

EMPOWERMENT ZONES, ENTERPRISE
COMMUNITIES, BLACK BUSINESS, AND
UNEMPLOYMENT

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I. INTRODUCTION

This Article analyzes the federal Empowerment Zones and Enterprise Communities (EZ/ECs) program¹ with a focus on its potential impact on the black business community and the employment of inner-city minority residents. Established by Congress in 1993,² the EZ/ECs are a product of the enterprise zone concept developed and advocated by Professor Peter Hall.³ The EZ/ECs are designed to encourage businesses to locate and operate in economically distressed communities by reducing taxes, regulatory burdens, labor costs, and other disincentives to operate within those areas.⁴ Theoretically, such new and expanded business activity should create jobs for EZ/EC residents and spur economic revitalization for their distressed communities.⁵

1. See Omnibus Budget Reconciliation Act of 1993, 26 U.S.C. §§ 1391-1397D (1994), amended by Taxpayer Relief Act of 1997, Pub. L. No. 105-34, §§ 951-952, 111 Stat. 788, 885.

2. Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13301, 107 Stat. 312, 543, amended by Taxpayer Relief Act of 1997, Pub. L. No. 105-34, §§ 951-952, 111 Stat. 788, 885.

3. See Peter Hall, *The British Enterprise Zones*, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT 179, 180-81 (Roy E. Green ed., 1991).

4. See H.R. REP. NO. 103-11, at 791 (1993), reprinted in 1993 U.S.C.C.A.N 1021.

5. See generally Bennett Harrison, *The Politics and Economics of the Urban Enterprise*

Because a significant number of inner-city areas are composed of large minority populations, the economic and commercial conditions particular to minority communities are of significant concern when evaluating the effectiveness of businesses located in those communities. One aspect of inner-city communities that is especially important in this respect is minority employment. The employment status of minority residents of inner-city communities is significant because it largely determines the financial health of the residents and, in turn, the health of the businesses that those residents patronize. Because minority-owned businesses in both urban and suburban locations are more likely to recruit employees residing in inner-city neighborhoods than are nonminority-owned businesses,⁶ this Article proposes that increasing the number and economic vitality of minority-owned businesses should serve as the focus of every urban development program, particularly the EZ/EC program.

In order to provide a foundation for analyzing the current EZ/EC program, Part II of this Article discusses the origin and evolution of the enterprise zone concept both in Great Britain⁷ and in the United States. Part III of this Article examines the present status of the EZ/EC program in the United States and focuses on the criteria that communities must satisfy in order to receive benefits under the EZ/EC program. Part IV then examines the two lines of minority-owned businesses, the "traditional line"⁸ and the "emerging line,"⁹ in order to assess which type of minority-owned businesses will likely have a greater impact on reducing unemployment levels in minority communities through the EZ/EC program. Part V analyzes the EZ/EC program's likely impact on creating successful minority-owned businesses and reducing unemployment levels among inner-city

Zone Proposal: A Critique, 6 INT'L J. URB. & REGIONAL RES. 422 (1986).

6. See Margaret C. Simms, Presentation at the *Wall Street Journal* Conference on Black Entrepreneurship in America, (Oct. 18, 1995); see also TIMOTHY BATES, BANKING ON BLACK ENTERPRISE: THE POTENTIAL OF EMERGING FIRMS FOR REVITALIZING URBAN ECONOMIES 90 (1993).

7. The British enterprise zone is the blueprint upon which current EZ/EC provisions are based. Thus, to better understand how the EZ/EC program became what it is today, one must first have knowledge of the British enterprise zone program. For a thorough discussion of the British enterprise zone program, see *infra* Part II.A.

8. See discussion *infra* Part IV.A.

9. See discussion *infra* Part IV.B.

residents. Part V ultimately concludes that the current EZ/EC program will not significantly reduce unemployment levels within inner-city areas because the types of minority-owned businesses most likely to locate within the EZ/ECs are the traditional line, rather than the emerging line, minority businesses. In response to this perceived shortcoming, Part VI of this Article proposes that the EZ/EC program target the emerging line of minority-owned businesses and provides suggestions that could aid in creating more emerging line businesses with the goal of creating greater numbers of better paying jobs for inner-city residents.

II. A HISTORY OF ENTERPRISE ZONES

A. The Origin of Enterprise Zones in Britain

Many credit Peter Hall, a British professor of urban planning, with creating the enterprise zone concept.¹⁰ Professor Hall's enterprise zone concept called for reduced governmental regulation within economically depressed urban communities as a means of stimulating economic growth within those areas.¹¹ With reduced regulation, lower taxes, and other financial incentives for businesses, economic activity would increase due to the reduced cost of operating businesses within those areas.¹² In addition, Hall asserted that enterprise zones would create jobs in two ways.¹³ First, Hall theorized that enterprise zones would create low-wage jobs within the zones due to the increasing number of businesses seeking cheap labor.¹⁴ Second, Hall posited that enterprise zones would foster the creation of skilled jobs because new small businesses would evolve into sophisticated enterprises through innovation.¹⁵ In advocating his enterprise zone concept, Hall added a disclaimer that he did not intend for his proposal to be a model strategy for urban development, but, rather, to serve as a last resort for

10. See Harrison, *supra* note 5, at 422.

11. See Hall, *supra* note 3, at 180-81.

12. See David Williams, II, *The Enterprise Zone Concept at the Federal Level: Are Proposed Tax Incentives the Needed Ingredient*, 9 VA. TAX REV. 711, 716-17 (1990).

13. See Peter Hall, *Enterprise Zones: A Justification*, 6 INT'L J. URB. & REGIONAL RES. 416, 418-19 (1982).

14. See *id.*

15. See *id.*

reinvigorating urban areas.¹⁶

Professor Hall envisioned enterprise zones as being akin to free trade zones and, thus, modeled them after the economically and commercially successful urban plans of Hong Kong and Singapore.¹⁷ However, the British did not intend for their enterprise zones to stimulate economic activity in populated areas.¹⁸ Instead, their intent was to spur economic activity in abandoned industrial areas.¹⁹

The British created their enterprise zones under the Local Government, Planning and Land Act of 1980.²⁰ The main purpose of the legislation that created the British enterprise zones was to attract medium- to large-scale capital-intensive industries²¹ to abandoned industrial areas that possessed few, if any, residents.²² This legislation, while not as comprehensive as Hall's proposals,²³ provided for the designation of eleven enterprise zones in 1980 and thirteen zones in 1982.²⁴ The Act further provided that businesses in these zones would enjoy less-restrictive land use planning regulations,²⁵ exemption from property taxes and the Development Land Tax for business-use buildings,²⁶ and the ability to write-off the cost of buildings and equipment within one year of acquisition.²⁷ The Act made these benefits available in the enterprise zones for ten years from the time of their designation as enterprise zones.²⁸

B. The U.S. Experience

Not long after its birth in Great Britain, the enterprise zone concept attracted the attention of U.S. Congressman Jack Kemp, who later

16. See *id.* at 420; see also Hall, *supra* note 3, at 181.

17. See Hall, *supra* note 3, at 182.

18. See Stuart M. Butler, *Conceptual Evolution of Enterprise Zones*, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT 27, 29 (Roy E. Green ed., 1991).

