figures shown above are derived from DCED internal KOZ "jobs and investment" summaries. For reasons stated in this section of the report, they are not considered accurate for legislative oversight and program evaluation purposes.

Source: Developed by LB&FC staff using information obtained from the DCED's KOZ Program records.

We also observed other difficulties related to possible multiple counting of reported investment figures. As discussed in other sections of this report, there are program participants who have several applications on file for what appear to be the same business. These businesses, in many cases, report the same capital investment figure on each of their separate applications. If this is only one business, then the numbers reported become redundant and serve to further inflate the overall capital investment numbers for the KOZ Program.

To illustrate, assume Business Z has three applications on file for CY 2006. Each application is for a business entity with a slightly different name (e.g., Business Z; LP; Business Z, Inc.; and Business Z Ltd.), but each business has the same address and the same CEO. Each application submitted reports that a \$15 million capital investment has been made. Currently, it is not possible to determine from the available data whether or not the actual investment made by Business Z was \$15 million only or if it was \$45 million, with \$15 million being reported as the capital investment amount associated with each of the three separate applications submitted by Business Z. While this uncertainty exists, current DCED reporting and tabulation methods would count the \$15 million separately for each application and consider \$45 million to be the total capital investment figure for Business Z.

In short, the lack of uniform definitions and standardized reporting of data as well as data and file management issues have created a situation in which it is impossible to accurately determine or independently verify capital investment amounts. We, therefore, conclude that for CY 2006 and years previous, reliable KOZ-related capital investment figures are not available.

Update on Related DCED Actions:

DCED reports that it has clarified the KOZ application so that a business is asked to report only the actual capital investment for the current calendar year. Previously, the application did not request that businesses report the actual investment amount (as opposed to anticipated or projected investment) or that businesses should report only for the current year.

In addition, as previously mentioned regarding verification of jobs data, KOZ coordinators will have to abide by obligations that are documented in the Keystone Coordinator Program guidelines, including the collection and verification of jobs and investment data. This is intended to provide necessary additional monitoring that could lead to more accurate data.

While these modifications indicate a measure of progress for improved data collection purposes, they still do not allow DCED to have even a reasonable estimate of how much capital investment has been made throughout the course of the program, nor do these changes allow for differentiation between public and private investment. Also, as with the jobs data, it is difficult, if not impossible, to determine if investments made should be attributed directly to the KOZ Program or to other economic development programs. As the data collection process (via the KOZ application) stands today, even with the recent changes, there is no reliable way to determine what percentage of an investment should be attributed to which economic development program.

7. To Date, the Program Has Not Been Closely Monitored to Determine If/When the “Clawback,” or Recapture Provisions of the KOZ Act Should Be Invoked.

The KOZ Act contains a “clawback,” or recapture, provision. This provision permits DCED and the Department of Revenue to recapture benefits from businesses that have received KOZ benefits and subsequently moved out of a Keystone Opportunity Zone within the first five years of location in the zone. Specifically, the act provides that:

If any qualified business located within a subzone or expansion subzone has received an exemption, deduction, or credit under the KOZ Act and subsequently relocates out of the zone within the first five years of locating in a subzone or expansion subzone, that business shall refund to the state and political subdivisions which granted the exemption, deduction, abatement, or credit received in accordance with the following: (1) within three years, 66 percent payback, (2) three to five years, 33 percent payback.

This provision applies to both state and local tax benefits received under the program. We sought information from DCED on the number of times they have invoked the clawback provision in the 11-year history of the program and the amounts of foregone revenues recovered from the involved businesses. DCED officials told us that the KOZ clawback/recapture provision has never been used.

Past procedures and practice related to the monitoring of the recapture provision are unclear. Neither the “2002 Four-Year KOZ Program Report” nor the more recent “2007 Update Report” refers to recapture. While past activity related to this provision is not documented, current references appear in both the “KOZ Program Guidelines” and the “KOZ Procedure Manual.” The responsibility for monitoring and implementing this provision rests with DCED’s Site Development Division and the Program Monitoring Division. However, DCED, in consultation with the Department of Revenue, also has the option of waiving or modifying the recapture provisions. On this subject, the KOZ Act provides that the recapture provisions can be waived or modified if it is determined that the business relocation was due to circumstances beyond the control of the business, including, but not limited to:

- Natural Disaster
- Unforeseen Industry Trends
- Loss of Major Supplier or Market

The “KOZ Procedure Manual” further states that the list in the statute can be expanded upon and states:

The list of factors below, consistent with criteria used by other DCED business assistance programs, may be considered in granting any waivers or modifications applicable to tax obligations/penalties.

- Natural or Other Disaster
- Unforeseen Industry Trends
- Lack of Available Labor Force
- Loss of Major Supplier/Market

Expansion of the statutory listing reportedly occurred as a result of a legal opinion issued by DCED counsel in the early years of the program.

According to the former Director of the DCED's Performance Monitoring Division, this opinion held that businesses receiving program benefits that move out of a KOZ within the first five years of locating due to going out-of-business or other circumstances not substantially controllable by the business (such as a business having their building lease revoked) are not subject to the repayment requirement in law.

Records we obtained from the Performance Monitoring Division show that the DCED has identified just seven businesses that left a KOZ since the program was initiated and thus were potentially subject to the clawback provision. In each of these cases, DCED accepted the reasons given by the business for their leaving the zone and did not seek benefits recapture. (See Exhibit 6.)

Exhibit 6

**Businesses Identified by DCED as Potentially
Subject to "Clawback Provisions"**

	<u>Last Application Filed</u>	<u>Reason for Relocation</u>	<u>Notes</u>
Business A.....	2001	Landlord/Lease Issue	Company relocated but remained in Pennsylvania
Business B.....	2001	Outgrew Existing Space	Company relocated but remained in Pennsylvania
Business C	2001	Consolidation	NA
Business D	2003	Outgrew Existing Space	Company relocated but remained in Pennsylvania
Business E.....	2003	Business Sold	Company relocated but remained in Pennsylvania
Business F.....	2003	Landlord/Lease Issue	Company relocated but remained in Pennsylvania
Business G	2005	Outgrew Existing Space	Company relocated but remained in Pennsylvania

Source: Department of Community and Economic Development.

Given the unstructured nature of available central office and local records, we did not attempt to identify other participating businesses that may have left the program and been potentially subject to the recapture provisions. However, it seems unlikely that over ten years of program operation and the thousands of businesses that have participated in the program, that there were only seven instances of businesses leaving a KOZ and being potentially subject to the “clawback provisions.”

Program monitoring deficiencies identified in other sections of this report, including the documented problems DCED has had in tracking in-state relocations to a KOZ, support this contention.

Update on Related DCED Actions:

The DCED has not taken any specific actions in this area. The Department did provide a statement regarding their opinion on the issue, based on section 820.902 of the Keystone Opportunity Zone Act:

Part (a) of this section states that a business is subject to recapture if the business relocates outside of the zone within five years of locating in the zone. The act specifically states that a business must relocate to be subject to the recapture provision. Accordingly, the Department does not consider a business that ceases to operate as subject to recapture. Part (b) states, “The Department, in consultation with DOR and the political subdivision may waive or modify recapture requirements under this section, if the Department determines that the business relocation was due to circumstances beyond the control of the business. If a business is identified as a recapture candidate, the Department will reach out to the business directly or through the KOZ Coordinator to gather justification for the relocation. If it is deemed by the Department to be for reasons outside the company’s control, the recapture provision is waived.”

8. The DCED Does Not Have a Comprehensive Database of KOZ Parcels or Current Information on the Types of Sites That Have Been Developed.

KOZ Acreage Database

Although responsible for the central administration, coordination, and marketing of the statewide 46,000 plus acre KOZ Program, the DCED does not have a centralized, comprehensive database of all KOZ parcels within each region, their location, current development status, and availability. A central repository of such information would appear to be critical for program management and oversight purposes. Instead, the DCED Central Office is almost totally dependent on local KOZ Coordinators for such information on an as requested basis.

Until recently, KOZ Coordinators reported acreage data to the central office only every four years for purposes of the “Four-Year Program Report.” We also found that, when reviewing KOZ applications, central office program staff frequently have to contact local coordinators to determine if an address (parcel) cited in a KOZ application is, in fact, situated in a KOZ. While not appearing to be a frequent occurrence, we found one instance in which DCED program records listed an approved KOZ participant located in a municipality in a county that, according to other KOZ records, does not have any KOZs.

While not KOZ-specific, there is a website www.pasitesearch.com/selectsites/index.aspx that contains selected information on some KOZ parcels. However, this website is not complete for purposes of the KOZ Program and is not maintained by the DCED. Additionally, it is unclear how frequently it is updated. The PA site-search website was created primarily as a marketing tool and the responsibility for its maintenance lies with the Team PA Foundation. The Foundation’s website states that the “Team Pennsylvania Foundation . . . hosts and manages the statewide commercial property database” as a collaborative effort among the DCED, the Department of Environmental Protection, and the Team PA Foundation. The website is due for an upgrade that was to be completed by the spring of 2009. The upgrade includes the utilization of GIS mapping and enhanced functionality of the website. This upgrade is ambitious and could serve to transform this database and make it more useful for KOZ purposes. This would require improvements in the KOZ Program’s information management and data collection processes along with corresponding enhancements to the features of the website.

“Brownfields” and “Greenfields” Acreage as a Percentage of Total KOZ Acreage

Criteria in the KOZ Act for the designation of zones and expansion zones require that the land be comprised of deteriorated property and meet 2 of 12 criteria

set forth in the act that generally relate to areas that are economically distressed or underutilized. The KOZ Act defines “deteriorated property” as:

- Any blighted, impoverished area containing residential, industrial, commercial, or other real property that is abandoned, unsafe, vacant, undervalued, underutilized, overgrown, defective, condemned, demolished, or which contains economically undesirable land use.
- Property adjacent to deteriorated property that is significantly undervalued and underutilized due to the proximity of the deteriorated property.
- Property which has been designated as deteriorated property in accordance with any other act.

Also, as per the KOZ Act, characteristics of an area that would show it to be in “economic distress” include “high unemployment, low investment of new capital, inadequate dwelling conditions, blighted conditions, underutilized, obsolete or abandoned industrial, commercial, and residential structures and deteriorating tax bases.”

This language suggests that KOZ Program activities are to be targeted to and take place on property that used to be productive, but due to the changing nature of the economy were abandoned or underutilized. In some cases, such properties were also often left with significant environmental problems to remediate. On their own, these properties, also known as “brownfields,” would be very difficult to develop. The KOZ Program was to provide an incentive to rehabilitate and redevelop the properties to again make them productive.

Although the term “brownfields” is not specifically used in these KOZ Act provisions, it is generally acknowledged that the utilization of brownfield sites meets one of the KOZ Program’s major goals. For purposes of the KOZ Program, a brownfield site includes any property previously used for industrial activity as defined by the Industrial Sites Reuse Program. This definition of industrial activity includes commercial, manufacturing, public utility, mining, distribution of goods and services, research and development, warehousing, stockpiling of raw materials, storage or repair and maintenance of commercial machinery and equipment, and solid waste management.

KOZ Program records do not indicate the number of brownfield sites and corresponding acreage that is currently in the KOZ Program or the status of site preparation or development that has occurred. While it is clear that some properties in the program are designated brownfield sites, current records do not allow a comprehensive assessment of the number and status of such properties. Likewise, it is not clear from available records the number of “greenfield” sites (i.e., prime areas more readily conducive to development) that have been classified as “distressed,” “deteriorated,” or “underutilized” for purposes of obtaining a KOZ designation.

The only data available on the subject appears to be the initial “KOZ/KOEZ Four-Year Report” that was prepared by the Allegheny Institute of Public Policy and released in January 2003. At that time, the Institute reported that records indicated KOZ activity at a total of 56 brownfield and abandoned industrial sites statewide. They further reported the existence on those sites of 141 “job creating or retaining and site development projects.” Current DCED records do not allow a tabulation of this type.

Update on Related DCED Actions:

DCED reports that local KOZ Coordinators continue to be the primary source for KOZ acreage information. Program officials note, however, that they will now require that coordinators submit an annual acreage report to the central office by the end of June. This report is to include the number of designated KOZ acres occupied, and a narrative detailing efforts to increase economic development activity in the zone. (Note: As discussed elsewhere in the report, the most recent reporting period for which acreage data was available to us was 2007.) Another recent change the Department has instituted will require that a “brownfield question” be added on all local approvals.

As of mid-May 2009, there were no apparent plans by DCED to establish a single, comprehensive database of all KOZ-approved parcels and their current development status.

9. DCED Does Not Separately Track and Monitor Projects Authorized in Executive Orders and Designated as “Keystone Opportunity Improvement Zones.”

Act 2002-217 provided for the creation of Keystone Opportunity Improvement Zones (KOIZs). KOIZs are comprised of parcels of deteriorated property in the Commonwealth designated by the Governor to complement the ongoing efforts of the KOZs and the KOEZs. Act 217 further empowered the Governor to propose such zones via executive order by no later than January 1, 2003.¹⁶ Any zone proposed by the Governor required approval by the pertinent political subdivision to be designated.

To accomplish this designation, the Governor issued Executive Order 2002-13, dated December 31, 2002. The Order included a list of 11 geographical areas proposed as Keystone Opportunity Improvement Sub-Zones. Exhibit 7 describes each of these KOIZ sub-zones as stated in the executive order.

Descriptive information (e.g., geographical location and acreage) about each of the KOIZ sites is contained in the Executive Order. However, while this information is useful for generally identifying the location of the KOIZ sites, it should not be considered an authoritatively accurate description (e.g., in some cases acreage is missing or estimated and in other sites acreage appears to be precise amounts).

House Resolution 115 requires the LB&FC staff to separately identify the various programs that are included under the KOZ statute and report on their effectiveness and success in achieving program intent. However, it is currently not possible to report on the effectiveness of the KOIZ program, because basic program information is not readily available. In particular, we found that the DCED has not tracked or reported on the KOIZs as a program component separate and distinct from the other sub-zone categories (in fact, KOIZ applicants are also not separately identified in program reports).¹⁷

Although it is convenient for general discussion purposes to place all of the projects under the umbrella title of “KOZ project” or “KOZ applicant,” there are compelling reasons why KOIZ project information in particular should be separately

¹⁶In addition to the establishment of KOIZs, Act 2002-217 provided that existing zones could be enhanced or enlarged to include new property, and also established a decertification process for removing properties in existing KOZs and KOEZs, provided that all parties having an interest in the property agree to waive the tax benefits afforded by the act.

¹⁷The LB&FC staff made extensive use of the several internal program reports, especially in our assessment of data for CY 2006 which was the most recent data available until program information for CY 2007 became accessible to us in early 2009. These reports include: Application Dates Report; Jobs/Capital Investment Report; DCED Approved Status Report; Program Participant Breakdown Report; Resident Application List; and New Business Report. None of these reports separately identified participants/applicants based on whether they resided in a KOZ, KOEZ, or KOIZ.

Exhibit 7

**Keystone Opportunity Improvement Zones
as Identified in Executive Order 2002-13**

Zone	KOIZ Sites	Acres by Exec. Order	Description
Philadelphia	City of Philadelphia	25.6	2000 Kubach Road, owned by New York Central Lines, LLC
Southeast	Falls Township, Bucks County	1258.90	Parcels owned by U.S Steel
Northwest	Harbor Creek Township, Erie County	15.01	Site known as lots 3 and 4 of the Knowledge Park at Penn State University, Erie Campus
Northwest	City of Erie, Erie County	Approx. 115	East Lake Road (in the City of Erie) overlooking Lake Erie, formerly the site of International Paper's Hammermill Plant
Northwest	Tionesta Borough, Forest County	11	Site listed as tax parcel # 19-01-103 and located on SR 62, formerly owned by Evenflo juvenile products
North Central	Coudersport Borough, Potter County	Three parcels (acreage not indicated in EO)	Four parcels in Coudersport Borough, owned by Adelphia Cable Communications and Telcove (formerly Adelphia Business Solutions)
Central	Walker Township, Juniata County	114.04	Parcels owned by Empire Kosher Poultry Plant
Philadelphia	City of Philadelphia	385	Philadelphia Naval Business Center within the former Naval Shipyard
Philadelphia	City of Philadelphia	Cluster of sites in the western fringes of City	20 properties including: 30 th St. Post Office complex (9 properties), University City Science Center vacant land (6 properties), The Civic Center, Lincoln University Bldg. at 30 th & Market, Amtrak Rail Yard, Drexel-owned lot at 3001 Chestnut Street
Southwest	Burrell Township, Indiana County	65.66	Various parcels within the Corporate Campus Business Park (intersection of U.S. routes 119 and 22, owned by Indiana County Development Corporation & TFID, Inc. (Lot #15)
South Central	Green and Letterkenny Townships, Franklin County	Approx. 50	California Avenue, Letterkenny. Parcels are owned by the U.S. Army

Source: Developed by LB&FC staff based on Executive Order 2002-13 and related information provided by the DCED.

identified and monitored. First, the fact that the KOIZ projects are of a somewhat different character and origin (by virtue of their being identified by the Governor) argues for having the capacity to separately track and report on them as needed, apart from other KOZ-related components. Second, KOIZ projects in many cases will have a different expiration date than other KOZ projects. Finally, a basic management information system would be expected to accurately identify, record, and monitor the various sub-parts or elements of any given program.

In the case of the KOZ Program, the major categories of KOZ, KOEZ, and KOIZ are identified in statute and other documents (e.g., KOZ Program Guidelines) as being important distinctions; yet, for the most part information is recorded and reported as though these distinctions do not exist. One exception to the lack of program category identification in program reports is found in the “success stories” narratives found in the two most recent four-year public reports required by statute. Some of the particular projects profiled in these stories are identified as to whether they were implemented as KOZ, KOEZ, or KOIZ projects. However, these descriptions only apply of course to a handful of the total projects that have received approval.

In December 2008, we requested the KOZ Manager in DCED to identify for us the projects that are specifically located in the KOIZs. In response, the KOZ Manager stated that: “Currently, we do not have information on which sites are KOZ, KOEZ, and KOIZ in our database. This is critical data which will be collected moving forward and retroactively by adding expiration dates to all applications and verifying data with KOZ coordinators on our new local approval forms.”

Update on Related DCED Actions:

As indicated in the above statement by the KOZ Manager, DCED staff have acknowledged that certain deficiencies have existed in their KOZ recordkeeping and management information systems, and are attempting to rectify a number of these deficiencies as described in various places in this report. The DCED’s recent implementation of the Keystone Coordinator Program provides new grant monies to local KOZ coordinators for activities that augment the existing oversight role that they currently play. As relates specifically to the KOIZ participant, the DCED has developed a form called the Local Approval Form which is to be used after the KOZ Coordinator has verified the new applicant’s compliance with local taxes and codes and identifies whether the business/resident resides in a KOZ, KOEZ, or KOIZ. The applicant’s end date for KOZ benefits is also to be notated in the appropriate place on this form. This information will be entered into the applicant database and should, in time, enable the DCED staff to identify the KOIZ participants/applicants in the KOZ database for monitoring and reporting purposes.

10. Relatively Few Program Participants Are in Compliance With the Requirement to Submit a “Business Synopsis” to DCED.¹⁸

HR 115 directs the LB&FC to identify trends in the types of new businesses that have been created as a result of the program. We found, however, that DCED has not collected information of this type. Other than those for which it is obvious from their name, DCED program files generally do not contain information on the nature and types of businesses in which KOZ Program participants are engaged.

Because it is not requested on the actual program application, we attempted to compile such information from “business synopses” that businesses are to file along with their applications. Program guidelines require existing Pennsylvania businesses that are expanding, new businesses, and out-of-state businesses moving into Pennsylvania to submit a “synopses of the business” containing the following information:

- A description of the business.
- Job creation potential.
- The anticipated capital investment.

We found that the business synopsis requirement is generally not adhered to by participating businesses or enforced by DCED staff. In many cases, we found that businesses failed to submit a business synopsis with their original application for program participation. In some of these cases, we found e-mails or telephone call notes from the KOZ Manager or DCED staff assistants to applicants or their representatives that requested only a brief description of the business to satisfy the business synopsis requirement.¹⁹ For a number of start-up business files examined, a “bundled” business synopsis was submitted, consisting of only each company’s name and a business description of one or few words (such as “equity investor,” “lender,” “landlord,” or “to make investments”).

In only a few cases were job creation potential and anticipated capital investment information provided. In some cases where job information was provided, it detailed only information on the number of jobs at the time of application. Other applicants provided only mission statements. Moreover, some applicants submitted general descriptions of their business (not specific to the KOZ location) as their business synopsis. We did, however, find a very small number of submissions that contained each required element (business description, job creation potential, and anticipated capital investment).

¹⁸In 2008, the DCED eliminated the business synopsis requirement from the program guidelines and provided for an alternative means of reporting business type and description.

¹⁹In one case, the former KOZ Program director for DCED instructed a KOZ analyst to approve an application following receipt of a “verbal synopsis.”

We discussed with DCED staff this noncompliance issue and the resulting lack of program-wide information on the nature of the participating businesses. DCED officials subsequently modified the KOZ Program guidelines and application in February 2008 to eliminate the business synopsis requirement. The modified requirement provided that existing businesses that are expanding, new businesses, and out-of-state businesses moving into Pennsylvania are required to submit only a “description of the business” with their program application. As a result of this change, however, program applicants are also no longer required to provide information on their job creation potential and anticipated capital investment.

Update on Related DCED Actions:

The DCED modified the annual KOZ Program application to require that the applicant submit both the “business type” and a “business description” that is to list the products or services the business provides. This information is now to become part of the new KOZ database.

Because CY 2008 was the first year the revised program application was to be used, DCED staff attempted to collect information on the types of businesses in the program during a 2008 telephone follow-up survey of all KOZ Program participants that was done to verify information program participants submitted on their CY 2007 applications. Based on this survey, the DCED classified the businesses participating in the KOZ Program into one of the following categories: commercial, manufacturing, retail, research and development, holding companies, and export.²⁰

²⁰On the latest DCED application, the applicant has seven business types from which to choose: manufacturing, commercial, retail, real estate holding companies, research and development, export, or other.

11. Required KOZ Application Checklists and “Change of Status Notification” Forms Are Generally Not in Central Office Program Files.²¹

DCED developed a checklist that zone coordinators are to submit along with each KOZ application. The purpose of the checklists is to assist the Department in ensuring that all required information on participating businesses is collected and compliance requirements are met. The checklist consists of each of the items on the program application as well as items not on the list, such as whether the applicant is a new (first-time applicant) or renewal and a confirmation of business applicants’ product or service.

For relocations, the checklist requires coordinators to affirm that the applicant has been advised of the relocation requirements and that DCED will contact the applicant to obtain further information to document compliance with the relocation provisions. The checklist requires the signature of both the KOZ Coordinator and the DCED staff person reviewing the application.

While the Department’s KOZ Procedure Manual requires Zone Coordinators to submit the checklist with each application, we found that only a small percentage of central office applicant files contained the checklist. For those files containing a checklist, the reviewer has typically signed the checklist, while the line for the KOZ coordinator was unsigned. Applicant files containing a completed checklist typically were those which contained a paper application.

Program guidelines also require that program participants immediately notify DCED of changes in their status due to any of the following: relocation, sale, closure, local non-compliance issues, death, business name change, parcel number change, address change, or any other change that may affect KOZ benefit status. This notification is to be made by using a KOZ “Change of Status Notification” form and sending it to DCED. This requirement, according to the official form, is to be completed if an entity “is receiving or had received KOZ benefits and there is a change in their status.” As the guidelines and form do not specify which participant type must submit the form, it may be implied that it is to be completed by all current and former program participants (businesses, property owners, and residents).

Prior to recent changes described below, each entity that had participated in the program but separated from participation at some point during the duration of the program was required to complete a “Change of Status Notification” form. In addition, these and other program participants whose business name or application type changed (i.e., business becomes property owner only, parcel number change, address change) but who still participated in the program were required to submit a form. Despite these requirements, DCED program staff could not provide a file of

²¹With the full transition to full electronic processing of applications, the use of the “Application Checklist” has been discontinued.

“Change of Status” forms that program participants had submitted or produce a comprehensive listing of all current and former applicants who were required to complete Change of Status forms. Without this information, we were unable to test compliance, but it appears likely this notification requirement was not being actively monitored and enforced.

Update on Related DCED Actions:

Following discussion with DCED staff regarding this issue, changes occurred relative to these forms. According to DCED officials, much of the information formerly to be gathered on the checklist is now to be collected through the electronic application. The local KOZ Coordinators will also be required to submit a standard local approval form, which was part of the previous checklist.

The “Change of Status” notification process will presumably be continued, although it is not clear that a formal “Change of Status” form will always be required. The DCED commented as follows on this topic:

For any applicant that is moving, correcting information on job or capital investment numbers, an address change or contact name change, business type change, etc., DCED must be notified. This is made clear on our guidelines and on the KOZ website. Depending on the circumstances, sometimes an e-mail will suffice so long as we include it in our permanent record. These are stored in their file for the year and reflected in the KOZ database.

DCED officials also report that there is a concerted effort by KOZ applicants, DCED staff, and local coordinators to maintain correct and complete records.

12. Central Office Files Do Not Include Evidence That the Eligibility of Residential Program Participants Has Been Verified.²²

Attracting residential reinvestment in economically distressed urban and rural communities in Pennsylvania through the incentive of tax abatement is another objective of the KOZ Program. Residents qualified for KOZ tax benefits are those who reside within a designated KOZ parcel for a minimum of 184 consecutive days during a tax year. These benefits include not having to pay real estate taxes, earned income taxes, or state personal income taxes, among others.

According to DCED program records, the KOZ Program had 903 resident participants in 2006, which represented 23 percent of all program participants in that year. According to the KOZ Program Manager, KOZ Coordinators are to verify the program eligibility of these residents through one of the following forms of identification:²³

- A valid PA driver's license showing current address.
- A voter registration card showing current address.
- A current lease agreement showing the citizen's place of residence.

In the event the resident does not drive, vote, or have a lease agreement, a signed written statement must be provided to the KOZ Coordinator, which serves as the proof of residency.

The program application and guidelines do not specify which forms of identification or proof of residency are required to attain program eligibility as a resident. The accepted forms of identification are instead stated on a portion of the Department of Revenue's website dedicated to "Commonly Asked Questions" regarding the KOZ Program. The absence of this information from the program application may delay processing and approval of resident program applications, as additional communication may be required informing the resident applicant of the need to provide proof of residency.

While these protocols may provide reasonable proof of residence within a KOZ or KOEZ, they do not provide proof that a resident resided for 184 consecutive days on the listed property during the year for which benefits are being applied. Although a line is included within the KOZ application for the date on which a resident "physically moved into the zone," this would not appear to ensure reasonable proof of compliance with this requirement.

²²See also Section III.D.4.

²³As stated on the Department of Revenue's website dedicated to "Commonly Asked Questions" regarding the KOZ Program.

We also found that many resident program participant files for 2006 contained only copies of the program application and subsequent approval letters from DCED, with no evidence that the applicant provided the required residency documentation to their KOZ Coordinator to confirm program eligibility. In some cases, resident applicants (or persons acting on their behalf) simply informed program staff of the date on which they moved into their current property without providing proof of residing for 184 consecutive days at the property during the year for which they are applying for program benefits. In the absence of proof of resident applicants' program eligibility at the central office level, whether from correspondence from KOZ Coordinators or copies of the eligible forms of identification, it is not possible to confirm that this statutory requirement is being met.

DCED officials told us that they do not have supplemental proof for residential eligibility. Their position is that KOZ Coordinators are to ensure the eligibility of residential applicants in their respective zones, and the assumption of the KOZ Coordinator's local approval confirms the eligibility of individual residents.

Update on Related DCED Actions:

The DCED has prepared a draft "Scope of Services" statement that is intended to define the basic KOZ Program duties and responsibilities of the local KOZ Coordinators. This statement specifies that KOZ Coordinators will be responsible for confirming the 184-day residency requirements for applicants and verifying the number of residential applicants participating in the program.

13. The DCED Does Not Know How Many, if Any, Local Jurisdictions Require Residents/Owners of Deteriorated KOZ Properties to Invest a Portion of Their Tax Exemptions in Property Improvements.

Several respondents to LB&FC study questionnaires cited the absence of a requirement in law that program participants improve their property and/or structure as a basic shortcoming of the KOZ Program. For example, a respondent from a local economic development corporation cited the following as a program weakness:

The biggest weakness in the program is that it allows buildings to be taken off the tax rolls and then does not usually force the owner to improve the building to a marketable condition. In some cases, if a building is so unmarketable, there may be no incentive on earth that would incite a business to acquire the property. In these cases, the taxing districts suffer, the blight remains and the program gets a bad rap.

This respondent, as well as others, seems to be unaware of the existing provision in the KOZ Act that authorizes qualified political subdivisions²⁴ to require residents and owners of deteriorated properties within KOZ zones to invest a portion of their tax exemptions in property improvements. Under the act, local government jurisdictions may require residents of deteriorated real property to invest up to 25 percent of all real property taxes, which would otherwise have been due if the property was not located in a Zone, in improvements to the property as a condition of qualifying for program tax benefits. The act authorizes local governments to require non-resident owners of deteriorated real property who lease the property to a person for residential use to invest 50 percent of all property taxes otherwise due if not for the property's location in a qualified Zone.²⁵

Despite this provision, DCED central office staff has no record of how many, if any, local government entities require residents or owners of deteriorated real property located within qualified zones to invest a portion of their tax exemptions in property improvements. The absence of recordkeeping in this area also raises the question as to whether zone coordinators and local government entities and others at the local level are sufficiently aware of this option in law. Informing local government entities of this authorization in law and maintaining records on the number of entities exercising this authority would seem to be an important step in promoting a major program goal: i.e., ameliorating blighted areas and properties within designated zones.

²⁴Qualified political subdivisions" include counties, cities, boroughs, townships, towns, or school districts with taxing jurisdiction with real property within its jurisdiction located within a KOZ subzone, expansions subzone, or improvement subzone.

²⁵The KOZ Act also requires each political subdivision in which a Zone is located to submit a report to DCED by January 31 of each Calendar year listing the address of each real property designated a subzone, improvement subzone or expansion subzone and its owner of record. DCED officials stated that they have no record of having reviewed such documents.

In summary, we found that DCED gives relatively little attention to monitoring the operation and impact of the residential provisions of the program. No records are available at the central office level of residential units rehabilitated or constructed as a result of KOZ incentives and the statutorily required “Four-Year Report” on the KOZ Program contains no mention of the residential component of KOZs.

Update on Related DCED Actions:

DCED acknowledges that, to date, actions have not been taken to inform local governments of the authorization they have to require that residents/property owners use a specified percentage of their KOZ real estate tax exemption for property improvements. DCED further acknowledges that it does not maintain records on the imposition of this obligation. DCED officials also expressed uncertainty, however, that a municipality can impose such requirements after adoption of the Resolution to approve the zone.

14. The Total Cost of the KOZ Program Is Not Known, in Part Because State “Tax Expenditures” Are Estimated But More Importantly Because Neither DCED nor the KOZ Regions Track the Total Amount of Local Tax Exemptions Granted to Program Participants.

