Assessing the Empire Zones Program
Reforms Needed to Improve Program Evaluation and Effectiveness

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I. Executive Summary

New York State initiated the Economic Development Zones program (referred to today as the Empire Zones program) in 1986 to bring jobs and economic opportunity to areas characterized by pervasive poverty, high unemployment, and overall economic distress. At that time 37 states had programs to concentrate development in designated zones; by 1988, every state in the nation had a zone-based incentive program. Today, New York relies on a competitive zones program to encourage businesses to locate and expand in our State. Certain areas of the State need the unique benefits offered by a zones program to provide area residents with employment and to encourage investment in the local economy.

Since its creation, New York's Empire Zones program has been expanded and revised in ways that have changed its fundamental characteristics. Today, zones provide essentially tax-free locations for businesses to locate or expand. Benefits include tax credits for investments and job creation, wage tax credits, credits for capital investments, sales tax credits and exemptions, real property tax abatement and credits, and other opportunities to reduce taxes and operating costs. It is estimated that the program will cost the State $291 million in foregone tax revenue in 2004.[1]

While the nature and scope of the program has evolved, one fundamental flaw persists: reliable data and evidence of the program's success have remained elusive.

Various studies, audits and evaluations of the program have highlighted this problem. In response to an audit by the Office of the State Comptroller that criticized the Department of Economic Development (DED) for its oversight of the Empire Zones program through June 30, 1995, DED Commissioner Charles Gargano acknowledged the need to develop and accumulate measurable indicators of the program's success. In response to similar findings of an audit of the program that covered the period from April 1, 1999 to January 31, 2004, DED staff noted that the need to implement programmatic changes delayed the implementation of evaluation systems that the DED agrees are necessary.

[1] This estimate was made by the Division of the Budget and the Department of Taxation and Finance, and is believed to be rather conservative because it does not include local property and sales tax abatements or utility rate reductions, which accounted for two-thirds of the credits claimed by businesses during the 1993-1995 tax years (Program Evaluation and Management Research, Inc. (PEMRI), *Comprehensive Evaluation of the Performance of the New York State Economic Development Zones Program*, issued September 1999, p. viii-5).

The bipartisan Legislative Commission on Expenditure Review (LCER), and Program Evaluation and Management Research, Inc. (PEMRI), an independent consulting firm hired by the DED to conduct an evaluation of the zones program, have also released reports discussing shortcomings of the program. Along with six audits and reviews of the zones program that span the tenure of three separate State Comptrollers, these reports contain over 75 recommendations to both the DED and the local zones to facilitate the collection of reliable job creation and tax credit data.

Recent reviews of zone operations at both the local zone and the State oversight levels indicate that an unclear understanding of the responsibilities of parties involved in program administration contributes to the limitations on data. In addition, as has been pointed out in previous reviews, protections governing the privacy of tax data inhibit the State's ability to verify employment and tax benefit figures that are self-reported by businesses to the empire zones and the DED.

The sunset of the legislation enabling the Empire Zones program provides an historic opportunity for reform. This opportunity should be seized to clarify the mission of the program, improve administration, define responsibilities, improve reporting, and consider other means of strengthening New York's zones initiative. The DED presented an overview of recommended program changes in November 2003 that recognized the need for improved reporting and the details of its nine-point plan were included in the Executive Budget bills. The State Assembly has offered reforms of the program in the past and will present a revised reform agenda this year. It, too, recognizes the need for clarification of responsibilities and improved reporting.

The Office of the State Comptroller has concentrated on areas where the need for improvement was evident through the audits and reviews of local zone administration and the DED's oversight. Under the Comptroller's plan, an oversight board would be created to monitor and report on the program's overall effectiveness and cost to the State, and to decertify underperforming businesses and zones. The DED would be responsible for compiling Zone Annual Reports (ZARs) for each zone and the Business Annual Reports (BARs) and ZARs currently used to collect data would be amended to capture additional information needed to determine the effectiveness of the program. Local Zone Administrative Boards and Zone Coordinators would be required to formally review the performance of participating businesses every two years, and the Departments of Labor and Taxation and Finance would be required to verify data given to the DED by participating businesses.

The reforms recommended in this report are consistent with the existing law's mandate that the DED develop "an evaluation system, which is capable of compiling

and analyzing accurate and consistent information necessary for an assessment of whether [the program's] statutory objectives are being met."[2] It is anticipated that these proposals can be combined with reforms offered by the Executive and the State Legislature in a way that produces the desired result of a stronger, more competitive program that benefits targeted areas of the State and New Yorkers in need.

[2] General Municipal Law, Article 18-B, Section 959, (l).

II. Comptroller's Reform Proposals

The Empire Zones Program should be a job creation program with an emphasis on poorer neighborhoods. Honestly presented program results should be used to market growth opportunities in various zones to businesses outside of New York, which might be attracted by the unique advantages of each zone within the State.

A. Administration

1. Empire Zone Oversight and Designation Board

- Rename the Zone Designation Board as the Empire Zone Oversight and Designation Board to reflect expanded responsibilities including the evaluation of zones and decertification of existing zones and businesses.

Responsibilities

This revised Empire Zone Oversight and Designation Board would:

- Develop and implement standards of performance for recipients of zone benefits.
- Develop policies and procedures that provide for State and local governments to recoup benefits given to businesses that do not meet these standards.
- Be ultimately responsible for the decertification of zones and businesses that demonstrate a substantial and persistent failure to meet standards.
- Rely on DED staff to gather necessary data to evaluate the performance of each Zone and the certified businesses it contains.
- Ensure that when decertification is pursued because of factors beyond the control of the zone or business, the reasons for continued certification would be documented.
- Develop a series of steps before decertification that would be clear to all Zone administrators and businesses upon certification. Where appropriate, the decertification process would involve the advice and guidance of zone administrators.

Membership

- The Board would consist of four voting members—two appointed by the Governor, and one each by the Assembly Speaker and the President of the Senate. The Governor would designate the Board's chair.
- To increase the independence of the board, which relies on the DED for designation recommendations and backup materials, no one employed by the DED or the ESDC, or serving on a board related to either entity, should serve on the Board or any of its committees as a voting member.
- The Budget Director and the Commissioners of Taxation and Finance and Labor should all continue to serve on the Board as non-voting members.
- Including non-voting members, the Board should be structured into two committees, one for zone designation and one for zone and business evaluation, which would make recommendations to the full board.
- The Board should seek ways to apply corporate governance and public accountability standards to its functions.

2. Local Zone Administration

- The Zone Coordinator would continue to be the primary recipient of Business Annual Reports (BARs). However, responsibility for evaluating the accuracy of reported data should clearly lie with the DED.
- Local Zone Administrative Boards and Zone Coordinators would be required to formally review participating businesses every two years to ensure that they are meeting stated goals.
- Zone Coordinators would be required to identify, for DED staff and ultimately for the Empire Zone Oversight and Designation Board, certified businesses with outstanding performance records, as well as those that might not be meeting performance standards.

3. Department of Economic Development

- DED staff would determine the consistency and accuracy of information contained in the BARs, based on guidelines determined by the Empire Zone Designation and Oversight Board and in cooperation with the Departments of Taxation and Finance and Labor.
- DED staff would be responsible for training Zone Coordinators and Zone Administrative Boards to create uniform reporting standards and methods of data collection. Staff would provide ongoing assessments of the quality of information submitted.

- DED staff also would be responsible for compiling a Zone Annual Report (ZAR) for each zone based on BARs, and would present the Zone Administrative Board and Zone Coordinator with zone-specific findings contained in the reports.

B. Reporting

1. Business Annual Report (BAR)

- The format of the BARs should be changed to capture more relevant data such as:
    - average wage for new jobs;
    - number of targeted employees hired;
    - actual new employment vs. gross employment;
    - number of jobs lost during the reporting period; and
    - actual tax credits claimed in the prior year as well as estimated credits for the future year.
- In order to facilitate the verification of information, businesses would be required to sign a waiver as part of the BAR process, which would enable the Departments of Taxation and Finance and Labor to share business information with the DED. The waiver would specify conditions under which the data would be used, with a guarantee that business specific data would not be made public but would only be used to aggregate results of investments.

2. Zone Annual Report (ZAR)

- The format of the ZARs should be changed to capture more relevant data such as:
    - the amount of tax credits given to businesses in the zone in aggregate totals and by credit type;
    - the net number of new jobs created;
    - the number of targeted employees hired;
    - the average salary for new jobs; and
    - the total amount of money invested by new businesses.

3. Annual Report on the Empire Zones Program

- The DED would produce an annual report on the Empire Zones Program. The report would aggregate zone and business-specific data compiled in the

ZARs to provide an evaluation of the program as a whole. Each zone's data would be presented in the context of economic indicators for the region in which the zone is located, as well as in a statewide context.

- Members of the Empire Zone Oversight and Designation Board would be required to certify the accuracy of information contained in the annual report by signing a statement of authenticity as part of the final report.

C. Other Changes to Be Considered By the Legislature

As the Legislature considers the renewal of the Empire Zones program, the recommendations outlined above will be essential to restore confidence in the program and to increase accountability. In addition, the Legislature should consider other program changes that have proven beneficial in other states or may serve the needs of New York State, as follows:

- Limit the benefit period to ten years.
- Revise zone and business certification criteria to consider the environmental record of businesses seeking certification and the environmental impact of the proposed project or zone boundaries.
- Consider restrictions on the recertification of businesses that do not meet objective measures of fair labor standards and strengthen certification requirements in these areas. (The Department of Labor currently checks labor standards of businesses seeking new certification, but ways to strengthen this screening also should be considered.)
- Build in safeguards to prevent offering benefits to companies that may displace existing businesses.
- Consider increased benefits for businesses that offer health insurance to their employees.
- Consider ways in which the zones program could complement the brownfields redevelopment legislation enacted last year.

III. Evolution of New York State's Zone Program

In the late 1970s and early 1980s, New York and other states began exploring programs to provide incentives to businesses as a means of encouraging economic development. Initially, these programs focused on promoting business expansion throughout the states, rather than in specific regions and localities. Although some localities had their own economic development programs, they were not state-sponsored. In 1978, Sir Geoffrey Howe, a member of the British House of Commons, introduced the concept of "Enterprise Zones."[3] The British model provided tax cuts and regulatory relief to promote economic improvement in poor neighborhoods through investment incentives. The idea quickly caught the attention of U.S. policymakers. During the early 1980s, the concept of a federal enterprise zone program was raised repeatedly in Congress, particularly by New York Congressman Jack Kemp (R-Hamburg).

In 1982, the New York State Senate Committee on Commerce and Economic Development published a special report on enterprise zones that urged the creation of a zones program in New York State to foster economic development in targeted regions throughout the State. Four years later, in 1986, New York established a zones program. At that time, 37 states and the District of Columbia already had enterprise zone programs. By 1988, every state in the country had a zone-based incentive program. In 1993, the federal government established the "empowerment zone program," a national program based on the enterprise zone theory.

A. New York State's Economic Development Zone (EDZ) Program

In 1986, Governor Mario Cuomo introduced an amendment to the General Municipal Law (GML) that authorized the creation of the Economic Development Zones (EDZ) program.[4] The legislation was passed and the State began designating EDZs in 1987. The program is overseen by the New York State Department of Economic Development (DED) and the Empire State Development Corporation (ESDC).

The legislation allowed for the creation of up to 40 zones over a span of eight years. Today, the number of zones has grown to 72. In the original legislation, zones were to be located in areas characterized by pervasive poverty, high unemployment,

[3] The term enterprise zone refers to geographically focused economic development programs that designate specific areas for poverty reduction and/or business development through the use of tax abatements and other business incentives. New York State's empire zones are considered enterprise zones.

[4] General Municipal Laws, Article 18-B, Sections 955-969.

and overall economic distress. Census tracks were eligible for designation as zones only if they had:

- a population of at least 2,000 people; and either
- a poverty rate of at least 20 percent, or
- an unemployment rate of at least 125 percent of the State rate.

The legislation also stated that zones should correspond to traditional neighborhood boundaries, and when possible adhere to natural and/or man-made physical boundaries. Under this legislation, the program was slated to sunset ten years after the designation of the first zone.

Since its passage in 1986, New York State's Economic Development Zones program (now referred to as the Empire Zones program) has changed significantly. Amendments passed in 1990, 1993, 1999, 2000, and 2002 have placed more emphasis on business development and less emphasis on poverty reduction.