19. See *id.*

20. Local Government, Planning and Land Act, 1980, ch. 65, sch. 32, § 179.

21. See Williams, *supra* note 12, at 716-17.

22. See Hall, *supra* note 3, at 184.

23. See *id.* at 183-84; see also Williams, *supra* note 12, at 716.

24. See Williams, *supra* note 12, at 716.

25. See Hall, *supra* note 3, at 183.

26. See Williams, *supra* note 12, at 717.

27. See *id.*

28. See Hall, *supra* note 3, at 183.

enlisted Congressman Robert Garcia in support of the concept.²⁹ Both Kemp and Garcia were New York Congressmen who viewed enterprise zones as an urban development strategy for U.S. cities.³⁰ Kemp introduced the first enterprise zone bill in Congress in 1980³¹ and continued to advocate for the passage of federal enterprise zones throughout his congressional tenure and as Secretary of Housing and Urban Development (HUD) during the Bush Administration.³² Other legislators also introduced enterprise zone bills in Congress during the 1980s and 1990s.³³ These bills provided significant investment incentives such as a capital gains preference,³⁴ investment tax credits,³⁵ and wage credits³⁶ for investors in, and owners of, enterprise zone businesses.³⁷

Congress failed to enact any enterprise zone legislation until 1993,³⁸ other than Title VII of the Housing and Community Development Act of 1987,³⁹ which was never utilized.⁴⁰ This failure to enact enterprise zone legislation occurred despite the fact that Presidents Ronald Reagan and George Bush envisioned enterprise zones as the answer to inner-

29. See Lewis D. Solomon & Janet Stern Solomon, *Enterprise Zones, Tax Incentives and the Revitalization of Inner Cities: A Study of Supply Side Policy Making*, 1981 DET. C.L. REV. 797, 797 (1981).

30. Kemp was a Republican from Buffalo, New York and an advocate of President Ronald Reagan's supply-side economic strategy. See Butler, *supra* note 18, at 30-31. Garcia was a liberal Democrat who represented the South Bronx of New York City, an area considered to be a prime example of the type of distressed urban community that could benefit from the enterprise zone incentives. See *id.* at 29.

31. See H.R. 7240, 96th Cong. (1980).

32. See David Martin, *The President and the Cities: Clinton's Urban Aid Agenda*, 26 URB. LAW. 99, 113 (1994).

33. See H.R. 15, 103d Cong. (1993); H.R. 23, 102d Cong. (1991); H.R. 11, 102d Cong. (1991); S. 2298, 97th Cong. (1982); S. 1829, 97th Cong. (1982); H.R. 3824, 97th Cong. (1981).

34. See S. 2298, 97th Cong. (1982).

35. See *id.*

36. See S. 1829, 97th Cong. (1982); H.R. 3824, 97th Cong. (1981).

37. See *Enterprise Zones Proving to be Successful*, 131 CONG. REC. E4347 (daily ed. Oct. 3, 1985) (statement of Rep. Kemp). Professor Hall considered such incentives a potential windfall for speculative investors and inappropriate for new small businesses, which generally do not have taxable income during their early years of operation. See Hall, *supra* note 13, at 419.

38. See discussion *infra* Part III.A.

39. 42 U.S.C. §§ 11501-11505 (1994). See generally Kevin D. Bird, Note, *Bringing New Life to Enterprise Zones: Congress Finally Takes the First Step With the Housing and Community Development Act of 1987*, 35 WASH. U.J. URB. & CONTEMP. L. 109 (1989).

40. See 135 CONG. REC. E1735 (daily ed. May 17, 1989) (statement of Rep. Garcia).

city disinvestment.⁴¹ One reason for Congress's delay in enacting enterprise zone legislation may have been that some politicians believed that the creation of enterprise zones would lead enterprise zone supporters to use the zones to replace other urban aid programs, thus reducing resources available for job training, capital access, and providing technical assistance to businesses.⁴² In 1993, Congress overcame its initial resistance to enterprise zone legislation and enacted such legislation in the Omnibus Budget Reconciliation Act of 1993.⁴³

C. The State Enterprise Zones

During the 1980s, many states enacted enterprise zone legislation⁴⁴ in an effort to aid economically distressed urban areas, to create jobs for their residents, and in anticipation of the implementation of federal enterprise zones.⁴⁵ The numerous state experiments with the enterprise zone concept prompted two noteworthy studies that sought to determine whether state enterprise zones were effective and, if so, how effective. In one study, the General Accounting Office (GAO) conducted a survey of three Maryland enterprise zones (the "GAO Study").⁴⁶ In a second

41. See Mildred Wigfall Robinson, *Empowerment Zones and Enterprise Communities Under the Omnibus Budget and Reconciliation Act of 1993: A Promising Concept with Some Modifications*, 11 J.L. & POL. 345, 346 (1995); see also David Boeck, *The Enterprise Zone Debate*, 16 URB. LAW. 71, 84 (1984); Martin, *supra* note 32, at 114.

42. See *Enterprise Zones Proving to be Successful*, 131 CONG. REC. E4347 (daily ed. Oct. 3, 1985) (statement of Rep. Kemp); see also *Hearings Before the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs of the House of Representatives*, 97th Cong., 42 (1981) (statement of Rep. Schumer).

43. Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13301, 107 Stat. 312, 543, amended by Taxpayer Relief Act of 1997, Pub. L. No. 105-34, §§ 951-952, 111 Stat. 788, 885; see also *infra* Part III.

44. State and local governments created enterprise zones in thirty-seven states and the District of Columbia. See Enid Beaumont, *Enterprise Zones and Federalism*, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT 41, 41 (Roy E. Green ed., 1991). As of 1995, there were active enterprise zones in thirty-four states. See Margaret G. Wilder & Barry M. Rubin, *Rhetoric versus Reality: A Review of Studies on State Enterprise Zone Programs*, 62 J. AM. PLAN. ASS'N 473 (1996).

45. See Beaumont, *supra* note 44, at 43; see also Patrick G. Grasso & Scott B. Crosse, *Enterprise Zones: Maryland Case Study*, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT 122 (Roy E. Green ed., 1991). One of the incentives for states to develop enterprise zones, in the absence of federal legislation, was the potential to capitalize on any federal incentives once Congress provided for them. See Beaumont, *supra* note 44, at 43.

46. See U.S. GENERAL ACCOUNTING OFFICE, ENTERPRISE ZONES: LESSONS FROM THE MARYLAND EXPERIENCE 5 (GA/PEMD-89-2, Dec. 1988). The General Accounting Office is

study, Marilyn Rubin and Regina Armstrong scrutinized the New Jersey enterprise zone program (the "Rubin Study").⁴⁷ These studies resulted in opposite conclusions as to the effectiveness of enterprise zones, and both are subject to some criticism.