House Resolution 115 calls upon the LB&FC to determine the effectiveness of the KOZ, KOEZ, and KOIZ components of the program. Knowing the total cost of the KOZ Program, both on an annual basis and since the program’s inception, is essential to making a determination of the program’s cost effectiveness.²⁶

At the state level, program costs include the following: the amount of state tax exemptions, credits, and deductions granted to KOZ participants (known as General Fund tax expenditures); state agency administrative costs; implementation grants that were awarded to the regions for program start-up costs; and KOZ marketing costs.

However, the information needed to calculate total program costs on a historical basis, or for even one year, is not available. The Department of Community and Economic Development does not have a system to collect or a method to calculate program costs and, reportedly, few local taxing jurisdictions have maintained such records. Despite the absence of this data it is possible, for purposes of illustration, to identify the various cost components of the KOZ Program that would need to be factored into such a cost calculation.

State Costs

We identified at least four components²⁷ of state funding for the KOZ Program:

1. *State General Fund Tax Expenditures (i.e., state taxes waived or foregone).* As identified in the Governor’s budget document, the amounts of estimated “tax expenditures” represent the estimated annual value of all the state taxes and other credits waived within the 12 KOZs. The list of state taxes foregone under the KOZ Program includes the Corporate Net Income Tax; the Capital Stock and Foreign Franchise Tax; the Personal Income Tax; the Sales And Use Tax (on purchases consumed and used by businesses in a zone); the Mutual Thrift Institution Tax; the Bank and Trust Company Shares Tax; and the Insurance Premiums Tax.

²⁶Having quantifiable information related to the job creation and capital investment benefits of program operation is also needed to make a determination of cost-effectiveness. However, as discussed in Sections III.A.5 and III.A.6, reliable information on KOZ-related job creation and capital investment is not available.

²⁷A fifth component of state funding will be added when the DCED begins to provide \$10,000 annually to each KOZ Coordinator’s organization to support implementation of the Program’s new “Scope of Services” duties for KOZ Coordinators. (See Appendix C for a copy of Guidelines for the KOZ Keystone Coordinator Program.)

Table 13 shows the amounts of state tax expenditures for the KOZ Program as estimated by the Department of Revenue and reported by the Governor's Budget Office. According to Department of Revenue officials, the figures for the KOZ tax expenditure in the Governor's Executive Budget estimate the total fiscal year cost of all the state tax credits and special tax treatments associated with each of the KOZs and related Keystone Opportunity Expansion Zones (KOEZs), and Keystone Opportunity Improvement Zones (KOIZs). The amount of KOZ tax expenditure measures the cost of these program components against the Capital Stock and Franchise Tax (CSFT), Corporate Net Income Tax (CNIT), Insurance Premiums Tax (IPT), Personal Income Tax (PIT), and Sales and Use Tax (SUT).

Table 13

State Tax Expenditures for the KOZ Program (\$Millions-Estimated)								
	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
FY 07-08 Budget	\$40.4	\$42.6	\$46.0	\$49.8	\$53.9	\$58.4	\$63.0	--
FY 08-09 Budget	--	\$38.6	\$37.9	\$34.8	\$34.3	\$31.7	\$28.6	\$28.2
FY 09-10 Budget	--	--	\$39.0	\$35.9	\$35.4	\$32.8	\$29.7	\$29.3

Source: Governor's Executive Budget Documents, FY 2007-08, FY 2008-09, and FY 2009-10.

The amounts shown in the Governor's Executive Budget (Table 13 above) represent an estimate as opposed to actual costs. Revenue Department officials point out that, depending on the tax, it is difficult to determine the precise revenue effect. This is especially true of the Sales and Use Tax (SUT) due on services and property consumed in the zones, as the SUT is waived and is not calculated as a credit.

- The credits used by known qualified taxpayers against the Capital Stock and Foreign Franchise Tax, the Corporate Net Income Tax, the Insurance Premiums Tax, and the Personal Income Tax are based on data from the returns filed by taxpayers located in the zones.
- For the SUT, the cost is based on estimated forgone use tax for qualified taxpayers located in the zones. These figures are based on similarly sized companies reported use tax.

According to the Department of Revenue, there are several reasons for the large difference in the KOZ tax expenditure costs for the Governor's Executive Budget for FY 2007-08 and FY 2008-09. First, the tax expenditures represented in the Governor's Executive Budget for FY 2007-08 were based on the estimates completed the prior fiscal year, as tax expenditures are only fully updated every other

year. The tax expenditures for FY 2008-09 were based on a full update with data from a different tax year.

Also, in the FY 2008-09 KOZ tax expenditure, more accurate growth rates were reportedly used that account for the phase-out of the CSFT. This change significantly lowered the KOZ tax expenditure when compared with the previous fiscal year. The FY 2008-09 KOZ tax expenditure better captures the effect of the phase-out, particularly in the out years of the forecast when the CSFT has been eliminated.

According to the Department of Revenue, for the SUT portion of the KOZ tax expenditures, a new methodology was used for the FY 2008-09 estimates. The FY 2008-09 SUT estimated cost is quite a bit less than the FY 2007-08 SUT estimated cost. However, because the SUT is a small portion of the total KOZ credit amount, the decreased SUT cost has only a minor impact on the overall KOZ tax expenditure estimate for FY 2008-09.

2. *KOZ Program (State-Level) Administrative Costs.* Both DCED and the Department of Revenue incur costs related to the administration of the program.²⁸ DCED fiscal staff estimate that the agency's administrative costs for the KOZ Program average about \$86,300 annually. The Department of Revenue estimates the amount of KOZ-related administrative costs for both FY 2006-07 and FY 2007-08 at approximately \$222,000.

3. *Implementation Grants for Local Start-Up Costs.* Under the provisions of the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone, and Keystone Opportunity Improvement Zone Act, DCED was authorized to provide one-time start-up grants to KOZs in the amount of \$250,000 or a one-time grant of \$200,000 to a KOEZ "to implement the opportunity plan and to provide an annual update of real property ownership and other information to the Department of Revenue." The act required that these annual update reports describe progress on all proposals required as part of the Opportunity Plans.²⁹

The amounts of these grants awarded to organizations within each region in 1999 and 2001 are shown on Table 14. As shown, a total of \$3.0 million was awarded in 1999, and \$2.4 million was awarded in 2001. No additional state funding has been provided for local program administration since these grants were made.

²⁸The Department of Labor and Industry also has a degree of involvement in the program, primarily by determining the Unemployment Compensation tax compliance status of program applicants. Department officials could not isolate a cost figure for this activity but categorized it as minimal.

²⁹The section of the KOZ Act that authorizes DCED to award implementation grants to the KOZs also requires that the regions submit "annual update reports" to the Department of Revenue that describe progress "on all proposals required as part of the Opportunity Plan." Neither the Department of Revenue nor DCED has any record of having received these annual update reports from the KOZs.

Table 14

Implementation Grants Awarded to Pennsylvania KOZs

Grant Recipient	Funding Year/Amount ^a	
	1999	2001
Lancaster County Econ. Dev. Co/Greater Berks Dev. Fund..	\$ 250,000	\$ 200,000
Lehigh Valley Economic Dev. Corp.	250,000	200,000
Luzerne County RA	250,000	200,000
NC PA Regional Planning & Dev. Commission.....	250,000	200,000
NT Regional Planning and Dev. Commission	250,000	200,000
NW PA Regional Planning & Dev. Commission	250,000	200,000
Philadelphia City Treasurer for Philadelphia City	250,000	200,000
Schuylkill County Commissioners	250,000	200,000
Seda Council of Governments.....	250,000	200,000
South Central Assembly for Effective Governance	250,000	200,000
Southern Alleghenies Planning & Dev. Commission.....	250,000	200,000
Southwestern PA Commission	250,000	200,000
Total	\$3,000,000	\$2,400,000

^aThese grant funds were provided from DCED's housing and redevelopment assistance appropriations.

Source: Department of Community and Economic Development.

4. *KOZ Marketing Costs.* While the KOZ reportedly had a separate marketing budget when the program began, marketing is currently a part of the DCED's larger marketing effort and budget. While considering the Department's KOZ-related marketing activities, we noted a provision in the law that requires that DCED "develop and implement a consolidated marketing strategy for the Keystone Opportunity Zones or Keystone Opportunity Expansion Zones for use in job retention and attraction activities." At the time of this study, the DCED did not have such a marketing strategy for the KOZ Program.

Local Costs

As is the case with state taxes, KOZ Program participants also receive exemptions from or credits for a variety of local taxes. The local taxes that may be foregone under the KOZ Program are referred to as "local tax expenditures." The taxes impacted at the local level include the Local Real Estate Tax, the Business Privilege Tax and the Business Gross Receipts/Business Privilege Tax (Act 411 Tax). Others include the Realty Use and Occupancy Tax, the Mercantile License Tax, the Wage and Net Profits Tax (Sterling Act), and the Earned Income/Net Profits Tax (generally, Act 511 Tax).

Neither the DCED nor regional KOZ coordinators have information on local tax expenditures (i.e., local taxes waived or foregone) resulting from the KOZ Program. Others, including respondents to LB&FC study questionnaires, are generally not aware of specific record-keeping on such costs, although some persons indicated that selected local jurisdictions may have or could produce such calculations.

Update on Related DCED Actions:

The DCED does not have or compile any information on the total costs of the KOZ Program or the actual dollar value of state tax abatement received by KOZ participants. The Department of Revenue continues to estimate the state “tax expenditures” cost of the KOZ Program.

DCED officials report that the recently-developed “Scope of Services” statement for KOZ Coordinators requires that they will be responsible for determining “state and local program costs including estimates of county, local, and school tax abatement.” While the coordinators may be able to work with local tax officials to obtain data on local “tax expenditures,” it would appear that the above reference to their also being responsible to determine the state cost of the program is a responsibility better kept at the state level with the DCED and the Department of Revenue.

B. Although “Success Stories” Exist in the Program, Most KOZ Acreage Has Not Been Developed and Most KOZ Businesses Have Generated Little, if Any, Job Creation or Capital Investment

1. A Substantial Majority (70 Percent) of all Approved and Available KOZ Acreage Has Not Yet Been Developed.

In Pennsylvania, KOZ acreage is situated in 12 zones and 193 subzones within 61 counties across the state. Of the 12 designated zones, two consist of primarily or completely urban areas, five consist of primarily rural areas, and five are a mix of rural and urban areas.

The Keystone Opportunity Zone Act provides acreage requirements and parameters for KOZs, KOEZs, and KOIZs. Specifically:

- *Keystone Opportunity Zones (KOZs)*. KOZs are to be comprised of deteriorated property not to exceed 5,000 acres with up to 12 subzones containing a minimum of 20 contiguous acres or a minimum of 10 contiguous acres in a rural area.
- *Keystone Opportunity Expansion Zones (KOEZs)*. KOEZs are comprised of no more than eight expansion subzones totaling a maximum of 1,500 acres in the aggregate, and must contain a minimum of 15 contiguous acres or a minimum of five contiguous acres in a rural area.
- *Keystone Opportunity Improvement Zones (KOIZs)*. The acreage sizes of KOIZ subzones were established by the Executive Order that proposed the designation of the subzones pursuant to authorization in Act 2002-217.

Pursuant to the above definitions, there was a total of 46,853 approved and available acres in the KOZ Program. (See Table 15.) Based on the latest data available from the DCED (data as of 2006), 71.0 percent of this total was KOZ acreage, 24.5 percent was KOEZ acreage, and 4.5 percent of the acres were in KOIZs.

Upon approval, DCED could not alter the geographic boundaries or duration of any subzones or expansion subzone described in an application. Enhancements to existing KOZs and KOEZs were authorized to be made by DCED through subsequent legislation provided they met the criteria in law and “based upon need and likelihood of success as determined by [DCED].” Enhancements were permissible for designated subzones within a KOZ in which the aggregate area of all existing subzones did not exceed the statutory maximum size of 5,000 acres. KOEZs were authorized to seek an enhancement of their size from their original designation from DCED, provided that the aggregate size of all KOEZs within a KOZ did not exceed 1,500 acres.

Table 15

Total KOZ Acreage in Pennsylvania, by Type
(As of CY 2006)

Zone	Acreage, by Type			Total
	KOZ	KOEZ	KOIZ	
Northwest.....	5,000.00	1,000.00	162.00	6,162.00
Southwest.....	4,947.51	1,242.35	65.57	6,255.43
North Central	2,666.13	1,486.47	12.06	4,164.66
Southern Alleghenies	4,972.26	1,477.59	0.00	6,449.85
Northern Tier.....	187.00	179.00	0.00	366.00
Central PA	3,631.45	1,335.72	114.04	5,081.21
South Central.....	820.00	119.00	40.00	979.00
Lackawanna/Luzerne.....	5,000.00	1,500.00	0.00	6,500.00
Schuylkill/Carbon	2,550.97	973.50	0.00	3,524.47
Lehigh Valley	660.93	716.48	0.00	1,377.41
Southeast.....	1,430.93	548.48	1,258.90	3,238.31
Philadelphia	<u>1,393.00</u>	<u>892.00</u>	<u>470.00</u>	<u>2,755.00</u>
Totals	33,260.20	11,470.59	2,122.57	46,853.34

Source: Developed by LB&FC staff using information obtained from the Department of Community and Economic Development.

In July 2008, KOZ expansion legislation, Act 2008-79, was signed into law. Act 79 extended the statutory duration of KOZs and allows for certain program expansions. Total program acreage will increase under these provisions.³⁰

Having determined the total number of approved and available acres in the program, we sought to determine the percentage of the total acreage that has been developed. We found, however, that the DCED central office staff does not maintain a central program-wide database of KOZ sites³¹ or ongoing statistical data on the amounts of KOZ acreage that is developed and undeveloped in each KOZ region. Information of this type is recorded at the local level and, as requested, is periodically reported to the central office. Specifically, program staff stated that acreage data is requested every four years from Zone Coordinators for inclusion in the statutorily-required four-year report to the General Assembly. While information is available from the regional level, the absence of up-to-date central office recordkeeping on developed and undeveloped acreage within the zones would appear to be important information for program management and marketing purposes.

We found that only one zone, Lackawanna/Luzerne had the maximum acreage designation provided for in law (i.e., 5,000 acres in KOZ and 1,500 acres in the KOEZ component of the program). The Southwest and Southern Alleghenies

³⁰Applications for the expansion of existing zones were to be submitted to DCED by December 31, 2008; applications for designation of additional zones were to be submitted to DCED by May 1, 2009.

³¹In the absence of a central, comprehensive listing of developed and undeveloped acreage among the zones, a site maintained by the Team Pennsylvania Foundation (linked from the DCED KOZ website) contains a listing of at least some of the sites within each of the 12 zones.

zones also approached the maximum allowable acreage figure. The Northern Tier Zone had the lowest designated acreage total at 366 acres.

We also found that, as of CY 2007, only about 30 percent of total acreage statewide had been developed. (See Table 16.) While one region (Lehigh Valley) had developed about 72 percent of its total KOZ acreage, 9 of the 12 counties had more than 50 percent of their designated acreage in the “unused” category, and in five counties the percentage of acreage unused exceeds 75 percent. The Central Pennsylvania Zone had the lowest percentage developed at 18.5 percent.

Table 16

Developed and Undeveloped KOZ Acreage, by Zone (As of CY 2007)*					
<u>Zone</u>	<u>Total Acreage</u>	<u>Total Acres Used/Unused</u>			
		<u>Used</u>	<u>% Used</u>	<u>Unused</u>	<u>% Unused</u>
Northwest	5,983.00	1,313.00	22.0%	4,670.00	78.1%
Southwest.....	6,255.43	1,292.10	20.7	4,963.33	79.3
North Central	4,185.76	576.63	13.8	3,609.13	86.2
Southern Alleghenies	6,449.85	1,612.46	25.0	4,837.39	75.0
Northern Tier	366.00	255.57	69.8	110.43	30.2
Central PA	5,081.11	940.99	18.5	4,140.12	81.5
South Central.....	979.00	662.30	67.7	316.70	32.4
Lackawanna/Luzerne	6,500.00	2,892.50	44.5	3,607.50	55.5
Schuylkill/Carbon.....	3,524.47	980.71	27.8	2,543.76	72.2
Lehigh Valley	1,377.41	984.85	71.5	392.56	29.0
Southeast	3,238.31	1,142.03	35.3	2,096.28	64.7
Philadelphia	<u>2,755.00</u>	<u>1,291.00</u>	46.9	<u>1,464.00</u>	53.1
Totals.....	46,695.34	13,944.14	29.9%	32,751.20	70.1%

*As of April 2009, this was the latest data available from DCED.

Source: Developed by LB&FC staff using information obtained from the Department of Community and Economic Development.

A number of persons with whom we spoke during the study as well as respondents to the study questionnaire expressed the belief that lack of development, in many instances, is due to one or a combination of factors, including lack of available infrastructure, costly remediation requirements, and inadequate marketing of the program.

2. Many KOZ Participants and Their Associated KOZ Projects Provide Little, If Any, Job Creation or Capital Investment in Return for the KOZ Tax Exemption and Abatement Benefits They Receive.

Statutory References to Job Creation and Capital Investment

As previously discussed, the KOZ initiative was designed to stabilize and revive economically distressed urban and rural communities throughout the Commonwealth with the incentive of tax abatement and seeks to foster both private business and residential reinvestment in these designated areas. Unlike similar programs in a number of other states, however, the Keystone Opportunity Zone Act does not require a qualified business to create jobs or provide capital investment in a zone in order to receive the law's tax benefits.³²

While there is no express required tie between program eligibility and job creation and capital investment, job creation and capital investment are not irrelevant under the KOZ law. A lack of job creation and capital investment are key elements—among others—in the legislative findings underlying the law, the nature and purpose of the zones as defined by the law, and in the statutory qualifying criteria used to establish the zones. Specifically, the law in each of these areas provides as follows:

- *Legislative Findings*—the initial legislative findings to which the KOZ Program is intended to respond and address describe economic distress existing in areas of Pennsylvania. A lack of jobs and investment are presented in these legislative findings as characterizations of that economic distress. Section 820.102 of the law states, in pertinent part, that “[t]here exist in this Commonwealth areas of economic distress characterized by *high unemployment, low investment of new capital*, inadequate dwelling conditions, blighted conditions, underutilized, obsolete or abandoned industrial, commercial and residential structures and deteriorating tax bases” [emphasis added]. It continues, “[t]hese areas require coordinated efforts by private and public entities to *restore prosperity* and enable the areas to *make significant contributions to the economic and social life of this Commonwealth*” [emphasis added]. Therefore, based on these legislative findings, the purpose or goal of the KOZ Program appears to be restoring prosperity to economically distressed areas—areas characterized in part by high unemployment and low capital investment—to enable these regions to make significant contributions to the state's economic and social life.

³²Except that the KOZ Act does require that Pennsylvania businesses relocating to a KOZ attain specified job or capital investment increases.

- *Nature and Purpose of Zones*—the language of the law further states that at their foundation, KOZ's are geographic areas comprised of deteriorated property. Applicants—political units seeking to establish a zone—must initially include an “opportunity plan” developed by local political subdivisions detailing aspects of the strategy for the KOZ, including “a proposal to increase economic opportunity . . . and *identify potential jobs* and job training opportunities” and “a description of the current social, economic and demographic characteristics of the proposed [KOZ] and anticipated improvements in education, health, human services, public safety *and employment* that will result from [KOZ] designation.” (See Section 820.302 of the act.) Also, the plan is to provide “evidence of potential *private and public investment* in the proposed [KOZ]” and “the role of the proposed [KOZ] in regional economic and community development.”
- *Qualifying Criteria*—also, at the time of initial authorization of the zones, DCED reviewed applications whereby the proposed zone had to meet at least two of twelve criteria under §820.304(a) of the act. Of the twelve criteria, five address property conditions within the zone (or state of underdevelopment), three deal with income or poverty level, two speak to population loss, and two specifically contend with *unemployment or job loss*. Criteria under Section 820.304(b) were listed for possible additional consideration by DCED over and above the required criteria. This additional criteria includes evidence of distress within a zone, e.g. *unemployment*, income level, poverty rate, deteriorated property, and adverse economic and socioeconomic conditions; as well as the strength, viability, creativity, and innovativeness of the opportunity plan; *level of commitment*; existing resources; the fit of the KOZ with other development initiatives, and other factors.

Additionally, DCED uses job creation and capital investment as the primary benchmarks of the success of the program. For example, “success stories” provided by DCED emphasize jobs and investment. And, DCED’s “Four-Year Report” on the KOZ Program also highlights—when discussing the economic impact of the program—the number of new jobs created along with the amount of capital investment attracted to the zones.

Job Creation and Capital Investment in the KOZ Program

As noted above, the KOZ Act, along with current program policy and administration, enable businesses to receive KOZ benefits without being required to create jobs or generate capital investment. Although not explicitly stated in the KOZ Act, it is reasonable to assume that job creation and capital investment are necessary and important objectives given the economic revitalization focus of the program. However, in the absence of a specific mandate, DCED program officials told us that, technically, KOZ Program participants are not required to create or retain

jobs or make capital investment to participate in the program because it is not required in the statute.

Our examination of KOZ Program records indicates that, without such conditions in place, many businesses that participate in the program are not creating jobs or generating capital investment. As a result, it is difficult to identify the benefits, if any, tax payers are receiving on the investment of “tax expenditures” that is being made to these businesses.

As previously discussed in III.A.5 and III.A.6, we encountered significant problems in obtaining complete and accurate job creation and capital investment data connected with the KOZ Program. As described in these sections, the issue of the completeness and accuracy of reported job and capital investment figures is one dimension of the problem. Another is the large number of program participants that report no job creation and, in a lesser number of cases, no capital investment.

Percentage of Program Participants Reporting Job Creation. We attempted to determine how many program participants were reporting job creation in a given calendar year. Using CY 2006 records,³³ we found that more than two-thirds of all program participants (including property owners but excluding residential participants who would not be expected to create jobs or generate capital investment) did not report any job creation activity.

This calculation was made as follows:

- For purposes of this analysis, we assumed that the total number of participants in the KOZ Program in CY 2006 was 2,975 the number drawn from DCED’s “Approved Status Report.”
- We also used another internal DCED printout entitled “Jobs/Capital Investment Report,” a report listing all program participants who had reported creating jobs and/or generating capital investment in CY 2006. This report includes 1,049 entries, which we interpreted to mean that 1,049 KOZ Program participants, or 35 percent of the total number of 2,975 reported participants in the program, reported having created jobs/capital investment.³⁴
- However, because the Jobs/Capital Investment Report lists numerous program participants with zero reported jobs, static job numbers, or job reductions, the percentage that reported no job creation is actually closer to 75 percent.

³³CY 2007 and CY 2008 records were not available until March 2009.

³⁴As noted in Finding III.A-5, data reported on the “Jobs/Capital Investment Report” is difficult to interpret because DCED did not specify whether firms are to report new jobs created that year, or the cumulative job totals since entering the KOZ.

Among these are real estate development corporations (public and private); property owners; and, as the following case examples illustrate, a concentration of firms in the financial and investment services field that, while receiving tax benefits, exhibit a pattern of zero job creation.

Selected Case Examples

Job Creation and Capital Investment by Investment and Financial Services Firms. In reviewing KOZ Program applications and other file materials, we noted a pattern in which participating businesses of a particular type have tended to report little, if any, job creation and/or capital investment. For purposes of discussion, we refer to these as “investment or financial services” firms, including businesses described, for example, as “private investment,” “venture capital,” “equity investor,” “real estate private equity,” and “fixed-income investment manager.” The information on sample firms in Exhibit 8 best illustrates this point by showing job creation and capital investment data reported by some of these firms on their KOZ applications. As shown, most of these firms have multiple KOZ applications (in some cases more than 20) and many report no job creation or capital investment on any of the applications. In these cases, DCED accepts and authorizes the inclusion of the multiple applications because each has a separate federal employer identification number (EIN).

Job Creation by Other Selected KOZ Participants. As previously discussed, KOZ applications are to indicate the number of jobs a participating business had upon entering a KOZ and the number of jobs at the time the subsequent program application is submitted. DCED uses this information to calculate job creation figures attributable to the KOZ Program. As a result of reviewing the KOZ Program’s application files, we observed a pattern of no job creation among many program participants. As shown in Table 17, this pattern has often continued in multiple consecutive years.

Exhibit 8

Examples of Investment and Financial Services Firms in the KOZ Program With Multiple Applications and No or Minimum Job Creation/Capital Investment

Sample Firm A			
Type Private Investment			
Description Provides loans, equity investment, and consulting services to private equity firms.			
Total Number of KOZ Applications = 12	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm A - <i>Advisor I, LLC</i>	0	0	\$0
Sample Firm A - <i>Bridge Loan Fund I, LLC</i>	0	0	0
Sample Firm A - <i>Bridge Loan Master Fund I, LLC</i>	0	0	0
Sample Firm A - <i>Enterprises, LLC</i>	0	0	0
Sample Firm A - <i>Funding Advisor I, LLC</i>	0	0	0
Sample Firm A - <i>General, Inc.</i>	0	0	0
Sample Firm A - <i>High Income Fund I, LP</i>	0	0	0
Sample Firm A - <i>High Income Fund I, LLC</i>	0	0	0
Sample Firm A - <i>High Performance Fund, LLC</i>	0	0	0
Sample Firm A - <i>Management, LP</i>	0	0	0
Sample Firm A - <i>Manager USA I, LLC</i>	0	0	0
Sample Firm A - <i>Originator I, LLC</i>	0	0	0

Sample Firm B			
Type Venture Capital			
Description A venture fund formed to invest in seed and early-stage life science Companies.			
Total Number of KOZ Applications = 8	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm B - <i>BioAdvance Mgmt.</i>	0	0	\$ 13,870
Sample Firm B - <i>BioVentures Mgmt., LLC</i>	0	1	8,558
Sample Firm B - <i>Joint Venture</i>	0	0	559,746
Sample Firm B - <i>BioVentures Capital LLC</i>	Not listed on job/investment report.		
Sample Firm B - <i>BioVentures Capital, LP</i>	Not listed on job/investment report.		
Sample Firm B - <i>BioVentures Mgmt, LP</i>	Not listed on job/investment report.		
Sample Firm B - <i>BioVentures Tobacco, LP</i>	Not listed on job/investment report.		
Sample Firm B - <i>BioVentures, LP</i>	Not listed on job/investment report.		

Exhibit 8 (Continued)

Sample Firm C			
Type Equity Investor			
Description Lender/lending money (affiliate of Sample Firm H)			
Total Number of KOZ Applications = 3	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm C – <i>ICG Holding, LLC</i> .	0	0	\$0
Sample Firm C – <i>ICG Lending, LLC</i>	0	0	0
Sample Firm C – <i>ICG Management, LLC</i>	0	0	0

Sample Firm D			
Type Private Equity Funds			
Description Capitalized with private equity from institutional and high net worth investors; provides an alternative to equity for owners of real estate and offers creative structures including mezzanine loans, preferred equity and other forms of subordinate financing.			
Total Number of KOZ Applications = 29	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm D – <i>Partners, LLC</i>	0	0	\$17,234
Sample Firm D – <i>R.E. Mezzanine Parallel Fund II, LP</i>	0	0	8,554
Sample Firm D – <i>R.E. Mezzanine Parallel Fund, LP</i>	0	0	47,533
Sample Firm D – <i>210P, LLC</i>	0	0	0
Sample Firm D – <i>210Q, LLC</i>	0	0	0
Sample Firm D – <i>2P, LLC</i>	0	0	0
Sample Firm D – <i>2Q, LLC</i>	0	0	0
Sample Firm D – <i>Funding 201, LP</i>	0	0	0
Sample Firm D – <i>Funding 206, LP</i>	0	0	0
Sample Firm D – <i>Funding 207, LP</i>	0	0	0
Sample Firm D – <i>Funding 208, LP</i>	0	0	0
Sample Firm D – <i>Funding II, LLC</i>	0	0	0
Sample Firm D – <i>Investors GP, LLC</i>	0	0	0
Sample Firm D – <i>Investors, LP</i>	0	0	0
Sample Firm D – <i>Management GP, LLC</i>	0	0	0
Sample Firm D – <i>Management, LP</i>	0	0	0
Sample Firm D – <i>Mortgage, Inc.</i>	0	0	0

Exhibit 8 (Continued)

Sample Firm D (Continued)	Jobs In ^a	Jobs Now	Capital Investment
Sample Firm D – <i>Parallel 201, LP</i>	0	0	0
Sample Firm D – <i>Parallel 206, LP</i>	0	0	0
Sample Firm D – <i>Parallel 207, LP</i>	0	0	\$0
Sample Firm D – <i>Parallel 208, LP</i>	0	0	0
Sample Firm D – <i>Parallel II, LLC</i>	0	0	0
Sample Firm D – <i>Partners II, LLC</i>	0	0	0
Sample Firm D – <i>Partners, II, LP</i>	0	0	0
Sample Firm D – <i>Partners, LP</i>	0	0	0
Sample Firm D – <i>R.E. Mezzanine Fund II, LP</i>	0	0	0
Sample Firm D – <i>R.E. Mezzanine Fund, LP</i>	0	0	0
Sample Firm D – <i>Sub 211P, LLC</i>	0	0	0
Sample Firm D – <i>Sub 211Q, LLC</i>	0	0	0

Sample Firm E			
Type Real Estate			
Description Development and asset/property management			
Total Number of KOZ Applications = 5	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm E – <i>Associates IV, LP</i>	0	0	\$1,127,895
Sample Firm E – <i>Associates I, LP</i>	0	0	1,127,895
Sample Firm E – <i>Associates III, LP</i>	0	0	1,377,895
Sample Firm E – <i>Associates V, LP</i>	0	0	4,500,000
Sample Firm E – <i>Associates II, LP</i>	Not listed on job/investment report.		

Sample Firm F			
Type Hedge Fund			
Description Makes investments and loans and lends money			
Total Number of KOZ Applications = 3	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm F – <i>Hedge Investments LLC</i>	0	0	\$94,468
Sample Firm F – <i>Lending LLC</i>	0	0	25,842
Sample Firm F – <i>Partners, LP</i>	Not listed on job/investment report.		