The 1990 legislation, introduced by the Assembly, made technical corrections to the 1986 law and expanded zone eligibility beyond the qualifications enacted in 1986. The 1990 legislation also increased the size of the zones from one square mile to two. Program eligibility was extended to counties that in the prior two years had:

- at least a 13 percent poverty rate, or
- an unemployment rate of at least 125 percent of the State rate; and
- did not otherwise contain a census tract, town, or village qualifying as a zone.

In 1993, changes were made to the program that began to shift the focus of the EDZ program away from poverty reduction through the creation of entry-level jobs in poverty-stricken census tracks and toward broad-based job creation regardless of who was hired or where they lived. Under this legislation, zone boundary requirements were modified to permit the inclusion of land that is "nearby or contiguous" to a census track that meets zone criteria. The criteria for zone designation was no longer driven solely by high poverty and unemployment rates but could be selected by the Commissioner of Economic Development based upon his or her assessment of an area's "potential for business development and job creation." This change has led to the scattershot disbursement of zone benefits, such as in Buffalo, where the zones have been spread throughout the city in more than 130 spots, some of which are no larger than an individual lot. Each City Council member in Buffalo was given 10 acres of Empire Zone designations to be made at his or her discretion.

The 1993 changes also expanded the poverty requirements for zone eligibility to include metropolitan statistical areas that had experienced or were likely to experience massive job losses within three years.[5] In addition, eligibility also was extended to municipalities that had been declared a natural disaster area, or that contained a military facility designated for closure or a mental health facility designated for closure or downsizing.

In 1999, the EDZ program was renamed the Empire Zones program. Legislation enacted that year further expanded zone eligibility to municipalities that have:

- an unemployment rate equal to or exceeding the State rate; or
- a poverty rate of at least 20 percent; or
- at least 14 percent of households receiving public assistance; or
- no other empire zone in the county; or
- are located in a "non-metropolitan area."

In 2000, additional benefits were added to the Zones program. Businesses that are certified as a Qualified Empire Zone Enterprise (QEZE) are now eligible for additional sales tax exemptions, real property tax credits, and other credits that are tied directly to job creation. Businesses that receive QEZE benefits must meet annual employment tests given by the DED to determine whether their job levels are the same, or greater, than the average job levels of the previous five years. The addition of QEZE benefits has allowed businesses to locate or expand in areas that were essentially tax free.

[5] The new eligibility requirements included four qualifying scenarios: (1) if the unemployment rate of the metropolitan statistical area (MSA) exceeds the national rate, and the MSA has experienced or is likely to experience within three years the lesser of a loss of 4,000 jobs or a dislocation of workers equal to 0.5 percent of the area's workforce, 50 percent of which results from the action of a single employer or 80 percent of which occurs within a single industry; (2) if the unemployment rate of the MSA is equal to or less than the national rate, and the MSA has experienced or is likely to experience within three years the lesser of the loss of 8,000 jobs or a dislocation of workers equal to 1 percent of the MSA's workforce, 50 percent of which results from the action of a single employer or 80 percent of which occurs within a single industry; (3) if the unemployment rate exceeds the national rate, and the labor market area (LMA) has experienced or is likely to experience within three years the lesser of a loss of 500 jobs or a dislocation of workers equal to 2 percent of the LMA's workforce; and (4) if the LMA has an unemployment rate equal to or less than the national rate, and has experienced or is likely to experience within three years the lesser of a loss of 500 jobs or a loss of workers equal to 2 percent of the LMA's workforce.

Further changes occurred in 2002 when legislation revamped the restrictions on noncontiguous areas within zones. The legislation now mandates that 75 percent of a zone must be located in no more than three noncontiguous areas. However, the legislation empowers the Commissioner of the DED to allow more than 25 percent of the zone to extend outside the three noncontiguous areas if a project "offers significant potential" for economic development and cannot be contained within three noncontiguous areas.

New York is not unique in its efforts to continue to revise its Zone program. Over the past 15 years, many states altered the configuration of their "enterprise zone" programs, relaxing their eligibility requirements and shifting the focus away from poverty reduction and toward business development. The following ten states, along with New York, have significantly transformed their enterprise zone programs: Arkansas, California, Connecticut, Indiana, Kansas, Louisiana, Ohio, South Carolina, Texas, and Wisconsin.[6] Three states (Arkansas, Kansas, and South Carolina) have expanded their enterprise zones from targeted geographic areas to the entire state. Four states (Connecticut, New York, Ohio, and Wisconsin) have altered their zone criteria for business eligibility and zone designation. Four states (California, Connecticut, Louisiana, and New York) have added noncontiguous land to a zone and/or allowed businesses outside of a zone to be eligible for tax credits. Five states (California, Indiana, New York, Texas, and Wisconsin) have increased the size of their zones. Of the eleven states that significantly changed their programs, New York is the only state to alter its enterprise zone program in three of the four categories.[7]

B. Current Reform Proposals

The Empire Zones program is scheduled to expire on July 31, 2004 and is subject to renewal by the State Legislature. As a result, numerous proposals have been introduced to reauthorize and amend the program. Some of these proposals seek to expand the program throughout the State while others attempt to refocus the program on economically distressed communities.

On January 20, 2004, proposals to modify the Empire Zones program were introduced as part of the 2004 Executive Budget. Issued in conjunction with the ESDC, this nine-point plan would extend the program from 2004 to 2009; reduce the benefit period for participating businesses from 14 to 10 years; prorate QEZE benefits to the number of jobs created (the number of new jobs created would be considered as

[6] Talanker, Alyssa, et al. *Straying From Good Intentions: How States are Weakening Enterprise Zones and Tax Increment Financing Programs*. Good Jobs First. 2003.

[7] See Appendix B for a comparison of zones programs in various states.

a percentage of 100 as opposed to the number of jobs a business had in the period before certification); require local zone officials to develop a zone development plan to be used as a basis of comparison with actual results; create 4-square mile "super" zone boundaries; and empower the Commissioner of the DED to designate 1-square mile of flexible zoning throughout the state. In addition, the plan contains provisions to "improve program oversight, evaluation and reporting."

The Assembly Majority introduced a reform package in 2003 that would create an Empire Zone Control Board to replace the existing Empire Zone Designation Board. The new control board would have the authority to designate Empire Zones and approve boundary amendments and all new rules and regulations. In addition, it would have the ability to terminate individual zones and would be charged with assessing performance for all Empire Zones across the State. The proposal calls for the commissioners of Economic Development, Labor and Taxation and Finance, in conjunction with the Director of the Budget, to revise current rules and regulations governing the Empire Zones program in order to strengthen the program's original intention of reducing poverty and to eliminate abuse of the program. Additionally, both new and existing zones would be limited to three contiguous areas, thereby requiring existing zones to be reconfigured. Eligible businesses that are located outside of zones after reconfiguration would continue to receive benefits until their 14-year benefit period expired.

The Senate Majority has introduced a broader economic development proposal based on the findings of the Senate NextGen Task Force in which Empire Zones are one of many components addressed. The task force focused most of its proposals on high-technology development and would modify the Empire Zones program to allow municipalities to provide full tax benefits to high-technology or biotechnology manufacturers moving into the municipality. Zone designation requirements would be reconfigured to allow for such change, either through the reduction of allocated noncontiguous areas or through automatic benefit allocation for eligible projects, regardless of an area's economic condition.

IV. Empire Zones Reporting Requirements

Under the current reporting structure, the responsibility to monitor and evaluate the Empire Zones program is divided between the DED and the local Zone Administrative Boards (ZABs). The Commissioner of the DED is charged with developing and implementing "an evaluation system, which is capable of compiling and analyzing accurate and consistent information necessary for an assessment of whether [the program's] statutory objectives are being met."[8] Each ZAB is responsible for collecting and analyzing data from participating businesses in the form of a Business Annual Report and releasing it in a Zone Annual Report to the Governor, Legislature, Comptroller, and DED Commissioner. Current legislation specifies what information should be contained within these reports, including:

- the number of jobs created;
- the number of jobs retained;
- the amount of State capital leveraged with public funds;
- the number of businesses expanded or retained and new businesses created;
- the amount of real property tax that would have been paid in the aggregate by participating businesses if their property were fully taxable;
- the amount of tax actually paid in the aggregate by participating businesses;
- the total dollar value of tax credits given to participating businesses for each credit available under the program; and
- the total amount of reductions in utility costs of non-retail businesses in the zone.

While some ZABs produce reports that include some if not all of the information required by the General Municipal Law (GML), most zones do not. The forms that are provided to the ZABs by the DED to collect data from participating businesses and to issue the annual reports do not ask for most of the information required by the GML.[9] In addition, ZARs are not compiled in a uniform manner, preventing their use to determine the overall effectiveness of the program and to make zone-to-zone comparisons.

Participating businesses are required to submit a Business Annual Report to local zone officials by May 15. The BAR contains self-reported information such as the total number of workers employed on an annual basis, the gross payroll, capital investments undertaken in the past calendar year, and an estimated amount of credits

[8] General Municipal Law, Article 18-B, Section 959, (l).

[9] See Appendix C for copies of the 2002 Business Annual Report and Zone Annual Report forms.

to be claimed in the forthcoming tax year (including QEZE, real property, investment, and wage tax credits). A responsible officer of the business is required to certify the accuracy of the report. If a business fails to submit a BAR, it can be decertified from the program according to the GML. Businesses do not currently suffer penalties for submitting incomplete or inaccurate information on their BARs.

Zone officials compile all of the BARs that are submitted by businesses in the zone into a ZAR. This report is intended to show the effectiveness of the zone over the past year. A compilation of each of New York's 72 ZARs should show the overall impact of the Empire Zones program on the State's revenues and economy. While the DED collects the reports, they are primarily used to determine how the administrative funds for the zones will be distributed, and not to evaluate the program.[10] Under the GML, the DED can withhold administrative funding from the ZABs for failing to issue a ZAR. There are no penalties to boards that fail to include mandated information in their annual reports.

No annual report is issued by the DED, the ESDC, or the zones that provides a cost-benefit analysis, evaluates the overall program, or places zone activities in the context of the State's economic condition.

[10] Office of the State Comptroller, *Department of Economic Development: Administration of the Empire Zones Program*, 2003-S-41, issued April 2004, p. 28. [Hereafter cited as 2003-S-41].

V. Empire Zones Program Benefits

Today, the Empire Zones program offers a variety of tax benefits and incentives for businesses that are located and/or expanding in the zones. Both new and existing businesses can receive a range of benefits upon certification by the Commissioner of Economic Development, the local empire zone coordinator and the Departments of Labor and Taxation and Finance. Zone benefits include:

- credits or refunds against business and personal income taxes, and sales and use taxes;
- real property tax abatements; and
- utility rate reductions.

In addition, QEZE-designated businesses that create new full-time jobs are entitled to additional sales tax exemptions and real property and business tax credits that allow them to operate virtually tax free.

The Department of Taxation and Finance and the Division of the Budget have estimated that the Empire Zones program will cost the State $291 million in foregone revenues in 2004.[11] This estimate includes reductions in personal income, business, sales, and use taxes, but does not include the value of local property tax abatements, local sales and use tax reductions, or utility rate reductions, which account for a substantial portion of the credits granted to businesses. A 1999 study of the program estimated that the program cost the State a total of $157.8 million between 1993 and 1995. This figure includes foregone State and local income, sales, and property taxes, public funds provided to certified businesses, administrative costs, and utility rate reductions.[12] In 1995, the program consisted of 40 zones and 1,975 businesses. Today, the program has expanded to include 72 zones and 8,600 businesses, increasing its potential cost to the State. The addition of QEZE benefits in 2000 greatly expanded the amount of tax credits claimed by businesses.

While most incentives provided by the program are employment-driven and are only granted to participating businesses upon the creation of new jobs, other incentives including local property tax abatements, sales tax credits, and utility rate reductions are granted to all participating businesses located within a zone. During the 1993-1995 tax years these credits, including State sales tax revenues lost as a

[11] 2003-S-41, p. 4.

[12] Program Evaluation and Management Research, Inc., *Comprehensive Evaluation of the Performance of the New York State Economic Development Zones* Program, issued September 1999, p. viii-5. [Hereafter cited as PEMRI.]

result of utility rate reductions, accounted for 66 percent of the credits claimed by businesses as part of the Empire Zones program.[13]

A. Investment Tax and Employment Incentive Credits and Refunds

The empire zone investment tax credit can be claimed against a business or personal income tax by certified taxpayers who make investments on qualified property (such as buildings, facilities, and equipment) located in a zone and purchased during the period of time when the business was designated in a zone. The use of qualified property is limited principally to the production of goods, research and development, industrial waste treatment or air pollution control, and/or investment-related services. The credit is computed by multiplying the cost of the qualified property by 10 percent for corporations or 8 percent for individuals and unincorporated businesses.