1. The GAO Study of Three Maryland Enterprise Zones

Maryland initiated its enterprise zone program⁴⁸ in 1982.⁴⁹ At that time, Jack Kemp and Robert Garcia had introduced legislation in Congress to create federal enterprise zones.⁵⁰ Kemp and Garcia requested that the GAO evaluate the Maryland program⁵¹ because the incentives provided in Maryland were similar to provisions included in the federal legislation they had proposed in Congress.⁵² The employment incentives provided in the Maryland enterprise zones included a tax credit of five hundred to three thousand dollars for hiring unemployed workers in new jobs.⁵³ Maryland also encouraged enterprise zone investment by providing loan guarantees,⁵⁴ increasing loan limits for government land and development projects,⁵⁵ increasing state redevelopment funds,⁵⁶ and offering a property tax credit to reduce any additional tax burden resulting from improvements to business property.⁵⁷

The GAO Study reported that despite increased employment rates of eight percent, sixty-three percent, and seventy-six percent in the three zones studied, it could not attribute those increases to the enterprise

the agency responsible for providing Congress with accounting and financial reporting information as well as various administrative services. *See* 2 U.S.C. § 478 (1994). The GAO Study, which was conducted from 1986 to 1988, focused on three of the oldest enterprise zones in Maryland. These zones were located in the cities of Hagerstown, Salisbury, and Cumberland. *See* Grasso & Crosse, *supra* note 45, at 123.

47. *See* MARILYN M. RUBIN & REGINA B. ARMSTRONG, *THE NEW JERSEY URBAN ENTERPRISE ZONE PROGRAM: AN EVALUATION* (1989).

48. *See* MD. ANN. CODE art. 83A, §§ 5-401 to -414 (1995).

49. *See* Grasso & Crosse, *supra* note 45, at 123.

50. *See id.*

51. *See id.* at 122.

52. *See id.*

53. *See id.*

54. *See id.*

55. *See id.* at 123.

56. *See id.*

57. *See id.*

zone initiatives.⁵⁸ For example, while the study found that employment rates in one of the zones increased due to two new employers in the area, it also revealed that one of the employers was not aware of the enterprise zone program,⁵⁹ and that the other employer intended to locate in the area regardless of whether the area received an enterprise zone designation.⁶⁰ Analyzing the employment data for this zone, without considering the employment increases attributable to the two new employers, the GAO found that there was no clear relationship between the increases in employment and the enterprise zone incentives.⁶¹ This finding was consistent with the GAO Study's results in the other two Maryland enterprise zones.⁶²

Some commentators suggest that one should take the GAO's findings with some caution because the three zones evaluated in the study were located in rural or semi-rural areas.⁶³ These critics suggest that the conditions in enterprise zones located in such areas may not be sufficiently analogous to the conditions in urban enterprise zones to allow for meaningful comparison.⁶⁴ Two other criticisms of the study are that survey respondents may have been biased in favor of the program,⁶⁵ and that only thirteen percent of the respondents participated in the enterprise zone program.⁶⁶

2. The Rubin Study of New Jersey's Enterprise Zones

New Jersey enacted enterprise zone legislation in 1983⁶⁷ "in an effort to revitalize . . . [its] cities."⁶⁸ By 1985, New Jersey had

58. *See id.* at 127.

59. *See* Helen F. Ladd, *Spatially Targeted Economic Development Strategies: Do They Work?*, 1 *CITYSCAPES* 193, 204 (1994).

60. *See id.*

61. *See* Wilder & Rubin, *supra* note 44, at 477.

62. *See* Ladd, *supra* note 59, at 204.

63. *See* Wilder & Rubin, *supra* note 44, at 477.

64. *See id.*

65. *See id.*

66. *See id.*

67. *See* Urban Enterprise Zones Act, 1983 N.J. Laws 302; *see also* Marilyn M. Rubin, *Urban Enterprise Zones in New Jersey: Have They Made a Difference?*, in *ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT* 105, 105 (1991) (citing 1983 N.J. Laws 302).

68. Rubin, *supra* note 67, at 105.

designated ten enterprise zones under its Urban Enterprise Zones Act.⁶⁹ The New Jersey zones provided tax credits to employers hiring workers considered to be "disadvantaged,"⁷⁰ a fifteen hundred dollar corporate tax credit for employers hiring full-time employees who were previously unemployed or received public assistance,⁷¹ and an unemployment insurance tax credit for new employees who earned less than eighteen thousand dollars per year.⁷² Investment incentives included a sales and use tax exemption on the purchase of tangible personal property and materials to be used by builders or repairmen who constructed or improved real estate located in an enterprise zone.⁷³

The Rubin Study concluded that for every tax dollar not collected by the state because of zone incentives, \$1.90 in state and local taxes was generated by enterprise zone activity, making the program quite cost effective.⁷⁴ One commentator has criticized the Rubin Study, however, for overstating, in two respects, the benefits produced by the New Jersey enterprise zones. First, the study is criticized for overstating the number of jobs attributable to enterprise zone incentives because it does not take into account the extent to which the booming New Jersey economy of the 1980s created jobs.⁷⁵ Second, the study is criticized for overstating revenues generated by enterprise zone activity because it takes into account the indirect economic benefits of enterprise zone activity without offsetting them with diminished job activity in other sectors of the economy.⁷⁶

69. N.J. STAT. ANN. § 52:27H-60; *see also* Rubin, *supra* note 67, at 106 (citing § 52:27H-60).

70. *See* Rubin, *supra* note 67, at 110. The New Jersey zones determined whether workers were disadvantaged according to the workers' poverty and welfare statuses. *See id.*

71. *See id.*

72. *See id.*

73. *See id.*

74. *See id.* at 118.

75. *See* Ladd, *supra* note 59, at 207. The methodology used in calculating the effects of the New Jersey program failed to differentiate adequately between job gains tied to those businesses that located in the enterprise zones, or that hired enterprise zone residents, primarily because of the enterprise zone incentives and those businesses that relocated to enterprise zones, or hired additional enterprise zone residents, due to the growing New Jersey economy at that time. Critics claim that because the Rubin Study failed to make this distinction, it overstated job gains. *See id.*; *see also*, Earl R. Jones, *Enterprise Zones for the Black Community—Promise or Product: A Case Study*, 11 W.J. BLACK STUD. 1, 2 (1987).

76. This criticism is based on the fact that the study did not offset the impact of the increase in spending by newly hired enterprise zone workers with reductions in economic

The results of the GAO and Rubin Studies illustrate the difficulty of evaluating enterprise zones in a reliable and consistent manner. The studies also illustrate the difficulty of utilizing the experiences and policies of other jurisdictions in implementing enterprise zones on a larger scale.