Exhibit 8 (Continued)

Sample Firm G			
Type Real Estate Private Equity			
Description Specializes in redevelopments through joint ventures with local operating partners.			
Total Number of KOZ Applications = 29			
Separate Applications for:	Jobs In ^a	Jobs Now	Capital Investment
Sample Firm G - <i>Real Estate Parallel Fund II, LP</i>	0	0	\$1,148,077
Sample Firm G - <i>Real Estate Parallel Fund III, LP</i>	0	0	94,895
Sample Firm G - <i>Real Estate Parallel Fund IV, LP</i>	0	0	24,365
Sample Firm G - <i>Real Estate Parallel Fund V, LP</i>	0	0	8,317
Sample Firm G - <i>LP</i>	0	0	53,651
Sample Firm G - <i>V Joint Venture</i>	0	0	8,317
Sample Firm G - <i>Real Estate Opportunity Fund, LP</i>	0	0	245,939
Sample Firm G - <i>Group V, LLC</i>	0	0	8,317
Sample Firm G - <i>Capital Real Estate Fund III, LP</i>	0	0	611,512
Sample Firm G - <i>Capital Real Estate Fund II, LP</i>	0	0	89,198
Sample Firm G - <i>Capital Real Estate Fund IV, LP</i>	0	0	51,759
Sample Firm G - <i>Capital RE Opportunity Fund, LP</i>	0	0	129,234
Sample Firm G - <i>Group II, LLC</i>	0	1	8,317
Sample Firm G - <i>Group IV, LLC</i>	0	1	8,317
Sample Firm G - <i>IV, Joint Venture</i>	0	1	8,317
Sample Firm G - <i>Mgmt Co., LP</i>	10	12	99,802
Sample Firm G - <i>Real Estate Fund III, LP</i>	0	1	222,359
Sample Firm G - <i>Real Opportunity Fund II, LP</i>	0	0	732,799
Sample Firm G - <i>Real Estate Fund V, LP</i>	0	0	8,317
Sample Firm G - <i>Group III, LLC</i>	0	0	8,317
Sample Firm G - <i>Real Estate Fund IV, LP</i>	0	0	313,935
Sample Firm G - <i>Management GP, LLC</i>	0	1	8,317
Sample Firm G - <i>Real Estate Fund II, LP</i>	0	0	812,758
Sample Firm G - <i>Management, Inc.</i>	0	0	153,884
Sample Firm G - <i>LEM II, LLC</i>	0	0	0
Sample Firm G - <i>LEM II, LP</i>	0	0	0
Sample Firm G - <i>Group IV, LP</i>	0	0	0
Sample Firm G - <i>Group V, LP</i>	0	0	0
Sample Firm G - <i>LLC</i>	0	0	0

Exhibit 8 (Continued)

Sample Firm H			
Type Private Equity Description Guides business owners and landlords through the mature transition to “an attractive and active retirement life” by creating profitable and tax efficient exit strategies and estate planning for the sale of their mid-market companies and investment properties.			
Total Number of KOZ Applications = 8		Jobs In ^a	Capital Investment
Separate Applications for:		Jobs Now	
Sample Firm H - <i>Joint Venture, LP</i>		0	\$0
Sample Firm H - <i>Management, LLC</i>		0	0
Sample Firm H - <i>Management, LP</i>		0	0
Sample Firm H - <i>Partners Parallel, LP</i>		0	0
Sample Firm H - <i>Partners, Inc.</i>		0	0
Sample Firm H - <i>Partners, LP</i>		0	0
Sample Firm H - <i>LLC</i>		0	0
Sample Firm H - <i>LP</i>		0	0

Sample Firm I			
Type Fixed-Income Investment Manager Description An investment management company specializing in credit fixed income investments managed through listed and private companies, funds, managed accounts, and collateralized debt obligations, including U.S. trust preferred securities, European hybrid capital securities, Asian commercial real estate debt, senior secured loans, nonprofit/municipal bonds, and mortgage- and asset-backed securities.			
Total Number of KOZ Applications = 7		Jobs In ^a	Capital Investment
Separate Applications for:		Jobs Now	
Sample Firm I – <i>Financial Management</i>		0	\$0
Sample Firm I – <i>Funding, LLC</i>		0	0
Sample Firm I – <i>Management, LLC</i>		0	0
Sample Firm I – <i>Securities, LLC</i>		0	0
Sample Firm I – <i>Acquisition, LLC</i>		0	0
Sample Firm I – <i>LLC</i>		0	0
Sample Firm I – <i>LLC</i>		0	0

Exhibit 8 (Continued)

Sample Firm J			
Type Business Combination Company			
Description A blank check company formed for the purpose of acquiring, through a merger, capital stock exchange, asset acquisition, or other similar business combination, one or more unidentified businesses.			
Total Number of KOZ Applications = 3	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm J – <i>Management, LLC</i>	0	0	\$0
Sample Firm J – <i>Corporation</i>	0	0	0
Sample Firm J – <i>Investors, LLC</i>	0	0	0

Sample Firm K			
Type Management of Asset-Backed and Mortgage-Backed Securities			
Description Manages asset-backed securities and mortgaged-backed securities industry; attempts to take advantage of regularly mispriced securities in the fixed income markets for higher returns to their clients.			
Total Number of KOZ Application = 1	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm K – <i>Management, LLC</i>	0	0	\$840,000

Sample Firm L			
Type Real Estate Investment Trust			
Description A real estate investment trust (REIT). Unlike many REITs which own real estate directly, this firm makes investments in real estate-related and other securities. Externally managed by Sample Firm I.			
Total Number of KOZ Applications = 8	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm L – <i>Financial Holdings, LLC</i>	0	0	\$0
Sample Firm L – <i>Financial Trust</i>	0	0	0
Sample Firm L – <i>Financial, Inc.</i>	0	0	0
Sample Firm L – <i>Funding, Inc.</i>	0	0	0
Sample Firm L – <i>Loan Holdings Trust</i>	0	0	0
Sample Firm L – <i>Real Estate Holdings, LLC</i>	0	0	0
Sample Firm L – <i>TPS Holdings, LLC</i>	0	0	0
Sample Firm L – <i>Warehouse Conduit, LLC</i>	0	0	0

Exhibit 8 (Continued)

Sample Firm M			
Type Lending/Real Estate			
Description Landlord, makes investments, lender, owns and leases real estate, holds a promissory note, owns and operates real estate			
Total Number of KOZ Applications = 8	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm M - <i>A 300 Bedford St Land Owner, LLC</i>	0	0	\$0
Sample Firm M - <i>Buckeye Leaseholder</i>	0	0	0
Sample Firm M - <i>Buckeye Noteholder, LLC</i>	0	0	0
Sample Firm M - <i>Commons R-4 Noteholder, LLC</i>	0	0	0
Sample Firm M - <i>InterCap Noteholder, LLC</i>	0	0	0
Sample Firm M - <i>Mayacama Lender</i>	0	0	0
Sample Firm M - <i>Holdings, LLC</i>	0	0	0
Sample Firm M - <i>Parallel Holdings, LLC</i>	0	0	0

Sample Firm N			
Type Private Equity Fund			
Description Focuses on providing privately negotiated junior debt to middle-market companies.			
Total Number of KOZ Applications = 9	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm N - <i>Credit Funding GP, LLC</i>	0	0	\$0
Sample Firm N - <i>Credit Funding, LP</i>	0	0	0
Sample Firm N - <i>Credit Management GP, LLC</i>	0	0	0
Sample Firm N - <i>Credit Management, LP</i>	0	0	0
Sample Firm N - <i>Credit Partners Parallel, LP</i>	0	0	0
Sample Firm N - <i>Credit Partners, Inc.</i>	0	0	0
Sample Firm N - <i>Credit Partners, LP</i>	0	0	0
Sample Firm N - <i>Securities, LLC</i>	0	0	0
Sample Firm N - <i>Securities, LP</i>	0	0	0

Exhibit 8 (Continued)

Sample Firm O			
Type Private Equity Description Provides capital to middle market growth companies with proven business models; takes minority or control positions and leads transactions ranging from expansion and growth capital to shareholder recapitalizations and buyouts.			
Total Number of KOZ Applications = 12	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm O - <i>Capital II, LLC</i>	0	0	\$0
Sample Firm O - <i>Capital II, LP</i>	0	0	0
Sample Firm O - <i>Capital LP</i>	0	0	0
Sample Firm O - <i>Capital, LLC</i>	0	0	0
Sample Firm O - <i>Equity Partners II, LP</i>	0	0	0
Sample Firm O - <i>Equity Partners Parallel II, LP</i>	0	0	0
Sample Firm O - <i>Equity Partners Parallel, LP</i>	0	0	0
Sample Firm O - <i>Equity Partners, LP</i>	0	0	0
Sample Firm O - <i>Joint Venture</i>	0	0	0
Sample Firm O - <i>Joint Venture II</i>	0	0	0
Sample Firm O - <i>Management, LLC</i>	0	0	0
Sample Firm O - <i>Management, LP</i>	0	0	0

Sample Firm P			
Type Real Estate and Investment Description Provides real estate investment and advisory services including transaction, asset management, operation, construction, and leasing services.			
Total Number of KOZ Applications = 6	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm P - <i>Investors, LP</i>	0	0	\$0
Sample Firm P - <i>Partners, LP</i>	0	0	0
Sample Firm P - <i>Partners/Investors GP, LLC</i>	0	0	0
Sample Firm P - <i>Properties Fund GP, LLC</i>	0	0	0
Sample Firm P - <i>Properties GP, LP</i>	0	0	0
Sample Firm P - <i>Properties LP</i>	0	0	0

Exhibit 8 (Continued)

Sample Firm Q			
Type Real Estate Investment Trust			
Description Qualified REIT subsidiary (part of Sample Firm L)			
Total Number of KOZ Applications = 5	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm Q - <i>Financial Holdings, LLC</i>	0	0	\$0
Sample Firm Q - <i>Funding, Inc.</i>	0	0	0
Sample Firm Q - <i>Investment Vehicle, Inc.</i>	0	0	0
Sample Firm Q - <i>Loan Holdings Trust</i>	0	0	0
Sample Firm Q - <i>TPS Holdings, LLC</i>	0	0	0

Sample Firm R			
Type Real Estate			
Description Real estate financial management, investment, and operating activities			
Total Number of KOZ Applications = 4	Jobs In ^a	Jobs Now	Capital Investment
Separate Applications for:			
Sample Firm S - <i>Associates Limited Partnership</i>	0	0	\$ 0
Sample Firm S - <i>Management Operations, LLC</i>	0	0	0
Sample Firm S - <i>Operations, Inc.</i>	0	0	0
Sample Firm S - <i>GP, LLC</i>	0	0	343

^aWhen entering the KOZ Program.

Source: Pennsylvania Department of Community and Economic Development.

Table 17

Other Examples of KOZ Participating Businesses and Development Organizations Reporting Zero Job Creation in Three or More Consecutive Years

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Business A: Equipment Rental						
Jobs In.....	0	0	0	0	0	0
Jobs Now.....	0	0	0	0	0	0
Capital Invest. ...	\$200,000	\$500,000	\$600,000	\$7,000,000	\$700,000	\$700,000
Business B: Commercial Real Estate Developer						
Jobs In.....	--	0	0	0	0	0
Jobs Now.....	--	0	0	0	0	10
Capital Invest. ...	--	\$4,600,000	\$1,500,000	\$1,400,000	\$1,500,000	\$0
Business C: Commercial Property Management						
Jobs In.....	--	0	0	0	0	0
Jobs Now.....	--	0	0	0	0	0
Capital Invest. ...	--	\$800,000	\$1,900,000	\$1,900,000	\$1,900,000	\$1,900,000
Business D: Private Nonprofit Agency Promoting Economic Development						
Jobs In.....	--	0	0	0	a	0
Jobs Now.....	--	0	0	0	a	0
Capital Invest. ...	--	\$700,000	\$700,000	\$700,000	a	\$700,000
Business E: Real Estate Development						
Jobs In.....	0	0	a	0	0	0
Jobs Now.....	0	0	a	0	0	0
Capital Invest. ...	\$50,000	\$50,000	a	\$200,000	\$200,000	\$500,000
Business F: Attorney						
Jobs In.....	--	--	0	0	0	0
Jobs Now.....	--	--	0	0	0	0
Capital Invest.	--	--	\$110,000	\$150,000	\$200,000	\$230,000
Business G:^b Nonprofit Industrial Development Corporation						
Jobs In.....	--	--	0	0	0	0
Jobs Now.....	--	--	0	0	0	0
Capital Invest.	--	--	\$1,800,000	\$1,800,000	\$1,000,000	\$100,000

Table 17 (Continued)

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Business H: Management Services						
Jobs In.....	--	0	0	0	0	0
Jobs Now.....	--	0	0	0	0	0
Capital Invest.	--	\$4,200,000	\$3,600,000	\$4,200,000	\$5,000,000	\$0
Business I: Nonprofit Agency Facilitating Entrepreneurial Development & Job Creation						
Jobs In.....	--	0	0	0	--	--
Jobs Now.....	--	0	0	0	--	--
Capital Invest. .	--	\$9,500,000	\$8,500,000	\$6,000,000	--	--
Business J:^a Nonprofit Agency Providing Housing for Low Income Persons						
Jobs In.....	--	--	0	0	0	0
Jobs Now.....	--	--	0	0	0	0
Capital Invest.	--	--	\$12,000,000	\$3,000,000	\$0	\$0
Business K: Coal Mining						
Jobs In.....	--	--	0	0	a	0
Jobs Now.....	--	--	0	0	a	0
Capital Invest. ..	--	--	\$100,000	\$315,000	a	\$315,000
Business L: Self Storage and Vehicle Storage						
Jobs In.....	0	0	0	0	0	0
Jobs Now.....	0	0	0	0	0	1
Capital Invest. .	\$130,000	\$130,000	\$150,000	\$236,000	\$236,000	\$2,000
Business M: Air Charter Service						
Jobs In.....	--	0	0	0	0	0
Jobs Now.....	--	0	0	0	0	0
Capital Invest. .	--	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000
Business N: Rental Service						
Jobs In.....	18	0	a	0	0	0
Jobs Now	37	0	a	0	0	0
Capital Invest. .	\$1,000,000	\$2,000,000	a	\$2,200,000	\$2,200,000	\$2,200,000

Table 17 (Continued)

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Business O: Metal Stamping and Assembling						
Jobs In.....	4	4	4	4	4	4
Jobs Now	4	4	4	0	0	0
Capital Invest. .	\$1,420,000	\$1,420,000	\$1,420,000	\$1,420,000	\$1,420,000	\$1,420,000
Business P: Commercial Multi-Family Housing Construction						
Jobs In.....	0	0	a	0	a	0
Jobs Now.....	0	0	a	0	a	0
Capital Invest. .	\$200,000	\$200,000	a	\$200,000	a	\$200,000
Business Q: Housing for Older Citizens						
Jobs In.....	--	--	3	0	0	0
Jobs Now.....	--	--	3	0	0	0
Capital Invest ..	--	--	\$3,098,570	\$11,228,674	\$11,228,674	\$11,228,674
Business R: Real Estate Investment						
Jobs In.....	0	a	a	0	0	0
Jobs Now.....	0	a	a	0	0	0
Capital Invest ..	\$200,000	a	a	\$250,000	\$250,000	\$250,000
Business S: Investment Consulting						
Jobs In.....	0	a	a	0	a	0
Jobs Now.....	1	a	a	0	a	0
Capital Invest ..	\$0	a	a	\$1,300	a	\$1,300
Business T: Health and Allied Services						
Jobs In.....	0	0	0	0	a	0
Jobs Now.....	0	0	0	0	a	0
Capital Invest ..	\$1,400,000	\$800,000	\$1,500,000	\$1,500,000	a	\$1,500,000
Business U: Apparel and Accessory Store						
Jobs In.....	--	1	0	0	0	0
Jobs Now.....	--	1	0	0	0	0
Capital Invest ..	--	\$6,200	\$6,200	\$425	\$450	\$0

Table 17 (Continued)

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Business V: Entertainment Venue						
Jobs In.....	--	0	a	0	0	0
Jobs Now.....	--	0	a	0	0	0
Capital Invest ..	--	\$100,000	a	\$30,000	\$35,000	\$0
Business W: Real Estate Holding Company						
Jobs In.....	1	a	a	0	0	0
Jobs Now.....	1	a	a	0	0	0
Capital Invest ..	\$1,800,000	a	a	\$1,800,000	\$1,800,000	\$1,800,000
Business X: Concrete Manufacturer and Contractor						
Jobs In.....	--	0	0	0	0	0
Jobs Now.....	--	0	0	0	0	0
Capital Invest ..	--	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$0
Business Y: Self Storage						
Jobs In.....	--	--	0	0	0	0
Jobs Now.....	--	--	0	0	0	0
Capital Invest ..	--	--	\$300,000	\$300,000	\$125,000	\$125,000
Business Z: Real Estate Development						
Jobs In.....	--	0	a	0	0	0
Jobs Now.....	--	0	a	0	0	0
Capital Invest ..	--	\$4,439,031	a	\$4,500,000	\$4,500,000	\$0

^aNo file available.

^bA regional or local development corporation.

Source: Compiled by LB&FC staff from an examination of the DCED's program files and KOZ applications.

3. The DCED’s Application Processing System Does Not Include a Step to Test and Ensure That All Non-Residential Program Applicants Meet the KOZ Act’s “Qualified Business” Eligibility Requirement.

Pennsylvania’s KOZ law makes certain tax abatement benefits available to residents (and sometimes nonresidents) as well as to “qualified businesses.” A “qualified business” is defined under the law as follows:

A business authorized to do business in this Commonwealth which is located or partially located within a [zone] *and is engaged in the active conduct of a trade or business* in accordance with the requirements of section 307 for the taxable year. An agent, broker, or representative of a business is not engaged in the active conduct of trade or business for the business. [Emphasis added.]

Because regulations have not been promulgated for the KOZ Program and because the “qualified business” requirement is not addressed in program guidelines, there is no further formal definition of this provision and how it is to be implemented in terms of establishing program eligibility.

Historically, the DCED has not tracked and comprehensively reported on the types of businesses participating in the KOZ Program.³⁵ Until recently, the KOZ Program application did not request information on the applicant’s business type or the nature of products and services offered. Prior to that time, a “business synopsis” requirement existed in program guidelines. We found, however, that this requirement was only sporadically adhered to and was not enforced. This requirement was subsequently removed from the guidelines, presumably in favor of the addition of the “business type” question on the program application.

Given the existence of the “qualified business” eligibility requirement in law, it would appear important that DCED implement mechanisms to identify the types of businesses applying for the program and the nature of the products and services they provide. Having this information would enable the DCED to test for program eligibility by applying the “qualified business” provision and “engaged in the active conduct of a trade or business” stipulation contained in the law. We saw no indications that a test of this type is employed as part of the KOZ application process or that any business was ever denied participation in the program because it did not meet the “qualified business” eligibility requirement.

³⁵Business type information was not readily available. Short of contacting the business or conducting Internet searches, business type can be speculated on, in some cases, by virtue of the business name or information in supplemental file materials.

Rather, all a business need do to qualify for the program is to be located in or relocate to a KOZ, file the required application, and be in compliance with all state and local tax laws, ordinances, and resolutions, as well as with any applicable state and local zoning, building and housing laws, ordinances, or codes. Such applications received by the DCED central office appear to be routinely approved with no apparent testing of the “qualified business” requirement and, as discussed previously, with no conditions attached in terms of job creation or capital investment commitments to be provided in return for the tax benefits the businesses receive.

While we did not specifically attempt to apply the “qualified business” standards to individual program participants, our review of program records did yield a number of participants whose eligibility status we think could be questioned given the statutory requirement that the business be “engaged in the active conduct of a trade or business.”

Many of those we identified as “questionable” are what we classified as “investment or financial services” firms and are the types of participants discussed in part III.B-2 who are providing relatively little, if any, job creation or capital investment in return for their KOZ tax benefits. These include, for example, hedge funds, private investment firms, venture capital operations, equity investors, private equity funds, fixed-income investment managers, and real estate investment trusts.

We discussed this matter with officials of the Pennsylvania Department of Revenue. They agreed that the issue of the eligibility of the financial/investment firms we identified could be questioned. They stated that a key factor is whether the entities are conducting a “trade, profession, or business” from the property. Some Department officials pointed out that, in the case of certain fund investing entities, their operations may essentially benefit only the firm’s partners. Department officials noted that to the extent these were solely investment partnerships, they would not, from a Revenue perspective, qualify as “being actively engaged in a trade, profession, or business.” The Department of Revenue, however, defers to DCED on determinations of the eligibility of individual program applicants.

C. While Few Quantitative Program Measures Exist, Program Administrators and Others Cite Numerous KOZ Projects as “Success Stories”

Related Commentary

While the statistical data and program measures needed to quantify the overall cost-effectiveness of the KOZ Program are not available, various case examples of KOZ project “success stories” demonstrate that the program can be a valuable economic development tool. Although the KOZ Program alone is generally not the sole contributing factor in a business’ decision to locate or develop in a KOZ, it is often cited as a key element in an overall economic development incentive package.

According to the Director of the Governor’s Action Team, the KOZ Program is important as a business attraction and retention tool. In testimony before the Senate Finance Committee in October 2007, the Director stated that the KOZ Program has been essential to the state’s ability to secure numerous major new business development projects since the program was introduced.

The Director further stated that he is sure that Pennsylvania would have been eliminated from consideration in many of these cases if the state had not been able to provide the tax benefits available through the KOZ Program.

In addition to the economic benefits of new job creation and private capital investment, the Director cited the “spin-off benefits” of equipment, supplies, and services purchased by new KOZ companies, typically from local vendors and contractors. Further, he stressed that at the expiration of the life of the zones, the former KOZ firms will begin fully paying the state and local taxes that, to that point, had been abated.

The following are other selected comments that refer to the positive impacts of the KOZ Program, as submitted by representatives of regional and local economic and industrial development corporations and by local chamber of commerce officials:

- A vacant textile mill in our KOZ was unoccupied for several years. The property exterior was not being maintained and the property was deteriorating. Once the property became part of the KOZ, it is once again being maintained and improved for industrial development of our community.
- The redevelopment and new construction in some of our oldest and most blighted neighborhoods cannot be underestimated. The spark that these projects have created in these areas is invaluable.

- Flat Iron Building – the property was blighted and underutilized and owned by absentees. Now there have been several hundred thousand dollars of investment and there are spectacular high quality, market-rate apartments and storefronts.
- Valley Technologies in Rush Township would have shut their doors during the technology bust of 2000. The tax free zone allowed them to cut costs and stay in business, weather the storm, and begin to grow again.
- Two manufacturing businesses, started within the KOZ, were able to be saved from out-of-state purchase and relocation, when their owner put them on the block. This was due to KOZ-related benefits.
- Warrior Roofing and Manufacturing Co. of PA. An Alabama company that located their northeast site in our business park. We were competing with West Virginia and they chose Pennsylvania because of the KOZ benefits.
- Ingersoll-Rand, now Volvo Road Machinery. Ingersoll-Rand purchased a 90,000 sq. ft. facility from us, allowing them to expand their presence in Franklin County. The building represented a great value for the company and kept the project from going to North Carolina.
- A private developer took risk and built a speculative flex-space building which is now full and is under construction for expansion.

Selected Case Summaries

This section of the report provides case summaries of KOZ projects that are generally considered to be program “success stories” (including at least one such project in each KOZ Region). The identification of these specific projects is not intended to represent a comprehensive listing of all KOZ projects that might be considered “successful.” As documented in other sections of this report, the baseline data and program measures needed to make such judgments about the program as a whole or about individual projects is generally not available. Also, as is evident in the case summaries presented in this section, projects that may be considered successful by certain parties may also have detractors who believe that, while a project may have contributed to job growth, other side effects of the project’s development may have produced certain negative effects on the infrastructure of surrounding communities.

Former International Paper Company Site (Northwest Region-Erie, Erie County)

For many years, the International Paper Company’s Hammermill Plant was an important economic enterprise in Erie. However, the paper mill plant eventually closed and the site, located near Erie’s port on Presque Isle Bay, sat vacant. The

site remained in a vacant “brownfield” status until the Erie Management Group, a group of local businessmen, created a plan to reuse the main plant site as a Keystone Opportunity Improvement Zone (KOIZ) which had been included as part of the overall Erie City KOZ sites. In addition to its KOIZ designation, development at this site was also promoted by other economic development incentives coordinated by the Governor’s Action Team.

Since that time, the Erie Management Group has developed the 50-acre site and, through its affiliate SB3, LLC, manages it as a mixed-use industrial complex. Among the businesses currently located at the site is Lake Erie Biofuels, LLC, an alternative fuel processing plant which has created over 30 jobs at its \$60 million facility. Other businesses at this location have reportedly created nearly 30 additional jobs combined. These businesses include International Business Linkages, LLC, a software development and marketing firm; Biopreserve, a manufacturer that uses soybean oil to make wood preservatives; Erie Environmental Systems, a company developing a fuel device that removes air from diesel fuel to burn at greater efficiency; and Griffin Analytics, a company developing a biotoxin detection device.

Fayette Business Park (Southwest Region – Georges Township, Fayette County)

Located in the Southwest KOZ Region, the 311-acre Fayette Business Park (FBP), once a greenfield site in Georges Township, Fayette County, is now one of the fastest growing and desirable business parks in the area. The variety of available transportation options (e.g., convenient access to highway, rail, and air transportation) has generated substantial interest in this KOZ site.

Several other factors have also contributed to the park’s success. The businesses that located in the park have brought significant capital investment and employment to the area. Approximately 1,000 people are employed within the FBP, and 1,000 more jobs could potentially be added given the nearly 150 acres still available for development. Furthermore, the types of businesses operating in the FBP tend to support higher wage jobs (e.g., several jobs within the park are professional positions that pay an hourly wage of \$30).

Companies that have expanded to or relocated on KOZ-designated parcels in the FBP include:

Johnson Matthey, Inc., a specialty chemicals company and world leader in advanced materials technology, is currently constructing a \$43 million, 118,000 square-foot manufacturing facility that will produce catalysts that reduce emissions of nitrogen oxide from heavy-duty diesel vehicle exhausts. The company aims to create 110 high-paying advanced manufacturing jobs within three years. Johnson

Matthey's move to the FBP reinforces the park's assets, including easy access and close proximity to the mid-Atlantic and mid-west markets and the availability of a skilled, ample, and loyal workforce.

Atlas Energy Resources, LLC, is focused on the development and production of natural gas principally in the Appalachian Basin and northern Michigan. In 2007, Atlas purchased a 12.5 acre site in the FBP to construct a \$2.3 million 24,000 square-foot district headquarter facility. 140 employees will initially work out of this facility with the potential to grow to 180 in a few years. Atlas also operates more than 7,100 oil and gas wells in Pennsylvania, Ohio, Tennessee, and New York.

Hunter Panels, LLC, a leading polyisocyanurate roof insulation manufacturer, provides products uniquely suited to addressing the environmental and energy conscious priorities of homes and businesses. In 2006, Hunter invested over \$12 million in constructing and equipping a new 200,000 square-foot manufacturing facility in the park and currently has 77 employees.

Argon ST Production Systems, Inc. is a rapidly growing systems engineering and development company providing full-service C4ISR (command, control, communications, computers, intelligence, surveillance, and reconnaissance) solutions to a wide range of customers. Argon has created 89 high-paying engineering jobs related to the manufacturing of electronic/surface ship defense systems.

Mypodiamond, Inc. is a Swiss-owned manufacturer of high-quality industrial diamond powders. The company is one of a few manufacturers worldwide, and the only U.S. manufacturer that produces the polycrystalline diamond powder. In 2002, Mypodiamond purchased a 4-acre site at the FBP and constructed a 10,000 square-foot manufacturing facility. Currently there are 11 employees on the site, with room for growth. Mypodiamond's decision to relocate to Fayette County was based on the business climate and workforce availability.

Brook Crompton, a leading manufacturer of electric motors for a variety of purposes in the global industrial market, set up a 32,400 square-foot value-added and warehousing facility at the business park in 2001 that supports both the U.S. and Canadian markets. The facility currently has five employees.

Micron Research (North Central Region - Emporium, Cameron County)

Micron Research (located in Cameron County within the North Central KOZ region) was formed in 1999 to manufacture fine grain graphite for the EDM (electrical discharge machining) industry. Beginning with the purchase of the "Shoup Property" (a KOZ property) and the construction of a 12,500 square-foot facility, Micron entered into a lease-purchase agreement for the building with the Cameron County Industrial Development Authority. The company initiated production in 2001 with six employees and one production shift. Today, Micron Research is

producing on three shifts using 16 employees and sales have grown from \$550,000 in 2002 to more than \$2.2 million. Further growth is anticipated.

Micron's sales, marketing efforts, and the quality of material have put its production capacity in a position where sales are outpacing production. Fine grade graphite is used in several different applications such as, tool & die, tool & mold, plastic injection molds & dies, rubber molds, powdered metal tooling, forging applications, and aerospace applications. There are only eight other graphite manufacturers in the world, and only five of which make the type of products made by Micron Research. Due to overwhelming demand for the product, Micron Research has decided to expand its production capacity.

According to an officer of Micron Research, without the KOZ Program, Micron would not have had the capability to grow at the pace needed to be competitive in the global market. Company startups are always difficult, but Micron credits the KOZ Program, along with other state funding streams, in enabling the company to establish a strong foundation and grow in a positive direction. Micron initially marketed and sold its products in the U.S. but the company's products are now represented and sold in the U.S., Canada, Mexico, China, Thailand, Singapore, Vietnam, and Germany. By becoming a global company, Micron Research has positioned itself to capture additional markets (currently Micron has about 2 percent of the EDM graphite market).

The planned expansion (which will also take place on KOZ designated property in Cameron County) will exceed \$2.5 million in cost for new buildings and additional equipment, and will provide an additional 7,500 square feet of manufacturing space. The increased production capacity will expand product volume by about 30 percent and increase annual sales revenue to about \$4 million. The production increase is expected to immediately create four to six new jobs and further add two to four jobs over the next two years. It will also help to increase existing employees' wage levels.

American Eagle Paper Mill (Southern Alleghenies Region – Tyrone, Blair County)

American Eagle Paper Mills, located in Tyrone, Pennsylvania, was formerly owned and operated by Westvaco Corporation for about 120 years. When it closed in 2001, the community's economy and pride were devastated. The KOZ Program, however, provided the impetus for a group of former employees and private investors to reopen the facility. Today the facility is owned by Team Ten, LLC, and has 230 employees.

American Eagle Paper Mills is somewhat unique in North America in that it produces a variety of fine paper products in an environmentally friendly manner. In its heyday it produced its own pulp from trees; it now relies on and has created a

market for recovered papers that are challenging to recycle (e.g., magazine mailers, envelopes, and other advertising media). The company specializes in manufacturing uncoated paper to meet the demand for uncoated paper products primarily in the Mid-Atlantic and Mid-West. While the total cost associated with the purchase, rehabilitation, and start-up was \$12.8 million, the Mills are now producing an estimated \$76 million in annual sales. The American Eagle project serves as a prime example of the revitalization and reuse of an abandoned industrial site and the use of KOZ benefits as an incentive to support redevelopment.

DuPont Company (Northern Tier Region – North Towanda, Bradford County)

In April 2006, construction of an 80,000 square foot manufacturing facility was completed for the DuPont Company in North Towanda (Bradford County). This \$80 million facility was located on nine acres of the DuPont campus which had been designated as a Keystone Opportunity Zone (KOZ) and was built as an expansion project to manufacture pigmented films used to produce color filter components for LCD flat panel displays for notebook computers, flat-panel desktop computers, and flat-panel televisions.

This facility (and the new product line that was developed through its use) resulted from cooperation between the DuPont firm, local municipal officials, and the Governor's Action Team (GAT) to provide an economic incentive package to aid in making the project a reality. Consequently, the Commonwealth offered the company a \$2.9 million package of loans and grants (that included a \$2 million Opportunity Grant; a \$500,000 loan from the Machinery and Equipment Loan Fund; and \$400,000 in Customized Job Training assistance). In addition to these funds awarded through GAT, the project was also awarded \$15 million in funding through the Redevelopment Assistance Capital Program (RACP). RACP is a Commonwealth grant program administered by the Office of the Budget for the acquisition and construction of regional economic, cultural, civic, and historical improvement projects. Additionally, public funding for this project was ultimately augmented by the provision of private investment as well.