The empire zone employment incentive credit has been available since 1986 for businesses and since 1997 for individuals. The credit is allowed for each of the three taxable years immediately following the year an empire zone investment tax credit was granted. A business is eligible for an employment incentive credit when the number of people it employs is at least 101 percent of the average number of employees it had in the year preceding the acceptance of an investment tax credit. The credit each year is equal to 30 percent of the allowable empire zone investment tax credit.

Any amount of investment tax or employment incentive credit not used in a given year may be carried forward and deducted from a taxpayer's future tax burden. However, a new business can elect to receive up to 50 percent of the unused investment tax or incentive credit as a refund and carry forward the rest.

B. Empire Zone Wage Tax Credit and Refunds

The empire zone wage tax credit is offered to qualified businesses that increase employment. Credits under the program are allowed for up to five years, provided that the business maintains or increases its employment level. A tax credit is awarded in each year a firm's total employment in the State and the zone exceeds its average number of employees Statewide and in the zone during the four years immediately prior to the first year the credit is claimed. A tax credit of $3,000 is granted for each newly hired targeted full-time employee receiving wages of at least 135 percent of the

[13] PEMRI, p. viii-5.

minimum wage for at least half of the year. Targeted employees are those who were eligible for benefits under the Work Opportunity Tax Credit or Jobs Training Partnership Act prior to employment; who receive public assistance; or who have income or family income below the poverty level. An additional credit of up to $1,500 is awarded for all other new full-time employees who received wages for at least half of the year. Any amount of the wage tax credit not used in any year may be carried forward. However, taxpayers who start a new business are entitled to a refund of up to 50 percent of the unused wage tax credit.

C. Empire Zone Capital Tax Credit

The empire zone capital tax credit is 25 percent of the sum of investments to qualified empire zone corporations, investments to certified zone businesses with 250 or fewer employees, and contributions of money to community development projects in an empire zone. Tax credits claimed under this program are limited to $300,000 for all years, with each investment or contribution limited to $100,000.

D. Sales Tax Credit or Refund within an Empire Zone

Materials purchased for use in constructing, expanding, or rehabilitating qualified industrial or commercial real property located within an empire zone may be eligible for a credit or refund on the State sales tax. Additionally, localities (excluding New York City) have the authority to provide similar credits on the local portion of the sales tax. To qualify, rehabilitation projects must restore real property to an acceptable and safe condition for habitation, as required by the relevant building codes and regulations. Tax credits available for renovation projects are not extended to general maintenance or minor repairs. Real property used for residence or exclusively for retail sale (i.e., a shopping mall), does not qualify for the credit or refund.

E. Real Property Tax Abatement

Increases in the value of real property resulting from construction or improvement to property located in an empire zone are eligible for abatement on real property taxes for a period of up to ten years. The abatement can be claimed against 100 percent of the increase in real property taxes for the first seven years, declining to 75 percent for the eighth year, 50 percent for the ninth year, and 25 percent for the tenth year. An abatement application must be made with the local tax assessor within one year after construction or improvement is completed and a certificate of occupancy is granted.

F. Qualified Empire Zone Enterprise (QEZE) Sales Tax Exemptions

Exemptions on State sales and use taxes are available to a QEZE on the purchase of goods and services. Some localities may also offer local sales tax exemptions. Upon certification by the Commissioner of Taxation and Finance, exemptions are available for ten years. To qualify for the exemption, goods or services (including utility services) must be directly and predominantly used or consumed by the QEZE in an empire zone. Purchases not eligible for benefits include taxes related to the sale of food or drink, hotel occupancy, and charges for amusement.

G. QEZE Credit for Real Property Taxes

QEZEs are allowed a credit against their business or personal income tax equal to a percentage of real property taxes paid for the property in the zone. The credit is available each year the employment test is met for up to 14 years. The credit is determined by the percent increase in employment compared with the period prior to applying for the tax credit. Benefits are limited to 100 percent of the property tax for the first ten years, then declining to 80 percent in the 11th year, 60 percent in the 12th year, 40 percent in the 13th year, and 20 percent in the final year.

H. QEZE Tax Reduction Credit

Similar to the credit for real property taxes, a QEZE is allowed a credit that is equal to a percentage of its business or personal income tax based on increasing employment. The credit is available each year when the employment test is met, for up to 14 years. The percent changes in employment and percent limits on tax benefits for this program are the same as for the real property tax credit. A zone allocation factor, which is determined by the percentage of the business's economic presence in the empire zone, is used to determine the amount of benefits. The zone allocation is determined by assessing the average of the business's real and personal property in the empire zone divided by the total within the State, and the wages paid in the empire zone divided by the total within the State.

VI. Past Performance Evaluations and Reviews

Since 1990, the Office of the State Comptroller (OSC) has conducted six separate reviews of the Empire Zones program. These reviews have spanned three different comptrollers and two executive administrations. The program was also audited by the bipartisan Legislative Commission on Expenditure Review (LCER) in 1990 and evaluated by the independent consulting firm Program Evaluation and Management Research, Inc. (PEMRI) in 1999. The reports looked at various aspects of the program including the cost benefit of the program to the State and whether the program was being evaluated effectively at the State and local levels. Each of these reports cited shortcomings in the oversight of the program, particularly in the State's inability to calculate the cost of the program or effectively determine the number of jobs it created.[14]

A 1990 audit of the program conducted by the OSC sought to assess the reliability of data gathered by businesses. The audit, which reviewed operations from July 1, 1987 through March 31, 1990, found that the Zones program was poorly managed by the DED, that the data necessary to evaluate the program's effectiveness was lacking, and that the available data was not reliable, in large part because it was not verified by the DED. Many of the applications and Business Annual Reports (BARs) submitted by businesses had significant errors or were incomplete, making a comprehensive evaluation of the program impossible.

The audit recommended that that DED coordinate with the Department of Taxation and Finance to gain access to the necessary tax return information to monitor and evaluate the program. In addition, the audit recommended that if necessary, the DED should seek legislation to amend the tax law to allow the Department of Taxation and Finance to provide this information for the purpose of program monitoring. This recommendation was made again in reports released by the State Comptroller in 1996, 1998, and 2004, and was suggested by PEMRI in its 1999 evaluation of the Empire Zones program. The DED noted that privacy regulations regarding tax information have limited its ability to access necessary information. Reforms proposed by the Comptroller would enable the DED to overcome this obstacle in a way that incorporates safeguards to protect the privacy of business tax information.

[14] See Appendix D for a summary of the major recommendations made in each report.

The 1990 audit also recommended that the DED create an evaluation system to monitor the effectiveness of the program, direct local zone officials to review applications and BARs for errors, and independently verify all information submitted on BARs.

Also in 1990, a bipartisan legislative commission released a mandated review of the program that focused on the first ten zones designated in 1987. The report was issued by the LCER and addressed the State administration of the zone program, implementation of the DED's responsibilities, the effectiveness of State tax incentives, and the development of human resource programs within the zones. Zone administrators reported an improvement in the economic condition of their zones and surrounding areas and cited the zones for overcoming "a lack of vacant space, high crime rates, huge infrastructure costs and poor community images to certify 490 businesses."[15] However, the report also noted discrepancies in the numbers of new jobs reported by businesses, which was caused in part by the failure of businesses to account for job losses, the use of different databases by individual zones, and inadequate and inaccurate information. The LCER concluded that documenting a relationship between the zones program and business development within the zones was not possible.[16]

The LCER report reviewed a sample of businesses and found that while they collectively reported creating 1,065 new jobs, a verification of these figures with the Department of Labor found a net increase of only 199 jobs (18 percent of the total claimed). The report also cited administrative problems within the program, including "missing reports, inconsistent and unverifiable information, and [a] lack of evaluative data." The report stated that "job creation figures failed to account for job loss, had not been verified, and contained high error rates and missing information."[17]

The LCER recommended that that DED assess the cost benefit and effectiveness of incentives offered in the program and monitor zones to ensure that the goals of the program would be met. The report also recommended that the Department of Taxation and Finance verify the information related to tax benefits provided by certified businesses to guarantee reliability.

The Office of the State Comptroller reviewed the zones program again in 1996. The audit covered the DED's administration of the program from its inception

[15] The Legislative Commission on Expenditure Review, *State Administration of the Economic Development Zone* Program, issued November 1990, p. S-1. [Hereafter cited as LCER.]
[16] Ibid, p. S-1.
[17] Ibid, p. S-8.

through June 30, 1995, and focused on two primary questions: how actions taken by the DED enabled the program to accomplish its objectives, and the cost benefit of the program to the State. The audit found that despite a legislative mandate passed in 1993 to hire an independent consultant to evaluate the program and calculate its cost to the State in foregone revenues, the DED had not taken actions to determine whether the program was effective and had failed to collect data related to the value of the credits granted under this program. The audit again recommended that the DED create a methodology for evaluating the effectiveness of the zones program; implement a system for conducting a cost-benefit analysis of the program; ensure that the annual reports submitted by the zones were complete and accurate; and seek legislative authorization to obtain relevant employment and tax information from the Departments of Labor and Taxation and Finance (a recommendation that was previously made in the Comptroller's 1990 audit and the LCER report). The audit also noted that the limited information the DED did collect was "often incomplete and unreliable."[18] In response to the audit, DED officials stated that they felt they had met the program's primary statutory objective, to establish local Zone Administrative Boards and provide assistance to local businesses. They stated that "measurement and determining cost effectiveness" were secondary objectives.[19]

The 1996 audit also found discrepancies between the number of new jobs reported by the DED and the number of jobs verified by the zones. The DED reported that four zones created a total of 13,655 new jobs in 1993. However, when auditors confirmed these figures with the local zone administrators, only 766 new jobs (5 percent of the DED's total) could be verified.[20]

In response to the audit the Commissioner of the Empire State Development Corporation wrote to the State Comptroller stating, "I share most of the concerns you raised in the audit about the lack of oversight" in the program. He explained that "the audit cites the 1993 annual reports for four zones as having "created" thousands of new jobs. Admittedly, the four zones incorrectly reported the total number of employees working in certified zone businesses rather than the new jobs created that year. Apparently, the representatives of the four zones misunderstood the form."[21] ESDC stated that since 1995, when the executive administration of the State changed, it had worked to "strengthen the accountability of each zone and each certified

[18] Office of the New York State Comptroller, *Department of Economic Development: Economic Development Zone Program* (Report 95-S-78), issued May 1996, p. ii. [Hereafter cited as 95-S-78.]
[19] Ibid, pg. ii.
[20] Ibid, p. 11.
[21] Charles Gargano, letter to H. Carl McCall, August 21, 1996.

business by requiring more accurate and timely reporting of information [and] improved coordination among state agencies to better enforce the program."[22]

A follow-up to the 1996 audit was conducted by the State Comptroller in 1998 to determine whether the recommendations of the 1996 audit had been implemented. A number of them were in place, such as the institution of semiannual statewide coordinators meetings. However, the follow-up audit concluded that the DED had yet to seek legislative authorization to obtain data from the Departments of Labor and Taxation and Finance, which would allow it to better assess the costs and benefits of the program, and that the DED had not implemented a system to ensure that annual reports were complete and accurate.[23]

Legislation passed in 1993 required the DED to commission an independent review of the zones program to evaluate the program's performance and cost benefit to the State. Despite a legislative mandate to complete the study by December 31, 1995, a final contract was not signed between the DED and PEMRI, the company hired to conduct the review, until January 10, 1997.[24] The final report was issued in September 1999, almost four years after the original deadline.

PEMRI's review evaluated the overall impact of the zones program and whether statutory objectives and criteria were being fulfilled. The report focused on the program between 1988 and 1995 and remains the most detailed evaluation of the program since its creation in 1986.

PEMRI reported that the DED did not evaluate the program on a continuing basis and that there were data limitations on the information needed to evaluate the program. This limited the DED's ability to effectively oversee and monitor the program. The report recommended that applications and reports be revised to collect consistent and standardized data. It also concurred with previous OSC audits and recommended that the DED improve coordination with the Departments of Labor and Taxation and Finance to improve the exchange of data needed to evaluate the program.

While PEMRI cited the program as a major impetus for job creation in the State, it noted that most zones remained economically distressed and that only a small

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[22] Ibid.

[23] Office of the State Comptroller, "Report 97-F-37," issued February 1998, p. 8.