III. THE EZ/EC PROGRAM

A. Principles Underlying the Federal EZ/EC Program

Congress first enacted EZ/EC legislation in 1993,⁷⁷ thirteen years after the first enterprise zone bill had been introduced in Congress.⁷⁸ The EZ/EC program gives priority in receiving aid from certain federal aid programs to areas designated as EZ/ECs.⁷⁹ One goal of the EZ/EC program is to create businesses that will provide a variety of goods and services to the community and thereby spur a more vibrant and active business sector.⁸⁰ This goal is effectuated by encouraging the development of small⁸¹ mixed-use businesses.⁸² Supporters of EZ/ECs encourage the development of small businesses because those companies are more likely to utilize existing buildings and properties without requiring extensive improvements that may be necessary to

activity among other areas of the state economy. See Ladd, *supra* note 59, at 207.

77. See Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13301, 107 Stat. 312, 543.

78. See H.R. 7240, 96th Cong. (1980).

79. One such federal aid program is the Community Development Block Grant (CDBG) program. See THE PRESIDENT'S COMMUNITY ENTERPRISE BD., U.S. DEP'T OF AGRIC. & U.S. DEP'T OF HOUS. AND URBAN DEV., BUILDING COMMUNITIES: TOGETHER, GUIDEBOOK FOR COMMUNITY-BASED STRATEGIC PLANNING FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES 9 (1994) [hereinafter BUILDING COMMUNITIES: TOGETHER]. Under the CDBG program, the government gives EZ/ECs that constitute small cities priority in receiving the program's funds. See *id.* EZ/EC cities may use these funds to aid their local businesses by providing credit, technical assistance, and other types of support. See *id.* Another program available to EZ/ECs is the Small Business Administration's One Stop Capital Shops (OSCS). The OSCS provide information and financial assistance to businesses operating in EZ/ECs. See THE PRESIDENT'S COMMUNITY ENTERPRISE BD., U.S. DEP'T OF AGRIC. & U.S. DEP'T OF HOUS. AND URBAN DEV., EMPOWERMENT ZONES & ENTERPRISE COMMUNITIES APPLICATION GUIDE 8-10 (1994) [hereinafter APPLICATION GUIDE].

80. See Boeck, *supra* note 41, at 79-80.

81. See *id.* at 75.

82. See *id.* at 79.

attract larger companies.⁸³ EZ/EC supporters also encourage small business development because studies show that small businesses create the largest number of new jobs,⁸⁴ are more likely to hire local unskilled labor, and are more likely to risk operating in marginal neighborhoods.⁸⁵

The EZ/ECs represent the Clinton Administration's incarnation of earlier enterprise zone proposals introduced in Congress.⁸⁶ The Clinton Administration based the EZ/EC program on four principles: (1) economic opportunity;⁸⁷ (2) sustainable community development; (3) community-based partnerships; and (4) a strategic vision for change.⁸⁸ The first principle of the EZ/EC program, economic opportunity, is consistent with Professor Hall's original goal of creating jobs by encouraging economic activity in distressed urban areas.⁸⁹ The second principle upon which the federal government bases its EZ/ECs, sustainable community development, differs somewhat from Professor Hall's model. This principle entails creating safer, healthier, and more vibrant environments through coordinated action and the improvement of both physical and human resources.⁹⁰ This calls for the comprehensive development of an area not only through attention to its residents, but also through attention to its environment and living

83. See Butler, *supra* note 18, at 35-36.

84. See *id.*

85. See Boeck, *supra* note 41, at 79-81.

86. See Otto Hetzel, *Some Historical Lessons for Implementing the Clinton Administration's Empowerment Zones and Enterprise Communities Program: Experiences from the Model Cities Program*, 26 URB. LAW. 63, 64 (1994).

87. Economic opportunity encompasses the creation of jobs for the residents of economically distressed communities. See APPLICATION GUIDE, *supra* note 79, at 8. Entrepreneurial opportunities, small business development, and job training are some of the means used to achieve this principle. See *id.*

88. See *id.* at 8-10.

89. See Hall, *supra* note 3, at 180-82.

90. See APPLICATION GUIDE, *supra* note 79, at 8. One program that is representative of this principle is the Community Development Financial Institution Fund (CDFIF). See 12 U.S.C.A. §§ 4701-4718 (1997). For a discussion of the CDFIF provisions, see Martin, *supra* note 32, at 122-24. The CDFIF provides assistance to distressed communities by "[promoting] economic revitalization and community development." 12 U.S.C.A. § 4701(b). The CDFIF provides community development financial institutions with technical assistance and financial resources, such as equity investments, loans, and grants. See *id.* §§ 4702(5)(A), 4707(a)(1). The community development financial institutions, in turn, serve communities such as EZ/ECs. See *id.* § 4702(16)(B).

conditions.⁹¹ This principle differs from Professor Hall's British enterprise zones in that the EZ/ECs address distressed communities' social conditions while the British zones dealt only with industrial and commercial development.⁹²

The third principle underlying the EZ/EC program, community-based partnerships, refers to the need for collective government, community, and business involvement in creating and designing a plan for EZ/EC development.⁹³ The federal government strongly encourages businesses, educational institutions, social services agencies, and government to become involved in fashioning an EZ/EC plan.⁹⁴ One goal of this coordinated strategy is to remove regulatory barriers, thereby reducing impediments to business creation, expansion, and growth.⁹⁵ The fourth and final principle underlying the EZ/EC program, a strategic vision for change, is a statement of what the participants in the planning process want their community to become.⁹⁶ This statement is intended to provide the area with a long-range plan, goals, and standards for measuring progress.⁹⁷

B. The Designation of the EZ/ECs

On December 21, 1994, the Secretary of HUD announced the six economically and socially distressed urban areas designated as empowerment zones and the sixty-five other areas designated as enterprise communities.⁹⁸ The eligibility requirements for designation

91. See APPLICATION GUIDE, *supra* note 79, at 8.

92. See *supra* Part II.A. The federal government illustrates this distinction in its use of "strategic plans," see *infra* Part III.B, which are designed to address concerns ranging from drug abuse to youth development and public safety. See APPLICATION GUIDE, *supra* note 79, at 25-26.

93. See APPLICATION GUIDE, *supra* note 79, at 9; see also discussion *infra* Part III.B.

94. See APPLICATION GUIDE, *supra* note 79, at 9

95. See *id.*

96. See *id.* at 10.

97. See *id.*

98. HUD chose these areas from over five hundred communities that applied in a competitive selection process. See HUD's December Announcement on Urban Empowerment Zones, 95 TAX NOTES TODAY 36-51 (Feb. 3, 1995), available in LEXIS, Fedtax Library, TNT File. Urban Empowerment Zones include: Atlanta, GA; Baltimore, MD; Chicago, IL; Detroit, MI; New York City, NY; and Philadelphia, PA/Camden, NJ. See *id.* Supplemental Empowerment Zones include Los Angeles, CA and Cleveland, OH. See *id.* Urban Enhanced Enterprise Communities include: Boston, MA; Houston, TX; Kansas City, MO/Kansas City, KS; and Oakland, CA. See *id.* Urban Enterprise Communities include: Akron, OH; Albany, GA; Albany, NY;

as an empowerment zone or enterprise community relate to the size, geography, and poverty level of the nominated areas.⁹⁹ Generally, the areas designated as EZ/ECs suffer from pervasive poverty, unemployment, and other social problems. Thus, an important part of a community's application to become an EZ/EC is the scope, manner, and number of problems that the community addresses in its "strategic plan."¹⁰⁰ The strategic plan provides the federal government with a community's vision for developing its environment in terms of "economic, human, community and physical development . . . and related activities."¹⁰¹ An essential part of developing the strategic plan is getting broad segments of the community involved in developing the plan.¹⁰²