When the public funding was awarded (in 2003), it was announced that the investment would help retain about 600 employees. By 2006, the company expected not only to retain employees but also to create approximately 30 new positions involved in conducting research, product development, and marketing activities to promote its thermal color filters for liquid crystal displays and fuel cell businesses.

PMG Pennsylvania (Central Region - Philipsburg, Centre County)

PMG Pennsylvania was created at the end of 2005 as a result of a joint venture between the PLANSEE Group, a German manufacturer, and Mitsubishi Materials Corporation. The company specializes in the manufacture of powdered metal parts for the automotive industry. Specifically, the business serves as PMG's North American location for the development and manufacture of powdered metal automotive shock absorber components. The operation possesses a specialized range of primary and secondary powdered metal shock absorber component manufacturing.

The business facility is located in the Moshannon Valley Regional Business Park, a designated Keystone Opportunity Zone in Centre County. The PMG Group has a 15-year lease/purchase arrangement with the Moshannon Valley Economic Development Partnership (MVEDP) for a 53,000 square foot building that was constructed specifically for Sinterstahl GMGB in 2003 (the original subsidiary of PLANSEE Group).

According to the MVEDP, this business park is a recent addition to their "arsenal of economic development tools." The fourteen-lot business park provides fifty acres of developable ground and is located one mile east of Philipsburg, and just 22 miles from State College. It is also situated close to the proposed Corridor "O," a four-lane limited access highway that will connect I-80 in Clearfield County with I-99 in Centre County. PMG Pennsylvania expected to create between 50-65 jobs within three years of locating to the KOZ. As of early 2008, the company employed 103 and had invested over \$15 million.

Susquehanna Commerce Center (Southcentral Region - York, York County)

When construction began in 2001, the Susquehanna Commerce Center was the largest and most ambitious commercial development in the City of York. The \$35 million complex is a seven-acre development built on a remediated KOZ brown-field site. It includes a pair of six-story office buildings (a total of 237,503 square feet) located within an historic district, with ground-floor retail; the historic renovation of a former gas manufacturing facility; a four-level parking garage and surface parking; a pedestrian-friendly public plaza; and a new boulevard leading to the renovated former industrial building. The project was completed in January 2003.

Susquehanna Real Estate, an active participant in York's downtown community development, had been exploring opportunities to promote economic development in the city's downtown and meet the needs of its own business. For a number of years they had been looking at the Columbia Gas Company site (property held by the Redevelopment Authority and therefore tax exempt). After it was designated a KOZ site, Susquehanna Real Estate accelerated its plans for development. As of December 2008, the Center contained 14 tenants employing about 730 employees.

Tenants include Dentsply International (a dental products distributor), Comcast, Stock and Leader attorneys, and BMC (financial services).

According to a Susquehanna Real Estate official, “the KOZ benefits were a pivotal marketing feature of the project. It enabled most of the project occupants to justify moving to a new office facility with higher price points than the existing office market.” Local economic development officials have also been very satisfied with the project’s ability to attract tenants. As one official stated, “[The Commerce Center] has helped bring professionals into the city and establish small businesses downtown. It’s set off little chain reactions of investment and interest.” The expiration date for this KOZ site is 2010. Officials do not believe that many businesses will leave the site at that time. The projected tax revenue (to be paid in 2011) at the current millage rate is estimated at over \$1.4 million.

Humboldt Industrial Park (Lackawanna/Luzerne Region - Hazleton, Luzerne County)

Humboldt Industrial Park, developed by the firm of Can Do, Inc. a private, nonprofit economic development agency, opened in the early 1970s. Located near Hazleton in Luzerne County, it currently consists of about 3,000 acres and is one of the largest business parks in Pennsylvania. The Park’s accessibility was attractive to its original occupants. Located at the on/off ramp for Exit 143 of Interstate 81, the Park is only minutes from the I-80 interchange, a major east-west artery.

In the late 1990s, a major expansion project opened up about 500 acres of undeveloped and strip mined land to the west of the original section. Known as Humboldt West, companies began to move in as sites became available, especially after many parcels were declared Keystone Opportunity Zones (KOZs). As of spring 2008, all but one of the ten industrial sites developed were occupied. The occupants include Office Max, Cargill Meat Solutions, Michaels Stores Procurement Company, Inc. (a northeast distributor of handcraft products), and others. Eight businesses constructed 3,250,000 total square feet of new industrial space; \$323.6 million was privately invested in the project (\$126.9 million was invested in building construction and \$196.7 million was invested in equipment). The occupying businesses currently employ about 1,725 local residents.³⁶

Another expansion of the Park, which became Humboldt East and Humboldt Station, consisted of 200 acres of mine-scarred land. CanDo purchased the site from PPL Utilities and the land was subsequently placed into the KOZ Program. As of early 2008, this land was home to a 240,000 square-foot industrial building and a

³⁶The section of the Humboldt Industrial Park described as Humboldt West is located in Carbon County which is part of the Schuylkill/Carbon KOZ. The original Humboldt Industrial Park section and expansion sections to the east and north are located in Luzerne County. KOZ and KOEZ projects and parcels in those sections are within the Lackawanna/Luzerne KOZ.

Marriott Residents Inn (under construction). Two additional sites had been sold to Marriott Comfort Inns and a Turkey Hill Convenience Store. Additionally, Humboldt North, which consists of about 700 acres, some of which is reclaimed mine-land, is gradually being occupied for industrial development and several KOZ parcels were still available as of early 2008.

According to information provided by Can Do, Inc. as of November 2007, of the 1,515 acres of land owned by Can Do which were originally placed into the KOZ Program in 1999, 1,013 had been sold. At that time the land had an assessed value of nearly \$185,000 and showed an annual tax revenue loss to the municipalities, school district and county of \$32,000. At the current stage of development, the same land has a projected assessed value of about \$75 million and an estimated \$6 million in annual real estate tax revenue. Further, the development has reportedly produced about 3,100 new jobs with an annual payroll of \$92 million.

Although Humboldt is considered by many as a model of success, showing how the application of the KOZ Program can turn blighted and underutilized land into productive properties that produce jobs and improve the local economy, the Humboldt Industrial Park is not without its critics. For example, one economic development professional who had responded to an LB&FC questionnaire for this study, also contacted the LB&FC staff by phone to provide additional comments about the KOZ Program generally and the Humboldt Park in particular. This individual pointed out that many of the jobs created were low-skilled and low-wage jobs that spurred an influx of immigrant workers, negatively impacting the social cohesion of the community. The rapid influx of low wage workers has strained social services and led to increased crime, increasing local law enforcement costs. However, given the expiration dates of the KOZ projects in the area (mostly 2010 and 2013), the local authorities must wait several more years for the increased revenues to relieve the fiscal stress.

Further, the projects, many of which have involved the construction of large box warehouses and parking lots, from this person's perspective, have resulted in significant environmental problems, including increased storm water runoff, decreased ground water recharge, the destruction of pristine woodlands, and increased traffic gridlock on local roads.

Highridge Business Park (Schuylkill/Carbon Region – Minersville, Schuylkill County)

Schuylkill Highridge Business Park (HBP), located along Interstate 81 in southern Schuylkill County, has been described as one of the largest mixed-use business parks in Pennsylvania. Opening in 1997, HBP consists of nearly 2,000 total acres, 100 of which were designated a KOZ area and 84 acres which were subsequently designated a KOEZ. HBP was a joint effort of the nonprofit Schuylkill

Economic Development Corporation (SEDCO) and Crossgates Inc. of Wormleysburg, an industrial real estate developer in Central Pennsylvania. The park is viewed as playing a key role in attracting jobs to the economically-struggling area and, at the same time, filling the need for distribution headquarters in Central Pennsylvania. The following businesses, together with the created jobs and capital investment information, are located in the KOZ/KOEZ portion of the Schuylkill Highridge Business Park:

- Sara Lee U.S. Foods/Total Logistics Control: 125 employees/\$24 million investment.
- Comfort Inn & Suites: 10 employees/\$5 million investment.
- D.A. Fehr, Inc. (manufacturer representative and industrial plumbing supply): 28 employees/\$6 million investment.
- Wal-Mart distribution center: 1,000 employees/\$60 million investment.

Among the other (non-KOZ/KOEZ) occupants at the site are regional distribution centers for Lowes', Wegmans' Food Markets, and Fanelli Trucking and Warehousing. Although the KOZ/KOEZ designation played a significant role in the decision of those particular companies to locate at HBP, other factors, including the availability of utility hook-ups, access to major highways, and a reliable workforce, were also important draws. In the case of HBP, KOZ status expires December 31, 2010, and KOEZ status for the Wal-Mart site expires December 31, 2013.

Olympus America, Inc. (Lehigh Valley Region – Center Valley, Lehigh County)

Olympus America, Inc. (a division of the Tokyo-based Olympus Corporation) describes itself as a precision technology leader, designing and delivering imaging solutions in health care, life sciences, and photography. Among its main products are a variety of digital cameras and equipment/accessories, binoculars, microscopes, audio devices, medical/surgical imaging technology and equipment, medical diagnostic/testing devices and equipment, and a variety of other consumer electronics.

In 2006, Olympus America, Inc. completed the relocation of its new corporate headquarters for the Americas in Center Valley, located in Lehigh County's Upper Saucon Township. The 337,400 square-foot Olympus America headquarters building was developed on land located in the Stabler Center, a 1,700 acre planned corporate and residential community. The site is located at the intersection of Interstate 78 and Route 309. As of September 2008, the Stabler Center consists of a number of occupied parcels of land, consisting in part of law firms, retail stores/outlets, a golf course, and a number of planned residential communities.

The headquarters building is situated on 54 acres of land adjacent to a seven-acre lake and features a “silver-metal and clear-glass facade.” According to the company website, the new headquarters building incorporated “a number of the U.S. Green Building Council’s Leadership in Energy and Environmental Design features.” According to the Governor’s Action Team, total project costs for the Olympus America site were \$84 million.

In selecting the Center Valley site for its corporate headquarters, Olympus America engaged in a two-year analysis involving the consideration of sites ranging in several states from the Midwest to the East Coast. In selecting a site, the analysis reportedly considered the factors of the cost of doing business, living costs, workforce availability, the number and type of economic assistance offers made to the company, and overall quality of life. The Lehigh Valley site ultimately chosen by Olympus was reportedly picked from among a study of 16 different U.S. markets. Prior to the opening of the current headquarters building in August 2006, Olympus America’s headquarters and distribution operations had been located for the previous 30 years in Melville, New York.

According to DCED, Olympus America benefited from \$12 million in economic assistance with its relocation to the Lehigh Valley. The Department cites the following factors as instrumental in the company’s decision:

- site selection assistance from the Governor’s Action Team;
- \$12 million in Commonwealth funding;
- \$10 million from PennDOT to upgrade the roadway at Route 309 and the Center Valley Parkway; and
- KOZ Program benefits.

In addition, according to DCED, Olympus America and its site selector worked with the Lehigh Valley Economic Development Corporation (LVEDC) in contacting city and county economic development partners to present all plausible sites; compiling a range of information for review by Olympus.

The relocation of the Olympus headquarters to the Lehigh Valley from New York State illustrates how economic incentive programs like Pennsylvania’s KOZ package can benefit companies and contribute to regional development. Compared to Olympus’ previous operating costs, the tax abatement from the state and abatement of local real estate taxes and sales taxes on activity within the KOZ will save Olympus tens of millions of dollars. KOZ benefits expire for this project on December 31, 2013.

AdminServer, Inc. (Southeast Region - City of Chester, Delaware County)

AdminServer Inc. has been described as a premier solutions provider for the insurance community. Founded in 1998, AdminServer, Inc. has been a rapidly growing provider of insurance policy administration software, and was named to *Inc.* Magazine's list of America's fastest growing privately held companies for three consecutive years. Originally located in Malvern, Pennsylvania, the firm moved in 2003 into a KOZ (known as The Wharf at Rivertown, a converted Philadelphia Electric Company's power station) located in the City of Chester in Delaware County. At that time the firm had 26 employees. As of mid-2008, the company employs more than 400 persons and occupies about 60,000 square feet of office space.

The KOZ site occupied by AdminServer is a prime example of how an urban brownfield location can be converted for use by a high technology industry. In May 2008, the Oracle Corporation, which specializes in developing and marketing database management systems and other software products, purchased AdminServer, thus expanding Oracle's existing insurance industry software product line.

Cira Centre (Philadelphia Region - Philadelphia, Philadelphia County)

The Cira Centre is a 29-floor, 731,852 square-foot office building located adjacent to 30th Street Station in the University City neighborhood of West Philadelphia. Completed in November 2005, the building is located within a Keystone Opportunity Improvement Zone (KOIZ). The property was developed by Brandywine Realty Trust, a real estate investment trust (REIT) headquartered in Radnor, Pennsylvania, that oversees development, purchasing, management, leasing, remodeling, and sales of commercial property. The KOIZ benefits for tenants of the Cira Centre will remain in effect through December 31, 2018.

The parcel of land upon which the Cira Centre is located was designated as a KOIZ prior to building construction and before Brandywine began to seek clients for the building. Approximately six months prior to its completion, over 90 percent of the Cira Centre's space was leased. Tenants currently occupy 99.6 percent of the Cira Centre's office space. Brandywine Realty Trust anticipates that at least 50 percent of the current tenants will continue to lease office space at least five years following the expiration of KOIZ program benefits.

The construction of the Cira Centre was one component of Philadelphia's continued westward expansion of the central business district, linking center city to the University City area. Brandywine officials with whom we spoke indicated that the construction of the Cira Centre and its high occupancy rate would not have occurred in the absence of the KOIZ program benefits. Moreover, according to the Philadelphia KOZ Coordinator, program benefits served as the "tipping point" for many Cira Centre tenants to return to the city; often from locations in nearby counties. A

managing partner of one King of Prussia law firm, for example, which now occupies about 28,000 square feet of the structure, indicated that, with the tax incentives offered for moving into the Centre, the firm will end up saving between \$5 and \$10 per square foot. Also, construction is currently underway for the nearby Cira Centre South project which will include spaces for offices, retail operations, restaurants, hotel space, apartments, and unit condominiums. That project is scheduled for completion in 2011 or 2012.

A project as extensive as the Cira Centre is bound to be controversial to some degree. For example, noting that two of the Centre's tenants were major Philadelphia law firms, some commentators remarked that their move from one city location to another enabled the firms' partners to experience a windfall in their personal tax bills. Hence, the provision of tax incentives amounted to a 'musical chairs' effect, whereby companies merely changed location within the City while providing little benefit to the local economy. Proponents of the KOIZ, and its use in the case of the Cira Centre, point to the effect which location in the KOIZ (with the related tax abatement benefits) had on the attraction of high-end tenants to an area of the city that was previously considered less than desirable for business. The increase in office workers and retail businesses to serve them may revitalize the area of Philadelphia that lies between the Center City and University City (University of Pennsylvania/Drexel University) locations.

Further, according to a report completed by the Econsult Corporation for Brandywine Realty Trust in January 2007, the construction of the Cira Centre resulted in over \$340 million in output, nearly 1,500 jobs, and over \$55 million in earnings for Philadelphia. The report also estimated the amount of local and state taxes generated both during construction of the Cira Centre and its operation through 2018 and beyond due to the Cira Centre's location in a KOIZ. The report estimated that the construction of the Cira Centre generated \$2.2 million in wage and earnings and sales tax revenue for Philadelphia and \$19.8 million in state taxes. Between 2006 and 2018, the period in which the building qualifies for tax abatement due to its location in a KOIZ, the report estimated that Philadelphia would still realize \$11.9 million in wage and earnings tax revenue; while the state would realize \$11 million in personal income tax revenue. Upon expiration of the KOIZ benefits after 2018, the report estimated that activity within the Cira Centre will generate approximately \$18.5 million in local taxes and \$19.6 million in state taxes annually.

The report concludes in part that the Cira Centre will place Philadelphia in a better position to compete for high-skilled jobs along the Northeast Corridor, attract and retain knowledge workers within the City, and facilitate University City's rise as a destination neighborhood.

T.J. Maxx (Philadelphia Region – Philadelphia, Philadelphia County)

Major retailer T.J. Maxx created at least 1,100 new jobs when it constructed a one million square foot distribution center in a brownfield site near the Northeast Philadelphia Airport. This site is located in a Keystone Opportunity Zone. T.J. Maxx is a subsidiary of the TJX Companies, Inc., a Fortune 200 company and the leading off-price retailer of apparel and home fashions in the U.S. and worldwide. The project was developed by Liberty Property Trust and the City of Philadelphia's economic development arm, the Philadelphia Industrial Development Corporation (PIDC). The project was developed with \$49 million capital investment and includes a single-story distribution center with 134 loading docks and a two-story office attachment. The facility is located on a 67-acre property—a former landfill site—that was cleaned up using funding provided by the Land Recycling program.

In addition to the organizations mentioned above, the Governor's Action Team worked with T.J. Maxx and the PIDC to make this project a reality. The Commonwealth has invested more than \$4.2 million in the project. Of that amount, \$3.5 million represents funds derived from the Industrial Sites Reuse Program and the Infrastructure Development program. The state also provided T.J. Maxx with a \$750,000 economic package that included an Opportunity Grant and Customized Job Training Funds.

According to the Philadelphia Zone Coordinator, the TJX Companies, Inc. was not even considering Philadelphia until they heard about the benefits of the KOZ Program.

Other Notable Projects

In addition to the specific case examples summarized above, other projects are notable for their application of the KOZ Program benefit and for playing a role in stimulating job growth and capital investment in their respective regions.

- *Urban Outfitters (Philadelphia KOZ Region).* In 2004, Urban Outfitters Inc., the Philadelphia-based clothier (founded in 1970) which operates stores in Canada, Europe, and the U.S., decided to relocate its headquarters from Center City Philadelphia to the KOZ at the Philadelphia Navy Yard. The company operates retail stores under the names Urban Outfitters and Anthropologie, and also maintains a wholesale line that goes by the name Free People. The company had been seeking alternate expanded office space in order to consolidate its multiple Philadelphia-based offices into one location that would support its growth for at least the next five to 10 years. Overall, Urban Outfitters invested \$35 million in the Outfitters' complex at the Navy Yard which includes five buildings, one

each of which houses one of the company's three brands, another for "share services," and a fifth building for the corporate headquarters.

- *Target Distribution Warehouse (Central KOZ Region)*. In December 2006, the Target Corporation purchased 166 acres, for development of a 1.6 million square-foot regional distribution center in Union County to receive and ship product to Target's network of retail stores in the region. It is estimated that the total investment in this project will be \$100 million, which will include a \$1,250,000 IDP grant for public infrastructure improvements. This project expects to result in the creation of 500 new jobs. Construction commenced in July 2007 and occupancy was scheduled for February 2009. Staffing for the facility was scheduled to begin in 2009 and be completed by 2012. (In October 2008, it was reported that construction on the facility had been halted due to "the current economic crisis.")
- *Dollar Tree Distribution, Inc. (Central KOZ Region)*. This expansion project is located in the Briar Creek Business Park developed on a 75 acre greenfield property in Briar Creek, Columbia County. The original 600,000 square-foot distribution facility project was completed in 2002, and an additional 400,000 square feet was added in the last quarter of 2007. Capital investments in this project (including the recent expansion) totaled approximately \$63 million. Prior to the expansion, about 160 employees worked at the Briar Creek location. With the expansion, the company expects to increase its workforce to more than 200 employees.
- *The Greater Erie Industrial Development Corporation (Northeast KOZ Region)* reused 20 acres of a brownfield area in East Erie that included a former "Super Fund" site. This area has been developed as a business park which has eight improved parcels ranging in size from 1.5 to 5 acres. Paragon Print Systems has constructed a \$750,000 facility on one of the lots enabling the company to retain 12 employees and plan for adding other new jobs.
- *Caremark RX (Lackawanna/Luzerne Region)*. Located in a business park called Hanover Crossings near Wilkes-Barre, which was designated a KOZ in 2000, Caremark RX (formerly Advanced PCS) is a Tennessee-based mail-order pharmaceutical company which moved into the park in 2002 and has invested approximately \$25 million at this location. The Wilkes-Barre facility provides more than 400 jobs and was recognized in 2002 as the third largest job creation project in the country. The company's clients include corporate health plans, managed care organizations, insurance companies, unions, and other funded benefit plans throughout the country. Caremark is also a national provider of drug benefits to eligible beneficiaries under Medicare part D and operates a national retail pharmacy network with over 60,000 participating pharmacies.

D. State and Regional Program Administrators Have Done Relatively Little to Formally Monitor and Evaluate the Operation and Effectiveness of the KOZ Program

1. The DCED Has Not Established Performance Measures for the KOZ Program and Does Not Require Standardized Regional Reporting of KOZ Data for Program Monitoring and Accountability Purposes.

Performance measures are indicators of progress towards meeting prescribed program objectives. Commonly used performance measures include outputs, outcomes, impacts, and program efficiency indicators. While the KOZ Program is subsumed under the “Community Development” program administered by DCED, no performance measures have been established for the KOZ Program as a component of the department’s budget. Examples of performance measures that could provide meaningful information on the effectiveness of the program include the number of businesses relocating into designated zones, the number of brownfield acres and abandoned industrial sites reclaimed and developed, and the number of new (start-up) businesses within the zones. Such measures would provide additional accountability in a program with estimated annual General Fund tax expenditures of over \$30 million annually.³⁷

Without quantifiable measures for the KOZ Program, DCED central office staff rely almost exclusively on company-reported job creation and retention figures as well as self-reported capital investment data as the primary indicators of program success. These measures are reported by program participants in their annual KOZ Program applications and are not independently verified or audited by DCED.

Also, although the KOZ Act requires DCED’s Center for Local Government Services to provide technical assistance to political subdivisions on program evaluation, established measures of program success are also missing at the local level. Specifically, the KOZ Act requires that DCED provide assistance relating to the establishment of “annual benchmarks and annual reporting requirements” to the agencies responsible for KOZ Program administration. However, we found no evidence that the Center for Local Government Services has worked with political subdivisions in the establishment of annual benchmarks and annual reporting requirements that are specific to the KOZ Program.

In the absence of a system of established program measures, we sought from DCED copies of internal program activity and management information reports. For a program such as the KOZ Program that has both a central office and

³⁷This is an estimated figure that does not include administrative costs or an unknown amount of program-related tax exemptions and credits granted at the local level.

regional/local entities with program implementation responsibilities, it is reasonable to assume the existence of regular data collection and reporting requirements and mechanisms that capture meaningful information at all levels of program administration.

We found that DCED does not require standardized regional and local reporting of program data. In the absence of such data, central office staff utilize data submitted by program participants on their annual application for program benefits for management information and public reporting purposes. As illustrated in Part A of this section, a major shortcoming of this data is that it is limited in scope and is self-reported by program participants with no independent verification by program staff. While zone coordinators are occasionally asked by central office staff to provide program data for special purposes (e.g., “success story” case studies for the “4 year report” to the General Assembly), they do not submit program reports to the DCED central office on a regular basis.

Through field visits to five KOZ regions, we found that some zone coordinators maintain records and statistical information of varying types and levels of detail regarding job creation/retention, capital investment, occupied and available acreage, and the status of program applications. Some apparently compile this information in a zone-specific central database. However, the nature and extent of individual zone record-keeping varies significantly. In short, the program has no guidelines on required record-keeping and the approach to collecting program data is not uniform among the regions. DCED central office staff acknowledged that they are not familiar with the specific nature and content of records maintained by each of the individual zone coordinators.

2. The Mandated “Four-Year” Evaluation Reports Done by DCED Do Not Provide a Sufficient Assessment of the Economic Impacts of the KOZ Program.

Section 1102 of the KOZ Act requires that the DCED report to the General Assembly “on the economic effects of this act in each keystone opportunity zone or keystone opportunity expansion zone every four years.” To date, under this timetable, two such reports were due, one in 2002 and another in 2006.

The 2002 Report. During the early years of the program, DCED contracted with the Allegheny Institute of Public Policy to compile data for the initial review and progress report. Prior to that time, the Allegheny Institute prepared a report entitled “Pennsylvania’s Keystone Opportunity Zones: A Look at the First Year.” This report described first year implementation and compared the first year of the Commonwealth’s KOZs to the first year of Michigan’s Renaissance Zone Program.

Under its contract with DCED, the Allegheny Institute continued to monitor program implementation and compiled program statistical data for the 2002 report. This report, issued in January 2003, called the KOZ Program “the boldest, most forward-thinking economic development program in the nation because it empowers local communities and has fostered unique state/local and public/private partnerships.” It concluded that “Pennsylvania’s KOZ/KOEZ Programs are well on their way to stimulating investment in some of the state’s most deteriorated and challenged areas.”

The 2002 “Four-Year Report” provided summaries of economic activities, by KOZ, for each of the 391 “projects” enrolled in the program at that time, including job creating and retaining projects, site development projects, and activity on brownfield and abandoned industrial sites. The report noted that in 2001, the KOZ Program was selected as the best “Statewide Economic Development Strategy” by *Business Facilities* magazine. According to the report, after four years, the program had 391 “projects” that accounted for 13,613 jobs created (actual and planned), 7,962 jobs retained, and more than \$1.5 billion of real estate and other capital investment.³⁸

The 2006 Report. DCED undertook in-house development of the 2006 “Four-Year Report” but did not issue a report during 2006. LB&FC staff inquired as to the availability of this report and subsequently received a review draft. The draft was comprised of a one-page program overview, a KOZ jobs and capital investment statistical summary, a map of the KOZ regions with contact information for zone coordinators, and 12 KOZ “success stories” intended to represent the program’s

³⁸Note: As discussed in Section III.A, the information contained in the 2002 report was, like current data, a compilation of self-reported figures submitted to the DCED by individual KOZ businesses.

economic impact in each zone. No other analysis or assessment of economic effects in the regions was included.

Due to data problems identified as part of this study, (in particular, the unreliability of statistical data on job creation, job retention, and capital investment), the 2006 report provided to LB&FC staff in draft form was never officially released to the General Assembly or as a public document. The “success stories” contained in the draft report were, however, subsequently posted to the portion of the DCED website dedicated to the KOZ Program. The inclusion of only “success stories” in the draft report and on the KOZ website, while describing the experiences of selected companies that have located within zones, is not responsive to the statutory requirement that DCED report to the General Assembly on the “economic effects” of the program in each of the individual zones.

Based on a telephone survey of all KOZ participants conducted during CY 2008, DCED staff attempted to verify program information submitted by all KOZ participants on their CY 2007 applications. Using this data, the Department prepared a “2007 KOZ Update Report” and released it in November 2008 in lieu of the “Four-Year Report” that was due in 2006. This report continued the basic format of the reports described above but added a further breakdown of statistical data, by business type. The internal documentation upon which this report was based was not available to LB&FC staff.

3. Neither State nor Regional Program Administrators Have Evaluated the Extent of Local Progress Made in Implementing “KOZ Opportunity Plans.”

“Opportunity Plans” are defined in the KOZ Act and were to be developed by each KOZ region. Such plans were required in the original legislation as a precondition to a zone’s acceptance into the program. The act states that the plans were to include a number of specific provisions and proposals “to increase economic opportunity, reduce crime, improve education, facilitate infrastructure improvement, reduce the local regulatory-burden and identify potential jobs and job training opportunities.” The plans, among other things, were also to identify anticipated improvements and anticipated activity in the zone (e.g., industrial use, industrial site reuse, commercial or retail use, and residential use). (See Exhibit 9.)

Exhibit 9

The Required Components of KOZ “Opportunity Plans”

- A detailed map of the proposed KOZ (or KOEZ), including geographic boundaries, total area and present use and conditions of the land and structures of the proposed KOZ (or KOEZ).
- Evidence of support from and participation of local government, school districts and other educational institutions, business groups, community organizations, and the public.
- A proposal to increase economic opportunity, reduce crime, improve education, facilitate infrastructure improvement, reduce the local regulating burden and identify potential jobs and job training opportunities and which states whether or not the zone is located in an area which has tax revenue dedicated to the payment of debt.
- A description of the current social, economic, and demographic characteristics of the proposed KOZ (or KOEZ) and anticipated improvements in education, health, human services, public safety, and employment that will result from KOZ (or KOEZ) designation.
- A description of anticipated activity in the proposed KOZ (or KOEZ), including, but not limited to, industrial use, industrial site reuse, commercial or retail use and residential use.
- Evidence of potential private and public investment in the proposed KOZ (or KOEZ).
- The role of proposed KOZ (or proposed KOEZ) in regional economic and community development.
- Plans to utilize existing resources for the administration of the proposed KOZ (or proposed KOEZ).
- Any other information deemed appropriate by DCED.

Source: KOZ Act.

LB&FC staff reviewed a sample of three of the 12 Opportunity Plans³⁹ that were submitted by political subdivisions or their designees as a component of the initial application for the designation of the KOZs. The purpose of this review was to determine the content of the Opportunity Plans and what, if any, measurable goals or objectives they may contain that could be used as an element in the determination of the success of the KOZ Program.

We found that while the format of the Opportunity Plans differed among the three regions, each contained the statutorily-mandated elements to be included in an Opportunity Plan. All three plans established goals and strategies for each of the subzones contained in the KOZ (although the precise format varied among the subzones). Goals and strategies were assigned and tailored to the specific needs of each of the subzones. In all three cases, goals were presented (often in the context of a vision for the KOZ) and could be used to guide development as well as be the basis for accountability measurement. For example, in the Luzerne/Lackawanna KOZ, one of the overall goals involved “returning mine-scarred land to productive use” and it is reported that this goal was specifically applicable to some but not all of the subzones.

It is clear from the KOZ Act that, in addition to being a prerequisite to the approval and establishment of a KOZ, the Legislature intended that the Opportunity Plans were to also serve as documents against which the outcomes and effectiveness of the KOZ Program in the individual regions could be measured. In particular, the section of the KOZ Act that authorized DCED to award implementation grants to the KOZs also required that the regions submit “annual update reports” to the Department of Revenue on real property ownership and progress in the respective KOZs. The act also required that the annual update report on progress “on all proposals required as part of the Opportunity Plan” and on other information as required by DCED.

Neither the Department of Revenue nor DCED has any record of having received annual “Opportunity Plan update reports” from the KOZ regions. We also found that the DCED has not used the “Opportunity Plans” as baseline measurement documents or as a reference against which KOZ-related activities in the individual KOZ regions can be measured (for example, for purposes of assessing KOZ-related economic impacts in each of the zones as required for the “Four-Year Report” discussed earlier). Further, individual KOZ regions have also apparently not used the plans as a means of measuring actual KOZ Program impacts against the goals and objectives originally established in their plans.

³⁹LB&FC staff reviewed the plans for Lackawanna-Luzerne, Southwest, and Southcentral regions.

E. Although Some Cite the Need for Program Improvements, Most KOZ Coordinators and EDC and IDC Directors Support the KOZ Concept and Believe It Has Been Effective

1. Perspectives on Program Operations and Effectiveness

As part of this study, LB&FC staff distributed surveys to KOZ Regional Coordinators and Subzone Coordinators and to Directors of Economic and Industrial Development Organizations (EDC/IDC). These surveys were intended to obtain input and perspectives from those persons who are directly involved in the local administration of the program.