[24] The DED successfully sought an amendment to the 1993 legislation that called for this review and moved the deadline back to December 31, 1996.

number of zone residents and targeted workers had obtained jobs with zone businesses. The PEMRI report also evaluated the economic condition of selected zones and found that eight Empire Zones did not perform better than comparable areas in the State that did not have zones.[25]

PEMRI conducted a cost-benefit analysis of the program for the 1993-1995 period. Using employment figures from the Department of Labor, which indicate a net increase of 4,041 jobs over the three-year period, PEMRI concluded that the net benefit of the program to the State was negative $30.5 million.[26] This estimate included the increase in disposable income, savings in public transfer payments, and gains in tax revenues as a result of direct and indirect net job growth minus foregone State and local taxes, State and local funds provided to certified businesses, and program administrative costs. PEMRI concluded that "when compared to the cost per job for a few other states' comparable zones program, New York's appears more costly than most."[27] Each new job at a certified firm cost the State between $14,648 and $16,807 annually.[28]

A similar cost benefit analysis of the zones program would be difficult to compile now given the lack of reliable job growth and tax credit data. In addition, information collected by the Departments of Taxation and Finance and Labor often experience a lag of one to three years. If the DED were to coordinate with the departments to verify information reported by participating businesses and to collect reliable and comprehensive data, a calculation of the program's cost benefit to the State and participating localities would be possible.

In 2004, the OSC completed a series of reviews of the Empire Zones program. Individual reports were issued on three New York City zones, eight zones outside of the City, and the DED's administration of the overall program. Many of the recommendations made in these reports were the same as those made in previous audits and studies. Some of these recommendations included: pursuing agreements with the Departments of Labor and Taxation and Finance to obtain information necessary to verify the accuracy of data reported by businesses; ensuring that the data necessary to determine the program's costs and benefits be collected; and acting in a timely manner to decertify any business failing to submit a Business Annual Report or identified as having recurrent performance shortfalls. The reviews also found many performance shortfalls for businesses in the program.

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[25] PEMRI, p. iii.
[26] Ibid, p. viii-11.
[27] Ibid, p. viii-13.
[28] Ibid, p. viii-5.

In a review of 116 businesses, 53 percent submitted BARs that were incomplete or wrong.[29] A review of 52 Zone Annual Reports found that only 2 of the 52 reports sampled matched data that were reported on the zone's BARs, which are used to compile the ZARs. Differences ranged from reporting 11,113 more jobs on a ZAR than were recorded on the BARs, to 26,575 more jobs reported on a BAR than were contained in a ZAR.[30] A review of 13 BARs filed by New York City businesses found that they all had discrepancies when compared to their tax returns. [31]

[29] 2003-S-41, p. 22.
[30] Ibid, p. 27.
[31] Ibid, p. 19.

VII. Empire Zones Program Reforms

In order to determine the cost of the Empire Zones program, the program's impact on the State and regional economies, and whether the program is fulfilling its mission, accurate data must be collected and available for public review. To accomplish this, the Comptroller is proposing a series of reforms aimed at delineating responsibilities, clarifying reporting requirements, and establishing standards for the continuation of benefits that emphasize a reasonable return on investments. The Comptroller's reforms also seek to refocus the zones program on its core mission—to create jobs and stimulate private investment to alleviate problems in impoverished areas of the State.[32] Under the Comptroller's plan:

- The Empire Zone Oversight and Designation Board (EZODB) would be created to monitor and report on the program's overall effectiveness and cost to the State, and decertify underperforming businesses and zones.
- Corporate governance principles would be applied to the EZODB.
- The DED would be responsible for compiling Zone Annual Reports for each zone.
- The BARs and ZARs currently used by the DED and the local zones to collect data would be amended to capture additional information needed to determine the effectiveness of the program and its cost to the State.
- Local Zone Administrative Boards and Zone Coordinators would be required to formally review participating businesses every two years to ensure that they are meeting stated goals.
- The Departments of Labor and Taxation and Finance would be required to verify data given to the DED by participating businesses. The sharing of information would be facilitated by requiring businesses to sign a waiver allowing for review of their tax returns. Safeguards would be built into the waiver to prevent the use of business-specific data or otherwise inappropriate uses.

The Empire Zones program is unique among New York State's economic development programs in that it targets public resources for use in economically

[32] This goal is reflected in the GML's *Statement of Legislative Findings and Declaration*, which states, "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 base. 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."

distressed communities. Concentrating on improving the economies of these communities and providing residents with employment and job training is an essential element to enacting long-term improvements to the State economy. As the program has increased from 10 zones that are each 1 square mile in size to 72 zones that are each 2 square miles and as zone designation requirements have been expanded, this focus has been lost.

In August 2003, Good Jobs First, a Washington, D.C.-based public policy organization, issued a report that analyzed enterprise zone programs throughout the country to determine whether these programs were maintaining their focus on redeveloping blighted and economically distressed communities. The report criticized New York's zones program for designating zones "in areas with low unemployment rates" and for "losing its ability to provide targeted economic relief to distressed areas."[33]

Under the current Executive Budget proposal to amend the Empire Zones program, the focus on blighted communities would be further weakened. Under the proposal, local administrators would be required to create "super" boundaries 4 square miles in size, in which Empire Zone designations could be made. While the proposal states that this would "promote neighborhood-wide revitalization," it would dilute the effectiveness of the program in combating pervasive poverty in economically distressed communities, and would encourage zones to be designated in areas that are attractive to developers rather than in areas where designation is needed to entice development.

In addition, the Executive Budget Empire Zones Proposal would create "an annual one square mile pool of zone acreage," subject to the designation of the Chairman of the ESDC, to support projects that could create at least 300 jobs (100 jobs within an economically distressed community). This proposal would allow the designation of zones to be driven by business potential rather than a need for jobs due to poverty and unemployment. The State already has a number of successful economic development programs that can be used to entice developers to build in New York State. What makes the Empire Zones program unique is that it is meant to encourage development in targeted geographic communities with severe economic problems. Spreading the zones program benefits to areas throughout the State regardless of economic hardship would force existing zone communities to compete with more attractive real estate. Providing developers with the possibility of receiving lucrative program benefits outside of a zone would discourage them from investing

[33] Good Jobs First, *The Policy Shift to Good Jobs*, issued August 2003, p. 31.

inside of existing zones. This proposal is antithetical to the initial purpose of the Empire Zones program and essentially brings the zones to companies rather than attracting businesses to the zones.

While the program provides businesses with a $3,000 wage tax credit for each "targeted" employee hired at a salary above 135 percent of the minimum wage, the DED and the local zones do not track the number of zone residents hired or the amount of wage tax credits claimed by participating businesses.[34] During the course of its review, PEMRI asked Zone Coordinators to estimate the number of zone residents who found full-time employment with certified businesses in the zone. The report noted that "a majority of the Coordinators could not answer this question. This type of information is not readily available to the Coordinators, and thus not to EDZ central staff or the State Legislature."[35] Detailed tracking of the number of targeted employees hired would help refocus the program on its original intent.

In reforming the program, more emphasis must be placed on tracking benefits for "targeted" employees. Zones with a high success rate should be recognized and the methods used to encourage employment of local people in need should be analyzed. Best practices can be highlighted in the annual report on performance of the Empire Zones program to be compiled by the DED.

A. Empire Zone Oversight and Designation Board

To strengthen the Empire Zones program, lessen the administrative burden on local ZABs and Zone Coordinators, and implement a system to effectively monitor the program, the Comptroller recommends that the Empire Zone Designation Board, which currently designates new zones and approves changes to existing zone boundaries, be reconfigured into the Empire Zone Oversight and Designation Board (EZODB). In its current configuration, the board consists of seven voting members: the Commissioner of Taxation and Finance, the Commissioner of Labor, the Director of the Division of the Budget, two designees of the Governor, a designee of the Senate Majority Leader, a designee of the Assembly Speaker, and two non-voting members, one from the Senate Minority and one from the Assembly Minority. The Governor designates the chairman from among the voting members of board.

Under the Comptroller's proposal, in addition to its current responsibilities, the board would be responsible for issuing an annual report detailing the performance of each zone in the program and the overall effectiveness of the zones program. The

[34] The $3,000 credit is $1,500 higher than the wage tax credit granted to businesses for any new employee.
[35] PEMRI, p. v-12.

board also would be charged with decertifying zones and businesses that do not meet existing reporting requirements or are repeatedly found to be underperforming. The board's responsibilities would be split between two committees, the Zone Oversight and Decertification Committee and the Zone Designation Committee. The chair of the board would determine the membership of each committee, including both voting and non-voting members. All committee recommendations would be brought to the full board for a vote.

Membership of the EZODB would be decreased to four voting members. The Commissioners of Taxation and Finance and Labor, as well as the Director of Budget, would become ex officio members of the board while the remaining four members would retain their voting rights. To increase the independence of the board, which would rely on the DED for designation recommendations and backup materials, no one employed by the DED or the ESDC or serving on a board related to either entity would serve on the EZODB or any of its committees as a voting member. All board proceedings should be subject to the New York State Public Meeting Laws, and all zone designation and decertification processes and boundary changes should include public comment periods.

1. Zone and Business Decertification

The business decertification process is currently assigned to the local Zone Administrative Boards (ZABs), which consist of at least six members, including representatives from a community organization, a local business, organized labor, an educational institution, a financial institution, and a community resident. Zone board members do not receive any compensation for their positions and are nominated by the municipality or county in which the zone is located. The General Municipal Law (GML) instructs the ZABs to decertify businesses for a variety of reasons, including failure to submit a BAR and underperformance. However, DED decertification reason codes, which must be cited by ZABs when decertifying a business, do not include a code to decertify businesses for underperformance (existing codes include out-of-business, moved out of zone, no BAR, and others). According to DED officials, no business has ever been decertified for underperformance.[36]

A survey of 103 businesses by OSC in 2004 found that 27 businesses (26 percent) did not submit a BAR in 2002, yet only two were decertified by local ZABs. Another review conducted by OSC in 2004 found that 333 of 473 businesses surveyed (66 percent) did not meet projected job goals as reported on their BARs, yet

[36] 2003-S-41, p. 25.

none were decertified. While businesses that do not achieve job creation and investment goals because of conditions beyond their control should not be penalized, discretion must be exercised to differentiate between performance shortfalls caused by economic hardships and unrealistic projections made to achieve certification and its ensuing advantages such as property and sales tax abatements and reduced utility costs.

Past reviews of the program have found that ZABs are often reluctant to decertify businesses, despite their authority to decertify for failing to submit a BAR or achieve employment goals. This reluctance may be caused in part by the DED's use of the number of certified businesses in a zone as a criterion to determine whether a zone is successful. Local zone officials also have stated that they did not realize they had the authority to decertify a business. Others have stated that they would not recommend a business for decertification for failing to submit a BAR or for missing job creation goals.

To ensure that the program is effectively run and that participating businesses meet their statutory reporting requirements and performance goals, the EZODB should be charged with decertifying businesses and zones. Decertification should be considered when:

- a business fails to submit a BAR or omits essential information such as the number of tax credits claimed in a previous year or the number of new jobs created;
- a business knowingly submits a BAR with inaccurate information, including but not limited to actual job creation figures and tax credits claimed;
- a business receives tax benefits without creating any new jobs or making a capital investment within the zone;
- a business and/or zone repeatedly misses job creation, investment, and/or other performance goals; and when
- a ZAB repeatedly fails to collect all BARs within its zone and transmit them to the DED in a timely manner.

The local ZABs would serve an advisory role to the EZODB regarding business decertification decisions. The existing appeals process for business and zone decertification should be amended to reflect the shift in responsibility from the local zone boards to the EZODB.

B. Enhanced Reporting Requirements

Under the Comptroller's proposal, the DED would assume the responsibility for compiling ZARs for each zone that would include all of the information currently required by the GML.[37] Copies of the reports would be forwarded to the Governor, Legislature, Comptroller, and the corresponding zones in the form of a comprehensive annual report certified by the EZODB on or before June 1. This annual report would be required to contain all of the information currently required for inclusion in the ZARs. Information on each zone should be presented in a separate chapter and be presented in the context of economic indicators for the region in which the zone is located. The report would be distributed to the Governor, Legislature, Comptroller, the ZABs, and EZODB board members by September 1.

The proposal included in the Executive Budget provides for Zone Administrative Boards to prepare a local development plan to promote neighborhood-wide revitalization. Development of a local plan would provide direction with regard to DED decisions affecting each zone and would serve as a benchmark against which to measure each zone's progress. This proposal could complement other structural and reporting reforms proposed by the Comptroller. For example, the annual report could highlight consistencies among local plans of the zone and could present annual zone data in the context of the local plan.