C. The Empowerment Zones

The Secretary of HUD and the Secretary of the United States Department of Agriculture (USDA) have designated a total of nine empowerment zones, six of which are located in urban areas and three of which are located in rural areas.¹⁰³ Businesses that operate in these empowerment zones are eligible for an employment wage credit and

Albuquerque, NM; Birmingham, AL; Bridgeport, CT; Buffalo, NY; Burlington, VT; Charleston, SC; Charlotte, NC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; East St. Louis, IL; El Paso, TX; Flint, MI; Harrisburg, PA; Huntington, WV; Huntington Park, CA; Indianapolis, IN; Jackson, MS; Las Vegas, NV; Louisville, KY; Lowell, MA; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Muskegon, MI; Nashville, TN; New Haven, CT; New Orleans, LA; Newark, NJ; Newburgh-Kingston, NY; Norfolk, VA; Ogden, UT; Oklahoma City, OK; Omaha, NE; Ouachita Parish, LA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Pulaski Co., AR; Rochester, NY; San Diego, CA; San Francisco, CA; San Antonio, TX; Seattle, WA; Springfield, IL; Springfield, MA; St. Paul, MN; St. Louis, MO; Tacoma, WA; Tampa, FL; Waco, TX; Washington, DC; and Wilmington, DE.
See id.

99. See I.R.C. § 1392(a) (West 1997). A location's designation as an empowerment zone or as an enterprise community lasts for ten years from the date of designation. *See id.* § 1391(d).

100. *See id.* § 1392(c), (f)(2).

101. *Id.* § 1391(f)(2)(A).

102. See BUILDING COMMUNITIES: TOGETHER, *supra* note 79, at 6; *see also* Hetzel, *supra* note 86, at 74-75.

103. See I.R.C. § 1391(b)(2); *see also* APPLICATION GUIDE, *supra* note 79, at 6. The Taxpayer Relief Act of 1997 authorizes the federal government to designate additional empowerment zones. See Taxpayer Relief Act of 1997, Pub. L. No. 105-34, §§ 951-952, 111 Stat. 788, 885.

increased section 179¹⁰⁴ first-year depreciation deductions.¹⁰⁵ The empowerment zone employment wage credit¹⁰⁶ provides a tax credit for wages paid to a “qualified zone employee.”¹⁰⁷ A qualified zone employee is any person who performs substantially all of his or her services for an employer within the empowerment zone and who has a principal place of residence within the empowerment zone.¹⁰⁸ The credit, which is gradually phased out,¹⁰⁹ is initially equal to twenty percent of qualified zone wages,¹¹⁰ up to a maximum credit of three thousand dollars per employee.¹¹¹ Under the Taxpayer Relief Act of 1997,¹¹² federally designated empowerment zones are eligible for the wage credit through the year 2007.¹¹³

The increased section 179 depreciation deductions are allowed if the business is an “enterprise zone business” as defined in section 1397B of the Internal Revenue Code.¹¹⁴ Under section 179, small businesses can deduct an additional \$18,500 in depreciation deductions on depreciable, tangible, personal property when it is purchased and used in the “active conduct . . . of any trade or business”¹¹⁵ The provision is elective and applies only to the first year in which businesses use the property in

104. I.R.C. § 179.

105. See generally STAFF OF JOINT COMM. ON TAXATION, PROPOSALS AND ISSUES RELATING TO TAX INCENTIVES FOR ENTERPRISE ZONES 108 (Comm. Print 1992).

106. See I.R.C. § 1396.

107. See *id.* § 1396(d)(1).

108. See *id.*

109. See *id.* § 1396(a), (b).

110. See *id.* § 1396(b). The credit decreases to 15% of qualified zone wages after the year 2001 and further decreases to 10% of qualified zone wages in 2003 and 5% of qualified zone wages in 2004. See *id.* § 1396(b). Empowerment zones designated pursuant to section 1391(g) are not eligible for the employer wage credit. See *id.* § 1396(e).

111. See *id.* § 1396(c)(2). The qualified zone wages are limited to \$15,000 per employee per year. See *id.*

112. Taxpayer Relief Act of 1997, Pub. L. No. 105-34, §§ 951-952, 111 Stat. 788, 885.

113. See *id.* § 951(b)(2).

114. See I.R.C. §§ 1397A, 1397B(a). Section 1397B defines an “enterprise zone business” as any corporation, partnership, or proprietorship that: (1) actively conducts its trade or business in an empowerment zone; (2) derives at least 80% of its gross income from such business; (3) uses substantially all of its tangible property within the empowerment zone; (4) uses substantially all of its intangible property in connection with the business; (5) has substantially all of the services provided by its employees performed in the zone; and (6) has at least 35% of its employees residing in the zone. See *id.* § 1397B(a)-(c). Additional requirements are provided under I.R.C. section 1397B(b)(7)-(8), (c)(6)-(7).

115. *Id.* § 179(b)(1). The section 179 depreciation expense increases to \$19,000 in 1999, \$20,000 in 2000, \$24,000 in 2001, and \$25,000 in 2003. See *id.*

a trade or business.¹¹⁶ Businesses that satisfy the requirements of section 1397B can also deduct an additional \$20,000 under section 179, allowing them to take up to \$38,500 in additional first-year depreciation deductions.¹¹⁷

The empowerment zones may also issue tax-exempt facilities bonds,¹¹⁸ which businesses can use for acquiring or constructing an "enterprise zone facility" and any land "functionally related and subordinate" to the facility.¹¹⁹ An "enterprise zone facility" is any depreciable, tangible property that has as its principal user an enterprise zone business.¹²⁰ In addition, empowerment zones are eligible for EZ/EC Social Service Block Grants in the amount of \$40 million for rural empowerment zones and \$100 million for urban empowerment zones.¹²¹

D. The Enterprise Communities

The Secretaries of HUD and the USDA considered for designation as enterprise communities those areas not selected or designated as empowerment zones.¹²² There are a total of ninety-five enterprise communities, sixty-five of which are located in urban areas and thirty of which are located in rural areas.¹²³ Enterprise communities are not eligible for the employer wage credit or increased section 179 first-year depreciation deductions, but they can issue tax-exempt facilities bonds. Enterprise communities can use the proceeds from these bonds to build and renovate structures for use by businesses operating in the enterprise

116. *See id.* § 179(a).

117. *See id.* § 1397A(a)(1).

118. *See Robinson, supra* note 41, at 369-73.

119. *See* I.R.C. § 1394(a), (b)(1).

120. *See id.* § 1394(b)(1).