The LB&FC obtained mailing information, including names, postal addresses, phone numbers, and email addresses for the directors of the EDC/IDCs as well as for the KOZ coordinators and subzone coordinators from the Pennsylvania Economic Development Association (PEDA) and the DCED, respectively.

The response rate for the survey sent to EDC/IDC directors was approximately 31 percent. Of the 75 surveys that were sent, 23 completed questionnaires were returned. The response rate for the survey sent to KOZ coordinators and subzone coordinators was approximately 24 percent. Of the 70 surveys sent to this group, 16 completed questionnaires were returned, 4 from KOZ coordinators and 12 from subzone coordinators.

The answers given by respondents to the survey questions are summarized in the paragraphs that follow along with a sampling of verbatim comments in each area.

Survey of KOZ Regional Coordinators and Subzone Coordinators

***Question 1:** The intent of the KOZ Program is to stimulate job creation, capital investment and overall economic development in areas of economic distress. Considering your particular area or region, how effective do you believe the program has been in achieving this goal?*

Summary Characterization of Survey Responses: The KOZ Program benefit is commonly referred to as the deciding factor in many business's locations/relocations to the zones. It is cited as having brought new jobs and capital investment to areas that otherwise may not have seen such activity. Most of the responding coordinators believe the program to be effective.

Sample Comments (Program Effectiveness):

- In our particular case it has proven to be beneficial in starting new businesses and has been an additional incentive for some of the businesses that have located here, but we have not experienced any large scale interest from the “outside world” as a result of this status. This is not untypical for our location, however, since we are removed from interstate highways and are quickly dismissed as unsuitable by professional site selectors.
- The program is more attractive to highly profitable companies, simply because the benefits are multiplied. From a state-to-state competitive basis it really helps. It’s made very little difference to start-ups.
- Existence of KOZ has attracted four significant new industrial projects at Crawford Woodlands combining to create/support more than 300 jobs.
- The program incentives have made the various Erie-City and Erie-County KOZ sites more attractive and facilitated their reuse. However, the effectiveness is limited to the property owners ability to invest in the property. Where KOZ properties were owned by private individuals, the KOZ designation was not as effective. When KOZ properties are owned by public agencies or development companies then the program is more effective.
- The KOZ is not a panacea but it is a very useful and necessary tool to have in the economic development tool box especially when competing with other states on bigger projects.
- As a rural community, the Schuylkill/Carbon Region requires special economic development incentive tools to compete in the recruitment/site selection arena. The KOZ Program is a Tax Abatement Program which has significantly impacted the economy in our region. It has afforded an opportunity to recruit quality Fortune 500/100 companies to the community which would not have occurred otherwise.

Question 2: *What do you consider to be the most significant strengths and weaknesses of the KOZ Program?*

Summary Characterization of Survey Responses:

Program Strengths

- Encourages development and job creation.
- Makes sites competitive to out-of-state business and allows PA to better compete with NY and OH.
- Simple administration and easy to employ.

- Partnership between jurisdictions requiring local municipalities, counties, and school districts to invest a portion of their local tax base to get the designation.
- Availability of several levels of tax abatement.

Sample Comments (Program Strengths):

- The program enhances cash flow and return on investment to companies starting operations at a new location. This encourages development and job creation.
- Relief from local real estate taxes allow for affordable locations for start-ups and business with relocation expenses to absorb. Priority in certain state applications has also helped to expedite “closing the deal” with a number of our businesses.
- This program makes sites competitive in attracting out of state businesses.
- Property tax relief and much more so, the Corporate Net Income Tax relief. The largest benefit for us—the marketing aspect and the companies that are attracted to us because of the KOZ status. It gets them to our door whether they benefit or not.
- The relief is a huge incentive - especially to speculative investors. Big incentive for sites otherwise at a disadvantage. Gets people out and looking at sites.
- An ability to compete with New York and Ohio.
- Encourages use or reuse of abandoned industrial properties.
- The program is easy to use and simple. Government gets out of the way by not collecting taxes in the first place (instead of the traditional approach of TIF or grant program that takes tax dollars and then re-allocates with strings attached). Simple administration allows property owners/businesses to concentrate on their property or business instead of filling out paperwork.
- The most significant strength is that it is a partnership between jurisdictions requiring local municipalities, county, and school districts to invest a portion of their local tax base to get the designation in return for the opportunity to get increased investment and tax base in the long term. By requiring them to invest, it makes them a stake holder in the program and tends to make them more careful in determining what properties and how many to include in the KOZ. Those properties that have been able to be developed in a KOZ will provide a very significant return in taxes to municipalities and school districts when the benefit period expires in 2010 and 2013.

Program Weaknesses

- No follow-up inspection to verify that businesses are following the procedures and abiding by the requirements of the program.
- Complex legislation.
- Benefits do not begin at the time of location to the KOZ. Instead they end at a fixed time providing unequal benefit to companies having located to the zone later.
- No requirement to improve appearance of property and/or structure.
- Insufficient marketing of the program.
- Too many non-blighted KOZs designated.

Sample Comments (Program Weaknesses):

- The program lowers the cost of holding on to properties for speculators since carrying costs are minimized.
- Companies, especially competitors that do not receive the KOZ benefits feel that it's not a level playing field. Hey, they could always relocate to a KOZ!
- Having to convince local elected officials of importance of KOZs - hard for them to see "big picture."

Time of KOZ expiration. Our park is still under construction and KOZ is set to expire in 2011. When companies do get benefit, it should all be the same, i.e., 10 years per company, no matter when they build.

- Given that the goal of the program, as I understood it, was to jumpstart activity where none was happening, I would say there are no weaknesses. However, if the goal had been to create jobs and investment in the longer term, I would have suggested that the KOZ be rolling 12 years as opposed to a fixed 12 years (i.e., benefits begin at development).
- No requirement to improve appearance of property and/or structure.
- There are too many non-blighted KOZs designated and no one knows about the program. KOZ status was intended to make blighted properties more attractive relative to other properties. Another weakness is that no one knows about the benefits of living, owning, or doing business in a KOZ.
- There is no follow-up inspection to confirm that the company is following the procedures and requirements of the KOZ Program.
- The gradual decline of the benefit period as the zones mature provides a declining incentive for companies to locate. In our region, it is getting to

the point where those zones expiring in 2010 are not very attractive at all. The proposed (HB 2297) legislation that provides an extension for the undeveloped areas and starts the clock ticking when ground is broken by an investor developer is a good fix for this problem and should do away with people getting tax breaks on land that is sitting there without development occurring on it.

- The term of the KOZ designation – The KOZ Program should provide for a timeframe option similar to the Local Economic Revitalization Tax Assistance (LERTA) Program, i.e. benefit term begins when new project is in place.

Question 3: *What do you consider to be the biggest “success stories” for the KOZ Program in your area/region?*

Summary Characterization of Survey Responses: There are several reports of formerly vacant areas/buildings seeing increased/new/renewed activity due to KOZ designation. Small organizations and large organizations alike are able to benefit from the program, but larger organizations typically find the program more beneficial. Start-up businesses are not reportedly helped by the program

Sample Comments (Success Stories):

- Since the program began we have been able to create, or attract, over 44 businesses to a formerly vacant Brownfield site which has resulted in the creation of over 450 jobs.
- Two manufacturing businesses, started within the KOZ, were able to be saved from out-of-state purchase and relocation, when their owner put them on the block. This was due to KOZ related benefits.
- Warrior Roofing and Manufacturing Co. of PA. An Alabama company that located their northeast site in our business park. We were competing with West Virginia and they chose PA because of the KOZ benefits. They constructed a 50,000 sq. ft. facility and employ up to 40 workers. The source of their raw paper is in Hagerstown, MD.
- Ingersoll-Rand, now VOLVO Road Machinery. IR purchased a 90,000 sq. ft. facility from us, allowing them to expand their presence in Franklin County. The building represented a great value for the company and kept the project from going to North Carolina.
- KMA Remarketing - has effectively used KOZ to help grow their business in the past 6 years. They buy, refurbish, and resell used medical equipment.

- TJX (TJ Maxx) 1,200 new jobs, \$49 million, 1 million of construction by Liberty Property Trust. TJX was not even considering Philadelphia until they heard about the KOZ benefits. KOZ made the deal happen.
- Flat Iron Building - the property was blighted and under-utilized and owned by absentees. Now there have been several hundred thousand dollars of investment and there are spectacular high quality, market-rate apartments and storefronts
- Cira Center, Brandywine Development built a 32 -story, \$198 million office tower over a railyard. The development has attracted new businesses to the city and helped spur activity linking center city to the University City area.
- Valley Technologies, Rush Township - would have shut their doors during the technology bust of 2000. The tax free zone allowed them to cut costs and stay in business, weather the storm and begin to grow again.
- Our industrial park had one company in residence before KOZ. We now have six companies with a combined total of 400+ jobs and nearly \$30 million investment.
- Greater Erie Industrial Development Corporation's reuse of 20 acres of a brownfield area in east Erie that included a former "Super Fund" area. This area became the Joyce A. Savocchio Business Park, which has eight (8) improved parcels of varying sizes (1.5 to 5 acre parcel) Paragon Print Systems has constructed a \$750,000 facility on one of the lots. This company retained 12 employees and set the stage for adding four more jobs immediately.
- Dollar Tree Distribution, Inc., Briar Creek, Columbia County. This was a PA expansion project on a 75 acre Greenfield property. This project needed a large amount of contiguous acreage which usually only a Greenfield property could provide. The original 600,000 sq. ft. distribution facility project was completed in 2002 and an additional 400,000 sq. ft. was added in the last quarter of 2007. This company represents the current largest gain in employment in the region at 263. The total investment by the company has been \$41 million.
- PMG Pennsylvania Corporation, formerly Sinterstahl, Rush Township, Centre County. This was the first American manufacturing operation of the German auto parts manufacturer. The company is a manufacturer of powdered metal parts for automotive industry. In 2003, the company began operations as Sinterstahl Corporation in a leased 53,000 sq. ft. facility at the Moshannon Valley Business Park outside of Philipsburg. In 2005, PMG Pennsylvania Corporation was formed by the joint venture of Sinterstahls owners and Mitsubishi Materials Corporation. This company expected to create between 50-65 jobs within three years of locating to the KOZ. Today, the company employs 103 and has invested over \$15 million.

- Highridge Business Park – 200 acre KOZ designation. Two major company regional distribution centers and hotel constructed on KOZ site. Another 100,000 s/f facility is planned.
- Humboldt Industrial Park West – 450 acre KOZ designation. Ten new facilities constructed.
- In Blair County the following KOZ success stories have happened:
 - Smith Transport International construction of 500,000 square feet of new warehousing and distribution space at an investment of over \$14 million.
 - The re-opening of the Tyrone Mill under the name of American Eagle Paper Mill. \$11 million investment and over 200 jobs created.
 - The location of the Sheetz distribution center and Sheetz Bros. Kitchen project. Investment of \$53 million and over 700 new jobs created or to be created.
 - The purchase and redevelopment of the former Hollidaysburg Car Shop property. App. \$6 million investment and initial job projections associated with phase one in excess of 100.

Question 4: *Which projects in your area/region have proven to be the least successful or most disappointing and why?*

Summary Characterization of Survey Responses:

- The most commonly referenced disappointment includes parcels within KOZs that remain vacant.
- Respondents mention that there are companies that located to the KOZ and then failed, but most cite factors beyond the control of local government (such as poor management decisions and economic downturns) as the main reasons for this type of failure.
- A few respondents reported that the KOZs development has slowed as the expiration date of the program nears. Therefore, areas that are undeveloped are unlikely to see any new activity.
- One respondent stated that employment brought to the area was not permanent, and the property that was purchased was further devalued by the new owner.

Sample Comments (Least Successful Projects):

- There have been half a dozen businesses, stated within the KOZ that have failed. This was either due to poor management decisions or world economic circumstances beyond local control.

- Keystone Regional Industrial Park, Crawford County. This 1,300 acre site is mostly unoccupied.
- Fed Ex Ground. We have a KOIZ site that was under consideration by Fed Ex Ground. The company ultimately located in Hagerstown MD, apparently due to economic incentives offered by the State of Maryland and the proximity to the intersection of two major interstates.
- Keystone Regional Industrial Park, Crawford County - Least successful only because the KOZ designation occurred well in advance (5 years) of completion of all pre-development (infrastructure) work at the park. Upon completion of Infrastructure (2008), anticipate KOZ having positive effect.
- Moose Building - property owner began restoring the building and then just stopped. Nothing has happened in many years.
- No employment was permanent. The person that acquired the property made more of a mess. He stated that he would take used buses and make travel homes. The old buses are parked everywhere. They are parked for years with very little production.
- Franklin Twp KOZ site on the Edinboro exit of I-79 – greed of local property owners and significant cost to provide public utilities have stymied the potential development of the site.
- KOEZ designation has not been enough to encourage development of a vacant parcel with topographical and wetland issues near to Exit 308 off I-80.
- Several vacant buildings located in older communities have not seen any activity under the Program. There were no Business Plans submitted for these locations. It is unlikely that they will see any activity during the term of the Program.
- Some vacant parcels have not seen any activity due to lack of utility infrastructure.

Question 5: *Brownfields” were originally targeted for emphasis in the KOZ Program but prime real estate and “Greenfields” have reportedly also worked their way into the program. Has this occurred in your area/region? If yes, do you believe this is a problem?*

Summary Characterization of Survey Responses: Most respondents agree that Greenfields have worked their way into the program, but generally they do not believe this to be a problem. However, respondents also agree that Brownfields should remain the targeted areas for development.

Sample Comments (Inclusion of Prime Real Estate/Greenfields):

- Mifflin County Industrial Park is a greenfield site.

- The IDC enrolled greenfields into the program because it needed to be competitive with other areas and regions. We believe brownfield and difficult redevelopment projects should have only been eligible but localities need to compete for limited opportunities.
- Our entire KOZ Subzone is entirely within a Brownfield site – cleared under “Act 2.” We have lost one large business to a neighboring community where a new building was built to their specifications and a new KOZ was created there in order to neutralize the advantages we offered to build the same building within our existing KOZ.

This was cause for local consternation at the time, as we felt the company was taking unfair advantage of the system, by “gaming” one community site against another, but there were no net job losses in the region as a result and that is now “water under the bridge.” We have since filled the space they vacated and are beginning to recover for the effects of the protracted loss of revenue, precipitated by the timing of their departure.

- Greenfields were included in Clarion and Warren counties.
- These are borderline marginal properties which lack basic infrastructure.
- Originally we designated brownfields but under KOEZ and enhancements did because other areas in KOZ designated greenfields. To remain competitive, we felt we needed to have greenfield sites available.
- While all of our KOZ sites are technically brownfields, we did include “good” sites in our industrial parks.
- Corry Industrial Park Phase II is an expansion of a brownfield industrial park into a greenfield area. It made sense to expand an existing industrial park than to incur significant “new” infrastructure costs by creating another park.
- To attract new development and out-of-town businesses, you need to be able to offer sites that the business or developer wants. To only offer “junk” sites would be a losing proposition. KOZ benefits will never overcome a site that does not work for a business.
- The KOZ Program included a list of 10-12 different criteria and potential KOZ property had to address at least three (3) of them. Sometimes, it is not only about brownfields, but it must also be about redeveloping communities around an industrial base, or creating a new economic base for the community.
- A number of the region’s non-profit industrial development corporations choose to put Greenfield areas into the KOZ Program and then developed several into fully serviced industrial parks with water, sewer, access roads and telecommunications etc., to help carry out a regional and/or local economic development strategy. The end result was that these projects

provided sites for development that were needed but wouldn't have occurred but for the KOZ Program. Specific examples in our region include the Great Stream Commons Business Park in Union County, the Lamar Township Business Park in Clinton County, the Mifflin County Industrial Park East business park in Mifflin County, and the JBI business park in Juniata County all of which have been the recipients of substantial development and company locations since their inclusion in the KOZ Program.

- Areas and regions need a balance between brown fields and Greenfields to provide a full range of development choices that can accommodate company expansion and location needs.
- Highridge Business Park and Humboldt Industrial Park West can be classified as a Greenfield Projects.

Question 6: *Under certain circumstances, KOZ tax-free status can be applied for either new or existing residential housing. Do you consider the use of the program for residential development to be appropriate and effective for community development purposes?*

Summary Characterization of Survey Responses: Respondents report that the use of the program for residential development could be appropriate for more urban areas or for areas where the economic gain could outweigh the loss of tax revenue. Most of the rural areas reporting either did not utilize this part of the program or said it was not appropriate for development in rural communities.

Sample Comments (Residential Development):

- But only in downtown or urban areas where the housing encourages additional investment and economic spinoff.
- The residential housing included in our KOZ is a blighted area. The program has caused improvement in these neighborhoods.
- Any program to help blighted residential areas is beneficial to all residents and businesses in the general vicinity. KOZ seems to have more of an impact on commercial and industrial uses.
- Residential development should occur as a result of new job creation. If a project doesn't produce long-term employment, it should not be given tax abatements.
- The KOZ Program is a more effective tool to facilitate the reuse of abandoned, underutilized and brownfield properties as opposed to residential developments. Assisting manufacturing, industrial, and commercial operations to grow in a KOZ may result in opportunities to grow the area employment base. However, as previously mentioned different

communities have different problems. If KOZs can help address these problems (whether housing, retail, industrial, commercial) then we are all for it.

- While we do not have any residential KOZ developments in our region, I do believe it can be a useful tool that a community can use to encourage housing development or renovation in certain areas.
- In the rural areas, residential development under the KOZ Program, can act as the catalyst for continued development through infrastructure improvements to an area.

Question 7: *There are estimates at the state level of the costs of the KOZ Program in terms of the amounts of state taxes abated. To your knowledge, have any similar estimates ever been done to estimate the costs of the KOZ Program at the local level (that is, in terms of the amounts of tax revenues foregone by the counties, municipalities, and school districts in your area/region)? If yes, is this information available, and from whom?*

Summary Characterization of Survey Responses: From the respondents' answers, it does not appear that the cost estimate of the KOZ Program at the local level has been calculated. However, most believe that it can be calculated and the information to make the calculation should be obtainable from the local governments.

Sample Comments (KOZ Program Costs):

- We have not done an official analysis but we do know that at the time of application, the City gave up \$3.7 million in taxes (KOZ, KOEZ, KOIZ). Of course, the property values have since skyrocketed. The new construction would generally have been abated under our 10-year tax abatement. A recent report on business taxes show that that \$40 million in KOZ credits were issued in 2006. This is a gross amount and does not capture whether the credits are to new businesses in the city or existing business.
- The borough and township managers, the school district finance offices, and the county tax office all keep track of the amounts abated - although they do it independently.
- Yes, the information should be readily available at the local level.

Question 8: *Do you believe the current method of using regional KOZ coordinators and subzone coordinators provides an adequate local administrative structure for the Program?*

Summary Characterization of Survey Responses: Most respondents stated that the current method of using the regional KOZ coordinators (and subzone coordinators) is an adequate local administrative structure. A couple of dissenting respondents stated that, currently, the guidance for businesses locating in the zone and

follow-up audits to ensure compliance and to verify reported data are insufficient. One suggestion to help resolve this insufficiency could be to create a new position at DCED. This position would require that the person hired be familiar with each targeted property and responsible for the follow-up, data collection and verification, and auditing of companies that locate to the zones. Another suggestion offered is to hire inspectors to help guide businesses through the application and compliance processes year to year.

Sample Comments (Adequacy of Local Administrative Structure):

- The program needs a full-time dedicated staff person to manage reports and market the program. This person should be a DCED employee who gains intimate knowledge of each targeted property - not just someone who collects the forms.
- The program needs inspectors to guide the businesses, not just assume that the businesses will act accordingly with the regulations of the KOZ Program.
- It works fine in our region as we provide significant assistance to applicants in preparing and submitting applications and helping to resolve compliance issues that come up from either local or statewide reviews. As an LDD that has close ties to the counties and local subzone coordinators that we serve it provides for better communication between the state and the various local entities involved. We are able to provide the Commonwealth with technical assistance and/or clarification needed on the region's KOZs or applicant projects.
- The Regional KOZ Coordinator works with the Local Subzone Coordinators to maintain oversight on the local KOZ designated properties. Local municipal contacts are facilitated through the Subzone Coordinators and zoning and code issues are easily resolved. Regional Coordinators have access to the appropriate contacts to resolve issues.

Survey of Representatives of Economic and Industrial Development Organizations.

***Question 1:** The intent of the KOZ Program is to stimulate job creation, capital investment, and overall economic development in areas of economic distress. Considering your particular area or region, how effective do you believe the program has been in achieving this goal?*

Summary Characterization of Survey Responses: A common response is that the KOZ benefit provides a significant incentive for companies to locate (or relocate) to an area. However, a follow-up comment is that the time-frame needs to be longer to provide more incentive to stay. Many suggest having the KOZ benefit begin at the

time of the company's move to the area. The general consensus is that the KOZ Program is effective.

Sample Comments (Program Effectiveness):

- This program was a critical factor in the redevelopment of a brownfield site in our county that was completely surrounded by farmland. Although we may have convinced the local taxing authorities to participate in a LERTA plan, the addition of the state's participation provided an additional incentive not available through LERTA. We also know that the KOZ benefit was a factor in all the decisions of the companies who located at the site. We also know that it was not of value to several site decisions that ended up at other business parks or sites.
- Impact of the program as presently structured has a declining value. At present there are only three years left on the KOZ time frames and frankly the incentives are of little to no value to companies seeking to locate in KOZs. Restructuring the program to permit a full 10 years of incentives regardless of when a company locates within the zone would provide substantially greater impact on the creation of new jobs and investment.
- The majority of acreage put into the program never received the level of development interest anticipated when the site selection/identification activities were completed. Development we have seen has been outside the KOZ parcels.
- The advantage of having designated KOZ areas provides an additional selling benefit to perspective clients. Although not all clients view this as an advantage to locating in a particular area, the fact that you have the ability to market such an area provides an advantage over competitors that cannot offer a KOZ area.
- There are inquiries that request KOZ status as a condition of further interest. Sets Pennsylvania apart from neighboring states that do not offer this type of incentive.
- Without the program, I feel Greene County would not have been on the playing field with other counties in SWPa. The KOZ afforded me the opportunity to showcase several of our sites. Had there not been the KOZ designations, opportunities would be concentrated in more urban areas thus eliminating rural areas.
- Fayette County has one of the highest unemployment rates in the state. However, the rate has been showing improvement over the past few years. The improvement in part can be directly attributable to increased employment opportunities associated with new businesses locating to our KOZ designated business parks.

- The KOZ Program resulted in the retention of a major manufacturer, a small manufacturer's relocation (within the community), and the attraction of a small manufacturer. On the other hand, it seems to carry little weight as a marketing tool since similar programs are available in other states and since every community in PA has them.
- We have been opposed to the KOZ Program since its inception. There are two reasons for economic development: (1) creation and retention of jobs and (2) increase the tax base of an area, a county and a state. The KOZ does not accomplish the second objective. Too many KOZ areas were designated without local control and some which have benefited residential development, both counter to the intent of the Program. This was a program developed from a Michigan model and now look at Michigan.
- Five new structures occupy space previously housing deteriorating and dilapidated facilities in the BIDA Industrial Complex. A sixty million dollar plus warehouse distribution facility in the Briar Creek Borough is the occupant of 76 acres of a 105 acre parcel that was previously basically unoccupied, and generated less than \$2,200 in total taxes. A nearly 20 acre parcel in Salem Township, Luzerne County housing an underutilized manufacturing operation and a vacant Shell industrial building has been purchased by a Texas based firm will shortly be renovated to a far more productive mode.
- The companies were already located in the zone leasing space prior to the establishment of the program received quite a bit of help through the program. This did not give them any incentive to move out of the zone, even though they could have achieved this successfully.
- The KOZ Program has been extremely effective within the Greater Hazleton Area. While the program temporarily eliminated a small amount of existing tax revenue from vacant land, the resulting outcome to date has been overwhelmingly positive.

The majority of real estate approved for KOZ in the Hazleton Area in 1999 was for undeveloped sites within CAN DO's existing or proposed business parks. By doing this, no appreciable real estate taxes were removed as would have been the case if buildings were taken off the tax rolls.

- In fact, the program has already increased the revenues to the district by the amount of wage taxes paid by the employees now working within the businesses; businesses which have mainly chosen to locate here because of the KOZ/KOEZ Program; businesses which most likely would not be here without the incentive offered by the KOZ Program.
- The program removed blighted buildings in downtown Scranton and was essential in the development of the Jessup Small Business Center, Valley View Business Park, Covington Industrial Park and Mount

Pleasant Corporate Center. It attracted developers to our area. Most of the large projects were in KOZ designated sites.

- As a rural community the Schuylkill/Carbon Region requires special economic development incentive tools to compete in the recruitment/site selection arena. The KOZ Program is a tax abatement program which has significantly impacted the economy in our region. It has afforded an opportunity to recruit quality Fortune 500/100 companies to the community which would not have occurred otherwise.

Question 2: *What do you consider to be the most significant strengths and weaknesses of the KOZ Program?*

Program Strengths

- Tax abatement is cited as the overarching strength of the program.
- The program gives rural areas a chance to compete and is beneficial to urban areas as well.
- The development of new business and progress toward the elimination of blight in certain areas are also listed among the strengths of the program.

Sample Comments (Program Strengths):

- Tax abatements match up nicely with New York State Empire Zone benefits.
- KOZs provide immediate relief from property taxes, money that can be invested into the business. KOZs provide an additional advantage when competing with non KOZ sites.
- Although KOZs provide relief from state and local taxes, the long term effect in terms of additional tax revenue cannot be dismissed. By providing tax advantages and attracting investment in these KOZ areas, state and local tax abatements have a specific time frame and eventually all property located within the KOZ area will be taxable.
- Provides extra incentive to attract interest toward development sites that are in difficult to market locations or have development issues that have otherwise precluded interest.
- Most significant strengths are without a doubt the tax incentives, mainly property tax abatement. The KOZ provided for PA to be on a more level playing field with our surrounding states.
- The potential tax abatements that a qualified company could receive by moving into a KOZ designated area allows Fayette County to be competitive with other states/regions. While certain taxes are abated, the

economic impact of the new job creation and the multiplier effect of the support services related to these new businesses outweigh the impact of tax abatements.

- Put brownfield sites on the radar for business expansions/relocations.
- The opportunity to utilize brownfield sites and underutilized locations in a more productive manner.
- It was my experience that a majority of companies interested in a PA location had a KOZ or EZ very high on their list of priorities. These programs are very important for attraction.
- I believe the most significant strength of the program is its ability to make a site or area attractive to a business which might otherwise go to a different region or state. Despite all the talk about incentives not being necessary, when it comes right down to it, an incentive such as is provided by the KOZ Program is what differentiates one area or state from another. This is especially important to those communities which are on the fringe and need an extra incentive to level the playing field or for the site which would not be developed because of blight, brownfield conditions or if it was a former mine land as was the case with much of the KOZ land developed by CAN DO.
- The program encourages the development of new business parks and elimination of blight in the downtown areas. The abatement incentives allow a level playing field when competing with other states. Companies would not be here without the KOZ Program.

Program Weaknesses

- Many areas report not having been ready for the program upon its implementation. Therefore, substantial time was lost in the transition and preparation of the sites. A longer time frame has been requested (beginning when a company locates to the KOZ).
- Many areas also report a need for increased and improved marketing of the KOZ Program.

Sample Comments (Program Weaknesses):

- (1) Original program was “sold” as a one time only opportunity but was reopened a number of times – lost credibility by continually revisiting the policy for those who missed the boat in the first round. (2) Quality of property included was not considered in first round, therefore wasted opportunity. Frankly, folks who packed land in that still sits undeveloped should be penalized for stealing opportunity from others. (3) Lack of administrative funds to support oversight of program. (4) Fall off in state’s

marketing of these sites. Certainly not as bad as the whole select sites fiasco, but close. (5) Lack of residential sites use.

- Declining value of the incentives as the life of the zone progresses.
- The non-portability of the designation is severely limiting to utilization. Applying minimum property improvement investment requirements or employment obligations to a project would expand the applicability and usefulness of designation.
- There is reluctance on the part of certain taxing bodies to offer this type of abatement. This becomes a hindrance when competing areas were more aggressive in designating KOZ sites.
- Puts tax base onus on local governing entities whether or not development occurs. PA taxes only impacted if development occurs.
- Most significant weaknesses in the program centered on the 12 year existence. The majority of the locations, as well as the state, weren't ready for the program. Several years were lost in the transition in getting sites ready or for the Commonwealth to roll out programs to support KOZ. I believe the state felt the KOZs would succeed on their own value while the contrary was true.
- Companies could jump ship once these tax incentives expire.

Existing businesses feel slighted as these benefits are not available to them and they are also major contributors to the local economy.

- Start date should coincide with investment dates and the number of KOZ really “watered” down the program to truly assist distressed areas in the Commonwealth.
- Including acreage and buildings in the program that never should have been permitted to participate.
- While the incentive is nice for the companies in the KOZ, other companies who have been in our communities for decades feel like they are being ignored even though they invested in our area and have been a good employer for decades. Additionally, a KOZ only works if all three of the taxing bodies agree to the abatement. During the period that the program was last opened up, even though the local municipality, and our county (which was in serious financial trouble) agreed to support the addition of ground to the program, the school district would not because a business in town had recently torn down a building reducing the amount of property tax the district was receiving and being short-sighted, refused to consider any further abatements to anyone else.

Additionally, unless the program is opened up by the legislature, there is no way to add new properties to the program.

- Follow-up for capital investment and improvement on the real estate was weak.
- The biggest weakness in the program is that it allows buildings to be taken off the tax rolls and then does not usually force the owner to improve the building to a marketable condition. In some cases, if a building is so unmarketable, there may be no incentive on earth that would incite a business to acquire the property. In these cases, the taxing districts suffer, the blight remains and the program gets a bad rap.
- KOZ Coordinators – We do not know what their job description entails. They need to explain in detail the KOZ benefits and be able to provide a cost savings analysis. All state incentives should be available within KOZ sites on a case by case basis. The program should be flexible to change or alter the KOZ boundaries of a site.
- The term of the KOZ designation – The KOZ Program should provide for a timeframe option similar to the Local Economic Revitalization Tax Assistance (LERTA) Program, i.e. benefit term begins when new project is in place.

Question 3: *What do you consider to be the biggest “success stories” for the KOZ Program in your area/region?*

Summary Characterization: Primarily business parks are reported as being among the projects reporting the highest capital investment and job increases.

Sample Comments:

- Victory Road Business Park – 350 acre Brownfield site left by closure of USX Sintering Plant in late 80’s. Park is located in an area that is mainly farmland. Of the 350 acres only 40 acres remain undeveloped. Park is home to over 15 companies – many who moved from landlocked situations, expanding on larger land parcels that might have been necessary because of the tax abatement incentives. Of the fifteen plus companies, three (3) are new businesses and/or new locations of an existing company – IBIS-TEK’s second manufacturing facility, ALDI Pennsylvania’s warehouse and distribution facility, and MEDRAD’s second manufacturing plant. When this site went into the KOZ, the total local tax bill for the site was \$52,000. I suspect that there were no state taxes generated at the site. In review in 2007 of the capital assets at the park, the total local tax bill if the KOZ ended 12/31/07 without 2 additional projects under construction at the current time, would be over \$1 million, annually! We would be very interested to know the state’s revenue from the site and are working to try to determine those numbers.