Giving the DED this responsibility for compiling an annual report would enable the ZABs and local Zone Coordinators to focus on their primary functions—marketing the zone for investment, promoting business expansion and job creation, and providing direct assistance to participating businesses. As part of its review of the zones program, PEMRI conducted a survey of Zone Coordinators to determine how they spent their time and on which activities they focused. Coordinators indicated that they viewed the marketing of their zones and providing businesses with information as their most important tasks (more than two thirds ranked these activities as either their first or second) while serving as an "ombudsman" for local businesses was ranked third in order of importance.[38] However, coordinators estimated that they spent 20 percent of their time assisting businesses, 16 percent marketing the zone, and 12 percent recruiting new businesses. By comparison, approximately 22 percent of

[37] This includes the number of jobs created; the number of jobs retained; the amount of state capital leveraged with public funds; the number of businesses expanded or retained and new businesses created; the amount of real property tax that would have been paid in the aggregate by participating businesses if their property were fully taxable; the amount of tax actually paid in the aggregate by participating businesses; the total dollar value of tax credits given to participating businesses for each credit available under the program; and the total amount of reductions in utility costs of non-retail businesses in the zone.

[38] PEMRI, p. v-4

their time was focused on administrative activities, much of which involved compiling data on the zone's performance.[39]

As the program has grown from 40 zones with 1,975 participating businesses in 1995, when the survey was conducted, to 72 zones with 8,600 participating businesses in 2003, the average number of businesses in each zone has more than doubled from 49 to 119—thereby increasing coordinators' workload. The addition of QEZE benefits in 2000 added yet another element for coordinators to explain to businesses. Enabling coordinators to focus more attention on the day-to-day operations of the zone is appropriate given the structure of the program, which requires the local ZABs to develop zone specific plans for economic growth and which relies on the Zone Coordinators to provide technical assistance to participating businesses while recruiting new companies.

The forms currently used by the DED and the local zones must also be changed to collect the data needed to determine the impact of the program and its cost to the State and localities, and to facilitate consistency between the BARs and ZARs.

1. Business Annual Reports (BARs)

All information used by the DED and the local zones to monitor the zones program is derived from the BARs. Thus, it is essential that these reports capture relevant and accurate information to determine whether businesses are meeting their goals and whether the mission of the program is being fulfilled. A report issued by OSC in 2004 concluded that BARs "do not capture information on all benefits that a business receives, and the data, which is self-reported, is not individually verified by DED…[The BARs] do not require information on utility cost discounts nor any local benefits received. [They] do not capture any information on the pay rate of new employment created, so an analysis cannot be done as to the type and quality of the jobs created."[40] The review found that "while DED has modified the BARs in recent years to capture estimated tax credits that businesses expect to claim, the BARs still do not require businesses to report any actual credits claimed."[41]

To overcome these shortfalls, the BARs should collect the number of new part-time and full-time workers hired by a firm as well as the number of jobs lost, if applicable, in addition to total employment figures. This would eliminate the need to compare year-to-year data to determine job creation figures and to decrease the

[39] PEMRI, p, v-3
[40] 2003-S-41, p. 4.
[41] 2003-S-41, p. 22.

chances of bookkeeping errors. The BARs should also collect data on the number of targeted employees hired, which is vital information to evaluate the reduction of poverty and unemployment within economically distressed neighborhoods. BARs should collect data on the average wage paid to new employees, in addition to the gross payroll of the businesses, to better enable the DED to determine the types of jobs generated by the program. The BARs should also be reconfigured to collect actual tax credits taken by businesses in the prior tax year as well as estimated figures for the forthcoming year, which are currently collected. This would enable the zone and the DED to have a better understanding of the total cost of the program to the State.

Many of these recommendations are not new and are consistent with conclusions reached in previous reviews of the program. The 1990 LCER report noted that "business reported data do not account for job loss" and that the BARs contained "significant error rates and missing information." The LCER also stated that "the BARs are of little value for verifying the number of jobs actually created, because they do not tabulate job losses." A review of business filings found that the reports did not account for 430 job losses.[42]

Since the BARs are used to generate all other reports for the program, it is important that they contain accurate information. Participating businesses have a vested interest in reporting positive numbers on their BARs, so that they can continue to be certified by the State. Local zones also have a vested interest in reporting high job creation numbers, and lack the necessary resources to verify the data reported by businesses, including adequate personnel and access to records at the Departments of Taxation and Finance and Labor. The zones should act as a conduit for the DED, collecting the BARs from local businesses and forwarding that information on to the DED for verification and analysis.

2. Data Verification

DED staff would be responsible for verifying information provided by businesses by conferring with the Departments of Taxation and Finance and Labor. In order to facilitate the verification of information, it is recommended that as a condition of receiving benefits from the State, certified businesses waive their rights to privacy for information submitted to the Department of Taxation and Finance and the Department of Labor. The waiver would specify conditions under which the data would be used, with a guarantee that business specific data would not be made public

[42] LCER, p. 30.

but would only be used to aggregate results of investments. These safeguards would protect the privacy of businesses and would prevent the release of proprietary information.

The Ohio Department of Development, in its annual report to the Governor and General Assembly on the status of Ohio's enterprise zone program, lists all businesses participating in the program by county, including the percentage of local real and personal property tax incentives granted to each business. In addition, the report includes the total amount of revenue foregone by each zone for real and personal property and local income taxes.[43]

Any businesses that are found by the DED to have received tax credits as a result of inaccurate information reported on a BAR should be decertified and forced to repay the credits erroneously granted by the State.

3. Zone Annual Reports

Upon verifying data with the appropriate agencies, the DED should compile a ZAR for each zone. Vesting the DED with this responsibility is appropriate given the need to have a uniform reporting structure for each of the 72 zones. In the past, local zone administrators have used differing methods to compile ZARs. For instance, some zones do not net out job losses when calculating the number of new jobs created, while others report the net increase of jobs. A 1996 audit by OSC found that while "the reports were generally submitted as required, [there were] numerous instances in which required information was not reported, numbers were incorrectly added, and information was incorrectly carried from one reporting year to the next. Moreover, when [OSC] contacted zone officials to verify the number of employees who were reported as hired in the 1993 annual reports, [it was] found that the numbers included in the annual reports were significantly over stated."[44] The Chairman of the ESDC stated in response to this audit that "the [zone] annual report was not an accurate source for [job creation] information."[45]

In attempting to conduct an analysis of the statewide costs of the Zones program, PEMRI concluded that "it was not possible to provide a comprehensive qualitative analysis of the public costs, expenditures, and revenues foregone because of the shortcomings in much of the data" collected by DED and the zones. The report

[43] See Appendix D for excerpts of the Ohio Department of Development's 2002 Enterprise Zone Annual Report.
[44] 95-S-78, p. 11.
[45] Charles Gargano, letter to H. Carl McCall, August 21, 1996.

stated that the greatest obstacle to compiling this data was "the information gaps and unreliability of the public expenditure data, for which the Zone Annual Reports were the primary source." The report also noted that "the quality of information in the Zone Annual Reports varied considerably among the 40 Zones."[46]

A 2004 review of the program by OSC found various "inconsistencies among the zones as to the completed sections of the ZARs including what should be counted and reported as a new business; what was to be included in the jobs and businesses retained figures section; and what should be reported as the amount of private capital leveraged." Auditors concluded that "these inconsistencies exist and are allowed to continue because DED officials only use the ZAR information in a limited basis and they have not examined the ZARs for inconsistencies in reporting by different zones."[47]

The current ZARs used by the DED to collect data from the zones do not contain information related to the number of targeted employees hired within a zone, the number of jobs lost, the average wage of new jobs, and the total amount of State and local tax credits granted to businesses. The ZARs should be changed to include all of the information currently required by the GML and should be tabulated directly from the BARs submitted by businesses (and subjected to data verification). This would include, but not be limited to, the amount of tax credits given to businesses in the zone in aggregate totals and by credit type, the net number of new jobs created, the number of targeted employees hired, the average salary for new jobs, and the total amount of money invested by new businesses. Without this information, the overall effectiveness of the program and the cost to the State cannot be determined.

4. DED Oversight of Statewide Annual Report

Improved reporting by certified companies and the DED through modified BARs and ZARs would allow the EZODB to release an annual report evaluating the effectiveness of the Empire Zones program for the prior year. This report should include a cost-benefit analysis of the program based on information received in individual reports on the zones program from the Departments of Taxation and Finance and Labor. Currently, New York is one of the only states with a zones program that does not release these figures on a yearly basis.

The EZODB's annual report on the Empire Zones program should also contain an analysis of each zone, including the number of jobs retained and created, the

[46] PEMRI, p. ii-1.
[47] 2003-S-41, p. 28.

number of new and existing certified businesses, total value of tax credits taken (by credit), the number of businesses decertified, and the net job growth for each zone. A comparison of zone data to other economic data for the region and state, including unemployment, poverty, and average wages, should also be included. Analyzing each zone would allow the EZODB, the DED, and other State officials to evaluate the effectiveness of each zone.

Fifteen other states with comparable programs require the state agencies charged with overseeing their enterprise zone programs to compile and submit annual reports on the program's effectiveness.[48] Many other states assign this responsibility to other state agencies and offices, such as the Comptroller, Division of Revenue, and departments of Taxation and/or Labor. This enables the executive and legislative branches of government, as well as the public, to evaluate the programs and determine whether they are effective economic development tools. While each state's reporting structure varies, legislative mandates exist to ensure a thorough level of analysis, transparency, oversight, and interagency cooperation.

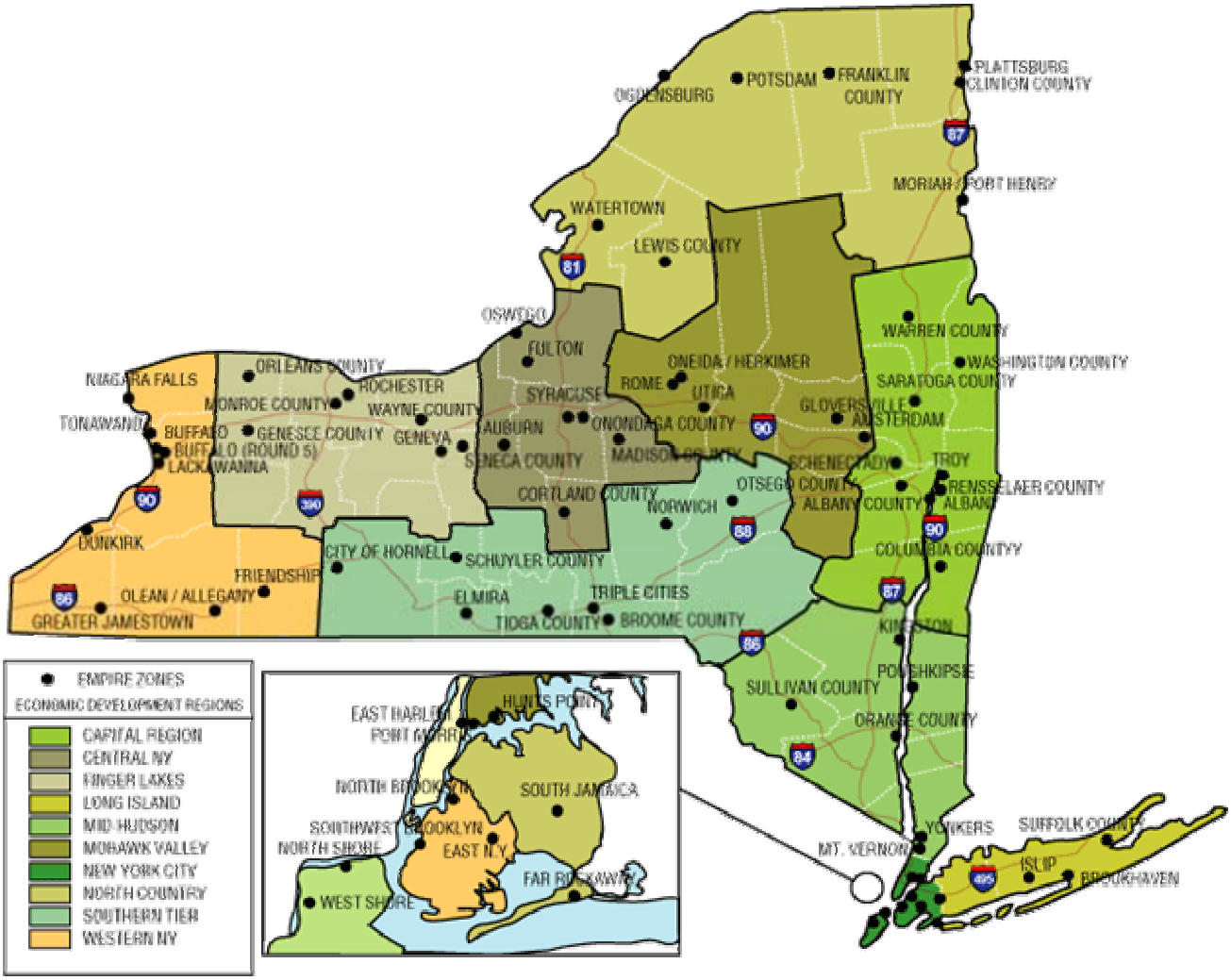
Reporting requirements in other states include the following:

- In Florida, the Department of Revenue is required to submit an annual report to the Office of Tourism, Trade, and Economic Development, which oversees the state's enterprise zone program. The report details the usage and revenue impact by county of enterprise zone incentives. The Office of Tourism, Trade, and Economic Development in turn is required to submit an annual report to the Governor, Speaker of the House, and President of the Senate that includes the information provided by the Department of Revenue as well as an analysis of the activities and accomplishments of each enterprise zone.
- In Illinois, the Department of Commerce and Community Affairs submits an annual report to the Governor and General Assembly evaluating the effectiveness of its enterprise zone program.
- In Maryland, the Department of Business and Economic Development and the Comptroller of the Treasury jointly assess the effectiveness of the tax credits provided to businesses in the enterprise zones, including the number and amounts of credits annually granted and the success of the tax credits in attracting and retaining businesses within the zones. A report outlining these findings is submitted to the Governor and General Assembly.