121. *See* 42 U.S.C.A. § 1397(F) (1997); *see also* APPLICATION GUIDE, *supra* note 79, at 13; Hetzel, *supra* note 86, at 67. Social Services Block Grant funds may be used for one of three goals: (1) "achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency," APPLICATION GUIDE, *supra* note 79, at 30; (2) "achieving or maintaining self-sufficiency, including reduction or prevention of dependency," *id.*; and (3) "preventing or remedying the neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families," *id.*

122. *See* APPLICATION GUIDE, *supra* note 79, at 20.

123. *See* I.R.C. § 1391(b)(1).

community.¹²⁴ Enterprise communities are also eligible for Social Service Block Grants of \$3 million, which they can use to fund activities and projects in their communities.¹²⁵

IV. TYPES OF BLACK BUSINESSES AND THEIR PROSPECTIVE IMPACT ON THE SUCCESS OF THE EZ/EC PROGRAM

As discussed above, minority employment opportunities in EZ/ECs are a critical factor in analyzing the efficacy of the EZ/EC program. In this regard, a study by the Joint Center for Political and Economic Studies (JCPES)¹²⁶ found that the creation of minority-owned businesses has a significant impact on minority employment.¹²⁷ The JCPES study found that minority-owned businesses were more likely to recruit workers from inner-city neighborhoods than nonminority firms.¹²⁸ Other researchers also have found that small, white-owned businesses were less likely to hire minorities, as compared to small, black-owned businesses.¹²⁹ In light of these findings, efforts to increase job opportunities for minorities residing in EZ/ECs should include promoting black business development.¹³⁰ In order to determine which types of black businesses to target in promoting black business development, this section will consider the two types of black businesses, their characteristics, their likely impact on black unemployment levels, and their prospects of operating successfully.

124. See *id.* § 1394(b)(3)(A)-(B).

125. See APPLICATION GUIDE, *supra* note 79, at 12.

126. The JCPES is a nonpartisan, nonprofit institution that was founded in 1970 for the purposes of researching and distributing information concerning the socioeconomic status of blacks, enhancing the political strength of blacks, and fostering racial solidarity among blacks.

127. See Stephanie N. Mehta, *Minority-Owned Businesses Are Making Headway in Marketplace, Survey Finds*, WALL ST. J., Oct. 20, 1995, at B2.

128. See *id.* Twenty-three percent of minority firms surveyed stated that they "always recruited in low-income neighborhoods." *Id.* However, only ten percent of nonminority firms surveyed claimed that they always recruited in such neighborhoods. See *id.*

129. See Bates, *supra* note 6, at 77; see also Micheal H. Schill, *Assessing the Role of Community Development Corporations in Inner-City Economic Development*, 22 N.Y.U. REV. L. & SOC. CHANGE 753, 762-63 (1996).

130. See BATES, *supra* note 6, at 77.

A. The Traditional Line of Black Businesses

There are two generic types of black-owned businesses.¹³¹ The first type is the "traditional line" of black businesses.¹³² These businesses are generally personal service providers.¹³³ They are small-scale,¹³⁴ labor-intensive businesses that tend to have little capital invested in them.¹³⁵ Traditional line black businesses are usually located in low-income communities,¹³⁶ produce few jobs,¹³⁷ have high rates of failure,¹³⁸ and are operated by persons with low levels of education.¹³⁹ Examples of traditional line black businesses include beauty parlors, barbershops, and other retail establishments that serve a predominantly minority clientele.¹⁴⁰ Because these businesses generally remain small, they usually do not have a significant impact on reducing unemployment levels in the black community.¹⁴¹

1. The Evolution of the Traditional Line

The traditional line of black businesses was shaped by the historical experience of blacks in the United States.¹⁴² Factors such as discrimination, limited access to capital, inadequate education, and barriers to job training prevented blacks from entering into certain trades and professions.¹⁴³ Two of the more significant factors that contributed to the traditional line are that, first, blacks were not allowed

131. *See id.* at 10-11.

132. *See id.* at 10.

133. *See id.* at 10-11.

134. *See id.* at 11.

135. *See id.* at 18.

136. *See id.* at 62.

137. *See id.* at 18.

138. *See id.*

139. *See id.*

140. *See id.* at 17; cf. DANIEL R. FUSFELD & TIMOTHY BATES, *THE POLITICAL ECONOMY OF THE URBAN GHETTO* 215 (1984); Andrew Brimmer, *Desegregation and Negro Leadership*, in *BUSINESS LEADERSHIP AND THE NEGRO CRISIS* 33, 34-35 (Eli Ginzberg ed., 1968) (suggesting that racial segregation insulated black businesses and, thus, helped them by providing a captive market of black consumers).

141. *See BATES, supra* note 6, at 89.

142. *See id.* at 18-21; *see also* Andrew Brimmer & Henry Terrell, *The Economic Potential of Black Capitalism*, 19 *PUB. POL'Y* 289, 291-92 (1971).

143. *See BATES, supra* note 6, at 19; *see also* FUSFELD & BATES, *supra* note 140, at 215-16, 223.

to join unions until the 1930s¹⁴⁴ and, second, blacks were prohibited from working in certain trades due to the slave codes in the South.¹⁴⁵ Another practice that played a significant role in the creation of the traditional line was financial institutions' historical refusal to loan money to black businesses.¹⁴⁶ These obstacles resulted in many blacks creating small personal service businesses.¹⁴⁷

2. The Perpetuation of the Traditional Line Through Traditional Black Businesses' Locations

The success or failure of black businesses is linked to the condition of their customers,¹⁴⁸ who are primarily located within inner-city black communities.¹⁴⁹ Minority residents of inner-city areas are likely to have low or unstable incomes and experience high rates of unemployment.¹⁵⁰ These factors contribute to a weak consumer market that may be unable to sustain area businesses, unlike businesses located in suburban areas with a middle-class clientele. The result is that businesses locating in inner-city areas are not likely to have much, if any, growth potential¹⁵¹ or much impact on reducing unemployment levels in those areas.

144. See FUSFELD & BATES, *supra* note 140, at 69.

145. See CLINT BOLICK, *CHANGING COURSE: CIVIL RIGHTS AT THE CROSSROADS* 99 (1988).

146. See Timothy J. Mullaney, *Financing Still a Hurdle for Black-owned Firms*, *BALTIMORE SUN*, Oct. 19, 1995, at 1C; see also Brimmer & Terrell, *supra* note 142, at 42. Black businesses continue to face this problem today. See Mullaney, *supra*, at 1C. Even taking into account the fact that blacks, on average, possess less wealth than whites, see MELVIN OLIVER & THOMAS SHAPIRO, *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* 97-104 (1995); Jones, *supra* note 75, at 2, there is still a significant disparity in the amounts of money loaned to whites and blacks. For example, when white business owners borrow funds, banks provide them with \$1.83 in financing for every dollar that the owners invest in their businesses. See BATES, *supra* note 6, at 50-51. For blacks business owners with equal qualifications, however, banks provide only \$1.16 in financing for every dollar that the owners invest in their businesses. See *id.* This limited access to start-up capital leads to a greater likelihood of failure for black businesses. See *id.* at 32.