- Woodcraft Industries Inc. - New business to our area (and the state). Secured roughly 100 jobs with more growth potential - up to 250 jobs.
- Redevelopment of the Broadway North and Broadway South Industrial Parks in the Cities of Farrell and Sharon and Stateline Industrial Park, City of Hermitage.
- Targeted Pet Treats - new business start-up as a subsidiary of Dags Dog Food of Meadville. Stimulated renovation and expansion of vacant plant and created about 100 jobs.
- \$5.9 million private investment in a long-vacant deteriorated shopping center reviving the property into a successful development with 90 percent occupancy.
- The Fayette Business Park in Smithfield, PA is our biggest “success story”. In the past 5 years, 5 new businesses have located to the park creating 650 new jobs. These companies chose the site in part due to the KOZ designation.
- Location of Smith Transport International distribution facility (500,000 square feet) in the Vail KOZ, the re-opening of the American Eagle Paper Mill in the Vail KOEZ, located in the Borough of Tyrone, the location of Sheetz, Inc. first distribution center in the I-99 KOEZ and subsequent investment in the Sheetz Bros. Kitchen in the same KOEZ location. In addition to the industrial investments, the City of Altoona is operating a residential KOZ Program within the City and to date 11 single-family housing units have been constructed, one 4-unit apartment has been constructed and 4 single family unit sales are pending. Finally in 2006, the Altoona-Blair County Development Corporation through a “special purpose entity” purchased the former Hollidaysburg Car Shop complex. This 750,000 square foot building located on 300+ acres will be redeveloped into a Center for Light Manufacturing and by the spring of 2008 D-Holdings, Inc. will locate a specialty window and truss manufacturing operations into the facility. In addition, other industrial tenants are negotiating for space in the center. Over 200,000 square feet will be initially occupied.
- None. . . . these lost taxes will never be recovered. Implement effective LERTA in each county and discontinue the KOZs.
- Construction of a 1,000,000 plus square foot warehouse distribution facility on the major portion of a vacant parcel that was generating less than \$2,200 in annual taxes. The new structure will create more \$750,000 in local, county, and school district tax revenue by 2011.
- PMG Pennsylvania Corp. - a European conglomerate located its first manufacturing plant to Centre County to the Rush Township KOZ. With-

out the KOZ the company would have not been located in this region. Now over 100 manufacturing jobs at the plant.

- The development of Humboldt Industrial Park West: When the program started, Humboldt West was 500 acres of undeveloped and strip mined land owned by CAN DO. When the site was designated KOZ, CAN DO worked quickly to develop the land with highway spec access roads, sanitary sewers, water mains and rail. As a result, today, all but one of the 10 industrial sites developed are occupied by companies who constructed facilities for food production, material fabrication and distribution. In total, 3,250,000 sq ft of new industrial space was constructed by 8 businesses which invested \$126.9 million in new buildings, \$196.7 million in equipment for a total private investment of \$323.6 million. Those new businesses now employ 1,725 local residents who earn approximately \$51,232,500 in total annually. The anticipated real estate tax revenue to be generated after 2010 is over \$3 million annually. Incidentally, Office Max, the first KOZ project in the state, located in Humboldt West.
- Covington Industrial Park – Construction of a new 400 acre industrial park by a private developer which attracted Versa Cold, Maytag, Caterpillar Logistics, Sears and Circuit City totaling 3,308,000 sq. ft. and 980 jobs created or projected.
- Jessup Small Business Center & Valley View Business Park – Construction of two mined scarred adjoining business parks developed by SLIBCO totaling 334 acres. The parks consist of 6 buildings totaling 994,800 sq. ft. valued at \$102 million housing 9 companies which 1,290 jobs are created or projected.
- Scranton Enterprise Center – Construction of a new \$11 million, 64,000 sq. ft. office/incubator building developed by SLIBCO. The 3 story downtown Scranton office building tenants employ 450 and 250 students are enrolled.
- Humboldt Industrial Park West – 450 acre KOZ designation. Ten new facilities constructed.

Question 4: *Which projects in your area/region have proven to be the least successful or most disappointing and why?*

Summary Characterization:

- Some housing projects were not well received.
- Vacant buildings and as yet undeveloped land in the KOZ areas have been problematic.
- Additionally, there have been difficulties with privately-owned land.

- One KOZ area was determined to not be developable due to the discovery of an endangered species of frog on the land.

Sample Comments:

- Rock Airport in Allegheny County, there was much fanfare and press for this project that didn't go anywhere in spite of state and county investments in the site.
- KOIZ were really just political deals, not open opportunities for everyone. That type of policy isn't good for anyone, not even those who get the benefit of the deal.
- Armstrong Laser Technology (ALT) a subsidiary of an Albuquerque, New Mexico company that located in Armstrong County in 1999 is considered the least successful of Armstrong County projects. In 2001, the company moved into a newly constructed built to suit facility in a KOZ designated area with the potential to capitalize on defense related military contracts. ALT located in an automated facility to produce custom, high power laser diode arrays and coolers in large quantities for military, industrial and commercial applications. Due to mismanagement and a lack of a succession plan, the company never reached its full potential with regards to profits and employment creation. The company ceased operations in February of 2006.
- Lack of project development for a \$250 million steel mill KOZ granted to help lure the investment - has not occurred yet.
- Several companies who expressed a desire to locate to Greene were shut out of other state programs because of the KOZ. We rely heavily on the state programs for some success and when these companies were told not to expect other incentives, our locations were taken away from the process. Other counties and regions have additional funds available to them for economic development compared to us. Rural KOZs should have been viewed differently by the state.
- Derry ICI Site - partially demolished and sitting idle with private owners. Only KOZ with rail and not marketable.
- Prime site with best access of all sites in the area still vacant (Privately owned - price high because of KOZ status).
- The remaining KOZ ground in our last phase of development has been adversely impacted by the endangered species - Eastern Spade footed Toad. We have lost the ability to develop 42.50 acres of KOZ ground. Hundreds of thousands of dollars have been spent (and wasted) to develop and we now have no way to recover those costs and use to develop other projects or Brownfields. A conservation group has come forward and applied for a DCNR grant to help fund a purchase from us, however the foot dragging

- Actually had little KOZ area locally, I do not believe the housing component on Cameron St. included worked as anticipated.
- Aspens Park was designated a KOZ but has seen minimal development even after more than \$1 million was put into new infrastructure.
- Southern Union Building – Construction of a 38,000 sq. ft. corporate headquarters building for Southern Union in downtown Scranton. The company never occupied the space and is still available. The project did remove blighted properties.
- Various unimproved large sites with no planned or committed development by the land owners.
- Several vacant buildings located in older communities have not seen any activity under the Program. There were no Business Plans submitted for these locations. It is unlikely that they will see any activity during the term of the Program.
- Some vacant parcels have not seen any activity due to lack of utility infrastructure.

Question 5: *“Brownfields” were originally targeted for emphasis in the KOZ Program but prime real estate and “greenfields” have reportedly also worked their way into the program. Has this occurred in your area/region? If yes, do you believe this is a problem?*

Summary Characterization: This has occurred in some regions but mixed results have been reported. Some believe greenfields to be damaging to the program. Others cite advantages to having greenfield participants including the greenfields having been prepared for industrial growth at the inception of the KOZ Program’s implementation. Of those surveyed that reported that greenfields had worked their way into the program, only two stated this to be a problem. They do, however, state that brownfields should continue to be the focus of the program.

Sample Comments:

- Although no Greenfield sites went into the mix in our county, I am aware that across the state several did. Those decisions hurt a great piece of public policy meant to provide incentives for redevelopment. The policy should not be blamed, the implementation should be cited and those who stretched the policy to suit their purposes should be held accountable.
- Greenville Reynolds Industrial Parks, Reynolds East Business Park.

Don't see this as a problem but it depends on what the specific intent was of the program. Generally Brownfields in our area are not an easy sell and they are not cost effective to develop. Nice concept but not practical from an economic standpoint or public policy standpoint per our experience.

- I never thought brownfields were a major emphasis of the KOZ in the beginning. I know the term underutilized and underdeveloped were used and in retrospect this was a problem. We all needed to compete with other states with the best we had to offer, not with something that would be available in 3-5 years waiting on development and earth moving to occur. The idea was great at the beginning for X amount of land in each of the LDD regions but we short-changed ourselves by not having better sites developed quicker in the program. Sure the brownfields would be available at a lesser price, but many were also in undesirable locations.
- Duke Energy established a power plant near Masontown in Fayette County on "greenfield" land (18 full-time jobs/\$380 million investment).
- While not "brownfields", the areas developed were distressed areas that would have been extremely difficult to develop without special economic development incentives.
- All of the grounds owned by our Economic Development Group are Greenfields. No Brownfield projects were even considered originally when the program was begun because we were not the owners of any at that time, and properties held by private developers were not allowed in the program. When the program was opened up to include properties held by private developers, the school districts in our area were unwilling to agree to the tax abatements, since they had no other way to recover the loss of those significant dollars.

At the time of the original program's inception, for us, the only areas that were zoned correctly and could handle industrial growth were the greenfields. These were adjacent to already developed industrial lands which had direct access to interstates so the development of those greenfields did not involve having to build completely new infrastructures to open them up to development. These areas also imposed no conflicts with residential areas so made the most sense at the time. And because the loss of tax revenue was so minimal to the school districts, it was easier for them to agree to the tax abatements for those greenfield properties than for Brownfield properties.

- Humboldt West was mostly undeveloped greenfield land with some scars from the former mining industry. This project was also a resounding success.

- One must not lose sight of the fact that greenfield sites in some parts of the state sell easily while others, in areas like Humboldt West, where there is mountainous terrain are very difficult to market because of the enormous site development costs encountered once the site is purchased.
- Highridge Business Park and Humboldt Industrial Park West can be classified as a Greenfield Projects.

Question 6: *Under certain circumstances, KOZ tax-free status can be applied for either new or existing residential housing. Do you consider the use of the program for residential development to be appropriate and effective for community development purposes?*

Summary Characterization: More than half of respondents consider the use of the KOZ Program for residential development to be appropriate for community development purposes. Some are uncertain as to how effective it will be or if it would take needed tax money away from small municipalities to have homeowners not paying property taxes for an extended period of time. Others are glad to see new residents in areas that were vacant. They believe that the tax base will not be negatively impacted by having more residents moving into the area.

Sample Comments:

- If we are going to encourage young families to look at inner city and older towns and communities, incentives like this are absolutely the best opportunity.
- In areas of shrinking tax bases, this addition of service consumers without tax assistance creates more hardship on the existing residential and industrial payers.
- I do believe that it would be beneficial for specific designated residential development areas. This would entice new investment to a particular community that might otherwise not develop. Additionally, although taxes would not be assessed initially, the long term results from this action would be beneficial to all taxing bodies.
- Our only residential KOZ is in a distressed community. The KOZ helped kick off the first housing development in 30 years.
- Possibly - Completely against any housing development to be included in the KOZ Program. The program was designed to spark economic development, though home building is that, no home owner deserved a possible 12 years of abatement. Perhaps a shorter time span of 5-6 years would have been more acceptable. I'm not a proponent of KOZ for residential housing.

- We have effectively utilized this to encourage taking apartments in the Fayette Bank Building in our downtown area. This has been extremely helpful in recruiting young talent for start-up companies.
- As previously mentioned, the City of Altoona is operating a residential KOZ utilizing tax delinquent land that had sat vacant for 40 years. To date 15 new units are now occupied (11 single family, 1-4 unit apartment and 4 sales pending. These units, once placed on the tax rolls, will begin to contribute to the city's tax base. The city has until 2013 to continue to market the availability of these sites and the residents are receiving the tax benefits toward their investment.
- Some communities lack adequate quality housing stock to accommodate the needs of an expanding workforce.
- If there is an unfilled need in a community for affordable housing, the KOZ Program would give a housing developer an incentive to invest in that community over another community where he undoubtedly would have a higher return on his investment. There are no KOZ housing developments in the CAN DO service area.
- Only for new developments where there is vacant blighted and/or contaminated land.
- In the rural areas, residential development under the KOZ Program, can act as the catalyst for continued development through infrastructure improvements to an area.

Question 7: *There are estimates at the state level of the costs of the KOZ Program in terms of the amounts of state taxes abated. To your knowledge, have any similar estimates ever been done to estimate the costs of the KOZ Program at the local level (that is, in terms of the amounts of tax revenues foregone by the counties, municipalities, and school districts in your area/region)? If yes, is this information available and from whom?*

Summary Characterization: Most stated that if the information existed, it would likely be available from the KOZ coordinator assigned to the area. More often than not, respondents did not believe the estimates to have been done or did not know if they were.

Sample Comments:

- Partial information can be referenced at the Armstrong County Department of Planning & Development. Not all of the designated KOZ areas have this information compiled.
- This has never been done.
- It is not immediately available but could easily be calculated.

- Only at the limited extent necessary to assure the local taxing body that they were not foregoing substantial tax revenue and the potential new revenue generated would offset any short term loss.
- Information is available for all the CAN DO property.
- The regional KOZ coordinator should have this information.

Question 8: *Do you believe the current method of using regional KOZ coordinators and subzone coordinators provides an adequate local administrative structure for the Program?*

Summary Characterization: Generally, most respondents reported that they believe the KOZ coordinators and subzone coordinators do provide an adequate administrative structure. Strengths of this structure include easy and local access to knowledgeable coordinators who can address concerns immediately. Additionally, the program fosters partnership and collaboration. Concerns regarding this administrative structure include poor communication between EDC/IDC and coordinators, unaddressed loopholes in the new online application, and the increasing complexity of the program.

Sample Comments:

- Our experience is that the local folks charged with administration are people that we work with on other economic development projects. We know each other and know each others property. Experience with our companies at the state level was never as smooth as it was if we ran interference at the local level. There were a number of changes in personnel at the state that resulted in communication challenges.
- Yes but not enough financial support is provided down to the county level.
- I'm all in favor of the administrative structure as it is.
- Yet these people must be inclined to provide help with marketing these properties.
- But as more and more companies are investing in the zones and in the case of the city's residential zone, as more and more lots are being sold for new housing units, the administration of the program is becoming more and more difficult and time consuming.
- There should be 1 KOZ coordinator per active KOZ County. If the current system was properly working, you should be able to obtain your requested information from them. There is very poor communications and duties from the KOZ coordinator with the industrial development groups.
- We had a very weak regional administration. Companies had trouble figuring out how the program worked.

2. Suggested Program Improvements

Question 9 on the LB&FC survey asked survey respondents to provide any suggestions for legislative or administrative changes they believe would improve the KOZ Program; Question 10 provided respondents an opportunity to provide other comments and information they believe needs to be considered in evaluating the effectiveness of the KOZ Program and arriving at recommendations to improve the program. Together, the responses to these questions provide an overview of ideas and suggestions for enhancing the operation and effectiveness of the KOZ Program.

1. Brownfield Sites/Blighted Properties

- Ensure that Brownfield sites and building are the primary targets of the program.
- Exclude Greenfields if Brownfields exist and are not being considered
 - Implement strict policy to ensure that sites approved for inclusion in the Program meet all requirements.
- Extend the KOZ benefits to the sites that have been or are planned to be developed. Add new KOZ sites which are truly blighted and have a commitment by a developer to improve the site for industrial development purposes only.
- The program should be restricted to brownfields, greyfields, elimination of blight and large industrial facilities which needs special consideration.
- Although Brownfield sites should continue to be targeted for emphasis under the Program, Greenfield sites operated as existing industrial/business parks in rural areas can offer the impetus for further development.

2. KOZ Timeframe

- Extend the abatement and/or begin the benefits when a company locates to the KOZ.
- Implement automatic extensions for new properties if the KOZs have already been approved by local municipalities/school districts/counties.
- Extend time frame for KOZs without activity. Broaden scope of tax abatements. We need tools to compete.
- I think KOZ should be extended for existing property. I don't think additional properties should be added until the majority of existing KOZ property has been developed.
- Long-term commitment from the Legislative world encourages long term commitment from businesses for further improving blighted properties throughout the Commonwealth.
- Extending the abatement and/or beginning the benefits when a company locates to the KOZ.

- Companies locating to the zone could have a 10 year abatement regardless of when the program is set to end .
- Circumstances such as environmental and wetland issues caused significant delays in being able to make the property ready, and when ready, only a few years of tax benefit remain.

3. Tax Abatement

- Expand tax abatement for all industrial/manufacturing projects located in KOZs to include transfer tax, sales taxes on materials and services required to build facilities.
- Resolve the issue of the definition of “Sales within the Zone” so that this is actually a benefit and an abatement of state taxes.
- Include in policy a protocol or procedure that allows for all communities to handle the tax abatement in the same manner.

4. KOZ Sites/Property Improvements

- A percentage of KOZ tax savings should be applied to property improvements at existing properties.
- Introduce a requirement or incentive so that property owners in KOZ. don’t just “sit” on vacant or under-utilized properties without further investment or job creation.
- Construct and implement penalties for communities/agencies/developers that allow property in the zone to go undeveloped.
 - Reduce the allocation of acreage after a specified amount of time.
 - Have undeveloped land lose its KOZ status entirely after a certain amount of time.
 - Taxes abated on increase to assessed value only.

5. Program Monitorship

- Do not rely on self-monitoring and self-reporting of the businesses located within the KOZs.
- Improve regulations and introduce inspections.
- The KOZ is a great program because it is simple - there are no contracts, no bidding requirements. The value of the KOZ, however, diminishes as the expiration date expires, which is excellent. A comparison should be done of the taxes collected in 1998 on KOZs and the taxes collected post KOZ.
- Implement post audit procedures to ensure KOZ companies meet employment and investment objectives.
- There’s a need for the implementation of stringent Clawbacks as part of the Program for it to be more effective. Benchmarks need to be implemented prior to company access to the Program, i.e., job creation and capital

investment and companies need to be audited regularly to determine if they have met the original benchmarks. The existing Program lacks the legal avenues to terminate the KOZ designation.

- The program needs a full-time dedicated staff person to manage reports and market the program. This person should be a DCED employee who gains intimate knowledge of each targeted property—not just someone who collects the forms.
- The program needs inspectors to guide the businesses, not just assume that the businesses will act accordingly with the regulations of the KOZ Program.

6. KOZ Designation

- Allow municipalities the on-going option of adding KOZs.
- Allow the KOZ to be portable so a community can move (a set number of acres) within a specific district (this can be at county or city level).
- Compel all authorities (state, local, school) to approve of the site via resolution (as is done now).
- Provide a mechanism to apply designation to a definitive project as opposed to a particular parcel of ground.
- Revise KOZ Program in such a way that would allow for greater flexibility with regard to boundary changes, zoning, planning, and regional partnerships.
- There isn't a need for 15,000 acres of KOZ, maybe just target 5,000. Certainly our 350 acres has changed our county so much for the better.

7. Prevailing Wage Condition

- Do not add a prevailing wage condition; this would contribute to costs and effectively terminate any employment.
- If the Assembly adds a requirement that beneficiaries must pay prevailing wage for any and all projects conducted on site, regardless of funding source, then there would be very little interest in the entire program at our local and somewhat rural level. Prevailing wage requirements would dilute nearly all benefits as we have relatively low property taxes in Franklin County.

8. KOZ Marketing

- Develop and fund a marketing plan for the KOZ.

9. Other

- KOZ coordinators, subzone coordinators, and others who work in the field should be included in and permitted to provide feedback and insight about the program.

- Public policy is rarely perfect in design and implementation. Far more time is invested trying to skirt intent to the benefit of a particular interest than in using the tool for the purpose it was designed. The KOZ policy was no different than many other attempts. This was a good piece of untested policy that if left to the first iteration and not bastardized several additional times, would have had greater credibility and success.
- Implementation should require that everyone follows the rules – no payments in lieu of taxes regardless of what they are called, no prime Greenfield sites, no gerrymandered corporate benefits, no do over legislation because one county didn't get in the first go round.
- For our experience it worked just the way it was supposed to. The local taxing bodies lost \$520,000 for the years of taxes that the site was "offline." They will pick up over \$1 million in the first year back on. Would you be willing to make that investment for that return? And, in addition to the tax return, there will be nearly 1,000 jobs on that site supporting additional service jobs in the area. Because of the location, there no hotels close to the business park. There are a few bed and breakfasts that now have corporate contracts with companies in the business park – they are full year round.
- We certainly hope that the legislature will look at something similar and listen to the grass roots in design of the policy. It certainly isn't the cure for what ails PA but it is a treatment for a certain section of what must be done – infill redevelopment.
- Take a look at the new capital investment in PA. Doesn't matter whether the new facilities are from existing companies or "new to PA companies." We are creating a wider tax base for the future. Somehow - the state needs to make itself competitive when it comes to attracting/retaining industries so that when the KOZs "run-out" the industries won't do the same.
- Keep politics out of the process.
- Please find a way to be more reactive to prospects by addressing individual needs of that company based on that community and its needs. The loss of manufacturing jobs has hurt many regions more significantly than others and the KOZ Program is not flexible enough or reactive enough to accommodate those ever-changing economic pictures. Schools must be given a way to approve tax abatements that do not require them to raise taxes on the rest of a district's residents or face the loss of revenues that they are currently receiving. Bottom line is - it's the corporate tax structure that keeps companies from staying in or locating to PA. Being in the 49th spot for friendly tax policies for business it seems that that should be our priority to fix instead of having programs that only benefit a small portion of PA's businesses.

F. Key Features of Similar Programs in Selected Other States Provide a Useful Point-of-Comparison to KOZ Program Operations

The Maine Pine Tree Development Zone Program

Year Created: 2003

Program Purpose or Mission: The Pine Tree Development Zones (PTDZ) Program was established under 30-A M.R.S.A. Chapter 206, Sub-chapter 4. Part 1 specifies the Legislative finding which indicates “that there is a need to encourage development in economically distressed areas of the state in order to:

- provide new employment opportunities;
- improve existing employment opportunities;
- improve and broaden the tax base; and
- improve the general economy of the state.”

To address these goals, Zones may be located in areas of the state with “relatively high unemployment or low wages.” The Program supports new “qualified business activity” and gives specified businesses the chance to greatly reduce or, in some cases, virtually eliminate state taxes for a period of time that may be up to ten years.

Program Structure and Criteria for Zone Creation: The statute provided that one or more units of local government may apply for the designation of a PTDZ within the boundaries of the unit or units of that local government. If approved, each participating local government unit or Indian Tribe must agree to maintain at least one pre-permitted development site within the real property proposed for inclusion within the Zone throughout the term of the Zone. Each zone may contain no more than 5,000 acres and only developable acres are included in the calculation of the 5,000 acre limit. Also, the acreage need not be contiguous. Collectively, the zones are comprised of more than 30,000 acres in over 100 communities statewide.

In the fall of 2004, eight zones were designated by the DECD Commissioner upon approval of eligibility. In 2006, the legislature established the Military Redevelopment Zone and a waiver for certain industrial sites thereby opening up more eligible locations. A total of nine designated zones currently comprise the program.

With the exception of the military redevelopment zone, all property within a PTDZ must meet one of the following conditions:

1. the property is located within a market area for which the labor market unemployment rate is greater than the state unemployment rate at the time of the application; or

2. the property is included within a county in which the average weekly wage is below the state average weekly wage at the time of the application.⁴⁰

All zones designated in law and all associated benefits are scheduled to terminate on December 31, 2018.

Administrative Structure and Delineation of Responsibilities: The Maine DECD is statutorily responsible for the administration of the PTDZ program, including adopting rules for its administration, for determining and certifying eligibility, selecting zones for designation, and evaluating on a periodic basis the progress and success of each zone in achieving its goals.

Local administration of the PTDZ is overseen by zone governing entities designated to administer and coordinate the activities of that zone. The “development plan” adopted by each local government (and required by the statute for zone designation) is to identify how the zone is to be administered and governed; the goals and objectives; the marketing plan; and the resources committed to implement the development plan. The entity or administrative unit is responsible for managing all zone activities including:

- developing and implementing a coordinated marketing strategy;
- developing the annual and long-range operational budget for management of the zone including sources and uses of funds;
- creating a five-year development plan, which will include the establishment of long- and short-term milestones and a strategy for meeting those milestones;
- ensuring a representative governance structure;
- ensuring regional cooperation in meeting the goals of the zone; and
- submitting zone amendments to the Commissioner (of DECD) for approval.

Job Creation Requirements: The goal of PTDZ is to create quality jobs in targeted business sectors and geographic locations. The basic statutory job creation requirement⁴¹ is that at least one new net job is created that:

⁴⁰In cases of a multijurisdictional or joint application for Zone designation, the requirements are met if the combined unemployment rate of the cooperating units of local government meets the first requirement or if the average weekly wage of the cooperating units of local government, on a per-employed-worker basis, meets the second requirement.

⁴¹Program benefits are provided to a “qualified business” which means any for-profit business in the state engaged in or that will engage in financial services, manufacturing or a targeted technology business that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment in the state and that meets the following criteria: (1) It demonstrates that the establishment or expansion of operations within the PTDZ would not occur within the State absent the availability of the Zone benefits. The department shall determine whether the business has met the requirements of this paragraph; and (2) it has received a certificate from the DECD Commissioner as a qualified business.

- meets a minimum annual income level that exceeds the current per capita personal income for the county of employment in which the business is located;
- includes access to health benefits (employer contribution encouraged but not required); and
- includes access to retirement benefits (employer contribution encouraged but not required).

The PTDZ is not intended to be used for job retention. As such, existing jobs that are moved to Pine Tree Zones are not considered “new” jobs. When a business is certified as a qualified PTDZ business, the tax benefits become effective and available to that business as of the earliest date permitted by statute (usually the year in which the business commences qualified business activity, i.e., first implements its approved development program by purchasing property or hiring employees). A business that remains certified and continues to have at least one qualified employee above its base level of employment may also be eligible for income and sales tax benefits related to the employment of partially-qualified PTDZ employees. If a previously certified business fails to hire one qualified employee within the first two calendar years, the approval of the economic development project will be terminated (terminated businesses may re-apply for benefits).

Capital Investment Requirements: Under the DECD rules for the PTDZ, a business seeking certification under the program must indicate in its application a description of both its employment growth and investment plans over the next two years. Legislative amendments in 2007 require businesses seeking certification to make a written commitment to invest at least \$225,000 in the businesses’ expansion.

Program Benefits: The PTDZ Program is intended to encourage and reward the creation of new qualified business activity, with its accompanying employment and investment in property in economically distressed areas of Maine. The tax benefits are tied to the qualified business activity of a qualified business operating in a PTDZ location, i.e. investments in property and payroll that would not have occurred but for the program and that constitute an overall gain to the business and the Maine economy. However, as stated previously, the program is not intended to provide tax benefits for simply shifting already existing business activity from outside a PTDZ location to inside a PTDZ location.

Depending on the level of new qualified business activity conducted in a PTDZ, starting with the statutory requirement for hiring a minimum of one net qualified employee, the tax burden of qualified business may be reduced through the following exemptions, reimbursements, and credits:

- Corporate Income/Franchise Tax Credit (100 percent, Years 1-5; 50 percent, Years 6-10);
- Insurance Premiums Tax Credit (100 percent, Years 1-5; 50 percent, Years 6-10);
- Employment Tax Increment Financing (ETIF) Income Tax Reimbursement (80 percent of five or more net new employee state income tax withholdings, Years 1-10); and
- Sales and Use Tax Exemption (Tangible Personal Property) (100 percent, Years 1-10) and Reimbursement for purchases made during the business certification process.

In addition, qualified new and expanding businesses have access to reduced electricity rates.

All program benefits, except ETIF, are available once one qualified employee is hired into a net new job. ETIF is available once qualified employees are hired into five net new jobs with income and benefit packages in conformance with statutorily-mandated income guidelines. Program benefits may be “layered” on other available federal and state benefits to businesses located within the Zones. Examples include businesses partaking in benefits offered by federal Rural Empowerment Zones, Community Development Block Grants, or other state grants or tax credits.

Accountability Requirements: Tax benefits are available to the business only if the business hires one qualified employee above its base level of employment within the first two calendar years after being certified. If the business fails to meet its obligations within that period, its approval as a qualified business for purposes of receiving the economic benefits of the program will be removed.

Under statutory amendments of 2007, the hiring of five net new qualified employees triggers the Employment Tax Increment Financing (ETIF) program. Under ETIF a company is eligible for reimbursement equal to 80 percent of the withholding taxes withheld each year for which reimbursement is requested and attributed to those fully-qualified employees.

Reporting Requirements: Annual reporting requirements apply to PTDZs and for certified businesses conducting business activities within PTDZs. The authorized official of a PTDZ must submit to the DECD, by March 31 of each year following the final designation of the zone, a report containing the following information:

- a brief narrative summary of zone activities for the prior calendar year;
- the status of the zone’s development plan, including marketing activities, budget, capital plan and the accomplishment of goals and objectives;
- a narrative on how the zone is meeting the purposes of the statute;

- a list of qualified businesses establishing or expanding operations within the Zone; and
- information regarding any successes, challenges or lessons learned that would be of potential use in improving the Pine Tree Development Zone program.

In addition, all certified zone businesses must submit, by March 31 of each year following its certification, a report to DECD containing the following information:

- a brief description of its qualified and non-qualified business activities conducted within the zone during the prior calendar year;
- the number and location, and average wages of all employees employed by the business, including any affiliated business, within the state as of the preceding December 31;
- the number and location, average wages and benefits offered of all employees employed by the business within the Pine Tree Zone as of the preceding December 31 stated separately by qualified and non-qualified employees;
- the value of investments made in buildings and/or facilities, business equipment and employee training for qualified business activities within the zone during the prior calendar year, and the value of all investments made in property used in non-qualified activities within and without the PTDZ;
- a list of employees or positions, with associated payroll, transferred from elsewhere in the state to the PTDZ to work in qualified business activities in the PTDZ; and
- a list of property, with original costs, transferred from elsewhere in the state to the PTDZ for use in qualified business activities in the PTDZ.

Additionally, §5250-P. Report, of the statute creating the Pine Tree Development Zone Program states that:

By January 15, 2004, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters regarding rulemaking and progress in implementing Pine Tree Development Zones. Not later than April 1, 2005 and April 1st of each odd-numbered year thereafter, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters on the status of the Pine Tree Development Zones.

The Michigan Renaissance Zone Program

Year Created: 1996

Program Purpose or Mission. The Michigan Renaissance Zone Act, MCL §125.2681 - §125.2696, enacted in 1996, states in its legislative findings and declaration section that:

The Legislature of this state finds and declares that there exists in this state continuing need for programs to assist certain local governmental units in encouraging economic development, the consequent job creation and retention, and ancillary economic growth in this state. To achieve these purposes, it is necessary to assist and encourage the creation of renaissance zones and provide temporary relief from certain taxes within the renaissance zones.

Program documents state that the Michigan Renaissance Zone initiative was established to foster economic opportunities in the state; facilitate economic development; stimulate industrial, commercial, and residential improvements; prevent physical and infrastructure deterioration of defined areas; and provide for the reuse of unproductive or abandoned industrial properties.