[48] These states include California, Connecticut, Florida, Georgia, Illinois, Maryland, Michigan, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

- In Michigan, the Department of Economic Development annually reports to the State Legislature on the economic effects of the program within each zone, including the number of new jobs created, the percentage change in aggregate taxable value and state equalized value, average wage of new jobs created, and the percentage change of adjusted gross income of zone residents.
- In New Jersey, the Commerce and Economic Growth Commission prepares a fiscal impact study for each zone and reports annually to the Governor and State Legislature on the effectiveness of the program.

Appendix A
2004 Empire Zones



Appendix B
State by State Enterprise Zone Program Comparison

State	Program	Agency	# of Zones	Income Tax Credit				Property Tax Credit		Sales Tax Credit		Energy/Utility Credit	Other	Notes
					Credit		Requirements	Credit	Restrictions	Credit	Restrictions			
Alabama	Enterprise Zone Program	Dept of Economic and Consumer Affairs	28											
Alaska	Alaska Enterprise	Dept of Commerce and Economic Development												
Arizona	Enterprise Zone Program	Dept of Commerce	24	x	up to $3,000/qualified employee over 3 years (max 200 employees)	x	35% of new employees must live in EZ	x	assessment ratio of 5%	man only / must invest min of $500,000 in fixed assets				No retail
Arkansas	Enterprise Zone Program	Dept of Economic Development	entire state											
California	Enterprise Zone Program	California Trade and Commerce Agency	39	x	$29,234/new qualified employee	x				x	up to $20 mil/yr for qualified machinery		x	up to 100% of net operating loss can be carried forward for 15-yrs	EZ businesses earn preference points on state contracts
Colorado	Enterprise Zone Program	Office of Economic Development and International Trade	16											no retail
Connecticut	Enterprise Zone Program	Dept of Economic and Community Development	17	x	10-yr 25-50% abatement on portion of corp tax attributable to relocation, expansion, or renovation			x	5-yr 80% abatement of local prop taxes attributable to relocation, expansion, or renovation					no retail
	Urban Jobs Program			x	10-yr 25% abatement on portion of corp tax attributable to relocation, expansion, or renovation			x	5-yr 80% abatement of local prop taxes attributable to relocation, expansion, or renovation					only non-EZ designated areas are eligible
Delaware	Delaware	Economic Development Authority												
Florida	Enterprise Zones	Office of Tourism, Trade, and Economic Development and Dept of Revenue	51	x	**Rural Zones** - corp tax credit of 30-45% of wages paid to new employees who reside in EZ / **Urban Zones** - corp tax credit of 15-20% of wages paid to new employees who reside in EZ	x	employees must live in EZ	x	credit against corp income tax equal to 96% of ad valorem taxes paid on new or improved properties		x	**Rural Zones** - sales tax credit of 30-45% of wages paid to new employees who reside in EZ / **Urban Zones** - sales tax credit of 20-30% of wages paid to new employees who reside in EZ	x	50% sales tax exemption on electricity		corp and sales tax credits cannot be used in conjunction
Georgia	Enterprise Zones	Department of Industry Trade and Tourism						x	10-yr exemption (100% for 5-yrs, declines by 20% ea additional yr) limited to 10% of tax liability	must create at least 5 full-time jobs, 10% of which *should* be low- and moderate income			x	abatement or reduction of occupation taxes and regulatory and inspection fees	no retail / exemptions limited to 10% of company's tax liability
	Job Tax Credit		---	x	counties and census tracts ranked based on unemployment, per capita income, and poverty level: **Tier 1** - $3,500 credit, min 5 new jobs / **Tier 2** - $2,500 credit, min 10 new jobs / **Tier 3** - $1,250 credit, min 15 new jobs / **Tier 4** - $750 credit, min 25 new jobs	x	30% of new jobs must be held by residents of eligible census tracts or counties / health ins must be available								no retail / credits allowed for 5-yrs (in yrs 2-6 after the creation of jobs)
Hawaii	Hawaii Enterprise	Dept of Business, Economic Development and Tourism	19					x						
Idaho	Idaho	Dept of Commerce												

State	Program	Agency	# of Zones	Income Tax Credit				Property Tax Credit			Sales Tax Credit				Energy/Utility Credit		Other		Notes
					Credit		Requirements		Credit		Restrictions		Credit		Restrictions				
Illinois	Enterprise Zones	Development Finance Authority		x	$500/employee, must hire 5 employees during taxable yr	x	economically distressed or dislocated workers	x	abatement on real property for renovations, new bldgs, or improvements and on increased Assessed Value as attributable to work			x	6.25% sales tax exemption on all tangible personal property used in EZ for man or assembly / sales tax reduction on building materials	x	must create 200 full-time equivalent jobs or retail 90% of existing jobs			x	investment tax credit of .5% on qualified prop	
	Econ Dev for a Growing Economy (EDGE)		---	x	calculated on a case-by-case basis	x	must retain jobs created during life of credits (min 10-yrs) / must commit $5 mil or create min of 25 jobs													man and export services only
	High Impact Business Program		---	x	tax credit for min of 5 hires	x	business must be located in a foreign trade zone					x	sales tax exemption on bldg materials, man equip, repairs and parts	x	exemption from State gas and electric taxes			x	Investment Tax Credit	project must involve min of $12 mil investment and create 500 full-time jobs or $30 mil investment w/ 1,500 jobs
Indiana	Indiana Enterprise	Dept of Commerce																		
Iowa	Iowa Enterprise	Dept of Economic Development						x				x								
Kansas	Kansas Enterprise	Department of Commerce	entire state									x								
Kentucky	Kentucky Enterprise	Cabinet for Economic Development	10									x				x				
Louisiana	Lousiana Enterprise	Economic Development	1/2 the state									x								
Maine	Maine	Dept of Economic and Community Development																		
Maryland	Maryland Enterprise	Dept of Business and Economic Development	29	x	3-yr $6,000 credit/employee	x	must be "economically targeted" hire	x	10-yr credit on real prop improvements (80% for 5 yrs, decreases by 10% yrs 6-10)											
	Focus Area Tax Credit (w/in Ezs)		4	x	3-yr $1,500 credit/employee or $9,000 credit/disadvantaged new employee	x		x	10-yr 80% credit on real and personal prop taxes on new investments											
	Start-Up Tax Credit		---	x	Credit for moving expenses for out-of-state operations and for costs of equip at new location	x	must create min of 25 jobs w/in 24 mths that pay 150% of min wage and are filled for 12 mths before claiming credits													must be located in "Priority Funding Area"
	Job Creation Tax Credit		---	x	2.5% credit of aggregate wages for new hires, limited to $1,000 times the # of new jobs		x													no retail / must be located in "Priority Funding Area"
Massachusetts	Massachusetts ETA	Dept of Economic Development																		
Michigan	Enterprise Zones	Economic Development Corporation	24					x								x				program ending 12/31/04
	Renaissance Zones		18	x	exempt from City income, person income, and single business taxes			x	exempt from City facility and gen prop taxes							x	exempt from utility taxes			waves all business state and local taxes for 10 to 15-yrs
Minnesota	Minnesota Enterprise	Dept of Trade and Economic Development						x				x								
Mississippi	Mississippi Enterprise Comm	Development Authority	3																	
Missouri	Missouri Enterprise	Dept of Economic Development	66					x												

State	Program	Agency	# of Zones	Income Tax Credit				Property Tax Credit			Sales Tax Credit				Energy/Utility Credit		Other		Notes
					Credit		Requirements		Credit		Restrictions		Credit		Restrictions				
Montana	Montana Enterprise	Dept of Commerce																	
Nebraska	Nebraska Enterprise	Dept of Economic Development																	
Nevada	Nevada Enter Comm	Commission on Economic Development																	
New Hampshire	New Hampshire	Economic Development																	
New Jersey	Urban Enterprise Zones	Dept of Commerce and Economic Development	30	x	tax credit of $500/new employee	x	credit increased to $1,500 if new employee lives in the zone, was unemployed for 90 days, or is on pub assist					x	exempt from sales tax for tangible personal property, excluding vehicles and most services						businesses must certify annually and loose certification if employment drops
New Mexico	New Mexico Enter Comm	Economic Development Dept						x											
New York	**Empire Zones**	**ESDC**	**72**	x	**tax credit of $1,500/new employee**	x	**credit increased to $3,000 if targeted employee paid > 135% state min wage**	x	***15-yr 100% property tax abatement***			x	**exempt from sales tax on construction materials**			x		x	**QEZE benefits for qualified businesses**	
North Carolina	William S Lee Tax Credits	Economic Development																	
North Dakota	North Dakota Renaissance	Economic Development																	
Ohio	Enterprise Zones	Dept of Development	>1/3 the state (>300)					x	10-yr exemption of up to 75% in inc areas and up to 60% exemption in all other areas on real prop improvements or tangible personal prop	must invest in new real or personal prop prior to application									no retail
	Job Creation Credit		---	x	no set rate or terms, determined by Ohio Tax Credit Authority	x	must create min of 25 jobs that pay 150% or 10 jobs that pay 400% of min wage												
	Job Retention Credit		---	x	no set rate or terms, determined by Ohio Tax Credit Authority	x	businesses must employ min of 1,000 full-time employees and make fixed investments of at least $200 mil												
Oklahoma	Oklahoma Enterprise	Dept of Commerce										x							
Oregon	Oregon Enterprise	Economic and Community Development Dept	48					x											
Pennsylvania	Keystone Opportunity Zones	Dept of Community and Economic Development	12	x	exempt from state and local Corporate Net Income and personal income taxes							x	exempt from state and local sales and use taxes					x	exempt from state and local capital stock and foreign franchise, mutual thrift institution, bank and trust company shares, and insurance premiums taxes	
Rhode Island	Rhode Island Enterprise	Economic Development Corporation	11																

State	Program	Agency	# of Zones	Income Tax Credit			Property Tax Credit			Sales Tax Credit			Energy/Utility Credit		Other		Notes
					Credit	Requirements		Credit	Restrictions		Credit	Restrictions					
South Carolina	Enterprise Zones	Jobs Economic Development Authority	entire state	x	5% of gross employee wages for 15-yrs to be used by business to reimburse site acquisitions or improvements, utility improvements, capital leases, fixed trans facilities, pollution control equip, or employee training	x	must create min of 10 full-time jobs								x	$500 for ea production employee retrained to maintain business competitiveness	
	Jobs Tax Credit		---	x	value of 5-yr credit depends on level of dev in county (4 tiers) - least dev - $4,500 credit / under dev - $3,500 credit / moderate dev - $2,500 credit / developed - $1,500 credit	x	must create min of 10 full-time jobs w/ full benefits										retail and service industries can receive credits only if they are in least dev tier
	Corporate Headquarters Credit		---	x	credit of 20% of qualifying real prop, direct construction, and lease (first 5-yrs) costs	x	must create at least 40 new jobs including 20 exec, admin, or prof / real prop costs must be at least $50,000										
South Dakota	South Dakota	Governor's Office of Economic Development															
Tennessee	Tennessee Enter Comm	Dept of Economic and Community Development		x	$2,000 credit/new employee ($3,000 credit in special counties)	x	must hire min of 25 employees w/ min health care and a cap investment of at least $500,000	x	no prop tax on goods-in-process, finished goods inventories, or goods-in-transit		x	no sales tax on industrial machinery, pollution controls, materials that will be a component of a finished product, or raw materials for processing / reduced sales tax on energy fuel for man / 5.5% credit for building materials, machinery, and equip used in new or expanded headquarters	x	min cap investment of $50 million		x	1% excise tax credit for industrial machinery, warehouse equip, or communications network / no franchise tax	
Texas	Texas Enterprise	Dept of Economic Development	176					x			x						
Utah	Utah Enterprise	Dept of Community and Economic Development	44					x									
Vermont	Vermont	Economic Development Authority						x			x						
Virginia	Virginia Enterprise	Dept of Economic Development	57					x									
Washington	Washington	Economic Development Finance Authority															
West Virginia	West Virginia TIF	Development Office															
Wisconsin	Development Opportunity Zones	Dept of Commerce															
	Development Zones																
	Enterprise Development Zones										x						
Wyoming	Wyoming																

Appendix C
2002 Business Annual Report
2002 Zone Annual Report

CERTIFICATION ID#:

New York State
Empire State Development
Empire Zones Program

FILING THIS FORM IS A MANDATORY REQUIREMENT FOR CERTIFICATION

2002

BUSINESS ANNUAL REPORT

A. *Business Certification Information*

Company Name:

Zone Address:

Mailing Address (if different):

Certification Status: Date Certified:

Employer ID Number (EIN):

Responsible Officer Name:

Phone:
FAX: _____
E-Mail: _____

B. *Change of Business Structure, Ownership, Name and/or Address within zone*

NOTE: A business that has changed its taxpayer ID (EIN) from that indicated in Section A, must be decertified, and then reapply for zone certification.