147. See BATES, *supra* note 6, at 19. These businesses include "beauty parlors, barber shops, restaurants, cleaning and pressing, shoe shine, and mom and pop food stores," *id.*, none of which requires a large amount of capital or a high level of education. See *id.* at 45.

148. See *id.* at 5-6, 61.

149. See *id.* at 80.

150. See *id.* at 61; see also Brimmer & Terrell, *supra* note 142, at 303.

151. See BATES, *supra* note 6, at 5, 63.

B. The Emerging Line of Black Businesses

The second generic type of black businesses is the "emerging line" of black businesses.¹⁵² These businesses operate in fields that, historically, have had low minority representation,¹⁵³ such as business services, finance, construction, manufacturing, and wholesaling.¹⁵⁴ In comparison with traditional black businesses, the emerging line businesses are larger, are started with larger capital contributions, and have lower failure rates.¹⁵⁵ Emerging line businesses are usually located in suburban areas or central business districts,¹⁵⁶ and many of their owners have college educations.¹⁵⁷ They also serve a racially diverse clientele.¹⁵⁸ These aspects of emerging line black businesses give them a greater chance of staying in business than traditional black businesses,¹⁵⁹ thus making them the strongest prospects for economic growth and the creation of job opportunities in inner cities.¹⁶⁰

In light of the differences between traditional and emerging line black businesses, government programs should focus on the creation and expansion of black businesses that operate in the emerging line of black businesses.¹⁶¹ Traditional line businesses, though important in providing goods and services, are less likely to have an impact on black unemployment rates because of their small size and limited capacity for growth.¹⁶² With these factors in mind, the EZ/EC program should target talented black entrepreneurs with the education and resources necessary to start and operate emerging line black businesses.

152. *See id.* at 11-12, 17-18.

153. *See id.* at 11.

154. *See id.*

155. *See id.* at 18.

156. *See id.* at 73; *cf.* Eric L. Smith, *Is Black Business Paving the Way?*, BLACK ENTERPRISE, June 1996, at 194.

157. *See* BATES, *supra* note 6, at 17-18; *cf.* WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR 196-97* (1996).

158. *See* BATES, *supra* note 6, at 11, 73.

159. *See id.* at 11.

160. *See id.* at 17-18.

161. *See id.* at xx.

162. *See id.* at 18.

V. SHORTCOMINGS OF THE EZ/EC PROGRAM

A. Bias Toward Traditional Line Black Businesses

There is at least one potentially negative effect of the EZ/EC program. By requiring businesses to locate within an economically distressed inner-city community in order to receive the EZ/EC benefits, the federal program creates a bias toward the creation of small-scale traditional line black businesses. This occurs because such businesses are more likely to locate within inner-city areas regardless of the EZ/EC incentives, and because the EZ/ECs do not provide special incentives to encourage the creation of emerging line black businesses that locate outside of EZ/ECs. Thus, the EZ/EC program wastes resources because it targets areas that may lack adequate consumer markets or adequately skilled labor, and because the traditional line businesses that are likely to locate within those areas, even in the absence of EZ/EC incentives, will not provide enough jobs to reduce unemployment significantly.

B. The Expansion of the Secondary Labor Market

The types of jobs that the present EZ/EC provisions are likely to create raise another concern.¹⁶³ The EZ/ECs are likely to lead to an expansion of the secondary industrial sector,¹⁶⁴ which is composed of small businesses offering low-wage, low-technology jobs that are generally nonunionized.¹⁶⁵ Workers in the secondary labor market are usually women, minorities, and the poorly educated,¹⁶⁶ whose employers may subject them to harsh, arbitrary employment practices.¹⁶⁷

163. See Boeck, *supra* note 41, at 162-63.

164. See Harrison, *supra* note 5, at 424.

165. See Brian Bercusson, *Minimum Wage Objectives and Standards*, 6 COMP. LAB. L.J. 67, 71 (1984).

166. See *id.* at 74.

167. See Harrison, *supra* note 5, at 424.

C. Market Access

Another factor to take into account is the characteristics of the inner-city communities in which the EZ/EC program encourages businesses to locate. Emerging line black businesses may choose not to locate in these areas because of their weak consumer markets.¹⁶⁸ High levels of unemployment and underemployment, which many inner-city residents face, result in a population that has limited resources.¹⁶⁹ Residents with little money are unable to support new or expanding businesses in their communities. As a result, the survival of large-scale emerging line businesses within inner-city areas may require patronage from customers who reside outside of such areas. Locating within the inner city, however, might hinder such businesses' access to the most viable consumer markets because potential customers residing outside of inner cities may be unwilling to commute to such areas. Thus, by requiring that businesses locate within EZ/ECs in order to receive EZ/EC incentives, the EZ/EC program hinders the operation of emerging line businesses, the black businesses that have the greatest potential for creating jobs for inner-city minorities.¹⁷⁰

D. Lending Patterns

Difficulties in obtaining bank financing may be yet another factor that deters businesses from locating in inner-city communities.¹⁷¹ Specifically, the fact that financial institutions may be more reluctant to lend funds to minority businesses locating in inner-city areas may deter some potential business owners from starting businesses there.¹⁷² Lending discrimination based on business location can severely affect a

168. See BATES, *supra* note 6, at 61. In addition, emerging line businesses might be deterred from locating in such areas due to high crime rates. See Solomon & Solomon, *supra* note 29, at 818; see also Schill, *supra* note 129, at 759. In contrast, suburban locations possess relatively low crime rates and provide access to a strong middle-class consumer market. See Susan B. Hansen, *Comparing Enterprise Zones to Other Economic Development Techniques*, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT 7, 21 (Roy E. Green ed., 1991). Moreover, suburban areas provide cost incentives to businesses in terms of land prices, pleasant surroundings, and other amenities. See *id.*

169. See BATES, *supra* note 6, at 61.

170. See Ladd, *supra* note 59, at 194.

171. See Boeck, *supra* note 41, at 100.

172. See Robinson, *supra* note 41, at 351.

new business's ability to start and sustain operations during its first several years of business. Moreover, minority-owned businesses that are located in nonminority areas have a better chance of receiving loans from commercial banks.¹⁷³ Such businesses also receive loans that are significantly larger than those received by minority-owned businesses located in minority areas.¹⁷⁴ Thus, for some business owners, it may be more advantageous to locate their businesses in nonminority areas.¹⁷⁵

E. Available Labor Force

Despite the deterrents mentioned above, inner cities do provide an abundant labor force for businesses that require large numbers of workers. However, this labor force is likely to have few skills and limited education.¹⁷⁶ Thus, business owners would have to provide job training or educational programs to EZ/EC residents to prepare them to work in skill-intensive jobs.¹⁷⁷ This prospect may further deter large employers from locating in EZ/ECs.