Program Structure and Criteria for Zone Creation: Renaissance Zones are regions of the state designated as virtually tax free for any business or resident presently residing in or moving to a zone. The zones were designed to provide selected communities with a market based incentive of no state or local taxes to encourage new jobs and investment. A Renaissance Zone can consist of up to 10 different geographically defined subzones. The program originally consisted of 11 zones, but was later expanded to 21 zones which include over 150 geographic areas. The zones are located in urban and rural areas across the state and also include three former military bases.

As of early 2008, the local units of government reported over 520 Renaissance Zone projects that, since program inception, are expected to generate over 9,100 jobs and over \$2.7 billion in private investment.

In considering whether to grant Renaissance Zone designation, the Michigan Renaissance Zone Act provided for a review process that was to give consideration to the following criteria:

1. Shall give priority to applications that include new business activity.
2. Evidence of adverse economic and socioeconomic conditions within the proposed renaissance zone.
3. The viability of the development plan.

4. Whether the development plan is creative and innovative.
5. Public and private commitment to and other resources available for the proposed renaissance zone.
6. How renaissance zone designation would relate to a broader plan for the community as a whole.
7. The level of demonstrated cooperation from surrounding communities.
8. How the local regulatory burden will be eased for businesses operating in the proposed renaissance zone.
9. Public and private commitment to improving abandoned real property.
10. Any other information required.

Subsequent amendments to the Michigan Renaissance Zone Act have added specialized zones, as opposed to geographically based zones, which are facility or industry specific. These include:

- **Agricultural Processing Renaissance Zones (APRZ)** – (2000 amendment) to promote agricultural processing operations in the state of Michigan and to enhance the industry overall. These APRZs differ from Michigan’s original renaissance zones because they require them to contain a company’s agricultural processing facility and can be located anywhere in Michigan.
- **Forest Products Processing Renaissance Zones (FPPRZ)** – (2006 amendment) to promote forest products operations in the state and to enhance the industry. They are required to contain a company’s forest products processing facility and can be located anywhere in Michigan.
- **Renewable Energy Renaissance Zones (RERZ)** – (2006 amendment) to promote renewable energy operations in the state and enhance the industry. They are required to contain a company’s renewable energy facility and can be located anywhere in Michigan.
- **Tool and Die Renaissance Recovery Zones (Recovery Zones)** – (2004 amendment) to encourage collaboration among tool and die companies in order to strengthen them and retain existing jobs. These zones are company-specific and are to be created within cities, townships, and villages targeting this industry. Qualified leased or owned tool and die businesses must reside there and be used primarily for tool and die business operations.

In late 2006, amendments were made to the Michigan Renaissance Zone Act to permit the designation of new subzones and the extension of time for one or more portions of existing Renaissance Zones. Time extensions are only allowed for existing urban, rural, and military Renaissance Zones. New subzones are only allowed for existing urban and rural Renaissance Zones that have not reached the

maximum of ten subzones allowed. New subzones and time extensions are available through December 31, 2011.

Administrative Structure and Delineation of Responsibilities: Primary responsibility for administration of the Renaissance Zone Program resides at the state level. In general, the Michigan Renaissance Zone Program is administered by the Michigan Strategic Fund Board (MSF) which is housed within the Michigan Economic Development Corporation (MEDC).

With respect to the Renaissance Zone Program, the MSF Board (a nine member board) functions as a Renaissance Zone review board which reviews all applications submitted by qualified local governmental units and makes recommendation to the State Administrative Board (an existing agency having general supervisory control over the administrative activities of all state departments and agencies) for zone approval based on criteria specified in statute.

Job Creation Requirements: As previously indicated, the Michigan Renaissance Zone Act, in its “Legislative findings and declarations” section, recognizes the need for programs to encourage economic development with its consequent retention and creation of jobs. Although the statute and its subsequent amendments do not stipulate any numerical requirements for job creation, the legislation is nevertheless replete with provisions that specifically mention job creation (usually together with capital investment) as an important element in the approval process.

For example, where a Renaissance Zone already exists, local governments may designate additional zones (through the end of 2011) if such designations will increase job creation. Additionally, existing zones may be extended (in duration) if such extension will increase job creation (or capital investment). The Michigan Strategic Fund Board is to enter into written development agreements with the owners of all real property located within the boundaries of the portions of the renaissance zone whose duration has been extended. These written development agreements are to include, but not be limited to, all of the following:

- The duration of the extension.
- The conditions under which the extension is granted.
- The amount of capital investment.
- The number of jobs to be created.
- Any other conditions or requirements reasonably required by the board of the Michigan Strategic Fund.

Further, pursuant to the act, when the MSF board considers designating Renaissance Zones for agricultural processing facilities, renewable energy facilities, and forest products processing facilities, the board must consider “the creation of jobs relative to the employment base of the community rather than the static number of jobs created.”

Investment Requirements: As discussed above, local governments may designate additional zones (through the end of 2011) or extend the time duration of existing zones, if these decisions will increase capital investment (or job creation). Additionally, as a condition of designating renaissance zones for agricultural processing facilities, renewable energy facilities, and forest products processing facilities, the MSF board is to require a “development agreement” between the board and the facility that stipulates provision of an annual report that includes information on the amount of capital investment at the facility.

Program Benefits: The Michigan Renaissance Zone Program provides tax abatement for various state and local taxes for both businesses and residents located within zones.

Business Tax Benefits. Most state and local taxes are abated in the Renaissance Zones. The tax benefits are phased out at 25 percent increments during the zone’s final three years of existence. Property owners are still responsible for property taxes levied to pay for local bonded indebtedness, school sinking funds, and special assessments. The following state and local taxes are abated for businesses located in a Renaissance Zone.

Property Taxes.

- *Local Real Property Taxes.* General property taxes on land and buildings are nearly 100 percent abated.
- *Local Personal Property Taxes.* These general property taxes are nearly 100 percent abated for the business’ personal property that is located in the Renaissance Zone.
- *School Property Taxes Abated.* Personal property taxes for schools are 100 percent eliminated in the zone. Recent property tax reforms have exempted industrial personal property—inside and outside of a zone—from the 6-mill State Education Tax and 18 mills for local schools. Under the same reform, all Michigan commercial personal property is automatically exempt from 12 mills of the local school millage. These personal property exemptions will benefit companies with or without a zone.

Because local units of government handle property tax abatements differently, businesses are encouraged to contact the local assessor’s office for their particular Renaissance Zone.

State and Local Taxes.

- *Michigan Business Tax.* A tax credit is allowed against the Michigan Business Tax for businesses activity attributable to the Renaissance Zone.

- *Local Income Tax.* City corporate income taxes, if applicable in the zone, are 100 percent abated.
- *Utility Users Tax.* This only applies to residents or businesses in the City of Detroit. The city levies a 5 percent tax on utility bills. Businesses located within the Renaissance Zone are exempt from this tax.

Taxes still due are those mandated by the federal government, local bond obligations, school sinking fund, or special assessments. Companies are not exempt from paying Michigan sales tax.

Residential Tax Benefits. Most state and local taxes for individuals are abated in the Renaissance Zones. The tax benefits are phased out at 25 percent increments during the zone's final three years of existence. Property owners are still responsible for property taxes levied to pay for local bonded indebtedness, school sinking funds, and special assessments. The following state and local taxes are abated for residents located in a Renaissance Zone.

Property Taxes.

- *Local Property Taxes.* General property taxes on land and homes are nearly 100 percent abated.
- *Personal Property.* Personal property owned by individuals is 100 percent exempt under Michigan's property tax system.
- *6-mill State Education Tax.* The state property tax levy for schools is 100 percent abated.

Because local units of government handle property tax abatements differently, residents are encouraged to contact the local assessor's office for their particular Renaissance Zone.

State and Local Taxes.

- *State Personal Income Tax.* The state's personal tax rate was 4.35 percent in 2008 and is scheduled to decline to 3.9 percent by 2016. Individuals living in a Renaissance Zone are exempt from paying the state personal income tax.
- *Local Income Tax.* City personal income taxes, if applicable in the zone, are 100 percent abated.
- *Utility Users Tax.* This only applies to residents or businesses in the City of Detroit. The city levies a 5 percent tax on utility bills. Individuals living within the Renaissance Zone are exempt from this tax.

The State of Michigan reimburses intermediate school districts, local school districts, community college districts, public libraries, and the school aid fund where

taxes would not otherwise be abated. The State of Michigan does not replace the tax revenue lost to the local unit of government or other taxing jurisdictions except those listed in the preceding sentence.

Accountability Requirements: The Michigan Strategic Fund board may revoke the extension of time duration of a renaissance zone if it determines that increased capital investment (or job creation) will not begin within one year of the granting of the extension.

The MSF board may revoke the designation of a tool and die recovery zone if those qualified businesses fail to participate in or comply with a “qualified collaborative agreement.”

Reporting Requirements: In addition to any annual reporting requirements of businesses as a result of development agreements with the Michigan Strategic Fund, the Michigan Renaissance Zone Act also provides for annual reporting to the Legislature by the Michigan Economic Development Corporation and by a “state research university.” Both provisions require the same information as follows:

- Number of new jobs created.
- Percentage change in aggregate taxable value and state equalized value.
- Average wage of new jobs created.
- Percentage change of adjusted gross income of residents.

It appears that only one report is prepared annually, and this report is developed by the MEDC based on voluntary reporting of the Renaissance Zone communities. Due to the voluntary nature of the sources, the MEDC indicates in its report that there is an underreporting of development activity in the program, as it is difficult for communities to track the businesses or residents that move into the zones.

The Minnesota Jobs Opportunity Building Zones Program

Year Created: 2003

Program Purpose or Mission: The Minnesota Jobs Opportunity Building Zones (JOBZ) program (*Minnesota Statutes* 2007, §§469.310–469.3201) was enacted in 2003 to spur economic growth in Greater Minnesota (i.e. outside of the Minneapolis-Saint Paul metropolitan area) by providing tax breaks to qualified businesses that expand, start up, or relocate within a tax exemption zone. As such, the JOBZ program focuses on the development of rural Minnesota, attracting private investment and creating new employment opportunities, through the provision of local and state tax exemptions.

Program Structure and Criteria for Zone Creation: The 2003 legislation authorized the Department of Employment and Economic Development (DEED) to designate up to 10 job opportunity building zones.⁴² Each zone could consist of an unlimited number of noncontiguous subzones but could not surpass a total of 5,000 acres. The Commissioner of DEED had the option to reserve one or more of the 10 zones for a second round of designations on January 1, 2005, but opted to designate all of the zones in 2004. The Commissioner, however, chose not to allot all of the available acreage in each zone. As of February of 2008, 29,300 of the 50,000 acres had been designated. The Commissioner has the authority to modify the original zone designations and can choose to allot more acreage as he or she sees fit.

The Commissioner of DEED, in making zone designations, shall consider need and likelihood of success to yield the most economic development and revitalization of economically distressed rural areas of Minnesota.

Need Indicators

The Commissioner was to consider the following factors as indicators of need:

1. the percentage of the population that is below 200 percent of the poverty rate, compared with the state as a whole;
2. the extent to which the area's average weekly wage is significantly lower than the state average weekly wage;

⁴²Besides the ten JOBZ zones, the commissioner of DEED was given the authority to designate up to five agricultural processing facility zones. Agricultural processing facilities were defined as an operation the property needed for the facility and ancillary operations that transforms, packages, sorts, or grades livestock or livestock products, agricultural commodities, or plants or plant products into goods for intermediate or final consumption. The size of these zones is limited to the property needed for the facility and ancillary operations in addition to space for reasonably adequate future expansion. Only one such zone has been designated as of February, 2008.

3. the amount of property in or near the proposed zone that is deteriorated or underutilized;
4. the extent to which the median sale price of housing units in the area is below the state median;
5. the extent to which the median household income of the area is lower than the state median household income;
6. the extent to which the area experienced a population loss during the 20-year period ending the year before the application is made;
7. the extent to which an area has experienced sudden or severe job loss as a result of closing of businesses or other employers;
8. the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics;
9. the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development; and
10. the extent to which the business startup or expansion rates are significantly lower than the respective rate for the state.

In applying the need indicators, the best available data was to be used. If reported data are not available for the proposed zone, data for the smallest area that is available and includes the area of the proposed zone may be used. The Commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Success Indicators

In determining the likelihood of success of a proposed zone, the Commissioner shall consider:

1. the strength and viability of the proposed development goals, objectives, and strategies in the development plan;
2. whether the development plan is creative and innovative in comparison to other applications;
3. local public and private commitment to development of the proposed zone and the potential cooperation of surrounding communities;
4. existing resources available to the proposed zone;
5. how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;
6. how the regulatory burden will be eased for businesses operating in the proposed zone;
7. proposals to establish and link job creation and job training; and
8. the extent to which the development is directed at encouraging and that designation of the zone is likely to result in the creation of high-paying jobs.

Administrative Structure and Delineation of Responsibilities: Administration of the JOBZ program is shared among two state agencies and several local governments. At the state level, the administration of the JOBZ program includes the Department of Employment and Economic Development (DEED) and the Department of Revenue (DOR). DEED's statutory responsibilities necessarily include final approval of the zone and subzone locations and any modifications thereto. DOR's responsibilities for the program necessarily include preparation of forms, receiving tax returns claiming JOBZ benefits, and auditing tax returns.

The JOBZ legislation presents local governments as the front-line administrators of the program. Local governments decide whether or not a business is committing to a large enough employment and capital investment increase to be granted the corresponding tax breaks provided by the program. Additionally, the legislation gives local government broad discretion to use the program as an economic incentive for businesses interested in locating to a JOBZ. There are no existing minimum requirements, as previously stated, unless a business is relocating to a zone from another location within the state.

Local governments play the key role in determining whether it is in the public's interest for a particular business to participate in the JOBZ program. A business cannot enter the JOBZ program without signing a business subsidy agreement with a local government. In addition to receiving annual progress reports from businesses regarding obligations under the business subsidy agreements, the local government is also required to file annual business progress reports with DEED. Local governments are encouraged, but not required, to conduct their own compliance monitoring of JOBZ businesses in order to have more complete knowledge and oversight of the JOBZ businesses in their zones.

Exhibit 10 illustrates the breakdown of responsibilities among the different entities responsible for administering the JOBZ program.

JOBZ Administrative Responsibilities

Local Governments

- Market program to businesses in conjunction with DEED
- Negotiate and sign business subsidy agreements with businesses
- Monitor business performance in meeting JOBZ requirements
- Receive and review annual progress reports from businesses
- File annual business progress reports with DEED

DEED

- Determines location of JOBZ zones and subzones; approves requested modifications
- Markets program to businesses in conjunction with local governments
- Negotiates and signs relocation agreements for businesses relocating any existing Minnesota operations to a JOBZ zone; approves waivers of statutory relocation requirements as appropriate
- Receives and reviews annual reports from local governments on the progress of businesses in meeting the employment, wage, and capital investment requirements in their business subsidy agreements
- Approves one-year extensions of time for businesses to meet JOBZ requirements as appropriate
- Removes businesses from program for noncompliance with business subsidy or relocation agreements
- Provides technical assistance to local governments and businesses
- Promotes use of the JOBZ program
- Provides policymakers and legislators with information on program performance

DOR

- Prepares new state tax forms and schedules reflecting JOBZ laws
- Receives tax returns claiming JOBZ benefits
- Audits individual and business tax returns^a
- Pursues repayment of tax subsidies (except property tax) when businesses cease operating in a zone or are removed from the JOBZ program for noncompliance
- Waives all or part of the required repayments of tax subsidies as appropriate
- Estimates the amount of statewide JOBZ tax savings for businesses
- Provides technical assistance to DEED, local governments, county tax officials, and businesses

County Tax Officials

- Determine the estimated market value of a property and the portion that receives a JOBZ tax exemption
- Calculate property taxes for all taxpayers including JOBZ businesses
- Pursue repayment of property tax subsidies when businesses cease operating in a zone or are removed from the JOBZ program for noncompliance

^aDOR does not specifically target JOBZ businesses for reviews or audits; they are as likely as any other businesses to receive additional scrutiny.

Job Creation Requirements: With the exception of relocating businesses, there are no specific statutory requirements for minimum increases in employment, although a required business subsidy agreement is to be used to establish job, wage, and capital investment requirements. A company wishing to enter the JOBZ program must locate in a designated zone and sign a business subsidy agreement with the corresponding local government in which the business agrees to meet employment and capital investment targets as a condition of receiving the subsidy.

Business relocations within Minnesota are required to meet the above stated conditions as well as increase their business' full-time employment in the first full year of operation by a minimum of five jobs or 20 percent, whichever is greater. Also, a qualifying business must pay each employee compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four. Contractors and subcontractors must also pay the prevailing wage rate for any construction work in a JOBZ location.

The content of the business subsidy agreements for the JOBZ program is determined primarily by negotiations between local governments and businesses that are interested in participating in the program. DEED, for its part, provides local governments with a sample business subsidy agreement. This sample agreement is used mainly for guidance purposes. The local governments can choose to use the sample agreement, modify it, or use their own agreement at their discretion. DEED does not review the details of the business subsidy agreements.

However, tax exemptions apply only to "qualified businesses." A qualified business must be located in a designated zone and sign a business subsidy agreement with the corresponding local government. A business subsidy agreement establishes the job, wage, and capital investment requirements that a business must meet in order to receive JOBZ tax breaks.

Capital Investment Requirements: There are no specific statutory requirements for capital investment for any qualified businesses (including relocations). However, capital investment requirements are to be negotiated with local governments and be stipulated in the business subsidy agreement.

Program Benefits: Qualified businesses that operate in a JOBZ, individuals who invest in a qualified business that operates in a JOBZ, and properties located in a JOBZ qualify for the following benefits:

Tax Exemptions

- Individual income taxes
- Corporate franchise taxes
- State sales and use tax and any local sales and use taxes on qualifying purchases

- State sales tax on motor vehicles and any local tax on motor vehicles
- Property tax
- Wind energy production tax

Tax Credit

- Jobs credit – the JOBZ jobs credit provides a refundable tax credit for JOBZ businesses or their owners on income and corporate franchise taxes. The credit is generally not available unless a JOBZ business pays an average wage of more than \$30,000 per year to employees working in the zone. As provided in statute, the credit is equal to 7 percent of the difference between: (1) the growth in zone payroll from the base year to the current tax year and (2) \$30,000 multiplied by growth in the number of full-time equivalent (FTE) employees in the zone from the base year to the taxable year. If the growth in the total Minnesota payroll of the JOBZ business from the base year to the current tax year is less than the growth in zone payroll for those years, then the growth in total Minnesota payroll is used instead of the growth in zone payroll. In calculating the credit, the zone payroll, which consists of the wages and salaries paid to employees, must be adjusted to exclude the compensation paid to any employee that exceeds \$100,000 (the \$30,000 and \$100,000 figures initially used in 2004 are adjusted for inflation each year).

Accountability Requirements: In order to continue to receive the tax reduction benefits, a JOBZ business must continue to meet the requirements outlined in its business subsidy agreement with the local government. A JOBZ business that is not meeting, or is not expected to meet, its employment, wage, or capital investment obligations may request an extension. The DEED Commissioner may grant an extension of up to one year for such businesses.

Local government units that have been approved for job opportunity building zones must report annually to the DEED on progress in meeting the zone's performance goals under the development plan and compliance with the business subsidy law. If, based on a report filing, the DEED determines that a zone or subzone is failing to meet its performance goals, the Commissioner of DEED may take actions as appropriate, including modification of the boundaries of the zone or subzone or termination of the zone/subzone. Before taking action, DEED will consult with the business and the affected local government units, including notifying them of proposed actions to be taken.

If a JOBZ business ceases operations in the zone or fails to meet the requirements in its business subsidy agreement, then the business is no longer eligible for the program. DEED reported that, as of January 2009, 57 businesses have been

terminated from JOBZ for failing to meet targets, going out of business or violating the JOBZ statute, including 46 subject to repayment provisions.

Reporting Requirements: A local government unit or units which has received zone designation approval must report annually to DEED on its progress in meeting the zone performance goals under the development plan for the zone and the applicant's compliance with the business subsidy law.

Under the Minnesota business subsidy law, each JOBZ business must annually report to the appropriate local government by March 1 on its progress in meeting its contractual obligations for the prior year. The local government must then report to DEED on the progress of the participating JOBZ business by April 1. These reports must provide all of the information included in the business subsidy law and they are filed through a form prepared by DEED, called the Minnesota Business Assistance Form (MBAF).

The New York Empire Zones Program

Year Created: 2000⁴³

Program Purpose or Mission: The New York State Empire Zones Act, General Municipal Law, article 18-B, §§955-969, states in its legislative findings and declarations section (§956) that:

It is hereby found and declared that there exist within the state certain areas characterized by persistent and pervasive poverty, high unemployment, limited new job creation, a dependence on public assistance income, dilapidated and abandoned industrial and commercial facilities, and shrinking tax bases. These severe conditions require state government to target for these areas extraordinary economic and human resource development programs in order to stimulate private investment, private business development and job creation.

It is the public policy of the state to offer special incentives and assistance that will promote the development of new businesses, the expansion of existing businesses and the development of human resources within these economically impoverished areas and to do so without encouraging the relocation of business investment from other areas of the state. It is further found and declared that it is the public policy of the state to achieve these goals through the mutual cooperation of all levels of state and local government and the business community.

The New York State's Empire Zones program was created to stimulate economic growth in the most distressed areas of the state through a variety of state tax incentives designed to attract new business to the state and to enable existing businesses to expand and create more jobs.

Program Structure and Criteria for Zone Creation: The enabling statute initially authorized the designation of up to 10 economic development zones. Subsequent legislation expanded the program. As of 2009, there are 85 empire zones statewide in which a business can relocate or expand. Eligible applicants for empire zone designation include cities, counties, towns, and villages. These jurisdictions may adopt a local law authorizing a municipal corporation to prepare and submit an application to the Department of Economic Development (DED) for designation of an area as an Empire Zone.

⁴³In 1986, the New York State Legislature amended the General Municipal Law (GML) to establish the Economic Development Zones Program. Effective May 15, 2000, all references in State law to the Economic Development Zones Program were revised to call the program the Empire Zones Program. See Appendix E for information on recent developments related to the New York Empire Zones Program.

Each applicant is also to submit an empire zone development plan that demonstrates how the applicant intends to promote the development of new business and the expansion of existing businesses within the zone. The statute specifies information to be provided in this plan including:

- a statement indicating how empire zone designation would assist in the revitalization of the area;
- a description of proposals for infrastructure improvements and investments and a timetable for their completion;
- a description of specific strategies and priorities for economic revitalization of the zone and of indicators to be used to measure performance against objectives; and
- a cost benefit analysis which must be used by the local empire zone certification officer when determining whether to certify a business.

To be eligible for empire zone designation, an area must be characterized by pervasive poverty, high unemployment, and general economic distress. In addition, the statutory criteria also indicates that the area must correspond to traditional neighborhood or community boundaries, where appropriate, be bounded by major natural or man-made physical boundaries, such as bodies of water, railroad lines, or limited access highways, and must meet additional requirements such as having:

- a poverty rate of at least 20 percent;
- an unemployment rate of at least 1.25 times the statewide unemployment rate; and
- a population of at least 2,000.

Each zone consists of a maximum of two square miles. In addition to zones based on criteria related to poverty, unemployment, and general economic distress, the Legislature also created zones to address the potential loss of large employers or the loss of a local military facility or defense contractor.

Administrative Structure and Delineation of Responsibilities: The New York State Empire Zones Act establishes roles and responsibilities for program administration at both the state and local levels. At the state level, the program is administered by the Department of Economic Development (DED) which is statutorily responsible for reviewing zone applications, approving changes to the zone boundaries, developing the procedures for certifying businesses as eligible for tax credits and other incentives, monitoring the activities of the zones and certified businesses, and evaluating the program's success in accomplishing its objectives. Assisting the DED in carrying out these responsibilities is the Empire State Development Corporation (ESDC), a public authority charged with fostering and financing key economic development projects across the state.

The New York State Department of Labor plays a role in certifying businesses as eligible for tax credits and other zone incentives by determining whether the applying business is in compliance with the applicable labor laws. Also, the Department of Taxation and Finance is responsible for administering the relevant tax credits and refunds.

However, significant functions with respect to monitoring and enforcing empire zone program requirements reside at the local level. Eligible applicants for empire zone designation include counties, cities, towns, etc. Once a zone is designated, it is required to establish an administrative structure that will implement the zone's development plan. There are multiple components to the structure including (1) the Zone Administrative Board (ZAB), (2) the Zone Certification Officer, and (3) the Zone Coordinator.

The ZAB is responsible for approving for joint certification those business enterprises eligible to receive benefits, and monitoring, evaluating, and coordinating the activities of the zone. ZABs are made up of at least six members and are required to have representatives of certain organizations in and around the zone, such as local business, organized labor, and a resident of the zone. The ZAB may contract with a zone administrative entity, such as a community-based local development corporation, to run the zone on a day-to-day basis.

The local Zone Certification Officer is the individual designated by the municipality (applicant) to certify, in conjunction with the Commissioner of Economic Development and the Commissioner of Labor, those business enterprises which have been approved for certification by the Zone Administrative Board as eligible to receive benefits.

The Zone Coordinators are responsible for working with the zone administrative entity to run the day-to-day activities of the zone that will implement the zone plan. The Zone Coordinators can be employees of the sponsoring localities or the zone administrative entity. Typically, zone administrative expenditures are funded by DED and the sponsoring localities.

Job Creation Requirements: To participate in the Empire Zones Program, a business must first be located in an empire zone, or qualify as a regionally significant project, and become zone certified. To qualify for certification, a business must be able to demonstrate that it will create new jobs and/or make investments in the empire zone and be consistent with the local zone's development plan, including a cost-benefit analysis.

The application process for seeking certification as an Empire Zone business enterprise requires the applicant to indicate (1) the number of existing full-time employees and number of existing part-time employees; and (2) projected number of

additional full-time and part-time positions to be created within 12 months and within 24 months as a result of investment in the zone, for positions in which a substantial part of the work will be performed in the zone, listed by occupation, including starting wages and promotional opportunities.

A unique feature of the Empire Zones program is the use of a “cost-benefit analysis” by the local empire zone certification officer to determine whether to certify a business based on the business’ projected job creation and/or investment in the zone versus the amount of empire zone benefits the business will potentially be allowed to claim. Program regulations stipulate that this analysis shall be based on a ratio of at least 20:1, the numerator of which consists of the estimated value of all wages and benefits paid for the first five years of certification to all existing and projected employees of the business applicant and the value of all capital investments for the first five years, and the denominator of which is the amount of state tax credits that may be claimed by the applicant for empire zone certification for the first five years of certification.

In evaluating applications of business enterprises for certification, the local zone administrative board, the local zone administrator, and the commissioners of Labor and of Economic Development are to consider a variety of factors in determining whether to approve the entity for the program including:

- whether the business enterprise, if certified, is reasonably likely to create new employment or prevent a loss of employment in the zone; and
- whether such business will meet the requirements of the cost-benefit analysis.

State law requires that a project must enhance the economic climate of the zone as defined by the Zone’s Local Development Plan. A company’s project must be consistent with the criteria stated in the local development plan which serves as the zone community’s business plan. Applications approved by local zone officials are then forwarded to the state for review and approval by the Departments of Economic Development (Empire State Development) and Labor.

A certified business enterprise is required to annually submit a report to the local empire zone administrative board. Among other items, the report is to include data on the extent to which the business has met its projections set forth in its certification application, including its employment and wage projections.

Capital Investment Requirements: The application process for seeking certification as an Empire Zone business enterprise also requires the applicant to provide an estimate, for a five-year period beginning with the current year, of the projected capital investments, or investments in other tangible personal property, subject to depreciation, that the applicant will be making in the Empire Zone for which it is

applying for certification. In addition to the certification process, capital investment tracking and reporting is conducted in connection with annual reporting by the business and by the zone. Further, 2005 statutory amendments created two new project types eligible for expanded benefits: (1) qualified investment project, and (2) significant investment project. Both projects stipulate monetary investment thresholds in order to qualify.

Program Benefits: Business enterprises may obtain tax benefits as a certified business enterprise or, if more stringent requirements are met, qualify for enhanced benefits. The following describes the benefit types for Empire Zone certified companies and the enhanced benefits for Qualified Empire Zone Enterprises (QEZE):

Benefits for Empire Zone Certified Companies

- Wage Tax Credit: Available to companies hiring full-time or full-time equivalent employees in the zone. Credits are available for up to five consecutive years. Credits are \$1,500 per employee; for employees in special targeted groups the amount is raised to \$3,000 per employee per year. In investment zones, this credit is increased by \$500 for workers with wages over \$40,000. Unused credits can be forwarded indefinitely and new businesses (those that have been taxable for five years or less) are eligible for a 50 percent refund of unused credits.
- Investment Tax Credit: Available to companies making an investment in the zone for depreciable property and/or equipment which is principally used in manufacturing, processing, assembly, industrial waste treatment or air pollution-control facilities, R&D, or financial institutions. Ten percent (8 percent for personal income tax filers) of the eligible investment can be taken for credit. Unused credits can be forwarded indefinitely and new businesses are eligible for a 50 percent refund of unused credits.
 - An additional Employment Incentive Credit equal to 30 percent of the investment tax credit is available for each of the three years after the Investment Tax Credit (ITC) is claimed if employment is increased when the investment is made. Unused credits can be forwarded indefinitely and new businesses (personal income tax only) are eligible for a 50 percent refund of unused credits.
- Zone Capital Credit: A 25 percent tax credit is available for personal or corporate income tax payers for eligible investments in certified zone businesses, or contributions to approved community development projects. There is a lifetime limit of \$100,000 in zone capital credits per contributor for Community Development Projects and \$100,000 lifetime limit in zone capital credits per investor in a Direct Equity Investment project.

- NYS Sales Tax Refund: A refund of the state portion (4 percent; 4.375 percent in the MTA region) of the sales tax is available for the purchase of building materials used in the construction or renovation of industrial or commercial property located in a zone. Empire Zone certification is not a requirement to receive this benefit; however, the purchaser must be buying for a property in the zone.

Enhanced Benefits for Qualified Empire Zone Enterprises (QEZE)

To receive Qualified Empire Zone Enterprise (QEZE) enhanced zone benefits, a business must be zone certified under the requirements outlined in the eligibility and certification section and must pass additional tests based on the business' employment history and operations.

- Sales Tax Exemption: An exemption from the state portion of the sales tax at the point of purchase is available for most goods and services used directly and predominantly (50 percent) in the zone. Utility services qualify for the exemption if used or consumed directly and exclusively (100 percent) in the zone. Telephone services are exempt if delivered and billed to the business at an address in its zone. An exemption from any locally imposed sales tax may also be available. The exemptions run for 120 consecutive months from the effective date on the sales tax certification issued by the Department of Tax and Finance, provided the business continues to meet the employment test each year. Once certified as a zone business by ESD, a business would fill out a DTF-80 – Application for a Qualified Enterprise Zone Enterprise (QEZE) Sales Tax Certification – issued by Department of Tax and Finance. If approved, a business would receive a DTF-81, QEZE Sales Tax Certification. The business may begin to make exempt purchases using form ST-121.6, QEZE Exempt Purchase Certificate, as of the effective date shown on its DTF-81.
- Real Property Tax Credit: A credit for real property taxes paid based on a formula that considers job creation, wages, and benefits or investments made in the zone. Further calculations may apply depending on a business' location in either an Investment Zone or Development Zone. This credit is available for 10 years and unused credits may be obtained as a cash refund in the year they were earned.
- Tax Reduction Credit: A credit against tax equal to a percentage of income taxes attributable to the zone enterprise on its employment growth in the zone. This credit is available for 10 years and can reduce a company's tax liability to zero – eliminating the alternative minimum and fixed dollar minimum tax.