Does a new certificate need to be issued? Y / N

New Organization Name:

New Address within zone:

C. *Annual Employment Data*

Employment data for calendar year 2002 for zone location only: Add employment totals for each quarter (e.g. 3/31, 6/30, 9/30 and 12/31); divide by 4 and enter below.

FULL TIME:_____ PART TIME: _____

Gross Payroll $_____ (excluding general executive officers) For gross payroll, add the gross totals for all four quarters.

D. *Fixed Asset Investment*

Fixed Asset Investment made in zone facility from 1/1/02 - 12/31/02 only. Do not include fixed asset purchases made in previous reporting periods.

Real Property/Plant: $_____
Production Equipment: $_____
Vehicles: $_____
Other Equipment: $_____
TOTAL: $_____

E. *Use of Tax Credits*

Wage Tax Credits:

Is your business eligible to claim Wage Tax Credits? [ ] Yes [ ] No

If yes, please estimate the amount of the credits you expect to claim for the tax year 2002? $_____

Investment Tax Credits/Employment Incentive Tax Credits:

Is your business eligible to claim Investment Tax Credits? [ ] Yes [ ] No

Is your business eligible to claim Employment Incentive Tax Credits? [ ] Yes [ ] No

If yes, please estimate the amount of the credits you expect to claim for the tax year 2002? $ ITC_____ EITC $_____

Is your business eligible for the "new business refund"? [ ] Yes [ ] No If yes, amount of refund $ _____

PLEASE TURN PAGE OVER AND COMPLETE OTHER SIDE

F. *Qualified Empire Zone Enterprise (QEZE) Benefits – 2002*

Is your business eligible to claim the QEZE Sales Tax Exemption in the tax year 2002? [ ] Yes [ ] No

If yes, please estimate amount of estimated credit $_____

Please estimate the amount of the following credits your business expects to claim for the tax year 2002?

Estimated Amount Claimed

a. Real Property Tax Credit $ _____

b. QEZE Tax Reduction Credit $ _____

G. *FOR VOLUNTARY DECERTIFICATION ONLY – Surrender of Certificate*

If you no longer wish to participate in the Empire Zones Program and are requesting voluntary decertification, please check box for decertification and sign below. [ ] check here

SIGNATURE:

I hereby attest that the information contained in this report is true and correct to the best of my knowledge.

_____ _____

Signature and Title of Responsible Officer for Business Date

_____

Please Print Name and Title of Person Signing Form

_____ _____

Signature of Zone Coordinator Date

Business is located within the boundary of the zone [ ] yes [ ] no

For Zone Coordinator use only *(decertification recommendations):*

Please circle one of the reasons below as a basis for decertification of the above business.

Did not submit a bar (X-NB) Merged (X-MRG) Voluntary (X-V)

No longer in the zone (X-NIZ) Change of Owner/FEIN#(X-CO)

Out of Business (X-OB)

FOR RESPONSIBLE OFFICER OF COMPANY: **Please sign and date the bottom of the Business Annual Report when the form is completed.**

FAILURE TO COMPLETE AND SUBMIT THIS FORM WILL RESULT IN DECERTIFICATION

FOR ZONE COORDINATOR GUIDANCE ONLY:

A BAR must be submitted for each business, even if it is being recommended for decertification.

The Zone Coordinator must sign and date the BAR form after a final review

EDZ ANNUAL REPORT COVER

Reporting Period: JANUARY 1, 2001 – DECEMBER 31, 2001 **Report #: 3**

County/Town/City/Village: **NEW YORK**

EDZ Number:

Date of Zone Designation:

Zone Coordinator (Name):

Address:

Phone:

Zone Certifying Officer (Name):

Phone:

Zone Board Chairman (Name):

Address:

Phone:

Attach list of all ZAB members. Include name, title, address, phone number.

Based upon the information supplied to me by several City agencies and the Corporation, I hereby certify that the information in this report is true and accurate.

(Signature of Zone Board Chairman) **(Date)**

(Signature of Zone Coordinator) **(Date)**

County/Town/City/Village: **NY** **Program Year: 2001** **Report #: 3**

Attachment A
Zone Administrative Board Members

Section 957(e) of the EDZ law states that the local Zone Administrative Board shall consist of at least six members, none of whom shall be the local economic development zone certifying officer, and shall be representative of local businesses, organized labor, community organizations, financial institutions, local education institutions and residents of the economic development zone.

Complete the form below by filling in the name of the board member who represents these categories. Also, attach a list of all board members with addresses and phone numbers. Label this list as Attachment A(1).

Representation	Name	Affiliation
Local Business		**(SEE ATTACHMENT)**
Organized Labor		
Community Organization		
Financial Institution		
Educational Institution		
Zone Resident		

Attachment B
Specific Strategies & Priorities

Section 969 of the EDZ law was amended in 1996. It requires that the zone annual report shall include a current description of the specific strategies and priorities for economic revitalization of the zone.

On a separate page labeled Attachment B(1) describe the specific strategies and priorities for economic revitalization of the zone. Use your **Yearly Program Plan** from the last half of contract year 2000-01 and the first half of contract year 2001-02 as a guide. Succinctly list your goals for 2001. In Section 2 of this report, you must describe your accomplishments in detail.

On a separate page labeled Attachment B(2) describe the improvements to the physical infrastructure of the zone. Include information on the economic impact the project had on the zone, e.g. how many businesses are located along a roadway improvement project; the increase in capacity of a sewer treatment facility expansion, etc. Include the total project costs even it the project served a larger area than the zone.

How many jobs were created by EZ-certified businesses during 2001?
Refer to **2001 BARs** for jobs created. Add together fulltime plus parttime jobs.

How many new business were created in the EZ during 2001?
Include only new start-up businesses and businesses newly located in New York State. Do not include businesses that expanded or relocated into the EZ from elsewhere in NYS. Provide the 4-digit SIC (Standard Industrial Code) number for each business created. SIC numbers can be found in Box 10 of the EZ Certification Application.

SIC #s for each new business created:

How many jobs were retained by EZ-certified businesses during 2001?
Include only those jobs that would have been lost, but as a result of the **direct involvement** of your office (through technical or financial assistance, tax credits, utility rate reductions, etc.) these jobs were saved. Please attach an appendix of your efforts (name the business, correspondence, etc.)

How many businesses were retained in the EZ during 2001?
Include only those businesses that would have been lost, but as a result of the **direct involvement** of your office (through technical or financial assistance, tax credits, utility rate reductions, etc.) these businesses were saved.

SIC #s for each business retained:

What was the total amount of private capital leveraged with public funds?
Include equity investments made by EZ-certified businesses in cases where they received state or local financing assistance. Also include direct equity investments in EZ-certified businesses supported with the use of zone capital credits.

*NOTE: The total actual amount of private capital leveraged with public funds has not been determined. The above calculation is based on the assumption that private investment by EZ-certified firms has been leveraged by the availability of state and/or local incentives. The exception is the Zone Direct Equity Tax Credit. $170,000 in private equity investment was leveraged by $42,500 in credits. This is included in the $42 million+ reported above.

Appendix D
Empire Zones Program Audit and Report Recommendations 1990-2004

1990 OSC Audit (A-7-90)	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Prepare detailed written procedures and guideline for program monitoring, designating the entity responsible for each step		X	X	X		X	X	
Prepare detailed written procedures for verification of the data reported on the business application and annual report, and designate the entity responsible for each step			X	X		X	X	X
Prepare detailed written procedures for evaluating whether an EDZ has met the objectives in its Plan and whether an individual business has met the projections and commitments in its application, in order to determine whether decertification is warranted. Such procedures should designate the entity responsible for conducting the evaluation and the entity to which it should be directed		X				X	X	
Ensure that all BARs are submitted on time			X					
Visit businesses that are preparing BARs to offer assistance and to verify as much of the reported information as possible			X			X	X	X
Closely review all BARs. Incomplete forms should be returned…			X			X	X	X
Determine the reasons why results reported on a BAR do not meet the job and investment projections recorded on its application						X	X	X
Carefully review the BARs to detect errors			X			X	X	X
Consider decertification procedures for those companies that fail to submit their BARs			X			X		
Work cooperatively with the Department of Taxation and Finance (DOTF) to arrange for access to the tax information necessary for monitoring the EDZ program. [If needed] legislation should be sought amending the tax laws to expressly allow Taxation and Finance to provide information for the purpose of EDZ program monitoring		X	X	X		X	X	X
Require the Zone Coordinator to review and comment on the ZAR before it is made final and sent to DED								
[The Office of Business Development should] state, in the various reports it prepared, whether the zones are meeting the goals of the EDZ program		X	X			X	X	X
Verify the accuracy of the employment information on the applications and the BARs.			X			X	X	X
[DED should] review its BAR Summary for accuracy of the statistics reported			X			X	X	X
Revise the BAR to refer more accurately to the utility benefit as a reduction, not a credit								

Appendix D (Continued)

1991 LCER	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
DED should assess the cost-benefit and effectiveness of the incentives and recommend changes as appropriate to the Legislature			X	X			X	X
DED should monitor the zones to ensure that the goals of the program are being met	X		X	X		X	X	X
DED and Department of Labor (DOL) need to assume responsibility for oversight of the job creation/business development portion of the program and develop a coordinated method of identifying all jobs created on a net basis and investments made in the zones, in an accurate, consistent, and verifiable way	X		X	X		X	X	X
DED should simplify certification applications and BARs and assure that information needed to satisfy statutory criteria is collected			X	X		X		X
DED should reassess its evaluation plan and its data requirements for determining the impact of the Zone Program	X		X	X		X	X	X
The DOTF, prior to reporting data on tax expenditures, should verify the information provided by zone businesses and ensure that it is reliable	X		X	X	X	X	X	X

1996 OSC Audit (95-S-78)	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Implement a system for evaluating effectiveness of EDZ Program	X	X		X		X	X	X
Ensure the EDZ Program's effectiveness is evaluated by an independent entity				X				
Implement a system for determining whether benefits of the EDZ Program exceed the costs of forgone taxes and program expenditures		X		X		X	X	X
Ensure all econ dev zones submit ZARs				X			X	
Ensure that the econ dev zones are visited regularly and the results are documented				X				
Ensure that annual reports are submitted by each business participating in the EDZ program	X						X	X
Ensure that annual reports submitted by the econ dev zones are complete and accurate				X		X	X	X
Decertify businesses that do not comply with their certification agreement	X					X	X	X
Seek legislative authorization to obtain relevant employment and tax information maintained by the DOL and the DOTF	X			X		X	X	X

1998 OSC Follow-Up (97-F-37)	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Implement a system for evaluating effectiveness of EDZ Program	X	X	X			X	X	X
Ensure the EDZ Program's effectiveness is evaluated by an independent entity			X					
Implement a system for determining whether benefits of the EDZ Program exceed the costs of forgone taxes and program expenditures		X	X			X	X	X
Ensure all econ dev zones submit ZARs	X		X				X	X
Ensure that the econ dev zones are visited regularly and the results are documented			X					
Ensure that annual reports submitted by the econ dev zones are complete and accurate	X		X			X	X	X
Seek legislative authorization to obtain relevant employment and tax information maintained by the DOL and the DOTF	X		X			X	X	X