VI. A PROPOSED MODIFICATION TO THE EZ/EC PROGRAM

A. Allowing Businesses More Flexibility in Making Locational Decisions

One approach to utilizing EZ/ECs to encourage more emerging line businesses, and thereby create more jobs for inner-city residents, would be to provide EZ/EC incentives to businesses that locate within or outside of the EZ/ECs, provided that they hire EZ/EC residents. This would promote one of the goals of the EZ/EC program, which is to create jobs for inner-city residents by providing incentives that will attract new businesses and encourage existing ones to expand their operations. This proposal would allow businesses that employ the residents of EZ/ECs to operate in locations that maximize their potential

173. See BATES, *supra* note 6, at 80-82.

174. See *id.*

175. See *id.* at 73.

176. See *id.* at 64.

177. See Boeck, *supra* note 41, at 120.

for successful operation.¹⁷⁸ The absence of a locational restriction would allow these businesses to focus on their accessibility to viable markets and convenient locations. The EZ/EC program should allow large-scale, minority-owned businesses to operate in locations that contribute to their success and allow those businesses to receive EZ/EC benefits, provided that they hire EZ/EC residents.

Providing EZ/EC incentives to businesses regardless of whether they locate inside or outside of an EZ/EC should also discourage businesses from relocating, or shifting jobs from one location to another, solely to receive EZ/EC benefits. This is a practice over which many commentators have expressed concern, and one that Professor Hall has acknowledged as a likely possibility.¹⁷⁹ Allowing businesses to receive EZ/EC benefits based upon the number of EZ/EC residents hired, regardless of where the business is located, diminishes the incentive to relocate a business into an EZ/EC for reasons other than those related to optimizing potential business success.

This proposal would require major changes to the definition of "enterprise zone business" in I.R.C. section 1397B.¹⁸⁰ Specifically, Congress would have to amend section 1397B's requirement that an enterprise zone business actively conduct its trade or business within an empowerment zone.¹⁸¹ Congress also would have to eliminate the requirements that businesses use substantially all of their tangible property within the zone¹⁸² and that employees perform substantially all of their services within the zone.¹⁸³ Implementing these changes would allow businesses operating outside of the EZ/ECs to receive the EZ/EC incentives.

This author further proposes that the government increase its scrutiny of businesses that seek EZ/EC incentives. Such scrutiny would help determine the likelihood that businesses will be successful. This scrutiny should apply to evaluations of the line of a business, its

178. See Scott A. Tschirgi, *Aiming the Tax Code at Distressed Areas: An Examination and Analysis of Current Enterprise Zone Proposals*, 43 FLA. L. REV. 991, 1032 (1991).

179. See Doreen Massey, *Enterprise Zones: A Political Issue*, 6 INT'L J. URB. & REGIONAL RES. 429, 430-31 (1986).

180. See *supra* note 114.

181. See I.R.C. § 1397B(b)(1), (c)(1) (1997).

182. See *id.* § 1397B(b)(3), (c)(2).

183. See *id.* § 1397B(b)(5), (c)(4).

location, and its business plan. Increased scrutiny should also be employed to ensure that businesses hire sufficient numbers of EZ/EC residents.

B. Continued Support for Inner-City Businesses

Allowing greater flexibility as to where businesses operate does not mean that the government should discourage the creation or expansion of businesses within the EZ/ECs. This Article proposes a two-tiered approach to black business development, with the overriding goal of providing quality jobs to inner-city residents. Under this approach, the EZ/ECs would continue to serve as a location for businesses that can operate profitably in those areas. Unlike the present system, however, this two-tiered approach would also allow business owners to create black business enterprises in the areas most conducive to business success. Thus, business owners who find operating in an EZ/EC more conducive to the success of their business than locating outside of the EZ/EC would have the flexibility to do so. Similarly, business owners who find that locating outside of an EZ/EC would be more conducive to their business's success would have the same flexibility to do so. This approach ultimately should allow residents of the community to acquire better paying jobs. This, in turn, will allow EZ/EC residents to support more diverse businesses, thereby resulting in an even more diverse business community within the EZ/EC.

C. Other Issues Related to the Development of EZ/EC Employment Opportunities

Many of the jobs created by the development of emerging line businesses will require a skilled or educated workforce, which generally is not available in inner-city areas. Job training and education are, thus, critical to EZ/EC residents in securing and retaining jobs that will pay them decent wages.¹⁸⁴ To address this issue, businesses that require a skilled or educated workforce, and that wish to receive the EZ/EC benefits, should be required to establish programs such as company-

184. See Boeck, *supra* note 41, at 120.

sponsored internships and cooperative educational programs.¹⁸⁵ These types of programs would allow the businesses to employ sufficient numbers of EZ/EC residents and qualify for the EZ/EC benefits.

The federal government and the business industry should share the costs of educating and training EZ/EC residents.¹⁸⁶ Such education and training programs will be expensive,¹⁸⁷ but these costs could be mitigated by using the job training programs available under the current EZ/EC program to achieve these goals.¹⁸⁸ This partnership between government and the business industry in educating and training workers should encourage businesses to hire and retain greater numbers of EZ/EC residents.

The potential need for an employer to provide employees with child care and transportation to work represents additional issues that could arise for businesses that hire EZ/EC residents,¹⁸⁹ particularly for the larger-scale businesses that operate in suburban areas. Generally, public transportation is available within inner-city areas, but usually does not extend to the suburbs.¹⁹⁰ To facilitate transportation to suburban job sites, employer-subsidized transportation, such as shuttle buses, could be provided. With respect to child care, employers could implement European-type child care systems to help EZ/EC residents obtain employment.¹⁹¹

VII. CONCLUSION

The present EZ/EC incentive program has the potential to create more small-scale minority-owned businesses within the EZ/ECs, despite the fact that these type of businesses may not have a significant

185. See Smith, *supra* note 156, at 194; see also Frank McCoy, *Will Clinton's Plan Work For Us?*, BLACK ENTERPRISE, June 1993, at 207.

186. See Tschirgi, *supra* note 178, at 1004.

187. See WILSON, *supra* note 157, at 234.

188. Education and training programs for which a competitive preference is or may be available to EZ/ECs include (1) the Adult Education Act's Workplace Literacy Program, 20 U.S.C. § 1211 (1994), which provides aid to programs that teach reading skills needed in the workplace, and (2) the Job Training Partnership Act's Adult Training Program, 29 U.S.C. § 1601 (1994), which is designed to increase the employment prospects of young adults. See BUILDING COMMUNITIES: TOGETHER, *supra* note 79, at 15, 18.

189. See WILSON, *supra* note 157, at 54, 215-16.

190. See Schill, *supra* note 129, at 755-56.

191. See WILSON, *supra* note 157, at 215-16.

impact on reducing minority unemployment. The federal government should respond to this situation by modifying the current EZ/EC program to allow flexibility in the locations where EZ/EC businesses can operate. The federal government should provide the EZ/EC incentives to businesses located inside and outside of the EZ/ECs, provided that they hire EZ/EC residents. This approach to providing EZ/EC incentives should prove more successful than the present approach in creating jobs, spurring the creation of successful black-owned businesses, and improving the lives and futures of inner-city residents.