Additional Local Benefits

Municipalities designated as Empire Zones may also offer additional incentives including sales tax refunds, and property tax abatements for real property improvements in the zone. Many utility companies (including gas, electric, and telephone services) also offer rate reductions to certified Empire Zone businesses.

Accountability Requirements: The local zone certification officer and the commissioners of Labor and of Economic Development may jointly revoke a business' certification upon a finding of failure of the business to fulfill its commitments including failure to create new employment or prevent a loss of employment in the zone that was not due to circumstances beyond the business' control.

Reporting Requirements: All Empire Zone certified businesses must annually submit a Business Annual Report (BAR) that includes data on employment (full-time, part-time, and full-time equivalent jobs), net new jobs created, and average starting hourly wage of new jobs created. Additionally, information is to be provided on capital investments made in the zone during the reporting period and information related to tax credits claimed.

The local administrative boards are to prepare annual reports regarding activities in their respective empire zone, including information that would allow for substantive review of the zone's strategies and progress in meeting its short-term objectives and long-term goals. This would include information on the number of jobs created, number of jobs retained, the amount of private capital leveraged with public funds, the number of businesses expanded or retained, and new businesses created.

IV. Appendices

APPENDIX A

Information on Pennsylvania's Enterprise Zones

In Pennsylvania law, the term "Enterprise Zone" is currently defined in the Neighborhood Assistance Act (NAA), 72 P.S. §8901-A et seq. The act provides for a business tax credit:

. . . to encourage investment by business firms in offering neighborhood assistance and providing job training, education, crime prevention, and community investment, to encourage contributions by business firms to neighborhood organizations which offer and provide such assistance and services and to promote qualified investments by private companies to rehabilitate, expand or improve buildings or land which promote community economic development and which occur in portions of impoverished areas designated Enterprise Zones.

Enterprise Zones are defined under the NAA as "specific locations with identifiable boundaries within impoverished areas which are designated as an enterprise zones by the Secretary of Community and Economic Development" (DCED).

DCED lists an Enterprise Zone Program as one component of its New Communities Program, along with the Main Street Program and the Elm Street Program. These are said "to provide communities with the tools to integrate the revitalization of downtowns, surrounding neighborhoods and industrial/manufacturing areas." DCED program guidelines provide that "complementary elements of each program have been developed to assist communities in undertaking a comprehensive approach to promote both sound land use and revitalization. The planning done for each program must be complementary among the three programs when multiple programs are funded in a single community."

The Enterprise Zone Program provides grants to financially disadvantaged communities for preparing and implementing business development strategies within municipal Enterprise Zones. Those eligible are municipalities, redevelopment authorities, non-profit economic development organizations, or other non-profit organizations on a case-by-case basis. Enterprise Zone Program monies can be used for business development surveys; business development strategy and preparation; and revolving fund business. A basic grant may be for up to \$50,000; a grants-to-loan may be for up to \$500,000.

An Enterprise Zone is an area that has been designated by the DCED as financially distressed and disadvantaged. Typically, a Zone is comprised of several municipalities. The purpose of an Enterprise Zone is to promote job growth and to help municipalities take advantage of business expansion opportunities when they arise. Enterprise Zones improve the capacity of local governments and business communities by encouraging them to form public/private partnerships. In turn, these partnerships boost business investment within the Zone. Increased business investment, job creation, and sustained community self-sufficiency are the primary goals of the Enterprise Zone Program.

Enterprise Zone areas must demonstrate that they are financially disadvantaged as measured by a statewide DCED index. The designation is also based upon DCED approval of a five-year strategy document which must be submitted by the applicant for a proposed Zone. This strategy must be based on a structured survey of firms in eligible sectors that are located within the

Appendix A (Continued)

boundaries of the proposed Enterprise Zone. The purpose of the survey is to learn from current business owners and managers what their best opportunities are for growth, what their most significant barriers are to growth, and what they consider to be the most effective ways in which local and state government can help them to grow. Enterprise Zones are designated for a term of seven years but may request an extension of the designation for an additional two years, based on economic conditions and potential investment opportunities.

Within an Enterprise Zone, revolving loan funds are established, which are supported by competitive grants-to-loans of up to \$500,000 per project. Zone participants also have access to the lowest Pennsylvania Industrial Development Authority, Machinery and Equipment Loan Fund, Small Business First interest rates, tax credits for real property improvements, Socially and Economically Restricted Business status for an advantage when bidding on state contracts, Act II funding, and State Liquor License availability.

Enterprise Zone competitive grants-to-loans can be used for up to 30 percent of the total project investment to acquire machinery and equipment. They are available for new business construction or building improvements, site improvements, infrastructure, and in some special cases, for up to 40 percent of inventory or working capital needs. Competitive grants-to-loans also can be used toward the cost of preparing business lease space, especially for facilities with fiber optic wiring. Costs of public infrastructure development and hazardous waste testing may also be considered, if the lack of conventional funding sources for such costs is documented. Competitive grants may not exceed 30 percent of total project investment, and one full-time job must be created or retained for each \$30,000 of loan capital.

DCED program guidelines further provide that the majority of the municipalities forming the Zone should be deemed distressed, both financially and physically. Some examples of the factors used to describe or contribute to distressed are as follows:

- population statistics contributing to the workforce such as disabled, skilled versus unskilled employment needs, educational levels of the population, migrant/seasonal farm workers, or other workforce group;
- unemployment rate in comparison to the state;
- number of blighted properties in the selected area;
- crime rate;
- income levels;
- poverty rate;
- availability of public transportation;
- business growth;
- market value of properties;
- per capita income;
- percentage of the population over 65; and
- financial stability of the participating municipalities.

Source: Developed by LB&FC staff from DCED program guidelines and the Department's website.

APPENDIX B

Overview Information on the Creation and Status of Strategic Development Areas

Act 2006-151 amended the Tax Code to allow for Strategic Development Areas (SDAs). A 2006 press release overviewed the program as follows:

Act 2006-151 allows for the creation of four strategic development zones that will attract new businesses and encourage job growth. **Modeled after the state's successful Keystone Opportunity Zone Program** [emphasis added], Act 151 will provide tax incentives for businesses that commit to creating jobs and investing tens-of-millions-of-dollars in key geographic areas of Pennsylvania.

Under the new law, the Governor will be empowered to identify the strategic development areas (SDAs). Companies choosing to locate in these areas will benefit from state and local tax abatements for 15 years, unless the municipalities and property owners agree to an earlier termination. Local municipal officials must agree to the SDA designation. Each SDA must be between 10 acres and 1,500 acres in size. The cumulative total land area for all four zones may not exceed 5,000 acres.

To be eligible for the tax breaks, companies must commit to creating or maintaining at least 500 jobs and make \$45 million or more in capital investments within three years.

A "strategic development area" is "a defined geographic area comprised of one or more political subdivisions or portions of political subdivisions designated by the Department of Community and Economic Development under Part III [of Act 151.]"

Under Act 151, the Governor has the authority to designate up to four SDA's by Executive Order prior to September 30, 2007. The Governor subsequently designated the following SDAs:

- *Executive Order 2006-10* designated a 79.72 acre tract at 5501 Whitaker Ave, Philadelphia.
- *Executive Order 2007-1* designated a 104.766 acre tract in Cranberry, Butler County.
- *Executive Order 2007-2* designated a tract in Sewickly and Hempfield, Westmoreland County.
- *Executive Order 2007-8* designated a 25.931 acre tract at Lot 11 of the Mill Run Corporate Center in Upper Macungie Township, Lehigh County.

Persons and businesses within designated SDA's are entitled to tax exemptions, deductions, abatements, or credits set forth in the act for a 15-year period. There is no application process set forth in statute. The SDA's are designated by the Governor but must be approved by all local political subdivision within a designated SDA.

To be a "qualified business" a business must own or lease real property in a strategic development area on which the business actively conducts a trade, profession or business *involving energy, bioscience or manufacturing, or a related activity*, and meet one of the following criteria:

Appendix B (Continued)

- (1) Create or maintain a minimum of 500 jobs within the first three years of full operation within the strategic development area.
- (2) Invest a minimum of \$45,000,000 in capital investment in the property located in the strategic development area within the first three years of full operation.

The administrative provisions of the SDA law are nearly identical to those of the KOZ law, allowing for the transferability of certain tax benefits given by the law; the ability of the state to recapture a certain percentage of the exemptions, deductions, abatements, or credits granted if a business relocates outside of the SDA within designated time frames; the requirement of an applicable business or person to be in compliance with all state and local tax laws, ordinances, and resolutions and all zoning, building, and housing laws, ordinances, or codes; and the ability of the Department of Revenue and DCED to impose administrative and civil penalties for a violation of the act.

In early 2009, the DCED provided the following information regarding SDA projects:

- Philadelphia – Cardone Industries, Inc., has been approved for benefits in 2007 and 2008. Cardone currently has 1,000 employees at the site.
- Butler – Westinghouse Electric Company, LLC, has been approved for benefits in 2007 and 2008. They have invested \$31.5 million into the site.
- Westmoreland – Wesdyne International, LLC, and Westinghouse Electric Company, LLC, have both been approved for 2007 and 2008. Combined, they have a total of 715 employees and \$3 million capital investment in the site.
- Lehigh – Amgen, USA, Inc., has been approved for benefits in 2007 and 2008. They have invested \$4.7 million into the site.

APPENDIX C

Guidelines for the Keystone Coordinator Program



Keystone Coordinator Program

Program Guidelines | March 2009

> ready > set > succeed



Commonwealth of Pennsylvania
Edward G. Rendell, Governor
www.state.pa.us

Department of Community
& Economic Development
George E. Cornelius, Acting Secretary

newPA.com

Appendix C (Continued)

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Appendix C (Continued)

Section I – General

A. Statement of Purpose

The Keystone Coordinator Program (KCP) provides grants in the amount of \$20,000 to support the operating costs associated with monitoring, collection, and reporting functions performed by the coordinators of the Keystone Opportunity Zone (KOZ) program, designed to develop a community's abandoned, unused, underutilized land and buildings into business districts and residential areas.

B. Eligible Applicants

The organizations listed below are recognized by the Department of Community and Economic Development (DCED) as KOZ Coordinators and are the eligible applicants for KCP funding:

1. Northwest Regional Planning & Development Commission
2. Southwestern Planning Commission
3. North Central Pennsylvania Regional Planning and Development Commission
4. Southern Alleghenies Planning & Development Commission
5. Northern Tier Regional Planning & Development Commission
6. SEDA-Council of Governments
7. Indiana University of Pennsylvania
8. Redevelopment Authority of Luzerne County
9. Schuylkill County Economic Development Office
10. Lehigh Valley Economic Development Corporation
11. Chester County Economic Development Council
12. City of Philadelphia Department of Commerce

C. Eligible Use of Funds

The following uses of funds must be directly related to the coordination activities of the KOZs:

1. salaries and office expenses
2. travel expenses
3. other activities and expenses as deemed appropriate by DCED

Appendix C (Continued)

D. Obligations

KCP grant funds will be expended in support of the following specific duties and responsibilities:

1. **Complete local approval forms for each new applicant:**
 - the Local Approval form is used after the KOZ Coordinator has verified the new applicant's compliance with local taxes and codes and confirmed that the business / resident resides in a KOZ, Keystone Opportunity Expansion Zone (KOEZ), or Keystone Opportunity Improvement Zone (KOIZ). The applicant's end date for KOZ benefits is also included in the Local Approval form.
2. **Assist in collecting the following data as requested at any time by DCED:**
 - verification of job creation and retention data including new employment figures.
 - verification of types of jobs created and average hourly wages.
 - verification of types of annual, unduplicated public and private capital investment
 - verification of primary business activities
 - documentation of KOZ participant's payment of local taxes and local code requirements.
 - documentation that participants relocating within the Commonwealth meet the requirement for increased full-time employment and other requirements of the KOZ Act.
 - identification of companies as new business start-ups, businesses relocating to KOZ subzones from within Pennsylvania, businesses relocating from out-of-state; or expansion of existing Pennsylvania businesses.
3. **Conduct the following activities:**
 - confirmation that KOZ entities are conducting business at the KOZ location
 - identifying and reporting duplicative KOZ applications
 - completion of annual report (to be issued May 1st and completed by June 30th)
 - confirmation of 184 day residency requirements for applicants
 - verification of number of residential applicants
 - determining the number of years a participant has been using KOZ benefits
 - assessment and reporting of KOZ property values
 - determination of state and local program costs including estimates of county, local and school tax abatement
 - updating available KOZ sites on the Team PA website under Select Sites

Appendix C (Continued)

E. Application and Disbursement Procedures

1. To apply for funding, the KOZ Coordinators must submit the electronic on-line DCED Single Application for Assistance located at <https://www.esa.dced.state.pa.us/ESAW/>.

The Electronic Single Application narrative should contain an explanation of the anticipated use of funds.

Send the Electronic Single Application Signature Page and any other required documentation (reference the Web ID Number on all documents) not attached electronically to:

PA Department of Community and Economic Development
Customer Service Center
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

2. Following review and approval of the application, DCED will forward a grant agreement to the KOZ Coordinator for signature. Once the grant agreement has been fully executed, the KOZ Coordinator may submit a payment request for up to one half of the grant award. Request for payment of the remaining funds may not occur until the end of the first year. Grantees should take note that the above procedure for processing and check issuance requires at least 35 days.

F. Project Records

1. The KOZ Coordinators shall maintain full and accurate records with respect to the use of the grant funds and shall ensure adequate control over the records of related uses of funds. DCED shall have access to and shall be able to inspect all such records at reasonable times and places.
2. KOZ Coordinators must provide DCED with year-end reports on the use of grant funds.

G. Contact Information

Program inquiries should be directed to:

PA Department of Community and Economic Development
Center for Business Financing – Site Development Division
Keystone Opportunity Zone Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: (717) 346-0327
E-mail: asheaf@state.pa.us

APPENDIX D

Summary Information on an Evaluation of the KOZ Program in Rural Pennsylvania

The Center for Rural Pennsylvania (henceforth referred to as the Center) completed a study on the KOZ Program and published the results in July of 2008. This study examines the KOZ Program's impact on rural Pennsylvania.

The Center's research project was conducted in 2005 and released in 2008. The primary objective of the study was to evaluate, with particular attention paid to rural areas, the effectiveness of the KOZ and KOEZ Programs in meeting the legislative goals of increased employment, capital investment, and the use of blighted areas and brownfields. The research included an analysis of changes in employment, per capita income, and state and local tax expenditures and revenues. Additionally, surveys were administered to program participants and supplemented with case studies of three communities. The researchers for the Center faced similar challenges to the LB&FC regarding data collection from the Department of Community and Economic Development (DCED). The most updated data the DCED was able to provide was from the *2003 Four-Year-Report*.

The Center's case study findings were similar to those of the LB&FC's survey findings. The Center reported that, according to their case studies, in order for successful KOZ subzone development to occur, certain conditions should be considered. First, location and infrastructure are significant factors when businesses are determining where to locate. Further, environmental remediation must be finished prior to a site being marketed. Companies may be deterred by the cost of environmental clean-ups in addition to the capital investments they are asked to make. Additionally, case studies determined that a KOZ designation is a marginal deciding factor in business location and expansion. One EDC director believed that the program has found success in retaining existing businesses but not as much for attracting other firms. Finally, the Center found that professional site administration and promotion is the key to the development of subzone property.

The Center divided its report conclusions into positive and negative impact assessments. Positive impacts listed by the Center include the use of the KOZ as a marketing tool for development of less than desirable commercial and industrial properties; limited negative impact on tax revenues and service expenditures of local government; few administrative costs at the state level as it relies primarily on existing economic development organizations for program implementation; no substantial complaints by businesses concerning reporting requirements or program implementation; and the KOZ Program has the capacity to encourage local investment in housing, downtowns, and brownfield sites. Negative impacts listed include inequities in the program due to poor administration and lack of professional promotion of the program; properties in the program that have experienced no activity; failure to abide by the legislative intent causing inter-zone recruitment competition between greenfield and brownfield sites; and the limited tax liability of the Commonwealth while municipalities and school districts see a loss in revenue (while it may be small, it is still more substantial than the state's loss).

The Center's report concluded with a listing of policy considerations. The policy considerations were given for the subzone level, the zone level, for the DCED, and for the state legislature. These recommendations largely point to the need for a comprehensive system to collect and track relevant data and thereby provide the capability for appropriate monitoring of program effectiveness.

At the subzone level, the Center suggested that subzone managers should work with local municipalities to properly monitor the program at the ground level. In order to effectively monitor the program, data should be collected and updated annually through a form developed by the DCED.

Appendix D (Continued)

The form should be distributed to subzone coordinators who would proceed to collect the form's required data including acreage per subzone; lists of properties with current owners and contact information; current employment at each business in a subzone; capital investment figures; and number of firms leaving a zone as well as the reasons for leaving.

At the zone level, the Center recommended that KOZ zone administration and promotion be handled by a regional county development agency or regional EDC. Additionally, the Center suggested that all business data should be aggregated at the zone level; that zone managers should maintain and update websites with complete and accurate information for subzone managers as well as maintain a listing of properties that are available in each subzone; and that zone managers should consider preparing annual reports, including jobs, investment, and tax data, for the municipalities and the school districts.

At the DCED level, the Center had extensive suggestions. First among them was that the DCED should maintain a database with statistics on taxes foregone, jobs created and retained, and capital investment. The Center suggested that the figures be based on numbers reported by the subzones to the zone manager and therefore would reflect reality and not estimates. The Center suggested that the DCED update business listings to include companies still operating in the zone as well as the total number of business failures and relocations out of a KOZ. The DCED should create descriptions of available subzone sites including acreage, infrastructure, and distance to rail and interstate highways. Also, the DCED should update and simplify the KOZ website as to make it easier for businesses to locate available properties and make the appropriate contacts. The DCED should encourage partnership among other programs (i.e. Main Street) and it should simplify such collaborations by streamlining paperwork and providing direct assistance with the application processes. Finally, the DCED should request additional funding to compensate regional and subzone coordinators, so they are no longer volunteer administrators. In accordance with this, tie the administrative funding to proper promotion and reporting of statistics to the DCED, as previously noted.

At the state legislative level, the Center suggested that policy-makers consider altering the program so that the tax abatement would begin when a property is developed or upon a firm's location to the zone. Further, firms could be rewarded with increased abatements after one, two, or three years in the zone as opposed to receiving the total abatement up front. Then taxes could be phased in slowly from the fifth to the tenth year, shortening the abatement period. The KOZ Program could also encourage and emphasize local investment by expanding the use of programs (i.e. funding vocational and technical education). Tax breaks should be aimed at businesses that may not otherwise locate to an area or may already operate in a KOZ. Finally, in accordance with one of the suggestions for DCED, the legislation should be changed to provide adequate funding for regional and sub-zone coordinators in order to facilitate more professional administration and marketing of the KOZ Program.

In sum, the Center stated that the overall impact of the KOZ Program on the rural Pennsylvania economy is limited. However, with suggested program improvements, the potential for a significant positive impact increases. The state and local governments as well as local EDCs have already invested substantial time, effort, and monetary resources into this program. The Center maintains that with the proper adjustments, the KOZ Program has the potential to result in improved return on investment of public tax dollars as well as private funds.

Source: *An Evaluation of the Keystone Opportunity Zone (KOZ) and Keystone Opportunity Expansion Zone (KOEZ) Programs in Rural Pennsylvania*, Paula A. Holoviak, Ph.D. and Damian Carabello, M.P.A. Kutztown University, July 2008.

APPENDIX E

Recent Developments Related to the New York State Empire Zones Program

Although the New York State Empire Zones Program has its advocates, it has come under increasing scrutiny and criticism in recent years for being poorly administered and ineffective. For example, a 2007 program assessment by a management consulting firm concluded that the Empire Zones Program had morphed from a program “primarily helping distressed communities to one routinely offering tax relief for ongoing business.” In February 2008, a report on the program by the New York State Comptroller stated that it was impossible to tell whether the program was effective since local officials couldn’t demonstrate the program’s success. Further, a December 2008 report by a nonpartisan research organization stated that “. . . it is exceedingly difficult to ensure a consistent methodology for determining whether the promised investment and job creation by a business is worth the tax benefits is being applied.” This report also recommended that the program be discontinued as an unproductive use of increasingly scarce public resources.

The reported cost in state revenue to support the Empire Zone Program had grown in the eight years of its existence to over \$600 million annually. Given the budget deficit situation facing the state, reform of the program became a key initiative in the FY 2009-10 state budget deliberations. The Governor’s reform plan initially sought to produce over \$270 million in cost savings for the upcoming budget year. The FY 2009-10 state budget that was adopted for New York State at the end of March 2009 included revisions to the Empire Zone Program that will affect all certified businesses in the program. These revisions relate to:

Business Certification and Decertification. The role of the local Empire Zone administrative boards will be limited to recommending businesses for certification (previously, business certification was a joint responsibility among the Empire State Development Corporation, the Department of Labor and the local zone administrators). Also, several additional criteria have been added as grounds for business decertification:

- every existing certified business must pass a 1-to-1 cost-benefit test or be subject to possible decertification;
- businesses that reincorporated as different entities, and claimed job creation when they in fact simply transferred employees from their existing corporation to a new corporate entity (a practice known as “shirt changing”) may also be subject to decertification; and
- a change in ownership or business operation will result in decertification (the Commissioner of Economic Development is to review all existing certified businesses in 2009 and qualify their business certification against the first two criteria).

Cost-Benefit Analysis. All businesses certified on or after April 1, 2009, (except manufacturers) must achieve a 20-to-1 cost benefit average (based on producing \$20 in investments and wages for every dollar the state grants in benefits) in order to remain in the program. Manufacturers are required to achieve a 10-to-1 cost-benefit ratio. According to the Empire State Development Corporation, approximately 800 to 1,000 of the 8,354 businesses participating in the 85 Empire Zones may be subject to review under these reforms.

APPENDIX E (Continued)

Tax Law Related Revisions. Certain reductions to real property tax credits and sales tax exemptions will apply to businesses certified on or after April 1, 2009. For example, the property tax credit granted to certain qualifying businesses will be reduced from 100 percent to 75 percent, and the sales tax exemption will in the future be considered a tax credit or refund.

Empire Zone Program Termination. The termination date for the NYS Empire Zone Program has been moved up by one year to June 30, 2010.

APPENDIX F

Pending Legislation Related to the Keystone Opportunity Zone Program (As of May 22, 2009)

House Bill 1149: Provides that the Pennsylvania Prevailing Wage Act does not apply to a project in a Keystone Opportunity Zone for construction, reconstruction, or alteration.

House Bill 1159: Amends provisions relating to the corporate net income tax in that for taxable years beginning after December 31, 2008, a net loss deduction shall be allowed for taxable income under the Tax Reform Code in an amount equal to 100 percent of subzone, improvement subzone, or expansion subzone taxable income.

House Bill 1486: Provides for alternative decertification of deteriorated property by the Department and by political subdivisions in Keystone Opportunity Zones.

Source: Developed by LB&FC staff.

APPENDIX G

Responses to This Report



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
HARRISBURG, PA 17120

OFFICE OF SECRETARY

June 22, 2009

Honorable John R. Pippy, Chairman
Legislative Budget and Finance Committee
Senate of Pennsylvania
168 Main Capitol Building
Harrisburg, PA 17120

Dear Senator Pippy:

Thank you for the opportunity to respond to the findings and conclusions set forth in An Evaluation of the Keystone Opportunity Zone (KOZ) Program conducted pursuant to House Resolution 115 of 2007 (the Report). The Department of Community and Economic Development (DCED) has endeavored to provide all information requested by the Legislative Budget and Finance Committee (LBFC) in a timely and accurate manner. The coordination between LBFC and DCED appeared to be exemplary.

With the assistance of LBFC's staff, DCED has enhanced significantly the collection and recording of KOZ data, allowing for a more accurate assessment of the economic development benefits of the KOZ program in the future. In addition to the "improvements in numerous administrative and operational areas" made by DCED and detailed in the executive summary of the Report, DCED has enhanced its administration of the program in several other ways, including the following:

- Defining "qualified business" and "capital investment" requirements in the KOZ guidelines;
- Providing a definition of "applicant" and "participant" in the KOZ guidelines and reports;
- Expanding the number of business types on KOZ applications to include business services, transportation and logistics, financial services, bioscience, and information technology. The commercial and research and development categories have been removed; and
- Removing "public" from question 10 on the KOZ application, to more accurately assess true capital investment. In addition, KOZ applicants will be asked to describe new capital investment items.

DCED will work with the 12 KOZ coordinators on the KOZ opportunity plan for each zone. DCED will evaluate each plan to determine the level of progress made in the zone since the inception of the KOZ program. If an opportunity plan is missing or needs to be updated, DCED will provide

Honorable John R. Pippy
June 22, 2009
Page two

technical assistance to political subdivisions in establishing annual benchmarks and annual reporting requirements. KOZ coordinators will be asked to submit annual update reports, as required by statute.

While DCED has been aggressive in marketing the KOZ program through the Governor's Action Team and relationships with local economic development agencies, it has not developed a comprehensive marketing plan. We will do so. The marketing plan will include paper and on-line marketing materials describing KOZ benefits.

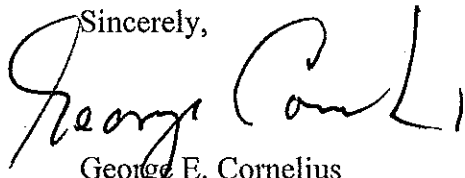
Prior to 2008, aggregate data that identified KOZ business applicants as start up, relocating, or out-of-state businesses were unavailable. A database is being developed and data are now being collected so that this information can be included in future reporting.

While DCED does have a procedure manual for the administration of the KOZ program, it will be updated to include a procedure for record keeping, including a list all documents that must appear in each file and standards for electronic records.

In spite of a diminished monitoring staff, as reported in the KOZ evaluation, monitoring of all relocating KOZ applicants continues. In addition, it is DCED's intention (subject to available resources) that staff will make site visits with regularity. Non-compliant businesses are reported to the Revenue Department and do not receive tax benefits.

DCED has carefully considered each of the recommendations in the Report and will continue to enhance its administration of the KOZ program. Due to past deficiencies in the data collection process, it will not be possible to capture all KOZ activity from the inception of the program. But there has been a marked improvement in the collection and management of data, which should allow for a better assessment of the KOZ program going forward.

In conclusion, DCED is committed to making all necessary changes to enhance the administration, oversight, and control of the KOZ program. The contributions to this effort made by the staff of LBFC are greatly appreciated.

Sincerely,

George E. Cornelius
Acting Secretary



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
HARRISBURG, PENNSYLVANIA
17128-1100

THE SECRETARY

June 22, 2009

Philip R. Durgin, Executive Director
Legislative Budget and Finance Committee
400 Finance Building
613 North Street
Harrisburg, PA 17105-8737

Dear Mr. Durgin:

Thank you for allowing us the opportunity to review the draft report prepared by the Legislative Budget and Finance Committee in response to HR 115 of 2007 on Pennsylvania's Keystone Opportunity Zone (KOZ) Program. To begin with, I would like to commend you and your staff for your efforts in providing a thorough analysis. In your letter, dated June 8, 2009, you indicate that the Department of Revenue is invited to provide written comments to the report. This letter is in response to your invitation.

In the Report Summary, on Pages S-5 through 6, the report's conclusion states that "The Department of Revenue did not respond to our requests for the actual dollar values of tax credits and exemptions awarded to a sample KOZ participant." However, in the main body of the report, on Page 3, it is noted that the Department did not provide the information requested "citing confidentiality provisions of the Fiscal Code." To this point, I respectfully ask that the statements on Pages S-5 and S-6 be clarified to indicate that confidentiality provisions of the Fiscal Code prohibited the Department from distributing this information.¹In addition, I am enclosing a copy of my letter to the committee, dated May 29, 2009, that explains the Department has responded to the committee's requests to the extent it is permitted by law to do so.

In the draft Report Summary, on Pages S-19 through 20, Recommendation 1.m. provides in part "[t]o enhance programs accountability and transparency, the DCED should provide, ideally through their website and by December 31, 2009 . . . (3) the total amount of tax benefits authorized and received by each qualified business, resident and property-owner." I believe that the disclosure contemplated by this recommendation may also violate the confidentiality provisions of the Fiscal Code and, therefore, that such information should not be disclosed on the website, unless the statute is amended to allow such disclosure.

In the draft Report, on Page 9, within *Exhibit 1, State Tax Abatements Available Under the KOZ Program*, it reflects Sales and Use Tax Procedure as "DCED determines QB; Revenue issues Cert. of Exemption; QB files for refund." This statement is incorrectly stated as the Cert. of Exemption, once received by the QB, can be used for qualified purchases with vendors without paying sales tax. The QB can petition for refund if the QB paid sales tax in advance of receiving the certificate within the application year. The third clause should be restated to read "QB does not pay tax or can claim a refund if necessary."

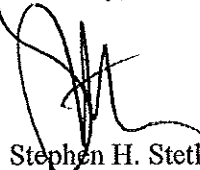
¹LB&FC note: The final report was changed to reflect this concern.

On Page 22 of the draft Report, *Exhibit 4, A Summary of Duties and Responsibilities Related to the KOZ Program* lists one of the Department of Revenue's duties (first bullet) as "Reviews all completed applications." I believe that this statement incorrectly characterizes the Department's role in the KOZ program. In fact, the Department's role in this program is generally limited to tax compliance checks and the processing and further administration of tax forms through which KOZ benefits are claimed by qualified applicants. This first bullet should be changed to "Conducts tax compliance checks on program applicants." In addition, the statement regarding the recapture duty (third bullet under the Department of Revenue) should be modified to read "May recapture (or waive recapture) tax benefits where businesses move out within five years if notified by the DCED Monitoring Division." I ask the committee to consider editing the list of the Department's duties so as to not overstate our role in the program.²

Lastly, on Page 25, the draft Report states "no Department staff currently work full-time on KOZ Program-related duties." While this is true, I would again like to point out the Department's limited role in administering the KOZ program. I believe our staff members dedicated to overseeing the Department's statutory duties for the KOZ program are very competent and qualified to administer our role in an appropriate and professional manner. In addition, the use of the term "primary part-time staff" on Page 25 is a bit confusing. I recommend that this term be removed, and I believe the intent of the sentence remains with greater clarity if you choose to do so.³

Again, I would like to thank you for the opportunity to offer the Department's input on this draft report. I am well aware of the many hours that you and your staff have dedicated to studying this complex subject and commend your efforts. I have no doubt that your diligent work will once again assist in ensuring that the Commonwealth is conducting its programs in the most efficient and beneficial manner possible. If you have any further questions, feel free to call me at (717) 783-3860.

Sincerely,



Stephen H. Stetler
Secretary of Revenue

²LB&FC note: We made these changes to Exhibit 4.

³LB&FC note: We removed the word "primary" in the final report.