Appendix D (Continued)

1999 PEMRI Report	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Revise applications and reports to establish a consistent and standardized database on public and private capital investments and other expenditures								
Provide additional training to Zone coordinators	X					X		
Provide better and more information to potential and actual certified businesses on the various benefits and how they may be obtained								
Seek better coordination with the Departments of Labor, and Taxation and Finance to improve the exchange of certain key data about the EDZ program	X	X	X	X		X	X	X

2004 OSC Administrative Audit (2003-S-41)	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Provide more complete training to businesses on the completion of the BARs to help ensure they are properly completed	X							
Modify the BAR to increase its effectiveness as a monitoring tool by including complete and actual information, such as …			X	X				X
Address BAR data entry delays be investigation the use of time saving approaches, such as scanable documents and online BAR reporting								
Act timely to decertify a business that does not submit its BAR as required	X		X	X				
Perform an analysis of BAR data collected to evaluate the performance of certified businesses in the Program, such as whether they have met employment goals	X		X	X			X	X
Verify the information reported on the BARs to DOTF information on a sample basis	X	X	X	X			X	X
Use ZARs as a monitoring tool, and take action when appropriate zones are not meeting their planned goals	X						X	X
Provide more complete instructions and training to zone coordinators on the completion of the ZARs	X							
Compare data reported on the ZARs to the BARs and follow up on material differences identified							X	X
Modify the ZAR to increase its effectiveness as a monitoring tool by including similar information to that of the BARs			X	X			X	X
Develop a process that requires the documentation of decisions by senior DED officials regarding recommendations of zone applicant to the Zone Designation Board								
Establish specific, objective, and quantifiable criteria for certifying a business								
Conduct a cost benefit analysis estimated before certifying the application to identify situation where businesses would receive tax benefits that exceed the benefit provided		X	X	X			X	X
Test on a sample basis to ensure all zones are completing ZARs as instructed			X	X				
Implement a system to take corrective action when performance falls below acceptable levels and to take enforcement actions such as decertification when performance does not improve			X	X			X	X
Act timely to decertify any business identified through analysis as having recurrent performance shortfalls)			X	X			X	X

Appendix D (Continued)

2004 OSC Zone Audits (2004-MS-1)	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Conduct cost benefit analysis to help ensure that individual businesses are not certified if it would result in those businesses receiving tax breaks that exceed the benefits provided to the community			X	X		X		X
Perform an annual Zone-wide cost benefit analysis to access Program effectiveness and efficiency		X	X	X		X		X
Work with DED/ESDC to revise reporting and monitoring requirements for businesses that receive sales tax exemption certificates to ensure that the Zones obtain the necessary confirmation that applicable businesses are maintaining their QEZE status								X
Ensure that the data necessary to determine their Program's costs and benefits is collected… If Zone Boards determine that improvements should be made to the BAR to facilitate the collection of this data, they should work with DED/ESDC to modify the current report format		X	X	X		X		X
Pursue agreements with the DED/ESDC, the State DOTF and DOL to obtain necessary information to verify the accuracy of data reported by individual businesses… Data discrepancies should be investigated to ensure that data reported to the Zones is accurate	X	X	X	X		X		X
Improve the current data collection and reporting system to ensure that accurate data is reported in the Annual Report. This should include reporting total Program costs and benefits	X		X	X		X		X
Improve monitoring and evaluation systems to address control deficiencies. At a minimum this should include developing specific criteria for job creation and investment for certifying a business and annually comparing BARs to applications			X	X		X		X
Initiate decertification procedures for businesses with performance shortfalls			X			X		X
Work with DED/ESDC to review the application certification process to determine whether business projections should more closely align with benefit periods								
Develop a complete and comprehensive written evaluation plan that addresses all aspects of performance measurement and Program administration	X	X	X	X				X
Establish and implement comprehensive performance measurement and evaluation systems. If necessary, request assistance from DED/ESDC to establish such systems	X	X	X	X		X		X
Annual reports should include selected outcome measures and comparisons to benchmarks						X		X

Appendix D (Continued)

2004 OSC Zone Audits (2003-D-4, 5, and 6)	Oct-90 (OSC Audit)	1991 (LCER Review)	May-96 (OSC Audit)	Feb-98 (OSC Audit)	Sep-99 (PERMI)	Mar-04 (OSC Admin Audit)	Mar-04 (OSC Upstate Audit)	Apr-04 (OSC NYC Audit)
Develop a complete and comprehensive written evaluation plan that addresses all aspects of performance measurement and Program administration	X	X	X	X				
Establish and implement comprehensive performance measurement and evaluation systems. If necessary, request assistance from DED to establish such systems	X	X	X	X		X		
Improve monitoring and evaluation systems to address control deficiencies.	X		X	X		X		
Institute a system to address performance shortfalls by Zone businesses. Initiate decertification procedures for businesses with recurrent performance shortfalls			X			X		
Pursue agreements with the DED/ESDC, the State DOTF and DOL to obtain necessary information to verify the accuracy of data reported by individual businesses… Data discrepancies should be investigated to ensure that data reported to the Zones is accurate	X	X	X	X		X		
Conduct cost benefit analysis to help ensure that individual businesses are not certified if it would result in those businesses receiving tax breaks that exceed the benefits provided to the community			X	X		X		
Perform an annual Zone-wide cost benefit analysis to access Program effectiveness and efficiency		X	X	X		X		
Ensure that the data necessary to determine their Program's costs and benefits is collected… If Zone Boards determine that improvements should be made to the BAR to facilitate the collection of this data, they should work with DED/ESDC to modify the current report format			X	X		X		
Obtain clear instructions for DED on how to complete the ZAR	X					X		

Appendix E
Excerpts from the Ohio Department of Development 20002 Annual Enterprise Zone Report

Table 1
OHIO ENTERPRISE ZONE PROGRAM SUMMARY OF 2002 ACTIVITY

COUNTY / Zone	Company Name	Local Community	Date Executed	Job Commitments: Retain	Job Commitments: Create	Job Commitments: # of Yrs.	Job Commitments: New Payroll	Investment Commitment: Real	Investment Commitment: Personal	Local Tax Incentive Granted*: Real Property %age	Real Property term	Personal Property %age	Personal Property term
ALLEN													
198	VANAMATIC	DELPHOS	8/15/2002	0	15	3	$420,000.00	$5,460,381.00	$1,373,619.00	100	10	0	0
Zone 198 Totals:		1 Agreement		0	15		$420,000.00	$5,460,381.00	$1,373,619.00				
233	PEPSI AMERICAS	PERRY TOWNSHIP	3/14/2002	0	6	1	$162,000.00	$0.00	$1,400,000.00	0	0	60	10
Zone 233 Totals:		1 Agreement		0	6		$162,000.00	$0.00	$1,400,000.00				
ALLEN County Totals:		2 Agreements		0	21		$582,000.00	$5,460,381.00	$2,773,619.00				
ASHLAND													
037	REINEKE CO, INC	ASHLAND	8/15/2002	0	50	3	$1,250,000.00	$800,000.00	$2,000,000.00	0	0	100	10
	HILLMAN PRECISION	ASHLAND	10/1/2002	0	5	3	$175,000.00	$0.00	$370,000.00	0	0	100	10
Zone 037 Totals:		2 Agreements		0	55		$1,425,000.00	$800,000.00	$2,370,000.00				
ASHLAND County Totals:		2 Agreements		0	55		$1,425,000.00	$800,000.00	$2,370,000.00				
ASHTABULA													
133	NEFF-PERKINS COMPANY	AUSTINBURG	5/30/2002	68	0	0	$0.00	$0.00	$482,558.00	0	0	60	5
	KRAFTMAID CABINETRY, INC	ORWELL	5/30/2002	457	105	2	$3,115,035.00	$248,250.00	$2,050,000.00	60	10	60	10
	CW OHIO, INC	CONNEAUT	12/12/2002	237	25	3	$569,400.00	$807,284.00	$2,636,969.00	75	5	75	5
	GABRIEL PERFORMANCE PRODUCTS	ASHTABULA TOWNSHIP	5/14/2002	77	0	2	$0.00	$0.00	$5,600,000.00	0	0	60	5
Zone 133 Totals:		4 Agreements		839	130		$3,684,435.00	$1,055,534.00	$10,769,527.00				
322	ALLPASS CORPORATION	ASHTABULA	12/12/2002	3	13	3	$134,730.00	$220,000.00	$114,096.00	75	5	75	5
	SAVE-A-LOT	AUSTINBURG TOWNSHIP	6/25/2002	0	175	3	$3,350,000.00	$16,388,090.00	$14,885,342.00	100	10	100	10
Zone 322 Totals:		2 Agreements		3	188		$3,484,730.00	$16,608,090.00	$14,999,438.00				
ASHTABULA County Totals:		6 Agreements		842	318		$7,169,165.00	$17,663,624.00	$25,768,965.00				
ATHENS													
062	SPECIALTY BOOK, INC.	DOVER/YORK TOWNSHIPS	2/19/2002	57	40	3	$1,040,000.00	$800,000.00	$3,750,000.00	60	10	60	10
	LITTER DISTRIBUTING CO., INC DBA	ALEXANDER (TOWNSHIP OF)	10/15/2002	28	10	2	$375,000.00	$750,000.00	$255,000.00	60	10	60	10
Zone 062 Totals:		2 Agreements		85	50		$1,415,000.00	$1,550,000.00	$4,005,000.00				
ATHENS County Totals:		2 Agreements		85	50		$1,415,000.00	$1,550,000.00	$4,005,000.00				
AUGLAIZE													
054	AAP ST. MARY'S CORP #5	ST. MARYS	4/11/2002	0	20	1	$702,000.00	$0.00	$6,136,000.00	0	0	50	10
Zone 054 Totals:		1 Agreement		0	20		$702,000.00	$0.00	$6,136,000.00				
186	GLOBUS PRINTING & PACKAGING, INC.	MINSTER	12/31/2002	0	14	2		$0.00	$1,700,000.00	0	0	50	5
Zone 186 Totals:		1 Agreement		0	14			$0.00	$1,700,000.00				

* The percentage may represent an average incentive over the term.

Table 4
OHIO ENTERPRISE ZONE PROGRAM REVENUE PROJECTIONS
2002 AGREEMENTS

		Real Property		*Personal Property*		*Local Income Tax*	
		Taxes Paid	Taxes Forgone	Taxes Paid	Taxes Forgone	Municipal	Local School
ALLEN							
198	Summary for 198 (1 agreements)	$0.00	$879,885.79	$118,553.80	$0.00	$63,000.00	$0.00
233	Summary for 233 (1 agreements)	$0.00	$0.00	$49,300.29	$73,950.43	$0.00	$0.00
Summary for County	**(2 agreements)**	**$0.00**	**$879,885.79**	**$167,854.09**	**$73,950.43**	**$63,000.00**	**$0.00**
ASHLAND							
037	Summary for 037 (2 agreements)	$0.00	$0.00	$0.00	$253,767.71	$213,750.00	$0.00
Summary for County	**(2 agreements)**	**$0.00**	**$0.00**	**$0.00**	**$253,767.71**	**$213,750.00**	**$0.00**
ASHTABULA							
133	Summary for 133 (4 agreements)	$52,053.28	$130,411.60	$468,738.06	$822,424.21	$405,454.50	$0.00
322	Summary for 322 (2 agreements)	$1,728.65	$2,684,593.45	$3,422.20	$1,872,607.43	$24,251.40	$0.00
Summary for County	**(6 agreements)**	**$53,781.93**	**$2,815,005.05**	**$472,160.26**	**$2,695,031.65**	**$429,705.90**	**$0.00**
ATHENS							
062	Summary for 062 (2 agreements)	$127,270.50	$190,905.75	$215,542.18	$323,313.27	$179,000.00	$0.00
Summary for County	**(2 agreements)**	**$127,270.50**	**$190,905.75**	**$215,542.18**	**$323,313.27**	**$179,000.00**	**$0.00**
AUGLAIZE							
054	Summary for 054 (1 agreements)	$0.00	$0.00	$292,192.45	$292,192.45	$105,300.00	$0.00
186	Summary for 186 (1 agreements)	$0.00	$0.00	$80,952.93	$80,952.93	$18,750.00	$0.00
192	Summary for 192 (2 agreements)	$77,190.75	$104,900.25	$53,312.05	$159,936.16	$181,500.00	$136,125.00

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